

PUBLICATION

Five Common Mistakes in D&I Strategy

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Shareholder Marcus Maples was a featured presenter at the Alabama State Bar's "Unity Matters" CLE series earlier this year. The goal of his presentation was to challenge the legal community – Baker Donelson and himself included – to think about diversity and inclusion efforts more strategically. Associate Denmark Grant worked with him to excerpt the following content regarding five common mistakes law firms and legal departments make when it comes to D&I strategy.

1. The Failure to Recognize the Power of Why

The first mistake is the failure to recognize the power of why. D&I initiatives often begin enthusiastically and are undertaken with the best of intentions. However, before a firm or legal department begins to hire diverse talent, they should ask a powerful, yet simple, question. Why? Specifically, why is diversity and inclusion important to your company? Your why is going to impact your how.

People support D&I initiatives for a variety of reasons. For some, it's a moral decision. For others, it's a business decision. The "why" can vary based upon the specific goals of a particular organization, and that's fine. The important thing is for supporters of D&I to understand why stakeholders believe diversity and inclusion is important. If they don't think it's important, then we have to find out what they consider important, and tailor the approach to speak to that perspective. For example, if they're concerned with the bottom line, then you could share with them that law firms and legal departments with advanced D&I programs experience higher levels of performance, higher levels of innovation, higher levels of loyalty, and a greater sense of belonging. The flip side is also true. Companies with minimal or perfunctory D&I initiatives experience fewer benefits.

2. A Failure to Understand Past Mistakes

Often, D&I advocates focus on the external before understanding the internal — the problems at home. I cannot emphasize this enough. When considering D&I strategy, leadership must take a hard and unapologetic look at whether and why diverse attorneys at their companies have not been successful. The first step is to learn why diverse attorneys have left the organization (the real reason — not the reason they gave to be polite). Look deeper. Talk to them. Engage with them. Have a dialog to understand the challenges they faced. Consider conducting a cultural audit in which you send a questionnaire to the diverse attorneys to capture their experience. Have your CEO or diversity chair go on a listening tour. Also, engage with non-diverse attorneys to learn how they view diversity and what they think could be done better. That's where you begin.

3. The Failure to Recognize One is Never Enough

Mistake number three is simple: it's the failure to recognize that one diverse attorney is never enough. Many firms or companies have one diverse attorney that they parade around at functions for audiences who want to see diversity. Too many firms or in-house teams sit that attorney at a counsel table when they have the attention of diverse jurors or a diverse judge. Afterward, that attorney goes back to his or her office and is not a meaningful participant in the organization until the need arises again for their diversity. That's not diversity and

that's not inclusion. One is never enough because if you put all your eggs in that basket, and that attorney leaves, you have to start from scratch. Help your colleagues understand that hiring or recruiting only one diverse attorney is not sufficient. The goal is to build a culture of meaningful inclusion.

4. Placing Too Much Emphasis on a Single Event

The fourth common mistake is attempting to resolve D&I challenges with a single event. You see this in a variety of circumstances. Companies provide a one-time training. Employees take a one-time test and analysis. People are asked to read one book. Firms do one pipeline program. Companies do these things and think, "Okay — I've done it. I can check the box." The D&I problems we face in the legal community cannot be solved by a single event, a single banquet, a single check, or a single luncheon. We need everyone to work on multiple fronts to ensure we're making sufficient progress. Consider how ingrained implicit bias is in our community. Habitual thinking cannot be undone by a single event. You can't change your body with a single workout. You can't change your waistline by eating one healthy meal. D&I has to be a practice. It's a lifestyle, not a single event.

5. The Failure to Evaluate Current Programs

The fifth common mistake is a failure to evaluate current programs and policies to determine whether they're effective. I'll put it simply. Organizations put metrics behind everything but diversity. Firms keep track of share value, compensation allocation, billable hours, and dollars received. In-house legal teams are measured by success rates at trial and limiting exposure for owners and shareholders. But when it comes to D&I, do you know your summer associate conversion rate? Do you know how many of your diverse associates start as associates and make shareholder? Do you know whether associate general counsel progress towards deputy and general counsel roles? Often, lawyers (and even firm leadership) have absolutely no idea. The same goes for the pipeline programs we participate in. For the most part, we don't know whether the programs are successful, and we don't even think to ask. We just continue to write checks, pat ourselves on the backs, feel good about writing the checks, and then move on to the next assignment. We must start thinking about the effectiveness of our pipeline programs, our summer associate programs, and the rate of conversion from associate to shareholder and from associate counsel to general counsel. If we can't identify where our weaknesses lie, then we'll never effectively address them.

I hope your organization avoids these mistakes. Developing a successful D&I initiative is an all-hands-on-deck effort, including help from diverse talent and allies alike. You may have noticed that the term "ally" has become part of the popular discourse. In my view, ally is not a term you can give yourself. You become an ally based on either a track record of delivering D&I results or a commitment to delivering results. To that end, one way to avoid these common mistakes (and become an effective ally) is to develop an awareness of your own biases, maintain a sense of compassion, and be willing to take action. You don't have to chart this path alone. As always, Baker Donelson is happy to partner with you to provide assistance in developing a winning D&I strategy that fits your organization.