

BEST PRACTICES STANDARDS FOR THE RECRUITMENT, RETENTION, DEVELOPMENT, AND ADVANCEMENT OF RACIAL/ETHNIC MINORITY ATTORNEYS

Committee on Minorities in the Profession

In 2006, the New York City Bar's Minorities in the Profession Committee reviewed the extensive literature relating to "best practices" for recruiting, retaining, developing, and advancing racial/ethnic minority attorneys. That literature is very rich and is replete with examples of best practices that are emerging in the nation's law firms, corporate legal departments and the legal departments of government and nonprofit organizations. Rather than publishing a "best practices" guide of its own, the Committee believed that a best practices resource guide that included a list of best practices distilled from this extensive literature and an annotated reference list that highlighted certain particularly helpful texts would probably be most useful to those seeking to promote diversity within their own organizations. The Committee hopes that this document will be a guide and reference tool for legal employers looking to improve their diversity efforts, as well as a useful starting point for discussions of specific diversity initiatives within these "best practices" standards that have been successful.

The Committee advocates the following ten Best Practices Standards.

Best Practice Standard No. 1: Senior Management Commitment

Demonstrated commitment by General Counsel/Chief Executive Officer or managing partner and department heads to promote and advance racial/ethnic minorities.

Best Practice Standard No. 2: Organizational Accountability

Creation of a system that monitors, and includes a system of rewards and penalties for, the extent to which partners/managers have succeeded in implementing the Best Practices Standards.

Best Practice Standard No. 3: Diversity Structure; Integration of Diversity Efforts into All Organizational Initiatives

Establishment of a senior-level diversity committee with management/executive committee representation to oversee and support diversity efforts. Hire diversity professional (or designate a member of the human resources staff) to develop and implement diversity strategy. Ensure adequate resources in budget and staffing to meet goals. Integrate diversity into other relevant efforts, including recruitment, professional development, marketing, and performance management efforts.

Best Practice Standard No. 4: Proportionate Representation

Employment and retention of a proportionate number of racial/ethnic minorities across all levels and in all practice areas and departments. Significant presence of racial and ethnic minorities in visible leadership positions within the organization (and, in law firms, as equity partners) to serve as role models.

Best Practice Standard No. 5: Career Advancement; Development and Training

Transparency regarding the criteria required for and timing of promotion, formal process for the distribution of assignments, and accurate and effective feedback on career development and advancement. Development plans for all attorneys and training in areas that promote advancement, including business development, networking, and how to become a leader.

Best Practice Standard No. 6: Work-Life Effectiveness

Ensure that programs that assist attorneys in managing work and personal life, such as flexible work arrangements and family care leaves, are available to all attorneys across racial groups who need them. Be responsive to cultural differences in family commitments and elder care for different groups.

Best Practice Standard No. 7: Mentoring Culture

Foster a mentoring culture that includes developing and implementing an effective and tailored internal mentoring program, and instruction on how to establish and maintain informal mentoring relationships. Encourage and promote outside mentoring opportunities.

Best Practice Standard No. 8: Internal and External Networking

Foster opportunities for minority attorneys to develop relationships internally with senior leaders and other attorneys of color, particularly through affinity groups. Encourage participation in external networking activities.

Best Practice Standard No. 9: Diversity and Inclusion Education

Mandatory ongoing education on racial/ethnic diversity, including inclusion, discrimination, subtle bias, stereotyping, and the interplay between race-based stereotypes and performance perceptions.

Best Practice Standard No. 10: Recruiting/Pipeline

Set goals and ensure diverse slates for entry and lateral hiring. Provide support to lateral hires to integrate them within the organization and to ensure their success. Support and develop initiatives to bolster the pipeline of racial/ethnic minorities entering the legal profession from early education to bar passage.

The Committee believes that when legal employers take steps to create a more diverse and inclusive work environment for racial/ethnic minority attorneys, all attorneys—regardless of race or ethnicity—will benefit.

Notably, several of the listed Best Practices Standards for minority lawyers overlap with the New York City Bar's *Best Practices for the Hiring, Training, Retention, and Advancement of Women Attorneys*.¹ This underscores the fact that women of color in the legal profession face challenges that are common to both women and minorities but also unique² and that the Best Practices Standards set forth below are most effective when integrated and viewed as connected to best practices for women.

