



Walk the Walk
Screening & Discussion
January 16, 2019

CALIFORNIA
MINORITY COUNSEL PROGRAM

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IMPLICIT BIAS
Identification and Prevention

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Definition of “Diversity”

- The condition of having or being composed of differing elements
- Variety
- Especially the inclusion of different types of people

Source: Merriam-Webster

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“Inclusion” is about...

Promoting an environment where people from different cultural backgrounds:

- Are welcomed and treated with respect
- Feel included and integrated
- Are given equal access to opportunities
- Are given opportunities to contribute their ideas and concerns

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Implicit Bias

- Everyone has biases, many of which are implicit – that is, attitudes, memories, and stereotypes that are outside of “conscious, attentional control”
- Our biases affect everyday interactions
- Our biases can result in unintentional exclusion

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How Implicit Bias Shows Its Face

Some examples:

- Perceptions of contributions/performance – attribution of success to the attorney versus external factors or the opposite, depending on affinity bias.
- Level of focus on mistakes
- Remembering mistakes of outsiders longer than insiders
- Excusing mistakes by insiders due to unconscious natural affinity (more likely to personally identify with the fledging attorney and get to “I did that once”)
- Avoiding feedback on mistakes
- Gendered expectations on performance reviews (rewarding helping behaviors by men but ignoring same behaviors by women; penalizing women for failure to engage in helping behaviors but ignoring men’s failures to do so)

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Impacts of Implicit Bias in Law Firms and Legal Departments

- Fewer client contacts and development opportunities – formal and informal
- Fewer invitations to social events where opportunities may begin to be developed
- More instances of “soft” evaluations which keep mistakes and negative perceptions hidden from the attorney
- Higher incidents of reports that mistakes are held against diverse attorneys while overlooked when committed by non-diverse attorneys
- Fewer opportunities for inclusion on committees and among leadership

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Law Firm and Legal Department Best Practices

- Be Intentional
 - Be Open
- Prepare to Be Uncomfortable
 - Be Humble
 - Be Patient
 - Be Resilient
 - Be Resolute

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Law Firm and Legal Department Best Practices

- Involve senior management in diversity efforts – buy-in from the top is key to success
- Mandate unconscious bias training for all employees
- Expand recruitment beyond box criteria
 - Interview for leadership and judgment skills, not just top grades
 - Challenge assumptions about law school credentials – broaden the pool of schools where you recruit
 - Include attorneys of color and women in the interviewing and hiring process
 - Mask resumes on initial review to counter gender and racial bias – remove names, demographic info, and extra curricular activities
 - Use metrics to analyze and assess progress towards strategic goals
- Create and enforce inclusion policies

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Law Firm and Legal Department Best Practices

- Consistently include diverse attorneys in important meetings, pitches and staffing decisions
- Make partnership track/promotion expectations and skills matrices transparent
- Cross-sell attorneys to internal/external stakeholders and clients, including women and attorneys of color – make sure everyone knows what they do
- Ensure even allocation of high profile, career-enhancing assignments to women and minority attorneys of color
- Use outside consultants to generate objective exit interview data on women and minority attorneys who leave

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Law Firm and Legal Department Best Practices – Build An Inclusive Leadership Program

Inclusive Leaders are emotionally intelligent and exhibit key traits:

- Self awareness
- Curiosity
- Humility
- Adaptability
- Cross cultural agility
- Courageousness
- Fairness
- Collaborative

THESE ARE SKILLS/BEHAVIORS THAT CAN BE TAUGHT,
REINFORCED AND DEMANDED AS ESSENTIAL COMPONENTS OF
MANAGERIAL PERFORMANCE.

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Law Firm and Legal Department Best Practices

- Involve women and attorneys of color in all levels of firm leadership
- Make certain counsel and associates have both mentor and sponsor opportunities
- Promote work-life balance
- Support and promote diversity activities inside and outside the firm
- Give credit for diversity-related work, and conversely reduce credit for exclusionary behavior

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Law Firm and Legal Department Best Practices

Take advantage of the diversity dollars you already spend:

- Promote the organizations you already support
- Encourage participation by everyone in diversity events
- CMCP's programs and activities help "level the playing field"

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Diversity & Inclusion Belong to Everyone

Individual Actions Count...

- If you see an attorney you don't know, introduce yourself
- Take someone from another practice area who doesn't look like you, or who has a different style, for coffee or lunch just to get to know them better
- Step out of your comfort zone -- attend a diversity event for a group of which you are not a part
- Watch those with different styles in action

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Diversity & Inclusion Belong to Everyone

- Listen
- We're all either part of the problem or part of the solution...
Make a conscious decision about
which part you play

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Resources

Diversity

The Truth About Diversity --and Why It Matters--Forbes,
<https://www.forbes.com/sites/shelleyzalis/2017/11/30/the-truth-about-diversity-and-why-it-matters/#178487e566e7>

Diversity and Inclusion Matters to the Workforce of the Future – Forbes
<https://www.forbes.com/sites/forbeshumanresourcescouncil/2018/05/09/diversity-and-inclusion-matters-to-the-workforce-of-the-future/#61f23dab771b>

