



THE NEW FACE OF LAW FIRM

DIVERSITY



Many legal professionals have taken innovative approaches to encouraging diversity and improving related initiatives in their organizations. Could your firm follow their lead?

BY ERIN BRERETON

During the past two decades, many law firms have begun to examine – and increase – their internal diversity. For some, that’s involved tallying how many employees have a diverse background: counting how many women were on staff; how many African-American or Asian-American attorneys worked at the firm; if any employees had identified themselves as lesbian, gay, bisexual or transgender (LGBT).

That’s certainly a start. However, to truly diversify the workplace, a firm’s efforts often need to extend beyond taking a head count.

“I’m not sure you will find many firms that don’t at least pay lip service to the notion that diversity is important,” said Felix S. Lee, Partner and Co-Chair of the Diversity Committee at Fenwick & West LLP, a 300-attorney firm with offices in the Silicon Valley, San Francisco and Seattle. “But the commitment that these firms make to it – that’s the difference.”

It’s a difference Fenwick understood – which is why it sponsored the *California Law Firm Critical Mass Best Practices* research study, released in January 2010 that investigated what firms were doing to encourage diversity.

International 400-attorney firm Andrews Kurth LLP also understood the difference between encouraging and fully executing a diversity plan – and hired a full-time chief diversity officer to do it.

To achieve a successful diversity inclusion effort, firm leadership must be committed, according to Elizabeth A. Campbell, Partner and Chief Diversity Officer at Andrews Kurth.

“[The program] needs support from the top,” Campbell said. “Commit the dollars. Understand that it’s a long-term strategy.”



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When it comes to diversity, there's no cookie-cutter solution that will work for every firm.

The growing focus on diversity levels in the workplace is very much an evolving movement, and while most firms have realized they need to undertake some sort of effort to increase or maintain diversity, the following firms have taken truly innovative approaches to encouraging and improving diversity in their organizations — and in the legal profession as a whole.

If your firm hopes to establish new diversity initiatives or offer support for ones that already exist, consider the following four methods:

1. FORM AN EXTERNAL ADVISORY COUNCIL.

Barnes & Thornburg LLP – a firm with nearly 540 legal professionals and offices in Atlanta, Chicago, Delaware, Indiana, Michigan, Minneapolis, Ohio and Washington, D.C. — has had a firmwide Diversity Committee since the early 1990s.

In 2009, associate members were added to increase the committee's reach. The panel also includes various subgroups and forums that focus on minority issues, women's concerns, disability issues, LGBT issues and work/life balance.

Yet – despite its pre-existing commitment to fostering firm diversity – Barnes & Thornburg believed that it could still be doing more. So, as after meeting with a consultant and surveying its internal strengths and opportunities for improvement, the firm created an external advisory board as part of its 2009-2010 Diversity Action Plan.

The external board comprises several professionals, including a law school representative and one of the firm's corporate clients who volunteer their time and are reimbursed for any related expenses.

"One thing we wanted to make sure of was that the firm was really serious about proceeding

under the diversity goals and initiatives we were establishing," said Kathleen M. Anderson, Partner and Co-Chair of the firm's Diversity Committee. "What better way to do that than to have people outside the firm help to guide us and hold us accountable?"

A Work in (Social) Progress

The external board met with firm representatives in person this year, and firm leaders say they hope to meet again with its board in-person before the end of 2010.

Because the board members and advisory committee members are in different locations — including several Midwestern states and Georgia — the first meeting was held in Indianapolis.

As expected, the external board has helped to hold the firm accountable to its diversity goals, in part because the board presents a level of formality that wouldn't exist if the meeting was an internal one, Anderson says.

"The board might even be more psychological for us than anything else," said Anderson. "That's a self-assessment you're presenting to someone else. It's easy to ask for an extension or pass if you're reporting to someone internally. But you can't really reschedule [a meeting with several external board members]."

Per its diversity plan, the firm is required to present its work annually to the external board – including specific strategies, tactics and deadlines.

"For instance, one of our tactics under our management strategy, or platform, is to incorporate diversity into evaluations and the setting of compensation," Anderson said.

For partners, that is done through the firm's partner compensation process; it's also part of the associates' self-evaluation process. As with other efforts, such as client development work, involvement in diversity programs is rewarded.



The ability for [attorneys] to be able to take hours that they're spending on **diversity** is something they're all **interested in** and something that is important to them. To use some of their hours toward billable requirements **sends a message** of how important [diversity] is to the firm."