The Committee recognizes that legal employers are searching for more substance when it comes to diversity programs. Every legal employer that is focused on diversity efforts wants to hear about the new-and-improved secret for recruiting, retaining, developing, and advancing racial/ethnic minority attorneys. However, there is no magic bullet or one-size-fits all solution to creating a more diverse work environment. Additionally, certain racial/ethnic minority groups may experience unique challenges that must be taken into account when implementing these standards. The Committee believes that the ten Best Practices Standards set forth above and the accompanying list of resources will be most useful to legal employers in conjunction with a dialogue of how these concepts are being implemented at law firms and other legal employers, and how the programs were successful or not at the particular organization.

The Committee is cognizant of the many challenges that are inherent in the structure of certain organizations that make retention and advancement difficult generally. Law firms, for example, have a revenue system based on billable hours, and the difficulty of maintaining a work-life balance in the face of pressures to meet official or unofficial billable hour commitments, together with an "up or out" system of promotion, make retention of valued associates challenging. In corporate and other in-house legal departments, a relatively flat structure with little attrition or movement make opportunities for advancement limited. These structural challenges make it essential for law firms, corporations and other legal employers to recruit, retain, and promote the best attorneys, regardless of race, ethnicity or gender. This is an imperative that the Best Practices Standards set forth above will help organizations to achieve.

USEFUL RESOURCES

The following is a list of resources that the Committee believes will be useful to persons starting or managing initiatives to promote diversity within their own organizations.

GENERAL

American Bar Association (ABA), 321 North Clark Street, Chicago, IL 60610 (Telephone: 312.988.5000). The ABA's website, which may be found at <http://www.abanet.org>, contains a wealth of useful materials. Among these are reports and other materials of ABA's Presidential Advisory Council on Diversity in the Profession relating to programs and services to improve

¹ New York City Bar Committee on Women in the Profession, *BEST PRACTICES FOR THE HIRING, TRAINING, RETENTION, AND ADVANCEMENT OF WOMEN ATTORNEYS* (New York: New York City Bar, 2006) (available online at <http://www.nycbar.org/pdf/report/BestPractices4WomenAttorneys.pdf>).

² See American Bar Association Commission on Women in the Profession, *VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS* (Chicago, IL: ABA Commission on Women in the Profession, 2006).

diversity in the pipeline to the legal profession. See the description of the Advisory Council's Pipeline Diversity Directory under "Pipeline Programs" below. The ABA's Commission on Racial and Ethnic Diversity in the Profession, in addition, has prepared many useful reports, including the *Miles to Go: Progress of Minorities in the Legal Profession* study described below.

Catalyst, Inc., 120 Wall Street, 5th Floor, New York, NY 10005, (Telephone: 212.514.7600). Founded in 1962, Catalyst works with businesses to expand opportunities for women. Catalyst's website, located at www.catalyst.org, lists numerous materials of interest to diversity professionals, including studies of the networking practices of women of color and a "Making Change" series on introducing diversity initiatives in the workplace. These materials are available for purchase through Catalyst's website. Catalyst also maintains a diversity consulting practice that works with Catalyst members who are interested in promoting a more diverse work environment.

Minority Corporate Counsel Association (MCCA), 1111 Pennsylvania Ave, N.W., Washington, DC 20004 (Telephone: 202.739.5901). Established in 1997 to promote increased hiring, retention and promotion of minority attorneys in corporate law departments and law firms, MCCA has sponsored numerous studies and surveys of minority attorneys. MCCA also publishes *Diversity & the Bar*, a bimonthly magazine that features articles of interest to diversity professionals and minority attorneys. MCCA sponsors an annual CLE expo and an annual Creating Pathways to Diversity Conference that feature substantive sessions and offer numerous opportunities for networking. MCCA's website may be found at www.mcca.com.

LEGAL EMPLOYERS

American Bar Association. *AMERICAN BAR ASSOCIATION RESOURCE GUIDE: PROGRAMS TO ADVANCE RACIAL AND ETHNIC DIVERSITY IN THE LEGAL PROFESSION*. Chicago, IL: American Bar Association, 2000. This resource guide was prepared by the American Bar Association's Colloquium on Diversity in the Legal Profession in October 1999 to increase racial and ethnic diversity at all levels of the legal profession. The resource guide contains summary information on organizations across the country that are working to fulfill the six goals set forth in the resource guide.

