

NEW YORK CITY BAR OFFICE FOR DIVERSITY AND INCLUSION

**2013 DIVERSITY**

# **BENCHMARKING REPORT**

Report to the Signatories of the  
Statement of Diversity Principles

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal white bars.

NEW YORK  
CITY BAR

## TRACKING DIVERSITY PROGRESS OVER A DECADE:

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## TRACKING DIVERSITY PROGRESS OVER A DECADE:

# Numbers Do Not Tell the Whole Story

The state of diversity in New York City law firms is nuanced. After a decade of collecting data on diversity workforce metrics, the New York City Bar Association (the “City Bar”) has identified clear progress and positive trends, as well as persistent concerns and new challenges. In 2013, the City Bar expanded its benchmarking research to allow for a more comprehensive analysis of the data. It started collecting quantitative data on the availability and value of diversity structures and support and reached out to change agents such as management committee members, women and minority partners, diversity directors, and in-house leaders for in-depth conversations about diversity at their organizations and across law firms. These conversations provided a broader context for the evolution of diversity and inclusion in the legal profession and clarified that *the numbers do not tell the whole story*.

The quantitative and qualitative data provided by the signatory firms further demonstrated that the signatories’ efforts have had a positive impact on the professional landscape, with New York’s data trending more positively than the national equivalents highlighted in recent reports. The input shared was insightful, illuminating a deep and comprehensive understanding of both the challenges faced — and the road ahead — for rendering greater diversity a reality. The City Bar hopes this can be used as a model for firms nationwide to see greater progress in the next ten years.

# HIGHLIGHTS OF THE 2013 BENCHMARKING REPORT

## POSITIVE TRENDS

- An expanding business case over the last decade establishes diversity as essential to the 'new normal' for signatory firms
- The representation of minority attorneys has trended upward over the decade, hitting new highs in 2013
- Proactive efforts to diversify entry channels into firm partnership have fueled a gradual, long-term upward trend in the representation of women partners
- The special counsel role is a high-quality option enabling career path flexibility
- The representation of LGBT attorneys has more than doubled over the decade, signaling both better reporting and greater workplace acceptance

## CHALLENGES

- Minority and women attorneys lack sufficient voice among the most senior leadership bodies at signatory firms
- Multi-tier partnership structures have unintended consequences for minority and women attorneys
- Across all levels and over time, minority and women attorneys face unique challenges and leave signatory firms at elevated rates in comparison to white men
- Gender diversity among junior associates has declined in recent years, raising concern about future diversity progress for women attorneys
- Unconscious bias stymies diversity progress and is not well understood

## THE ROAD AHEAD

- There is great potential to increase white men's involvement in diversity efforts at signatory firms
- The success factors behind diversity progress are increasingly well understood at signatory firms
- The efforts of the signatory firms in New York City can serve as a model for firms nationwide to see greater progress in diversity and inclusion

## CONCLUSION

The 10th anniversary benchmarking research has helped to illuminate trends to celebrate – and trends that provoke concern – as well as provided deep insight into driving change and making progress on diversity. The interviews for the benchmarking research, coupled with recent symposia with law firm leaders, diversity directors, and general counsel, have fostered a rich dialogue. The City Bar looks forward to continuing to engage a wide variety of stakeholders in meaningful conversations as we work together to affect positive change in law firms and across the legal profession.

TRACKING DIVERSITY PROGRESS OVER A DECADE:

# Introduction

In 2003, the New York City Bar Association (the “City Bar”) took a bold step in convening more than 100 signatory law firms in a collective effort to expedite progress on diversity in the legal profession. Signatory firms articulated key goals and agendas for diversifying the talent pool of attorneys across the entire professional pipeline, from junior attorneys to the most senior law firm leaders. Key to this signatory effort was providing the City Bar with detailed data on a comprehensive set of workforce metrics over time.

Over the last decade, the diversity benchmarking research has expanded and evolved. The first City Bar survey was sent to signatory firms in 2004 and collected data on the diversity representation and demographics at key levels, hiring and promotions, availability and usage of flexibility, and took an in-depth look at the associate pipeline from first years to the most senior associates. In 2006, the survey was expanded to track the intersectionality of diverse identities — i.e., women of color, white men — and voluntary attrition across signatory firms. In 2007, the City Bar commenced collecting data on the demographics of equity and non-equity partners, as well as the rep-

resentation of women and minority attorneys at the most senior levels such as the management committee and practice group leadership roles. The 2013 diversity survey, sent to signatory firms in early 2014, marked the seventh time the City Bar collected survey data over the last decade. The survey included a new section tracking the availability and perceived value of diversity support such as diversity councils and affinity groups.

The City Bar saw the benchmarking survey’s 10<sup>th</sup> anniversary as an opportunity to move ‘beyond the numbers’ and talk to those with a front-row seat to the changing nature of the legal profession. In-depth hour-long interviews with law firm managing partners, management committee members, diverse law firm partners, diversity directors, as well as senior in-house leaders at major corporations provided a forum to explore a range of topics, including:

- What are the signs of progress?
- What salient challenges remain?
- What unique issues do diverse attorneys face?

- What is most effective in the retention and support of minority and women attorneys?
- What is the road ahead?
- What role can the City Bar continue to play in supporting progress?

The interviews provided powerful insight into and greater context for the numbers, allowing for a forward-looking perspective on diversity in the legal profession. Throughout the report we have included direct illustrative quotes from these conversations.

A decade of benchmarking data offers a powerful window into the state of diversity among New York City firms and more broadly across the legal profession. This report synthesizes extensive data, distilling key findings into positive trends, perennial and emerging challenges, and future areas for focus. The 10<sup>th</sup> anniversary of the City Bar diversity benchmarking initiative is thus a time to take stock, recognize progress, and reflect on the work ahead.

TRACKING DIVERSITY PROGRESS OVER A DECADE:

# Positive Trends

# An expanding business case establishes diversity as the 'new normal' for signatory firms.

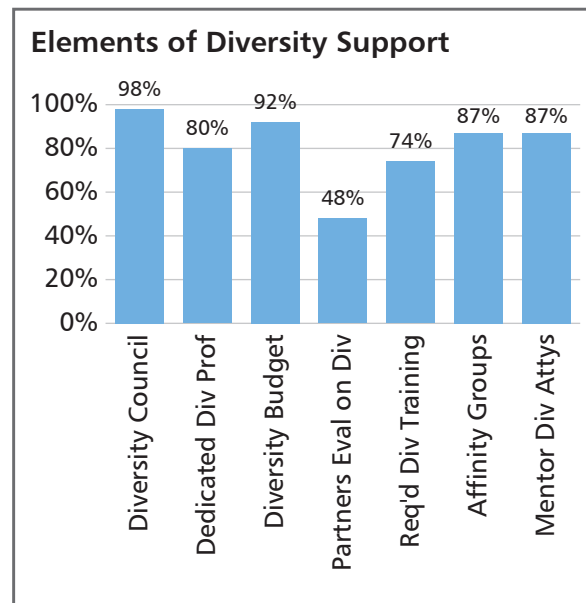
Law firm and in-house leaders highlighted the vast changes sweeping the legal profession over the last decade; both the business model and locus of power are changing for law firms. Clients are requiring far more information from their legal providers now than in the past, and diversity is a central element of the expanded conversation. The client emphasis on diversity has expanded and strengthened the business case beyond a focus on talent alone.

For the first time in the 2013 survey, the City Bar collected data on the availability and efficacy of a range of diversity structures and support. The results underscored the increasing importance of diversity for signatory firms. Diversity committees are nearly universal, with 98% of firms reporting an active committee focused on increasing diversity while more than 90% indicated having a budget dedicated entirely to diversity efforts.

