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UPDATE ON DIVERSITY STEPS TO A BETTER DAY

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TEACHING CAN HELP

Diversity training at your law firm

By Jane DiRenzo Pigott

Enhancing an organization's diversity doesn't happen by chance. So how do you help it happen?

Diversity training is a regular entry on the checklist of what organizations should do if they want to have a first-class diversity effort. The Minority Corporate Counsel Association (MCCA) published two guides, *Creating Pathways to Diversity: A Study of Law Department Best Practices* (2000) and *Creating Pathways to Diversity: A Set of Recommended Practices for Law Firms* (2002). By the time of its 2000 study, MCCA found that 88 percent of the participants in the law department study had conducted diversity awareness training. Then in its 2002 guide, one of MCCA's top 10 best diversity practices for law firms was to "mandate top-down diversity training."

Bar associations have similarly advocated training as part of a successful diversity effort. The Association of the Bar of the City of New York (ABCNY) put out a set of "Diversity Practices for New York Law Firms and Law Departments." In accord with

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these practices, the signatories to the ABCNY's statement — of which there are dozens of law firms and corporate legal departments — commit to participate in at least one diversity awareness training program annually.

A more recent "Commitment to Diversity" put out by the Kansas City Metropolitan Bar Association (KCMBA) has both law firm and law school signatories. In connection with its commitment, the KCMBA published an "Action Plan for the Kansas City Metropolitan Area Managing Partners' Diversity Initiative." A best practice identified in the plan in connection with increasing the retention and promotion of lawyers of color is to "establish diversity and inclusion training for every lawyer on a recurring basis."

So what is diversity training? And why is it a best practice that should be considered by an organization that is undertaking a serious sustainable diversity effort? Diversity training is a term that has a very broad meaning without any consistency in the specifics of what it must or should include. The concept of diversity training is to have a dialogue about diversity that sensitizes people to the issues and creates some awareness on both

substantive topics and the communication skills necessary for diversity to become an integrated priority of the organization.

The specifics of what diversity training for any particular organization will look like depends on a number of factors. Key among them is the way in which the term "diversity" is defined in the organization. Does the organization define "diversity" as racial and ethnic minorities? Or does the organization define "diversity" as encompassing "race, color, ethnicity, gender, sexual orientation, gender identity and expression, religion, nationality, age, disability and marital and parental status," as does the "Statement of Diversity Principals" of the ABCNY? Or is it somewhere in between? The organization's definition of diversity, obviously, will have a direct effect on what its diversity training should encompass.

Effective diversity training is a best practice because it involves everyone in the organization in the dialogue on diversity topics. Diversity efforts have very little likelihood of success if the only people taking part in those efforts are the diverse lawyers or the lawyers who serve on the Diversity Committee.

Effective diversity training:

- educates people on the organiza-

tion's definition of diversity and diversity goals and objectives,

- creates a sensitivity to the key diversity issues affecting the organization,
- enhances the communications skills of the participants,
- facilitates an understanding of the value of diversity personally and to the organization, and
- begins a dialogue on diversity among the participants at the session.

When done effectively, diversity training creates an inclusive effort that involves everyone in understanding and positively contributing to the diversity goals of the organization.

Even the most effective diversity training is only as good as the preparation beforehand and the follow-through afterward. This article sets out some of the critical steps necessary for an organization to conduct an effective diversity training effort.

Step 1: Why are you doing diversity training?

Success tip for Step 1.

When you announce the diversity training, clearly articulate your organization's purpose for conducting the training. That will not only tell people why they are going to the training, but allow them to evaluate the program more effectively.

Planning effective diversity training without a clear understanding of what the organization's goals are for the training is not possible. Diversity training is not a one-size-fits-all commodity. Instead, organizations should strategically determine what they intend to accomplish and carefully ensure that the training they devise will directly assist the organization in achieving its goals.

An organization conducting diversity training solely because it is "checking a box" — fulfilling a requirement of a bar association commitment, a client or the corporate human resources department — is not going to get the same return on its investment as an organization that conducts diversity training in connection with a clearly articulated set of goals and objectives.

Effectiveness requires that diversity training is customized to meet the goals and objectives of the organization and intended to be consistent with the rest of the organization's action plan to achieve its diversity strategic vision. With an articulated purpose for the diversity training, the substance of the training can be specifically crafted. Different purposes result in drastically different substance in a diversity training session.