THE DRI LAW FIRM DIVERSITY RETENTION MANUAL. Chicago, IL: DRI, 2005 (available online at http://www.dri.org/dri/webdocs/Law_Firm_Diversity_Retention_Manual.pdf). This manual describes the challenges that law firms face in implementing diversity initiatives and lists recommended best practices for law firms.

Minority Corporation Counsel Association. *A SET OF RECOMMENDED PRACTICES FOR LAW FIRMS (BLUE BOOK)*. Washington, D.C.: Minority Corporate Counsel Association, 2000 (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=613>). Based on a benchmarking survey of 104 law firms and interviews with focus groups, this study describes the barriers that law firms face in implementing diversity programs and the challenges that minority attorneys confront. Among those most affected were women of color, who experienced an almost 86 percent attrition rate before their seventh year. The study concludes with a list of ten recommended best practices to address the problems described in the report.

Minority Corporation Counsel Association. *A STUDY OF LAW DEPARTMENT BEST PRACTICES*. Washington, D.C.: Minority Corporate Counsel Association, 2005 (available online at http://www.mcca.com/_data/n_0001/resources/live/Pathways_Green_2005_book.pdf). This publication updates an earlier study on in-house attorneys published in 2000. The update finds that there was substantial growth in the representation of women and minority general counsel at Fortune 500 companies between 2000 and 2005, while minority partner growth in law firms remained relatively flat during that period. The report then examines fifteen best practices that have aided such progress.

NALP, *NALP Diversity Best Practices Guide*. (March 2006) (available online at http://www.nalp.org/assets/221_diversitybestpracticesgui.pdf). NALP's Diversity Best Practices Guide is intended as a resource for legal employers seeking to establish diversity initiatives for their own organizations. Based on industry research and interviews with legal professionals, the guide is a collection of diversity best practices in four areas: (i) leadership; (ii) retention, culture, and inclusion; (iii) professional development; and (iv) recruitment. The guide also contains a useful list of diversity resources, including websites at which legal professionals can obtain a wealth of additional information.

Vault/MCCA Guide to Law Firm Diversity (published annually). Developed by Vault and the Minority Corporate Counsel Association, this guide offers diversity profiles on almost 200 major law firms nationwide. The guide provides information on the number of women, minorities and lesbian, gay, bisexual and transgender attorneys at each level, as well as on diversity efforts that each firm has undertaken. The standardized format facilitates comparisons among firms, and the narratives that the firms provide often contain ideas for diversity initiatives that can be implemented by others.

PROFESSIONAL SERVICES FIRMS

Akinola, Modupe, and David A. Thomas. *Racial Diversity Initiatives in Professional Service Firms: What Factors Differentiate Successful from Unsuccessful Initiatives?* Harvard Business School Working Paper, 2006 (available online at <http://www.hbs.edu/research/pdf/07-019.pdf>). Akinola and Thomas propose a study to examine management initiatives to promote racial diversity in professional service firms. The study would seek to identify the factors that lead to the successful implementation of certain diversity practices and explore how such firms can recruit and retain a more diverse workforce.

Anthony, Kathryn H. *DESIGNING FOR DIVERSITY: GENDER, RACE, AND ETHNICITY IN THE ARCHITECTURAL PROFESSION*. Urbana-Champaign, IL: University of Illinois Press, 2001. Based on hundreds of interviews with architects, this book describes the forms of discrimination frequently experienced by women and minorities in architectural firms. Anthony finds, among other things, significant salary differences along gender lines and a large percentage of her respondents who reported having seen or heard of sexual or racial discrimination in an architectural office.

Bagati, Deepali. *RETAINING PEOPLE OF COLOR: WHAT ACCOUNTING FIRMS NEED TO KNOW*. New York: Catalyst, Inc., 2007. Based on a survey of members of three professional associations for minority accountants and interviews with former employees of a sample of large

accounting firms, this study found that a significant percentage (between 37 and 50 percent) of minority accounting professionals did not feel obligated to stay in their current job and intended to leave. Bagati provides anecdotal evidence highlighting perceived stereotyping, differential performance standards and the absence of professional development opportunities as issues to be addressed to promote retention of persons of color.