Law firm leaders characterized the current diversity discussions as far more serious and substantive, with increasing engagement from top leadership. Nearly 60% of signatory firms reported having at least one management committee

member sitting on the diversity committee, while 30% indicated management committee members function as diversity committee chairs.

The budget data similarly reinforced the input from leadership interviews that diversity is an increasingly important issue for signatory firms, with 59% of firms reporting a diversity budget increase from 2012 to 2013 and nearly two-thirds anticipating increases for 2014. For both time frames, less than 5% of firms reported budget declines.



## Law Firm/In-House Leaders on the Business Case for Diversity

*"There is a much greater recognition that diversity is a given. Firms are moving forward and trying to redesign and adjust themselves to the 'new normal' and diversity is part of that conversation, even given various market realities. When firms are pulling back in a lot of ways, they are not pulling back on diversity."*

*"In the recent past we lived in a nirvana where we would get hired for doing great work, send a bill, and hope the great work gets us the next matter. Somewhere along the way RFPs started. Clients started requesting more."*

*"Law firms are following their clients. There is a huge lag but multinational firms are increasingly reflecting diversity and I mean diversity on a global basis. If you still think we live in a 1950's America, we don't believe you are going to be as successful going forward. That world is getting successively smaller all the time."*

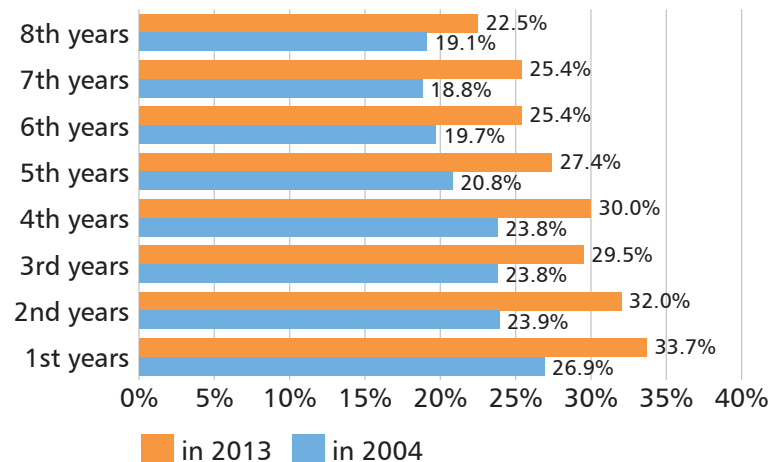


# The representation of minority attorneys has trended upward over the decade, hitting new highs in 2013.

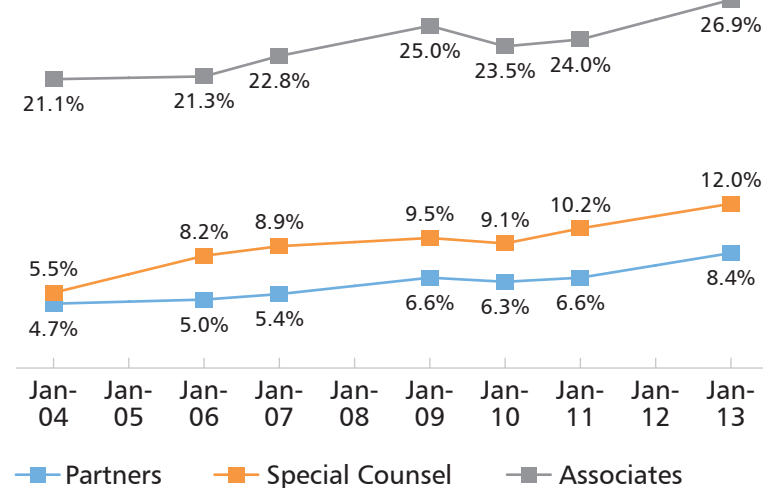
The City Bar has annually tracked each level of the associate pipeline since the start of its diversity benchmarking research. In examining this data, it is clear that attorneys along the entire associate pipeline are more racially and ethnically diverse now than they were a decade ago. Attorneys of color comprised 23.9% of junior associates in their second year in 2004, while by 2013 they accounted for nearly a third of this group. Mid-level fourth year associates were 23.8% minority, but make up 30% of the group in the latest results. Senior associates in their seventh and eighth years have similarly become more racially and ethnically diverse over the decade.

Expanding the pipeline from associates to attorneys in more senior roles, the representation of minority attorneys has trended upward over time. Minority special counsel attorneys more than doubled, rising from 5.5% in 2004 to 12% in 2013, while the representation of minority partners increased 79% over the decade from 4.7% to 8.4%. The progression of minority attorneys reflected broader economic trends through time, edging upward during the first several years of data collection, then declining in 2010 before resuming an upward climb to new highs in 2013.

**Racial/Ethnic Diversity Across the Associate Pipeline**



**Minority Attorneys**



## Law Firm/In-House Leaders on the Increased Representation of Minority Attorneys

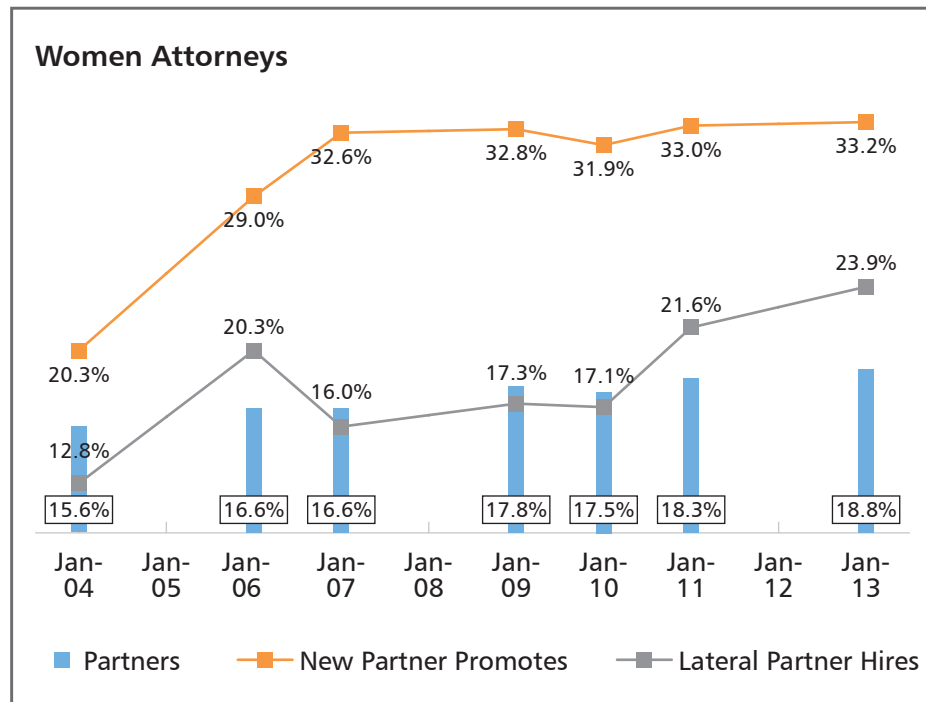
*"In the minority communities with which I'm most closely affiliated, I'm seeing really great signs of progress. I'm seeing rising stars that 10 years ago were associates and are now partners at firms or running their own small law firms. They're being quoted in the New York Times and becoming mainstays in the local bar communities. They are more visible, doing great work being lawyers and their presence is contributing to the diversity in the field."*

# Proactive efforts to diversify entry channels into firm partnership have fueled a gradual, long-term upward trend in the representation of women partners.

The gender diversity of partners in signatory firms has increased by 21% in the past decade, with numbers of women rising from 15.6% of partners in 2004 to 18.8% in 2013. The representation of women partners increased through 2009 before slightly declining in 2010 and subsequently resuming its upward climb to the present high.