While there are no "stock" purposes for which diversity training should be conducted, what follows are some potential purposes:

- communicate the business case for diversity,
- communicate and benchmark the diversity performance of the organization,
- explain legal compliance,
- enhance the skills of those personnel involved in recruitment, evaluation or mentoring,
- enhance the skills necessary to communicate across differences,

Do the first session with the leadership.

- improve awareness of specific diversity issues,
- break down barriers caused by bias and stereotypes,
- create an atmosphere conducive to open and safe discussion of diversity topics,
- cultural coaching,
- inclusion and effective team building, and
- remedial sessions for personnel

who intentionally or inadvertently create problems.

If all of these purposes sound enticing, then you'll have to choose between investing in diversity training for which you allow enough time to effectively cover each of these very different goals or prioritizing among the purposes and creating a series of shorter diversity training sessions, each with a different focus.

Step 2: Who is responsible?

Success tip for Step 2.

Do the first diversity training session with your leadership team. As an experienced participant, they have standing to strongly encourage the participation of others.

Without the overt support of the leaders of the organization, diversity training is unlikely to be worthwhile, much less effective. Leaders of the organization should announce the training and its purposes. Moreover, strong support by the entire leadership team enhances the likelihood of strong lawyer participation.

This message is further underscored if the leadership team has already been through the training and endorses it from personal experience. If the diversity training is not given this type of support and encouragement from the top, there is no reason to expect strong lawyer-attendance levels.

Lawyers in corporate legal departments become acclimated to the importance the organization places on a variety of activities — like training — in addition to substantive legal work for clients. On the other hand, law firms value billable hours. Consequently, while strong leadership commitment is an imperative in both organizations, without this communication, in the law-firm context, lawyers are likely to value billable hours over diversity training.

Should diversity training be mandatory? It depends on a number of factors. One such factor is the organization's culture. There are many legal organizations where making anything mandatory would violate the accept-

able workplace practice, especially with regard to lawyers. When you are dealing with lawyers, another problem with mandatory training is that legitimate client emergencies arise on a regular, but unpredictable basis. Finally, even if a session is deemed mandatory, someone will have a personal or professional emergency or a previously planned vacation.

Making diversity training mandatory sends a strong signal with regard to the importance the organization is placing on each person's attendance. Even if a session is declared mandatory, you will need to have a backup plan for those who could not attend for legitimate reasons (that is, taping the sessions and allowing people to view them later or conducting makeup sessions). Even if your organization does not "mandate" to its lawyers, there are techniques that can be used to encourage attendance and demonstrate the leadership commitment to the training.

For example, you could announce that participation will be tracked and the names of those not attending will be given to the leaders of the organization/practices/offices. Another possibility would require anyone who cannot attend to explain the reason for his/her absence to his/her practice group leader or supervisor.

Step 3: Who will be included in the training?

Success tip for Step 3.

Regardless of whom you choose to include in the training, announce the training to the entire organization. If not everyone will be included, explain your rationale for that decision in the announcement.

Is the training for lawyers only? Or will you include paraprofessionals and staff? Obviously, diversity training that does not include everyone does not appear to be as inclusive as training that does so. On the other hand, if there are limited resources, training of certain groups — such as the leadership team or those involved in recruitment — may need to be prioritized.

Will you ensure that there is diversity in each training session or do you want the groups to be more homogeneous? If you want each session to be heterogeneous, how will you define diversity: gender, ethnicity, sexual orientation, practice group, floor, years at the organization, status at the organization, or some other ways? Diversity among the participants of each session materially enhances the learning opportunities. With such diversity, however, there may be a level of potential intimidation or fear of retribution such that those who do not feel "safe" will choose not to join the dialogue.

On balance, the value of a diverse group of participants in the process is worth careful consideration of structural tools that can be used to safeguard the process against intimidation or retribution. For example, the

So how do you define diversity?

facilitator can be authorized to step in and deal with any inappropriate behavior that occurs during the session.

Another avenue is to structure the session so that most of the work is done in small groups. This type of working arrangement usually allows for broader individual participation without the opinions of the small group being attributed to any one individual. In making your determination on this point, consider your organization's culture and politics. If there is a rigid hierarchical makeup, it may make more sense not to

include people from various rungs of the hierarchy in the same session.

If some sessions will include less diverse participants — for example, the session with your leadership team — the facilitator will need to take a more active role. The "voice" of diversity, especially in discussions of specific scenarios, may need to be from the facilitator. The substance of the session will need to ensure that the participants not only reach the point of personal awareness on the diversity front, but also have an opportunity to participate in a dialogue on diversity topics where diverse views are expressed.