2. ADD A FULL-TIME, DIVERSITY-FOCUSED PROFESSIONAL.

Before adding its diversity officer position, Andrews Kurth had participated in several diversity-oriented activities, ranging from job fairs to sponsoring diversity-related events in cities where the firm has offices to conducting periodic executive retreats.

Although the firm did not have an umbrella diversity strategy, per se, it had several internal inclusion-related groups – including a Diversity Committee that contained representatives from all the firm's offices and a Women's Initiative team. The firm also offered domestic partner benefits.

Andrews Kurth had obviously worked to encourage workplace diversity. However, it wanted to ensure diversity remained part of its future plans.

"The firm was looking at the go-forward – what things should we do if we want to continue to be a leader?" said Campbell. "Diversity inclusion was clearly on the forefront."

The firm decided that, to truly increase inclusion, it could help to add someone whose focus would be on program planning and implementation – a full-time diversity professional. An executive search firm was hired, and partners began searching for a candidate in fall 2006.

"The job description alone sold me on the firm," Campbell said. "I [was hired] to develop and implement our comprehensive diversity and inclusion strategy. I don't know that there was another firm in the country who had a position like this."

Campbell started in February 2007.

"The challenge for us was just trying to coordinate all of these efforts," said Toni Beasley, Office Administrator in the firm's Austin, Texas, office and a member of the Association of Legal Administrators (ALA). "A lot of what we did was

successful – but Elizabeth came on board and solidified our diversity strategy.

"[She helped us] get everything under one umbrella," Beasley added. "We were able to work the other offices in with things that we were already participating in and make them all the more worthwhile."

Measuring and Marketing the Message

One of Campbell's first moves was to establish a way to assess how effective her diversity inclusion attempts would be.

"It's very easy to measure representations – what percentage of a specific demographic you have in a certain category, how many female attorneys, how many African-American staff members you have," she said.

But that does not, according to Campbell, provide an accurate snapshot of a firm's diversity success.

"That is a piece in time; it's a benchmark," she said. "And that's fine – but it's influenced by so many factors I can't control that to measure the entire strategy plan on one element doesn't tell the whole story, and I wouldn't buy into it."

Instead, Campbell created a system to calculate the type of diversity work that was being done.

"As lawyers, we bill our time," she said. "I worked with our financial people to develop matter numbers for every type of activity I engage in. If I go to speak, I have a category for that; [I have one for] the recruitment process and about nine or 10 things."

By the end of her first year in the position, all of the firm's attorneys had been asked to record the time they spent on diversity planning or activities using the same matter numbers. The firm is currently tracking about 3,000 inclusion hours a year.



One of the things we have done I think quite **successfully** is to try to look at diversity in its **broadest sense**. We have not only looked at bringing in a number of women, as well as people of color, but we also have a very strong Native American practice and have used that fact to attract Native American attorneys to our firm and **expand the business we are doing**.

“Across all offices, we can decide which events to sponsor, which we are going to participate in – it’s a very strategic approach,” she said. “We’ve gone from having people involved to having people be accountable.”

Earlier this year, Andrews Kurth announced that it planned to start counting time spent on diversity efforts as billable hours.

[We treat it] much like we do pro bono hours,” Campbell said. “If you have a target number of hours, you can count some of the hours you worked on diversity inclusion matters.”

The diversity-related work also is part of the attorney performance evaluation process for partners and nonpartners.

Adding that extra layer of accountability has helped the firm to further integrate diversity efforts into its overall fabric, according to Beasley.

“The ability for [attorneys] to be able to take hours that they’re spending on diversity is something they’re all interested in and something that is important to them,” Beasley said. “To use some of their hours toward billable requirements sends a message of how important [diversity] is to the firm.”

Although some firms may fear spreading the word about their efforts will come off as self-promotion, promoting diversity endeavors can be a crucial recruitment tool.

“Creating that environment where they want to come, stay and grow – that’s an HR function, partially,” Campbell said. “But if you put policies in place and don’t tell anybody, that’s not going to help.”

Considering diversity and inclusion as core values has helped Andrews Kurth to stay committed to encouraging firm diversity, Campbell said.

“[Diversity] is not a *cause du jour*,” she said. “It’s not something we can put a box around and say, ‘Yes, we’re doing this today, but tomorrow, something else has come up.’ It really does weave its way through everything we do and begins to invent who we are culturally.”

