

A STUDY OF LAW DEPARTMENT BEST PRACTICES



**CREATING PATHWAYS
TO DIVERSITY®**

M C C A S U P P O R T E R S

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A Study of Law
Department Best Practices



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IN APPRECIATION...MCCA extends its appreciation to the following law firms for their financial contributions in support of the production of this research report. Their support has been critical to MCCA's ability to produce and distribute this valuable resource. It is our hope that this information will assist both in-house counsel and the law firms that work with them to continue to develop their diversity initiatives.

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I. INTRODUCTION

The Minority Corporate Counsel Association (MCCA) was founded in 1997 to advocate for the expanded hiring, retention, and promotion of minority attorneys in corporate law departments and the law firms that serve them. MCCA accomplishes its mission through the collection and dissemination of information about diversity in the legal profession. Over the years, MCCA has conducted a number of studies examining the state of diversity in corporate law departments and law firms, and identifying the best practices used by those who have been more successful with their diversity initiatives.

In 2000, MCCA published its first research report titled: *Creating Pathways to Diversity® – A Study of Law Department Best Practices*. In this report, MCCA postulated the "Pathways Concept" as a continuum for successful diversity programs. The first step is *Compliance* – bringing women and minorities into the organization to simply meet EEO goals and objectives. The second step is *Diversity*, in which an organization would demonstrate an appreciation for the differences in culture, perspectives, and approaches that diverse employees may offer. The third and final step on this continuum is *Inclusion*, in which organizations create a work environment that recognizes and values diverse employees' skills and talents, and utilizes this diversity to the fullest advantage, thereby contributing to organizational success. (See the updated chart on pages 6 and 7.)

Since the 2000 Pathways Report was published, several important initiatives led by the General Counsel (GC) community have helped to bring the issue of diversity to the forefront as a priority among corporate counsel and the law

firms that they retain. For example, between 2000 and 2005, more than 500 GCs signed a document entitled *Diversity in the Workplace, A Statement of Principle*, to show evidence of their commitment to diversity in the legal profession. (See the box below with the text of the *Statement of Principle*.)

This was a noteworthy initial step. However, Roderick Palmore, the GC of Sara Lee, believed that more needed to be done to further the goals of the *Statement of Principle*. In 2004, he created a new *Call to Action* to go beyond the plateau that the *Statement of Principle* had reached. When chief legal officers sign the *Call to Action*, they do reaffirm their commitment to diversity goals, but they also agree to actively look for opportunities to work with law firms that distinguish themselves in terms of diversity and to end or limit their relationships with law firms whose track records reflect a lack of

**Diversity in the Workplace -
A Statement of Principle**

As Chief Legal Officers, we wish to express to the law firms which represent us our strong commitment to the goal of diversity in the workplace. Our companies conduct business throughout the United States and around the world, and we value highly the perspectives and varied experiences which are found only in a diverse workplace. Our companies recognize that diversity makes for a broader, richer environment which produces more creative thinking and solutions. Thus, we believe that promoting diversity is essential to the success of our respective businesses. It is also the right thing to do. We expect the law firms which represent our companies to work actively to promote diversity within their workplace. In making our respective decisions concerning selection of outside counsel, we will give significant weight to a firm's commitment and progress in this area.

meaningful interest or progress in diversity. To date, more than 90 GCs have signed the *Call to Action* and the list continues to grow. (See the box with the text of the *Call to Action* on page 8.)

Between 1999 and 2005, MCCA also charted a rise in the number of minorities and women who

have ascended to the position of GC at Fortune 500 companies, indicating much greater diversity among this elite sector of chief legal officers. A greater level of diversity in legal leadership positions confirms that the in-house sector is advancing in support of diversity at all levels.

Then vs. Now: A Five Year Comparison of Some Diversity Measures in Large Corporations and Top Law Firms

- In 2005, minorities made up 5.6% of Fortune 500 General Counsel, up from only 1.8% in 2000*
- In 2005, women made up 15.2% of Fortune 500 General Counsel, an increase from 8.8% in 2000*
- At the top 250 law firms, the 4% of partners who were minorities in 2005 is only slightly better than the 3.5% in 2000.**
- Great strides have been made by Fortune 500 companies offering Domestic Partner Benefits, which increased from 13.8% in 1998 to 40% in 2003, the most recent year for which these figures were available.***

*MCCA Annual Survey of Fortune 500 GC, *Diversity & the Bar®* Magazine

** Statistics are from *National Law Journal List of Partners who are minorities at Top 250 Law Firms*.

*** Information comes from the 2005 Corporate Equality Index, a survey done by the Human Rights Campaign (HRC) Foundation of Fortune 500 companies, Forbes 200 privately held most profitable companies, and other organizations that have over 500 employees and voluntarily submit a survey.

The Human Rights Campaign Foundation's 2003 edition of the "The State of the Workplace" found that the number of Fortune 500 companies offering domestic partner benefits almost tripled in five years, from 69 in 1998 to 200 by the end of 2003. The trend among the Fortune 500 suggests that the higher a company's rank, the more likely it is to offer domestic partner benefits. While 40 percent of the Fortune 500 companies provide the benefits, 68 percent of those in Fortune 50 do so.

	Definition	Characteristics	Senior Management	Structure	Recruitment	Retention	External Diversity	Metrics
COMPLIANCE	<p>Compliance: Conformity in fulfilling requirement(s) as a federal, state or local government contractor to enact an Affirmative Action policy.</p> <p>Affirmative Action (AA): Requires the company to take positive steps to increase the representation of women and people of color in its organization.</p> <p>Equal Employment Opportunity (EEO): Requires that employers not discriminate on the basis of race, sex, religion or national origin in their employment practices.</p>	<p>Non-diverse representation among legal staff. Culture is dominated by white males.</p> <p>Perceptions among minorities and women of management inaccessible and lack of commitment to diversity.</p> <p>Gap between policy and practice.</p> <p>Diversity seen as compliance with EEO legislation and another form of affirmative action.</p>	<p>Disconnect between what senior management says it wants to do and what actually gets done.</p>	<p>No written diversity plan or dedicated committee/task force in law department.</p> <p>Diversity primarily charged to human resources and viewed as issue of recruitment of women and people of color.</p>	<p>EEO/AA compliance as part of corporate-wide policy. Human resources charged with recruitment of minorities and women to fill positions as they become available.</p> <p>Good faith efforts to increase diversity throughout the law department.</p>	<p>Succession plan does not include emphasis on diversity.</p>	<p>None</p>	<p>Tracking number of minorities and women employees for EEO/AA requirements.</p>
DIVERSITY	<p>Diversity: Seeking/Acknowledging the value of different backgrounds, including ethnic, racial, cultural, religious beliefs, education, parental status, sexual orientation and age group, to name a few.</p> <p>At the organizational level, examining policies, procedures and structures to identify barriers that keep diverse groups or individuals from succeeding.</p> <p>Improving relationships with diverse suppliers/vendors and outside organizations to enhance diversity initiatives.</p>	<p>Focus on increasing diversity among legal staff, including at management level.</p> <p>Communication that diversity is an organizational/departmental goal.</p> <p>Company-wide affinity or employee resource groups for different ethnicity, gender, sexual orientation, disability, management level, etc.</p> <p>People of color may feel underutilized or unsure of career advancement/promotion path.</p>	<p>Articulated business case.</p> <p>Commitment from General Counsel (GC) to promote diversity and provide forums for ensuring diversity awareness and progress in law department.</p> <p>Senior management works with human resources to produce company-wide diversity goals.</p>	<p>Person(s) within law department form committee/task force that is assigned responsibility for monitoring progress on diversity and reporting back to GC.</p> <p>Written goals and objectives for diversity staffing and outside spend with diverse suppliers.</p> <p>Law department participates in outside vendor programs and tracks spending with minority and women-owned law firms, as well as majority firms committed to diversity.</p> <p>Performance reviews address contributions to advancement of diversity goals.</p>	<p>Require executive search firms and human resources to provide a qualified, diverse candidate slate for all open positions.</p> <p>Set goals for demographic representation of department and communicate to human resources and managers with hiring responsibilities.</p> <p>Participation in non-traditional recruitment forums to reach qualified, diverse candidates, including job fairs, minority bar events, etc.</p>	<p>Provide training on diversity awareness and issues that affect minority, women and other diverse attorneys and legal staff.</p> <p>Informal mentoring for new hires.</p> <p>Work/life initiatives to meet needs of attorneys with family or other commitments.</p> <p>Domestic partner benefits are offered as part of employee benefits package.</p> <p>Company's diversity values/goals part of orientation for all new employees.</p>	<p>Encourage outside counsel to increase diversity and to assign diverse attorneys to company legal matters.</p> <p><i>Call to Action</i> signatory and/or involvement/support of other leadership initiatives designed to stimulate diversity progress.</p> <p>Law Department goal for spending with minority and women-owned law firms.</p>	<p>Demographic representation at different management levels and practice areas.</p> <p>Tracking of new hires, transfers, true promotions and tenure of diverse attorneys.</p> <p>Outside spend with minority and women-owned firms and with majority-owned firms having an improved track record of assigning diverse representation to company work.</p>
INCLUSION	<p>Inclusion: Leveraging the unique backgrounds and experience of all employees to achieve business goals and objectives. Inclusion is the process of removing the barriers to organizational competition, thus allowing people who are “different” to compete equitably. In an inclusive organization, employees’ skills and talents are recognized, used effectively, valued and help drive organizational success.</p> <p>Strategic relationships with outside vendors and organizations enhance diversity/inclusion goals and culture of the organization and law department.</p>	<p>Demographic representation that is on par with general public. Focus on maintaining the diversity within legal department, which is defined beyond different racial and ethnic minorities and women to include different age groups, educational backgrounds, physically challenged, sexual orientation and other diverse staff.</p> <p>People of color, women and other diverse attorneys in senior management positions (direct reports to GC).</p> <p>Diverse attorneys feel included and challenged to improve professionally. Rules for career advancement are specified and clearly communicated to all attorneys.</p> <p>Positive recognition for efforts results in enhanced public image. Known as “employer of choice” among minority, women and diverse candidates.</p>	<p>Diversity part of strategic plan/initiatives.</p> <p>Diversity represented among senior management ranks, including law department.</p> <p>Regular reports to CEO and Board of Directors on results of diversity initiatives.</p> <p>Ongoing, open communication on diversity/inclusion issues, as well as company goals and progress, to employees in various forums, including company meetings, Web site and Intranet, best practice sessions.</p>	<p>Law Department Diversity Committee and/or formal plan with measurable objectives.</p> <p>Reports reviewed regularly by senior management on diversity progress.</p> <p>Compensation of senior management tied to results of diversity efforts.</p>	<p>Recruiters have defined expectations of company's diversity goals and a mandate to provide diverse candidates for all open positions. Recruiters of choice identified for some business areas.</p> <p>Open jobs posted throughout law department/company for potential promotions from within corporation.</p> <p>Utilize attorneys and other diverse staff to help recruit/identify talented attorneys. Employee referral bonuses for key legal positions.</p> <p>Active participation in minority job fairs, minority and women bar association events, and local/regional diversity-focused organizations.</p> <p>Sponsorship of pipeline programs, such as law student summer internships, scholarships, and other programs to fill the “pipeline” to jobs in the legal field with qualified, diverse attorneys.</p>	<p>Succession plan includes diversity focus and identifies high-potential employees, ensuring they are offered leadership education/development opportunities.</p> <p>Formal and informal mentoring programs, such as executive shadowing and reverse mentoring programs, provided for all attorneys.</p> <p>Work/life initiatives to meet needs of attorneys with family or other commitments.</p> <p>Domestic partner benefits are offered as part of employee benefits package.</p> <p>Corporate culture surveys to get feedback on employee perceptions and inclusiveness of work environment.</p> <p>360-degree feedback for senior management.</p> <p>Leadership behaviors identified and communicated to entire department, and rewarded when merited by GC.</p>	<p>Preferred partner relationships with outside counsel who enhance company diversity goals/commitment. Track Tier 2 spending by outside counsel and other vendors.</p> <p>Feedback provided by GC to outside law firms on their diversity progress and resulting assignment of work based on diversity commitment.</p> <p>Vendor conferences hosted by company to strategize about how to improve company business practices. Maintain list of vendors with diverse employee base and communicate goals for using diverse vendors to legal staff.</p> <p>Partner programs with minority bar associations and other organizations that work to increase diversity within the legal profession. Attorneys encouraged to play active role in local and national organizations.</p>	<p>Climate survey (number of positive and negative responses broken down by gender, race, sexual orientation, legal specialty, and length of tenure sections).</p> <p>Staffing/Hiring metrics, including placements, new hires, promotion rates, turnover costs, retention differentials, compensation analysis and complaints/grievances. Law department works closely with human resources to track all staffing issues and progress.</p> <p>Program utilization (work/life programs, leadership development, diversity training) as measured by participation of legal staff.</p> <p>Track outside spend with Minority and Women-owned Business Enterprises (MWBEBE) and minority and women partners or associates in majority-owned firms. Reports generated and reviewed regularly by GC and senior management.</p>

