



YOU CAN'T CHANGE WHAT YOU CAN'T SEE

Interrupting Racial & Gender Bias in the Legal Profession

EXECUTIVE SUMMARY





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This report was prepared and written for the American Bar Association's Commission on Women in the Profession and the Minority Corporate Counsel Association by Joan C. Williams, Marina Multhaup, Su Li, and Rachel Korn of the Center for Worklife Law at the University of California, Hastings College of the Law.



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Foreword

For decades, the American Bar Association Commission on Women in the Profession (“the Commission”) and the Minority Corporate Counsel Association (“MCCA”) have worked tirelessly to combat gender and racial bias in the legal profession. Nonetheless, statistics on women’s advancement have not changed appreciably over the years. In 2016, the Commission and MCCA partnered with the Center for WorkLife Law at the University of California, Hastings College of the Law to conduct research to understand further law firm and in-house lawyers’ experiences of bias in the workplace. This new research confirms that many of the traditional diversity tools we have relied upon over the years have been ineffective, and the findings have served as the foundation in developing the next generation of diversity tools that you will find in *You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession*.

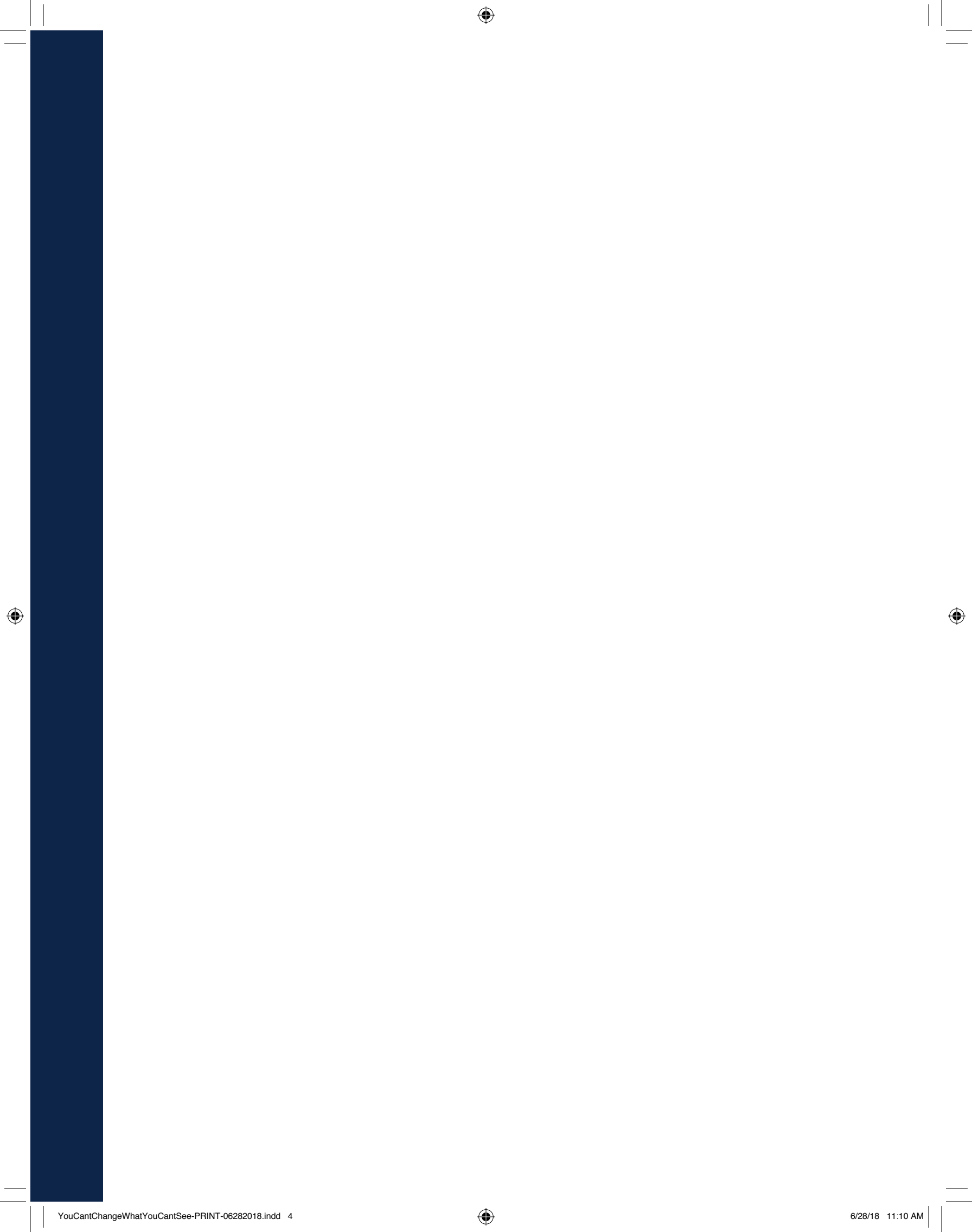
The first part of this research report details four main patterns of gender bias, which validate theories that women lawyers long have believed and feelings they long have held. Prove-It-Again describes the need for women and people of color to work harder to prove themselves. Tightrope illustrates the narrower range of behavior expected of and deemed appropriate for women and people of color, with both groups more likely than white men being treated with disrespect. Maternal Wall describes the well-documented bias against mothers, and finally, Tug of War represents the conflict between members of disadvantaged groups that may result from bias in the environment.

The second part of the research report offers two cutting-edge toolkits, one for law firms and one for in-house departments, containing information for how to interrupt bias in hiring, assignments, performance evaluations, compensation, and sponsorship. Based upon the evidence derived from our research, these bias interrupters are small, simple, and incremental steps that tweak basic business systems and yet produce measurable change. They change the systems, not people.

Considerable time, energy, and money were invested to develop persuasive proof of why we need to take a different approach to diversity issues and to develop the toolkits that can be used to make those changes. Taken together, the survey results serve as a reminder of the importance of the connections we make between individuals. Through sharing, we are reminded that we are not alone in our experiences in the workplace, and that is an important first step in making the work environment more inclusive and welcoming.

Jean Lee, President and CEO
Minority Corporate Counsel Association

Michele Coleman Mayes, Chair, 2014–2017
ABA Commission on Women in the Profession



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Executive Summary

This report is the first of its kind to provide a comprehensive picture of how implicit gender and racial bias—documented in social science for decades—plays out in everyday interactions in legal workplaces and affects basic workplace processes such as hiring and compensation.

In April 2016, the American Bar Association’s Commission on Women in the Profession, the Minority Corporate Counsel Association, and the Center for WorkLife Law at the University of California, Hastings College of the Law launched a survey seeking to understand in-house and law firm lawyers’ experiences of bias in the workplace: 2,827 respondents completed the survey, and 525 respondents included comments.

The survey asked respondents whether they had experienced the patterns of gender and racial bias that have been documented in decades of experimental social psychology studies. In addition, the survey asked whether attorneys had experienced implicit bias in basic workplace processes (hiring, assignments, business development, performance evaluations, promotions, compensation, and support). Also included was a series of questions about sexual harassment.

To examine how bias affects workplace experiences in the legal profession, we compared the reported experiences of women of color, men of color, white women, and white men. This report shares the survey findings and paints a picture of how bias affects law firm and in-house attorneys. All differences discussed in the following text are statistically significant unless otherwise noted.

Women and people of color reported Prove-It-Again (PIA) and Tighrope bias

Prove-It-Again. Women of color, white women, and men of color reported that they have to go “above and beyond” to get the same recognition and respect as their colleagues.

- Women of color reported PIA bias at a higher level than any other group, 35 percentage points higher than white men.
- White women and men of color also reported high levels of PIA bias, 25 percentage points higher than white men.
- Women of color reported that they are held to higher standards than their colleagues at a level 32 percentage points higher than white men.

Mistaken for janitors? Men of color and women of all races receive clear messages that they do not fit with people’s image of a lawyer.

- Women of color reported that they had been mistaken for administrative staff, court personnel, or janitorial staff at a level 50 percentage points higher than white men. This was the largest reported difference in the report.

- White women reported this bias at a level 44 percentage points higher than white men, and men of color reported this bias at a level 23 percentage points higher than white men.

Tightrope. Women of all races reported pressure to behave in feminine ways, including backlash for masculine behaviors and higher loads of non-career-enhancing “office housework.”

- White women reported doing more administrative tasks (such as taking notes) than their colleagues at a level 21 percentage points higher than white men, and women of color reported doing more of this type of office housework at a level 18 percentage points higher than white men.

Significant bias against mothers reported—and against fathers who take parental leave

Maternal Wall. Women of all races reported that they were treated worse after they had children; that is, they were passed over for promotions, given “mommy track” low-quality assignments, demoted or paid less, and/or unfairly disadvantaged for working part-time or with a flexible schedule. Women also observed a double standard between male and female parents.

- White women reported that their commitment or competence was questioned after they had kids at a level 36 percentage points higher than white men. Women of color reported this at a level 29 percentage points higher than white men.

About half of people of color (47% of men of color and 50% of women of color) and 57% of white women agreed that taking family leave would have a negative impact on their career. 42% of white men also agreed, indicating that the flexibility stigma surrounding leave affects all groups, including majority men.

Bias is pervasive throughout lawyers’ work lives

Most of the biggest findings of the survey had to do with bias existing in the basic business systems of attorneys’ workplaces. Women and people of color reported higher levels of bias than white men regarding equal opportunities to:

- Get hired
- Receive fair performance evaluations
- Get mentoring
- Receive high-quality assignments
- Access networking opportunities
- Get paid fairly
- Get promoted

In other words, gender and racial bias was reported in all seven basic workplace processes.

Women of color often reported the highest levels of bias of any group

In almost every workplace process, women of color reported the highest levels of bias. For example:

- Women of color reported that they had equal access to high-quality assignments at a level 28 percentage points lower than white men.
- Women of color reported that they had fair opportunities for promotion at a level 23 percentage points lower than white men.

As a trend throughout the report, we often found that women of color reported the highest levels of bias overall.

Bias in compensation

The gender pay gap in law has received significant media attention, but much less attention has been paid to bias in compensation systems. Large amounts of bias were reported by both white women and women of color, and these were some of the widest gaps in experience described in the report:

- Women of color agreed that their pay is comparable to their colleagues of similar experience and seniority at a level 31 percentage points lower than white men; white women agreed at a level 24 percentage points lower than white men.
- Similarly, when respondents were asked if they get paid LESS than their colleagues of similar experience and skill level, women of color agreed at a level 31 percentage points higher than white men, while white women agreed at a level 24 percentage points higher than white men.

The racial element of the gender pay gap is rarely discussed and demands closer attention.

In another surprising finding, in-house white women reported roughly the same level of compensation bias as their law firm counterparts. With so much attention placed on the partner pay gap, in house is thought to be a more equitable environment for women in terms of pay. These data suggest that may not be the case.

Differences between law firm and in-house lawyers' experiences reported

Women of all races and men of color reported lower levels of bias in house than in law firms, whereas white men reported lower levels of bias in law firms than in house.

Sexual harassment

About 25% of women but only 7% of white men and 11% of men of color, reported that they had encountered unwelcome sexual harassment at work, including unwanted sexual comments, physical contact, and/or romantic advances. Sexist comments, stories, and jokes appear to be widespread in the legal profession: more than 70% of all groups reported encountering these. Finally, about one in eight white

women, and one in ten women of color, reported having lost career opportunities because they rejected sexual advances at work.

Although implicit bias is commonplace, it can be interrupted

Implicit bias stems from common stereotypes. Stereotype *activation* is automatic: we can't stop our brains from making assumptions. But stereotype *application* can be controlled: we can control whether we act on those assumptions. We've distilled that research in our Bias Interrupter Toolkits, available at the end of this report. These Toolkits provide easily implementable, measurable tweaks to existing workplace systems to interrupt racial and gender bias in law firms and in-house departments. Many bias interrupters will help individuals with disabilities, professionals from nonprofessional families ("class migrants"), and introverted men, in addition to leveling the playing field for women and attorneys of color.

Small Steps, Big Change

Bias Interrupters Tools for Success

Incremental steps can improve law firm and in-house diversity in ways that yield well-documented business benefits. Research shows that diverse workgroups perform better and are more committed, innovative, and loyal.¹ Gender-diverse workgroups have higher collective intelligence, which improves the performance of both the group and of the individuals in the group, and leads to better financial performance results.² Racially diverse workgroups consider a broader range of alternatives, make better decisions, and are better at solving problems.³ Bias, if unchecked, affects many different groups: modest or introverted men, LGBTQ people, individuals with disabilities, professionals from nonprofessional backgrounds (class migrants), women, and people of color. We've distilled the huge literature on bias into simple steps that help you and your firm perform better.

We know now that workplaces that view themselves as being highly meritocratic often are *more* biased than other organizations.⁴ Research also shows that the usual responses—one-shot diversity trainings, mentoring, and networking programs—typically don't work.⁵

What holds more promise is a paradigm-changing approach to diversity: bias interrupters are tweaks to basic business systems that are data-driven and can produce measurable change. Bias interrupters change systems, not people.

Printed here are two toolkits, one for law firms and one for in-house departments, with information for how to interrupt bias in the following business systems:

1. Hiring
2. Assignments
3. Performance Evaluations
4. Compensation
5. Sponsorship Best Practice Recommendation

For additional worksheets and information visit BiasInterrupters.org.

Our toolkits take a three-step approach:

1. **Use Metrics:** Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)
2. **Implement Bias Interrupters:** Bias interrupters are small adjustments to your existing business systems. They should not require you to abandon your current systems.
3. **Repeat as Needed:** After implementing bias interrupters, return to your metrics. If they have not improved, you will need to ratchet up to stronger bias interrupters.

Small Steps, Big Change

Bias Interrupters

Tools for Law Firms

Interrupting Bias in Hiring

Tools for Law Firms

The Challenge

When comparing identical resumes, “Jamal” needed eight additional years of experience to be considered as qualified as “Greg,” mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and “Jennifer” was offered \$4,000 less in starting salary than “John.”⁶ Unstructured job interviews do not predict job success,⁷ and judging candidates on “culture fit” can screen out qualified diverse candidates.⁸

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you’ve taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)

Important metrics to analyze:

- Track the candidate pool through the entire hiring process: from initial contact, to resume review, to interviews, to hiring. Analyze where underrepresented groups are falling out of the hiring process.
- Track whether hiring qualifications are waived more often for some groups.
- Track interviewers’ reviews and/or recommendations to ensure they are not consistently rating majority candidates higher than others.

Keep metrics by (1) individual supervising attorney; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the “Identifying Bias in Hiring Worksheet,” available online at biasinterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the “Identifying Bias in Hiring Worksheet” (available at BiasInterrupters.org). Read and distribute it to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Assemble a Diverse Pool

- **Limit referral hiring (“friends of friends”).** If your existing firm is not diverse, hiring from your current employees’ social networks will replicate the lack of diversity. If you use referrals, keep track of the flow of candidates from referrals. If referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Tap diverse networks.** Reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters.
- **Consider candidates from multitier schools.** Don’t limit your search to candidates from Ivy League and top-tier schools. This favors majority candidates from elite backgrounds and hurts people of color and professionals from non-professional backgrounds (class migrants)⁹. Studies show that top students from lower-ranked schools are often similarly successful.¹⁰
- **Get the word out.** If diverse candidates are not applying for your jobs, get the word out that your firm is a great place to work for women and people of color. One company offers public talks by women at their company and writes blog posts, white papers, and social media articles highlighting the women who work there.
- **Change the wording of your job postings.** Using masculine-coded words such as “leader” and “competitive” tends to reduce the number of women who apply.¹¹ Tech alternatives (see [Textio](#)¹² and [Unitive](#)¹³) can help you craft job postings that ensure you attract top talent without discouraging women.
- **Insist on a diverse pool.** If you use a search firm, tell them you expect a diverse pool, not just one or two diverse candidates. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.¹⁴

C. Resume Review

- **Distribute the “Identifying Bias in Hiring Worksheet”** (available at [Bias Interrupters.org](http://BiasInterrupters.org)). Before resumes are reviewed, have reviewers read the worksheet so they are aware of the common forms of bias that can affect the hiring process.
- **Commit to what’s important—and require accountability.** Commit in writing to what qualifications are important, both in entry-level and lateral hiring. When qualifications are waived for a specific candidate, require an explanation of why they are no longer important—and keep track to see for whom requirements are waived.¹⁵

- **Ensure resumes are graded on the same scale.** Establish clear grading rubrics and ensure that everyone grades on the same scale. Consider having each resume reviewed by two different people and average the score.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can artificially disadvantage class migrants. A recent study showed that law firms were less likely to hire a candidate whose interests included “country music” and “pick-up soccer” rather than “classical music” and “sailing”—even though the work and educational experience was exactly the same. Because most people aren’t as aware of class-based bias, communicate why you are removing extracurricular activities from resumes.
- **Avoid inferring family obligations.** Mothers are 79% less likely to be hired than identical candidates without children.¹⁶ Train people not to make inferences about whether someone is committed to the job due to parental status and don’t count “gaps in a resume” as an automatic negative.
- **Try using “blind auditions.”** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review. This allows candidates to be evaluated based solely on their qualifications.