The data suggests that signatory firms have proactively sought to diversify the entry channels into partnership. Women jumped from one-in-five to one-in-three new partner promotions in 2007, and have made up about one-third of the new partner pool since then. Lateral hires for partnership, which are typically less diverse by gender than internal partner candidates, increased from 13% in 2004 to nearly one-in-four lateral partner hires in 2013. While the trend line for women new partner hires has moved up and down over the decade, it has been on a predominantly upward trajectory, especially since 2010.

The increasing visibility of women partners was highlighted in the qualitative research.



## Law Firm/In-House Leaders on Increasing Visibility of Women Partners

*"There are certainly more women partners and women who have developed names for themselves. It used to be you looked up and there were very few women. It feels like there's been a real qualitative difference."*

# The special counsel role is a high-quality option enabling career path flexibility.

Special counsel attorneys are typically highly seasoned practitioners, possessing deep expertise in their legal specialty and contributing great value.

Over the last decade, women have comprised approximately 35% of special counsel attorneys. There has been a clear rise for attorneys of color in the special counsel role, with numbers more than doubling from 5.5% in 2004 to 12% in 2013.

A very positive finding from the 2013 research was the increasing importance of the special counsel role as a high-quality alternative to the partnership track for those seeking greater career path flexibility. Over the decade since the City Bar began tracking diversity benchmarking data, the special counsel role has been the primary way attorneys at signatory firms make use of flexible work practices. In the 2013 data, one-in-five special counsel attorneys worked on a reduced schedule, the peak since the City Bar began tracking this data, compared with just over 5% of all attorneys nationwide.<sup>1</sup>

Women have long been the primary users of flexible work schedules, but the data suggests there may be small changes happening, with male special counsel at-

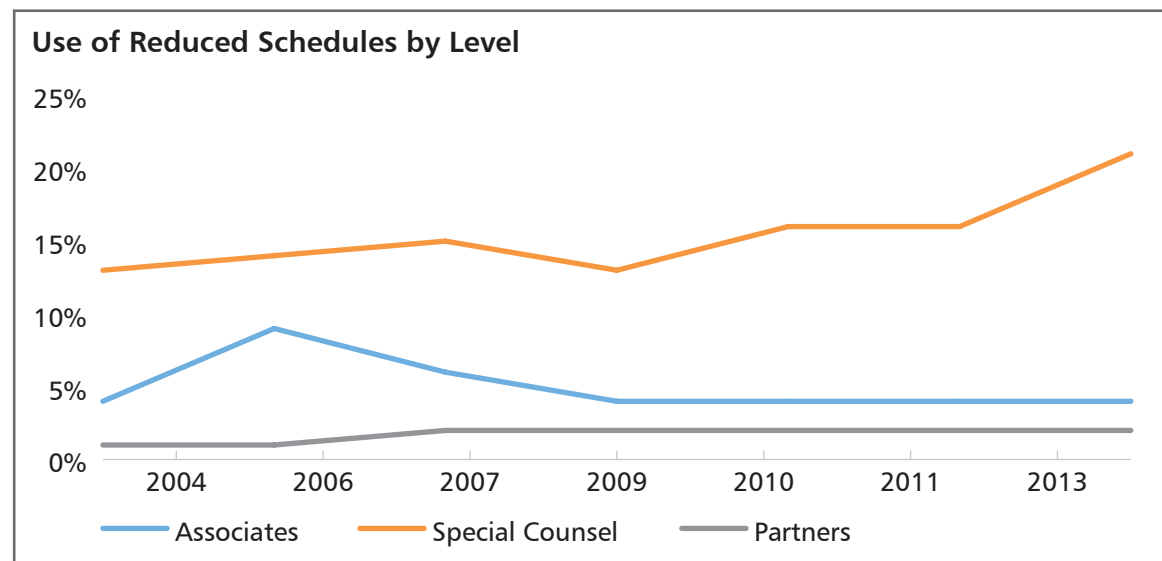
torneys on reduced schedules more than doubling in recent years from 7% in 2010 and 5% in 2011 to 13% in the 2013 data.

## Law Firm/In-House Leaders on Special Counsel

*"We have a large counsel program. It's for senior lawyers who cannot be eligible for inclusion until more than seven years at the firm. It's for attorneys who have not yet made partner. It's not a definitive alternative track. It's short of partnership."*

*"I think our counsel program is awesome. You can work at a great firm and get well paid. There is great professionalism and you do wonderful client work. We make a lot of partners out of that program. It underscores that it is a high-end, long-term career path."*

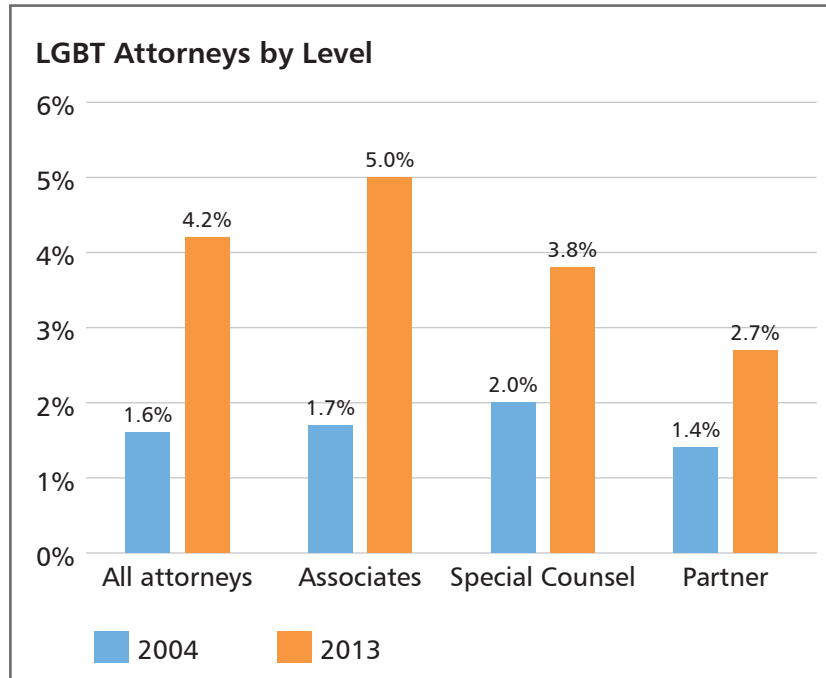
*"We've upgraded our counsel program. It's a big deal. The counsels attend almost everything the partners attend. There is a selective process; you have to have the stuff. We have a number of men in the program, maybe even half."*



<sup>1</sup> Comparative flexibility data - NALP 6.2% for all firms nationally, Best Lawyers Working Mothers Flextime 9%.

# The representation of LGBT attorneys has more than doubled, signaling both better reporting and greater workplace acceptance.

Since beginning its diversity benchmarking research, the City Bar collected information on the representation of LGBT attorneys both overall and at key levels within law firms. At every data collection point over the last decade, the representation of LGBT attorneys rose overall, but also specifically for associates, special counsel attorneys, and partners. These gains reflect proactive efforts by firms to collect anonymous data on sexual orientation, as well as general growing comfort for and acceptance of attorneys being “out” at signatory firms.



