

2009

LAW FIRM DIVERSITY  
BENCHMARKING REPORT

REPORT TO SIGNATORIES OF THE STATEMENT  
OF DIVERSITY PRINCIPLES

NEW YORK  
CITY BAR



# 2009 Diversity Benchmarking Study: A Report to Signatory Law Firms

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## EXECUTIVE SUMMARY

The New York City Bar's last reporting on diversity benchmark data stated:

*The economic implosion of late 2008 continuing into early 2009 may exacerbate the difficulty of sustaining the small diversity gains signatory firms have made in recent years. Firms will need to remain vigilant to insure that women and minority attorneys are not disproportionately affected by the difficult economic climate.*

We are happy to report that generally signatory firms *have not* lost prior gains and have reported additional gains in the most recent diversity benchmark results. In the long and challenging journey of supporting increasing diversity, we believe this is a moment to acknowledge what has been accomplished and to recognize the continuing efforts of signatory firms.

While areas of concern remain – and law firm leadership continues to be a steep pyramid in which diversity by both gender and race/ethnicity declines significantly as rank increases – we can also feel encouraged by the power of momentum. With several highly publicized downsizings in the last year commanding headlines, negative news in the legal press has been the norm. The most recent New York City Bar diversity benchmark results suggest that even in these most difficult economic times, firms have stayed the course and the goal of increasing the diversity of law firm leadership is not merely a by-product of a prospering economy.

The election of Barack Obama to the Presidency in 2008 is a major milestone for the country, and certainly for the legal profession. It represents what is possible but it is clear that formidable systemic barriers remain for women and minority attorneys across the legal profession, particularly within law firms. The 2009 diversity benchmark results underscore that while challenges persist, continued focus is making a difference.

Highlights of the 2009 diversity benchmark study are outlined below.

**There was increasing diversity in leadership at signatory firms.**

- Minority attorneys continued to rise across major levels of the legal hierarchy. Attorneys of color rose from 15.2% in the 2004 benchmark results to 18.1% of all attorneys as of the end of March 2009 with a 40% rise in the representation of minority partners – from 4.7% to 6.6% – and a near doubling of special counsel minority attorneys (5.5% to 9.5%).
- The overall representation of women attorneys has inched upward since the New York City Bar began reporting in 2004 from 35% to 36% of signatory firm attorneys. While the trend line has been primarily flat for women associates and special counsel, the representation of women partners has continued to rise despite the recession.

**Benchmark data clearly highlighted firm efforts to support diversity.**

- The benchmark results provided clear evidence of firm efforts to diversify the leadership ranks at signatory firms. The class of new partner promotes became more diverse by gender and race/ethnicity since the New York City Bar began tracking data rising from 21% in the 2004 report to 33% of women and from 7% to 17% of minority attorneys. New partner promotes were far more diverse than the existing partnership and more closely reflected both the pre-partner pool from the class of 2000 (20% minorities, 41% women) and the overall attorney profile across signatory firms (18% minorities, 36% women). Lateral partner hires were an important but less substantial source of diverse partner hires than new partner promotes with women accounting for 17% and minority attorneys 10% of all 2008 lateral partner hires.
- Another sign of continuing focus on diversity by signatory firms was the fact that the diversity profile of the management committee – the key governing body – closely approximated the profile of the full partnership with 17.8% of women (compared to 17.7% women partners) and 6.3% of minority attorneys (compared to 6.6% minority partners) rather than becoming increasingly more homogeneous. Firms sought to ensure that the voices of women and minority attorneys were reflected within this key leadership group.

**Attrition diminished gains from hiring and promoting women and minority attorneys; lateral hires became an increasingly important source of new partners.**

- Differential voluntary attrition rates by gender and race/ethnicity diminished gains from hiring and promoting diverse attorneys. In 2008 voluntary turnover was 37% higher for women than men (16.2% vs. 11.8%) and 35% higher for minority than white attorneys (17.0% vs. 12.6%).
- Since the New York City Bar began tracking voluntary attrition data in 2005, turnover rates declined for associates and partners. Attrition rates followed a clear pattern by level, rising from the junior to more senior associate ranks and then declining with increasing rank.
- The New York City Bar diversity benchmarking data documented an important phenomenon that has been recognized in other sources, namely that lateral hires are becoming an increasingly important source of new partners. While in 2006, lateral partner hires accounted for 38% of all those entering the partnership among signatory firms, in the 2008 data lateral partner hires represented 61% of the total.

**Women of color struggled to make gains, Asian attorneys declined proportionately among minority attorneys as they advanced and Hispanic attorneys – while well represented in leadership among minority attorneys – left signatory firms at higher rates.**

- Asian attorneys were most populous at every level but lost ground proportionally as they moved through the leadership pipeline dropping from 56% of minority associates to 47% of minority partners and then to 34% of minority management committee members. The voluntary attrition by level for Asian attorneys closely mapped data for all attorneys.
- Hispanic attorneys, while strongly represented among minority attorneys in leadership roles and comprising 28% of minority partners compared with 20% of all minority attorneys, reported higher voluntary attrition across levels.
- The diversity benchmark results suggest that women of color attorneys face significant barriers in their efforts to advance in law firms. In comparison to both white women and to men of color, women of color lose ground all along the career path, being proportionately far less likely to move into the partnership ranks as either new partner promotes or lateral partner hires and registering higher voluntary turnover rates.

**Signatory firms reported greater representation of openly gay attorneys, tracking national data.**

- The percentage of openly gay attorneys continued to rise incrementally to 3% of all attorneys and signals growing comfort in sharing this aspect of diversity. Three-fourths of signatory firms indicated tracking data on openly gay attorneys.

**Flexibility usage increased marginally but part-time flexibility seemed a casualty of difficult economic times.**

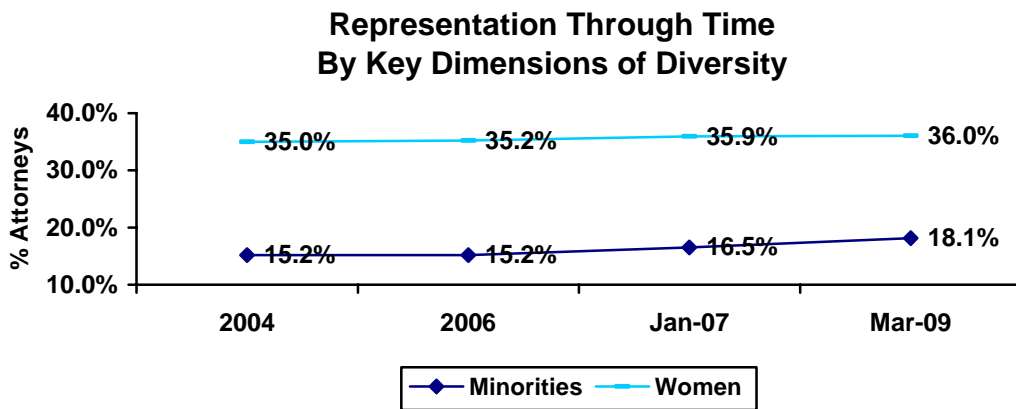
- The data on the use of flexibility at signatory firms sent mixed messages. While slightly more attorneys overall worked on flexible schedules and a larger percent of partners – than in previous benchmark surveys – were identified as being on a flexible schedule, there was also a marked increase in the use of full-time flexibility among those attorneys working on alternative arrangements which seems at odds with a downturn in the economy. Reduced work options might have been a mechanism to help minimize layoffs but the uptick in full-time flexibility suggests heightened concern about job security for attorneys working reduced hours or workloads.