D. Interviews

- **Use structured interviews.** Ask the same list of questions to every person who is interviewed. Ask questions that are directly relevant to the job for which the candidate is applying.¹⁷
- **Ask performance-based questions.** Performance-based questions, or behavioral interview questions (“Tell me about a time you had too many things to do and had to prioritize.”), are a strong predictor of how successful a candidate will be at the job.¹⁸
- **Try behavioral interviewing.**¹⁹ Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews more accurately predict the future performance of a candidate than unstructured interviews.²⁰ Instead of asking “How do you deal with problems with your manager?” say “Describe for me a conflict you had at work with your manager.” When evaluating answers, a good model to follow is STAR²¹: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **Do work-sample screening.** If applicable, ask candidates to provide a sample of the types of tasks they will perform on the job (e.g., ask candidates to write a legal memo for a fictitious client).
- **Develop a consistent rating scale and discount outliers.** Candidates’ answers (or work samples) should be rated on a consistent scale, with ratings for each factor backed up by evidence. Average the scores granted on each relevant criterion and discount outliers.²²
- **If “culture fit” is a criterion for hiring, provide a specific work-relevant definition.** Culture fit can be important, but when it’s misused, it can disadvantage people of color, class migrants, and women.²³ Heuristics such as the “airport test” (Who would I like to get stuck with in an airport?) can be highly exclusionary and not work-relevant. Questions about sports and hobbies may feel

exclusionary to women and to class migrants who did not grow up, for example, playing golf or listening to classical music. Google's work-relevant definition of "culture fit" is a helpful starting point.²⁴

- **"Gaps in a resume" should not mean automatic disqualification.** Give candidates an opportunity to explain gaps by asking about them directly during the interview stage. Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.²⁵
- **Provide candidates and interviewers with a handout detailing expectations.** Develop an "Interview Protocol Sheet" that explains to everyone what's expected from candidates in an interview or use ours, available at [Bias Interrupters.org](http://BiasInterrupters.org). Distribute it to candidates and interviewers for review.
- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.²⁶ (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.²⁷)

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Assignments

Tools for Law Firms

The Challenge

Every workplace has high-profile assignments that are career enhancing (“glamour work”) and low-profile assignments that are beneficial to the organization but not the individual’s career. Research shows that women do more “office housework”²⁸ than men.²⁹ This includes literal housework (ordering lunch), administrative work (scheduling a time to meet), and emotion work (“she’s upset; comfort her”). Misallocation of the glamour work and the office housework is a key reason leadership across the legal profession is still male dominated. Professionals of color (both men and women) also report less access to desirable assignments than do white men.³⁰

- **Glamour work.** More than 80% of white male lawyers but only 53% of women lawyers of color, 59% of white women lawyers, and 63% of male lawyers of color reported the same access to desirable assignments as their colleagues.³¹
- **Office housework.** Almost 50% of white women lawyers and 43% of women lawyers of color reported that at work they more often play administrative roles such as taking notes for a meeting compared to their colleagues. Only 26% of white male lawyers and 20% of male lawyers of color reported this.³²

In law firms, when lawyers become “overburdened” with office housework, it reduces the amount of billable time that they can report, which can hurt their compensation and their career.³³

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. If the glamour work and the office housework aren’t distributed evenly, you won’t be tapping into the full potential of your workforce. Most law firms that use an informal “hey, you!” assignment system end up distributing assignments based on factors other than experience and talent.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.³⁴ The attrition rates for women and especially women of color in law firms are already extremely high, and research suggests that the cost to the firm of attrition per associate is up to \$400,000.³⁵ Law firms cannot afford to fail to address the inequality in assignments.

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some law firms will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. (A “Road Map for Implementation” is available at BiasInterrupters.org.)

1. Use Metrics

A. Identify and Track

The first step is to find out if and where you have a problem.

- What is the office housework and glamour work in your organization?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias is at play?

To do this:

1. Distribute the “Office Housework Survey” (available at BiasInterrupters.org) to your employees to find out who is doing the office housework and how much of their time it takes up.
2. Convene relevant managers (and anyone else who distributes assignments) to identify the glamour work and the lower-profile work in the law firm. Use the “Assignment Typology Worksheet” to create a typology for assignments and the “Protocol” for more details (both available at BiasInterrupters.org).
3. Input the information from the typology meeting into the “Manager Assignment Worksheet” and distribute this to managers (available online at [Bias Interrupters.org](http://BiasInterrupters.org)). Have managers fill out the worksheets and submit them, identifying to whom they assign the glamour work and the lower-profile work.

B. Analyze Metrics

Analyze survey results and worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (veterans, LGBTQ people, individuals with disabilities, etc.).

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervising attorney.

2. Implement Bias Interrupters

A. Office Housework Interrupters

- **Don’t ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.³⁶

- **Hold everyone equally accountable.** “I give it to women because they do it well and the men don’t” is a common sentiment. This dynamic reflects an environment in which men suffer few consequences for doing a poor job on office housework, but women who do a poor job are seen as “prima donnas” or “not team players.” Hold men and women equally accountable for carrying out all assignments properly.
- **Use admins.** If possible, assign office housework tasks to admins (e.g., planning birthday parties, scheduling meetings, ordering lunch).
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks such as ordering lunch and planning parties is an option if admins are unavailable.
- **Shadowing.** Another option for administrative tasks is to assign a more junior person to shadow someone more senior—and take notes.

B. Glamour Work Interrupters

- **Avoid mixed messages.** If your law firm values mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes law firms say they highly value this kind of work—but they don’t. Mixed messages of this kind will negatively affect women and people of color.
- **Conduct a roll-out meeting.** Gather relevant managing and supervising attorneys to introduce the bias interrupters initiative and set expectations. “Key Talking Points for the Roll-Out Meeting” are available at BiasInterrupters.org.
- **Provide a bounceback.** Identify individual supervising attorneys whose glamour work allocation is lopsided. Hold a meeting with that supervisor and bring the problem to his or her attention. Help the supervisor think through why he or she only assigns glamour work to certain people or certain types of people. Work with the supervisor to figure out (1) if the available pool for glamour work assignments is diverse but is not being tapped fully or (2) if only a few people have the requisite skills for glamour work assignments. Read the “Responses to Common Pushback” and “Identifying Bias in Assignments” worksheets (available at BiasInterrupters.org) before the bounceback meetings to prepare. You may have to address low-profile work explicitly at the same time as you address high-profile assignments; this will vary by law firm.

If a diverse pool has the requisite skills . . .

- **Implement a rotation.** Have the supervisor set up a rotation to ensure fair access to plum assignments.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to the supervisor. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Have the supervisor track his or her allocation of glamour work going forward to measure progress. Research shows that accountability matters.³⁷

If the pool is not diverse . . .

- **Revisit the assumption that only one (or very few) employees can handle this assignment.** Is that true, or is the supervisor just more comfortable working with those few people?
- **Analyze how the pool was assembled.** Does the supervisor allocate the glamour work by relying on self-promotion or volunteers? If so, that will often disadvantage women and people of color. Shift to more objective measures to create the pool based on skills and qualifications.

If the above suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool**:

- **Development plan.** Identify what skills or competencies an employee needs to be eligible for the high-profile assignments work and develop a plan to help the employee develop the requisite skills.
- **Succession planning.** Remember that having "bench strength" is important so your department won't be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your organization uses a competency-based system or has a Talent Development Committee or equivalent, use that resource to help develop competencies so career-enhancing assignments can be allocated more fairly.
- **Shadowing.** Have a more junior person shadow a more experienced person during the high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can't expand your pool, **reframe the assignment** so that more people could participate in it. Could you break up the assignment into discrete pieces so more people get the experiences they need?

If nothing else works, **consider a formal assignment system.** Appoint an assignments czar to oversee the distribution of assignments in your organization. See examples of what other law firms have done at BiasInterrupters.org.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don't have a fair allocation of high- and low-profile work, you may need to implement stronger bias interrupters or consider moving to a formal assignment system.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Performance Evaluations

Tools for Law Firms

The Challenge

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.³⁸ Overall rankings also differed by race. Partners graded the white author as having “potential” and being “generally good,” whereas they graded the black author as “average at best.”

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you’ve taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your firm tracks, such as military veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for lawyers who reduce their hours?
- Do patterned differences exist between full-time and part-time employees?

Important metrics to analyze:

- Do your performance evaluations show consistent disparities by demographic group?
- Do women’s ratings fall after they have children? Do employees’ ratings fall after they take parental leave or adopt flexible work arrangements?
- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep metrics by (1) supervising attorney; (2) department; (3) country, if relevant; and (4) the law firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written evaluations and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the “Identifying Bias in Performance Evaluations Worksheet,” available online at BiasInterrupters.org.

A. Empower and Appoint

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the “Identifying Bias in Performance Evaluations Worksheet,” available online at BiasInterrupters.org. Read and distribute.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. Tweak the Evaluation Form

- **Begin with clear and specific performance criteria directly related to job requirements.** Try “He is able to write an effective summary judgment motion under strict deadlines” instead of “He writes well.”
- **Require evidence from the evaluation period that justifies the rating.** Try “In March, she argued X motion in front of Y judge on Z case, answered his questions effectively, and was successful in getting the optimal judgment” instead of “She’s quick on her feet.”
- **Consider performance and potential separately for each candidate.** Performance and potential should be appraised separately. Majority men tend to be judged on potential; others are judged on performance.

Separate personality issues from skill sets for each candidate. Personal style should be appraised separately from skills because a narrower range of behavior often is accepted from women and people of color. For example, women may be labeled “difficult” for doing things that are accepted in majority men.

C. Tweak the Evaluation Process

- **Level the playing field.** Ensure that all candidates know how to promote themselves effectively and send the message that they are expected to do so. Distribute the “Writing an Effective Self-Evaluation Worksheet,” available online at BiasInterrupters.org.
- **Offer alternatives to self-promotion.** Encourage or require supervisors to set up more formal systems for sharing successes, such as a monthly e-mail that lists employees’ accomplishments.
- **Provide a bounceback.** Supervisors whose performance evaluations show persistent bias should receive a bounceback (i.e., someone should talk through the evidence with them).
- **Have bias interrupters play an active role in calibration meetings.** In many law firms and legal departments, the Executive Committee or another body meets

What's a bounceback?

An example: in one organization, when a supervisor's ratings of an underrepresented group deviate dramatically from the mean, the evaluations are returned to the supervisor with the message: either you have an undiagnosed performance problem that requires a Performance Improvement Plan (PIP), or you need to take another look at your evaluations as a group. The organization found that a few people were put on PIPs, but over time, supervisors' ratings of underrepresented groups converged with those of majority men. A subsequent survey found that employees of all demographic groups rated their performance evaluations as equally fair (whereas bias was reported in hiring—and every other business system).

to produce a target distribution of ratings or to cross-calibrate rankings. Have participants read the “Identifying Bias in Performance Evaluations Worksheet” on bias before they meet (available at BiasInterrupters.org). Have a trained bias interrupter in the room.

- **Don't eliminate your performance appraisal system.** Eliminating formal performance evaluation systems and replacing them with feedback on the fly creates conditions for bias to flourish.

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Partner Compensation

Tools for Law Firms

The Challenge

The gender pay gap in law firms has been extensively documented for decades. A 2016 report by Major, Lindsey, and Africa found a 44% pay gap between male and female law firm partners.³⁹ The report also found a 50% difference in origination credit, which many use to explain the pay gap: men earn more money because they bring in more business. Studies show the picture is much more complicated.

- One study found that even when women partners originated similar levels of business as men, they still earned less.⁴⁰
- Another study found that 32% of white women income partners and 36% of women partners of color reported that they had been intimidated, threatened, or bullied out of origination credit.⁴¹
- The same study found that more than 80% of women partners reported being denied their fair share of origination credit in the previous three years.⁴²
- Doesn't everyone think their compensation is unfair? Not to the same degree: a recent survey of lawyers found that male lawyers were about 20% more likely than white women lawyers and 30% more likely than women lawyers of color to say that their pay was comparable to their colleagues of similar experience.⁴³

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women partners of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)
- Are partners disadvantaged for taking parental leave? Are parents or others with caregiving responsibilities excluded from future opportunities?
- Do part-time lawyers receive less than proportionate pay for proportionate work? Are they excluded from future opportunities?

Important metrics to analyze:

- **Compare compensation with a variety of lenses and look for patterns.** Lenses include relationship enhancement, hours and working time revenues, and so forth. Do separate analyses for equity and income partners.
- **Succession.** Analyze who inherits compensation credit and client relationships and how and when the credit moves.
- **Origination and other important forms of credit.** Analyze who gets origination and other important forms of credit, how often it is split, and who does (and does not) split it. If your firm does not provide credit for relationship enhancement, analyze how that rule affects different demographic groups—and consider changing it.
- **Comp adjustments.** Analyze how quickly compensation falls, and by what percentage during a lean period and how quickly compensation rises during times of growth. (When partners lose key clients, majority men often are given more of a runway to recover than other groups.)
- **De-equitization.** Analyze who gets de-equitized.
- **Pitch credit.** Analyze who has opportunities to go on pitches, who plays a speaking role, and who receives origination and other forms of credit from pitches.
- **Lateral partners.** Analyze whether laterals are paid more in relation to their metrics. This is a major factor in defeating diversity efforts at some firms.

Keep metrics by (1) individual supervising lawyer; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

To understand the research and rationale behind the suggested bias interrupters, read the “Identifying Bias in Partner Compensation Worksheet,” available online at BiasInterrupters.org.

A. Find Out What Drives Compensation—and Be Transparent about What You Find

- **Commission an analysis.** Although firms may say they value a broad range of factors, many experts agree that origination and billable hours account for almost all variance in compensation.⁴⁴ Hire a law firm compensation consultant or statistician to find out what factors determine compensation at your firm.
- **Be transparent about what drives compensation.** This is a vital first step to empowering women and people of color to refuse work that does not enhance their compensation and focus on work that positions them to receive higher compensation. Studies show that reducing ambiguity reduces gender bias in negotiations—and law firm compensation often involves negotiation among partners.⁴⁵ If only those “in the know” understand what’s really valued, that will benefit a small in group that typically reflects the demography of your existing equity partnership.
- **Value everything that’s valuable.** Give credit for nonbillable work that is vital to sustaining the long-term health of the firm—including relationship enhancement credit, credit for lawyers who actually do the client’s work, and talent manage-

ment. If the firm says it values mentoring and greater diversity but does not in fact do so, this will disadvantage women and lawyers of color.

B. Establish Clear, Public Rules

- **Establish clear rules governing granting and splitting origination and other valuable forms of credit.** Research suggests that men are more likely to split origination credit with men than with women and that women may get less origination credit than men even when they do a similar amount of work to bring in the client.⁴⁶ Set clear, public rules addressing how origination credit should be split by publishing and publicizing a memo that details how partners should split credit under common scenarios.
- **Establish a formal system of succession planning.** If your firm allows origination credit to be inherited, institute a formal succession planning process. Otherwise, in-group favoritism means that your current pattern of origination credit will be replicated over and over again, with negative consequences for diversity.
- **Pitch credit.** Women attorneys and attorneys of color often report being used as “eye candy”—brought to pitches but then not given a fair share of credit or work that results. Establish rules to ensure this does not occur. The best practice is that if someone does the work for the pitch, he or she should be recognized with credit that accurately reflects his or her role in doing and winning the work.
- **Parental leave.** Counting billables and other metrics as “zero” for the months women (or men) are on parental leave is a violation of the Family and Medical Leave Act, where applicable, and is unfair even where it is not illegal. Instead, annualize based on the average of the months the attorney was at work, allowing for a ramp-up and ramp-down period.
- **Part-time partners.** Compensation for part-time partners should be proportional. Specifics on how to enact proportional compensation depends on which compensation system a law firm uses. See the “Best Practices for Part-Time Partner Compensation” paper for details, available at BiasInterrupters.org.

C. Establish Procedures to Ensure the Perception and Reality of Fairness

- **Institute a low-risk way partners can receive help in disputes over credit.** Set up a way to settle disputes over origination and other forms of credit that lawyers can use without raising eyebrows.
- **Provide templates for partner comp memos—and prohibit pushback.** Some firms provide opportunities for partners and associates to make their case to the compensation committee by writing a compensation memo. If your firm does this, distribute the worksheet (online at BiasInterrupters.org) on how to write an effective compensation memo and set rules and norms to ensure that women and minorities are not penalized for self-promotion. If not, give partners the opportunity to provide evidence about their work: research shows that women’s successes tend to be discounted and their mistakes remembered longer than men’s.
- **Institute quality control over how compensation is communicated to partners.** Design a structured system for communicating with partners to explain what factors went into determining their compensation.

- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.⁴⁷ (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.⁴⁸)
- **Have a bias interrupter at meetings where compensation is set.** This is a person who has been trained to spot the kinds of bias that commonly arise.
- **Training.** Make sure that your compensation committee, and anyone else involved in setting compensation, knows how implicit bias commonly plays out in law firm partner compensation and how to interrupt that bias. Read and distribute the “Identifying Bias in Partner Compensation Worksheet” (available at BiasInterrupters.org).

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the compensation process.
- **Use an iterative process** until your metrics improve.

Small Steps, Big Change

Bias Interrupters

Tools for In-House Departments

Interrupting Bias in Hiring

Tools for In-House Departments

The Challenge:

When comparing identical resumes, “Jamal” needed eight additional years of experience to be considered as qualified as “Greg,” mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and “Jennifer” was offered \$4,000 less in starting salary than “John.”⁴⁹ Unstructured job interviews do not predict job success,⁵⁰ and judging candidates on “culture fit” can screen out qualified diverse candidates.⁵¹

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you’ve taken.

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your in-house department, identify what’s feasible.

Whether metrics are made public will vary from company to company and from metric to metric.

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your department/company tracks, such as veterans, LGBTQ people, etc.)

Important metrics to analyze:

- The goal is to track the candidate pool through the entire hiring process—from initial contact, to resume review, to interviews, to hiring—and then to analyze where underrepresented groups are falling out of the hiring process. How much you can track will depend on how your company’s systems are set up, as will the extent to which you will need help from HR.
- Track whether hiring qualifications are waived more often for some groups. You may be able to do this only for those parts of the hiring process that are done at a departmental level, such as final-round interviews.
- Track interviewers’ reviews and recommendations to look for demographic patterns. Again, your department’s ability to do this will depend on what is handled at a departmental level, or your HR department may be willing to do this tracking.