TRACKING DIVERSITY PROGRESS OVER A DECADE:

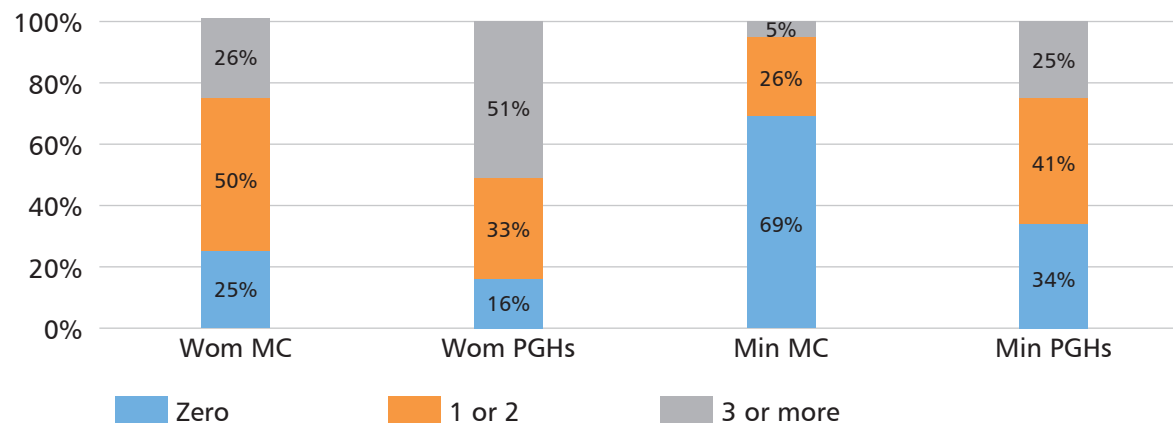
# Challenges

# Minority and women attorneys lack sufficient voice among the most senior leadership bodies at signatory firms.

The representation of women and minority attorneys on the management committee (central to firm policy, practice, and culture) and at practice group levels (as firm 'business unit leaders') has changed little over time and hinders the representation of minority and women attorneys among the full partnership. While women attorneys comprised 18.8% of law firm partners across firms in 2013, they were less than 17% of attorneys in all senior leadership roles.

A closer look at the distribution of diverse attorneys at the highest levels of firm leadership highlights the critical lack of representation for attorneys of color. At the end of 2013, nearly 70% of signatory firms did not have a single attorney of color on their management committee, while more than a third had no minority practice group heads. A crucial next step on the agenda of many signatory firms was described as "taking diversity to the next level" for attorneys of color, i.e., assuming roles as department heads and placement on firm executive committees.

LEVEL	Women					Minorities				
	Jan. 2007	March 2009	March 2010	Dec. 2011	Dec. 2013	Jan. 2007	March 2009	March 2010	Dec. 2011	Dec. 2013
Mgt Comm	13.5	17.8	17.1	17.7	16.9	4.7	6.3	6.9	5.7	5.2
PGH	15.3	14.0	15.4	17.3	16.5	5.1	4.5	5.7	5.9	5.8
Partner	16.6	17.8	17.5	18.3	18.8	5.4	6.6	6.3	6.6	8.4



In the 2011 report, the City Bar highlighted the importance of a critical mass of women — defined as three or more among a median size group of nine members — on the firms' management committees. The City Bar found that firms with a critical mass reported greater representation of women at every level. In the 2013 results, however, over 75% of firms lacked this critical mass and one-in-four firms had not a single woman management committee member. The National Association for Women Lawyers (NAWL) similarly found that greater voice of women — defined in their research as two or more women on the governing and compensation committees —

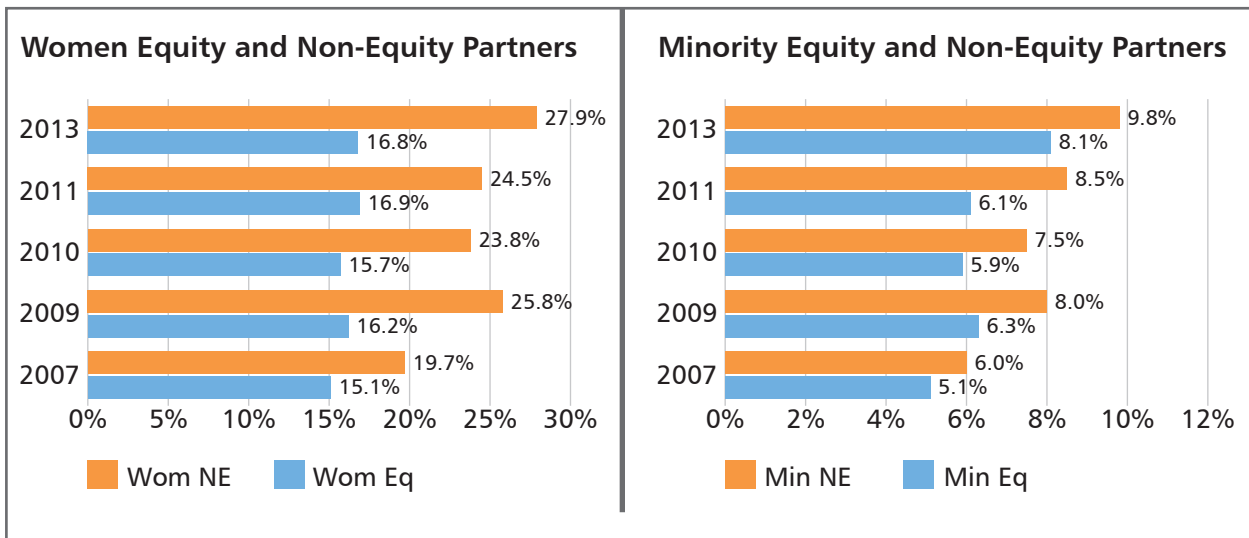
was correlated with better outcomes for women attorneys in terms of being more equitably compensated relative to their male colleagues. Since 2011, the percentage of firms with no women or attorneys of color on the management committee has increased among signatory firms.

The disparity between the diversity at the top and that of the broader profession is critical; in addition to providing a unique perspective and voice, the presence of minorities and women in senior leadership roles sets a powerful example for more junior attorneys that they too can become law firm leaders, that it is worth it to 'stay in the game.'

# Multi-tier partnership structures have unintended consequences for minority and women attorneys.

Since the City Bar began tracking data on the equity status of signatory firm partners, women and minority attorneys consistently comprised a larger proportion of those without an equity stake. Of additional concern is that the differential has grown over time. In 2007, women comprised 19.7% of non-equity and 15.1% of equity partners. By 2013, the divide had swelled with women comprising 27.8% of non-equity and 16.8% of equity partners at signatory firms. As evident in the accompanying graph, the data on minority attorneys followed a similar pattern with the differential between men and women of color non-equity and equity partners expanding over time. Both the National Association of Law Placement (NALP) and the National Association of Women Lawyers (NAWL) found a similar skew of white women and men and women of color in non-equity roles. Among white male partners at signatory firms, 16% are in non-equity roles as compared to 25% of women and minority partners.

To further complicate matters, firms with multiple partner tiers reported a lower percent of both women and minority equity partners than those with a single equity-only partnership designation. In



the 2013 results for signatory firms, women comprised 18.1% of equity partners in single-tier firms in comparison to 14.8% in two-tier firms. The comparable data for attorneys of color was 9.5% versus 5.7%. The emergence of alternative partner tracks has increased the options for diverse attorneys to become partners while simultaneously concentrating white men in equity partnership positions.

<sup>3</sup> Report of the Eighth Annual NAWL National Survey on the Retention and Promotion of Women in Law Firms, February 2014; The Demographics of Equity - An Update, NALP Bulletin February 2013.