PIPELINE PROGRAMS

American Bar Association Council on Legal Education Opportunity (CLEO). CLEO is a non-profit project of the ABA's Fund for Justice and Education. Through LSAT preparation and a six-week prelaw summer institute taught by law professor, CLEO seeks to expand opportunities for groups that are underrepresented in the legal profession. Additional information on CLEO may be found at the following website: <http://www.abanet.org/cleo/whatis.html#>.

American Bar Association Presidential Advisory Council on Diversity in the Profession and the Law School Admission Council. The Pipeline Diversity Directory is an ever-growing online searchable database of projects, programs and initiatives that encourage and equip minority students to pursue legal careers. This free service presents key information on programs from across the country in an easily accessible, succinct format. It includes programs sponsored by law schools, law firms, in-house counsel, bar associations, other organizations, and collaborations that promote law careers for racially and ethnically diverse students. The Pipeline Diversity Directory is available online at <http://www.abanet.org/op/pipelndir/home.html>.

Legal Outreach, Inc.'s College to Law School Pipeline Diversity Initiative. Founded in 1983, Legal Outreach prepares underprivileged urban youths in New York City to compete at high academic levels through educational programs and internships. The College to Law School Pipeline Diversity Initiative is a new program that focuses on helping minority college students prepare for law school by providing free LSAT preparation and placing students in paralegal internships in major law firms. Legal Outreach's website may be found at www.legaloutreach.org.

National Bar Association Pipeline Programs. The Commercial Law Section of the National Bar Association formed a Committee on the Development of Ethnically Diverse Lawyers to develop and implement a network of pipeline programs. The pipeline programs are aimed at increasing the number African American, Asian American, Latino, Native American and other lawyers of color graduating from law schools to enhance diversity within the corporate and legal communities, starting in the State of Arizona. The NBA has partnered with the Association of Corporate Counsel, Arizona Chapter; the State Bar of Arizona Committee on Minorities and Women in the Law; and the Maricopa County Bar Association Task Force on Recruitment and Retention of Women and Minority Lawyers. A description of the pipeline programs is available at <http://www.nbapipeline.org/index.html>.

The Pipeline Crisis/Winning Strategies Initiative. Sponsored by Sullivan & Cromwell, Goldman Sachs & Co., and Harvard Law School's Charles Hamilton Houston Institute for Race and Justice, the Pipeline Crisis: Winning Strategies Initiative seeks to pool the talent, knowledge and resources of the professional and business communities to develop and support concrete

solutions that combat the alarming rate at which young black men are dropping out of the track to meaningful employment.

Practicing Attorneys for Law Students (PALS), 42 West 44th Street, New York, NY 10036. PALS is a non-profit organization that provides mentoring as well as career and skills development resources to minority law students and beginning lawyers in the New York City metro area to facilitate their entry into the legal profession. Since its creation over 20 years ago, PALS has been the premier organization of its kind in the New York City area whose mission is to provide services primarily directed to minority law students and new attorneys of color. PALS' Supplemental Bar Tutorial, which is conducted in the summer and winter, has provided hundreds of minority law students with seminars to enhance their New York State Bar passage rates. PALS also has a Mentor Matching Program and Mock Interview and Resume Workshop program designed give minority law students an opportunity to interact with attorneys and develop professional relationships. PALS's website may be found at www.palsprogram.org.

Sponsors for Educational Opportunity (SEO). Through its Corporate Law Program, SEO annually places outstanding college students of color in summer internships with leading law firms and in-house legal departments. Interns also participate in a two-week Corporate Law Institute, where they listen to presentations by legal practitioners and law professors on substantive legal topics and learn skills necessary to excel during the first year of law school. SEO's website may be found at www.seo-ny.org.

Street Law, Inc. Corporate Legal Diversity Program. Street Law, Inc. and the Association of Corporate Counsel (ACC) have developed a program that brings corporate legal departments together with nearby diverse, high school law classes in an effort to engage the students, teach them more about civil law, and encourage them to consider careers in the legal profession.