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments are all different and vary in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the “Identifying Bias in Hiring Worksheet,” available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the “Identifying Bias in Hiring Worksheet,” available online at BiasInterrupters.org, and distribute this to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Tips to Help You Assemble a Diverse Pool

- **If your department hires by referral, keep track of the candidate flow from referrals.** Hiring from current employees’ social networks may well replicate lack of diversity if your department is not diverse. If your analysis finds that referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Recruit where diverse candidates are.** If your department handles recruiting, make sure to reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters. If your department does not do recruiting, consider asking the people in charge to do more targeted recruitment.
- **If recruitment happens mostly at law schools, consider candidates from multi-tier schools.** Don’t limit your search to candidates from Ivy League and top-tier schools. This practice favors majority candidates from elite backgrounds and hurts people of color and professionals from nonprofessional backgrounds (class migrants).⁵² If another department handles recruiting, let them know that your department would like to consider candidates from a broader range of law schools.
- **If your department writes its own job postings, make sure you are not using language that has been shown to decrease the number of women applicants** (words such as *competitive* or *ambitious*). If HR is in charge of the job postings, suggest that they review job posts in the same way. Tech companies such as Textio and Unitive can help.

- **Insist on a diverse pool.** If HR creates a pool for your department, tell them that you expect the pool to be diverse. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.⁵³ If HR does not present a diverse pool, try to figure out where the lack of diversity is coming from. Is HR weeding out the diverse candidates, or are the jobs not attracting diverse candidates?

C. Interrupting Bias While Reviewing Resumes

If your in-house department conducts the initial resume screening, use the following bias interrupters. If HR does the initial screening, encourage them to implement the following tips to ensure that your department receives the most qualified candidates.

- **Distribute the “Identifying Bias in Hiring Worksheet” before resumes are reviewed** (available at BiasInterrupters.org) so reviewers are aware of the common forms of bias that can affect the hiring process.
- **If candidates’ resumes are reviewed by your department, commit to what qualifications are important—and require accountability.** When qualifications are waived for a specific candidate, require an explanation of why the qualification at issue is no longer important—and keep track to see for whom requirements are waived.⁵⁴ If HR reviews the resumes, give HR a clear list of the qualifications your department is seeking.
- **Establish clear grading rubrics and ensure that all resumes are graded on the same scale.** If possible, have each resume reviewed by two different people and average the scores. If HR reviews resumes, encourage them to review resumes based on the rubric that you provide to them.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can favor elite majority candidates.⁵⁵ Remove extracurriculars from resumes before you review them or ask HR to do this.
- **Watch out for Maternal Wall bias.** Mothers are 79% less likely to be hired than an identical candidate without children.⁵⁶ Train people who review resumes not to make inferences about whether someone is committed to the job due to parental status. Instruct them not to count “gaps in a resume” as an automatic negative. If HR reviews resumes, ask them to do the same.
- **Try using “blind auditions.”** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review—or ask HR to do it.

D. Controlling Bias in the Interview Process

- **Ask the same questions to every person you interview.** Come up with a set list of questions you will ask each candidate and ask them in the same order to each person. Ask questions that are directly relevant to the job for which the candidate is applying.⁵⁷
- **Ask performance-based, work-relevant questions.** Performance-based questions, or behavioral interview questions (“Tell me about a time you had too many things to do and had to prioritize.”), are a strong predictor of how successful a

candidate will be on the job.⁵⁸ Ask questions that are directly relevant to situations that arise in your department.

- **Require a work sample.** If applicable, ask candidates to demonstrate the skills they will need on the job (e.g., ask candidates to write an advisory letter to the sales team about a new product.)
- **Standardize the interview evaluation process.** Develop a consistent rating scale for candidates' answers and work samples. Each rating should be backed up with evidence. Average the scores granted on each relevant criterion and discount outliers.⁵⁹
- **Try behavioral interviewing.**⁶⁰ Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews can more accurately predict the future performance of a candidate than unstructured interviews.⁶¹ Instead of asking "How do you deal with problems with your manager?" say "Describe for me a conflict you had at work with your manager." When evaluating answers, a good model to follow is STAR⁶²: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **If you use culture fit, do so carefully.** Using culture fit as a hiring criterion can thwart diversity efforts.⁶³ Culture fit ("Would I like to get stuck in an airport with this candidate?") can be a powerful force for reproducing the current makeup of the organization when it's misused.⁶⁴ Questions about sports and hobbies may feel exclusionary to women and to class migrants who did not grow up playing golf or listening to classical music. If culture fit is a criterion for hiring, provide a specific work-relevant definition. Google's work-relevant definition of culture fit is a helpful starting point.⁶⁵
- **Ask directly about "gaps in a resume."** Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.⁶⁶ Instruct your interviewing team to give, in a neutral and nonjudgmental fashion, candidates the opportunity to explain gaps in their resumes.
- **Be transparent to applicants about what you're seeking.** Provide candidates and interviewers with a handout that explains to everyone what's expected from candidates in an interview. Distribute it to candidates and interviewers for review so everyone is on the same page about what your in-house department is seeking. An example "Interview Protocol Sheet" is available at BiasInterrupters.org.
- **Don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.⁶⁷ (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.⁶⁸)

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Assignments

Tools for In-House Departments

The Challenge

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. A level playing field requires that both the glamour work (career-enhancing assignments) and the office housework (the less high-profile and back-office work) are distributed fairly. If your department uses an informal “hey, you!” assignment system to distribute assignments, you may end up inadvertently distributing assignments in an inequitable fashion.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.⁶⁹

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some in-house departments will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. This will depend on the size of your in-house department and how work is currently assigned.

1. Use Metrics

A. Identify and Track

For each metric, examine:

- What is the office housework and glamour work in your department?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias at play?

Important metrics to analyze:

1. Distribute an office housework survey to members of your department to find out who is doing the office housework and how much of their time it requires. Create your own survey or use ours, available at BiasInterrupters.org.
2. Convene relevant managers (and anyone else who distributes assignments) to identify what is the glamour work and what is the lower-profile work in the department. Worksheets and protocols to help you are available online at BiasInterrupters.org.

3. Once you have identified what the glamour work is in your department, ask managers to report which employees have been doing the glamour work. Worksheets are also available at BiasInterrupters.org.

B. Analyze Metrics

Analyze office housework survey results and glamour worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (e.g., veterans, LGBTQ people, individuals with disabilities). (This will also depend on the size of your in-house department. If there are only one or two people in a category, the metric won't be scientifically viable.)

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervisor.

2. Implement Bias Interrupters

Because every in-house department is different and varies so much in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

A. Office Housework Interrupters

- **Don't ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.⁷⁰
- **Hold everyone equally accountable.** "I give it to women because they do it well—men don't." This dynamic reflects an environment in which men suffer few consequences for doing a poor job on less glamorous assignments and women who do the same are faulted as "not being team players."
- **Use admins.** Assign office housework tasks (e.g., planning birthday parties, scheduling meetings, ordering lunch) to admins if your department has enough admin support to do so.
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks (e.g., ordering lunch and planning parties) is also an option if admins are unavailable, making it a good option for in-house departments.
- **Shadowing.** Another option in larger departments is to assign a more junior person to shadow someone more senior—and to do administrative tasks such as taking notes.

B. Glamour Work Interrupters

- **Value what's valuable.** If your department values such things as mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes

companies say they highly value this kind of work—but they don't. Mixed messages of this kind will negatively affect women and people of color. If your department doesn't have complete control over promotions and raises, work with relevant departments to ensure that communicated values are being rewarded appropriately. When members of your in-house department take on diversity work, make sure they have suitable staff support.

- **Announce your goals of equitable assignments.** Gather your team (or the members of your team who distribute assignments) to introduce the bias interrupters initiative and set expectations. Key talking points for the roll-out meeting are available online at BiasInterrupters.org.
- **Provide a bounceback.** If your metrics reveal that some members of your department distribute assignments inequitably, hold a bounceback meeting. Help the person in question think through why he or she assigns glamour work to certain people or certain types of people. Work with the person to figure out whether (1) the available pool for glamour work assignments is diverse but is not being tapped fully or whether (2) only a few people have the requisite skills for glamour work assignments. Use the “Responses to Common Pushback” and “Identifying Bias in Assignments” worksheets (available at www.BiasInterrupters.org) to prepare for bounceback meetings.

If a diverse pool has the requisite skills . . .

- **Implement a rotation.** Set up a system where plum assignments are rotated between qualified employees.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to whomever distributes assignments. Suggest or require anyone handing out plum assignments to review the list of qualified legal professionals before making a decision. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Require people handing out assignments to keep track of who gets plum assignments. Research shows that accountability matters.⁷¹

If the pool is not diverse . . .

- **Revisit your assumptions.** Can only one (or very few) employees handle this type of assignment, or is it just that you feel more comfortable working with those few people?
- **Revisit how the pool was assembled.** When access to career-enhancing assignments depends on “go-getters” who ask for them, women, people of color, and class migrants may be disadvantaged because self-promotion is less acceptable to them or less accepted when they do it.

If these suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool**. Small in-house departments may have to find creative ways to do this.

- **Development plan.** For the attorneys or other legal professionals who aren't yet able to handle the plum assignments, what skills would they need to be eligible? Identify those skills and institute a development plan.

- **Succession planning.** Remember that having “bench strength” is important so that your department won’t be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your company has a Talent Development Committee or professional development resources, use this resource to help your legal professionals develop the skills they need to handle plum assignments.
- **Shadowing.** Have a more junior person shadow a more experienced person during a high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can’t expand your pool, reframe the assignment. Can you break up the assignment into discrete pieces so more people can participate and get the experiences they need?

If nothing else works, consider a formal assignment system.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don’t have a fair allocation of high- and low-profile work,** you may need to implement stronger bias interrupters or consider moving to a formal assignment system.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Performance Evaluations

Tools for In-House Departments

The Challenge

Bias in performance evaluations has been well documented for decades.⁷²

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.⁷³ Overall rankings also differed by race. Partners graded the white author as having “potential” and being “generally good,” whereas they graded the black author as “average at best.”

The problem isn’t limited to law firms. One informal study in tech revealed that 66% of women’s performance reviews but only 1% of men’s reviews contained negative personality criticism.⁷⁴ Bias in the evaluation process stretches across industries.

The Solution: A Three-Step Approach

1. Use Metrics

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your department, identify which metrics you are able to track.

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your company tracks, such as veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for employees who reduce their hours?
- Do patterned differences exist between full-time and part-time lawyers and other legal professionals?

Important metrics to analyze:

- Do your performance evaluations show consistent disparities by demographic group?
- Do women’s ratings fall after they have children? Do ratings fall after professionals take parental leave or adopt flexible work arrangements?

- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments vary so much in size and structure, not all interrupters will be relevant to every company. Also, some interrupters will not be feasible, depending on how much of the hiring process is done by the in-house department versus HR. Consider this as a menu.

To understand the research and rationale behind the suggested bias interrupters, read the “Identifying Bias in Performance Evaluations Worksheet,” available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the “Identifying Bias in Performance Evaluations Worksheet,” available at BiasInterrupters.org, and distribute it to those involved in the evaluation process.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. Tips for Tweaking the Evaluation Form

Many in-house departments do not have control over their performance evaluation forms, so some of these suggestions will not be feasible.

- **Begin with clear and specific performance criteria directly related to job requirements.** Try “He is able to write clear memos to leadership that accurately portray the legal situations at hand” instead of “He writes well.”
- **Instruct reviewers to provide evidence to justify their rating and hold them accountable.** Global ratings, with no specifics to back them up, are a recipe for bias and do not provide constructive advice to the employee being reviewed.
- **Ensure that the evidence is from the evaluation period.** The evaluation form should make it clear that a mistake an employee made two years ago isn’t acceptable evidence for a poor rating today.
- **Separate discussions of potential and performance.** There is a tendency for majority men to be judged on potential and others to be judged on performance.
- **Separate personality issues from skill sets.** A narrower range of behavior often is accepted from women and people of color than from majority men.

C. Tips for Tweaking the Evaluation Process

- **Help everyone effectively advocate for themselves.** Distribute the “Writing an Effective Self-Evaluation,” available online at BiasInterrupters.org.
- **If the evaluation process requires self-promotion, offer alternatives.** Set up more formal systems for sharing successes within your in-house department, such as a monthly e-mail that lists employees’ accomplishments.
- **Provide a bounceback.** If possible, ask HR for an analysis (or do your own) to ensure that individual supervisors’ reviews do not show bias toward or against any particular group. If they do, hold a meeting with that supervisor to help the person in question think through why certain types of people are getting lower performance evaluations. Work with the supervisor to figure out whether (1) the individuals in question are having performance problems and should be put on Performance Improvement Plans or whether (2) the supervisor should reexamine how employees are being evaluated.
- **Have bias interrupters play an active role.** If your in-house department holds calibration meetings, make sure there is a bias interrupter in the room to spot and correct any instances of bias. If a bias interrupter can’t be in the room, have participants read the “Identifying Bias in Performance Evaluations Worksheet” before they meet, available online at BiasInterrupters.org.
- **Don’t eliminate your performance appraisal system.** To the extent that you have a say in the HR operations in your company, encourage your company not to eliminate formal performance appraisal systems. Informal, on the fly performance evaluation systems are becoming more popular, but they have a tendency to reproduce patterns of bias.

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don’t see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Compensation

Tools for In-House Departments

The Challenge

The in-house gender pay gap has not been well studied, but a 2017 report from the Association of Corporate Counsel described a “dramatic” gender pay disparity based on a survey taken by 1,800 in-house counsel. The report found that there is a higher proportion of men in six of seven salary bands above \$199,000—yet only 8% of male respondents believed that a pay gap existed.⁷⁵

Interrupting bias in compensation for in-house departments can be tricky because decisions and policies around compensation typically are made at the company level, but there are steps your department can take to begin to address the problem.

The Solution

The following recommendations can be implemented at the departmental level to reduce bias in compensation.

- **Communicate your organization’s compensation strategy.** If only those “in the know” understand what’s really valued, that will only benefit a small in group.
- **When hiring, don’t ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.⁷⁶ (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.⁷⁷)
- **Read and distribute the “Identifying Bias in Compensation Worksheet” to anyone involved in compensation decisions in your department** (available online at BiasInterrupters.org).
- **Obtain surveys and benchmarking data at regular intervals.** Assess whether compensation in your in-house department is competitive with the relevant market. SHRM and similar organizations provide guidance to help you choose reputable compensation surveys and benchmarking data. Typically these data are behind a pay wall.
- **Encourage HR to implement pay equity audits under the direction of the legal department or outside lawyers to maximize the chance that the data collected is not discoverable under attorney–client privilege.**
- **When pay disparity is discovered, work with HR or the equivalent department to address the disparity within a reasonable period of time.**
- **Institute a low-risk way people can get help in disputes over compensation.** Set up a way to settle disputes over compensation that lawyers and legal professionals can use without raising eyebrows.

Best Practice: Sponsorship

Based on Ricardo Anzaldúa's MetLife Sponsorship Program

These Best Practice recommendations are based on conversations with Ricardo Anzaldúa, GC of MetLife, who implemented a similar program in his department.

Identify top talent. Create a system that controls for unconscious bias to identify top talent (including nondiverse talent) to defeat arguments that the program is designed to unfairly advantage or disadvantage particular groups. To identify top talent early, MetLife used existing talent-identifying tools and introduced survey techniques to control for unconscious bias. Make sure that your system:

- Draws input from many different sources (not just managers; also include clients, peers, subordinates, etc.)
- Seeks assessments of both performance and potential from varying perspectives

Pair each top-talent candidate with a trained senior-level sponsor who is held accountable.

- Tie effective sponsorship with manager performance evaluations, compensation, and ability to be promoted.
- To ensure that sponsorship does not come to be regarded as a risk of being considered a poor performer with little reward, either (1) enlist *all* officer-level managers to be sponsors or (2) create upside rewards available only to effective sponsors. (Note: enlisting all managers to be sponsors is simpler and helps get buy-in to the program.)
- Create and inculcate leadership competencies for managers that they can also use to advance.
- All top talent should be paired with sponsors, but pair diverse top-talent candidates with senior management.
- Make sure each protégé has a *mentor* (preferably not the sponsor).

Develop goals and milestones for protégés.

- Each sponsor-protégé pair creates a mutually agreed-upon career goal that can be accomplished in three to five years.
- Each sponsor creates a development plan that includes milestones along the way (opportunities and experiences needed to accomplish the career goal). Milestones may include presentations, managing/leading a team, communication training, leading a significant project (e.g., transaction, litigation, regulatory examination), and executive presence coaching.

Create action learning teams (ALTs).

- Create small teams of protégés and sponsors (pair sponsors with different groups of protégés).
- Give ALTs senior-management-level problems and task them with formulating, in three to six months, written proposals to solve the issues, including how to involve non-legal resources.
- Bring in SMEs to facilitate the more technical aspects of specific problems.
- At various points in the process, ALTs should brief senior management on the status of their work.

Bake sponsorship and ALTs into existing talent development systems, performance evaluations systems, and HR processes.

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About the ABA Commission on Women in the Profession

As a national voice for women lawyers, the ABA Commission on Women in the Profession forges a new and better profession that ensures that women have equal opportunities for professional growth and advancement commensurate with their male counterparts. It was created in 1987 to assess the status of women in the legal profession and to identify barriers to their advancement. Hillary Rodham Clinton, the first chair of the commission, issued a groundbreaking report in 1988 showing that women lawyers were not advancing at a satisfactory rate.

