

By Verná Myers

On Diversity and Inclusion: *What Stage is Your Firm In?*

A law firm's success in building a multicultural organization depends upon the firm's commitment to diversity. Firms that are serious about their commitment to diversity are often at different stages of development, and may learn from firms at more advanced stages.



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As a diversity consultant specializing in private law firms, I have seen that a firm's success in building a multicultural organization is determined by what its leaders believe "diversity" really means. Is it measured in terms of the number of attorneys of

color (i.e., individuals of African, Asian, Latino, or Native American heritage)? Is it about retention? About women?

Some firms have just begun to notice that their attorneys do not reflect the demographics of law schools. Others are distressed by the dwindling numbers of African-American attorneys entering their firms and the many young women who are exiting. Some seek "to do the right thing," while others, especially recently, have received "the letter" — a valued client's demand to know the racial and gender breakdown of attorneys working on their files. To help firms that are serious about self-assessment and institutional change, I offer here four stages, representing the range of understanding and commitment I have witnessed.

Stage 1:

"We've had a small incident. We'd like you to come in, talk to some people and then tell us if this is just an overly sensitive associate or if we have a real problem." A Stage 1 firm is well-intentioned, believes in equal opportunity, and defines diversity solely in terms of race. It may have signed onto a statement supporting diversity

in the profession, but it has taken few, if any, proactive steps. The firm has a few associates of color and perhaps one partner of color. It participates in an occasional minority job fair and may have pulled out all the stops to get a "star" candidate of color who surfaced through regular channels. An overburdened human resources director is my contact, and the firm leadership is only superficially involved.

The lesson here: when bright attorneys of color and women feel the need to speak up, there is a "real problem," and it does not lie with any individual. It is long-standing and embedded in both the organizational culture and society at large.

Stage 2:

"We've had great success hiring attorneys of color, but they don't stay. We want our firm to be welcoming to everyone. We have a few bad apples, but most of our people just need more awareness about diversity. Can you do a two-hour diversity training for all our attorneys?" The Stage 2 firm has a diversity committee focused on recruitment that meets a few times a year. The chair, a partner usually outside of firm management, contacts me. One partner or administrator may look out for women and associates of color, but there are no structural supports. Well-meaning partners explain, "We don't do anything special for people of color or women — or for anyone. I wouldn't want the stigma of special treatment."

A Stage 2 firm defines diversity in terms of race and gender, but limits its analysis to personal attitudes and behavior. The firm has required all their lawyers to undergo a two-hour sexual harassment training that went "pretty well." The

"bad apples have been reprimanded." Hoping to improve the retention of attorneys of color mostly, the diversity committee recommends training to "sensitize" the firm's lawyers. Strangely, the same client will tell me, "Oh, by the way, we had a diversity training ten years ago and it was a nightmare." The Stage 2 firm fails to realize that a two-hour, or even a four-day training will not produce behavioral change without a thorough examination and transformation of the organization's culture and systems.

Stage 3

"We have been at this for years and the problems of retention and insensitivity persist; many of us suffer from backlash and disillusionment. We need a fresh approach." The Stage 3 firm has worked on diversity more or less consistently for perhaps 15 years. Other firms see it as a model. The managing partner or a partner(s) of color has been vocal about diversity. The firm has established outreach and recruitment programs, attended job fairs, created mentor programs and affinity groups, and sponsored diversity training for every attorney. It may have been publicly recognized for creativity in increasing the pool of attorneys of color or supporting part-time work for women.

Nevertheless, its diversity committee, launched several years ago, now rarely meets. While the number of attorneys of color has gone up sharply, many have failed to thrive. In recent years, the firm has made few equity partners of color or women; the few senior attorneys are mostly laterals. Internally, opinion leaders doubt the value of more diversity programs. Associates of color and women continue to cite inequities within the firm,

yet partners cannot accept it because they believe it is a true meritocracy.

With great effort, sincerity and expense over many years, the Stage 3 firm has produced a series of programs but not a deeply transforming process. It needs further analysis of its systems, including a way to hold senior attorneys accountable for implementing change.

Stage 4

"We need your help to assess our obstacles to diversity and devise a plan for systematic change." Or, "Our diversity committee, with the managing partner's support, has a plan to promote a multicultural work environment. Can you facilitate a series of workshops to help our managers build the skills to implement it?" The Stage 4 firm has the following characteristics:

- (a) It understands that building an inclusive workplace requires a long-term cultural change process. Leadership accepts that the firm's culture inevitably reflects the dominant culture in the profession and therefore does not welcome or appreciate difference. It understands that sporadic, uncoordinated diversity programming, spearheaded by the same few dedicated but marginalized individuals, will never profoundly shift entrenched values and norms.
- (b) It defines diversity as both the deep commonalities we all share, and the vital differences of individuals' experiences, rooted in their different identities, including race, gender, religion, sexuality, job category, and age. The firm is willing to listen to individuals from underrepresented groups describe the impact of working in a predominately white, Protestant, male, professional, and heterosexual culture. The diversity process includes staff from all levels.
- (c) It can articulate why diversity is integral to the firm's core ideology, mission, and vision. The firm enthusiastically engages in the process, despite the difficulties, because leadership sees diversity as a resource, not a problem and understands that these efforts will ultimately generate more resources than they consume. Equal opportunity is a core value. The firm believes that excellence, integrity, and client service will be enhanced by its ability to harvest different perspectives, experiences, and work styles.
- (d) It has gathered input from a cross-section of the firm to formulate an ambitious, coordinated, strategic diversity action plan with short-term and long-term goals, and measurable milestones.
- (e) It has visible, proactive senior leadership and has thought creatively about how to encourage and account for their participation. The firm has designated a

core group of attorneys and staff to manage the initiatives' daily operations and keep the entire firm involved.

- (f) It is willing to scrutinize and, if necessary, alter their systems, practices and procedures to align them with their vision of inclusion — including work assignments, evaluations, and compensation systems; training, mentoring, and orientation programs; the location of the firm's outings; and who gets invited to which functions.
- (g) It is willing to persevere, even after making mistakes. The firm understands that good intentions are not enough. Progress is made when individuals become aware of their biases and the impact of their actions on people of different backgrounds. Individuals in the firm feel safe enough to admit what they do not know.

While increasing numbers of corporations are in Stage 4, most law firms are not. One factor: certain structural features common to all law firms. The billable hour is a major impediment. Firms' very thin management structure and support mean all those involved in the initiative are under enormous pressure to be "productive." The flat ownership structure and culture of individualism combine to make it tough to create accountability and change individual behavior. Still, firms are slowly understanding that certain non-billable tasks — like mentoring, training, evaluating, and implementing a diversity effort — are ultimately good for profitability.

Some Stage 4 firms have been at their diversity work for a long time and have learned from earlier mistakes. Some are new to the work but are eager to avoid others' errors. Firms in the other stages seem to hope against hope that an isolated job fair or diversity training will do the trick. Yet, because sporadic efforts fail to deliver substantial change, they can be more destructive than constructive. They trivialize the issue, substitute tokenism for authentic commitment to change, often increase the vulnerability of underrepresented groups, and give naysayers ammunition to denigrate future efforts.

The reality is that truly transforming our profession, and law firms in particular, will call for the best in all of us — a great deal of commitment, enduring patience, fierce optimism, and open hearts.

The Profession addresses the challenge of reconciling our roles as lawyers, colleagues, family members, and citizens. It seeks to identify and illuminate the competing demands these roles entail, and to take a fresh look at how lawyers can lead fully integrated lives in an increasingly complex world.