## INTRODUCTION

In 2003, the New York City Bar began its efforts to collect diversity benchmark data. With the signing of the Statement of Diversity Principles, many signatory firms made a visible commitment to improve the diversity profiles within their organizations and to enable the tracking of comparative data by the New York City Bar through time. The 2009 benchmark results mark the 4<sup>th</sup> reporting of diversity data across signatories.

The U.S. and global economy have witnessed seismic changes since diversity data was last collected in early 2007. In light of the economic climate – and in contrast to the overwhelmingly negative legal press – the overall results have been surprisingly positive. Women attorneys have kept their ground and seen some improvements at the leadership level of signatory firms while minority attorneys have shown more dramatic improvements and continued to trend in a positive direction.

Women attorneys as a percent of the legal talent at signatory firms have been very stable at approximately one third of all attorneys since the New York City Bar began tracking diversity data in 2004. The trend line for minority attorneys has been upward over the last several years with minority attorneys increasing from 15% to 18% of the legal workforce at signatory firms.

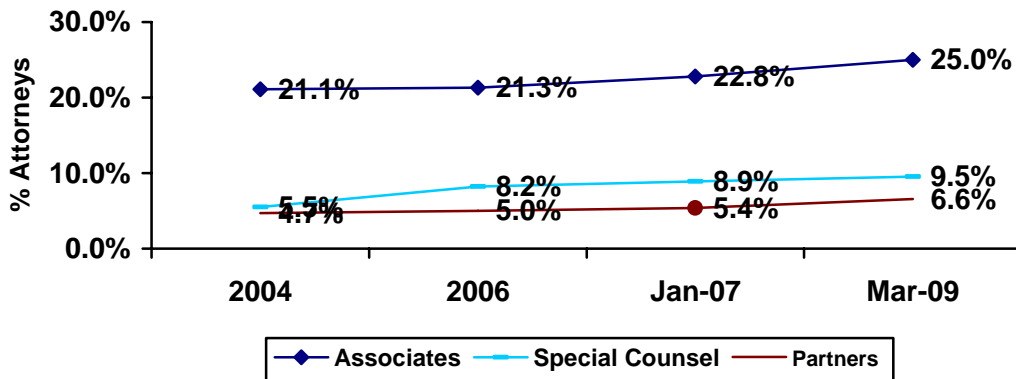




## Improvement in Representation of Diverse Attorneys through Time

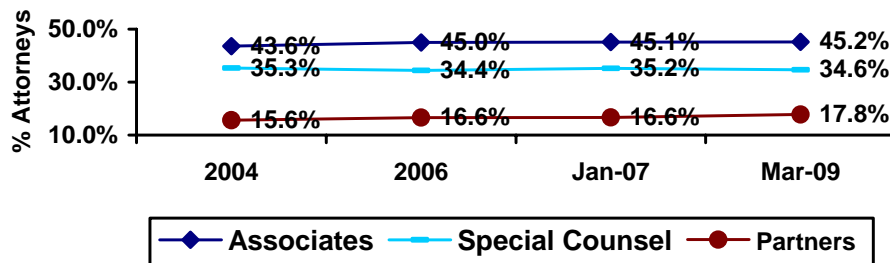
An encouraging sign is that minority attorneys have continued to rise across the major levels of the legal hierarchy – as associates, special counsel, and partners. Since 2004, there has been a 40% rise in the representation of minority partners increasing from 4.7% to 6.6%. Minority attorneys have risen nearly 20% at the associate level to 25% of all associates and nearly doubled from 5.5% to 9.5% of special counsel attorneys.

**Representation Through Time  
By Level - Minority Attorneys**



For women attorneys the trend line has been primarily flat at the associate and special counsel levels with more significant signs of improvement at the partner level. From early 2007 to March of 2009, women’s representation among partners at signatory firms has continued to trend upward despite the recession. There was significant concern, as suggested in the most recent New York City Bar diversity report, that diversity improvements would evaporate in light of challenging economic times but this has not happened and is cause for cautious optimism.

**Representation Through Time  
By Level - Women Attorneys**



## Women in Signatory Firms Comparable with National Figures

To provide further context in assessing how women are faring in law firms, the table below includes additional data gleaned from multiple national sources. In total the results for the signatory firms tracked the national data with women representing approximately one-third of attorneys in firms and about 45% of associates. The percentage of women partners at signatory firms is less than some national statistics but approximate NALP's New York City data. Women comprise about a third of new partner promotes and less than 20% of management committee members.

|                      | NYC Bar Signatories 2009 results (% women) | Working Mother/Flex-Time Lawyers Best Law Firms 2009 results (% women) | NALP 2009-2010 Directory of Legal Employers (% women) | NALP 2009-2010 Directory of Legal Employers New York City (% women) | National Association Women Lawyers (NAWL) 2009 (% women)              |
|----------------------|--|--|---|---|---|
| Associates           | 45.2%                                      | 47%  | 45.7%   | 45.0%   | 48% 1 <sup>st</sup> /2 <sup>nd</sup> yrs<br>45% 7 <sup>th</sup> years |
| Special Counsel      | 34.6%                                      | 40% (counsel)  | --  | --  | 34% (of counsel)  |
| Partners             | 17.8% (all)<br>16.2% (equity)              | 28% (non-equity)<br>20% (equity)                                       | 19.2%   | 16.9%   | 27% (non-equity)<br>16% (equity)                                      |
| Management Committee | 17.8%                                      | 17%  | --  | --  | 15%   |
| Partner Promotes     | 32.8%                                      | 2 tracks:<br>32% (non-equity)<br>28% (equity)<br>1 track: 29% eq.      | --  | --  | 30% (equity)<br>2008 data   |
| All Attorneys        | 36.0%                                      | --   | 33.0%   | 35.6%   | --  |

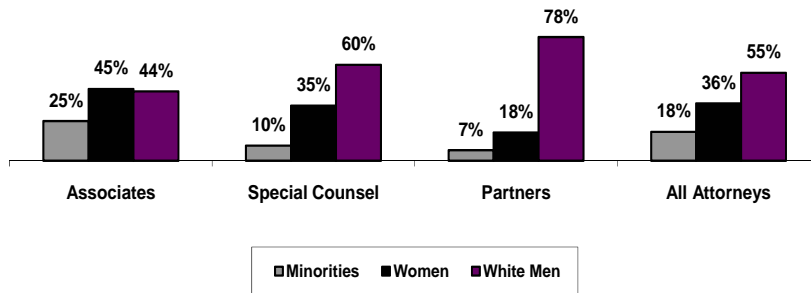
## Diversity Declines as Rank Increases

While we celebrate improvements in recent years, it is important to keep in mind the larger context of diversity among signatory firms and in the legal profession – that is the increasing concentration of white men throughout the law firm leadership hierarchy. *The long-term diversity goal is to have the representation of minority and women attorneys within law firms much more closely mirror - at every level - their representation across the profession as opposed to their concentration at the entry level.*

For women attorneys, their representation at the special counsel level (35%) closely approximates their overall representation at 36% of the legal workforce in signatory firms. The substantial drop occurs at the partner level where they decline to less than one in five partners. For minority attorneys this decline happens considerably earlier in

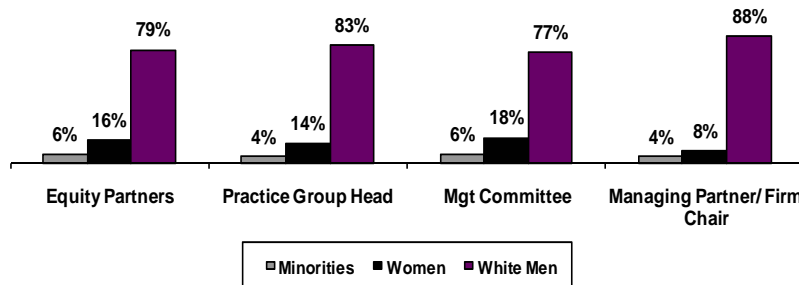
the career path; while they comprise 18% of all attorneys, they account for just 10% of special counsel attorneys and 7% of attorneys within the partnership ranks.

