

THE MID-MARKET REPORT

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Midsize Law Firms Are Looking Beyond Hiring To Promote Diversity In Profession

"Our firm has been trying to do this for years," one midsize firm partner said, "But we can't make a difference without other stakeholders in the community."

By Justin Henry and Christine Charnosky | February 25, 2022



Credit: melita/Adobe Stock

When it comes to diversity and inclusion in the legal profession, law firms have focused on recruiting from a wider net of candidates, resulting in what the National Association for Law Placement called the most diverse summer associate class in 2021 since it began tracking such information.

The percentage of summer associates of color grew by nearly 5 percentage points last year, women made up more than half of all summer associates for the fourth year in a row, and the proportion of LGBTQ associates increased to 8.4%, also the highest representation measured, according to the NALP.

Yet despite recruitment-targeted efforts, the legal profession continues to see disproportionately low numbers of women and minority lawyers in leadership and equity partnership. Legal industry leaders point to a lack of support on either end of the law firm recruitment process.

Namely, the restrictive pathway to obtaining a law degree and the insufficient support from firm leadership once a person is hired tend to have a bottleneck effect on who makes it into partnership and leadership. Women attorneys and attorneys of color make up 48% and 27% of associate positions at firms, respectively, but only 25% and 10% of partners, the NALP's data for 2021 indicate.

As a result, many in the mid-market are asking how can they retain their women and minority lawyers while also leveraging partnerships with higher education institutions to diversify the talent pipeline.

Focus On Retention

Lauren Fenton-Valdivia, principal at Bressler Amery & Ross and chair of the firm's diversity and inclusion committee, said for a long time, the legal profession has been focused on recruitment efforts as a means of increasing diversity.

"We have turned our attention to retention and promotion," she said. "That's not to say recruitment took a back burner. It's more that we were already doing a good job on recruiting diverse individuals. [Now we're asking] what more can we do to retain and promote them."

She said since 2020, the firm's partnership track committee has sat in on year-end reviews of all fifth-year associates and higher so they can start thinking of themselves as members of the firm's partnership, with the aim of promoting more diverse lawyers.

"They start having conversations with practice area leaders and they participate in that attorney's review so there isn't one of these situations where someone says 'well, I didn't know what to do,' where the firm unfortunately let somebody slip through the cracks," Fenton-Valdivia said.

Ken Sharperson, a partner at Weber Gallagher Simpson Stapleton Fires & Newby, who was recently appointed the firm's director of diversity, equity, and inclusion, said a primary concern among women and minority lawyers at firms is "they get to a point where they don't feel they can progress further in the firm."

Sharperson, who is conducting a listening tour of his firm's diverse lawyer population, said many attorneys from underrepresented groups don't feel included in decisions and are overlooked when it comes to rubbing elbows with senior partners who tend to hand work to attorneys with similar backgrounds.

"We've done a pretty good job of bringing in people at the junior level, but we need them to stay," Sharperson said. He said law firms are losing women and attorneys of color to in-house and government positions.

"Law firms have a more conservative culture and for whatever reason have been slower to evolve in this regard," he added. "The problem is those lawyers who weren't retained because of lack of potential to grow are now at corporations. Those are the same lawyers that are coming back and saying you need to make

improvements to your diversity and inclusion.”

Sharperson said the so-called “Great Resignation” that has transpired in the years following the onset of COVID-19 indicates that a growing number of people want to remove themselves from unsatisfactory working conditions. That includes conditions in which their career progression is hampered by inflexible work arrangements.

“The mothers who have the major workload of taking care of kids. Are they being penalized because they can’t make a meeting at 9 a.m. because they have school drop off?” he posed.

Building an Inclusive Talent Pipeline

Many midsize firms are partnering with educational institutions to engage a wider net of students on the path to a career in law at earlier stages in their education.

“Legal education is a very elite degree in the sense that students need the means and the luxury in order to go to law school typically for three years, full time,” said April Barton, dean and professor of law at Duquesne University. “The traditional pathway works for one section of society but it hasn’t been as inclusive as it could possibly be.”

Barton said law schools are becoming more intentional about creating pipeline programs to support law school students from more backgrounds by offsetting prohibitive education expenses.

One of the midsize firms Duquesne has partnered with is Burns White, which has contributed \$10,000 every year for the last four years to help offset students’ LSAT test fees. The firm also provides mentoring opportunities on campus and allows students to take part in summer clerkships.

“The clerkship is a good way to bring diversity into Burns White, but the intent isn’t just to be a Burns White recruitment vehicle,” said Burns White CEO Mary-Jo Rebelo. She contends the contributions to Duquesne students are meant to help the Pittsburgh community as a whole retain diverse legal talent.

“The summer clerkship program gives us an opportunity to get to know them,” she said. “It may turn into a longer term relationship but that is not the objective.”

Bressler Amery & Ross contributes \$1,000 for Penn State students to pay for the LSAT, according to leaders at the firm. Fenton-Valdivia said if students enroll in law school and complete a summer internship with the firm, there’s an additional \$1,000 scholarship component for their first year of law school.

In Nebraska, sixteen law firms, along with the Nebraska State Bar Association, Creighton University School of Law and the University of Nebraska College of Law, have joined together to form the Nebraska Legal Diversity Council (NLDC).

Gretchen McGill, a partner with Dvorak Law Group in Omaha who is on the NLDC executive committee, said what she likes about NLDC is that it’s looking to reach students before law school.

“If we’re only focusing our recruiting efforts at the law school level,” McGill said, “it’s not going to solve the problem. It starts so long before then.”

She said “We need to get diverse populations believing they can be attorneys,” adding that media representation has tended to focus on white male attorneys.

Jeremy Christensen, a partner with Baird Holm in Omaha, has been involved with forming NLDC since the planning stage four to five year ago. Like Dvorak Law Group, Baird Holm will host its most diverse summer associate class this summer, Christensen said, plus it has its most diverse first-year associate class coming in

as well.

Christensen's firm and McGill's firm are two of the founding member organizations that have each committed to active participation in the organization and will be giving a financial commitment of \$10,000 a year for the next three years.

"We need to create a pipeline. We can't just start at law school," he said, echoing McGill's sentiment. "We want more diverse candidates going to law school and then coming to the bar," he said.

Other places in the U.S. have undertaken collaborative initiatives to improve diversity and inclusion within the legal community, but "to our knowledge, the NLDC is the first statewide model to be implemented with the collective involvement of law schools, firms, corporations and the state bar association," Shawntal Mallory, executive director of the NLDC, told Law.com last month.

"Our firm has been trying to do this for years," Christensen said, "But we can't make a difference without other stakeholders in the community."

Richard Moberly, dean at the University of Nebraska College of Law, echoed that sentiment.

"We can move the needle more if we work together," he said. "We brought together a group of people who could be considered competitors to address the failures in our system."

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