**A Call to Action:
Diversity in the Legal Profession**

As Chief Legal Officers, we hereby reaffirm our commitment to diversity in the legal profession. Our action is based on the need to enhance opportunity in the legal profession and our recognition that the legal and business interests of our clients require legal representation that reflects the diversity of our employees, customers and the communities where we do business. In furtherance of this renewed commitment, this is intended to be a *Call to Action* for the profession generally, in particular for our law departments, and for the law firms with which our companies do business.

Given the myriad of changes that have taken place over the last five years, MCCA's goal for this 2005 Report (from here on referred to as the Report) is to update and expand upon its first Pathways Report published in 2000 and to illuminate current diversity best practices of both large and small legal departments representing a diverse sector of business and industry.

The 2005 research generally shows a positive change in corporate legal departments' place on the Pathways continuum. A vast majority of those interviewed said that their diversity programs had changed in the last five years. (See the chart on page 21.) None of those reviewed were still in the *Compliance* stage. Most were in the *Diversity* phase and had goals, initiatives or programs that would lead them into the *Inclusion* phase. And there were several legal departments that clearly have reached an inclusive environment for attorneys and staff, and are using their influence to improve diversity within the legal profession.

The chart on pages 6 and 7, which first appeared in MCCA's 2000 *Creating Pathways to Diversity*® research report, starts with definitions of the elements of the Pathways Concept. The current chart has been updated with new research

In an effort to realize a truly diverse profession and to promote diversity in law firms, we commit to taking action consistent with the referenced *Call to Action*. To that end, we pledge that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms. We intend to look for opportunities for firms we regularly use which positively distinguish themselves in this area. We further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse. For additional information regarding the *Call to Action*, visit www.CLOCalltoAction.com

findings and can help legal departments identify where they are on the continuum and what they need to do to reach the next level of progression or additional things they can do to improve their current initiatives.

The Research Team: MCCA retained Crosby Marketing Communications (Crosby) to update the research from the first *Creating Pathways to Diversity*® study published in 2000. Crosby is an integrated marketing communications firm with many years of experience conducting research for corporate legal departments and diversity organizations. Crosby was involved in the 2000 *Creating Pathways to Diversity*® study and has also worked with MCCA on its strategic planning initiatives during the past several years.

Methodology

During 2005, Crosby undertook a research and analysis effort that started with Crosby's research team conducting in-depth interviews with 25 corporate legal departments selected by MCCA. This body of knowledge was then combined with research and interviews completed by MCCA staff in its selection of 23 recent Employer

of Choice (EOC) Award winning legal departments*, recognized for developing exceptional diversity programs. The interviews conducted with the EOC Award winners were based on MCCA's award criteria and did not include the exact same set of questions and answers as the in-depth interviews with the group of 25 legal departments.

Secondary research included analysis of a 2005 report by the Association of Corporate Counsel, "Leading Practices in Law Department Diversity Initiatives: What Companies are Doing," as well as recent print and online reports on corporate and legal diversity initiatives.

**MCCA recognizes outstanding law departments that are change agents in the legal profession. Its Employer of Choice (EOC) Award is designed to spotlight industry leaders who have a demonstrated commitment to diversity and successful results in creating and maintaining an inclusive corporate legal department.*



**Industries of 25 Corporate
Law Departments Interviewed**

By Standard Industrial Classification (SIC) Names

- Aircraft
- Business Services, Consulting
- Cable and Other Pay Television
- Canned Fruits, Vegetables, Preserves
- Electronic, Computers
- Financial Systems, Electronic Payment Systems
- Food and Kindred Products
- General Industry Machinery
- Hotels and Motels
- Insurance, Property and Casualty
- Office Machines
- Periodicals: Publishing or Publishing & Printing
- Petroleum Refining
- Pharmaceutical Preparations
- Plastic, Synthetic/Resin/Rubber
- Retail- Family Clothing
- Retail- Eating Places
- Retail- Variety Shops
- Security Brokers, Dealers
- Services, Prepackaged Software
- Telephone Communications
- Wholesale- Computer and Peripheral Equipment

LEGAL DEPARTMENTS THAT PARTICIPATED AS INTERVIEWEES FOR THIS 2005 REPORT

Small Legal Departments	Direct Reports to GC	Minority Men & Women	Women (White)	Total Attorneys	Minority Men & Women	Women (White)
Participant 1	6	1	2	7	2	2
Participant 2	8	2	0	8	4	0
Participant 3	10	3	1	9	3	3
Participant 4	9	2	2	10	2	4
Participant 5	9	4	1	10	4	1
Participant 6	11	2	5	12	2	5
Participant 7	16	5	3	13	5	4
Participant 8	7	2	2	16	3	8
Participant 9	6	2	1	18	5	9
Participant 10	6	1	3	20	6	8
Participant 11	10	0	2	25	4	7
Participant 12	5	1	2	29	10	10
TOTAL	103	25	24	177	50	61
AVERAGE	8.6	2.1	2.0	14.8	4.2	5.1

Large Legal Departments	Direct Reports to GC	Minority Men & Women	Women (White)	Total Attorneys	Minority Men & Women	Women (White)
Participant 13	6	0	1	40	10	14
Participant 14	8	0	3	54	13	22
Participant 15	7	0	2	75	15	38
Participant 16	13	3	4	87	19	30
Participant 17	6	0	1	110	22	38
Participant 18	4	0	1	120	22	32
Participant 19	10	2	2	123	24	39
Participant 20	9	2	2	133	32	56
Participant 21	10	2	2	134	20	39
Participant 22	8	1	0	197	22	61
Participant 23	11	0	4	218	51	65
Participant 24	9	0	2	290	49	92
Participant 25	8	0	3	721	65	227
TOTAL	109	10	27	2,302	364	753
AVERAGE	8.4	.8	2.1	177.1	28.0	57.9

MCCA'S EMPLOYERS OF CHOICE AWARD WINNERS FOR THIS 2005 REPORT

Small Legal Departments	Direct Reports to GC	Minority Men & Women	Women (White)	Total Attorneys	Minority Men & Women	Women (White)
EOC 1	4	2	2	10	4	5
EOC 2	4	2	1	11	4	4
EOC 3	5	1	3	12	2	5
EOC 4	5	2	2	13	4	5
EOC 5	9	2	3	13	3	4
EOC 6	6	1	3	17	5	10
EOC 7	7	0	1	18	3	7
EOC 8	9	2	1	19	3	6
EOC 9	4	1	3	27	5	18
EOC 10	5	0	3	31	5	15
EOC 11	5	0	1	34	6	13
EOC 12	3	1	2	37	11	12
EOC 13	7	1	2	37	46	14
TOTAL	73	15	27	279	101	118
AVERAGE	5.6	1.2	2.1	21.5	7.8	9.1

Large Legal Departments	Direct Reports to GC	Minority Men & Women	Women (White)	Total Attorneys	Minority Men & Women	Women (White)
EOC 14	9	1	4	43	7	18
EOC 15	3	1	1	44	7	20
EOC 16	12	2	2	45	8	26
EOC 17	13	1	6	47	5	26
EOC 18	6	1	1	70	12	18
EOC 19	6	0	2	71	6	27
EOC 20	7	0	3	85	9	40
EOC 21	5	1	4	93	8	38
EOC 22	13	3	5	117	26	38
EOC 23	26	5	7	170	53	85
TOTAL	100	15	35	785	141	336
AVERAGE	10.0	1.5	3.5	78.5	14.1	33.6

Selection of Legal Departments

Great effort was taken in the selection of the legal departments for the in-depth interviews. Factors such as size of the law department, its corporate business or industry, and size of outside counsel budget were considered, with the goal of analyzing a diverse group.

Size of Law Department: Looking for a standard to use as a dividing point between large and small legal departments, the researchers turned to *Corporate Legal Times*’ (CLT)* annual review of the top 200 largest legal departments. CLT’s 2005 list ranged from departments with 1,500 attorneys to 38. So, for purposes of this Report, MCCA defined “Large legal departments” as those with 38 or more attorneys in the United States. The number of attorneys in departments researched for this Report ranged from 7 to more than 700, dividing the departments almost 50-50, large and small. (See the chart on pages 10 and 11.)

Range of Businesses and Industries: MCCA also sought for the legal departments selected for this study to represent a wide range of businesses and industries. See the sidebar on page 9 for a list of the industries represented by the 25 interviewed companies.

