Walk the Walk
Screening & Discussion
January 16, 2019

IMPLICIT BIAS
Identification and Prevention
**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*

**“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
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

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)
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

Law Firm and Legal Department Best Practices

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

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
**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.**

**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
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”

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
**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**


**Inclusion**


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.wintergroup.com/We‐Cant‐Talk‐About‐That‐At‐Work_Excerpt‐9781523094271_WEB.pdf
Resources

Unconscious/Implicit Bias

Written in Black and White: Exploring Confirmation Bias in Racialized Perceptions of Writing Skills

Managing Unconscious Bias White Paper:

Bias Interrupters

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

Covering

Does ‘Covering’ Help Mask a Diverse Big Law Workplace?

Covering the Hidden Assault on our Civil Rights, Kenji Yoshino

Gender and Intersectionality

Lydia Liu, Breaking Barriers, One Person at a Time
https://judicialstudies.duke.edu/sites/default/files/sections/judicialstudies/papers_l‐breaking_barriers_one_person_at_tine.pdf

MCCA 18th Annual General Counsel Survey: Breaking Through Concrete Ceiling, One Woman at a Time,
http://www.diversityandthebardigital.com/databook_women_2017

Salmah Y. Ris, Defining the Colorful 3 Percent: Tips for Minority Women on Their Path to Partnership, Diversity & Inclusion | Spring 2017,

Despite Law Firm Efforts, Women of 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

Resources

Authenticity

The Truth About Authentic Leaders, https://hbr.org/2015/01/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

Privilege

Race of Life video: https://www.youtube.com/watch?v=0fV9s21-rg

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


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