Working Collaboratively to Measure, Report and Improve Law Firm Diversity

23-October-2021
Moderator

Doug Ventola
Managing Director, Law Department Management, Consilio LLC

Panelists

Ed Blakemore
Assistant General Counsel, Litigation
Rockwell Automation

Shannon Stevens
Claims Manager, Legal Audit
Markel Insurance
Resolution 113 of the American Bar Association

- The ABA urges all providers of legal services, including law firms and corporations, to expand and create opportunities at all levels of responsibility for diverse attorneys.

- The ABA urges clients to assist in the facilitation of opportunities for diverse attorneys, and to direct a greater percentage of the legal services they purchase, both currently and in the future to diverse attorneys.
Plans for the Following Initiatives:

Per Consilio’s 2019-2020 Law Department Operations Survey, 21% of respondents have an outside counsel/vendor diversity program and another 32% have plans to implement one.
Diversity Requirements* – Carrot or Stick

- **Coca Cola**: 30% of partner and associate time from diverse lawyers, half of which should go to black lawyers. Fee reductions for non-compliance. Controversial - will this be revised?

- **Novartis**: Require 30% associate and 20% partner time diverse. Actual results 49% partner time and 68% associate time. No firm penalized

- **Facebook**: 33% of attorney time from women and ethnic minorities

- **Hewlett Packard**: 10% withholding for not meeting or exceeding HP’s diverse staffing requirements

- **Microsoft**: 2% bonus to firms that meet their diversity goals

*Source: ABA Journal and DiversityLab.com*
Diversity is a component of a department’s operational maturity. Corporate efforts to support diverse suppliers may championed within legal and reported to the board of directors.

Efforts need not be complicated: intermediate and advanced efforts may leverage existing data collection efforts, such as timekeeper submission and annual diversity statements from firms & vendors.

Best practices focus on three efforts:
- Tracking diversity data at the timekeeper level
- Annual reviews of firm diversity and inclusion policies
- Active efforts to support the advancement of women and minorities

<table>
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<th>Diversity</th>
<th>Basic</th>
<th>Intermediate</th>
<th>Advanced</th>
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<tr>
<td>Diversity is not tracked nor is a priority</td>
<td>Firms provide an annual diversity statement to the department</td>
<td>Collection of diversity information from firm</td>
<td>Provisioning of additional diversity data, both firm and client-driven data points</td>
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Commonly Tracked Diversity Attributes

- **Primary Attributes**
  - Gender
  - Race

- **Secondary Attributes**
  - Disability Status
  - LGBTQ
  - Veteran Status

Diversity information is submitted either as part of the new timekeeper setup process within a law department or is periodically requested and collected from outside counsel.

Race and gender information is more commonly collected. Disability, LGBT, and Veteran status are emerging data points and less commonly reported.

Data is voluntarily reported and shared. Open environments foster inclusivity.
Firm Level Designations

- Mansfield Certification (by Diversity Lab): at least 30% women, attorneys of color, LGBTQ+, and disabled attorneys considered for
  - Leadership and governance roles
  - Equity partner promotions
  - Formal client pitch opportunities
  - Senior lateral positions

- NAMWOLF Membership: National Association of Minority and Woman Owned Law Firms
  - Minority Owned
  - Woman Owned
  - LGBTQ Owned
Other Firm Level Recognition

- Law360 Diversity in the Top Ranks Ranking – Recognition of firms with highest levels of minority representation in equity partnerships

- RING Certification – Recognizing Inclusion in the Next Generation. This program champions initiatives that reflect meaningful progress toward diversity, inclusion, equity and allyship
Evolving Considerations

- Human Rights Campaign – Corporate Equality Index – (LGBTQ equality in the workplace)
- Socio-economic considerations – e.g. first in family to attend college
- Age demographics
- Midsize Mansfield Rule: For law firms with less than 150 attorneys. Currently in pilot with 20 law firms
Diversity Data Collection

Data collection efforts typically happen one of two ways:

• eBilling Platforms
  Many eBilling platforms offer the ability to track gender, race, and other elements within their primary offering or as an add-on module. The primary benefit is to capture information directly from firms at the point that the timekeeper is set up.

• Excel-based templates
  Law departments can provide firms with an Excel template for demographic data collection. The firm would then fill out the diversity sections and return the file to the law department for tracking purposes.

Note: Certain jurisdictions limit or prohibit the collection of diversity information. Prior to undertaking a data collection effort, ensure that your company is in compliance with local laws and regulations.
## Tracking Diversity by Firm

### DIVERSITY SUMMARY

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<th>Total Billed Total</th>
<th>Non-Diverse Hours Billed</th>
<th>Non-Diverse Billed Total</th>
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Tracking Diversity by Firm by Position

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Dashboard Oversight of Law Firm Diversity

$698
↑ 3% higher than similar firms employed

$439
↑ 1% higher than similar firms employed
ABA Model Diversity
Policy and Culture

An ABA Model Diversity Study provides an understanding of the policy and culture of engaged firms. This information may be leveraged with the detailed timekeeper-driven data to create a comprehensive view of the engagement.

Elements include:

- Firm Demographics
- Policies & Initiatives
- Firm Leadership
- Turnover & Promotions
- Reduced Hours
- Highly Compensated Partners
- Client Engagement
Operationalizing Diversity Initiatives

- Incorporate into Outside Counsel Guidelines
- Diversity data as a foundation for law firm discussions
- Diversity data considered during law firm selection
- Diversity considered for Preferred Panel consideration
- Understand firm D&I programs and plans to improve if needed
  - Where are they now?
  - What steps are they taking?
  - Where are they going?
- Setting D&I themed personal goals – D&I becomes a natural part of the thought process
Rockwell Automation - Broader Process Defined

- Quarterly Reports on our Majority Firm & Diverse Firm Spend
- Feedback to Outside Counsel using our OCE Form
- Recognize the Firms/Vendors that Mirror our Commitment
Thank You!

Questions?