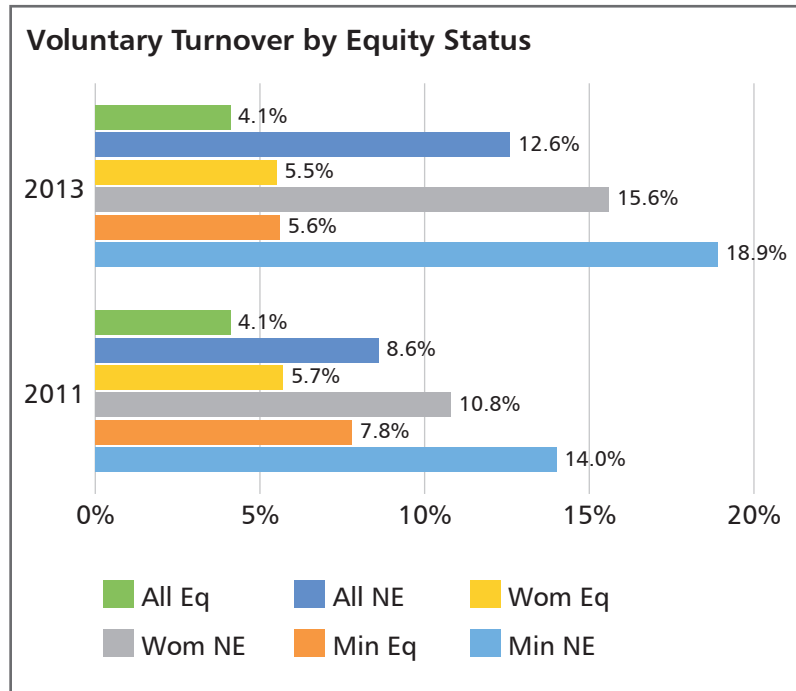


Leaders shared their concerns about the unintended consequences of the two-tier system.

*"If you're not making diverse attorneys equity partners, that's very problematic. You end up with a caste system. Counsel is supposed to be holding a spot to see if you are going to make it to the next level. Sometimes it's a conscious choice, sometimes that is what the attorney wants, but I know of very few attorneys of color who want that."*

*"You have far fewer women equity partners [in the two tier structure]. If it was a way station and part of a track but a slower track, I would think it was a good thing. But it isn't; it seems to be a dead end. It's not like non-equity partners work less hard, but they are paid less."*

The data on voluntary attrition further illuminates the challenges for non-equity partners. With all demographic groups (white men included), income partners are substantially more likely to leave signature firms than equity partners: 12.6% versus 4.1 % in the 2013 results.

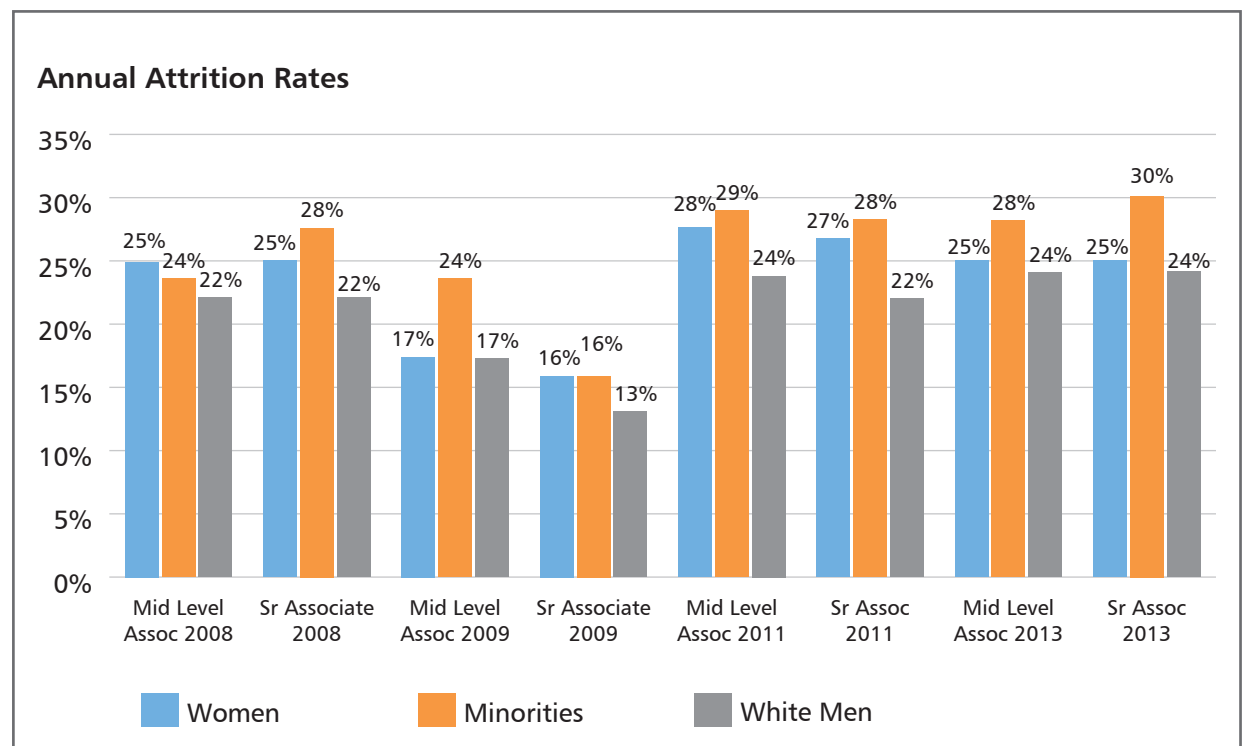


It is unclear whether the heightened turnover rates, particularly of non-equity partners, is more powerfully influenced by pull factors — these attorneys being proactively recruited away, or by push factors — leaving due to dissatisfaction with their second tier partner status. What is certain is even after diverse attorneys scale the enormous hurdle of becoming partners, those gains are eroded by turnover rate differentials.

# Across all levels and over time, minority and women attorneys face unique challenges and leave signatory firms at elevated rates in comparison to white men.

A persistent finding in the City Bar diversity benchmarking data has been the elevated voluntary turnover rates of women and, to an even greater extent, minority attorneys. Firms have been very successful in recruiting new classes that are diverse in both gender and race/ethnicity. Over time, however, this diversity has eroded as both women and minority associates continue to turn over at higher rates than their white male colleagues. The accompanying graph illustrates this differential over time. In the most recent results for 2013, women mid-level and senior associates voluntarily left signatory firms at slightly higher rates than white men, while minority attorneys were substantially more likely to turn over.

The conversations with law firm and in-house leaders provided extensive insight into the unique and very real challenges that diverse attorneys face, ranging from lack of mentors, sponsors, and role models to stylistic differences that force associates to question their fit and desire to work at a firm. The law firm talent model, allowing little divergence in rates of development, was highlighted as a salient challenge for diverse attorneys.



As associates, minority and women attorneys often face unique challenges and may be expected to leave signatory firms at an elevated rate. The trend data demonstrates that minority and women partners who have presumably overcome formidable challenges in ascending to partnership also consistently turn over at

higher rates than white men. This differential in turnover is growing over time. The preponderance of women and minority attorneys in non-equity partner roles, as described previously, provides a partial explanation for this growth.

## Law Firm/In-House Leaders on Attrition

*"The childbearing issue is an obvious difference for women but it's also a huge diversion from what the real issues are. The real issue with retaining women and people of color is the same. There aren't real structures to ensure people you want to keep are picked up early, given support and real mentoring in the sense that we really want you to succeed and it is possible here and we want to ensure you will stay and I will help you do so. It happens for a lot of white men much more easily. They feel supported in this fundamental way. They have someone to watch their back, to help them get good work. They are not worried that no one looks like them. For diverse attorneys it is much harder."*

*"When people leave is when they don't feel valued. Attorneys don't get asked to join important cases. They are not getting enough billable hours. You can be an associate and no one is asking you to be on their case and these are not people who don't go out and ask for work. It can affect your sense of confidence when you feel no one cares about your professional development."*

*"You come in and it's expected that you will all progress at the same rate. Some people who come out of the gate do incredibly well but then struggle with managing others [once they become mid-level associates] while others make the transition very seamlessly. Women and minority attorneys get penalized. There is less permission for them to stumble through transitions. You get labeled as a poor performer and it becomes emblematic of your inability to perform."*