**Representation By Level, March 2009**



If we focus more narrowly at the leadership levels of signatory firms, we see that the pattern of increasing homogeneity continues with white men comprising approximately four of five equity partners, practice group heads and management committee members and nearly nine in ten managing partners and firm chairs.

**Leadership Representation, March 2009**



The National Association of Women Lawyers' (NAWL's) 2009 report<sup>1</sup> on the retention and promotion of women in law firms documented the same pattern with women attorneys dropping from over 40% of associates to 27% of non-equity partners, 16% of equity partners and 15% of governing committee members. An additional and very important concern highlighted in the 2008 NAWL report – and not covered in the New York City Bar diversity benchmarking data – was a compensation differential by gender that increased at every level along the leadership path.

<sup>1</sup> The National Association of Women Lawyers and The NAWL Foundation, Report of the Fourth Annual National Survey on Retention and Promotion of Women in Law Firms, October 2009

## Clear Efforts to Improve Diversity Among Leadership Ranks

The benchmark data provided clear evidence that signatory firms continue to make proactive efforts to support increasing diversity among firm leadership. For instance, the diversity profile of the management committee suggested that firms are seeking to ensure the voice of women and minority attorneys among this critical leadership group. The representation of women and minorities among management committee members was nearly identical in early 2009 to the composition of the full partnership.

Consistent with the broader pattern of increasing concentration of white men as level increased, one might expect to see the management committee as less diverse than the overall partnership but this was not the case. Women represented 17.8% of partners and 17.8% of management committee members. The respective figures for minority attorneys were 6.6% and 6.3%. Comparison of the leadership data in the most recent benchmark results with data from early 2007 also provided an improving picture.

|              | <b>Partners<br/>N=6551</b>       | <b>Equity<br/>Partners<br/>N=5448</b> | <b>Management<br/>Committee<br/>N=1048</b> | <b>Managing Partner/<br/>Firm Chair<br/>N=95</b> |
|--------------|----------------------------------|---------------------------------------|--|--|
|              | <b>March 2009/<br/>Jan. 2007</b> | <b>March 2009/<br/>Jan. 2007</b>      | <b>March 2009/<br/>Jan. 2007</b>           | <b>March 2009/<br/>Jan. 2007</b>                 |
| Minorities   | <b>7% / 5%</b>                   | <b>6% / 5%</b>                        | <b>6% / 4%</b>                             | <b>4% / 2%</b>                                   |
| Women        | <b>18% / 17%</b>                 | <b>16% / 15%</b>                      | <b>18% / 14%</b>                           | <b>8% / 4%</b>                                   |
| White<br>Men | <b>78% / 80%</b>                 | <b>79% / 81%</b>                      | <b>77% / 83%</b>                           | <b>88% / 93%</b>                                 |

While we do not want to overemphasize these changes, the data does provide – particularly in light of the recession and the concern that economic challenges would translate to slippage in small but hard won gains for women and minority attorneys – evidence that signatory firms have not lost sight of their longer-term diversity goals.

Furthermore, in looking at the leadership pipeline – those attorneys moving into the partnership – it was clear that firms continually seek to diversify the partnership ranks. Women and minority attorneys have comprised an increasing proportion of the new partner promotes in recent years, rising to 33% and 17% respectively of all new partners promoted in the most recent partner class.

|  | Women | Minorities |
|--|-------|------------|
| New partner promotions 2004 data                       | 20.9% | 7.0%       |
| New partner promotions 2005 data (reported Jan. 2006)  | 29.0% | 7.4%       |
| New partner promotions 2006 data (reported Jan. 2007)  | 32.6% | 8.5%       |
| New partner promotions 2008 data (reported March 2009) | 32.8% | 17.2%      |

Lateral partner hires have been a less significant means than new partner promotes of increasing partnership diversity since the New York City Bar began tracking diversity data with women ranging from 13% to 20% of lateral partner hires and attorneys of color ranging from 3% to 10% of this group.

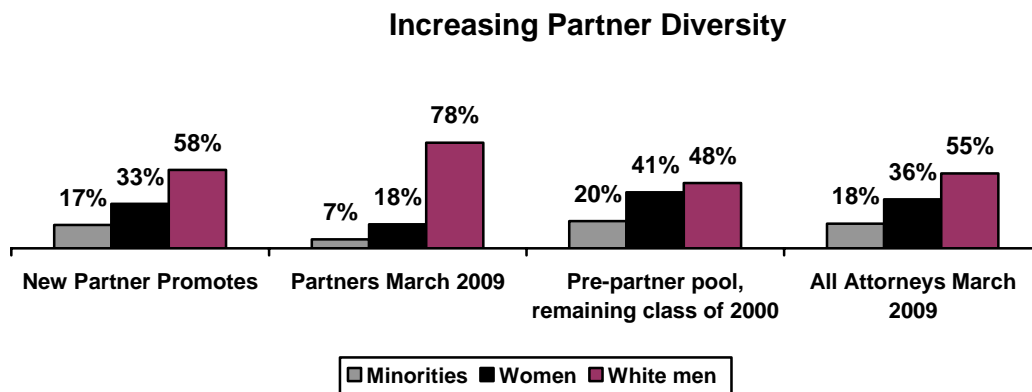
Similarly, NAWL found in its 2008 report that among equity partners women attorneys had better success reaching the partnership as home-grown attorneys versus lateral hires.<sup>2</sup> But NAWL also found that equity partners are increasingly drawn from recent lateral hires who are recruited or have negotiated for a future equity position and women represent a far smaller percent of this universe. The relative importance of lateral partners vis a vis home-grown partners increased in NAWL’s 2009 reporting.

|   | Women | Minorities |
|---|-------|------------|
| Lateral partner hires 2004 data                       | 13.0% | 5.5%       |
| Lateral partner hires 2005 data (reported Jan. 2006)  | 20.3% | 3.2%       |
| Lateral partner hires 2006 data (reported Jan. 2007)  | 16.0% | 10.2%      |
| Lateral partner hires 2008 data (reported March 2009) | 17.3% | 9.6%       |

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<sup>2</sup> The National Association of Women Lawyers and The NAWL Foundation, Report of the Third Annual National Survey on Retention and Promotion of Women in Law Firms, November 2008. “In the average firm, women made up almost 30% of new home-grown equity partners but only 17% of new equity partners who are recent laterals.”