Now entering its fourth decade, the commission not only reports the challenges that women lawyers face, it also brings about positive change in the legal workplace through such efforts as its Grit Project, Women of Color Research Initiative, Bias Interrupters Project, and the Margaret Brent Women Lawyers of Achievement Awards. Drawing upon the expertise and diverse backgrounds of its 12 members, who are appointed by the ABA president, the commission develops programs, policies, and publications to advance and assist women lawyers in public and private practice, the judiciary, and academia.

For more information, visit www.americanbar.org/women.

About the Minority Corporate Counsel Association (MCCA)

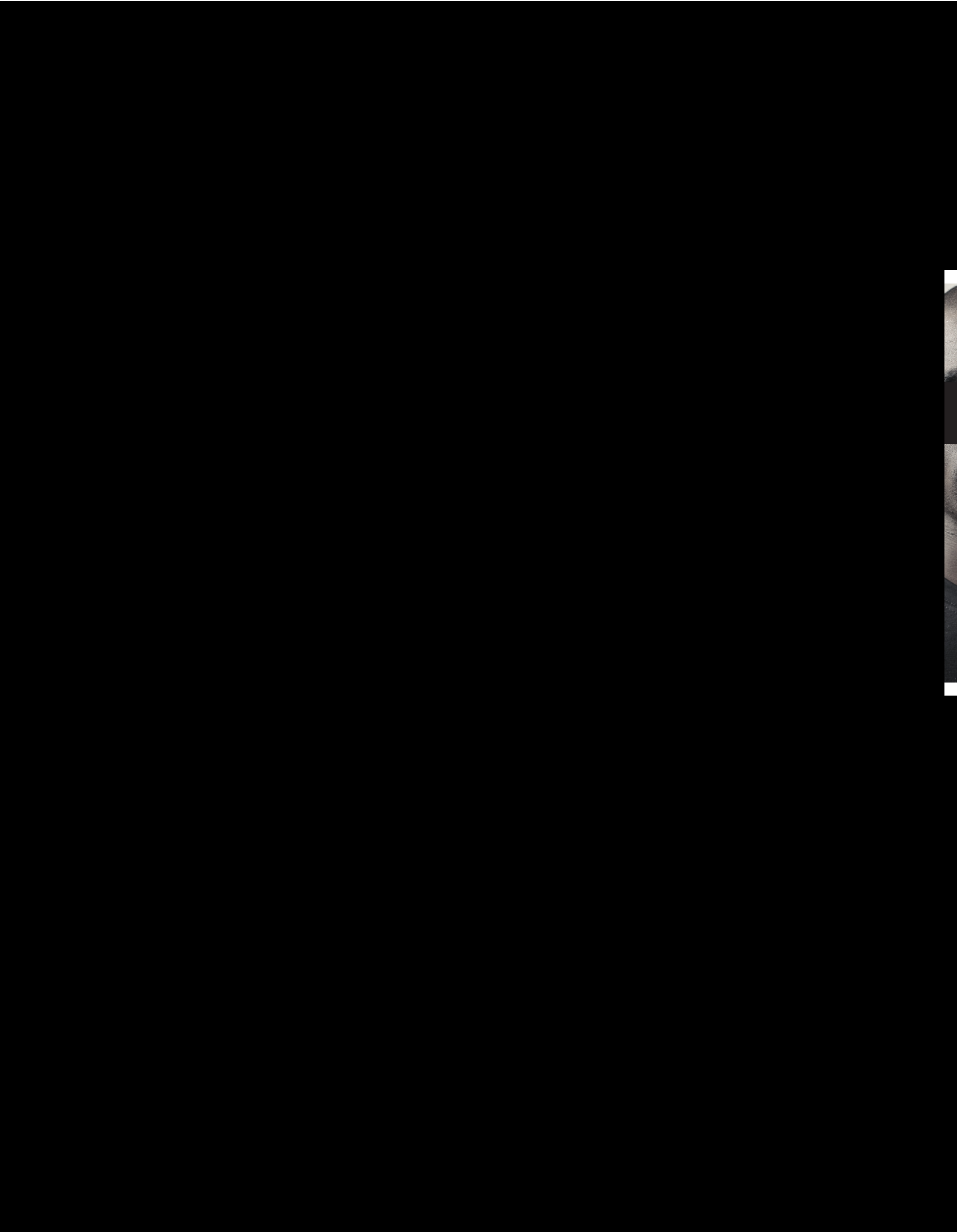
The preeminent voice on diversity and inclusion issues in the legal profession, MCCA is committed to advancing the hiring, retention and promotion of diverse lawyers in law departments and law firms by providing research, best practices, professional development and training, and pipeline initiatives.

MCCA's groundbreaking research and innovative training and professional development programs highlight best practices and identify the most significant diversity and inclusion challenges facing the legal community. MCCA takes an inclusive approach to the definition of "diversity" including race and ethnicity, gender, sexual orientation, disability status and generational differences.

Since MCCA's founding 20 years ago, it has been recognized and honored by the Association of Corporate Counsel, the National LGBT Bar Association, the National Minority Business Council, Inc. and the U.S. Equal Employment Opportunity Commission, among others. MCCA's vision, "To make the next generation of legal leaders as diverse as the world we live in," is what drives the organization and our passionate and committed partners.

For more information, visit www.mcca.com.





LEFT OUT *and* LEFT BEHIND



The Hurdles, Hassles, and
Heartaches of Achieving Long-Term
Legal Careers for Women of Color

By Destiny Peery, Paulette Brown, and Eileen Letts

LEFT OUT *and* LEFT BEHIND

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Preface

Frequently when women's issues are discussed, researched, and/or analyzed, they do not always take into account additional and separate issues that may be faced by women of color. When it was learned that then-ABA president Hilarie Bass would have as one of her primary initiatives a study and research based on the long-term careers of women in law, it occurred to us that the experiences of women of color could be different. After all, we could within minutes identify approximately 90 percent of the women of color practicing in firms more than 30 years. This is not a good thing.

Women face numerous challenges in the practice of law, and they do not necessarily lessen based on longevity. We were not only pleased to learn about the study but also that Roberta (Bobbi) Liebenberg and Stephanie Scharf would lead President Bass's initiative. We know there are additional challenges experienced by women of color because the layer of race compounds gender bias. It was important to capture data on all women and to simultaneously distinguish them.

It was the intent to conduct a study similar to the primary study, but finding women of color to participate who had been practicing law more than 20 years, particularly in person, was analogous to finding women of color who are equity partners in law firms. The paucity of women of color from whom we could draw for this parallel study was palpable. In the end, we were able to have 35 women of color participate in person and 68 participate via an online survey.

As imagined, there were shared experiences of all women and additional challenges for women of color. While this was not necessarily surprising, we were disappointed to learn what we believed is true. The key question is, how do we channel that disappointment to effectuate a different result than one that has been constant for more than 20 years?

It is said that research based on hard data cannot be denied. When there are not enough women of color to collect data that is statistically significant, it leaves the door open for doubting and excuses. There is one statistic, however, that has not changed over the course of the past 20 years: women of color represent approximately 2 percent of all equity partners at large law firms. That 2020 statistic combined with anecdotal information collected in the study is cause for sufficient alarm as is the mere fact that there were not enough women of color to conduct a fulsome analysis.

In looking at the data we found that while there are few women of color in the ranks of equity partner, those who stay are not necessarily staying because of job fulfillment. Many stay for reasons that relate to their culture and financial obligations. The study results are also disturbing because many women of color want to leave the profession because they see the disparity between themselves and their white counterparts but do not see viable alternatives to their current situation. Those who do enjoy the work in their current environment and being a lawyer nevertheless view the playing field as not equal.

Change is necessary and there is an urgency of now. As this research, led by Dr. Destiny Peery informs us, there is no luxury of incremental steps. Notwithstanding the bits of progress women have made overall, biases continue to exist, and women of color are more inclined to be subjected to both implicit and explicit bias. Firm culture must change to effectuate the change required.

As the study outlines the problems, it also discusses solutions. First and foremost, there must be an acknowledgment that a problem exists. Firms must look at their internal structures and historical data because to effectuate change there must be an understanding, eyes wide open of barriers that have been created for women of color. It is incumbent on those leading the firms to lead this effort and apply standards for accountability. Women of color should not only be treated as numbers to temporarily enhance firm wide statistics, but also credited for the value they add to the firm and practice of law.

We ask that this study not be read and then put on a shelf to be picked up five years from now and “surprisingly” discover nothing has changed. This study provides some answers to the questions about the state of women of color in the profession and if used to its fullest extent will assist in the change that is urgently needed now.



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Foreword on Behalf of the American Bar Association

As 2017-2018 President of the American Bar Association who founded the ABA Initiative on Achieving Long-Term Careers for Women in Law, and as Co-Chairs of the Initiative, we are delighted to introduce the second national study conducted by the Initiative: *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color*.

There has been far too little progress in addressing the everyday work experiences and challenges faced by women lawyers of color due to the unique double bind of gender and race. In 2006 and 2012, the ABA Commission on Women in the Profession published seminal studies, *Visible Invisibility: Women of Color in Law Firms* and in *Fortune 500 Legal Departments*.

Despite the fact that women of color now comprise almost 15% of all associates, the percentage of women of color partners has remained stuck below 4%. Equally sobering is that women of color have the highest rate of attrition from law firms as they continue to face firm cultures where their efforts and contributions are neither sufficiently recognized nor rewarded.

Left Out and Left Behind fills a critical gap, offering empirical data and thoughtful discussion about what it means to be a woman lawyer of color -- the general experience of practicing law; how work, family, and personal dynamics influence career trajectories; the barriers that women of color confront not simply on an occasional basis but throughout their careers, even after achieving a level of success; and the factors that either drive women of color out of the profession or encourage them to stay. This study is a must-read given the large number of senior women of color participants whose experiences are so candidly reflected in this report.

We are fortunate that *Left Out and Left Behind* was designed, implemented and analyzed by a unusually talented team. Destiny Peery, an accomplished social scientist specializing in diversity and the legal profession, created the research strategy and research design, implemented a series of focus group sessions across the country, conducted follow-up interviews, organized the data for quantitative and qualitative analysis, and drafted the final report. Paulette Brown and Eileen Letts, well known for their advocacy for diversity in the profession, were essential advisors in developing the goals and strategy of *Left Out and Left Behind*, worked through their national networks so that a large number of senior women lawyers of color participated in the study, reviewed drafts, and added their ideas and experiences to greatly enhance the depth and scope of the final report. Their contributions were invaluable.

We encourage all members of the profession to read this special report to understand how women lawyers of color experience the everyday practice of law. We ask that

you reflect with open minds about how best to move forward with better workplace policies and practices, which will encourage more effective sponsorship and mentoring, more equitable promotion and compensation decisions, and greater access to business development opportunities for women attorneys of color. This is not only the right thing to do, it is a business imperative. It is also the best way to ensure that the legal profession will have both the depth and breadth of well trained and talented diverse lawyers to serve the very large number and range of clients that need legal services, and enable all lawyers to thrive without regard to color or gender.



Hilarie Bass
Former President
American Bar Association,
2017-2018



Roberta D. Liebenberg and Stephanie Scharf
Co-Chairs, 2017-2020,
Initiative on Achieving Long-Term Careers
for Women in Law

Introduction

“Law firms in recent years have appropriately expanded the scope of their diversity efforts from recruiting to also focus on retention and advancement of lawyers of color and women. On the surface, it seems like we are headed in the right direction—that is, until we take a closer look at one particular group of lawyers located at the intersection of race and gender: women of color.”

—Paulette Brown and Arin Reeves in *Visible Invisibility: Women of Color in Law Firms (2006)*¹

About 14 years ago, the American Bar Association’s (ABA) Commission on Women in the Profession (the Commission) published a landmark study on the experiences of women of color in law firms,² and the study’s authors reflected on the movement by law firms and the legal profession to improve conditions for women that had largely missed women of color. While we have continued to see increased efforts by law firms and the legal profession at large to address the continued challenges faced by women and diverse attorneys since 2006, relatively little has changed in terms of either the representation or the lived experiences of women and diverse attorneys in the profession. Bar associations and scholars have systematically collected data on the representation and status of women and people of color in the legal profession for over a decade,³ and the data are clear; women and people of color continue to be underrepresented in the legal profession, particularly in the most senior roles.⁴ And the narratives about their experiences highlight persistent barriers to advancement. Further, the pattern of attrition as women advance through their careers in law has been a topic of discussion of increasing interest,⁵ as the profession asks why women continue to leave the profession,⁶ particularly law firms. But the increased interest in the career trajectories of women and their decisions to leave the profession has not given sufficient attention to the ways in which the experiences of women of color may differ from the experiences reported for women in general, which have largely reflected the experiences of white women.

The ABA’s *Visible Invisibility* study, which is still cited as the foundational study in discussions about women of color in the legal profession, represents one of relatively few studies specifically aimed at capturing and addressing the experiences of women of color in law. This study documented that women of color tend to fare worse than white men and women as well as men of color in law firms.⁷ As noted in that study, the data we most consistently see reported simply give us the numbers showing the absence of and higher attrition for women of color, but those numbers alone do not reveal the more nuanced story of why women of color make the career decisions they do. The present study set out

to capture the stories that are often missing from the discussion about women’s experiences in law. Specifically, it was designed to give voice to the decisions and decision-making processes that women of color in particular engage in as they navigate their careers, including whether they consider leaving the profession and why they decide to stay or go.

What follows is an overview of existing research on women of color in the legal profession, as well as discussion of how this study fits into the ABA Commission’s *Achieving Long-Term Careers for Women* initiative and what it contributes to the broader literature on women of color in law. Then, the report turns to the present study and the recommendations that flow from what the present data reflects about the experiences of women of color in the legal profession today.

Research on Women of Color in Law

The published research on women of color in the legal profession begins with the ABA’s *Visible Invisibility: Women of Color in Law Firms*, published in 2006.⁸ This report continues to be cited as the primary source for information on women of color in law, and it provides the foundation for and acknowledgement that women of color have unique experiences previously uncaptured by research. As the study’s co-chairs discuss in their introduction, many of the experiences reported were familiar anecdotes among women of color, but the experiences captured by the study had been largely unrecognized by others and hadn’t been systematically studied prior to this study.⁹ And, as the title suggests, women of color have long reported both standing out due to their race and gender, but also being routinely rendered invisible, often literally unrepresented when it comes time to talk about gender in the legal profession.¹⁰

The *Visible Invisibility* study reported that women of color felt they were missing out on desirable assignments, being denied formal and informal networking opportunities, missing client development and client relationship opportunities, and being denied promotion opportunities because of their race and/or gender. They also reported finding it harder to meet billable hour requirements and build a book of business necessary for advancement in law firms, which was due in part to their relative lack of access to the very opportunities and relationships that would allow them to do so. Further, they felt that they were often treated as tokens and trotted out to clients only when it would help the firm look good but not necessarily in ways that helped them further their own careers. The study also found that many women of color left law firms to pursue lucrative options that had more flexibility to balance work and life demands and more predictable and less subjective pathways for advancement.

A 2009 study on women of color in law firms by Catalyst,¹¹ a nonprofit dedicated to the advancement of women in the workplace, further established that women of color have different experiences than men of color, white women, and white men, and those experiences tend to be more negative. This study found that women of color are more likely to report seriously considering leaving their law firms.¹² Relatedly, women of color were more likely to report that current law firm diversity efforts place too little emphasis on the quality of the work environment or workplace culture (34 percent of women of color versus about 16 percent of white men and women).¹³ These results highlight how

the challenges of working in law firm environments and the lack of intervention on this dimension by law firms lead women, and particularly women of color, to consider leaving the law firm and/or the legal profession.

This study also found that women of color were more likely to be single than white women lawyers (43 percent vs 32 percent),¹⁴ and women of color reported having different work-life needs and challenges than white women, which created difficulties for the women because these different needs and challenges did not fit law firm expectations about family obligations and life outside the law firm. For example, women of color were more likely than white women and men to report having extended family responsibilities. Black women in particular were more likely to report that participating in community activities was a personal responsibility.¹⁵ Women of color were less likely than white women to use a babysitter for childcare, and they were the least likely to cite a spouse/partner as a resource for childcare compared to white women and men. They were also less likely to employ service providers for domestic help compared to white women.¹⁶

Further, this study showed that women of color were less satisfied with how client-service assignments were distributed and the access they had to working with high-profile clients.¹⁷ And even though women of color were more likely to report having a mentor, they considered their mentors less effective and less likely to have influence at the firm¹⁸ (the characteristics that often separate a mentor from a sponsor who actively advocates for the person). Lawyers of color also reported that they were less satisfied with their access to and support from informal networks and relationships inside the law firm, including access to information about what is going on at the firm and opportunities to interact in more informal and/or social ways with partners and supervising attorneys.¹⁹ Women of color also reported being left out of relationship-building at the firm, reporting that they had the least access to senior attorneys and colleagues compared to white women and men.²⁰ No more than 21 percent of surveyed attorneys of all races and genders believed that supervising attorneys were being held accountable for developing and advancing women and diverse attorneys, and no more than 19 percent believed that supervising attorneys received any training on how to manage a diverse workforce.²¹ Taken together, these conditions create barriers to advancement in the law firm because of the importance of relationships in building a book of business and being assessed positively and supported by superiors as one hopes to advance in the law firm.