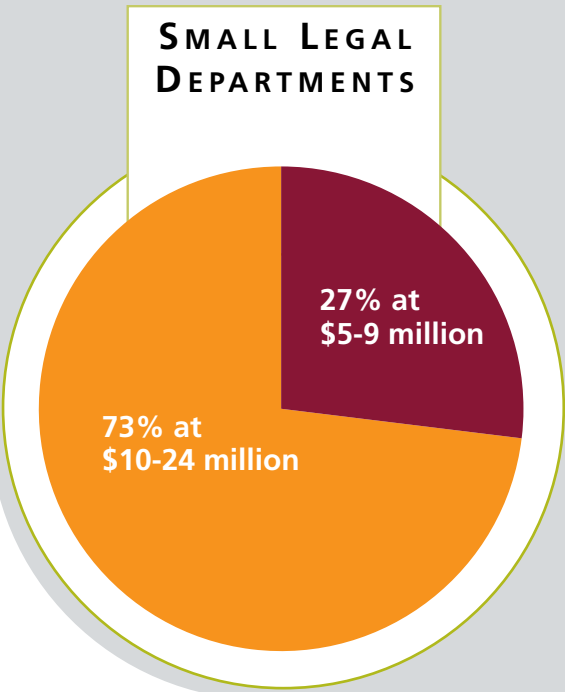
Law Department Budget: With such a broad range of industries represented and the varying size of the legal departments, the budget for the outside counsel legal spend of the 25 interviewed companies was equally varied, ranging from a low of \$5 million to a high of more than \$100 million. (See the pie charts below.)

*On January 1, 2006 *Corporate Legal Times* became *Inside Counsel*.

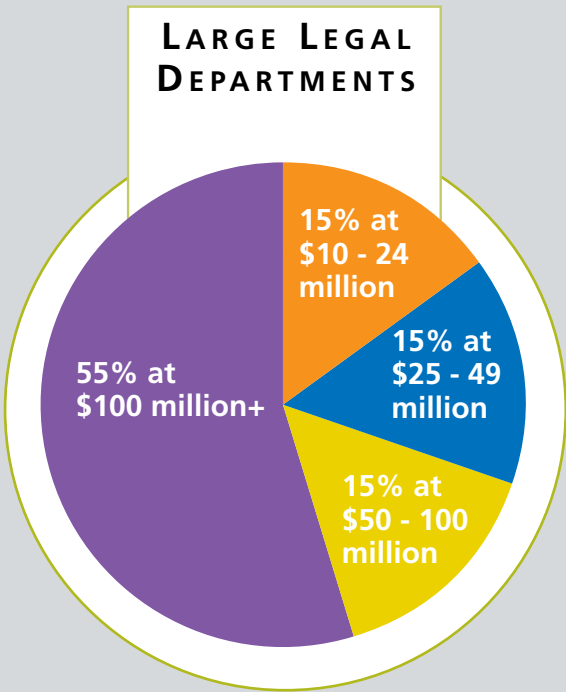
THE LEGAL SPEND FOR OUTSIDE COUNSEL FOR THE 25 PARTICIPATING CORPORATIONS

(One small legal department did not share its budget figure.)

SMALL LEGAL DEPARTMENTS



LARGE LEGAL DEPARTMENTS



Diversity Matters

Paul Hastings is proud to sponsor the MCCA Study of Law Department Best Practices.

The complex business environment in which we operate is rarely simple, but identifying the one factor that enables us to adapt to challenging legal and corporate cultures is: our global talent. As a full service international law firm offering *Fortune* 500 clients seamless integration of services between our locations in Europe, Asia and North America, Paul Hastings is committed to attracting and retaining a diversity of top tier talent.

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II. SUMMARY OF THE 15 BEST PRACTICES: DIVERSITY IN CORPORATE LEGAL DEPARTMENTS

Among the many best diversity practices of the 48 companies studied for this Report, a number of them stood out as the best of class. They are summarized here and discussed in detail in following sections. Many of these best practices are not new, but in fact were identified in MCCA's 2000 Pathways Report. However, what the current research found is that these practices have been adopted by many more legal departments because they have proven to be successful. MCCA's objective in this Report is to present best practices that all companies can undertake or use as guidelines. The Report strives to give examples that other law departments can emulate.

The first five practices below are current corporate diversity practices that have a direct impact on legal department diversity activities. The second 10 are current practices of the law departments themselves.

A. Best Corporate Diversity Practices (that Impact Law Department Diversity):

1. Diversity is considered a strategic objective and is included in the company's strategic plan.
2. Diversity goals, initiatives and accomplishments are communicated throughout the organization and the degree of attainment is measured, with many companies linking compensation of senior executives to diversity results.
3. Recruitment efforts have more of a diversity focus and include mandating

top-level managers to consider a diverse slate of candidates.

4. The corporation has developed focused retention programs aimed at creating an inclusive environment and supporting the career development of diverse staff members.
5. Formal Outside Supplier/Vendor Programs encourage and track strong supplier relationships with minority, women and veteran-owned businesses.

B. Best Diversity Practices of Corporate Law Departments

Internal Best Practices:

1. The GC is committed to diversity and demonstrates that commitment through ongoing support and evaluation of internal and external diversity efforts.
2. Diversity is defined very broadly to include not only race and gender, but also ethnicity/ national origin, age group, sexual preference, veteran status, disabilities, parental status, lifestyle and educational background.
3. The legal department has a diversity plan that includes metrics to measure progress, and the plan is implemented by a diversity committee or task force comprised of members of the department.
4. Innovative recruiting techniques are used to find talented minority and women attorneys and diverse legal staff.
5. Reducing the attrition rate of minority and women attorneys through focused retention and inclusion efforts – especially mentoring

programs – is part of the department's diversity plan.

6. The department's succession planning includes a focus on diversity that ensures diverse attorneys are included among those identified for key promotion and career development opportunities.
7. The GC and his or her direct reports have a percentage of their compensation tied directly to diversity objectives and measurable results.

External Best Practices:

8. The law department influences diversity in outside law firms by requesting and measuring diverse counsel representation on legal matters, and by developing preferred

partner relationships based in part on diversity progress of outside firms.

9. The law department sponsors or invests in scholarship, internship and other "pipeline" programs aimed at helping develop the career path for a greater number of diverse attorneys.
10. Networking with other like-minded organizations, such as the minority bar associations and diverse business groups, is encouraged by the GC and seen as a way to advance the diversity principles of the law department and cultivate a network of diverse lawyers for future internal hiring or outside counsel retention.



III.A DIVERSITY BEST PRACTICES AT THE CORPORATE LEVEL

Although the main focus of the research was to identify diversity best practices among legal departments, many of those interviewed credited their corporate-wide diversity initiatives as the catalyst for the progress their legal department has made on diversity issues. Some of those corporate key initiatives are:

1. A Greater Number of Corporations Include Diversity in Strategic Business Plans

For the 2000 Pathways Report, corporate legal departments were included in the study if they had one of three common denominators:

- 1. Diversity was incorporated into the strategic plan of the corporation;
- 2. Reports from the diversity committee were reviewed regularly by senior management of the legal department; or
- 3. The legal department was a recipient of MCCA's Diversity Award or was recognized by other respected groups for its internal and/or external diversity initiatives.

The current research shows that **now** most corporations studied would qualify simply because they had strategic plans that included diversity. Of the 48 corporations studied for this report, 41 had included diversity objectives as part of their strategic plans. In these companies, diversity is now a business imperative, not just a social justice initiative. (See the chart on the next page.) Also, all of the 48 legal departments have at least one, if not both, of the other two common denominators.

Most legal department leaders interviewed see diversity as a business imperative for two main reasons:

- 1. The need to bring diverse thinking and

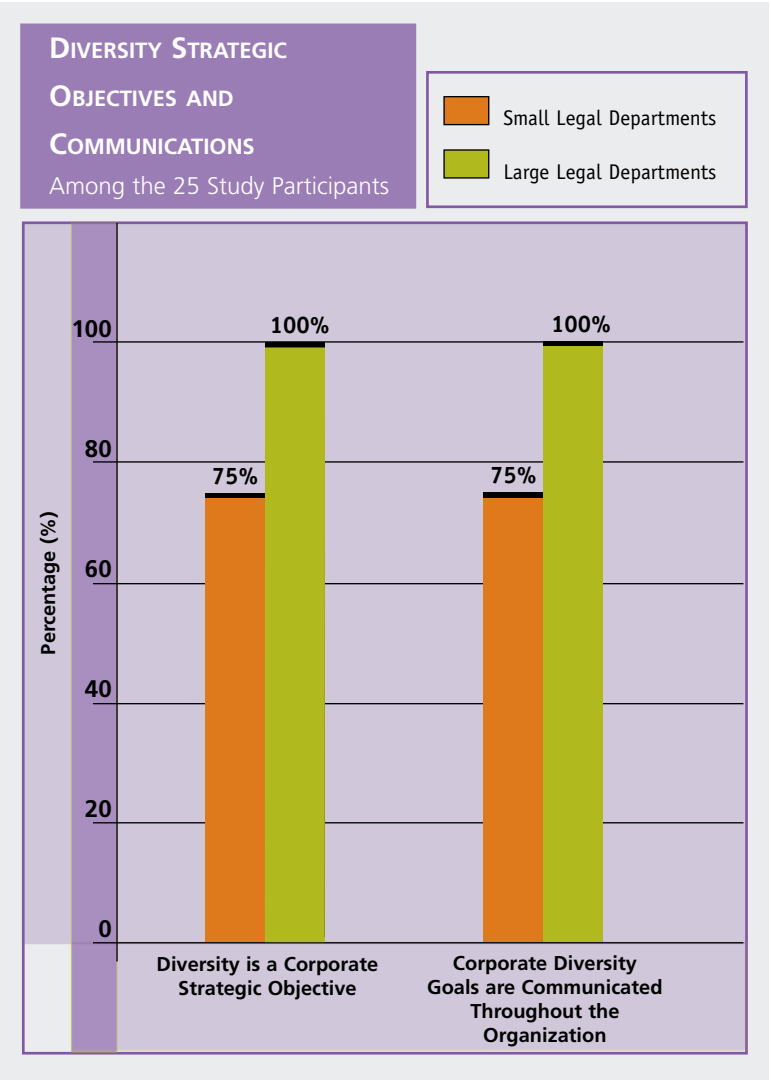
representation into the legal department and to reflect the growing diversity of their corporation's employees and customers, as well as the judges, juries, and government agencies the legal staff interacts with; and

2. The need to deal with diverse populations in a global economy, especially with the growing focus on emerging markets in Asia and South America.

These leaders say having diverse professionals working on legal matters is a competitive advantage, especially when facing the globalization of business.

As one diversity consultant put it, "As diversity has been redefined as a strategic business advantage, metrics have become more sophisticated with quantitative and qualitative measurements tied to business goals. In many corporations, diversity is now being measured with the same kind of scrutiny that business operations have always used."

In that vein, some of these companies go directly to their minority employees to help determine diversity strategies. One GC from a smaller legal department discussed some of the steps her company had just taken for including diversity in its strategic plan. It hired outside consultants to conduct numerous corporate-wide focus groups made up of minority affinity groups. The focus group participants discussed what they liked and did not like about the working environment within the corporation and within their divisions. They also shared what makes them feel included or excluded as part of the company and how these things could be improved. These results were used as the starting points for the company's new diversity section of its strategic plan.



accomplishments only on their intranets. Many discuss initiatives and progress at company-wide meetings, in internal newsletters and e-newsletters and also make them part of initial employee training programs.