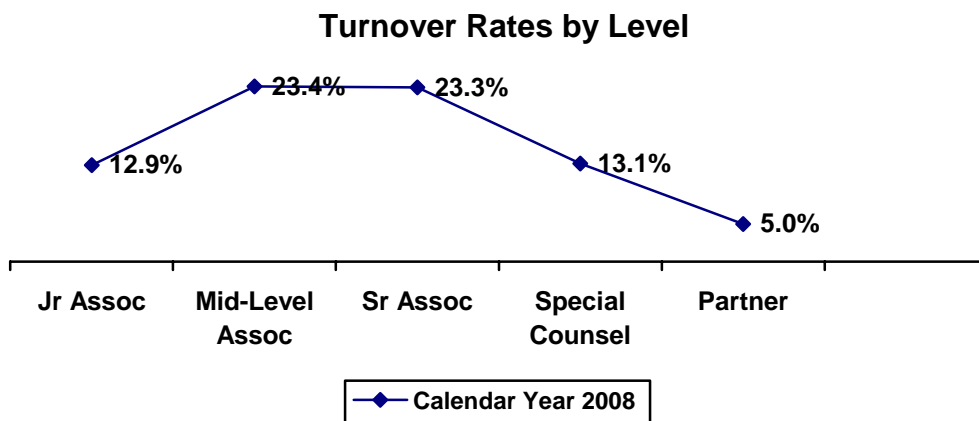
The graph below illustrates firm efforts to expand diversity among signatory firm partners. New partner promotes – reported as of March 2009 – were substantially more diverse than their representation in the existing partner ranks (for women 33% vs. 18% and for minorities 17% vs. 7%). In addition, the distribution of new partner promotes by gender and race/ethnicity more closely mirrored both the pre-partner pool (the class of 2000) from which they were primarily drawn and the overall representation of attorneys working at signatory firms.



Collectively, several pieces of information reinforced that firms continue to make progress through their efforts to ensure greater diversity across the leadership pipeline of signatory firms.

## Voluntary Attrition Rates Follow a Pattern by Level

In order to more fully understand the changing diversity profile of attorneys at signatory firms, it is necessary to consider how turnover impacts firm efforts to hire and promote diverse attorneys. Voluntary turnover rates<sup>3</sup> by level follow a typical pattern rising from the junior to mid- and senior-level associate ranks where it generally peaks and then declining among special counsel attorneys and yet further among partners. This pattern makes sense as associates beyond the first few years are at the critical juncture of deciding if law firm life is a good fit for their talents and preferences and many will choose to take another path. Special counsel attorneys – more senior in their careers and often having developed particular expertise – are less likely to leave while partners – who presumably have invested heavily in their careers and have been rewarded with partnership status – are the least likely to make the decision to leave.



<sup>3</sup> In the New York City Bar’s analyses, the turnover rate is calculated as the number of attorneys who voluntarily left their firm over a specific period of time – such as a year or a quarter – divided by the representation of attorneys at the beginning of the period (or all those who could have left). For example, if there were 100 attorneys at the end of 2007 and 10 of those attorneys chose to leave the firm during calendar year 2008, the voluntary turnover (or attrition) rate for 2008 would be 10%.

Since the New York City Bar began tracking attrition data in 2005, voluntary turnover rates have declined through time for associates across major dimensions of diversity. Minority attrition dropped from nearly 30% in 2005 (which was reported in the 2006 results) to 19% in 2008 while attrition for white associates dropped from 27% to 18%. Assessment of turnover rates for associates by gender showed similar declines through time.

|            | <b>Annual Voluntary Turnover Rates for Associates</b> |             |             |
|------------|---|-------------|-------------|
|            | <b>2005</b>   | <b>2006</b> | <b>2008</b> |
| Minorities | 29.6%   | 22.8%       | 18.6%       |
| Whites     | 26.9%   | 21.3%       | 18.3%       |
| Women      | 28.5%   | 21.8%       | 19.4%       |
| Men        | 26.7%   | 21.9%       | 17.5%       |

It is important to note that the New York City Bar survey reports data only for voluntary attrition or those attorneys who willingly chose to leave their firms. The stated turnover rates do not encompass involuntary turnover – or attorneys being asked to leave for performance problems or economic reasons – so provide a partial picture. It is difficult to fully interpret the attrition results. It follows that fewer associates would choose to leave their firms during challenging economic times when many fewer opportunities are available and this was borne out in the data. It is also possible that the voluntary attrition data includes some attorneys who may have left “by choice” but anticipating that they would be let go in the near future. In any case, the full impact of attrition – voluntary and involuntary – would be visible in the changes in representation data from one period to the next, along with the influences of hiring and promotions. As discussed earlier in the report, the trend line for minority associates has been up and for women associates flat in recent years.



The attrition results at the special counsel level did not follow a consistent pattern in the same way that was apparent among associates with the voluntary turnover rate falling and then rising for most but not all special counsel attorneys. Between 2006 and 2008 the overall attrition rate for attorneys in special counsel roles increased from 10.5% to 13.1%. At the partner level, the voluntary turnover rate declined between 2005 and 2006 and then stayed steady in the 2008 results except for minority partners where it dropped and then rose again. Among all partners, voluntary attrition essentially did not change from 2006 to 2008.

|            | Annual Turnover Rates for Special Counsel Attys |       |       | Annual Turnover Rates for Partners |      |      |
|------------|---|-------|-------|------------------------------------|------|------|
|            | 2005  | 2006  | 2008  | 2005                               | 2006 | 2008 |
| Minorities | 34.4%   | 19.5% | 17.6% | 8.6%                               | 6.1% | 8.2% |
| Whites     | 19.0%   | 10.2% | 12.6% | 7.9%                               | 5.1% | 4.8% |
| Women      | 18.8%   | 8.8%  | 13.0% | 7.2%                               | 5.7% | 5.6% |
| Men        | 20.0%   | 11.4% | 13.2% | 8.1%                               | 5.0% | 4.9% |
| Total      | 19.5%   | 10.5% | 13.1% | 8.0%                               | 5.1% | 5.0% |

The National Law Journal’s annual survey of the nation’s 250 largest law firms reported that attorneys in the ‘other’ category such as of counsel and staff attorneys “proved most expendable” and the “associate ranks were hard hit by workforce reductions” while partners actually increased slightly from their 2008 to 2009 results.<sup>4</sup>

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<sup>4</sup> 2009 Worst Year for Lawyer Headcount in 3 Decades, Says ‘NLJ 250’ Survey, The National Law Journal, November 9, 2009

## Voluntary Attrition Puts a Dent in Firm Efforts to Improve Diversity

A comparison of turnover data across diverse groups of attorneys sheds light on why firms continue to struggle with increasing diversity despite a clear and continuing focus on hiring and promoting diverse attorneys. During the 2008 calendar year, the overall voluntary turnover rate was 37% higher for women than for men – 16.2% compared with 11.8%. Similarly, the voluntary attrition rate for minority attorneys (17.0%) was substantially higher than for Caucasian attorneys (12.6%) during 2008.

