



LEGAL MARKETPLACE

Did the pandemic set back the DEI clock?

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25 Mar 2021 · 6 minute read

Did the pandemic roll back even the limited progress that law firms have made in the areas of diversity, equity & inclusion (DEI) over the past 30 years?

To state the obvious, law firms have not made much progress in the areas of diversity, equity & inclusion (DEI) over the past 30 years as even a cursory glance shows key challenges the same and the stats have not significantly improved.

The 2020 Diversity Score Card indicates that the number of minority attorneys within law firms has increased by less than 4% since 2010. Further, and a new report from the National Association for Law Placement finds that large U.S. law firms continue to make very slow progress in increasing their ranks of women and professionals of color.

During the 2008 recession law firm DEI efforts ground to a virtual standstill, revenue declined, budgets were cut, and the limited work that came in was not given to women and minority attorneys. DEI leaders feared what happened in 2008 would be repeated in during the pandemic as firms would offer it as a scapegoat to allow them to thin their ranks. Did history repeat itself in 2020?

Mobilizing DEI efforts

When stay at home orders were put in place, Kori Carew, Chief Inclusion & Diversity Officer for Seyfarth Shaw, explains that DEI colleagues she had spoken to said they had immediately mobilized, asking “What can we do, so that what happened in 2008 doesn’t happen again?” Clearly, they weren’t alone.

Members of the **Leadership Council on Legal Diversity (LCLD)**, an association of more than 350 corporate chief legal officers and law firm managing partners that works toward building a more diverse legal profession, also were deeply invested in the DEI work at their firms or companies, explains Bonnie Lau, a partner at Morrison Foerster and alumni chair of LCLD. “LCLD members have stayed committed to maintaining the status quo or even adding DEI resources,” Lau says.

To underscore that, a recent survey conducted by **Legal Talent Advisors** showed that nearly 50% of respondents stated their firms’ commitment to DEI efforts stayed the same while 42.5% reported their firms expanded their efforts in 2020. The survey also found that 55% of respondents reported their firm’s DEI budgets remained the same while 30% saying it increased. Less than 3% had their budgets frozen. and 2.5% saw a reduction in their DEI budgets.

Overall, law firm budgets were distributed differently in 2020 due to the pandemic. DEI budgets, like many other initiatives, were reallocated because there were additional funds available because in-person events were cancelled. Many firms used their discretion in re-directing those funds. For example, Jenner & Block used it diversity dollars to bring in “more [virtual] speakers, more events, and everyone could be invited,” says Courtney Carter, Director of Diversity & Inclusion at the firm.

Moving to a virtual world also had a positive impact on attendance at DEI events. In the past, firm leaders noticed that attendance at DEI programs and training workshops was less than ideal. Amid the pandemic, “being virtual allowed us to offer more DEI webinars and virtual training,” notes Michelle Weber, COO of Bilzin Sumberg, adding that “to our great satisfaction, the virtual nature of these initiatives invited more participation than in-person events would have, resulting in elevated firm-wide consciousness of DEI issues.” Indeed, many firms have indicated that the attendance is higher at virtual events compared to in-person because there is no extra travel time.

“It is far easier to work across geographical lines when we are all remote, which means more and better opportunities for all,” observes Yusuf Z. Zakir, the Chief DEI Officer at Davis Wright Tremaine. DEI leaders frequently explain that the lack of challenging work with quality clients is one reason for the failure of women and diverse attorneys to grow and develop in their roles, Zakir explains, adding that this wall has now been torn down as attorneys can work across offices and departments with ease.

However, Zakir does inject a note of caution. “It is much easier to reinforce the status quo and continue to include the same folks that were historically included, often to the detriment of underrepresented populations,” he says, adding that this clearly shows how important it is that firms press their partners and leaders to look beyond their “usual” go-to attorneys.

Reaching out to minorities

With stay-at-home orders in place and COVID-19 cases rising, it became clear (and was noted by the Centers for Disease Control & Prevention) that the pandemic was disproportionately affecting minorities.

Rebecca Baumgartner, Senior Manager at Ogletree Deakins, says this knowledge led her to kick into gear the firm's diversity outreach, asking shareholders if anyone was falling behind on a consistent basis. "It was worth the effort because an attorney who lives alone, in a small apartment, was identified as feeling separated from her colleagues and work," Baumgartner says. The firm was then able to get shareholders to reach out to the associate to ensure her that she is valued and successful in her work.

A number of law firms also launched a requirement that partners personally connect attorneys who work with them. The goal is to touch base, not to talk about work.

Indeed, these newly built attorney communities may be a positive by-product of the pandemic. Carew said that Seyfarth, like many firms, went immediately into a communications mode to reach out to minority groups. Her team educated the firm on barriers that exist for diverse attorneys and how the pandemic and lockdown had exacerbated those obstacles. To move this even further, Seyfarth started an All-Diverse Attorney Check-in Initiative, which shared resources and learned how to stay visible to the partners who assign work. "At the first check-in call in 2021, we heard 'Thank you for creating this safe space,'" says Carew.

Jenner & Block's Carter agreed, noting that "from the moment COVID-19 started we were very focused on the communities within the firm." Jenner & Block's unique approach was to focus on its Care-Giver Affinity group which consists of attorneys and staff. The group provides coping resources and activities to engage the caregiver with their children, parents, or other family members.

While there's no doubt the pandemic upended many businesses, some law firms used the disruption as an opportunity to focus more energy on their DEI department, while other firms simply became busier than usual.

In every case, however, it is clear that the pandemic impacted DEI efforts across the board. Fortunately, these efforts were, and are continuing to move in a positive direction. It is safe to say that history has not repeated itself.

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