One corporation with a large legal department uses its Web site to promote diversity policies and accomplishments to both internal and external audiences. One section of its in-depth Web site shows diversity progress over the decades. It articulates the corporation's diversity goals and accomplishments, including management's diversity message, vision, policies, and practices, plus it lists awards won.

Another company holds regular "Intercompany Diversity Best Practice Meetings" where managers from different divisions share diversity strategies, e.g., interfacing with human resources to recruit diverse employees and ways to enhance supplier diversity programs. Outside diversity experts are often invited to speak at these meetings.

A number of those interviewed said that their corporations use employee surveys to help evaluate many of their corporations' internal programs, including the effectiveness of diversity initiatives. These surveys create a dialogue between the employees and the corporation's leadership. Many of the corporations do annual surveys, a few were every other year, and one of particular note conducts the survey every six months. The interviewee of this large legal department said that of the 30 questions on the survey, five of them are diversity-related. The corporation's Diversity Committee reviews the questions and the responses. The survey responses provide a snapshot of how the company is progressing as

2. Communicating About Diversity Goals and Initiatives

MCCA's 2000 Pathways Report identified communication throughout the organization as a potential best practice in a company's diversity success. In this 2005 Report, 90% of the legal departments interviewed this year said that they had experienced vast improvements in the company's communications regarding diversity. (See the chart above.)

Some companies posted their diversity goals, statements and/or visions on their external Web sites to show their commitment. Others have information on their goals, actions and

a whole. However, the survey results can also be sorted by the business unit, division and even down to any manager who has five or more direct reports. The Diversity Committee is able to determine if a selected group or manager is not doing well, and it has the responsibility to work with the group or manager to improve the situation for all those involved.

3. Focused Recruiting

Interviewees agree that how well a company manages its recruitment, hiring and retention programs affects its competitive edge and may be a deciding factor in its sustainability. When it comes to achieving diversity, focused recruitment programs are critical parts of the mix.

A best practice in corporate diversity recruiting includes mandating that search firms, human resource departments and managers with hiring capabilities consider a diverse slate of candidates for all open positions. Many companies have designated a “recruiter of choice” or an internal team dedicated to diversity recruiting that understands the company’s commitment to a diverse workforce and is held accountable for finding top-level talent from diverse backgrounds.

One interviewee from a large legal department noted that his company holds an annual “Diversity Recruiting Liaison Conference” to help managers and recruiters share ideas and expand their recruitment tactics beyond traditional resources to include targeted colleges and universities, employment Web sites, job fairs and professional associations for people of color and those with disabilities.



Another key recruitment tactic is to post all jobs internally and continually look for promotional opportunities for diverse staff from within the organization. Leading companies require managers to identify potential candidates from within their departments, as well as to develop external relationships that foster recruitment opportunities.

4. Retention and Inclusion Programs

While finding and recruiting diverse talent remains a priority, many companies have shifted more emphasis to their retention programs. Creating a culture of inclusion where employees’ differences are valued and respected has proven to be one of the best ways to retain a diverse, productive workforce.

Some of the best practices in retention and inclusion programs noted by interviewees include:

- Formal and informal mentoring programs that provide networking and career development opportunities for diverse staff.
- Diversity training for all employees and ongoing dialogue about the value of diversity.
- Employee Network or Resource Groups that allow employees to share like experiences and provide feedback to the company on inclusion and other issues.
- Alternative work schedules including job sharing, telecommuting and other flexible arrangements that allow employees to meet family/life commitments.
- Leadership development programs that help groom high performers for promotion/management opportunities.

Law departments have adopted many of these initiatives, particularly mentoring programs and

work/life programs, to retain minority attorneys and legal staff.

5. Supplier Diversity

Many corporations have had successful Supplier/ Vendor Diversity Programs in place for well over a decade. These programs set goals for and track corporate spending with minority suppliers and have a positive impact on women-, minority- and veteran-owned businesses.

Some of the corporations researched for this study detail their Diverse Supplier programs on the corporations’ Web sites and encourage diverse suppliers that meet the criteria to apply. One interviewee explained his corporation’s goals for its program are to place at least 10% of the corporation’s outside vendor budget with enterprises owned by minorities and women. He called this initiative a “win-win” for the corporation and the minority- and women-owned businesses. “By sharing our business knowledge, values and best practices, we can help minority- and women-owned businesses develop the tools for economic growth and sustainability. The benefits to our company include stronger relationships with diverse suppliers, better products and services and an enhanced image and reputation.”

Law departments have increasingly become part of corporate supplier diversity programs or have begun to set individual departmental goals for spending with diverse legal service suppliers, including diverse outside counsel at majority and minority-owned law firms.

III.B BEST DIVERSITY PRACTICES OF CORPORATE LAW DEPARTMENTS

Internal Best Practices

While corporate diversity programs have impacted progress in law department diversity, many law departments have adopted, or spearheaded, their own diversity best practices to meet specific internal and external goals for their departments. The major best practices identified by participants in this 2005 Pathways Report are the following:

1. Commitment from Senior Management and the GC

A best practice for a successful move from *Compliance* to *Inclusion* identified in the 2000 Pathways Report was commitment from senior management. In the current research, many stated that the level of diversity leadership was one of the defining elements of their success. For legal departments, the commitment of the GC is essential. It is clear that the higher up in the organization the commitment to diversity, the more pervasive it becomes throughout the organization. A driving force for this is the growing diversity of the corporation's C-suite and Board of Directors. They have a positive impact on diversity initiatives for the entire organization. For many corporations, this has been a change in the last five years. Successful diversity initiatives happen because top leadership commits to making them happen, corporate-wide and within the legal department.

One interviewee from a large legal department said, "In the last five years our Executive Committee has become very diverse and this has energized our diversity efforts throughout the corporation. Our CEO is an African American, one division head is Japanese and our General

Counsel is a woman. And they provide advice and oversight to our Diversity Advisory Board."

Many GCs serve on their corporation's Diversity Leadership Team and drive the diversity principles down into their department. For example, one GC explained, "Diversity has to be part of the fabric of the department, part of the everyday commitment and the way of doing business. It cannot be a separate program just about diversity that you plan. It won't work. It has to be communicated from the GC as a core value and brought into every aspect of the department's planning."

2. A Broadened Interpretation of Diversity

As reported in the first Pathways Report in 2000, the interpretation of diversity at the time was often limited to mean only bringing "women and people of color" into the organization for a company to meet Affirmative Action and/or Equal Employment Opportunity criteria, referred to as the "*Compliance*" or first stage of the Pathways Diversity Continuum. In the current research, 100% of the corporations now interpret diversity very, very broadly – to include race and gender, but also including ethnicity/national origin, age and age group (Boomers and Gen X, for example), religion, lifestyle, veteran status, sexual preference, parental status, and disabilities. In fact, many corporations now post their interpretations of diversity on their external Web sites as a testament to their awareness of the many factors that constitute our 21st Century culture.

The most diverse corporate legal departments seek out those with different backgrounds, perspectives and experiences beyond just race

and gender differences. As one GC from a large legal department explained it, "We really want to employ and work with people with a wide variety of life experiences and backgrounds. That means diversity beyond women and ethnic/racial minorities. Even when looking at the so-called 'white male' population that dominates the legal profession, we need to look at their diverse backgrounds. On my staff I have white males who are West Point graduates, Yalies, those with public school educations, and several with non-legal experience – each brings a valuable, diverse perspective to the table."

One interviewee likened his legal department's definition of diversity to an iceberg. He explained, "To have true diversity is a maturing process. First comes representation within the department – what you can see, the tip of the iceberg. And as true diversity evolves into inclusiveness, you get the full value of the diversity – what's below the surface."

3. Measuring Diversity in the Legal Department

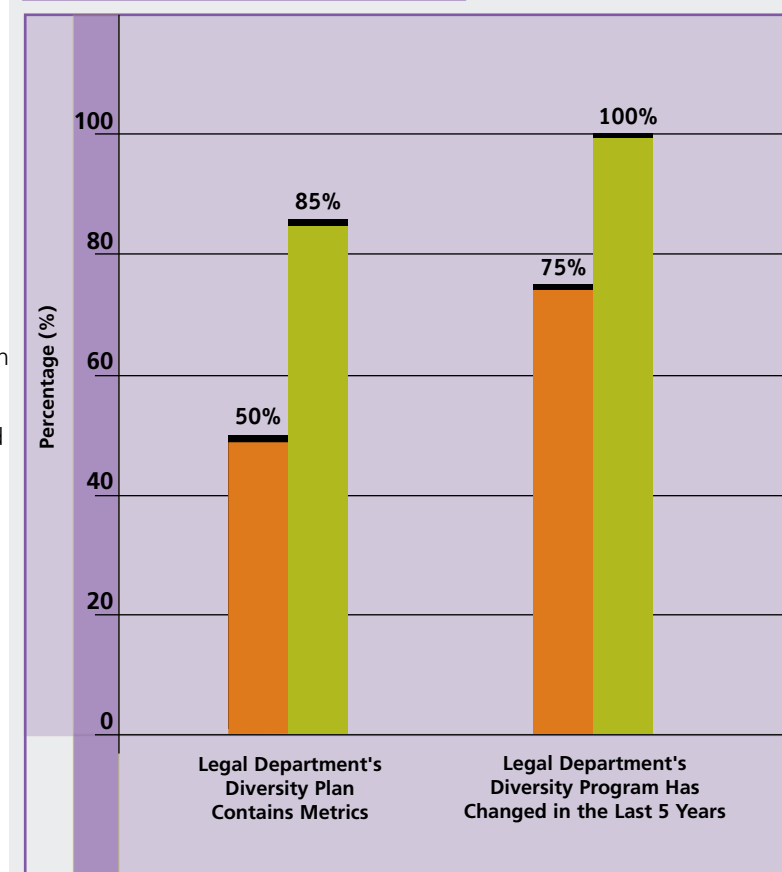
The ability to measure diversity progress in the legal department is best achieved through a diversity plan with metrics. The majority of law departments interviewed have developed some form of written "diversity action plan" that includes diversity initiatives, goals and metrics in key areas, such as staffing and outside spend.

For 85% of the large legal departments interviewed, oversight and the measurement of improvements as a result of diversity

initiatives are the responsibility of the Diversity Committee or Office of Diversity. And many of these groups have very structured measurement tools. Many of the smaller legal departments that were interviewed have informal ways of measuring their improvements on diversity initiatives. For example, if you have 10 attorneys on staff, it's pretty easy to measure the staff's diversity. For some of these small legal departments, the measurements are usually the responsibility of the GC. (See the chart below.)