Step 4: What are the optimal logistics for your diversity training?

Success tip for Step 4.

Ensuring that beverages and snacks are available will improve people's stamina and attitude.

There are a number of logical issues that you will need to consider and address in connection with conducting effective diversity training. These issues include:

- duration,
- day of the week,
- size of group,
- location,
- room setup,
- videoconferencing, and
- taped versus makeup sessions.

There are no "right" answers with regard to these logistical questions. As with everything, the more attention paid to the details, the more likely the organization is to get the results it is after.

Law firms are less likely than corporate legal departments to invest a significant amount of time in diversity training. Consequently, it is even more important that they maximize the effectiveness of the time spent. As a rule of thumb, a session that involves less than a two-hour commitment is not going to provide sufficient value to the participants and the organization, no matter how small the group of participants.

Holding the diversity training during regular business hours sends a

clear message that it is as strategically important to the organization as "normal" work. Conversely, putting diversity training on the weekend sends a message that it is not as important and it is something for which you must use your "free time."

There is no hard and fast rule with regard to optimal group size for diversity training. Size and composition of the group affects the dynamics. Large groups and limited time reduce the possibility of meaningful discussion and limit active individual participation. If you are attempting to maximize effectiveness, time, efficiency and participation, consider limiting the groups to no more than 25 people.

There are pros and cons to holding the sessions at the organization's facility. People are more likely to attend if they can just walk to the conference room, but they are also more likely to get pulled out of the session for the very same reason. In no event, however, should the convenience and cost-effectiveness of using the firm's facilities result in using a space that is not suitable for the training.

Many organizations use videoconferencing as a tool to allow people from different locations to participate in a meeting without incurring the travel costs of having people attend in person. Effective diversity training does not lend itself to videoconferencing in the same way as most other meetings. Diversity training is intended to be interactive and allow personal participation.

Videoconferencing is most successful in meetings where video participants are listening or the discussion in the meeting is being held between all participants with one person talking at a time. Neither of these elements will be present in diversity training. If, for cost or logistical reasons, you must use videoconferencing, the participants by video will not get as much out of the experience as those who have the opportunity to take part in person.

There will inevitably be some people who cannot make the diversity training sessions. In addition, legal organizations hire new people on a

regular basis. For these people, should you tape a session of the diversity training or provide live makeup sessions at a future date? If you choose to tape a session, you must inform the participants in that session that it is being taped.

Taping is likely to negatively affect the active participation level in that session. In addition, the person watching the tape will have no chance to participate in the exercises or the dialogue during the diversity training, thereby diminishing the effectiveness of the experience. In a choice between a taped session and a live makeup for diversity training, a live makeup session is superior if your goal is to make the training effective.

Step 5: Who will conduct the training?

Success tip for Step 5.

Lawyers can be a tough, cynical, demanding audience. Ensure that your facilitator is ready for the challenge both professionally and personally.

Having the training facilitated by a qualified professional who is not affiliated with your organization enhances the effectiveness of the training. When looking for such a person, a valid source is referrals from peer organizations who

Taping can limit participation.

have had successful experiences. Interviewing potential candidates is an important step. Some key considerations as you evaluate various candidates:

- Is the consultant's approach consistent with your organization's culture?

- Does the consultant understand law firms or legal departments, their structure, their business model and their challenges and opportunities?

- Is the consultant experienced?
- Will the consultant be credible with your audience?

- Is the consultant able to challenge in a nonattacking manner?

- Is the consultant positive, flexible and encouraging?

- Can the consultant "handle" the participants' potential cynicism, scrutiny, apathy or adversarial natures?

- Does the consultant want to understand your goals and objectives?

- Is the consultant ready and willing to customize the diversity training sessions for your organization?

- Is the consultant available to conduct the training within your timeframe?

- What are the direct and indirect costs?

Ensure that you are interviewing the actual person who will conduct the training. Also, make sure you take the time to check the references of those consultants making your short list.

After you have conducted the first session or two, talk to participants and re-assess the consultant's capabilities. Replace a consultant who is not meeting your expectations rather than continue and have the experience be a negative one for most of the participants.

Step 6: How will you measure the effectiveness of the training?

Success tip for Step 6.

What gets measured, matters.