### 2008 Attrition Rates by Level

|                 | <b>Jr Assoc.</b> | <b>Mid-Level Assoc</b> | <b>Sr Assoc</b> | <b>Special Counsel</b> | <b>Partners</b> | <b>Total</b> |
|-----------------|------------------|------------------------|-----------------|------------------------|-----------------|--------------|
| Total attrition | 12.9%            | 23.4%                  | 23.3%           | 13.1%                  | 5.0%            | 13.4%        |
| Minorities      | 12.9%            | 23.6%                  | 27.6%           | 17.6%                  | 8.2%            | 17.0%        |
| Whites          | 12.9%            | 23.4%                  | 22.3%           | 12.6%                  | 4.8%            | 12.6%        |
| Women           | 13.1%            | 25.2%                  | 25.0%           | 13.0%                  | 5.6%            | 16.2%        |
| Men             | 12.7%            | 21.8%                  | 21.9%           | 13.2%                  | 4.9%            | 11.8%        |

The differential in turnover rates by gender is most pronounced at the mid- and senior-associate levels while for minority attorneys there is a substantial gap from the senior associate all the way through to the partner level in comparison with white attorneys. Concerning involuntary attrition, NAWL found in its 2009 report that there was not a gender effect with regard to recent layoffs and that women were laid off proportionally to their representation by level.<sup>5</sup>

Examining the inflows and outflows of attorneys provides a more robust understanding of the confluence of factors that influence the ultimate goal of expanding diversity in law firms.<sup>6</sup> With the understanding that adding a group – in a larger proportion than that group’s existing representation will increase its representation – and adding a group in a smaller proportion than its existing representation will decrease its representation, we

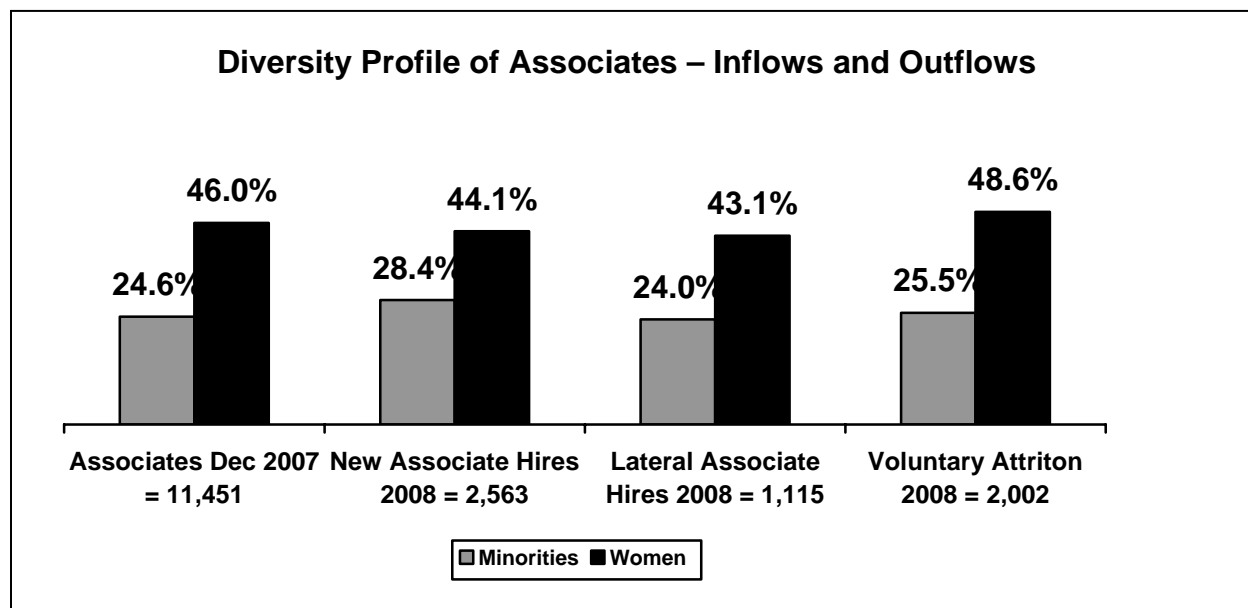
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<sup>5</sup> The National Association of Women Lawyers and The NAWL Foundation, Report of the Fourth Annual National Survey on Retention and Promotion of Women in Law Firms, October 2009

<sup>6</sup> Note: The voluntary attrition data in the graphs depicting inflows and outflows represent NOT the attrition (or turnover) rate but the percentage of a subgroup of attorneys – such as women – among all attorneys who left during the period. For example, during the 2008 calendar year 2,002 associates voluntarily left signatory firms and women associates represented 972 of that group or 48.6% of all associates departing from signatory firms.

analyzed the benchmark diversity data to see how hiring, promotions, and voluntary turnover impact the diversity representation at key levels along the law firm career path.

At the end of 2007, women attorneys comprised 46% and minority attorneys comprised 24.6% of all associates at signatory firms.

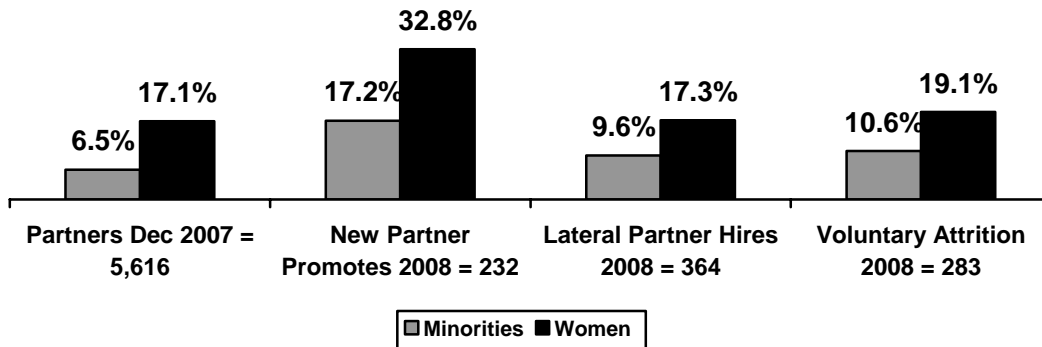


The primary inflows to the associate pool – new associate hires right out of law school and lateral associates with some experience under their belts – served to decrease the representation of women attorneys at the associate level. While women accounted for 46% of all associates at the end of 2007, they represented less than that percent – 44.1% for new associates and 43.1% for lateral associates – of those attorneys adding to the associate pool during 2008. In addition, given that women attorneys accounted for 48.6% of all associates who left signatory firms during 2008 – which is higher than their representation at the beginning of the year (46%) – voluntary turnover was another factor reducing their representation.

For minority associates, while they were brought in at a higher rate as new associates during 2008 (28.4% vs. 24.6%), they were brought in at a slightly lower rate among lateral hires and accounted for a greater percent of associates leaving signatory firms throughout 2008 (25.5% vs. 24.6%).

The chart below depicts the inflows and outflows in 2008 of partners at signatory firms. While minority partners were being brought into the partnership in greater proportion – as new partner promotes and lateral hires – than their existing representation in the partnership, they also accounted for proportionally more of the turnover (10.6% vs. 6.5% representation) thus eating into the gains. The same pattern holds true for women with the turnover diminishing gains from hiring and promoting women partners.

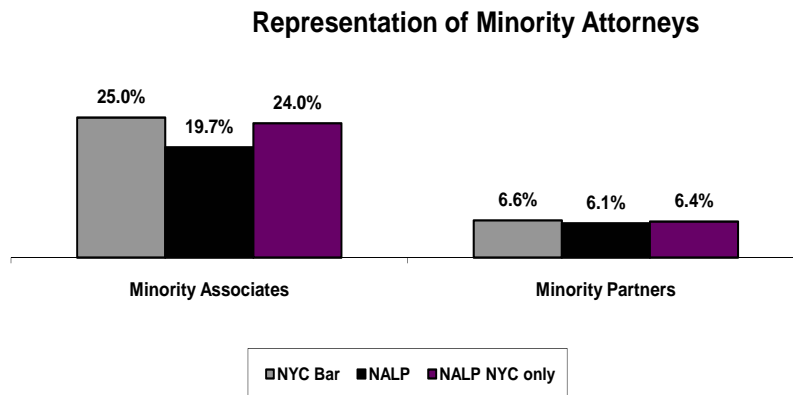
### Diversity Profile of Partners – Inflows and Outflows



In a major reversal from data collected in earlier New York City Bar diversity benchmarking surveys, there has been a shift to new partner promotes representing the minority – rather than the majority – of those entering the partnership. In 2008, signatory firms collectively reported 232 new-partner promotes and 364 lateral partner hires with new partner promotes representing 39% of the total. In 2006 the respective figures were 448 new partner promotes (62%) and 275 lateral partner hires (38%) of all new partners at signatory firms.

