

IILP Review 2017: The State of Diversity and Inclusion in the Legal Profession



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The Next Generation of Women's Diversity Initiatives

Margo Wolf O'Donnell
Shareholder, Vedder Price

Marcia Owens
Partner, Hamilton, Thies & Lorch LLP

It's the 21st Century but to hear some people, gender diversity issues are still mired in the 20th Century. Here, O'Donnell and Owens summarize women's initiatives need to consider, look like, and be, in order to truly help advance women in the legal profession. Here, they describe the Law Firm Women's Initiative and how to drive it forward.

I. Introduction

Diversity is a stated goal of every law firm and corporation today. If you look at the website of any major law firm, you will see that the firm prominently displays diversity and inclusion in its core values and initiatives. Following excellence in legal work, diversity and inclusion typically rank as top priorities for every legal organization. Despite the emphasis placed on these initiatives, however, little progress has been made to change the look of most major law firms.

Men and women graduate from law school in roughly equal proportions, and the summer and first year associate classes of law firms reflect this mix. Law firms celebrate these new classes of associates year after year, yet those who do not move up the ranks tend to be forgotten. It is in the later years that the gender divide begins and the number of women reaching first tier partnership followed by equity status dwindles dramatically.

It comes as a surprise to many in the profession that women still need separate diversity initiatives. However, few realize the severity of women's attrition from law firms. Women enter law firms in equal proportion to men, but make up only sixteen percent of partners in the equity ranks. More focus and attention needs to be paid to engage and retain women between the years of mid-level associate and promotion to equity partner. Creating a path to equity partnership that contains milestones along the way should be the focus for the next generation of women's diversity initiatives.

II. Challenges Faced By Female Attorneys

Women face a number of challenges in the climb to equity partner. These challenges include: lack of female role models; implicit bias; ad hoc succession planning for large or institutional clients; and limited opportunities for management and leadership positions. Taken as a whole, these challenges provide women with less visibility within the firm and fewer opportunities for work on the best cases or transactions.

It is important to note that "work/life balance" or "family" issues are not included in the list of challenges; this was not an oversight. While it is clear that family responsibilities still fall primarily on women in many households, this is not the case across the board, and women should no longer be



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stereotyped in this manner. Technology has made it possible for women to stay connected and work remotely when needed, and to juggle family responsibilities that historically might have taken them out of contact with their firms.

III. The Law Firm Women's Initiative

Over the past fifteen to twenty years, most law firms have opted to address gender diversity issues by forming women's programs (sometimes called initiatives or forums), often as a subset of the larger diversity initiative. While many of these programs are highly regarded by women in law firms, without creating measurable change in the number of women at the partnership level, their effectiveness is in question. Serving as a "safe haven" for women in the firm to share experiences does not necessarily provide the valuable resources that women need to stay busy and engaged in high-profile legal work.

What should a women's initiative tackle and how should it be structured to create real institutional change and address the issues set forth above?

The recession that we recently faced demonstrated that power was in business. Work force reductions disproportionately affected women in law firms, often under the notion that women lacked a book of business or the key seat with an institutional client. It was clear that diversity initiatives took a back seat to firm performance and profitability. With law firms operating on a year-to-year basis, the firms reset compensation and performance each year, requiring every lawyer to prove her worth over and over again. This "what-have-you-done-for-me-lately" system is unforgiving, but it is the model that firms have been perpetuating and it is familiar to most law firm partners. In order to groom women to succeed in this system, women's initiatives must shift their focus to providing female attorneys the tools, knowledge, confidence, and opportunity to build and manage large books of business and key client relationships.