There are a substantial number of law firms that have partnered with high schools and law schools to provide scholarships, mentoring programs, and internships for minority students and potential lawyers. There are also minority legal scholarships sponsored by several organizations, such as the Minority Corporation Counsel Association's Lloyd M. Johnson, Jr. Scholarship Program. In addition, there are several bar association pipeline programs, such as the New York City Bar's Minority Fellowship Program and the Thurgood Marshall Summer Law Internship Program. Other similar programs can be found in the ABA's Pipeline Diversity Directory.

The following are examples of pipeline programs developed for other professions:

Diversity Pipeline Alliance: The Diversity Pipeline Alliance is a network of national organizations that seeks to prepare students and professionals of color for leadership roles in the workforce. The organization works with middle and high school students, among others, to encourage them to seek careers in management. The organization's website may be found at www.diversitypipeline.org.

INROADS: Established in 1970, INROADS helps businesses gain greater access to diverse talent through continuous leadership development of outstanding ethnically diverse students and placement of those students in internships at many of North

America's top corporations, firms and organizations. The organization's website may be found at <http://katie.cob.ilstu.edu/inroads.html>.

National Action Council for Minorities in Engineering: Founded in 1974, NACME seeks to increase African American, American Indian and Hispanic representation in the nation's technical, science and engineering workforce. NACME does this through scholarships and a new electronic resume service. NACME has also been working on a pre-college initiative. The group's website may be found at www.nacme.org.

National Black MBA Association, Inc.: NBMBA sponsors scholarship programs and a Leaders of Tomorrow® youth mentoring program. The organization's website may be found at www.nmbaa.org.

National Society of Hispanic MBAs' L.I.F.E. (Latin Initiative to Foster Empowerment) Program: Developed to increase undergraduate graduation rates for Latinos, the program sponsors leadership and pre-MBA programs.

RETENTION AND ADVANCEMENT

McKay, Patrick, Derek Avery, Scott Tonitandel, Mark A. Morris, Morela Hernandez, and Michelle R. Hebel. *Racial Differences in Employee Retention: Are Diversity Climate Perceptions the Key?* PERSONNEL PSYCHOLOGY, 35 (2007). The study examines the role of varying perceptions of the organization's "diversity climate" in producing turnover intentions among various racial/ethnic groups of managers in a national retail organization.

National Association of Multi-ethnicity in Communications (NAMIC), 336 West 37th Street, Suite 302, New York, NY 10018 (Telephone: 212.594.5985). NAMIC sponsors several key initiatives to promote diversity in the telecommunications industry, among them, the L. Patrick Mellon Mentorship Program (which pairs top industry executives with NAMIC members to develop career strategies), the Executive Leadership Development Program (a selective program to prepare NAMIC members to become corporate executives) and the Leadership Seminar (a professional development program to prepare NAMIC members for leadership roles in corporations). NAMIC also sponsors an annual conference that focuses on diversity issues. NAMIC's website may be found at <http://www.namic.com>.

Robert Toigo Foundation. RETENTION RETURNS: INSIGHTS FOR MORE EFFECTIVE DIVERSITY INITIATIVES. Oakland, CA: Robert Toigo Foundation (available online at http://www.stufund.com/media/Retention_Returns_Report.pdf). Developed in collaboration with Heidrick & Struggles, this report is based on a survey of MBA graduates of color from nation's top 25 graduate business school programs analyzing cycle of departure and how to improve minority retention in finance firms. The report stresses the importance of mentoring and performance management in promoting retention.

Sander, Richard H., *The Racial Paradox of the Corporate Law Firm*, 84 N.C.L. REV. 1755 (2006). The author examines the hiring preferences given to African Americans by large law firms and argues that, as a result, blacks in law firms tend to have lower law school grades than their white counterparts. The author links this disparity to a variety of counterproductive

mechanisms, such as quality of assignments, which, he argues, produce very high African-American (and, to a lesser degree, Hispanic) attrition from law firms.

Coleman, James E., and Mitu Gulati, *A Response To Professor Sander: Is it Really About the Grades*, 84 N.C.L. REV. 1823 (2005-2006). The authors' thesis is that the higher attrition rate of African American associates cannot be explained without taking into account the dynamics within individual firms. They also argue that the data do not support Sander's conclusion that the lower law school grades is a key reason for higher minority law firm attrition.