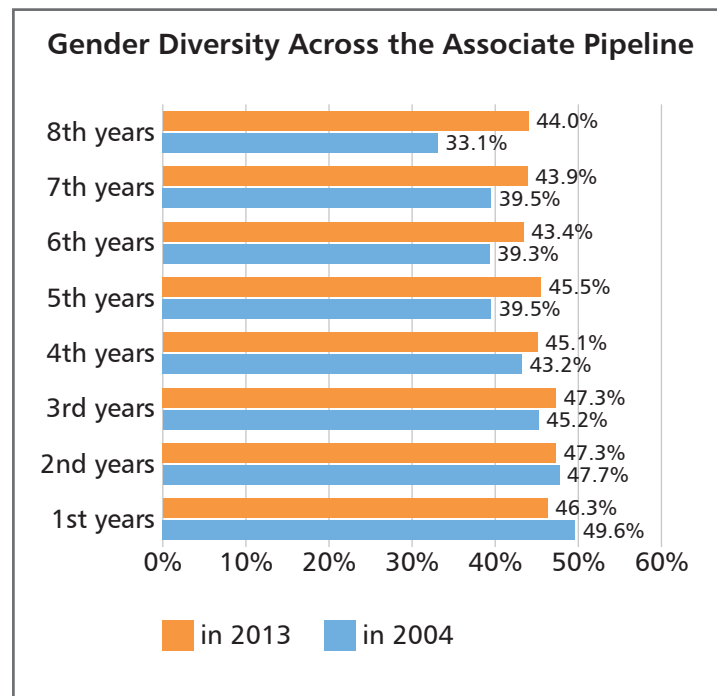
*"Associates are told in the firm that you're doing fine, you're a solid associate but not that you're on the A list. You're not being made to feel there is a future. In talking with many associates, when we would tell them that we really wanted them to stay, they would reply, 'But I didn't know that.' Women need to be actively supported. They are more easily discouraged. They need greater encouragement. They tend to be harder on themselves. It's a huge myth that women leave to stay home."*

# Gender diversity among junior associates has declined in recent years, raising concern about future diversity progress for women attorneys.

Increased gender diversity among law school graduates, incoming associates, and junior attorneys in their beginning years of practice has led to increased diversity throughout the associate pipeline and beyond. In order to combat the heightened attrition of women attorneys, firms have come to rely on this robust feeder pool of applicants. In recent years, however, the tide has turned and the gender diversity of junior women attorneys has begun to decline, as illustrated in the accompanying chart.

Comparing the associate pipeline in the most recent benchmarking results with the pipeline when the City Bar began tracking data in 2004 provides a visual depiction of this 'turning of the tide.'

The gender diversity of the mid- and senior-level associates has clearly increased over the past decade, with women rising from 39.5% to 45.5% of fifth year associates and from 33.1% to 44% of eighth years. For more junior attorneys, on the other hand, women associates have begun to decline when compared to their counterparts from a decade ago.



While the first-year class was 50% female in 2004, representation has declined to just over 46% in 2013.

In a December 2013 press release, NALP highlighted a national decline in women associates for the fourth consecutive year, marking an important legal trend.

This downturn of junior women associates is concerning, as it could foreshadow declining gender diversity for more experienced associates and senior-level attorneys in the future.

# Unconscious bias stymies diversity progress and is not well understood.

Discussions of unconscious bias occurred in many of the interviews with law firm and in-house leaders. Unconscious bias was highlighted as the “elephant in the room,” interfering with continued diversity progress, and as an important topic for future focus. Bias was characterized as both universal and far more an issue of awareness and skill than malevolence.

Interviewees described manifestations of unconscious bias against minority and women attorneys, explaining how biases influence the advancement of diverse attorneys and asserting the need for individuals to both understand and check their own inherent biases.

Given its deep roots, tackling unconscious bias requires leadership and persistence. It is among the greatest challenges that diverse attorneys face.

## Law Firm/In-House Leaders on Unconscious Bias

*"The use of the term bias really sets people off, but the real definition is an error in decision making because of a cognitive shortcut. We all do it. We rely heavily on our own perceptions and our prior experience. People think there is a lot of time and effort spent on diversity and they wonder, why is it not working the way it should be working? Now we have the people at school and they come but they don't seem to stay. They are not fully included in leadership. People wonder why diversity is not working better and the answer is bias. It's not about people being bigoted. It's about not having the competency and awareness about their own biases. That's really hard for smart people."*

*"This is not a mal-intentioned environment but we all come in with natural biases."*

*"There is an anti-commitment bias against women. It exists whether or not you have children. The bias is that women are not as committed as men, not as likely to stay around. It's hard to mentor across differences. There's a sense of, should I invest*

*in that person? There's an unconscious thought, this woman is a parent so she probably does not want this deal taking her away [from home]. You make that assumption without ever asking directly. In the past I would make those assumptions myself. Unconscious bias is not just men; everyone has unconscious biases. Now if ever a thought creeps into my head, I double check myself."*

*"In people's minds diversity means lowering or changing the standards to achieve diversity. There is a bias that people of color were held to a lower standard. The stereotype is that blacks don't have the same intellectual firepower. This has plagued black people forever, but in a profession where intellectual firepower is what you are selling, that stereotype is deadly. It's a very big challenge."*

*"There is a narrow definition of merit and who is qualified. The problem is my definition of what constitutes a good lawyer is someone who mirrors my path. It's a narrow path and one not well trod by minorities. You end up unconsciously*

*screening out someone who went to a lesser known law school or who was not on law review. And at the end of the day those things don't mean a lot. You end up with a pool that looks like you. You have to work at being aware of unconscious bias."*

*"Firms are doing unconscious bias training but it's critical to do it every year. People forget this stuff. They forget all their behavior is not consciously motivated. We all want to be fair. We want to give people the same chance. We want to promote more women. We want more gender equity. They would think, I would not say those things and they would honestly mean it. What they don't see is that they need to work every day to make that happen; it won't just happen if they are nice people. They have to be very conscious that people are getting enough support and diverse attorneys are getting more than white guys who tend to fall into relationships more easily."*

*"[To improve diversity] you would try to make sure that the leaders of the firm, those with influence, had some understanding that merit comes in different shapes. You'd want to make sure there was some sort of professional development, that there was a test or a discussion of bias would be part of leadership development opportunities. Bias is what we all bring to the workplace."*

TRACKING DIVERSITY PROGRESS OVER A DECADE:

# The Road Ahead



## There is great potential to increase white men's involvement in diversity efforts at signatory firms.

A key theme from the conversations with law firm and in-house leadership was the importance of more proactively engaging white men, to help them understand the economic importance of diversity and the vital role they can play in diversity efforts. White men were alternately described as reluctant to interfere, unsure of how to help and, coming from a place of assumed privilege, perceiving diversity as diminishing their opportunities. The biggest concern expressed was that the majority of white men fail to see how diversity is relevant to them.

Interviewees emphasized the value of having white men participate in the diversity agenda, both as key opportunity givers and as some of the most successful attorneys at signatory firms.

One approach suggested for involving white men was the formation of groups where white males can more comfortably discuss diversity, voicing their questions and concerns and deepening their understanding of the relevant issues. Given the opportunity to become more involved in the dialogue, white males were described as becoming some of the biggest supporters of diversity.