More recently, a 2018 ABA report from the Commission on Women in the Profession²² discussed the impact of gender and racial biases, particularly implicit biases, on women and women of color in the legal profession. The study found, for example, that 57 percent of women of color had been confused for custodial, administrative, or courtroom staff as compared to 7 percent of white men, and they regularly confront assumptions that they are unlikely to be the lawyer in the room.²³ Further, women of color were the most likely to report that they had to go “above and beyond” to get the same respect and recognition as others and that they are held to a higher standard in the workplace.²⁴ And, consistent with past research, women of color were more likely to report that they had less equal access to high-quality work assignments and fewer fair opportunities for promotion.²⁵

In addition, a 2019 study on women in the workplace²⁶ found that women of color are more likely to seek advancement than white women (76 percent to 68 percent, respectively), are more likely to aspire to attain promotions than men (83 percent of Asian

women and 80 percent of black women versus 75 percent of men), and are more likely to want to be top executives than white women (51 percent of Asian women, 44 percent of Latina women, and 38 percent of black women versus 39 percent of white women. Despite evidence of greater ambition to reach senior-level and leadership roles, women of color are significantly underrepresented as law firm equity partners and law firm leaders, making up only about 3 percent of all equity partners (men and women) and only 12 percent of female equity partners,²⁷ highlighting that most of the small gains made by women in the legal profession are being realized by white women.²⁸

Taken together, this past research establishes a baseline for women of color that has remained largely unchanged over the course of more than 14 years of study. That baseline is that women of color continue to feel invisible and unsupported in the legal profession, particularly in law firms, and they find themselves regularly contemplating their exits. Faced with a lack of access to a career-advancing resources and relationships, and often facing a working environment that is indifferent, if not outright hostile, to their unique perspectives and challenges, women of color have long felt as though they are left standing on the outside looking in. This has been exacerbated in recent years in light of increased efforts by the legal profession to enhance recruitment and retention of women and diverse attorneys because the evidence suggests that the primary beneficiaries of these efforts thus far have been white women, with little to no progress being made with respect to attorneys of color, including women of color.

The Present Study

ABA Commission on Women in the Profession: Achieving Long-Term Careers for Women in Law²⁹

Initially a presidential Initiative of then-ABA President Hilarie Bass, the ABA Commission on Women in the Profession has continued the work of investigating the issues and career dynamics that experienced women lawyers have faced as they've advanced through their careers. In particular, the *Achieving Long-Term Careers for Women in Law* initiative has been focused on better understanding the reasons for the disproportionate attrition of women, particularly midcareer and senior women, from the legal profession when they should be at the prime of their careers. Thus, instead of focusing on just the numbers of women at various career stages, this initiative was aimed at investigating the factors behind the numbers.

As part of the *Achieving Long-Term Careers for Women in Law* initiative, four research projects were completed: (1) a survey of large law firm managing partners and practicing attorneys, (2) a representative survey on the career trajectories of women and men who graduated law school 15+ years ago, which included questions about social and personal factors that influenced their careers, (3) a national focus group study aimed at capturing the personal, social, and professional factors affecting the careers of women lawyers practicing for 15+ years, and (4) a national study on the personal, social, and professional factors affecting the careers of women of color lawyers practicing for 15+ years.

One of these projects, the survey of managing partners and individual practicing attorneys, was recently published by the ABA and ALM Intelligence in a report titled, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*.³⁰ This study shows, yet again, the persistence of many of the same barriers that women have been reporting for more than a decade. The focus was on women and men who had been practicing law for at least 15 years, a similar age cohort as the present study, and it was aimed at understanding the obstacles that are faced by more senior women attorneys, even after achieving successes like making partner, that cause them to consider leaving the legal profession. As in past research, this study reaffirms the problems faced by women in building business, getting access to the opportunities and resources required for continued growth and advancement, particularly in law firms, and their continued experiences with barriers such as bias. Further, the authors highlight, as we do here, that despite advances in the policies and practices on the books of many legal employers, there has been little change in the representation and experiences of women, particularly at the more senior levels, and this is due to a failure to address the harder

although more important structural and cultural factors that continue to place barriers in the paths of women and diverse attorneys.

Given the often low capture of women of color in studies not directly aimed at studying their experiences, including in the other studies in the initiative, it was intentional that the research plan included a study that focused on women of color exclusively, an acknowledgement that this population of lawyers has been underrepresented in past research on the representation and experiences of women in the legal profession. In addition, it was considered important to capture the voices of these women, to let them share the nuances of their experiences rather than simply report their numbers in the ranks of lawyers.

Methods

The research team, with the help of the study co-chairs and study's advisory committee, advertised the focus group and online survey versions of the study to national and regional bar associations, law school alumni associations, and personal contacts. Participants were recruited to participate in a study on self-identified women of color who had graduated law school 15 or more years before to answer questions about their career trajectories and how being women of color affected their legal careers. A total of 103 participants from around the country participated by focus group or online survey.

Participants

Thirty-eight focus group participants participated in 11 focus groups conducted in Atlanta,³¹ Chicago,³² Los Angeles,³³ and New York City.³⁴ These cities were selected due to their large legal markets, the variety of legal sectors represented, regional diversity, and their larger populations of people of color. The focus group participants are, on average, 52 years old, graduated law school, on average, in 1992, and have an average of 22 years of practice experience. These women are 22 percent Asian, 49 percent black, 14 percent Hispanic/Latinx, and 16 percent multiracial or multiethnic. About 65 percent of the women in the focus group sample are married or partnered, 11 percent are divorced or widowed, and 22 percent are never married or single. They have a median of one child, and 38 percent have no children. About 77 percent reported they were practicing law in their current positions, although some of the 23 percent who reported they were not practicing law were still employed in law-related positions.

Sixty-five online survey participants answered the same set of questions posed to the women participating in the focus groups. The online participants are, on average, 51 years old, graduated law school, on average, in 1994, and have an average of 21 years of practice experience. These women are 11 percent Asian, 52 percent black, 20 percent Hispanic/Latinx, and 17 percent multiracial or multiethnic. About 68 percent of the women in the online sample are married or partnered, 18 percent are divorced or separated, and 14 percent are never married or single. They have a median of one child, and about 23 percent have no children. About 73 percent reported they were currently practicing law,

although many of the 27 percent who reported they were not currently practicing law were still employed in law-related positions.

Questions Asked

The questions asked of the participants were designed to elicit narratives about both the experiences of women of color in law, as well as their decision-making processes throughout their careers. We focused our questions on how women saw the arc of their careers (e.g., What has your general experience practicing law been? What have been the best/worst parts?), as well as the influence of specific variables (e.g., family, personal characteristics) and influential figures (e.g., mentors, parents) on their career trajectories. The women engaged the most with questions about their experiences relative to others in the legal profession, particularly white men and women, the barriers they consistently faced throughout their careers even after advancement and success, and whether they had ever considered leaving the legal profession, why they had considered it, and why they ultimately stayed. In both the focus group and online survey versions of the study, the participants were given space to interpret the questions and respond in their own words.

Of special note, in the focus groups, the participating women seemed to engage most and seemed to benefit most from sharing experiences with each other. The facilitators observed that the women were able to comfort and commiserate with one another in ways they reported they were not able to regularly in their workplaces where most of them were one of few women of color. This highlights the importance of giving space for underrepresented groups in law to find community with like others who can identify with their lived experiences more closely.³⁵ And legal employers should realize the benefit of giving an outlet for these individuals to voice their frustrations and concerns,³⁶ which may provide support that enables women of color, for example, to stick it out longer in an environment that is not yet completely hospitable to them. One of our participants expressed it this way:

“As I hear others speak about how they realized what we were up against, I wish I’d had this conversation with all of you about 20 years ago because I have been able to place in context my experiences and have been validated by things that you have all said.”

—60-YEAR-OLD ASIAN WOMAN

Women of Color Continue to Experience Barriers and Bias, Consistent with Existing Research

Bias and Stereotyping

As established by past research, much of which is discussed and cited above, our participants again consistently reported experiences with bias and stereotyping based on their identities as women, people of color, and women of color. Nearly all of our participants mentioned that they had experienced bias and stereotyping during the course of their legal careers. In addition, our participants, like those who have participated in past research, shared experiences like the following to highlight the role of bias and stereotyping in their lives:

“Some of the barriers you can’t do [anything] about—like the (mis)perceptions people have in their own minds about your race or your sex or your background. So you start by having to overcome those negative assumptions, stereotypes, and presumptions. And then there’s the “black tax” of having to demonstrate outsized achievements just to get the same opportunities as everyone else. It’s not by accident that at the firms at which I worked, every single black associate had at least two Ivy League degrees. Majority associates? Not so much.”

—LATE 40S BLACK WOMAN

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“The bias that I face as a woman of color has become the elephant in the room. It means that I have to keep proving myself to clients, peers, superiors, subordinates, even after each success. Sometimes others assume that I am not a threat because they don’t see me as real contender for business or leadership roles. I am not seen as a viable team member until I prove that I am. Then, even once I get buy-in from others, there are those who doubt my abilities or wait for me to fail. I feel like I have to try harder than white [men]. I feel like people don’t give me the same tools to succeed or excel. I have to make my own way without these tools for success. I face adversity even when I try to be normal. Being content is not an option for me.”

—EARLY 40S BLACK WOMAN

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“I think judges expected me to be dumb and unprepared. They compliment me as if I am an exception. I have judges trying to correct my English skills. I had a prosecutor infer I was “illegal.” I saw this happen to other women of color. One of the smartest women I know stopped practicing in immigration court because of the way she was undermined. The judges would only talk about her hair style and not about the quality of her argument. I have heard judges complain about women being “bitchy.” A judge in our jurisdiction denied a continuance for a woman who had just had a baby, and when she appeared with baby in tow, he held her in contempt. On numerous occasions male colleagues have resubmitted something that I prepared in a case and were granted while I was denied the exact same submission.”

—55-YEAR-OLD LATINX WOMAN

In line with forthcoming research from the ABA that highlights the ways that differences in the experiences of white women and women of color are often under-recognized,³⁷ it is important to note that in discussing the experiences of women of color, particularly the ways that bias and stereotyping may manifest in their working lives, it is important to also acknowledge that the experiences of women of color of different backgrounds are also not a monolith. In other words, while women of color (including but not limited to Asian, black, and Latinx women) may share some experiences compared to white women, they also have experiences that are distinct from each other. Our participants included Asian, black, Latinx, and multiracial women, and these distinctions between their experiences based on their particular identities are captured in the below quotes:³⁸

“Many men still see minority women (especially Hispanic women) as docile and assume we will follow their lead in order to keep our job.”

—60-YEAR-OLD HISPANIC/LATINX WOMAN

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“[Asian women] are seen as quiet, docile, amiable, conflict averse. The opposing lawyer trying to get his way is all the more outraged to find that I do not conform to his preconceived (and wrong) beliefs.”

—50-YEAR-OLD ASIAN WOMAN

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“I was not just a pushy woman but an aggressive black woman. If I suggested a new path, I was told I was being ‘argumentative’ even if the suggestions were valid. If I stayed quiet, I wasn’t adding value. My hair choices were scrutinized. I was called ‘articulate’ and ‘token.’”

—39-YEAR-OLD BLACK WOMAN

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“Of course my experiences differ from men’s experiences, but they also differ from the experiences of white women, who, after all, can still be analogized to daughters when those in positions of power are looking for a basis on which to connect with someone. The black and Latina women in the lives of privileged white men and women might be nannies, housekeepers, doormen, or other household employees. We certainly do not feel analogous to their children, and we most assuredly do not feel like their equals.”

—MID-40S BLACK WOMAN

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“The African American woman was being marginalized because the men perceived her as being in their face and being too outspoken. The Asian American woman couldn’t get noticed, couldn’t get a seat at the table.”

—68-YEAR-OLD ASIAN WOMAN

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“White women . . . are saying show up and be your true authentic self. [But women of color] have to morph to what society wants from us, whether it’s to make yourself bigger or to make yourself smaller. You’ve got to fit the square peg into the round whole. White women now have more of an opportunity to be vulnerable and be themselves and to do all of that and to be respected for it. So [women of color] are still behind the curve.”

—43-YEAR-OLD ASIAN WOMAN

Our participants reported being aware of the stereotypes that are associated with their groups, and they acknowledged the tightrope they often have to walk to avoid confirming negative stereotypes that might adversely affect perceptions of their job performance. They also reported trying to avoid creating backlash by deviating too strongly from expectations of them as women and women of color. Social science research confirms this tightrope and potential for backlash, highlighting that women face gendered stereotypes that they are less competent, ambitious, and competitive than their male counterparts, but in order to succeed professionally, they often need to be exactly those things.³⁹ Unfortunately, given the prescriptive nature of gender stereotypes that tell women (and men) how they should be, women who are competent, ambitious, and competitive often face backlash for violating stereotypes of women.⁴⁰ And these effects can be complicated by the intersections of race and gender, such that women of color experience different versions of this tightrope and backlash effect based on their specific identities and in ways that often differ from each other and white women.⁴¹ This highlights, again, the importance of considering the experiential nuances of women of different racial/ethnic backgrounds. Our participants shared their experiences with this:

“I feel as if men are not counseled about their tone or dismissed when they provide a contrary opinion. I feel as an attorney who is female, I am doing my best not to offend others or be dismissive of different points of view to avoid being perceived as difficult or shrill.”

—39-YEAR-OLD BLACK WOMAN

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“I definitely feel that strong women have to be careful. It is definitely a double-edged sword being a strong advocate for your clients, which can alienate your opposing counsel.”

—59-YEAR-OLD LATINX WOMAN

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“I was always considered ‘aggressive’ or ‘not a team player’ when I performed just like my male colleagues.”

—39-YEAR-OLD BLACK WOMAN

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“Men exhibiting confidence is applauded. Women exhibiting confidence is viewed as cocky or bitchy.”

—56-YEAR-OLD BLACK WOMAN

Finally, our participants also expressed frustration at the lack of awareness of both the existence and influence of bias and stereotyping affecting them as women and people of color. Again, they discussed how men often fail to see the influence of gender, white people often fail to see the influence of race, and people in general often fail to see how being a women of color uniquely affects their experiences in ways that are distinct from the impacts of gender and race on their own. This lack of institutional knowledge of the effects of the bias and stereotyping they face means they often suffer the consequences of these alone. This is complicated further by the often subtle, ambiguous ways that these biases can manifest, such as microaggressions⁴² and microinequities⁴³ that create some uncertainty as to whether bias is operating or not.⁴⁴

Our participants shared their experiences with these microaggressions and the consequences of negotiating how to respond to them:

“As one small example, African Americans are often told, and I have been told this literally thousands of times, ‘You’re so articulate!’ or ‘You speak so well!’ Why, thank you, that’s super nice, but is anyone surprised when white people know how to string together a sentence? It only ever seems to be a subject of pleasant surprise when it comes to people of color being able to do so. Why? Because the surprised person started with the assumption that we don’t have a solid grasp of the English language. Think what a handicap that is for a practicing lawyer. It’s huge! And that’s just one of many burdens we are obliged to carry. Every. Single. Day.”

—LATE-40S BLACK WOMAN

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“I have to prove myself over and over again. I share office space with a white male attorney. Even though my name is first on the door, people presume that I am his secretary. They have never presumed that he is mine.”

—EARLY-40S BLACK WOMAN

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“I just very recently finished briefing a motion where the other side, white men, had the gall to complain that somehow the referee was favoring my side, an all-female team by the way, led by me. I was able to point out that the referee in the oral argument had interrupted me 22 times as compared to the man only four times. When he referred to me, it was always [by my first name], whereas to the male it was Mr. So-and-So, consistently. So, it’s those little things. It seems little, but it’s not. It indicates the kind of condescension and lack of respect that we, that I feel that as a woman of color, I have to go up against all the time.”

—56-YEAR-OLD ASIAN WOMAN

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“I can be waiting in front of the prosecutor when another male attorney comes in and pushes his way past me. Even though the prosecutor knows I am next in line, he takes on the male attorney and the male attorney refuses to acknowledge me and does not care. But when I speak up, I get the ‘she’s a bitch’ look. Same happens with judges. Male attorney cases get called up before mine even if I was there first. Worse yet, despite having practiced for many years, I still get the ‘Are you the interpreter?’ question because they see me speaking Spanish with my clients.”

—54-YEAR-OLD LATINX WOMAN

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“Having to deal with assumptions of inferiority, intellectual or otherwise, and constantly having to prove myself no matter how senior or qualified or experienced I am is something my white male peers do not have to do. It is psychologically exhausting.”

—MID-40S BLACK WOMAN

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“I think when you’re an outlier and sometimes it is hard to know whether it’s because you’re a woman or because you’re a woman of color or a person of color. Sometimes you just don’t know which one it is.”

—56-YEAR-OLD ASIAN WOMAN

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“Men are seldom questioned when they convey information that the other side may not want to hear, nor are they mistaken for being the court reporter, the girlfriend of the defendant, the social worker, etc.”

—55-YEAR-OLD BLACK WOMAN

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“I’m sure no man has been called ‘little boy’ in open court or confused with the court reporter or legal assistant on a frequent basis or told what to wear in court (i.e., no pant suits if you want to appear lady-like).”

—42-YEAR-OLD LATINX WOMAN

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We’ve all asked, ‘Is it me?’ Then, I have a conversation with [other women of color] while it’s happening. Then I say, ‘Okay, I’m not crazy. It’s not just me.’”

—68-YEAR-OLD ASIAN WOMAN

Lack of Institutional Awareness and Support for Women/WOC

Particularly when discussing the policies and practices of legal organizations, our sample of women of color largely mirror the discussions captured in previous research, although they do recognize that the efforts made by legal organizations to support women are often realized disproportionately by white women. They see that more attention is being paid to women’s issues by the legal profession, but they also experience women’s issues being framed in a particular way that doesn’t necessarily address their challenges and concerns in the same way and that is not merged with addressing diversity more broadly or race specifically.