Richardson, Veta T., *The Unqualified Myth*. LEGAL TIMES, (August 21, 2006) (available online at <http://www.acc.com/public/employment/legaltimeswtrrebuttaltostaylorarticle.pdf>).

Richardson responds to articles by Richard Sander and their progeny. This article cites research that shows law school grades bear little relationship to attributes leading to law firm success, that African Americans are held to higher objective standards than whites, and that racial and gender bias impact minorities' experiences at law firms.

MENTORING AND PROFESSIONAL ADVANCEMENT

Abbot, Ida O. *THE LAWYER'S GUIDE TO MENTORING*. Washington, D.C.: National Association for Law Placement, Inc., 2000. This is a comprehensive, yet reasonably compact, guide that covers everything from how mentoring relationships work and the benefits of mentoring to how to establish a formal mentoring program. It also offers individual attorneys advice on how to find mentors. Abbott also addresses the particular challenges that women and minority attorneys face in law firms.

Abbot, Ida O. *Learning from Your Mentor* (available online at http://www.law.com/special/professionals/pay/fy_2000_09_05h.shtml). Written for first-year law firm associates, this article describes how to get the most out of a mentoring relationship and how to find a mentor in a firm that has no formal mentoring program.

AIPLA Mentoring Committee. *MENTORING GUIDELINES*. Arlington, VA: American Intellectual Property Law Association, 2003. (available online at http://www.aipla.org/Content/ContentGroups/Professional_Development1/Liaison_Program1/Mentoring_Guidelines.pdf). This handbook sets forth guidelines for the American Intellectual Property Law Association's mentoring program. The guidelines are useful for a bar association or other organization wishing to establish its own formal mentoring program.

Crutcher, Betty Neal. *Mentoring Across Cultures*. *ACADEME*. 93 (July-Aug. 2007) (available online at <http://www.aaup.org/AAUP/pubsres/academe/2007/JA/Feat/crut.htm>). Based on a study of cross-cultural mentoring performed while the author was a graduate student at the University of Miami, this article finds that there are many challenges in such mentoring relationships. These include mentors from a dominant culture needing to overcome fears, biases and stereotypes, treating a mentee as an individual while viewing the mentee in a larger social context and maintaining boundaries and professional authority.

LAWPRO Magazine: Focus on Mentoring (April 2002) (available online at <http://www.lawpro.ca/lawpro/LawPROmagazine1.pdf>). Published by Lawyers Professional

Indemnity Company, which is based in Toronto, Canada, this issue describes mentoring programs and practices for attorneys in Canada.

Lawyers Professional Indemnity Company. *MANAGING A MENTORING RELATIONSHIP*. Toronto: Lawyers Professional Indemnity Company, 2002 (available online at http://www.practicepro.ca/practice/Mentoring_Booklet.pdf). This brochure offers helpful advice to both mentors and mentees on how to make a mentoring relationship work.

Minority Corporate Counsel Association. *MENTORING ACROSS DIFFERENCES: A GUIDE TO CROSS-GENDER AND CROSS-RACE MENTORING (YELLOW BOOK)*. Washington, D.C.: Minority Corporate Counsel Association, 2003 (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=666>). This report is the result of a year-long study of, among other things, how attorneys build successful cross-gender and cross-race mentoring relationships. The report offers concrete recommendations for mentors and mentees in diverse mentoring relationships, as well as for firms seeking to support such mentoring relationships. The report also includes a helpful checklist and curriculum for a formal mentoring program.

Oshima, Michael W. *Beyond Recruitment: Achieving a More Diverse Partnership*. *DIVERSITY & THE BAR* (July/Aug. 2006) (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=960>). In this article, Oshima identifies five things that law firms should consider to increase diversity in their partnership ranks.

Ostrow, Ellen. *Mentoring: Constructing a Personal Advisory Board*. *WISCONSIN LAWYER* (Oct. 2001) (available online at (http://www.lawyerslifecoach.com/articles/story_15.html)). Ostrow argues that the old mentoring model in law firms, in which a senior attorney worked with a protégé/apprentice, is no longer practical because of the heavy demand on partners' time. She argues instead for the need for young attorneys to form strategic alliances with persons who can provide advice on a broad range of professional issues.