## Minority Representation Rising Across Levels, Comparable to National Statistics

Since the New York City Bar began collecting diversity data in 2004, the number of minority attorneys in the firms rose overall, increasing from 15% to 18% of all attorneys as well as across levels. The New York City Bar data on representation of minority attorneys also tracked NALP's New York City results in its 2009-2010 Directory of Legal Employers.

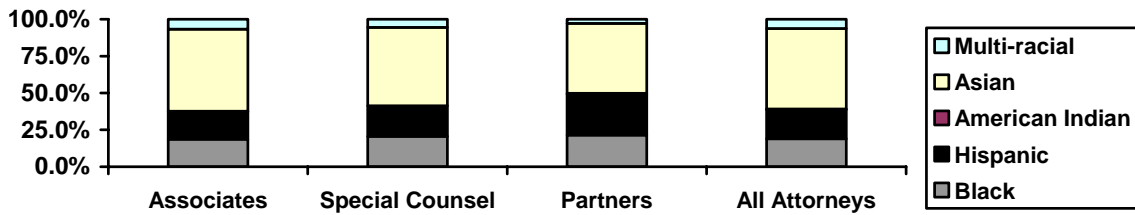


## Asian Attorneys Most Populous, Among Minority Groups Hispanic Attorneys Best Placed yet Leaving Signatory Firms at Higher Rates

Within the racial and ethnic groups tracked in the New York City Bar benchmark data, Asian attorneys comprised the largest group of minority attorneys (55%) working in signatory firms. Black and Hispanic attorneys comprised approximately 20% each of minority attorneys and multi-racial attorneys made up the balance.

The chart below depicts the composition of minority attorneys overall and by level. The representation of attorneys by minority group – at both the associate and special counsel levels – closely mirrored the overall results while at the partner level Asian and multi-racial attorneys comprised a proportionately smaller group and Hispanic attorneys a proportionately larger group than overall.

**Diversity Profile by Minority Groups**



Among primary minority groups, minority associates and partners tracked closely with the NALP data for New York City attorneys while the representation of minority groups among signatories was generally more favorable than NALP national statistics.<sup>7</sup>

|                               | <b>NYC Bar Signatories 2009 results</b> | <b>NALP National (NYC)**</b> | <b>NYC Bar Signatories 2009 results</b> | <b>NALP National (NYC)**</b> |
|-------------------------------|---|------------------------------|---|------------------------------|
|                               | <b>Minority Associates</b>              | <b>Minority Associates</b>   | <b>Minority Partners</b>                | <b>Minority Partners</b>     |
| Black/<br>African<br>American | 4.6%                                    | 4.75% (4.71%)                | 1.4%                                    | 1.71% (1.47%)                |
| Hispanic                      | 4.6%                                    | 3.86% (4.41%)                | 1.9%                                    | 1.68% (1.85%)                |
| Asian                         | 13.8%                                   | 9.05% (12.37%)               | 3.2%                                    | 2.05% (2.67%)                |
| All                           | 25.0%                                   | 19.08% (23.15%)              | 6.6%                                    | 5.92% (6.27%)                |

\*\* The data in parentheses represents the NALP data for New York City

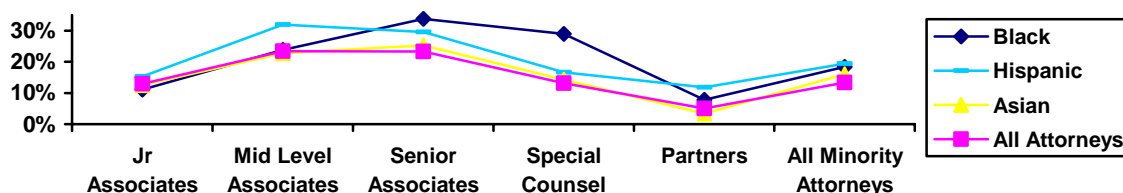
<sup>7</sup> NALP 2008-2009 Directory of Legal Employers

With the intention of narrowing the focus to leadership roles, the table below details the representation by major minority groups in leadership positions at signatory firms. The pattern seen earlier – of Asian attorneys declining in representation and Hispanic attorneys rising in representation with increasing rank – continued into the higher-level leadership roles. This situation of Asian attorneys declining proportionally among major minority groups with increasing rank has been highlighted in the legal press and demands further investigation to better understand the causes and possible solutions. Black attorneys were well represented among new partner promotes and on the management committee and less so among practice group heads.

|                        | <b>New Partner Promotes<br/>N=36</b> | <b>Partners<br/>N=439</b> | <b>Equity Partners<br/>N=354</b> | <b>Practice Group Heads<br/>N=97</b> | <b>Management Committee<br/>N=62</b> | <b>All Attorneys<br/>N=3954</b> |
|------------------------|--------------------------------------|---------------------------|----------------------------------|--------------------------------------|--------------------------------------|---------------------------------|
| Black/African American | 25.0%                                | 21.4%                     | 19.5%                            | 17.5%                                | 30.7%                                | 19.0%                           |
| Hispanic               | 16.7%                                | 27.6%                     | 29.9%                            | 39.2%                                | 24.2%                                | 19.7%                           |
| Asian                  | 55.6%                                | 47.4%                     | 46.6%                            | 35.1%                                | 33.9%                                | 54.6%                           |

As stated earlier in this report, the overall attrition rate of minority attorneys exceeded that of white attorneys during the 2008 calendar year both overall and by level. Across the major minority groups, the turnover rates by level followed the pattern discussed previously of rising attrition from the junior associate to more senior associate levels followed by declining attrition with increasing rank. Asian attorneys closely tracked the attrition of all attorneys by level while Black and Hispanic attorneys left signatory firms at higher rates. Black senior associate and special counsel attorneys left at an elevated rate relative to the full universe of signatory attorneys while Hispanic attorneys registered higher attrition at every level across the spectrum.

**2008 Turnover Rates by Minority Groups**



## Women of Color Lose Ground in Multiple Ways

The experience of women of color attorneys at signatory firms in the 2009 benchmark results was consistent with research indicating they face unique obstacles in law firm environments. In comparison both to men of color and to white women, women of color did not fare as well according to multiple indicators. While women of color represented a larger percent of associates than their male counterparts (14% vs. 11%), they lost ground as they advanced and represented only 2% of the partnership compared to 4.5% for men of color. Among attorneys entering signatory firms, women of color continued to join as brand new associates – to a greater extent than men of color – yet represented a smaller proportion of the pre-partner pool and recent partner promotions as well as a substantially lower proportion of female lateral partner hires. Women of color attorneys left signatory firms at a higher rate than men of color.