Key elements in driving the initiative forward are the following:

A. Management Buy-In

There is nothing more important for the success of a program or its attorneys in a law firm than to have the "buy-in" of those in senior leadership and those with the largest books of business. Women's initiatives can no longer be solely for women to support women. Women cannot isolate themselves from their male counterparts. This creates undue tension among men and women in the firm and hidden resentment regarding budgetary allocations and special programs. If a women's initiative is



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focused on business generation and promotion, then involving men who can share their experiences in developing a book of business (or taking on a key client role or those with key client relationships and business) can prove to unlock valuable knowledge and open opportunities. It can also unlock opportunities to bring in more female clients and showcase the women in the firm. If the program generates the support (and even better, the presence) of the managing partner or senior leadership, the firm will immediately give it a much higher priority and status in the firm.

B. Education of all Attorneys

Implicit bias—stereotypes that unconsciously affect our decision making—is found in all attorneys. However, with proper education and understanding, the majority will learn to recognize this behavior and think twice before taking certain actions. If you can educate attorneys about this issue in a non-threatening way so they can recognize potential bias in their own actions, it will begin to change behavior.

Women also need to be trained in networking, business generation, and credentialing—topics that laws schools do not teach and may not be intuitive. With fewer female role models and fewer opportunities to engage with more senior partners over lunch, cocktails, or elsewhere, women do not get the same type of informal mentoring that comes naturally in these settings. It is also less natural for women to ask for business and be direct about what they want. Consistent training can help to alleviate these issues.

All attorneys should understand why diversity initiatives are important, how they relate to the success of the business, and their role in helping the firm accomplish its goal of a more diverse and inclusive environment. Understanding what clients are looking for in their law firms, the benefits of having more diverse pools of thought on client teams, and what doors can be opened will go far in changing the general attitude among law firm partners. Even understanding that women face different struggles will bring to change perceptions and even succession planning strategies.

C. Offer Solutions

In order to effectuate change, we must go beyond identifying the problem and develop creative solutions. Too often, women shift the burden to others to find a solution. For any problem or complaint, there should be a corresponding proposal on how to resolve (or at least start to resolve) that issue. Firms are more likely to address those issues with potential avenues for resolution rather than issues that do not have an obvious path for resolution. Being part of the solution, rather than part of the problem, will open the ear of management much more quickly and should lead to better results.



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D. Women Helping Women

As women climb the ranks, they need to look back and offer opportunities to their younger or more junior counterparts. While this seems intuitive, women are often hard on one another and sometimes can be seen as roadblocks. For some, the sacrifices or choices that were made to achieve success came with bitter consequences, and women do not want to share these stories or fear that it will scare the next generation away from working toward the same level of success. If senior and junior women are open and work together to discuss their career paths, it may unlock some of the mystery that clouds women looking at partnership.

D. Transparency

Women need to understand the fabric of the law firm and its components, and the firm needs to be transparent in sharing information. The metrics for success need to be clear; and both senior leadership and those climbing the ranks need to be forthright and honest in their intentions. Women tend to believe that flying under the radar and working hard is all that is needed, but as many will recognize, firms more often reward those that are vocal in their intentions.

IV. Case Study on Collaboration as an Industry Initiative

While each law firm believes that its approach to diversity, training, and educating its lawyers is unique and unprecedented, law firms face common challenges, and every organization has a limit to the number of topics and programs it can offer. Diversity and inclusion issues are systemic problems in the legal industry, and both in-house and outside collaboration are useful in addressing those issues.

Nine years ago, a group of women leading the women's programs at their respective law firms in Chicago came together to see if there would be enough interest in forming a group that could work to better share and collaborate on new areas and topics for law firm women's initiatives. Having reached a roadblock as to what else could be accomplished in their respective firms, these women gathered to share ideas about how take their programs to the next level. Today, the Coalition of Women's Initiatives in Law, with chapters in Chicago and New York, stands as a model of collaboration for law firms and in-house attorneys to come together to make change by giving women the tools to further themselves in the legal profession.



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This section provides an overview of how the Coalition structures its membership, governance, and programming. Its goal is to serve as a model for other diversity initiatives in order to effect change in the profession.