Give participants in the diversity training an opportunity to evaluate all relevant aspects of the experience. Consider seeking feedback on the following topics:

- the amount of time spent on the session
- the appropriateness of the time of day
- the appropriateness of the day of the week
- the appropriateness of the facilities

- the appropriateness of the room setup
- the quality of the materials (if any are provided)
- the content of the session
- the format of the session
- the facilitator
- the effect, if any, of other participants on the session
- did the session meet their expectations?
- what would they do differently to improve the session?
- what are they learning from the session?
- what would they like to see the organization do next with regard to diversity?

If the organization is conducting multiple sessions of the training, you should take advantage of the opportunity to modify later sessions based on the feedback received from earlier sessions.

In addition, seek feedback from the person who is facilitating the training sessions. This feedback should include a discussion of both the positive and negative aspects of each session, any particular problems arising during the sessions or any particular session, as well as specific suggestions with regard to logical next steps for the organization to consider after completion of the diversity training.

Step 7: How will you continue the dialogue?

Success tip for Step 7.

If you don't know how you will continue the dialogue following the diversity training, you aren't ready for diversity training.

If diversity training is viewed as a one-time experience, its effectiveness will be very limited. Participants who were energized by the session will be disappointed that there is not any follow-up. Others will assume that their personal involvement in the diversity efforts of the organization is now satisfied. Instead, diversity training should begin a dialogue on diversity that can be continued in a safe and effective manner.

What types of follow-up activities could an organization conduct? The possibilities are limitless, but here are some ideas for consideration. Create a regularly scheduled "lunch and learn" brownbag program where a diversity topic is discussed and people within the organization and its clients are spotlighted on these topics. Some potential diversity "lunch and learn" topics include:

- cultural traditions of people in the office,
- religious traditions of people in the office,
- key pro bono efforts affecting diverse communities,
- professional paths of your diverse clients, and
- personnel who are leaders in diverse organizations.

Once the program is established, suggestions for future topics can be solicited from the participants, instead of brainstormed by the diversity committee.


Another potential vehicle for follow-up is larger, more formal meetings at which diversity-performance measurements are shared with the participants. Leaders of the organization or its diversity committee could then either present an analysis of the performance with specific potential action items for discussion or solicit suggestions as to the causes underlying the performance as well as ideas about action items to improve performance.

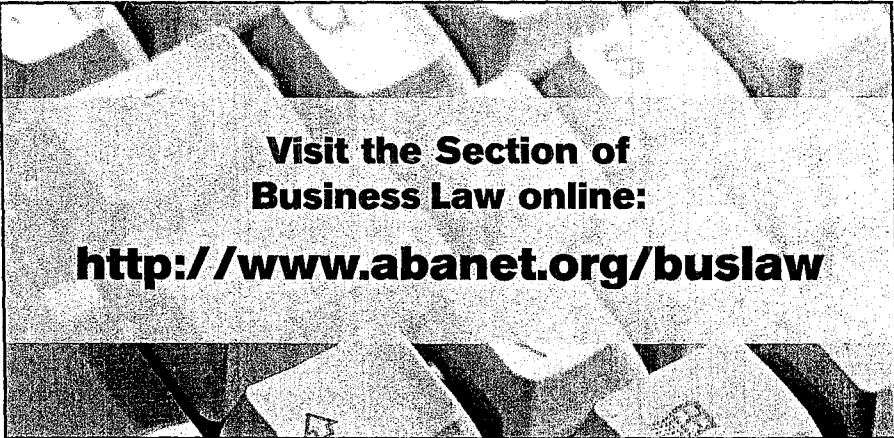
A third potential is to begin a campaign to facilitate and encourage each person in the organization to create a

personal game plan to allow him/her to positively contribute to the organization's diversity goals. Establishing a mechanism to monitor progress on implementing these game plans allows the organization to develop and share with others a set of diversity best practices. That communication, in turn, encourages more individuals to personally contribute to the organization's efforts.

One final suggestion is create a vehicle that allows you to communicate effectively both internally and externally about your diversity efforts. In that way, not only will you be following up on your diversity training, but people will know how and what you are doing on that front.

Do not wait until after the conclusion of the diversity training to decide what the next steps will be. Announcing the effort with a longer term focus on a diversity dialogue underscores its importance, priority and staying power.

Diversity training can be a very effective tool in implementing an organization's diversity agenda. It can also be a tremendous waste of time and effort. To be effective, approach diversity training strategically and include it as an integral part of the organization's continuing dialogue on enhancing the diversity and inclusiveness of the organization. Only then will most people in the organization understand that a personal commitment on their part is a necessary component to the success of the organization's diversity effort. 



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