3. LEVERAGE YOUR FIRM MEMBERS’ UNIQUE BACKGROUNDS.

Williams Kastner, a firm with more than 100 attorneys and offices in Seattle, Portland and Tacoma, Washington, didn’t hire a consultant to find someone to hire and grow its practice groups from the ground up. Instead, the firm created strong specialty practice groups that serve two prominent communities by empowering its attorneys to cultivate relationships based on their backgrounds.

“As a law firm that fluctuates between 80 and 120 lawyers, we try to be as lean and mean as we can and try to use as many internal resources to talk about our vision as we can,” said Sheryl J. Willert, Managing Director of Williams Kastner.

Currently, Williams Kastner has a strategic alliance with Duan & Duan, a firm headquartered in Shanghai — one of the oldest private law firms in China — because the founder is a former firm associate who decided to return to China and open a practice.

Working with attorneys in China provides the firm with more mobility within the Chinese legal market, Willert said.

“With respect to clients having legal needs in China, we help to facilitate relationships to the extent we are able to,” Willert said. “Is that a selling point? Absolutely.”

It’s also the difference between having diverse employees so you can meet a quota – and having

diverse employees who truly become part of the firm's fabric.

"It's important to clients that they have a base of people here that they can go to with an understanding of the language and culture," said Tyra Roelandt, Williams Kastner's Human Resources Manager and an ALA member. "[Those attorneys] stand out in the forefront of what they're doing. They're not among us simply so we can put forth [diversity staff] numbers – they're part of who we are as a firm in totality."

Empowering Employees

About a decade ago, the firm also began to establish a legal presence in the Native American community – again, thanks to an employee.

"We had the good fortune of having the first Native American lawyer here who was very interested in building a practice with a reservation, and we said, 'We're going to let this person follow a vision, and we're going to invest in that vision,'" Willert said.

The effect wasn't immediate. "It probably didn't bring any revenue for the first 18 months," she said. "It really was an investment."

However, the firm now has a practice group devoted to working with the Native American community, handling legal needs for tribe-owned casinos and other business transactions.

"One of the things we have done I think quite successfully is to try to look at diversity in its broadest sense," Willert said. "We have not only looked at bringing in a number of women, as well as people of color, but we also have a very strong Native-American practice and have used that fact to attract Native-American attorneys to our firm and expand the business we are doing."

The business growth has helped in several sectors.

"Whenever you have the opportunity to expand the base of your practice, it actually has an impact on every practice area," Willert said. "The infusion of the area of our Native-American practice has provided activities for other practice groups."

The Sum of All Parts

Although encouraging attorneys who want to enhance or build practice areas based on their backgrounds has helped the firm to grow its business, Williams Kastner leaders are aware that diversity is more than just a talking point.

"[Firms sometimes] more or less showcase [diverse attorneys] in a way, rather than really looking at the totality of a person and what they bring as a whole individual," Roelandt said. "[An ethnic or other background trait] is only one small dimension of who they are, and I think that's a fault where [some firms] put it out as a window dressing."

ALA'S COMMITTEE ON DIVERSITY



Farrell

One of ALA's goals is to increase diversity in the Association, in the legal management community and in all legal service organizations.

As a result, the organization launched the ALA Diversity Initiative – designed to increase awareness of and sensitivity to the differences of individuals in the workforce and to advance the concepts of inclusiveness and acceptance.

To help meet these goals, ALA established a diversity taskforce in 2003, and later empowered a standing Committee on Diversity to provide support, tools and resources to advance diversity-related initiatives.

"There is perhaps no greater challenge to our profession than the imperative to advance diversity and inclusion throughout our ranks and the organizations for which we work," said David A. Farrell (pictured), Chair of the Committee on Diversity. "To enhance the competence and professionalism of all members of the legal management team, we must be inclusive in our workplace culture, policies and practices."

The Committee's work has included the creation and ongoing revision and evolution of an online Diversity Toolkit – a collection of vital resources that reflects the perspectives of administrators in all settings, including private law firms, corporate legal departments, government law offices and nonprofit organizations. Whether your office is just getting its diversity efforts off the ground or already has a well-established diversity plan, the Diversity Toolkit has something to offer you.

Learn more at www.alanet.org/diversity.



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That's likely to become more of an issue as clients continue to place an emphasis on workplace diversity.

"We have a number of clients who, at the end of any engagement or year or beginning of a relationship, are asking about diversity numbers – everything across the board in terms of, 'What is your commitment?'" Willert said. "And they are relatively clear that if there is no commitment, there will be no relationship."

And clients aren't the only ones asking for such information. Prospective employees are also looking for diverse workplaces.