White women comprised about a third of associates as of the end of March 2009 and that percent dropped to about half (16%) at the partner level. Comparably the decline for women of color was far steeper (from 14% to just 2%). White women were promoted to partner far more proportionally than women of color as well as leaving signatory firms at a substantially lower rate. These factors collectively illustrate the difficulty for women of color to progress.

|                                  | Women of Color                                  | Men of Color             | White Women                 |
|----------------------------------|---|--------------------------|-----------------------------|
| Total Associates                 | 13.7%<br>(10.73%/ 13.18% NYC)*<br>(11%)**       | 11.2%<br>(8%)**          | 31.4%<br>(35%)**            |
| Special Counsel                  | 4.5%  | 5.0%                     | 30.1%                       |
| Partner                          | 2.1%<br>(1.9%/ 2.0% NYC)*<br>(3% ne, 1.4% eq)** | 4.5%<br>(6% ne, 4% eq)** | 15.7%<br>(23% ne, 14% eq)** |
| All Attorneys                    | 9.5%<br>(6.18%/ 9.09% NYC)*                     | 8.7%                     | 26.6%                       |
|                                  |   |                          |                             |
| New Hires (Class of 2008)        | 15.3%   | 13.2%                    | 28.8%                       |
| Pre-Partner Pool (Class of 2000) | 9.4%  | 10.6%                    | 32.0%                       |
| Most Recent Partner Promotions   | 7.8%  | 9.5%                     | 25.0%                       |
| Lateral Partner Hires            | 2.5%  | 7.1%                     | 14.8%                       |



|                               | <b>Women of Color</b> | <b>Men of Color</b> | <b>White Women</b> |
|-------------------------------|-----------------------|---------------------|--------------------|
| 2008 Turnover Rate            | 18.4%                 | 15.4%               | 15.4%              |
| Associate Turnover Rate       | 19.9%                 | 16.9%               | 19.1%              |
| Special Counsel Turnover Rate | 15.8%                 | 19.3%               | 12.6%              |
| Partner Turnover Rate         | 6.5%                  | 8.9%                | 5.5%               |

\* Numbers represent data for minority women from the NALP 2009-2010 Directory of Legal Employers. Data is provided for national results and for New York City.

\*\* Numbers represent data from the 2008 NAWL National Survey on the Retention and Promotion of Women in Law Firms

Several recent reports have highlighted the difficulty for women of color in firms. In a study titled *Women of Color in U.S. Law Firms*<sup>8</sup> published by Catalyst, the researchers reported "...the 'intersectionality', or combined identities of gender and race/ ethnicity, put women of color at a unique disadvantage in the workplace." The study identified several unique challenges faced by women of color including limited professional opportunities, lack of access to high profile clients and client assignments, and stereotyping around race and gender. The study recommended creating opportunities for dialogue between women of color attorneys and firm leaders.

The 2008 NAWL study also spotlighted the great difficulty for women of color in law firms. NAWL reported, "...it appears that once women of color enter firms, they are much less likely to move up the partnership ladder than the pipeline of graduating lawyers suggests they should and substantially less likely to advance than either white women or men of color." The report went on to say, "...apart from smaller starting numbers, different dynamics apply to the process of retaining and advancing women of color."

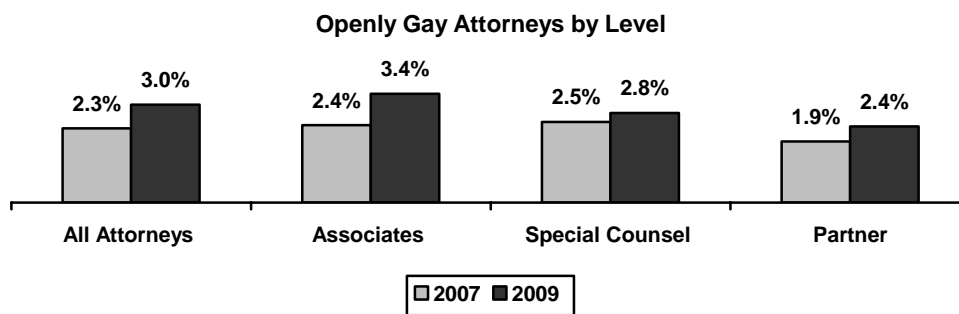
NALP indicated that the dearth of women of color at the partner level was among the most significant findings in their 2009-2010 diversity reporting.<sup>9</sup>

<sup>8</sup> Despite Law Firm Efforts, Women of Color Still Face Workplace Challenges, Catalyst press release, July 21, 2009

<sup>9</sup> Law Firm Diversity Demographics Show Little Change, Despite Economic Downturn, October 21, 2009

## Representation of Gay Attorneys Trends Upward

The representation of openly gay attorneys continued to trend upward in signatory firms as well as nationally. Gay attorneys comprised 2.3% of all attorneys as of January 2007 – the New York City Bar’s last reporting – in comparison to 3% in the 2009 results. The increase may be partially explained by improved data collection. In the most recent survey firms were asked to indicate if they tracked data on gay attorneys and only those reporting yes were included. The great majority, 74% of all signatory firms, tracked this data. Since 2004 the representation of openly gay attorneys at signatory firms has nearly doubled and the actual number of openly gay attorneys increased from 272 to 552 individuals.



While some attorneys will not choose to share their sexual preferences, it is encouraging that through time a growing number are feeling comfortable doing so.

Data collected by NALP has shown a very similar pattern to the signatory firm results. In 2002 when NALP began tracking this data, openly gay attorneys were less than 1% of all attorneys and in their most recent results this figure had risen to 1.52%. The large majority of openly gay attorneys were disproportionately represented in four major cities (e.g. Los Angeles, San Francisco, New York, and Washington, D.C.) according to NALP and the representation across those four cities was 2.8%. Their most recent data, consistent with that for signatory firms, indicated a higher representation of openly gay attorneys among associates than among the partner ranks.

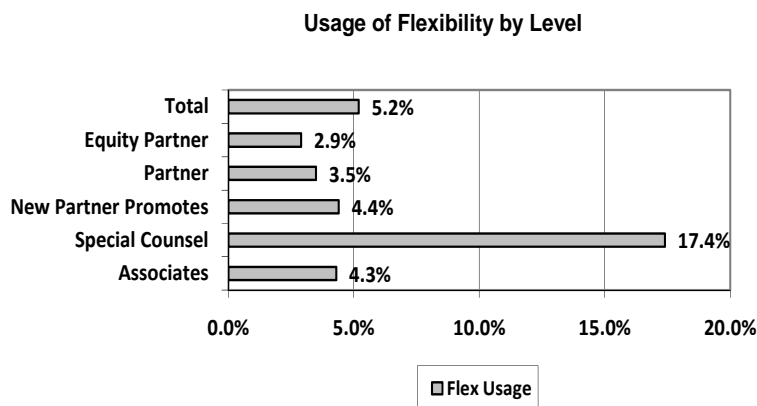
## Disabled Attorneys Scarce Nationally and Among Signatory Firms

The New York City Bar found that less than half of signatory firms track data on disabled attorneys. Disabled attorneys comprised 0.3% of all attorneys among signatory firms in comparison with NALP’s figure of 0.2% in their 2008-2009 results. NALP found no pattern in tracking disability status by firm size or level.

Though the numbers remain quite small, the actual number of reported disabled attorneys did double between 2004 when the New York City Bar started tracking this data and in the 2009 results.

### Results of Flexibility Usage Sends Mixed Signals

Approximately five percent of attorneys across all attorneys at signatory firms reported working on a formal part-time or full-time flexible schedule.<sup>10</sup> As illustrated in the chart below, special counsel attorneys far and away made the greatest use of flexible work schedules in comparison with attorneys working in other roles. While 17.4% of special counsel attorneys reported working on flexible schedules, the next largest user groups were associates and new partner promotes at a little over four percent. Nearly 90% of signatory firms indicated tracking the usage of flexibility.