Many of those interviewed had diversity committees with designated subcommittees that were tasked with specific functions. Interviewees

MEASURING LEGAL DEPARTMENT DIVERSITY PROGRESS
Among the 25 Study Participants



said that this layered structure enabled many staff to be involved in the department's diversity initiatives, which helps to reinforce diversity goals and objectives throughout the department and for the legal staff to be in contact with other internal business entities. For example, the Diversity Committee in one large legal department has five subcommittees that oversee and track progress on these diversity areas:

1. Diversity Strategy
2. Recruitment & Hiring
3. Workplace Culture & Retention
4. Diversity Education & Training
5. Outside Law Firm Diversity Initiatives

Another large legal department interviewed has specific diversity goals for staffing including placement rates, new hires, movement of individuals, growth opportunities and promotions. Statistics on these goals are reported to the GC quarterly and then to the Executive Committee. The interviewee added, "We also have specific metrics on our spend with outside counsel. This dollar amount is evaluated very carefully by all leaders in the law department. So, HR is watching the staffing numbers very closely and Legal is watching the spend numbers very closely, as well as teaming with HR on the staffing goals."

"Measuring performance against targets is critical to the success of our legal organization's diversity efforts," said another interviewee, "Among the metrics categories we track are spend with



women- and minority-owned law firms and strategic partner progress on diversity staffing for company matters. We also measure progress within the department in terms of staffing and inclusion efforts and compare our results with other business units within the company. In addition, members of the law department are evaluated on diversity as part of the performance assessment process."

4. Targeted Recruitment Efforts

Recruitment of talented women and minority attorneys has been a fundamental aspect of diversity efforts. Increasing the percentages of minorities or women in their legal departments was a goal for 92% of interviewees in this Report. Why not 100%? Because of economic changes, some legal departments have downsized, or have not hired staff in recent years, so these legal departments have not had opportunities to increase female or minority staff. And, others have become better at retention, meaning less need to recruit as a result of turnover.

Most legal departments interviewed this year require their HR Departments to use search firms that specialize in diversity recruiting to ensure a broader mix in the candidate pool.

The Senior HR Director of a large legal department interviewed said, "One strategy of our law department diversity staffing plan includes requiring all managers to proactively identify, on a quarterly basis, external women and minority 'stars' with legal expertise to ensure diverse candidate slates for future positions. These names are submitted and kept in a database to refer to when recruiting. It's been a very successful strategy for us."

An EOC Award winner from a large legal department said, "We view our diverse employee base as one of the cornerstones of our success and key to our competitive advantage." This company has put several recruitment programs in place to help find the best talent. Two of note are:

1. It partners with minority associations, colleges and universities to recruit people with diverse backgrounds.
2. It lets employees know it is "a company of recruiters" and that every staff member is responsible for diversity recruiting and recruiting in general.

Many of those interviewed do expect all members of their staff to help recruit. Some said they ask the women and minorities in their departments to play active roles. Two interviewees, one from a large and one from a small legal department, explained their rationale for this, saying, "Once you have women and minorities on staff, it is much easier to attract others."

One interviewee of a large law department that has been experiencing growth since 2002 explained how it has expanded its recruiting efforts for minorities: "We have one in-house attorney who focuses on recruiting. He goes where the talented minority candidates might be – to MCCA events and minority bar programs. He gets up at these programs and says, 'I'm here recruiting for X number or type of lawyers. If you're interested in talking with me, come see me or give me your card.' Then he stands in the back of a room after a session is over. This has worked very well for us to greatly increase the numbers of minority attorneys we have in our department."

5. A Greater Focus on Retention

In the 2000 Pathways study, legal departments were concentrating mainly on recruitment of women and minorities as a key diversity strategy. Today, there is a greater emphasis on retention. Of those interviewed this year, 77% said reducing attrition rates for diverse attorneys was a key element in their diversity initiatives. Most of these people mentioned "inclusiveness" as the way to keep talented staff, i.e., creating an environment in which people want to stay. This was defined as: feeling secure and accepted, being included as part of the team, having others like them in leadership positions as role models, and having mentors who were interested in their success. In fact, mentoring has become a best practice in retention. (See chart on page 25.)

One GC of a small legal department that was interviewed told about a “Reverse Mentoring Program” her corporation sponsors, in which legal staff members are participants. Senior level people are paired up with diverse junior staff. This program’s goals are for the senior person to gain more cultural and “younger-age” awareness, while providing traditional mentoring advice to the junior staffer.

At one EOC Award winner, younger attorneys have been selected to participate in a “Mentoring Up” program in which they share their unique perspectives with the company’s officers. This legal department also supports professional growth and mentoring of its attorneys via an Executive Shadowing Program. Recently hired women and minority attorneys have the opportunity to observe first-hand a senior officer’s business responsibilities. In this program, young attorneys shadow higher-level executives, perhaps from a business unit, as part of the younger lawyer’s grooming for his or her career development.

As part of its retention and employee development program, one interviewee from a small law department described a “culture management” program created by its Office of the General Counsel (OGC). Launched four years ago, the program’s goal has been to enhance access to different ideas and perspectives in the company, as well as to create an atmosphere where individuals and their opinions are valued. Action teams made up of legal staff of different ranks and backgrounds monitor the diversity efforts in the department, encourage open dialogue of issues, and make suggestions to the GC about ways to make the department’s

culture more inclusive. Changes instituted by the action teams have positively impacted employee satisfaction in the legal department. Results from annual employee surveys give the OGC high marks around teamwork, valuing individuals, and supporting diversity.

Work/Life Programs Impact Retention
Nearly all corporations whose legal departments were part of this Report offer work/life programs for their employees. In today’s hectic culture, with the majority of households having two full-time workers, there are demands on employees’ schedules during the normal workday hours. Many companies try to assist their workers to meet these needs by offering programs that allow the employees more flexibility. These programs include: flexible starting and stopping times, telecommuting, job sharing, maternity and paternity leave and leave options to care for aging parents.

One interviewee in a small legal department believes that her corporation is at the forefront of offering work/life programs. For example, she has legal staff that work on alternate work schedules and job share. “Our commitment to understanding the diverse set of individual needs and creatively staffing for them helps us to recruit and retain good people. It shows them we are serious about supporting our staff, while demanding good performance.”

An interviewee in a large legal department said, “I think a significant change in the last five years has been our corporation’s commitment to offering our staff alternative work arrangements. We have people working flexible schedules, telecommuting, job sharing – some very creative, alternative work schedules.”

Time is the new currency. With all of today’s advanced technology, corporations can offer new work arrangements to meet lifestyle and life situations. These, in turn, benefit a diverse staff, especially those with family responsibilities.

6. Inclusion in Succession Planning

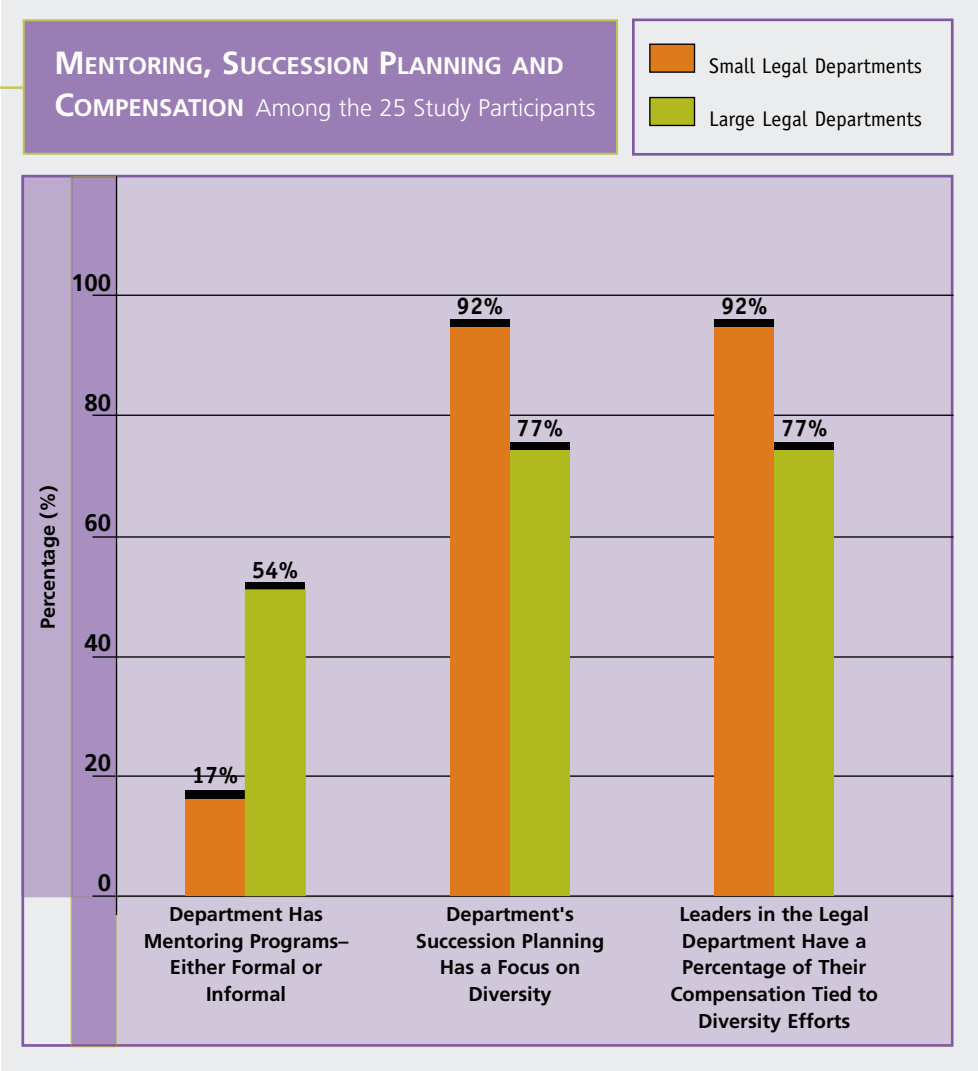
To retain talented staff, most companies understand that they must train and promote from within the company, as best as they can. In fact, 88% of those interviewed said that their legal department’s succession planning has a focus on diversity. Some GCs from smaller

departments said that including diversity in succession planning is their responsibility. (See chart below.)

For some of the larger departments, succession plans were very structured. One interviewee from a large legal department said, “Annually, each manager meets with the GC and HR and must identify who’s in line for his/her position. The percentages of women and minorities in line are reviewed. If women or minorities are not in line, questions of why or why not are asked of the manager and plans are outlined so that higher

percentages can be achieved. These percentages are matched up to our diversity goals for the department.”

An interviewee from another large legal department that has been an early adopter and a leader of diversity initiatives shared that the department is 32% white females and 24% other minorities. He explained that, “Many of these women and minorities hold key positions that place them in line for promotions. This is a major goal of our succession planning.”



7. Compensation Tied to Diversity Efforts

A potential best practice suggested in the 2000 Pathways Report was that the GC and his or her direct reports have a percentage of their compensation tied directly to their efforts to increase diversity in the law department. That practice has become more prevalent in 2005. Among those interviewed, this was a more accepted practice in the larger legal departments than the smaller ones. One GC said his direct reports are required, as part of their annual review, to discuss what they have done to improve the department's diversity, e.g., hire a diverse candidate or work with diverse outside counsel. "I want to know if they are making a legitimate effort to enhance our diversity make-up and culture," he said. (See chart on page 25.)