### Law Firm/In-House Leaders on White Male Involvement in Diversity Efforts

*"There is a lot of variability. There is one segment [of white men] that feels it is a zero sum game and [diversity] detracts from their opportunities. There is one group that feels like it is already so hard, it couldn't be any harder [for diverse attorneys] and there's one group that feels there are problems [for diverse attorneys] and their own advancement doesn't matter if it's not fair for everyone."*

*"I challenge that diversity is taking away/displacing white men. There is a sense of entitlement built into that. There are also others who have the same capabilities and potential but don't ever even get a chance. Built into that mindset is a sense of privilege that white men have always enjoyed. That's what this work is all about, trying to make sure other people are not being shut out. It's a really difficult conversation to have."*

*"We have what you would call white male privilege mentality. They are not saying 'I deserve it' exactly. It's about just having the connections that some people don't have."*

*"If you were trying to foster change and lead an initiative and 60% of people feel like it has nothing to do with them, it's not going to be successful."*

*"If straight white men feel excluded, then we are failing. We need to create a culture, not a cult. There are straight white men, but also others, who get uncomfortable."*

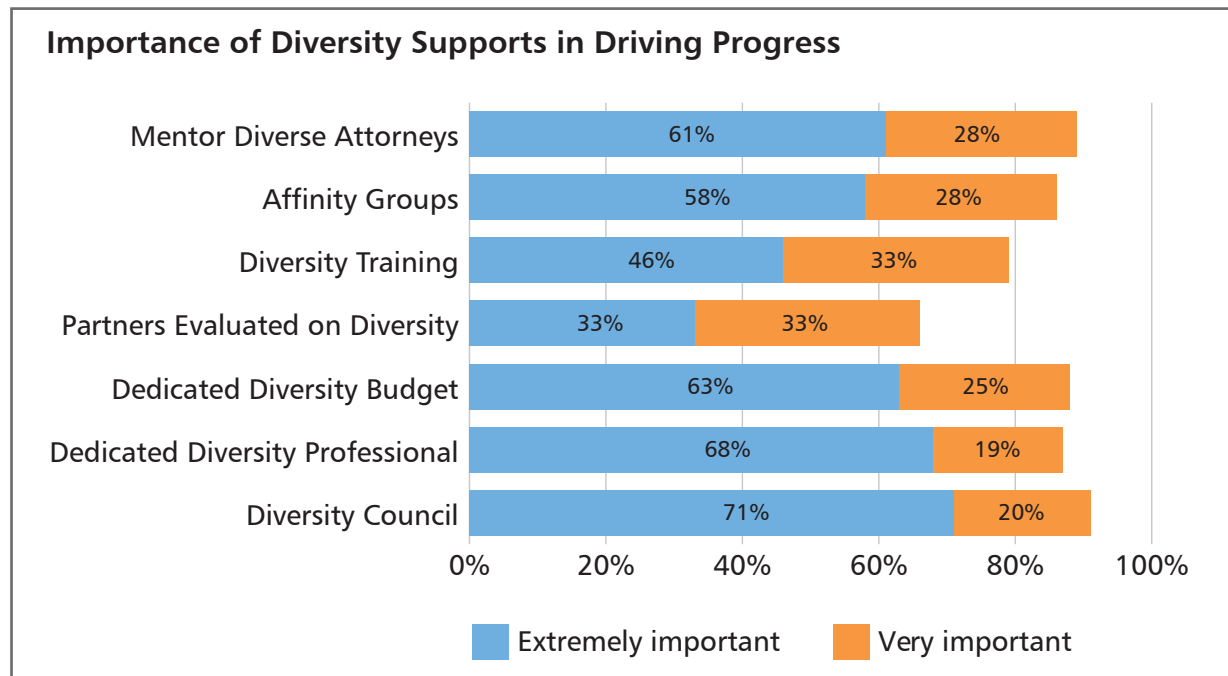
*"You cannot make change with a significant segment not feeling involved or that it's hurting them. This needs to be tackled in order to move the ball."*



## The success factors behind diversity progress are increasingly well understood at signatory firms.

The 10th anniversary benchmarking research highlighted what has and has not been effective in driving diversity progress. As with most complex challenges, there is no silver bullet or single approach. Diversity progress was characterized as requiring multiple angles, layers of intervention, and continuous efforts to be inclusive. The most effective approach to diversity was described not as a cottage industry, but as a lens through which to view the myriad of systems and practices that define firm life. Across the range of critical firm functions — recruiting and on-boarding, associate development, evaluation and compensation, client management, assigning matters, leadership development, and revenue recognition — it is important to repeatedly ask how diversity fits in.

In the diversity survey, respondents were asked to rate the importance of an array of diversity elements and practices. Diversity councils, dedicated diversity professionals, and dedicated diversity budgets ranked as the three most important elements. Creating, maintaining, and developing organizational infrastructure catalyzes diversity efforts, reinforcing the prioritization of diversity and ensuring its



continuity and longevity. A frequent concern was the common scenario where diverse partners lead firm diversity initiatives on top of their daily responsibilities, with insufficient support and resources to undergird their efforts. Driving change around diversity requires continuous testing and analysis to determine what is most effective for each firm, office, and practice group.

The longevity of individuals in key roles is crucial to the change process, enabling an iterative learning approach that builds momentum over time, and reinforces diversity as a core firm value.

The most successful diversity efforts were linked to business priorities and demonstrated business value. Diversity provides a rare opportunity for law firms to engage with clients at the most senior leadership levels to better understand what they value in their legal providers.

While infrastructure provides a critical foundation for diversity initiatives, collaboration is essential to ensuring that those initiatives thrive. Enacting meaningful and effective change is a long-term effort that is often frustrating and difficult to manage. The involvement of senior leaders is necessary but insufficient; the stakeholder pool needs broadening and attorneys whose decisions play a central role in attorney development need to be included. Assigning attorneys, associate-level supervising attorneys, junior partners, associate development committee members, as well as supervising attorneys at the associate level, are all part of expediting progress. Firms need to engage and educate these opportunity givers, clarifying their role in making greater diversity a reality.

A pivotal evolution was solidifying champions and advocates across practice groups and geographies, with diversity professionals helping this local network and becoming diversity change agents, able to educate their colleagues and peers. Law firm and in-house leaders maintained that diversity progress requires 'blocking and tackling' for tracking the development trajectories of women and minority attorneys at multiple levels, and for getting everyone, white men included, personally involved.

Mentorship was identified as 'extremely important' by 61% of survey respondents and 'very important' by an additional 28%. Most signatory firms reported that the great majority of mentorship was aimed at associates, often junior associates, while a few firms singled out new partners and lateral hires for more in-depth mentorship. Particularly innovative efforts included career watch programs that proactively follow diverse attorneys, sponsorship programs, holding mentors accountable for mentee development, and proactively helping diverse partners build their books of business.

Addressing diversity challenges means being armed with data — both quantitative workforce metrics and qualitative input from ongoing feedback channels — to more deeply understand the unique challenges for different diverse groups of attorneys. Keeping on top of the trend lines is important to guard against unforeseen holes in the pipeline that can arise after continued progress.

An interesting yet contradictory finding arose regarding partners being evaluated on diversity. Through interview conversations, leaders reinforced the need for personal involvement and accountability in driving diversity progress. Based on the survey results, however, less than half of signatory firms link diversity to partner evaluations in any way. For those

that did, it was the least likely diversity element to be rated as 'very important.'

Through write-in comments, respondents indicated that firms emphasize the carrot rather than the stick approach, typically asking partners to describe their diversity efforts and potentially track non-billable hours spent on those efforts. In a handful of cases, firms described a more direct compensation connection to and a deeper integration of diversity goals in business planning. This paradox — the emphasis in the qualitative research on partners' accountability and the survey results indicating lower use of and less value on diversity — suggests a need to better comprehend how this form of accountability can be improved.

The overarching message was that diversity progress is a long-term game, but firms are getting better informed and the success factors driving progress are becoming increasingly well understood. Addressing these challenges entails examining and analyzing both quantitative workforce metrics and qualitative input from ongoing feedback channels. Progress must be maintained and reinforced, and future challenges must be preempted.