Thomas, David A. *Race Matters: The Truth About Mentoring Minorities*. *HARVARD BUSINESS REVIEW* (Apr., 2001). Based on a study of racial minorities at three large U.S. corporations, this article explores why promising white professionals tend to enter fast tracks early in their careers while many minorities plateau in middle management. He finds that minorities who stayed in middle management tended to receive mentoring that was largely instructional and skill-based. The minorities who advanced beyond middle management, by contrast, tended to have a strong network of mentors and corporate sponsors. Thomas also discusses some of the challenges of mentoring across racial lines, including negative stereotypes and peer resentment. Finally, he offers concrete advice on how mentors can support broader initiatives at their organizations to foster the upward mobility of professionals of color.

Vinson & Elkins. *NEW LAWYER MENTORING PROGRAM HANDBOOK*. (available online at <http://www.vinson-elkins.com/pdf/overview/NewLawyerMentoringHandbook.pdf>) This handbook is an example of guidelines for mentoring programs that law firms are establishing.

METRICS

Ball, Calvin B., III. **DIVERSITY METRICS: A GUIDE TO CONSTRUCTING AN INCLUSIVENESS AUDIT** (available online at www.diversitydtg.com/articles/diversity_metrics.htm). This article provides a set of questions to assist firms in creating measurement tools for practically all of their diversity initiatives.

General Counsel Roundtable. **FROM THOUGHT TO ACTION: FOSTERING LEGAL DEPARTMENT DIVERSITY**. Washington, D.C.: Corporate Executive Board, 2002 (available online at <http://www.agc.net/docs/s02-011.pdf>). This reference sets forth, among other things, possible measures of progress in recruiting, retention, advancement and diversity program performance.

Hubbard, Edward E. **MEASURING DIVERSITY RESULTS**. Petaluma, CA: Global Insights Publishing, 1997. This book provides readers with 100 measures, formulas, and tools to measure the results of diversity initiatives. These measures go beyond a simple tracking of outputs to determining how diversity efforts contribute to a company's bottom-line performance, which Hubbard describes as "Diversity's Return on Investment."

Minority Corporate Counsel Association. **METRICS FOR SUCCESS: MEASUREMENT IN DIVERSITY INITIATIVES (BURGUNDY BOOK)**. Washington, D.C.: Minority Corporate Counsel Association, 2003 (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=615>). This is a comprehensive reference text that summarizes the case for diversity, provides formulas for measuring the performance of diversity initiatives, and explains how such initiatives contribute to an organization's bottom line.

RESEARCH STUDIES/ BOOKS

ABA Commission on Women in the Profession. **VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS**. Chicago, IL: ABA Commission on Women in the Profession, 2006. This study addresses the unique situation experienced by women of color at law firms, exploring such topics mentoring, networking, training, job satisfaction and work/life balance. According to the study, nearly two-thirds of the women of color surveyed reported that they had been excluded from networking opportunities and 44 percent said that they had been denied desirable assignments.

Barrett, Paul M. **THE GOOD BLACK: A TRUE STORY OF RACE IN AMERICA**. New York: Dutton Press, 1999. The career of Larry Mungin is explored in this book. A graduate of both Harvard College and Harvard Law School, Mungin's career seemed headed for success. However, years later he finds himself suing his law firm for racial discrimination. This book details the story of Mungin's upbringing that taught him to focus less on race and more on individualism, as well as his eventual discrimination suit.

Chambliss, Dr. Elizabeth. **MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION**. Chicago, IL: ABA Commission on Racial and Ethnic Diversity in the Profession, 2005. Similar to its predecessors in 1998 and 2000, this report explores the status of racial and ethnic minorities in the legal profession. Its six major findings highlight: (i) the lower representation of minorities in law than other professions; (ii) the decrease in minority representation in law

schools; (iii) the differential between minority and white lawyers' initial employment; (iv) the underrepresentation of racial/ethnic minorities at the highest level of private sector jobs; (v) the slower progress of minority women relative to their male counterparts; and (vi) the ongoing challenges faced by minorities entering and practicing in the legal profession.