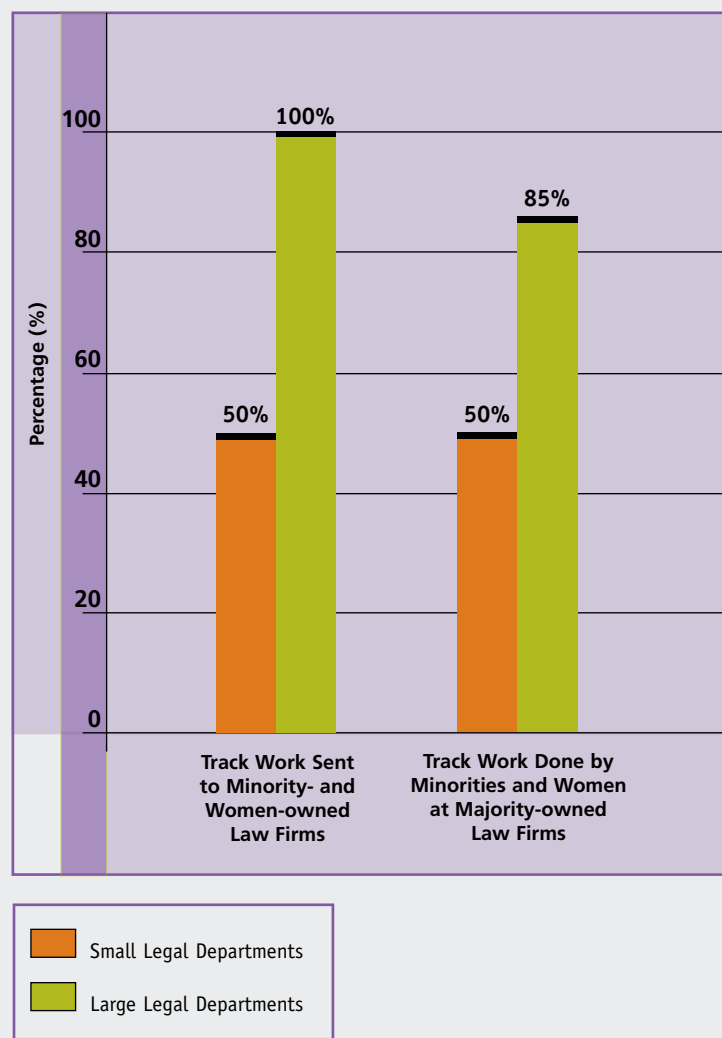
Another GC interviewed said, "By tying diversity to bonuses, you say 'This is such an important issue that I want to make it affect compensation.'" He felt that if diversity goals are not linked to compensation, the company is sending a mixed message. "You're saying meeting your budget is more important, which has the effect of reducing diversity concerns to a tertiary position. Within my legal department, if diversity percentages don't get better, my staff knows there will be significant financial consequences."

External Best Practices

8. Influencing and Measuring Diversity of Outside Law Firms

Influencing and measuring diversity of outside law firms has been adopted by more legal departments, large and small. This was one of

MEASURING DIVERSITY OF OUTSIDE LAW FIRMS Among the 25 Study Participants



the most notable changes found in the current research. Many legal departments view their dollars spent with outside firms as a major way to increase legal work done by minorities and women. Many smaller departments with low staff turnover and large departments that are in hiring freezes or downsizing said that sending work to outside minorities and women is the only way that they can make a positive impact

on increasing the diversity of legal minds that are focused on doing the corporations' work. (See the chart on page 26.)

Convergence Programs or Preferred Provider Relationships

Some of the large legal departments interviewed said that in their law firm convergence programs they used the diversity of firms as one factor to decide which firms to retain as preferred providers. Some of these departments, as well as a number of small departments in the research, said they award more work to their preferred firms that show improved diversity.



Many of the large legal departments said they are making inroads by gathering metrics on who works on cases. Eighty-five percent of the larger legal departments track the work done by minorities and women at majority-owned firms. This compares to only 50% of the small departments who track these figures. Having the law firms that work for them use e-billing systems enables in-house staff to much more easily track work done by minority and women attorneys in majority-owned firms.

A GC at a small legal department interviewed said, "If we are really serious about changing

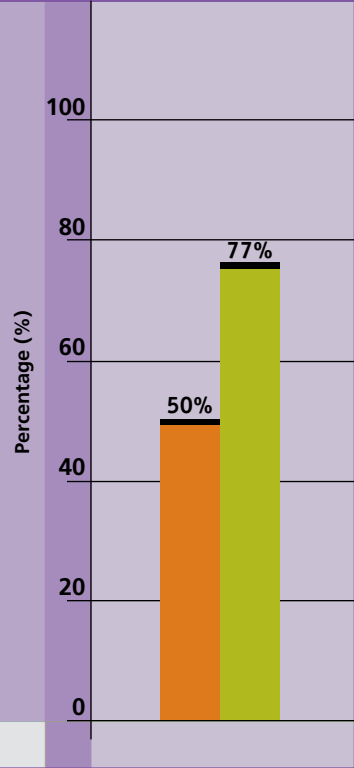
our profession, we must hold the law firms we retain more accountable when it comes to their diversity efforts. When we require them to report statistics on not only who works on cases, but also who gets credit for the work, we are sending a message that diversity is valued by the client. Some in the profession feel that demanding this information is intrusive and an unnecessary administrative burden. However, I feel it is like a report card each month concerning a very important subject. We're dealing with high achievers. They don't like to get a bad grade, and I believe it does help keep people focused on the issue of diversity."

One large department GC said that he and his attorneys meet with their top firms annually to review how they're doing in terms of diversity. They get data on hours spent and roles played on their cases by minorities and women. It is important to them that women and minorities are included in the group of lawyers that are managing and leading their accounts. They want to see progress on each firm's diversity efforts. He said, "If we don't see progress, we will consider pulling our business. We have held work from firms that have showed no progress. Some will only change if you play hardball."

Another of the large legal departments interviewed asks its key law firms to include on invoices the time spent by women and minorities on work done for the corporation. The legal department tracks the information and sends these key partner law firms a report showing the percentages of women and minority lawyers, as well as billings by those lawyers, in those particular firms. It also provides blind comparative data informing the firms about how they compare to other similarly-sized partner firms in the area of diversity.

LEGAL DEPARTMENTS THAT HAVE SIGNED THE *CALL TO ACTION*

Among the 25 Study Participants



- Small Legal Departments
- Large Legal Departments

One way that corporate legal departments are influencing diversity in outside law firms is by signing the “*Call to Action*.” In Fall 2004, Roderick Palmore, the GC of the Sara Lee Corporation, authored “*A Call to Action: Diversity in the Legal Profession*.” This document commits its signatories – corporate GC or chief legal officers – to reaffirm their departments’ commitment to diversity in the legal profession through internal and external efforts, including moving legal work from law firms whose diversity performance is unsatisfactory. Mr. Palmore has been quoted as saying, “Its purpose is to take the general principle of interest in advancing diversity and translate that into action – into a commitment to act on – to make decisions about retaining law firms based in part on the diversity performance of those law firms.” Of those we interviewed, 77% of the GC at large legal departments had signed the *Call to Action* and 50% of the GC at small departments had signed the document. A few of those interviewed who have signed the *Call to Action* said that they have taken action against law firms that have not made positive steps towards a more diverse staff working on the companies’ cases. The efforts in support of the *Call to Action* are ongoing since its launch in 2004, and the number of GC who have signed continues to increase. For the latest information on this effort, visit: www.CLOCalltoAction.com.



How One Legal Department Measures Outside Firms on Diversity

In the 2005 ACC study, one corporate legal department detailed its preferred partner program. Each year, the outside law firms are measured on a list of diversity factors. The results are compared with information submitted by the firm from the preceding two years. The department evaluates overall performance during the three-year period, looking for progress in the firms.

Questions asked of the firms include:

- Number of minority and women lawyers
- Number of minority and women partners (equity and nonequity)
- Number of minority and women partners promoted from within
- Information on women and minorities in leadership positions
- Information on attrition of women and minority lawyers and comparisons to overall law firm attrition rate

Taking a three-year look at progress and performance of its law firms, the in-house legal staff then ranks the firms in three tiers:

- Top Tier:** Firms in this category have positively distinguished themselves in the area of diversity; they are considered Preferred Providers; and the department intends to give more work to them.
- Middle Tier:** Firms in this category demonstrate average performance in the area of diversity, with the possibility of enhanced performance. Work amounts to these firms stay unchanged.
- Bottom Tier:** Firms in this category fall below average expectations for diversity. These firms should expect less work from the corporation. Diversity performance must improve within one year to place firm in the Middle Tier, or the firm will be eliminated from the approved outside counsel list.

Information on the performance of each firm is communicated throughout the law department. Individual firm performance is communicated directly to each firm. At the culmination of this evaluation process, the law department issues a press release announcing its Preferred Providers.

Off-site Diversity Conferences

Another best practice that is gaining momentum is for legal departments to host off-site diversity conferences for their in-house and preferred law firm attorneys. Some legal departments invite all of the in-house and outside minority attorneys to attend, not just those who work on litigation. This enables the law firms’ minorities to network with in-house decision makers. Other legal departments have hosted diversity conferences for the outside attorneys who manage the company’s docket, impressing

on them the importance of diversity to the legal department.

Minority- and Women-owned Law Firms

Minority- and women-owned firms get special emphasis by many of the interviewees. Of the large legal departments interviewed, 100% track the amount of business they send to minority- and women-owned firms. Only 50% of the small legal department interviewees said that they track this amount. (See the chart on page 26.) Again, e-billing

was credited with the increase in enabling this practice. When asked if the departments had goals for the dollar amounts or the percentage spent with minority- and women-owned firms, some of those interviewed shared that they were active members of NAMWOLF (National Association of Minority and Women-Owned Law Firms), which asks its corporate members to send at least 5% of their outside counsel work to minority- and women-owned law firms. For more information on NAMWOLF, visit its Web site:

www.namwolf.org.

One legal department has a list of preferred minority-owned firms that is shared with everyone in the department. They all know that there is a percentage of the department's budget that must be spent with minority firms, and progress is reviewed quarterly. In just the second year of this program, the department is offering a bonus incentive for those who help meet the percentage goal by working with minority-owned firms. The senior-level attorneys in this legal department also have an additional percentage of their budgets that must be spent with outside minority suppliers.

In an attempt to learn more about the status of minority- and women-owned firms, five corporate GC sponsored a meeting in November of 2004, with representatives from the minority bar associations, in-house counsel associations, minority- and women-owned law firms, and minorities at majority-owned firms. The discussion focused on why minority- and women-owned firms have not been flourishing. The five GC continued the dialogue begun at this meeting and have now pledged to place an aggregate of at least \$16 million dollars of business with minority-owned law firms in 2006. The GC are

from DuPont, General Motors, Sara Lee, Shell Oil, and Wal-Mart.