First, for law firms, firm-level membership is required. The Coalition requires law firms to join as members, allowing for a deeper commitment to the mission of promoting women in the legal profession and outreach to a greater number of attorneys. Coalition programs are open to all attorneys at member law firms, which increases participation and outreach and allows younger attorneys to attend programming without having to ask permission or tap an expense budget. In addition, each member law firm delegates specific attorneys who are tasked with communicating information regarding the Coalition to other attorneys at their firm. Delegates also serve on the Board of Directors of the Coalition. As a result, delegates have a leadership role and the Coalition is relieved of the burden of communicating and maintaining a database of thousands of attorneys at member firm.

Second, the Coalition has clear objectives and goals. The mission of the Coalition is to benefit its members by providing positive avenues of communication, collaboration and guidance that help members enhance the recruitment, retention and promotion of women lawyers and support the implementation and relevancy of women's initiatives. By having the clear goal of increasing the success of women in the legal profession, the Coalition motivates all the women involved to push their careers to the next level. Coalition delegates elevate their own careers through Coalition programs and initiatives while helping others to succeed as well.

Third, the Coalition is not afraid to break out of the mold. In its first few years, the Coalition grew exponentially, as did its programming. With this growth, the leadership of the Coalition realized that its objectives—the promotion of women attorneys in law firms—could apply equally to in-house attorneys. In 2011, the Coalition expanded its membership to include in-house attorneys. The Coalition structured in-house membership somewhat differently from law firm membership, in order to encourage in-house attorneys to join and to accommodate the many different sizes of companies in which in-house attorneys work. Lawyers who work in-house at companies can join by company (like a law firm) or individually. The Coalition had an immediate influx of in-house members, and now includes attorneys from more than thirty companies. At the same time, perhaps because of the inclusion of in-house attorneys and the increased opportunities to meet and network with these individuals, the number of law firm members in the Coalition doubled.



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Fourth, the Coalition utilizes the talents of its members. The Coalition has a large board and several committees chaired by individuals who are very passionate about the tasks they are undertaking for the Coalition. The women who chaired these programs used their differing perspectives to make each event successful. Both of the authors served as president of the Coalition and, while the position was incredibly demanding, it was critical to the success of the group to have a talented team in place.

Fifth, the Coalition uses feedback and/or criticism to its advantage. At one of the Coalition's largest events, leadership of the group learned that the lack of ethnic diversity at the event and other Coalition events disappointed many attorneys. The Coalition immediately took action and reached out to other women's groups in Chicago, including the Black Women's Lawyer's Association, the Asian American Bar Association, and the Chicago Committee, to join together for a large event on diversity in the profession. Working with these groups has enabled the Coalition to gain exposure and better diversify.

Sixth, the Coalition directly promotes and credentials its members by nominating them for attorney awards. The Coalition raises the profile of its members by encouraging them to apply for awards and assisting with and often drafting nominations. As a result, the Coalition has helped to increase the number and visibility of women receiving attorney awards.

Lastly, the Coalition is always ready to "sell" by updating prospective members on the benefits of joining. The Coalition utilizes newsletters and large events with high-profile attorneys to educate potential members. The Coalition also organizes committees and task forces to work on expansion. This year, the Coalition created an expansion committee, which led to a new chapter in New York. Within a year the New York Coalition has a vibrant membership, monthly programming, and a board modeled on the one in Chicago. The fact that New York attorneys at firms and companies immediately embraced the idea of the Coalition suggests that an outside group that assists with diversity initiatives at an institutional level is an important component of taking steps to effect change.

Increasing the pace of integration of women at the top of the legal profession is a difficult task. Law firms need to pick up the pace of progress for women in order to meet the expectations among non-legal corporations—the clients who fuel the legal industry. By changing the model and working together, individual legal organizations can benefit from accelerated programming and opportunities that will exemplify the commitment of the organization to changing the face of the legal industry.