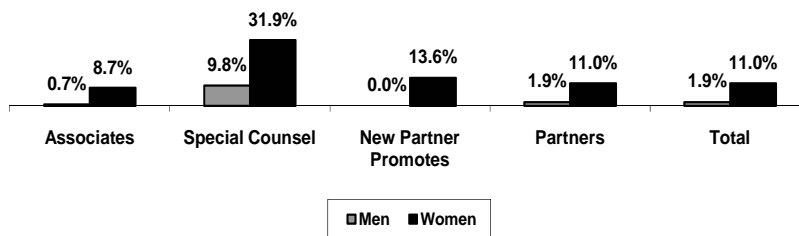


The overall use of formal flexibility rose from 4.6% to 5.2% in comparison with the 2007 benchmark results. There was an increase in the reported use of formal flexibility at the partner level – from 1.8% to 3.5% – and a reduction among new partner promotes from 5.6% to 4.4%. Flexibility usage at other levels changed little since the last reporting.

<sup>10</sup> Note: In calculating the aggregate data on the usage of flexible work practices by signatory firms, we eliminated results from three firms which were extreme outliers and substantially skewed the average results. Some firms indicated that a very large number of attorneys – at all levels – worked on full-time flexible schedules. The interpretation was likely that all attorneys work flexibly at some times or have the ability to work flexibly to some degree but the flexibility-related questions sought to capture the use of flexibility on a formal basis at signatory firms.

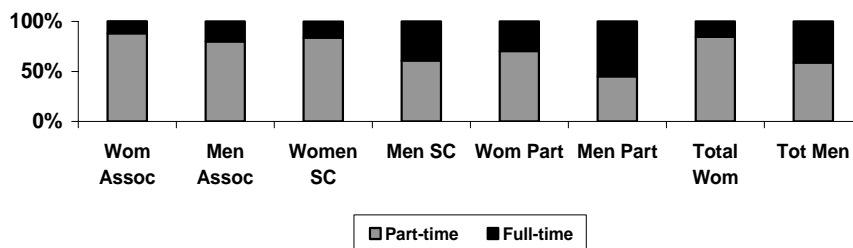
As has historically been the case, women were far more likely to make use of formal flexibility than their male counterparts in combining work and personal responsibilities. This differential by gender applied at every level. One interesting change in the most recent results was the reported increased use of flexibility at the partner level for both men and women. In the 2007 results, 8.3% of women partners and 0.5% of male partners indicated working on a flexible schedule rising to 11.0% and 1.9% more recently.

Usage of Formal Flexible Work Arrangements As of March 2009



Of those attorneys working on flexible schedules, men were much more likely than women to indicate working on a full-time flexibility arrangement while women favored part-time options. Both men and women attorneys reported declining usage of part-time flexibility and increasing usage of full-time flexibility as seniority increased. Minority attorneys made less use of flexibility than their white colleagues (3.4% vs. 5.6%).

Type of Flexibility Used - Part-Time Vs. Full-Time Among Flexibility Users



Looking at the use of flexibility among the universe of flex-users through time, there was an across the board increase in the use of full-time flexibility – relative to part-time flexibility – between early 2007 and early 2009. Men and women overall and at every level reported a far greater use of full-time flexibility and a relative reduction in the use of part-time flexibility.

The data on flexibility usage in the 2009 results sends mixed signals. The increase in overall flexibility usage as well as increased use at the higher levels of firms can be interpreted as positive indicators of greater acceptance and comfort with working differently. On the other hand, the reported increases of full-time flexibility versus reduced hours – among those working on alternative schedules – may well be a sign that those working part-time feel their reduced-hours status makes them more vulnerable to workforce reductions. One might reason that the downturn would lead to greater part-time flexibility as declining workloads allow more attorneys to cut back but this clearly was not the case.

The concern regarding part-time options making attorneys more susceptible to layoffs seems to have been borne out, at least for women attorneys. NAWL's 2009 report stated, "Men and women generally have been cut in rates proportionate to their numbers as associates and partners. The exception concerns terminations of part-time lawyers, which fall disproportionately on women even after taking into account that women fill the majority of part-time positions."

The results from Working Mother's *2009 Best Law Firms for Women*<sup>11</sup> illustrate the great flexibility paradox. While 96% of firms in this elite list offered written policies for reduced hours, the usage rate was less than 10%. Although access is widespread, the law firm culture remains highly resistant to part-time work. They also reported decreased usage of vacation days between 2008 and 2009 for associates, counsel and partners. Amidst a decline in legal work, one might expect greater usage of vacation days – not less – and this result seems further evidence of the importance of presence in law firms, particularly in turbulent economic times.

Given the importance of flexibility for many attorneys, particularly women, the perception that working less directly impacts job security is directly at odds with firm efforts to retain and promote women attorneys. The longer-term consequences may well be seen in attrition data as the economy improves and stabilizes through time. What is clear from the flexibility data is that many attorneys – women and some men – continue to use flexible work practices as an important tool for integrating their work and home demands and the special counsel position is seemingly the place where attorneys feel most comfortable working on an alternative schedule.

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<sup>11</sup> 2009 Working Mother & Flex-Time Lawyers Best Law Firms for Women: Executive Summary, <http://www.flextimelawyers.com/best/press20.pdf>

## Conclusion

Based on the diversity benchmark results, signatory firms have persisted during extremely challenging economic times in keeping a focus on sustaining diversity gains and there is evidence that their efforts are moving the needle. Firms have been very proactive in hiring and promoting diverse attorneys into the partnership and in having the voices of diverse attorneys at the table of their key governing bodies.

The data also highlights some red flags that may negatively impact future diversity gains. The increasing importance of lateral hires, which tend to be far less diverse than home-grown attorneys, threatens to limit future diversity improvements. In addition, several pieces of information underscoring the fragility of part-time work may well negatively impact gender diversity if women – the primary users of reduced hour work options – perceive this is no longer an option.

It is difficult to know what impact improving economic conditions will have on diversity at signatory firms. Going forward, the New York City Bar looks forward to supporting signatory firms in their continuing efforts and to future diversity progress across the legal profession.

## NOTES ON METHODOLOGY

- Signatory firms completed an on-line diversity survey during the summer of 2009.
- The data is based on the responses of 94 law firm signatories to the New York City Bar's Statement of Diversity Principles and represents an 86% percent response rate.
- Representation data was reported as of the end of first quarter 2009 while hiring and turnover data represent figures for all of 2008. Turnover data was also collected for the first quarter of 2009. Firms were asked to report representation data for the end of 2007 and the end of 2008 in order to calculate turnover rates.
- The data represents only the New York City area offices of the signatory firms except leadership figures (e.g. management committee, practice group heads) which are firm wide.
- The special counsel category in the survey represents staff attorneys, of counsel, managing attorneys, retiring attorneys and others who do not fit clearly into the associate or partner categories.
- The turnover data requested was for voluntary attrition only. It does not capture those attorneys who may have been asked to leave their firms (e.g. layoffs, performance problems).

- Signatory firms were asked to indicate if they tracked information on 1) openly gay attorneys 2) disabled attorneys and 3) attorneys working on flexible schedules. In all cases, these figures likely under-represent the true population of attorneys in these categories because even if asked, some attorneys may not choose to share this information.
- The demographic categories and terminology employed by the National Association of Law Placement (NALP) were used in the diversity benchmark survey. The categories of attorneys for which data were collected included Women, Men, American Indian, Asian-American/Pacific-Islanders, Black, Hispanic, Multi-racial, Openly Gay, and Attorneys with Disabilities.
- **NOTE:** The full set of data tables providing aggregate results of the data provided by signatory firms can be found on-line at the New York City Bar's website under the diversity tab. <http://www.nycbar.org/Diversity/BenchmarkingReports.htm>