TRACKING DIVERSITY PROGRESS OVER A DECADE:

# A Snapshot of Diversity Progress

## EFFECTIVE STRATEGIES

- Collaboration between talent professionals, top leadership, and attorneys across levels, geographies, and roles
- Local involvement and accountability
- Sustained commitment and longevity of diversity leadership
- Ongoing trainings and discussions of unconscious bias
- Proactively tracking women and minority attorneys over time, and making adjustments
- Candid feedback coupled with support for continued development
- Identifying benchmarks of experience along career path (e.g., by year 3 junior associate should have...) to anchor performance discussions

## INEFFECTIVE STRATEGIES/ CHALLENGES

- Central diversity committees without local connections and ownership
- Broad-based programs that lack depth and provide insufficient links to day-to-day experience of women and minority attorneys
- Diversity professionals functioning as sole drivers of change
- Lack of client follow-up with regard to diversity information
- Women and minority attorneys feeling insufficiently valued, encouraged, and supported

## THE ROAD AHEAD

- Engaging white men more actively around diversity
  - Creating a space for white men to have honest conversations about diversity, to be able to voice their concerns
- Expanding understanding of unconscious bias — its universality, power, and depth
  - Realizing unconscious bias is about skill and practice, not malevolence
- Increased focus on retention of diverse attorneys at all levels
  - Actively sponsoring women and minority attorneys, supporting them through transitions
  - Working to make women and minority attorneys feel valued and included
  - Proactively tracking women and minority attorneys up through and into the partnership
  - Moving attorneys of color into top leadership roles
- Evaluating unintended consequences of multi-tier partnership model
- Building in greater accountability for the development of women and minority attorneys
  - Creating, evaluating, and improving links between partner evaluations and diversity

# Law Firm/In-House Leaders on Driving Change

## Leadership and Role Modeling

*"In the last five years or so there has been a significant increase in dialogue amongst law firm leaders. There is an active collaboration; we are having dialogue at a very high level. It's got to start at the top. The tone at the top has changed in recent years."*

*"I came in and worked for [a leader] who was a woman. She really took responsibility for developing the team, introducing you across the organization, setting the right tone — which was devotion to the job without giving up things outside of work. She was extremely senior and no matter how serious of a matter she might be discussing, if her kids called she walked out of the room with no apology. She was very invested in her work but the message was it does not take the place of a family. She had other interests that did not disappear. You did not have to give up your life. You see diverse individuals coming up through the ranks, like my old boss, and that makes it feel attainable and it gives you confidence. That attitude infuses the culture."*

## Collaboration and Direct Engagement

*"Being a change agent is a collaborative effort. No one person can drive change without the help of other people. You cannot set up a silo and think you can get it done. It won't happen."*

*"We went from a global to a local approach. We charge people — key partners, practice group heads — with keeping track of how associates are developing. When you are trying to make a dent [in diversity] you have to think about every single associate. You have to monitor and do tracking. You can't do it as a [central] committee. Individual people need to be responsible."*

*"Relationships drive people. Interventions on a small scale [have been successful] where we exposed partners and they engaged around relationships and talked about diversity challenges. Associates are a tool in educating partners about what the issues are. For leadership, this has really defined the problems. When leaders become exposed to the group, they become more sensitized. There is also a form of accountability."*

*"The thing that makes people stay is someone takes them under their wing. They feel they are doing good work, they're getting feedback, and they're doing it at a place that appreciates their contribution. That is not easy at a law firm."*

## Client Involvement

*"In the past there were far fewer clients asking for information, maybe once a year and it would go into a black hole. A few years ago we started hearing more feedback from clients: Can you explain why the team is changing in this way? Why there aren't more women? What will you do be doing to remedy that? More recently clients are asking about succession plans for the relationship. It's incredibly nuanced and much more forward looking. There's been an incredible shift in how savvy clients are."*

## Education and Support

*"Diversity should be an organizational responsibility. You want someone who has experience with driving this issue, someone who has expertise in how to advance those goals and with being a change agent."*

"You have partners who are very influential — assigning partners or those on associate development committees — the folks in the middle who don't have the title. You need to help them understand the reasons why diversity is important and how much power they have. Practice leaders are committed and they set the tone but it's up to the folks having those day-to-day interactions. You want to help them understand the things they can do and the things they may be doing unwittingly."

"You're talking about an environment where it is hard [to make change]. Law firms are challenging environments, period. You have busy professionals doing their day job, dealing with pressing client demands, and getting billable hours. Promoting the diversity agenda may follow lower on the list for attorneys at the firm. You need continual efforts to educate others about the business case and the value proposition."

"Weave [diversity] into existing systems and describe how it is relevant. For example, when you become a new partner, you are managing a global workforce. Do you have competency in understanding and appreciating the people you manage

and lead? Do you have the competency as the owner of the business? [Diversity] then becomes relevant for new partners. I see most success in how diversity is framed and incorporated into the firm."

### **Mentorship**

"How do you convert a diverse class over seven or eight years to partners? A big part is in the senior mentorship, leadership aspect. We don't have enough people who culturally look and act like more junior attorneys, who can give them confidence that they are at a firm where they can succeed, and they can. We are not doing a good job in role modeling, giving them the confidence to say 'hang in there.'"

"Speaking with respect to larger marquee law firms, there are written and unwritten rules of success. The rules of success — with success defined by getting to partnership — are first to be a really good lawyer, then to be hard working, and finally to have good skills or the ability to learn. So that's par for everyone. The other rules are based on relationships, that is, building the 'right relationships' with partners so you have allies, so you know who to go to for questions, so you can understand the politics of the

firm. These are not advertised as rules for success and lawyers from immigrant communities are not attuned to these elements. They are of the mindset that you work hard, do what you're told and the fruits of your labor will come to you. But you also have to understand how the place operates. Some associates get that from the get-go and some do not."

### **Getting Specific**

"More granular discussions [make a difference]. We have a talent model that pushes us to identify whether an associate is advancing at different stages of their career. We also focus on the progress of junior partners up through the compensation ranks. Each practice group is asked to identify benchmarks at each stage. It enables candid conversations about where attorneys are and what they need to do to advance."

"It's not granular enough [developing diverse attorneys]. It's like hand-to-hand combat. It needs to happen with individuals. I see it over and over again. You have loose mentorship programs that don't work where you assign a random person. But they have no ability to advise you, to change your life, to give you sufficient attention. It happens a little bit,

*diversity partners talk to the assigning partners to make sure people are getting fair assignments and that no one is falling off the screen, because in the past they did fall off the screen. I hate to say it, but it's so much work. You really need to institutionally decide this is something that has to happen."*

### **Understanding the Unique Issues of Diverse Attorneys**

*"The challenge for Asian attorneys not becoming partners is a microcosm of the larger diversity issue. Every group has a unique set of issues. In the case of Asian attorneys, a few things have occurred that have not helped them to become law firm partners. Every diversity manager thinks diversity does not apply to Asian attorneys, so they are lost, out of sight. Their needs are not understood. They are graduates of fine schools. They are at the top of their classes, but there is little correlation between how well you do as a practicing lawyer and what law school you attended. Combine that misimpression with the fact that most Asian attorneys don't come from families who are from large law firms or even large companies. They come into law firms relatively unprepared. Then there is a cultural factor — you are not allowed to ask*

*other people questions. You don't want to talk about your weaknesses. Culturally that is not the type of thing you do. Also, Asian attorneys come into law firms with a glaring weakness. They tend to spend less time developing their communication skills, but people skills are very important if you want to develop relationships with clients and prospects. You hit about the 7th year when you are up for partner and people ask, "would that person make a great rainmaker?" and the answer is usually 'no.'"*



## TRACKING DIVERSITY PROGRESS OVER A DECADE:

# Conclusion

The 10th anniversary benchmarking research has helped to illuminate trends to celebrate — and trends that provoke concern — as well as provided deep insight into driving change and making progress on diversity. The interviews for the benchmarking research, coupled with recent symposiums with law firm leaders, diversity directors, and general counsel, have fostered a rich dialogue. The City Bar looks forward to continuing opportunities to engage a wide variety of stakeholders in meaningful conversations as we work together to affect positive change in law firms and across the legal profession.



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