"I have candidates for staff positions who actively seek employers where there is a diversity of people with whom they will be working," Roelandt said. "And that's made a difference hiring people at the staff level whom we wanted."

4. WORK TO ACHIEVE INDUSTRYWIDE DIVERSITY BY SHARING BEST PRACTICES.

All attorneys at Fenwick & West are asked to participate in at least three hours of training on diversity-related topics each year. All partners are also asked to sign a diversity leadership imitative commitment with a list of diversity-enhancing activities that they're expected to work to achieve annually.

As part of its ongoing initiative, the firm's Diversity Committee, which comprises attorney representatives from all practice groups, decided to sponsor a study last year that would measure what other firms are doing to promote diversity.

"Obviously, one of [our] primary goals is to continue to build critical mass in different diverse groups," said Lee, Partner and Co-Chair of the firm's Diversity Committee. "One way is to find others within the industry that have done a good job of that — that was the way that the critical mass study was born."

Because "the heart of the firm" is located in California, Fenwick focused its efforts on firms in the state, Lee says.

"We thought that it would make sense to go to peer firms that would essentially be drawing from the same demographic base we were," he said. "The challenges that may be faced in a firm in Denver or Dallas might be different than those that would be faced in a firm out here."

Based on several types of data, firms were identified as industry leaders in specific diversity segments and were approached by the Talent Advisory Board – which Fenwick commissioned to conduct the study – to ascertain if they would be interested in sharing their best practices.

"The best solutions for recruiting and retention of gay and lesbian attorneys may be very different from the ones to track and retain female or Asian-American attorneys," Lee said. "Instead of just going to firms we thought were doing well in a general diversity sense, [we examined firms that excelled in different ways]. The things you would think and do for each segment are different."

Fenwick, which also participated in the study, expects to share the results with other firms.

"The goals certainly were twofold," Lee said. "We did want to, for internal purposes, find better ways to improve in areas of diversity – that was primary – but we also felt we had an obligation to the legal community at large to try to further diversity."

The legal community apparently agreed. Lee was initially concerned that firms would opt to not share their diversity best practices when they heard another firm was sponsoring the study, but that wasn't the case.

"There was at least some skepticism that, if these firms are doing so well, that's a competitive advantage in our marketplace, so why would



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they tell competitors what they're doing?" he said. "[But] firms were very forthcoming. At the end of the day, everyone agreed that we're in this together to try to enhance diversity together throughout the legal profession."

Factual Findings

The research offered Fenwick proof of which programs were successful.

"There were a number of different methods of trying to achieve diversity that have been controversial within the legal community," Lee said. "In some respects, it's useful to find out just from empirical observation which actually worked and which firms have dared to use those methods."

The survey, for example, asked firms how much emphasis they placed on law school grades when recruiting, which historically may have put members of certain demographic groups at a disadvantage, according to Lee.

"There's a raging debate in legal circles and in firms internally: Would you relax grade standards to gain access to more diverse candidates?" Lee said. "And [we saw] that there are firms that do exactly that and have been able to bolster diversity in their ranks, at least within certain populations."

The use of alternative career paths, such as non-partner or part-time or flex schedule positions, was also examined.

"The question has always been, 'Can you make them work in a big firm environment?'" Lee said. "We saw some firms that were actually able to offer [such] positions, many of which are often more attractive to attorneys with family obligations. And if you can make those sorts of arrangements work, you're much more likely to keep talented people who have those other commitments."

The survey also highlighted the need for mentoring and sponsorship by senior-level diverse firm members.

"That's not to say a diverse attorney can't be mentored by a straight, white male; that happens all the time, and we should encourage it," Lee said. "But special care has to be taken to make sure diverse attorneys have access to those relationships that will help them to be successful."

Moving Forward

Although the survey results are still fairly recent, they've sparked considerable conversation within Fenwick about maintaining consistency – and about change.

"Some of the things that firms talked about doing, Fenwick was already doing," Lee said. "The firm has been in a pretty constant dialogue since the study came out about what things we should be changing, and we are on the cusp of doing some of those things."

According to Lee, the topics and programs that the survey touched on weren't necessarily shocking or new, but they still proved informative.

In some ways, the focused look at what various law firms are doing to facilitate and increase diversity offered more than just research — it provided inspiration.

"I'm not sure if we saw anything we wouldn't have thought about before," Lee said. "But it gives you an idea about, within a spectrum, methods you could possibly use that are working and have been successful at firms that have been willing to try them." ✨

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