But despite the increased attention to women and diversity, our participants continue to point out the persistent inequality in distributions of resource and opportunities in the workplace. They called out the pervasive and resilient preferences for white men in particular, which translates into white men continuing to monopolize access to prime

work assignments, to the best mentors and sponsors with access and influence, and to insider information about the inner workings of the firm, often realized through socializing and relationship-building that continues to happen in male-dominated spaces, such as the golf course. Our participants talked about the persistence of the “Old Boys’ Club” and the ways that affinity biases and the choice to invest in people like oneself continues to shut women, particularly women of color, out of full participation and access in the legal workplace, leaving them looking in from the outside, lacking access to the resources and opportunities needed to thrive and succeed at the highest levels.

Experiences with Other Women

In 2016, the ABA Commission on Women in the Profession set out to study the dialogue (or lack thereof) between women lawyers of different racial and ethnic groups, particularly with respect to the role that race and ethnicity play in their experiences as lawyers.⁴⁵ The researchers held focus groups with a sample of 94 women (selected from a pool of 606 volunteers) that was 46 percent white women and 54 percent women of color from across the legal profession. This study also confirms many of the same findings reported in *Visible Invisibility* about 14 years ago, but it adds detail about how women of various racial and ethnic groups feel about acknowledging and talking about race and its impact on their experiences in the legal profession. Some of the insights highlighted in the report include that women of color report that white women often prioritize a focus on women’s issues, which are often framed around and primarily benefit white women, to the exclusion of addressing the distinct challenges of women of color. Further, women of color report experiencing a dismissal of intersectional approaches to women’s issues that would acknowledge that women of different racial and ethnic backgrounds have different experiences, thereby further silencing women of color as the, albeit still small, advances of women in law go disproportionately to white women.

The present study adds to the experiences of women of color and their interactions with each other and white women by capturing that some women of color reported learning early in their careers that they shouldn’t assume they would automatically have allies in other women. When asked about individuals who had an influence on their careers (positively or negatively), our sample of women of color were most likely to name white men or people of color as those formal and informal mentors, sponsors, and cheerleaders who helped pull them up or push them along the paths of their careers. And some of these same women offered anecdotes about their experiences with women senior to them, who not only did not serve as positive influences on their careers, but who were perceived as actively not supporting, if not actually working against, the success of our participants. For example:

“Despite working on a team headed by a woman, there existed (in my opinion) a bias towards the white women on the team who often received better assignments, better mentorship, and greater visibility.”

—41-YEAR-OLD BLACK WOMAN

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“We have had female clients [accept] the [same] information and advice without much hesitation from a male [attorney] [but engage in] constant debate [when it is offered by] a female member of our team.”

—42-YEAR-OLD BLACK WOMAN

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“While sexism was a common thread, my white female counterparts didn’t have to deal with the elements of race. Moreover, they also benefitted from the racial hierarchy. They didn’t have a presumption of being angry if they were focused on work and not chit-chatty. When white women leave the profession I hear it is because of balance and cultural issues. When people of color, especially black and Hispanic, attorneys leave our firms I heard people have discussions about whether they were qualified to begin with. More dishearteningly, I have watched white women not address intersectionality or issues of race as part of women’s initiatives and at times downplay them.”

—EARLY-40S BLACK WOMAN

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“I feel white women have more choices. They seem to succeed more than we do, but [women of color] are so few in number that it’s hard to tell. And when [white women] are in power, they often become similar to their male counterparts—they don’t necessarily go out of their way to promote other women and certainly not women of color.”

—55-YEAR-OLD BLACK WOMAN

What these findings highlight is the need to dig deeper into understanding the ways that women of different backgrounds experience the legal profession. In addition, as women slowly make their way into more leadership positions in the legal profession, those women who have achieved access to decision-making roles need to examine what role they may play, even if unintentionally, in replicating the status quo and gatekeeping in ways that continue to leave women, and particularly women of color, out.

Should I Stay or Should I Go? Insights from Women of Color Who Stay

As part of the ABA’s *Achieving Long-Term Careers for Women in Law* Initiative, this study set out to ask why women stay and leave the legal profession. While we sought out women of color who had left the legal profession, we found women of color participants who had largely decided to stay in the profession despite a large majority of them reporting that they had considered, sometimes regularly, leaving the profession. But data from existing research suggest that women and lawyers of color do leave the profession in large numbers. Using numbers from the 2018 Vault/MCCA Law Firm Diversity Study,⁴⁶ for every 100 associates, about 14 are women of color and 32 are white women. Assuming the associate numbers as a baseline, when we consider nonequity partners, for every 100, only about five are women of color and 25 are white women, suggesting that about one-third of women of color associates make it to nonequity partner but three-fourths of white women associates make it. Finally, at equity partner, for every 100 equity partners, only three are women of color and 17 are white women, suggesting that about one-fourth of women of color associates make it to equity partner and one-half of white women associates make it. These numbers correspond with the finding that 46 percent of white attorneys are partners, while only 26 percent of attorneys of color are.⁴⁷ Taken together, this means that women and women of color and attorneys of color are all leaving law firms in significant numbers, even though we were not able to capture them in our sample. While this dampens our ability to dig deeply into the reasons why women of color leave the profession per se, we are uniquely positioned to talk about the reasons why women of color consider leaving and why they ultimately decide to stay.

Most Women of Color Consider Leaving the Legal Profession

“I actually have a file folder that says all the reasons I need to leave, and there are emails, and sometimes I print them up, and I put in there so that whenever I do leave and I do that exit interview, I don’t forget, not one thing that I could tell them as to why.”

—BLACK WOMAN

It has been suggested that three factors that influence a woman's decision to stay or leave a legal job or the profession entirely include (1) Is the work intellectually challenging? (2) Are her contributions valued? (3) Can she reasonably manage her personal and professional responsibilities?⁴⁸ Our data suggest that most women of color consider leaving the legal profession, which is in line with previous research that has shown that women of color are more likely to report seriously considering leaving their law firms.⁴⁹ In our sample, 70 percent of the women reported leaving or considering leaving the legal profession. In line with the factors listed above, the women of color in our sample who reported leaving or considering leaving explained that the motivation for such considerations came down to feeling undervalued and/or facing barriers to advancement in their careers, particularly as a result of being women and women of color, and that the norms and expectations of the legal profession often interfered with their ability to manage their personal and professional responsibilities.

As mentioned previously, our sample likely uniquely captures a group of women of color who have contemplated leaving the profession but who have largely decided and have been able to stay. The statistics on the representation of women of color across the legal profession suggest that women of color do in fact leave (particularly law firms), both voluntarily and involuntarily, in significant numbers, and this issue needs to be studied more. On the other hand, our sample of midcareer women of color reflects the population of women who have survived the various pressures to go. As a population of women of color who have been practicing for 15+ years, they have survived the ups and downs of a legal career to achieve partnership and senior levels in their legal organizations, and still most of them report considering leaving and most of them continue to stay.

Why Do Women of Color Ultimately Stay in the Legal Profession?

Even after explaining the many reasons why they considering leaving, the women of color in our sample provided three basic reasons for the persistence in the legal profession: (1) they enjoy the work (often despite the environment), (2) it makes financial sense, and (often related to finances) (3) aspects of their personal and familiar lives may require or encourage it.

Previous research has shown that women of color lawyers are more likely to be single than white women lawyers⁵⁰ and that women of color, particularly black women, are more likely to be the breadwinners in their families than white women.⁵¹ In addition, previous research has also shown that women of color report having different work-life needs and challenges than white women, and these different needs and challenges do not fit the conceptions that law firms expect. For example, women of color were more likely than white women and men to report having extended family responsibilities, and black women in particular were more likely to report participating in community activities as a personal responsibility.⁵² Further, as mothers, women of color are less likely than white women to use a babysitter for childcare and are the least likely to cite a spouse/partner as a resource for childcare compared to other groups. They're also less likely to employ

service providers for domestic help than white women.⁵³ In total, this means that women of color are more likely than white women and men to be directly involved in executing the details of care for their families and their households.

Taken together, previous research has shown the financial and familiar pressures on women of color, particularly black women, that often differ from those experienced by white women in particular and that can contribute both to pressures to stay or leave the legal profession. The assumptions and expectations of many legal environments fail to recognize that different family structures, needs, and priorities create distinct challenges for maintaining a personal and professional life that differ not only for men and women, but also for women of different backgrounds.

Why Women of Color Stay: Love of the Law

The legal profession is clearly missing an opportunity when it fails women of color who love being lawyers but who are driven out by lack of opportunity or difficult workplace cultures. Many of the women of color we spoke to expressed that they have stuck with the legal profession, in large part, because they enjoy the substantive work of being a lawyer. As suggested above, being intellectually challenged by the work plays a significant role in whether women will continue to engage with it.⁵⁴ Our participants reported that they enjoyed the problem-solving and helping nature of legal work, that they had always wanted to be a lawyer, and that they enjoyed the prestige and status that accompanies being a lawyer. When asked about their overall experience practicing law, a majority of the women of color in our sample expressed at least some positivity in their overall experience, and they expressed that in the following ways:

“I’ve generally had a good experience practicing law. I enjoy continuously learning, growing, and being challenged.”

—49-YEAR-OLD BLACK/MULTIRACIAL WOMAN

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“The practice law is educational and rewarding. . . . The best part of practicing law is using the information to educate and empower my community.”

—64-YEAR-OLD BLACK WOMAN

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“For the most part I believe it’s been a good experience. I’ve enjoyed the intellectual challenges the legal profession has provided for me and helping people, some of whom would not have had access to the legal system but for my assistance.”

—61-YEAR-OLD BLACK WOMAN

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“I enjoyed using my brain to solve complex problems for my clients.

I love the nuances and strategy involved with litigating cases and conducting investigations. . . . I enjoy grappling with the gray areas to provide the best legal advice to help my clients achieve their goals; it feeds my inner nerd’s soul. I enjoyed the teamwork and the client service piece—meeting and exceeding client expectations. I also enjoyed the travel—going to different countries and experiencing different cultures. I also like mentoring younger lawyers and seeing the evolution of the practice of law through their younger eyes. Helping them to avoid some of the missteps I made and helping/empowering them to reach even higher heights and watching them succeed is very satisfying.”

—MID-40S BLACK WOMAN

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“I have immensely enjoyed the practice of law. It brings me so much personal fulfillment when I meet certain milestones in my career. When I hit these milestones, I have more passion to keep going and keep advancing. I also like learning and mastering new challenges and the practice of law allows me to do this at every stage of my career. I’m still learning new skills today.”

—EARLY-40S BLACK WOMAN

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“Nothing can actually stop me. I went home and cried angry and indignant tears often. I love what I do, and I worked very hard to get where I am. There is literally nothing they could have done short of killing me that would have resulted in my quitting the law.”

—55-YEAR-OLD LATINX WOMAN

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“I enjoy being a lawyer and helping people. It is such a big part of my identity.”

—41-YEAR-OLD LATINX WOMAN

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“I LOVE the law. I, for the most part, LOVE what I do. And I wanted to be a lawyer since I was seven years old.”

—63-YEAR-OLD BLACK WOMAN

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“I would say that in terms of my experience with substantive law, it’s been highly rewarding; it’s been intellectually challenging, stimulating. I felt like I worked in a lot of areas where we were breaking new frontiers, so I felt like I practiced law substantively at a very high level.”

—68-YEAR-OLD ASIAN WOMAN

Why Women of Color Stay: Financial Needs and Desires

The need or desire to make a good, professional salary was cited often as an additional reason beyond substantive interest in the law for pursuing a career in the legal profession. It is increasingly the case that first-generation lawyers and lawyers of color carry more student loan debt coming out of both their undergraduate and law degree programs than their white peers.⁵⁵ This disparity will continue to put additional pressure on first-generation lawyers and lawyers of color in particular to pursue legal positions where earning potential is higher, particularly Big Law jobs, although these higher-paying jobs may be exactly the environments that are the least welcoming to these same lawyers.

In addition, while many studies suggest that white people may be more likely to provide financial support to family members on average through, for example, financial support of their young adult children, people of color who attain some financial security have been shown to face the financial burden of giving and lending money to a broader network of poorer relatives, which has been shown to harm the stability of their financial position and is said to partially explain the race-wealth gap.⁵⁶ Further, this same research has shown that as income goes up for professionals of color, they give more to their family networks than their similarly compensated white counterparts.⁵⁷ This dynamic puts pressure on people of color who attain the professional status to make middle- or upper-class salaries to continue making those salaries in order to provide support to their families and communities. This experience was shared by our participants.

“I was very serious about my career—it was a matter of life and death for me. It meant getting out of poverty for my family.”

—LATE-50S LATINX WOMAN

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“I wanted to quit many times on the way to partner but never thought that was truly an option given my financial responsibilities.”

—MID-40S BLACK WOMAN

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“I have considered leaving the profession, but I need the money.”

—54-YEAR-OLD LATINX WOMAN

• • •

“I stayed in the legal profession because my survival was dependent upon my earnings. I had to keep my legal job to financially support my children and myself.”

—65-YEAR-OLD BLACK WOMAN

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“I thought about it time to time, but I’m the sole breadwinner in my family. I don’t really have that luxury. I suppose I could if I sold the house and we moved to some place that had a very low cost of living then I could probably swing it.”

—56-YEAR-OLD ASIAN WOMAN

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“I have to pay bills. I’m a single mother of two children. . . . I was the breadwinner of my past marriage, so I’ve got bills to pay. So I can’t really leave.”

—ASIAN WOMAN

In addition, many of our participants discussed how the financial needs and desires of a middle-class life, including education for children and other markers of middle-class status, required that they maintain their legal professional careers and the corresponding income in order to maintain their current quality of life. Given that the women in our sample are often from families with no or few lawyers in the family, many of them experienced wanting to live a quality of life that was not available to them in the same way during their own upbringing. Further, they enjoyed the perceived freedom that their legal professional careers and salaries provided them to do things in their lives that they maybe would not have been able to do otherwise, even if this same career path has constrained them in other ways.

Why Women of Color Stay: Family and Community

In addition to financial needs and wants of lawyers of color, previous research has also shown that people of color are more likely to provide assistance to family members, including extended family; are more likely to have frequent contact with extended family; and are more likely to support folks in their broader communities, including their religious congregations.⁵⁸ Further, research has shown that women of color are more likely to provide practical support to family, including help with transportation, household work, and childcare, and the greatest differences appear when comparing the support provided by black women compared to white women since men of both groups are more similar to each other than they are to the women in their racial group.⁵⁹

As mentioned previously, women of color, particularly black women, are also more likely than white women to be the primary breadwinners and caretakers for their families. Historically, black women have always had the highest levels of labor market participation compared to others, particularly white women, and their participation has been less affected by marriage, child-rearing, and other familial events that often lead women to leave the labor force. This coupled with the enhanced support for their extended families and communities means that the familial and social network structures of women of color often look different and demand different things than they do of white women. Our participants shared their experiences to this effect:

“Looking back, since I have been at the same law firm for 27 years, I think I have limited my earning potential. I declined the partnership track because I became pregnant with my son. As a single parent with an elderly mother, I chose to stay at the firm because they were family oriented.”

—59-YEAR-OLD LATINX WOMAN

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“Support systems for women of color often come from familial support, but often the family is pulling financially rather than pushing. Thereby, forcing a ‘no option’ scenario [where the only choice is] to move forward in doing the work, caring for family and friends with less support.”

—42-YEAR-OLD BLACK WOMAN

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“I was the primary caregiver for my dad and shared caretaking for Mom. It took time away from work and added major worry. There was no support for this.”

—55-YEAR-OLD MULTIRACIAL WOMAN

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“I had significant responsibilities to care for my mother . . . who passed at a relatively young age.”

—MID-40S LATINX WOMAN

Further, past research has found shown that women of color are quite aware of the ways that the cultural norms and expectations about negotiating family and work in the legal profession is informed by models set by white parents and families. Thus, women of color may find themselves pulled by family obligations, such as to extended families or financial support to a wider array of family members, that are not recognized as family matters that are allowed to interfere with or be balanced against work.⁶⁰

In addition to supporting their families and communities, our participants often discussed the need to stick it out in their respective legal professional spaces in part because they understood the significance of representing women of color in a space where they are largely still absent. Research has shown the power of having gender- and race-matched role models and mentors available in educational and professional settings, and it is clear that younger people entering these spaces perform better and persist longer when they can see themselves in the more senior ranks. Our participants both acknowledged that they mostly did not have this when they were younger attorneys, and this reinforced for them the importance of playing that role now that they had the ability to do so. This pull to be available as role models and mentors, in representational and interactive ways, was enough for some women to overcome their own personal struggles that seemed to be pulling them away from the legal profession. For example:

“At times, it feels like the weight of the world is on my shoulders. But I keep going because I know that this is a path that we are all paving for the women of color who come after us. We are doing this for ourselves and for our daughters (and sons).”

—EARLY-40S BLACK WOMAN

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“You end up protecting a lot of people because you see stuff from a lot of different [perspectives]. And people come up to me every day [and say], ‘if you leave, if you leave, we’re out of here.’ So I think about it like [this is how] change has come in this society, there [are] a lot of people [who] have had to sacrifice what they really wanted to do for themselves for the greater good. It’s bigger than me. It’s about what I want to leave my children, my grandchildren, so I stay in it.”

—45-YEAR-OLD BLACK/MULTIRACIAL WOMAN

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“My negative experiences did not and will not affect my willingness to continue to practice law but it does make me conscious of my responsibility to help younger attorneys to avoid and adapt to those types of negative experiences.”

—63-YEAR-OLD BLACK WOMAN

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“I also feel that we are responsible for trying to create a career and legacy that we can be proud of. I don’t want to just show up at the office. I want to make a difference in the community and to become the best lawyer that I can be.”

—45-YEAR-OLD BLACK/MULTIRACIAL WOMAN

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“I refuse to leave because my continued presence is beneficial for younger generations. I also try to be the mentor that I wanted when I started out. My daughter should NOT have to deal with the same crap that I have.”