Ely, Robin J., Martin N. Davidson, and Debra E. Myerson, *Rethinking Political Correctness*, HARVARD BUSINESS REVIEW (Sept. 2006). This article addresses the benefits and hidden costs of political correctness. The authors argue that by adhering strictly to political correctness, people are less likely to form relationships with others who have differing racial/ethnic, gender and religious backgrounds. The authors provide five principles for addressing tension and conflict that sometimes arise over difference.

Minority Corporate Counsel Association. THE MYTH OF MERITOCRACY: A REPORT ON THE BRIDGES AND BARRIERS TO SUCCESS IN LARGE LAW FIRMS. Washington, D.C.: Minority Corporate Counsel Association, 2003 (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=614>). This report sets forth the findings of research in which MCCA explored: (i) the criteria used to elect partners; (ii) factors that distinguish those who make partner from those who do not; and (iii) the extent to which credentials and experiences are indicators of the likelihood of being elected to partnership. Based on its research, MCCA sets forth ten conclusions and eight recommendations for law firms and individuals wishing to achieve effective diversity programs.

Reeves, Arin N. *Colored by Race: Bias in the Evaluation of Candidates of Color by Law Firm Hiring Committees*. DIVERSITY & THE BAR (Sept./Oct. 2006) (available online at <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=576>). This study reports the findings of interviews with hiring partners and others involved in the law firm hiring process. One of the central findings is that racial/ethnic bias is present in this process. In addition to addressing the findings, the author provides strategies for combating bias. These strategies focus on acknowledging the presence of racial biases and providing training for those involved in the hiring process.

Steele, Claude M., and Joshua Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans*. JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY. 6 (1995): 797-811. Steele and Aronson offer an alternative explanation for the white-African American test score gap—"stereotype threat." As defined by the authors, stereotype threat is "the threat of being viewed through the lens of a negative stereotype, or the fear of doing something that would inadvertently confirm that stereotype." In their research, the authors find that when testing situations are controlled for stereotype threat, the gap between African American and white students' test performance dramatically narrows.

Thomas, David A., and Robin J. Ely, *Making Differences Matter: A New Paradigm for Managing Diversity*, HARVARD BUSINESS REVIEW (Sept./Oct. 1996). In this article, the authors assess the benefits and limitations of two approaches to diversity efforts—the "discrimination-and-fairness paradigm" and the "access-and-legitimacy paradigm." Arguing for movement to a new paradigm that connects "diversity to work perspectives," Thomas and Ely provide eight preconditions to this paradigm.

Thomas, R. Roosevelt, Jr. *BUILDING A HOUSE FOR DIVERSITY*. New York: AMACOM, 1999. In this book, Thomas addresses the various roles that individuals throughout an organization play in effectively creating a diverse environment. By using case studies and providing self-assessments, this book leaves the reader with tools that are essential for effective diversity management.

U.S. Equal Employment Opportunity Commission. *DIVERSITY IN LAW FIRMS*. Washington, D.C.: U.S. Equal Employment Opportunity Commission, 2003 (available online at <http://www.eeoc.gov/stats/reports/diversitylaw/index.html>). This report examines the changes in employment status of women and minority lawyers in mid-size and large law firms since 1975. According to the EEOC, the most pressing issue for women and minority lawyers in these firms is no longer hiring but promotion to partnership. The EEOC found that, although the presence of women and minorities in law firms has increased dramatically since 1975, the odds of a woman or minority lawyer becoming a partner remain significantly lower than for their white male counterparts. Among minority attorneys, Asian attorneys were found to have the lowest odds of becoming partners.

Wilder, Gita Z. *THE ROAD TO LAW SCHOOL AND BEYOND: EXAMINING CHALLENGES TO RACIAL AND ETHNIC DIVERSITY IN THE LEGAL PROFESSION*. Law School Admission Council Research Report 02-01, Newtown, PA: Law School Admission Council, 2003 (available online at <http://lsacnet.org/research/Challenges-to-Racial-and-Ethnic-Diversity-in-Legal-Profession.pdf>). This report explores obstacles to achieving a more racially and ethnically diverse legal profession. The report focuses on differences between racial/ethnic groups' high school graduation rates, college enrollment rates, LSAT scores and bar passage rates.

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