Another result of the above 2004 meeting, was the development of the National Minority Law Group (NMLG). Begun by a few of the attendees from minority-owned firms, the goal of this alliance is to assist in-house counsel to identify minority-owned firms. The NMLG now consists of 18 minority-owned law firms from across the country and helps promote business development and exposure among its members. All members of the alliance must have received LexisNexis Martindale-Hubbell's highest rating by peers (i.e., an A/V rating); they must primarily represent corporations; and they must maintain the latest technology that today's corporate clients require. For more information on the NMLG, visit its Web site: www.nmlg.org.

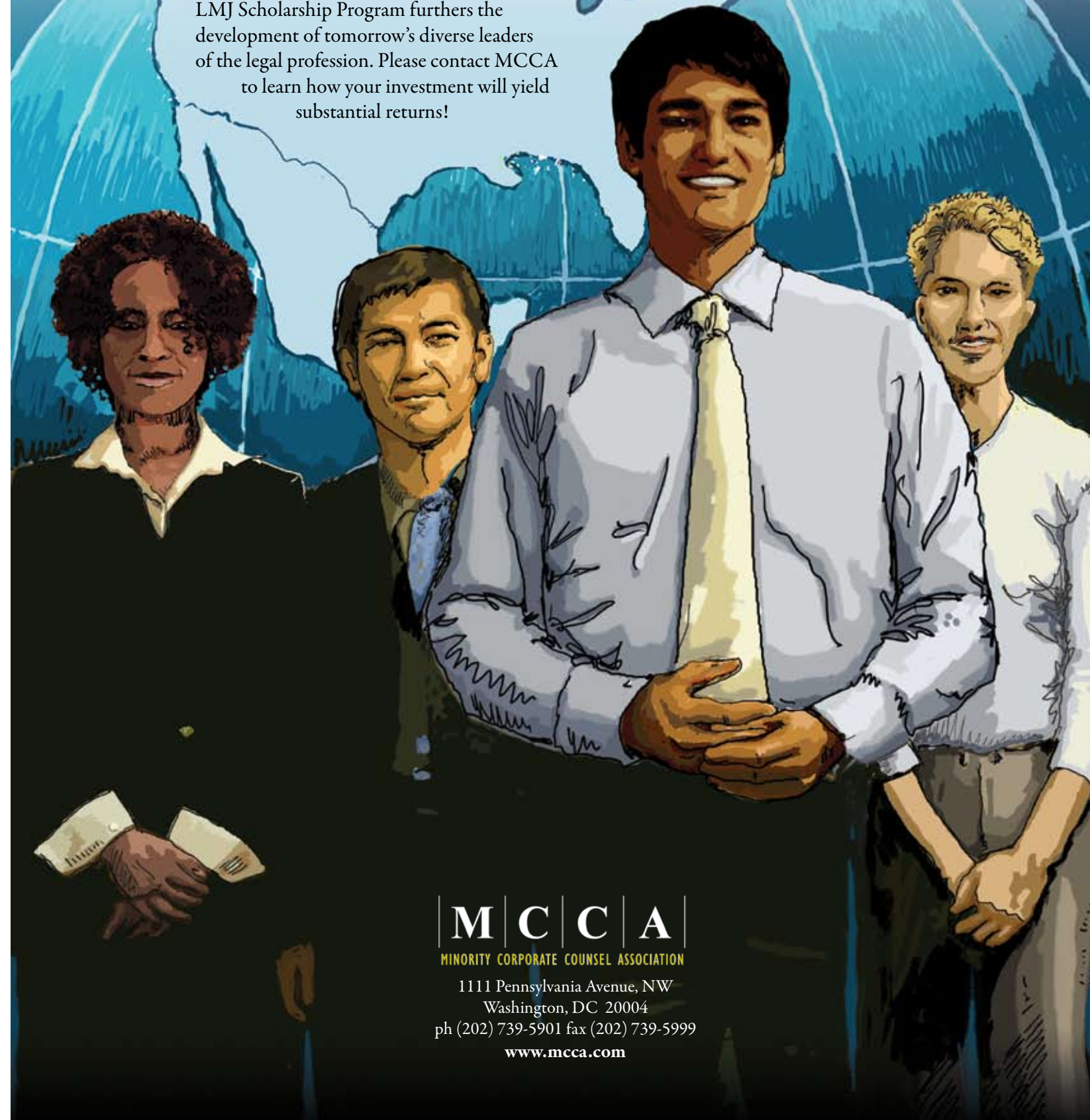
9. Pipeline Programs

Even though most corporate legal departments do not hire directly out of law school, many realize that increasing the number of young minorities and women who are interested in careers in the legal profession will increase the pool of talented, diverse attorneys for the future. Many of the corporations researched sponsor or invest in programs that help fill the "pipeline" to careers in the legal field with diverse candidates. Some of those interviewed have made financial commitments to the MCCA Scholarship Fund and other scholarship funds as a means to keep minorities in the pipeline to a legal career. Many interviewed said that they participate with local high schools and speak about their jobs at Career Day functions, such as the one sponsored by the National Youth Leadership Forum on Law: www.nylf.org/law.

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One corporation has its internship program exclusively with a Historically Black College. This does not guarantee that the internships are only given to minorities or women, but it does allow for the pool of intern candidates to be very diverse. Some of these internships have been in the legal department. The corporation also promotes the internship program through its network of professional organizations for minorities.

One small legal department sponsors a summer internship program for minority law students with a law school in the same city. The GC is actively involved with this program and encourages his legal staff to become involved and believes that this helps minority students better understand the corporate legal environment.

One large legal department sponsors a summer program for 100 diverse law students interested in IP law as a specialty.

Another small legal department has developed a pipeline program for high school students aimed at teaching them about law, democracy and human rights while at the same time helping them envision themselves in a legal career. "Through this program, we introduce young students to the notion that law can be a career for them. It's had a great impact on our local community schools, and has generated lots of enthusiasm within our department," said the company's litigation counsel.

Corporate counsel support of similar programs is not unusual. In fact, the Association of Corporate Counsel (www.acca.com) Corporate Legal Diversity Pipeline Program is one successful example. Organized in

coordination with Street Law, Inc. the program strives to encourage high school students of color to pursue law as a career by forming lasting partnerships between corporate legal departments and local high school law classes. Other examples of corporate pipeline efforts include summer internship programs, and support of scholarship programs such as the MCCA Lloyd M. Johnson, Jr. Scholarship Program, through which incoming law students receive financial assistance, job placement support, mentoring and professional development while in law school.

10. Networking with Minority Bar Associations, Organizations and Universities

Many of those interviewed said that they support their legal staffs' involvement with like-minded organizations and the various minority bar associations because they believe that this advances the company's diversity principles. They encourage staff not to just join, but to become active members. Many noted that specific staff held leadership roles in these organizations and help direct the diversity initiatives of the organizations.

One large legal department interviewee described an External Relations Subcommittee of its Diversity Committee. The stated objective of the Subcommittee is: "To develop and maintain external relationships that assist the Law Department in advancing its diversity principles." The Subcommittee annually identifies and evaluates external diversity-oriented organizations using such standards as: available learning opportunities, networking, recruitment potential, and leadership opportunities.



IV. THE OUTLOOK FOR LEGAL DEPARTMENT DIVERSITY

A. Trends in Legal Department Diversity that will Impact the Future

While many leading corporate law departments have established formal diversity and inclusion programs, and made significant strides in achieving diversity both among their internal staffs and external representation by law firms, most interviewees of this study acknowledge that more needs to be done to achieve true diversity in the profession. Most agree that corporate law departments must remain committed to diversity and lead the way to change.

Some of the trends identified that will continue to impact legal department diversity in the future are:

- Globalization.**
As many corporations continue to grow internationally, some feel that diversity will become a natural outgrowth of having staff of all different backgrounds participate in the corporate environment and network more closely with each other. That being said, corporate legal department leaders understand that they still need to provide more management opportunities for attorneys of color and other diverse backgrounds. There are still not enough diverse attorneys in management positions in corporate law offices and as partners in law firms. Several interviewees of this study commented that this lack of diversity among leadership in law departments makes it harder to attract and retain other diverse attorneys.

- Improved Retention and Career Development.**
Retaining the diverse attorneys and employees on the legal staff has received greater attention over the last several years. Where legal departments once put emphasis on recruiting and hiring diverse staff, they have come to realize that unless those attorneys are made to feel valued, have mentors to help them on their career path, and are given promotional opportunities, they will not stay with the company. Continued focus on retention programs and finding opportunities for minority and women attorneys to interface with management and other business units within corporations will continue as strategies for achieving greater diversity.

- Stronger Requirements of Relationship with Outside Counsel.**
One of the major trends identified in this study compared to the 2000 Pathways Report is the influence corporate legal departments have exerted on their outside counsel to provide more diverse representation and leadership on corporate matters. More and more law departments are requiring their firms to report specific metrics on diverse representation and progress in diversity, and this trend will continue to build in the future. Many corporate legal leaders see their outside firms as partners in the commitment to diversity and for investing in relationships with minority-owned

firms and other diverse legal suppliers. Many feel that law firms will become more proactive in their hiring and representation assignment of diverse counsel and this will trickle down to other legal service suppliers.

- Targeted Pipeline Programs.**
The effort to fill the pipeline for legal jobs with diverse attorneys has received more attention from the legal departments that participated in this study. Companies are offering internships, scholarships and other opportunities not only to diverse law students and college-level students, but in many cases to those as young as high school-age, with the goal of exposing young people to the career of law and opportunities available to them. Looking toward the future, some law department leaders claim that investing in pipeline programs will be one of the most important strategies of their diversity initiatives.

- Continued Networking of Diversity-Minded Organizations and Law Departments.**
The value of networking with national organizations, both legal and diversity-focused, and with other “like-minded” law departments, colleges and universities and other business groups, cannot be underestimated according to interviewees of this study. Whether for recruitment opportunities, shared scholarship programs, recognizing best practices or other diversity-centered

strategies, GC and other law department leaders identify networking with other diversity leaders as a key strategy for improving diversity within their own companies and also in the legal profession as a whole.

B. The Pathway to Inclusion

- 1. Achieving "Natural Inclusion"**
Interestingly, a few of the major companies researched have found that they no longer need structured, measured programs to achieve diversity inclusion. Their years of experience and effort have produced an inclusive environment. Some early adopters of formal diversity programs five years ago now have less-formal programs. Quantitative measurements were necessary as the first stage of their diversity continuum, but now the emphasis is on the quantity of their diversity initiatives.

In the late 1990s, when MCCA's first Pathways research was being conducted, some corporations had been early adopters of diversity as part of their core values. These corporations had already instituted diversity initiatives and had structured, formal goals, objectives and metrics. These were reasons that they were diversity leaders and included in the original research. Unlike many newcomers to diversity planning, some of these corporations have seen their programs evolve and become less rigid about numbers and percentages. Though, while less rigid, these corporations still have Offices of Diversity or Diversity Councils that monitor and assist departments to foster an inclusive work environment for all people. At these companies, diversity has become

more of a natural inclusion of different people, cultures, perspectives and ideas being valued and utilized. Some referred to this as diversity becoming embedded within the corporation. Diversity has become a natural part of the corporate culture in these companies, and is not just viewed as another corporate project. Leaders of these companies believe this “natural inclusion” will become more prevalent as diversity initiatives mature.