2018 Report on Diversity in U.S. Law Firms, NAT'L ASS'N FOR LAW PLACEMENT, INC. (NALP)
https://www.nalp.org/uploads/2018NALPReportonDiversityinUSLawFirms_FINAL.pdf

Bloomberg Big Law 2016 Diversity & Inclusion Report. Download at <https://go.bloomberglaw.com/2016-diversity-survey>

The Legal Profession Is Diversifying. But Not At The Top.
Washington Post, November 17, 2017 https://www.washingtonpost.com/news/work/wp/2017/11/27/the-legal-profession-is-diversifying-but-not-at-the-top/?utm_term=.d9190314217c

Inclusion

Being the MeToo Imperfect Ally - Model
The Winters Group, 2018
http://www.wintersgroup.com/wp-content/uploads/2018/05/TWG-MTM_Being-the-MeToo-imperfect-Ally-Model-1.pdf

The WMFDP Way: A Pathway to Full Inclusion White Men as Full Diversity Partners White Paper 2018 <https://wmfdp.com/wp-content/uploads/2018/02/WMFDP-White-Paper2018.pdf>

MCCA Corporate Demographic Survey Report 2017 Minority Corporate Counsel Association <https://www.mcca.com/resources/pathways-research/corporate-demographic-survey/>

2018 NAWL Survey on the Promotion & Retention of Women In Law Firms National Association of Women Lawyers
<https://www.nawl.org/page/2017>

The Inclusive Leader - Korn Ferry Institute, January 27, 2016
<https://www.kornferry.com/institute/the-inclusive-leader>

Dealing with discourse regarding potentially divisive political or other issues like #metoo and #blacklivesmatter: http://www.wintersgroup.com/We-Cant-Talk-About-That-At-Work_Excerpt-9781523094271_WEB.pdf

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Resources

Unconscious/Implicit Bias

Written in Black and White: Exploring Confirmation Bias in Racialized Perceptions of Writing Skills
<http://nextions.com/wp-content/uploads/2017/05/written-in-black-and-white-yellow-paper-series.pdf>

Managing Unconscious Bias White Paper:
Strategies to Manage Bias & Build More Diverse, Inclusive Organizations Paradigm, 2016 <https://www.washington.edu/diversity/files/2016/08/Paradigm.pdf>

Bias Interrupters

You Can't Change What You Can't See: Interrupting Gender and Racial Bias in the Legal Profession
https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/

Covering

Does 'Covering' Help Mask a Diverse Big Law Workplace?
<https://www.law.com/therecorder/2018/10/16/does-covering-help-mask-a-diverse-big-law-workplace/>
Covering: the Hidden Assault on our Civil Rights, Kenji Yoshino

Gender and Intersectionality

Lydia Lum, *Breaking Barriers, One Person at a Time*, [HTTPS://JUDICIALSTUDIES.DUKE.EDU/SITES/DEFAULT/FILES/CENTERS/JUDICIALSTUDIES/PANEL_1-BREAKING_BARRIERS_ONE_PERSON_AT_TIME.PDF](https://judicialstudies.duke.edu/sites/default/files/centers/judicialstudies/panel_1-breaking_barriers_one_person_at_time.pdf)

MCCA 18th Annual General Counsel Survey: Breaking Through Concrete Ceiling, One Woman at a Time,
http://www.diversityandthebardigital.com/datab/winter_2017

Salmah Y. Rizvi, *Attaining the Colorful 2.5%-5 Tips for Minority Women on Their Path to Partnership*, DIVERSITY & THE BAR (Spring 2017), <https://www.mcca.com/wp-content/uploads/2017/10/Women-Leaders-in-the-Law.pdf>.

Despite Law Firm Efforts, Women of Color Still Face Workplace Challenges
<https://www.catalyst.org/media/despite-law-firm-efforts-women-color-still-face-workplace-challenges>

Challenging the Myths About Women and Minority Lawyers, <http://www.lawpracticetoday.org/article/women-and-minority-lawyers/>
Lean In: Women, Work, and the Will to Lead, Sheryl Sandberg

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Resources

Authenticity

The Truth About Authentic Leaders, <https://hbswk.hbs.edu/item/the-truth-about-authentic-leaders>

The Authenticity Paradox, <https://hbr.org/2015/01/the-authenticity-paradox>

Imposter Syndrome

Imposter Syndrome in Big Law Millennials: A Survival Guide
<https://www.law.com/therecorder/2018/08/02/imposter-syndrome-in-big-law-millennials-a-survival-guide/>

Privilege

Race of Life video: <https://www.youtube.com/watch?v=4K5fbQ1-zps>

Microinequities

When Confronting a Biased Comment Can Increase Your Sense of Belonging at Work – Harvard Business Review
<https://hbr.org/2018/05/when-confronting-a-biased-comment-can-increase-your-sense-of-belonging-at-work>

<https://www.studymode.com/essays/What-Are-Micro-Inequities-And-Micro-Affirmations-How-862687.html>

<http://www.microtriggers.com/book.html>

Transgender Issues

HRC Business Statement for Transgender Equality
<https://www.hrc.org/blog/56-major-companies-respond-to-effort-to-erase-transgender-people-from-legal>

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