—42-YEAR-OLD LATINX WOMAN

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“[I have this sense of] obligation to stay within the system to try and change the system. . . . For me it was this sense that we need to bring more women of color in particular into law. That’s why I stayed to try and do that.”

—ASIAN WOMAN

Recommendations

The results of the present study add to the literature on women of color in law that began with *Visible Invisibility* in 2006, revealing that 14 years later, in most substantive ways, little has changed for women of color in the legal profession. They continue to feel as though, by virtue of their race and gender, they are left standing on the outside of even the small advances made by white women. Despite the authors of *Visible Invisibility* calling out the need to pay attention to the unique challenges and barriers faced by women of color more than a decade ago, the profession has largely continued to ignore their plight.

The present study reveals just how much opportunity the legal profession is missing when it fails to retain even more women like those in our sample, women who are committed to the law and who find that being a practicing lawyer, in many but not all ways, helps them support their personal and familial lives financially and otherwise. This study and previous research make clear that the legal profession continues to fail at retaining women of color due to stubborn barriers to advancement that result both from the traditional requirements of success in legal practice, as well as an exclusive professional culture that continues to reflect a narrow set of norms, assumptions, and expectations at odds with an increasingly diverse world.

While many previous publications have offered recommendations to the legal profession on how to address the lack of significant progress for women and diverse attorneys, we will reiterate a few below. But, more important, it is time for the legal profession to move beyond diversity as representation and changing policies and practices on paper to changing the culture and experience of the legal profession in ways that will better support a diverse population of attorneys, particularly women of color.

Structural Change: Adopt Best Practices for Reducing Biases in Decision-Making

Most of the focus on recommendations for addressing the attrition of women, women of color, and diverse attorneys more broadly focuses on examining workplace practices for inequities, including asking who gets access to which resources and opportunities and on the basis of what criteria. In other words, interventions are increasingly focused, as they should be, on examining the structure of decision-making processes and the distribution of opportunities and resources and the outcomes they produce. This focus is motivated by the realization that many practices, policies, and procedures, particularly of law firms, are out of step with the evolution of best practices in the corporate world at large and that many of these very practices, policies, and procedures are ripe for bias, if not built at one point to be biased, particularly against underrepresented groups.

There has been some early-stage discussion in the legal profession about revising the policies, practices, and procedures that inform the various decisions that are consequential for advancement and success in the legal profession. The ABA took on this topic directly in their recent report *You Can't Change What You Can't See*,⁶¹ which focused on the ways that subtle, often implicit, biases creep into the workplace culture and decision-making processes of legal organizations. The report focuses on relaying best practices, at this point well-known in other professional spaces outside of law, in hopes of reducing the influence of bias and nonsubstantive preferences on outcomes, such as increased monitoring of work distributions, randomization of work assignments, equitable distributions of the prime assignments, and more standardized, less subjective decision-making processes. Using this ABA study as a model, another recent study⁶² asked law firms whether they were in fact engaging these bias-interrupting practices, and the data show that firms reported that they were still most likely to be engaging in displaying and announcing their commitment to diversity and inclusion while being much less likely to be changing the structures of their decision-making processes in ways that interrupt bias. Clearly, more work, then, needs to be done to move beyond commitments to diversity and inclusion that are not followed up with effective action to support those commitments.

The need to address these decision-making processes is highlighted by previous research that has shown that high levels of subjectivity in promotion standards, selection for assignments, compensation decisions, and performance appraisals are often colored by stereotypes and serve as institutional and structural barriers to the advancement of women of color⁶³ and other underrepresented attorneys. And women of color are acutely aware of the consequences of these decisions, reporting in multiple past studies that they are less satisfied with their outcomes and their access, or lack thereof, to opportunities and resources necessary for advancement, including, for example, how client-service assignments are distributed and the access they have to working with high-profile clients.⁶⁴ Further, no more than 21 percent of surveyed attorneys of all races and genders believed that supervising attorneys are held accountable for developing and advancing women and diverse attorneys, and no more than 19 percent believed that supervising attorneys received any training on how to manage a diverse workforce.⁶⁵ These perceptions are supported by recent findings from the National Association of Women Lawyers (NAWL) that firms are less likely to engage in bias-reduction efforts that require managing the discretion of decision-makers or otherwise checking the decision-making processes of these actors.⁶⁶ Taken together, these results highlight the need for serious consideration of who is making decisions, how they're making decisions, and whether these decisions adequately consider the potential for biases.

Improve Access to Effective, Engaged Mentors and Sponsors

“Though not called mentoring, men were mentored, over lunch, at the bar over drinks, at the coffee truck. I could hear them getting advice, see them being set on the right path.”

—52-YEAR-OLD BLACK/MULTIRACIAL WOMAN

A consistent finding from the present study and past research is that women of color experience difficulty in getting access to mentors or sponsors who serve them in ways they see white men in particular being served by these relationships. Interestingly, women of color often report being more likely to have mentors than others,⁶⁷ which is likely the result of the legal profession recognizing on some level that diverse attorneys, including women of color, may benefit from formal mentoring programs that ensure that they will have access to mentors rather than relying on informal processes to produce these relationships. But women of color report that even though they are more likely to have these mentors, their mentors are less effective and less likely to have influence at the firm, which are precisely the characteristics that often separate a mentor from a sponsor that actively advocates for the person in ways that may help them advance.⁶⁸ In other words, women of color are especially likely to report that they lack access to mentors or sponsors who are well-connected and have power and influence to both clue them into important dynamics of the workplace and effectively advocate for them.

Beyond formal mentors, lawyers of color have also reported that they are less satisfied with their access to and support from more informal networks and relationships, including access to information about what is going on at the firm and opportunities to interact in more informal and/or social ways with partners and supervising attorneys.⁶⁹ Women of color have also reported being left out of relationship-building at the firm, reporting that they have the least access to senior attorneys and colleagues compared to white women and men.⁷⁰ These conditions create barriers to advancement because of the importance of relationships in building business and the importance of being assessed positively and supported by superiors as one advances in their careers.

These experiences with mentors and relationship-building highlight the importance of considering the structures for creating, facilitating, and maintaining formal and informal relationships for attorneys throughout their career, particularly populations like women of color who experience more difficulty forging engaged relationships that lead to effective mentorship and sponsorship and feelings of belonging in the community. Taken with previous research showing that formal mentor programs for diverse attorneys may mean that these attorneys are more likely to report having a mentor, it is important for the legal profession to go beyond the formal relationships as assigned on paper through formal programs to considering how to better set expectations for the mentors about their engagement and how to better foster the substantive, engaged relationships that produce effective mentorship experiences and outcomes.

Go Beyond Recruitment

At this point, most employers, including legal employers, seem to understand diversity as it comes to recruitment and representation, but they continue to fail to understand the necessity of a focus on inclusion and retention. In other words, they understand and possibly value representational diversity, but they lack sufficient understanding of how to retain the diverse populations they are recruiting.

The population that many legal employers, particularly law firms, recruit heavily from for new hires are recent law school graduates, and over the years the representation of women has reached 50 percent and the numbers of racial/ethnic minorities has also increased significantly. While the legal profession, including law firms for which we have the best numbers, have gotten better about creating entry-level cohorts that reflect this increasing diversity, the profession has not gotten better at retaining this diversity as these lawyers advance through their careers. It remains true that women and attorneys of color leave the legal profession in large numbers, and it also remains true that there is still more that needs to be understood by the legal profession about what they are doing (or not doing) that facilitates or fails to prevent attrition of the very populations of attorneys they now spend so much time, energy, and money recruiting at the entry level.

All of this is to say that the legal profession has hit the point where it should be recognizing that diversity at the recruitment stage is necessary but not sufficient to create long-lasting diversity in the profession. Further, the legal profession needs to look beyond diversity toward inclusion to fully address the continuing lack of diversity in the profession, particularly beyond the first few years of one's legal career. Our study and past studies have highlighted that while representation matters to women of color, that is seeing others like them, having access to mentors or role models who look like them, what they want is not just a handful of faces that look like theirs but workplace and professional cultures that value and incorporate them. In other words, they want inclusion, and they often find themselves choosing to sacrifice themselves to a noninclusive culture in order to meet other personal and professional goals, but this is a choice that their white colleagues, particularly their white male colleagues, often don't have to make.

Incorporate an Intersectional Approach to Addressing Diversity and Gender

“I think that white women do want to align with women of color on gender. I also think that a lot of white women are blind to their whiteness. But if they’re not blind to their whiteness and they understand that aspect of their identity, they can be really powerful allies. So, that’s always to me the challenge and the conversation to be had. I also agree that black women and Latinas and Asians, we’ve all had different histories in this country. We face different barriers in this country.”

—ASIAN WOMAN

The women in our sample regularly discussed the ways that gender and diversity initiatives in professional spaces often miss the complexities of their full identities by focusing on only one aspect at a time, often only gender or only race and ethnicity. Like our participants here, in *This Talk Isn’t Cheap*, a forthcoming report from the ABA,⁷¹ the women of color lament the ways they’re often told by women’s initiatives and similar efforts that gender comes first and/or that race and ethnicity is a distraction from getting work done on gender. And our participants experience this as a denial or ignorance of the ways that their experiences as women of color differ from those of white women in ways that have significant effects on their lived experience in the profession, as well as their ability to persist and achieve over the long term. Further, our mixed-race group of participants acknowledged that it is also important to move beyond a simple white and woman of color distinction, to acknowledge that even among women of color, there are often important and meaningful differences in their experiences that should be acknowledged and addressed.

To put numbers to the influence of intersectionality, when looking at pay inequality, it is easy to see how a singular focus on gender misses the nuances of gender by race intersections that tell a more complicated story about the state of women’s pay compared to men’s pay. In the general statistics that float around these discussions, women make about 80 percent of what men make, but when broken down by race and gender, the story becomes more complicated. Asian women make 85 percent of what men make, white women 77 percent, black women 61 percent, Native American women 58 percent, and Hispanic/Latina women 53 percent. Of course the reasons for these differences in the general numbers are due to multiple factors, but those factors are often gendered and raced. In other words, they’re intersectional.

Further, to highlight the blindness to intersectionality, in research on perceptions of pay inequality, White women are often less likely than women of color to perceive the gaps that exist between women of different racial backgrounds.⁷² They see the gender gap clearly, that is the gap between men and women, but they’re less likely to realize that women of color are paid less than they are⁷³ or otherwise experience the workplace or the profession differently due to the combination of gender and race. Further, white women have been shown to be less supportive of policies that focus on diversity rather than gen-

der when asked about policies that would support women. For example, only 52 percent of white women believed in making supporting or advocating diversity a criterion for compensation decisions for executives, but 67 percent supported legislation that ensures equal pay based on gender.⁷⁴ In other words, they were more likely to support policies that focused on gender specifically compared to ones that focused on diversity more broadly.

This continued blindness to or ignorance of the ways that gender and race (as well as other social identities) can interact to create distinct experiences will only lead the legal profession to fall further behind in their diversity and gender efforts, as the world at large takes more notice of these effects. In addition, the future of diversity work that increasingly focuses on more than mere representation and more on retention and inclusion will require intersectionality to be taken into account.

Create a More Inclusive Culture in the Legal Profession

“Because [law] leaders are dominated by white males, they don’t know what to do with women of color. The good ones want to be inclusive but have no idea what that means, and most are not willing to open up to get to know us or to include us in their worlds. It makes them feel good to have some of us there but not too many so they can still keep their distance.”

—MID-40S BLACK WOMAN

We close with a call for the legal profession to move to the next step of its diversity efforts toward inclusion, and true inclusion will require changes to the legal professional culture and the structure of decision-making in these spaces. And the importance of addressing culture cannot be understated, as no amount of fixing only policies, practices, and procedures can lead to the depth of change needed to achieve diversity and inclusion goals. Without cultural change, diversity efforts will stall in the very places they have already stalled in the legal profession. Any organization can have all the “right” policies in place, but that organization must begin to ask how those policies work on the ground and whether the workplace culture actually supports the use of these policies, practices, and procedures. Further, do policies, practices, and procedures take the role of workplace culture into account when they are written and implemented? In other words, culture interacts with structure, and both are needed for the deep, lasting change needed to create an inclusive legal profession.

As has been true on other points, our participants—experienced women of color lawyers—are quite aware of the consequences of ignoring culture and inclusion. Previous research has also shown that women of color are more likely to report that current law firm diversity efforts place too little emphasis on the quality of the work environment or workplace culture (34 percent of women of color versus about 16 percent of white men

and women).⁷⁵ And our participants mentioned again and again the myriad ways that the culture of the legal profession interfered with their abilities to succeed, to feel valued, and sometimes to persist in the legal profession. In other words, when identifying the root of the problem, our participants and others before them have consistently pointed to the culture of the legal profession as the biggest challenge to overcome. It is a culture that has continued to leave women of color out. It's well past time to let them in.

Endnotes

1. *Visible Invisibility: Women of Color in Law Firms* (2006), available at <https://www.americanbar.org/content/dam/aba/marketing/women/visibleinvisibility.pdf>.
2. *Id.* The ABA published a follow-up study under the same title but focused on women of color corporate counsel in 2012, available at https://www.americanbar.org/content/dam/aba/marketing/women/visibleinvisibility_500.pdf.
3. The ABA Commission on Women in the Profession has been conducting research related to women of color in law since 2003, when it launched the first research initiative aimed at exploring the unique experiences of women of color in the legal profession. More information on the ABA's Women of Color Research Initiative can be found at https://www.americanbar.org/groups/diversity/women/initiatives_awards/women_of_color_research_initiative. Additional data on representation and diversity in the legal profession is regularly collected and reported by The National Association for Law Placement (NALP), the National Association of Women Lawyers (NAWL), and the Minority Corporate Counsel Association (MCCA).
4. *See e.g.*, the 2019 NAWL Survey on Retention and Promotion of Women in Law Firms, available at <https://www.nawl.org/page/2018survey>.
5. For example, as part of the ABA's Achieving Long-Term Careers for Women in Law Initiative, in 2017 and 2018 the ABA held two national summits and featured programming at the annual meeting to discuss the issue of women leaving the legal profession, often at what should be the height of their careers, and what could be done about it. *See e.g.*, *Why Are Women Leaving the Profession Mid-Career? ABA Initiative Take Up Issue* (November 15, 2017), available at http://www.abajournal.com/news/article/why_are_women_lawyers_leaving_the_profession_mid_career_aba_initiative_hope; *Why Do Experienced Female Lawyers Leave? Disrespect, Social Constraints, ABA Survey Says* (August 3, 2018), available at http://www.abajournal.com/news/article/why_do_experienced_female_lawyers_leave_disrespect_social_constraints_ABA.
6. *See e.g.*, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* (2019), available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/walking-out-the-door.
7. *Visible Invisibility: Women of Color in Law Firms* (2006) and *Visible Invisibility: Women of Color in Fortune 500 Companies* (2012).
8. *Id.*
9. *Id.*
10. *See e.g.*, the 2020 issue of the *Illinois Super Lawyers* magazine, which features a cover story entitled "The Face of a Lawyer: An Oral History of Trailblazing Women in Illinois Law" accompanied by a photo of five white women.
11. *Women of Color in U.S. Law Firms* (2009), available at https://www.catalyst.org/wp-content/uploads/2019/01/Women_of_Color_in_U.S._Law_Firms.pdf.
12. *Id.* at pp. 38–39
13. *Id.* at pp. 10–11
14. *Id.* at p. 5
15. *Women of Color in U.S. Law Firms* (2009) at p. 45
16. *Id.* at p. 43
17. *Id.* at p. 44
18. *Id.* at pp. 25–28
19. *Id.* at pp. 34–35
20. *Women of Color in U.S. Law Firms* (2009) at p. 30

21. *Id.* at pp. 14–15
22. *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession* (2018), available at <https://www.americanbar.org/content/dam/aba/administrative/women/Updated-percent-20Bias-percent20Interrupters.pdf>.
23. *Id.* at p. 7
24. *Id.*
25. *Id.* at p. 9
26. *Minority Women Are More Ambitious* (January 30, 2019), available at <https://thecareerist.typepad.com/thecareerist/2019/01/the-paradox-of-minority-women-and-ambition.html>; citing to *Women in the Workplace* (2018), available at <https://www.mckinsey.com/featured-insights/gender-equality/women-in-the-workplace-2018>.
27. See e.g., *2019 NAWL Survey on Retention and Promotion of Women in Law Firms*.
28. See also *2018 Vault/MCCA Law Firm Diversity Survey*, available at <https://www.mcca.com/wp-content/uploads/2018/11/2018-Vault-MCCA-Law-Firm-Diversity-Survey-Report.pdf>, which showed that women overall have seen their numbers with respect to partnership and leadership positions increase slowly over time, but women of color are less likely to be realizing these gains compared to white women. In particular, among white attorneys, about 46 percent of white attorneys are partners while only 24 percent of attorneys of color are partners.
29. For more information on this ABA initiative, visit https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women.
30. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/walking-out-the-door.
31. We thank the Georgia State College of Law for hosting focus group sessions conducted in Atlanta, GA.
32. We thank Northwestern University Pritzker School of Law and the National Asian Pacific American Bar Association (NAPABA) for hosting focus group sessions conducted in Chicago, IL.
33. We thank USC Gould School of Law for hosting focus group sessions conducted in Los Angeles, CA.
34. We thank Columbia Law School and the NYU School of Law for hosting focus group sessions conducted in New York, NY.
35. See e.g., *Two Sides of the Same Coin: Safe Space and Segregation in Race/Ethnic-Specific Law Student Organizations* (2013), available at https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1825&context=law_journal_law_policy.
36. See e.g., *Why Law Firm Affinity Groups Are a Valuable Resource* (October 23, 2008), available at <https://www.law.com/almID/1202425460077?slreturn=20200023201218>.
37. *This Talk Isn't Cheap: Women of Color and White Women Attorneys Find Common Ground* (forthcoming).
38. Most of our focus groups were run with mixed-race groups of participants, so it was hearing the experiences of women of different racial/ethnic backgrounds that often highlighted the ways that experiences could differ between these women of different backgrounds.
39. See e.g., *Backlash Effects for Disconfirming Gender Stereotypes in Organizations* (2008), available at http://rutgerssocialcognitionlab.weebly.com/uploads/1/3/9/7/13979590/rudman__phelan_2008._backlash_effects_for_disconfirming_gender_stereotypes_in_organizations.pdf.
40. *Id.*
41. See e.g., *Visible Invisibility: Women of Color in Law Firms* (2006) at p. 25
42. Microaggressions are subtle slights or snubs, often rooted in stereotypes or biased assumptions, that are directed at historically stigmatized or minority status groups. More information is available at <https://www.apa.org/monitor/2009/02/microaggression>. For more examples, see *Visible Invisibility: Women of Color in Law Firms* (2006) at p. 18

43. Microinequities, like microaggressions, are subtle slights or snubs that demean, dismiss, and marginalize others, but they are not necessarily rooted in stereotypes or social identities. More information is available at <http://mitsloan.mit.edu/shared/ods/documents/?DocumentID=4275>.