2. The Best Practices Pathway To Success

Those legal departments that have undertaken many if not all of the best practices determined in this research have clearly reached an inclusive environment for attorneys and staff. To reiterate, those best practices are:

1. The GC is committed to diversity, supporting both internal and external diversity efforts.
2. Diversity is defined very broadly to include more than race and gender.
3. The legal department has a diversity plan that includes metrics and is implemented by a diversity committee or task force.
4. Innovative recruiting techniques are used to find talented minorities.
5. Focused retention and inclusion efforts are part of the department's diversity plan.
6. The department's succession planning includes a focus on diversity.
7. The GC and his or her direct reports have a percentage of their compensation tied directly to diversity objectives.

8. The law department influences diversity in outside law firms by requesting and measuring diverse counsel representation.
9. The law department sponsors or invests in minority scholarship, internship and other “pipeline” programs.
10. Networking with other like-minded organizations, such as the minority bar associations and diverse business groups, is encouraged by the GC.

The interviewees in this study not only agreed on which actions were best practices, they concurred that the more legal departments that undertook these actions the greater the opportunity to achieve diversity throughout the legal profession.



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V. CASE STUDY – MEASURING THE DUPONT LEGAL MODEL'S DIVERSITY IMPACT

Development of the DuPont Legal Model

The DuPont Legal Model is the culmination of a process that began in late 1992. The Model has evolved into an integrated approach for managing the delivery of legal services to DuPont by both in-house and outside counsel. Among its central goals is improving the quality, efficiency, creativity and cost-effectiveness of those services.

Among the drivers leading to the adoption of the Model was DuPont Legal's perception that its use of more than 300 law firms was both costly and inefficient. During a three-and-a-half-year "convergence" process, DuPont selected a number of strategic partners to form a network of Primary Law Firms (PLFs) and Primary Service Providers (PSPs). While the composition and size of the Network has varied over time as required to accommodate changes in DuPont's needs, it now includes 42 law firms and nine service providers. Eleven of the PLFs have been part of the Network since its creation.

DuPont Legal selected PLFs after extensive interviews with each firm. In addition to considering whether each firm's practice matched DuPont's needs and standards for high-quality service, DuPont Legal selected firms based on their commitment to:

- Competence, excellence and getting results,
- Mutual financial success,
- Technology and work process re-engineering,
- Taking risks and advancing creativity,
- Being innovative and progressive, and
- The recruitment, retention and promotion of minority and female lawyers and their integration into the teams representing DuPont.

Diversity and the DuPont Legal Model

From the beginning, the DuPont Legal Model recognized that diversity in the workplace, in addition to being morally right, was also consistent with its business interests and those of its PLFs and PSPs. For this reason, diversity has been a fundamental tenet of the Model since its inception, and DuPont Legal has dedicated significant time and resources to promoting diversity in the profession and to putting in place the mechanisms required to achieve it relative to both its in-house staff and its outside counsel.

A demonstrated commitment to diversity was one of the criteria used to select firms when DuPont Legal implemented its convergence strategy in the early Nineties, and continues to be an indispensable requirement for firms wishing to do business with the Company today. DuPont Legal insists that its PLFs staff women and attorneys of color on its matters. The Legal Function also encourages its firms to make women and minority attorneys the stewards of their relationships with DuPont by appointing them as engagement partners and account managers.

DuPont's efforts relative to diversity have unquestionably born fruit. Among their measurable impact:

- More attorneys of color and women attorneys are employed by the PLFs (and more are there as partners);
- A more diverse group of attorneys now represent DuPont;
- Three quarters of DuPont's PLFs have engagement partners or account managers who are women or minorities or both; and

- All of the PLFs have a demonstrable interest in diversity and most have active diversity programs.

Measuring and Rewarding Diversity Efforts

To evaluate the effectiveness of the Legal Model, DuPont Legal developed a sophisticated and comprehensive metrics program aimed at measuring the processes and elements that influence key ultimate outcomes such as total costs, total recoveries, and total payouts. Its own internal diversity and the diversity of its PLFs and PSPs are among the key components DuPont tracks each year to ensure accountability.

DuPont Legal uses a variety of means to both encourage and monitor diversity among the PLFs. For example, each year the Company hosts a one-and-a-half-day conference for female PLF attorneys to gather with female in-house counsel to discuss issues and to network. A similar annual conference is held for attorneys of color. These conferences allow DuPont professionals to get to know the women and minority attorneys at the PLFs and to ensure, through informal discussions, that their firms' commitment to diversity is real and that they are not being overlooked relative to the staffing of DuPont matters.

Each year, DuPont Legal asks each of its PLFs to provide specific data concerning its diversity performance through a computerized "Benchmark Survey" that includes questions designed to elicit information about the recruitment and retention of women and minorities and the extent of diverse lawyers' work on DuPont matters. When, as is usually the case, DuPont knows the background of timekeepers, it can also monitor minority and female staffing through its invoice payment process.

To convert the skeptics among its firms and ensure their commitment to diversity, collaboration, and the other principles underlying the DuPont Legal Model, as well as to encourage innovation and to drive continuous improvement, DuPont Legal created its Challenge Awards Program. Under that Program, DuPont Legal allocates up to \$2 million per year to be used for monetary awards to PLFs and PSPs in recognition of extraordinary accomplishments. Challenge Award winners are selected based in large measure on the responses to the Benchmark Survey. PLFs and PSPs have received monetary awards for:

- Innovations in the legal work done by the firm for DuPont;
- Collaborating with other PLFs and PSPs to effectively and efficiently serve DuPont's interests;
- Referring non-DuPont matters to other PLFs;
- Incorporating technology into the practice of law; and
- Volunteering time and resources to develop and maintain core programs of the Model, with diversity initiatives within the individual firms and their impact on the legal profession being one of the key core programs.

Each spring, DuPont Legal convenes an Annual Meeting to bring together the DuPont Legal staff and the engagement partners and account managers from each of its PLFs and PSPs. The group is presented a snapshot of the Network members' total progress, including the PLFs' aggregate performance on diversity initiatives. It is

at this meeting that the winners of the Challenge Awards are announced and identified for their achievements.

Diversity Section of the Benchmark Survey

As the DuPont Legal Model has grown and developed, so has the Benchmark Survey. DuPont Legal has added, deleted, or reformulated questions each year as required by changes in DuPont's goals and priorities. For example, after DuPont Legal implemented Six Sigma, it began to query the PLFs and PSPs about their involvement in and contributions to Six Sigma projects. Questions about diversity, however, have always been part of the Survey. Indeed, the 2005 Benchmark Survey asked more questions about diversity than about any other subject, and asked each PLF to:

- ☐ Provide the number of equity partners at the firm in 2004 and 2005 who were women, African American, Asian American, Hispanic American and Native American;
- ☐ Provide the number of non-equity partners at the firm in 2004 and 2005 who were women, African American, Asian American, Hispanic American and Native American
- ☐ Provide the number of "counsel," "of counsel," and "senior counsel" at the firm in 2004 and 2005 who were women, African American, Asian American, Hispanic American and Native American
- ☐ Provide the number of associates at the firm in 2004 and 2005 who were women, African American, Asian American, Hispanic American and Native American
- ☐ Provide the firm's retention rates in 2004 and

2005 for associates who were women, African American, Asian American, Hispanic American and Native American

- ☐ State whether the firm experienced increases in attorney attrition in 2005, and to explain the reasons why
- ☐ Describe any program the firm had to increase attorney retention
- ☐ Provide the number of women, African American, Asian American, Hispanic American and Native American attorneys who left the firm in 2004 and 2005
- ☐ Identify steps DuPont Legal could take to help the firm retain women attorneys and lawyers of color
- ☐ Provide the number of permanent offers of employment extended to female, African American, Asian American, Hispanic American and Native American lawyers
- ☐ Provide the number of summer associate offers extended to female, African American, Asian American, Hispanic American and Native American law students
- ☐ Provide information concerning the number of female, African American, Asian American, Hispanic American and Native American firm attorneys working on DuPont matters and the value of their billings
- ☐ Describe any significant breakthrough the firm made in 2005 relative to diversity
- ☐ Specify whether the firm's engagement partner and account manager are female or members of a minority group or both
- ☐ Identify what affirmative steps the firm took in

2005 to ensure that a diverse team serves DuPont in relationship management roles

- ☐ Indicate whether or not the firm is satisfied with the current level of participation of female and minority attorneys on DuPont matters
- ☐ Identify the strategies the firm employed in 2005 and will employ in 2006 to improve and/or maintain the opportunities for attorneys of color and women to perform substantive work on DuPont matters handled by the firm
- ☐ State whether or not female, African American, Asian American, Hispanic American and/or Native American lawyers served as lead counsel on DuPont matters in 2005
- ☐ State whether the firm has experienced any resistance from DuPont Legal when staffing cases with female or minority lawyers and to provide specific examples
- ☐ Indicate whether or not DuPont Legal is supportive (in practice) of firm efforts to staff female and/or minority attorneys in lead or high profile roles on DuPont matters
- ☐ Indicate whether the firm had collaborated with or referred work to minority-owned or woman-owned firms on DuPont and non-DuPont matters

As in the past, in 2005 DuPont requested input from female and minority attorneys at the PLFs when developing the diversity questions in the Benchmark Survey.



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Enhancing diversity at all levels has been a part of our Firm's Strategic Plan since 2002, and this goal is supported fully by Dickstein Shapiro's leadership. The Firm's Diversity Committee—comprised of partners, attorneys, and staff—develops and implements programs and policies designed to embrace and increase Firm diversity through recruiting, mentoring, advancing, and retaining diverse employees and attorneys.

The Firm's recently recognized diversity efforts include the addition of a full-time position of Diversity/ Pro Bono Counsel, and the expansion of its Diversity Speaker Series, in which high-profile, diverse leaders speak to the Dickstein Shapiro community about their work to foster diversity appreciation and understanding through education. Our commitment to building a diverse workforce is yielding positive results. We recognize that by continuing to incorporate diversity into the Firm's culture, we are in the best position to capitalize on our differences in order to deliver innovative solutions to our clients.

CASE STUDY: *Client Partnerships to Advance Diversity*

As part of its innovative "DuPont Legal Model," DuPont consistently sets high standards for the corporate world by implementing forward-thinking business practices. In the DuPont Legal Model, Primary Law Firms (PLFs) and service providers are carefully selected to serve as "strategic partners" with DuPont on the basis of competence, technology, contribution to women and minorities, creativity, financial costs and rewards, innovation, and more. Through Dickstein Shapiro's sustained contributions to the DuPont Legal Model, including its demonstrated record to advance diversity, the Firm was honored with DuPont's "Meeting the Challenge" award. We embrace DuPont's commitment to diversity and excellence, and continue to build our diversity-related programs, as well as support the initiatives of other organizations such as MCCA to positively impact the legal industry.

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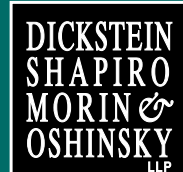
Vault's Guide to the Top 100
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