44. This uncertainty is also known as “attributional ambiguity,” which refers to a psychological state of uncertainty caused by being unable to determine or not confident in the attributions one makes about one’s treatment or outcomes. More information available at <https://psychology.iresearchnet.com/social-psychology/social-cognition/attributional-ambiguity>. The social science research on this attributional ambiguity shows that it contributes to imposter syndrome (i.e., a feeling that one is not qualified to be in a particular space or role), mental and emotional fatigue, lowered self-esteem, etc.

45. *This Talk Isn’t Cheap: Women of Color and White Women Attorneys Find Common Ground* (forthcoming).

46. *2018 Vault/MCCA Law Firm Diversity Survey* at p. 4.

47. *Id.* at p. 5

48. *Retaining Women in Law Firms* (2018), available at <https://www.chambers-associate.com/law-firms/diversity/retaining-women-in-law-firms>.

49. *Women of Color in U.S. Law Firms* (2009) at pp. 38–39

50. *Id.* at p. 5

51. See e.g., *Breadwinning Mothers Continue to Be the U.S. Norm* (2019), available at <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm>.

52. *Women of Color in U.S. Law Firms* (2009) at p. 45.

53. *Id.* at pp. 43–44

54. See e.g., *Retaining Women in Law Firms* (2018). See also, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* (2018) at pp. 4, 9.

55. See e.g., *Black-White Disparity in Student Loan Debt More Than Triples After Graduation* (2016), available at <https://www.brookings.edu/research/black-white-disparity-in-student-loan-debt-more-than-triples-after-graduation>.

56. See e.g., *Depleting Capital? Race, Wealth, and Informal Financial Assistance* (2012), available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.839.7847&rep=rep1&type=pdf>.

57. *Id.*

58. See e.g., *Racial and Ethnic Differences in Extended Family, Friendship, Fictive Kin and Congregational Informal Support Networks* (2013), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4116141/pdf/nihms591372.pdf>.

59. See e.g., *Kin Support among Black and Whites: Race and Family Organization* (2004), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1033.6362&rep=rep1&type=pdf>.

60. Past research has captured women of color discussing how their obligations and investment in extended family (e.g., cousins, nieces, and nephews), along with their commitments to their church and communities, are seen as strange by their colleagues. As these are not the norm among their white colleagues, their workplaces are not accustomed to making accommodations for these family responsibilities. *Women of Color in U.S. Law Firms* (2009) at p. 44–46.

61. *You Can’t Change What You Can’t See: Interrupting Racial & Gender Biases in the Legal Profession* (2018).

62. *2019 NAWL Survey on Retention and Promotion of Women in Law Firms* at pp. 10–13.

63. See e.g., *Trading Action for Access: The Myth of Meritocracy and the Failure to Remedy Structural Discrimination; Why Are There so Few Black Lawyers in Corporate Law Firms* (2008), available at https://cdn.harvardlawreview.org/wp-content/uploads/pdfs/myth_of_meritocracy.pdf.

64. *Women of Color in U.S. Law Firms* (2009) at p. 44; *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* (2019) at pp. 7–8; *Visible Invisibility: Women of Color in Law Firms* (2006) at pp. 19–20.

65. *Women of Color in U. S. Law Firms* (2009) at pp. 14–15.
66. *2019 NAWL Survey on Retention and Promotion of Women Law Firms* at p. 13.
67. *Women of Color in U.S. Law Firms* (2009) at p. 25.
68. *Id.* at pp. 25–28; *See also, Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* (2019) at p. 8.
69. *Women of Color in U.S. Law Firms* (2009) at pp. 34–35; *Visible Invisibility: Women of Color in Law Firms* (2006) at p. 17.
70. *Women of Color in U.S. Law Firms* (2009) at p. 30; *Visible Invisibility: Women of Color in Law Firms* (2006) at p. 12.
71. *This Talk Isn't Cheap: Women of Color and White Women Attorneys Find Common Ground* (forthcoming).
72. *See e.g., You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession* (2018) at p. 9, where white women were more likely than women of color to say that their pay was comparable to similarly situated colleagues and less likely to say that they were paid less than similarly situated colleagues.
73. *Sisterhood in the Workplace Only Goes So Far When It Comes to Perceptions of Pay* (May 20, 2019), available at <http://www.morningconsult.com/2019/05/10/sisterhood-in-the-workplace-only-goes-so-far-when-it-comes-to-perceptions-of-pay>. A recent poll found that only 34 percent of white women think that women of color are paid less than white women for similar work; although 66 percent of white women think that women are paid less than men.
74. *Id.*
75. *Women of Color in U.S. Law Firms* (2009) at pp. 10–11.
- As above, these percentages are for women and men reporting that they are “extremely satisfied” or “somewhat satisfied” with the aspect of their work.
- See* “2019 Client Advisory” by Hildebrandt Consulting and Citibank at 11 (reporting that in 2017, more partners were hired laterally than promoted internally). *See also* “Should Law Firms Be Clamoring For Diversity in Recruiters?”, *Law 360*, Oct. 4, 2019.

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QUESTIONS TO ASK WHEN A MENTOR BECOMES A SPONSOR

by Rik Nemanick, Ph.D.

As a tool for developing talent, mentoring can be so powerful because mentors are so versatile. One mentor can play a multitude of roles for one protégé. A mentor can be seen as a role model, inspiring her protégé by leading by example. She might also act as a sounding board, thought partner, and advisor, giving her protégé the time and space to ponder his world and expand his thinking. She might also provide **protection** within the organization for protégé, giving him cover for taking risks or helping him recover from mistakes. Finally, she might **advocate** on his behalf, helping him secure opportunities that he otherwise would not have been available to him. It is this



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steps of strategizer, connector, and opportunity giver in between. This conception of sponsorship shows an increasingly active role the mentor plays in helping the protégé achieve her or his goals. At Ibarra’s “mentor” end of the continuum, the mentor acts in a more traditional way, as a nonjudgmental thought partner and source of guidance. As the mentor moves along the continuum toward sponsorship, she plays a more active role by making connections, creating opportunities, and actively advocating for a protégé’s advancement within the organization.

It makes sense to want mentors to act more as sponsors for their protégés. Mentors, by nature of their senior roles, are often in a position of influence within their organizations. They have connections with other powerful leaders and access to networks the protégés do not. Such access can be key to helping open doors and create opportunities for protégés, especially those to whom access has been denied in the past (e.g., **women**, ethnic minorities, other marginalized groups).

Further, sponsorship can be more satisfying to the mentor in the short run. Taking a more active role allows the mentor to take tangible steps to help a protégé as well as see more immediate impact of her efforts. For example, it takes a lot longer to see results acting as a sounding board and advising a protégé on how to get visibility in the organization when compared to directly

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advocate or open doors, instead emphasizing the thought partner and advisor portions of the mentor’s role. What many of the authors who advocate for sponsorship over mentoring fail to recognize is that the increasing involvement of a sponsor involves more risk on the mentor’s part. In a mentoring partnership, the risk is primarily with the protégé, who needs to open up and be vulnerable with the mentor. The mentor’s job is to “create a safe place” for the protégé so he can take that risk, but the mentor does not risk much herself. In sponsorship, the risk is much greater for the sponsor. She is extending her reputation to the protégé by vouching for him and, as one author states, provide “air cover”. While some sponsors accept this risk willingly, many are not comfortable risking their own reputations for someone they do trust yet. If we want sponsors to be willing to take that risk, we have to acknowledge that there is a risk and help the mentors find ways to trust their protégés.

Another danger of sponsorship is the mentor taking the lead from the protégé. My first rule of mentoring is to [Lead by Following](#). A mentor’s job is to empower a protégé to take the lead, but not to do it for him. When a mentor starts acting like a sponsor, she runs the risk of superseding the protégé’s goals with her own and steering the protégé in a direction he does not want to pursue. For example, when I was nearing the end of graduate school, one of my mentors set me up with a job interview at a research group at a medical

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lifetime. As some authors note, there are good reasons to open doors and advocate for protégés who do not have equal access to senior networks within an organization. Many women and underrepresented minorities have been shut out of opportunities because senior leaders, who are often white and male, are more likely to sponsor protégés who look like them. In those circumstances, it can make sense for a sponsor to advocate for a protégé who wouldn't be considered otherwise. But, there are times that a protégé is better served by learning to navigate those networks himself as the mentor won't always be there to advocate and protect the protégé. Developing a comfort with senior networks and knowing how to comport oneself are skills that take time to develop.

A mentor who wants to engage in sponsorship, therefore, has to weigh the benefits of advocating on a protégé's behalf with the risks of playing a more active role. I might recommend mentors ask themselves some questions to decide if sponsorship is warranted:

- **Does this opportunity align with my protégé's stated goals?** Check in with your protégé to gauge his level of interest in the opportunity. Does it take him in the direction of what he wants for himself. Check on the second rule of mentoring, [Chart a Course](#).

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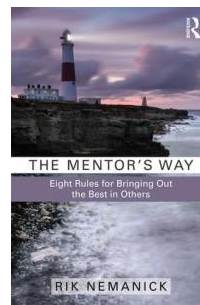
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protégé pursues the opportunity and fails at it? Are you willing to stand by the protégé for taking that risk? Your credibility may take a hit with your peers if you advocate and the protégé fails. Further, are you willing to put in the work to help your protégé learn from the experience and get back on track?

Sponsorship is a powerful role that mentors can play and it can have great benefits for both protégés and the organization. But, mentors should be mindful of how they undertake sponsorship and make sure they do it right and for the right reasons.



To comment on this article or to learn more about mentoring, contact Rik Nemanick at nemanick@leadership-effect.com. If you are looking for more to read about mentoring, you may want to pick up a copy of my book, *The Mentor's Way*, on Amazon.

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Diversity And Inclusion

Don't Just Mentor Women and People of Color. Sponsor Them.

by Rosalind Chow

June 30, 2021



Image Source/Getty Images

Summary. Understanding the difference between sponsorship and mentorship is key to ensuring that women and members of historically marginalized communities (HMCs) are fully supported in their careers. Mentorship involves direct support of a protégé, while... [more](#)

Mike Smith, president and COO of Stitch Fix, has long been committed to recruiting and developing a diverse workforce. His impetus for doing so came from his mentor, Ken Coleman, chairman of EIS Group, Inc. and a Silicon Valley veteran, who told him, “Be successful, hire, mentor, and sponsor those people of color that come behind you.”

Although Coleman’s words of advice, given from one Black executive to another, were offered pre-pandemic, they’ve taken on a new urgency in the wake of a national reckoning over racial inequity following George Floyd’s and countless others’ murders. One of the most common recommendations on how to be a better ally to members of historically marginalized communities (HMCs) is to sponsor them.

But what is sponsorship, exactly? Many define it as spending one’s social capital or using one’s influence to advocate for a protégé. This definition seems intuitive at first glance, but if you ask people to unpack what that actually means in terms of concrete behaviors, most struggle to do so. Many leaders believe that they’re sponsoring someone when, in fact, they’re providing mentorship. Mentoring is important, too. But the confusion between sponsorship and mentorship is dangerous — an inability to differentiate between the two makes it more likely that leaders will believe they’re supporting their HMC workers to their fullest extent when they’re actually only giving one form of support.

To clarify what sponsorship is and how it’s different from mentorship, I zero in on a key word: influence.

Sponsorship vs. mentorship

Sponsorship can be understood as a form of intermediated impression management, where sponsors act as brand managers and publicists for their protégés. This work involves the management of *others’* views on the sponsored employee. Thus, the relationship at the heart of sponsorship is not between

protégés and sponsors, as is often thought, but between sponsors and an audience — the people they mean to sway to the side of their protégés.

Whereas mentorship focuses on help that a mentor can provide directly, such as guidance, advice, feedback on skills, and coaching, sponsorship entails externally facing support, such as advocacy, visibility, promotion, and connections. Seeing sponsorship as a three-way relationship between sponsors, protégés, and an audience clarifies the difference between it and mentorship.

The ABCDs of sponsorship

Understanding sponsorship in this way, we can identify specific, concrete behaviors for sponsors to use to lift up others. Here, I take tactics that are typically studied as forms of impression management and translate them into their sponsorship equivalents.

Amplifying. Amplifying is the sponsorship equivalent of self-promotion. When sponsors amplify, they share protégés' accomplishments with others in a bid to create or increase an audience's positive impressions of them.

Consider the story of Sal Khan, the founder of the education site Khan Academy. Khan Academy was struggling to make ends meet until Bill Gates used an interview to declare that it had the potential to change the world. After this unsolicited endorsement, Khan was inundated with funding offers from Google and Microsoft, among others. Note that sponsorship doesn't require a close relationship with the protégé. Bill Gates didn't know Sal Khan personally, but he believed in his product.

To advance in our careers, we need others to know about our achievements and accomplishments. But most people don't like braggarts. When a sponsor trumpets a protégés' achievements,

they sidestep the self-promotion and its potential downsides. This is particularly important for women since female stereotypes dictate that they be self-effacing and humble.

Boosting. Boosting is the sponsorship equivalent of self-assurance. When people put themselves forward for consideration for a position or opportunity, they're in effect making promises about their future performance. But most of us know that people are motivated to make themselves look good in these situations and may not present an accurate view of their own capabilities. These claims, then, may not hold as much weight as when they're made by a third party who presumably has a more objective opinion on how the protégé will actually perform. Here's where boosting comes into play: When sponsors boost their protégés, they stake some portion of their own reputation on an implicit guarantee about the protégé's future success. They underwrite it.

If you've received a letter of recommendation from a teacher or benefited from a referral made by a friend, you've experienced boosting. Boosting is a particularly important form of sponsorship for women and members of HMCs. Due to biases in how quality is evaluated, many of them receive lower performance ratings and are given lower-quality feedback, making it even more difficult for them to improve and advance. Given their relative lack of representation in many white and male-dominated industries, they are especially in need of sponsors who can lend them the legitimacy they need to be seen as worthy of investment.

Connecting. Connecting is the sponsorship equivalent of impression management through association — that is, claiming a relationship with a highly regarded individual or group so that some of the positive feeling others have toward them is transferred to the person claiming the association. This is often referred to as a “halo effect.”

When a high-status sponsor connects, they claim the association with the protégé, rather than the other way around. This enhances others' impression of the protégé because the sponsor has already been "vetted" by the community. Likewise, the protégé has passed the sponsor's standard for inclusion into their network. Connecting can also involve actively facilitating new relationships for protégés, giving them access to people that they wouldn't otherwise be able to meet.

For example, a sponsor might invite a protégé to an exclusive event or meeting in order to increase their visibility to important individuals who might prove instrumental to a future career. For example, when Annie Young-Scrivner, now the CEO of Godiva, worked at PepsiCo, she benefitted from the sponsorship of Indra Nooyi, then CEO, who would invite her to attend meetings in China that proved to be valuable learning and exposure experiences.

Connecting in combination with boosting is an even more formidable form of sponsorship. Take ClassPass's former CEO, Payal Kadakia, who met David Tisch through their mutual participation in TechStars, a startup accelerator in New York City. Tisch recognized that, as a young woman, Kadakia might have difficulties raising money through the traditional venture capital process. He therefore personally introduced her to angel investors, many of whom went on to seed her company with several million dollars.

Defending. Defending is the sponsorship equivalent of justifying or making personal excuses in an attempt to change others' perceptions of them from negative to positive. In the same way, when a sponsor defends, they address an audience who dislikes or dismisses the protégé and works to persuade them to change their opinion. Defending is quite possibly one of the most effective sponsorship tactics.

Indeed, it is critical for women and members of HMCs, again because of the often biased ways in which they're reviewed. As an example, Jerry MacCleary, the former CEO of Covestro LLC, found himself consistently defending female employees and employees of color in evaluation meetings because he saw that white male managers were often criticizing their interpersonal styles as too outspoken or confrontational. MacCleary countered with personal examples that directly contradicted the other managers' claims. In this way, under his guidance, Covestro dramatically increased the diversity in its leadership ranks; at the time of his retirement, five of 11 top positions were held by women and people of color.

Of the various forms of sponsorship, defending is the most costly for sponsors. Because it necessitates challenging the attitudes and beliefs of others, it can create conflicts between the sponsor and the audience, sometimes with material costs. For example, Kenneth Frazier, the retiring CEO of Merck, tells a story from when he was working for a law firm in Philadelphia. One of the firm's clients asked that he be removed from a case due to his race. But Frazier's senior partner took a stand to support him, telling the client, "You may take your business elsewhere, but we believe in him and we're not going to replace him."

Using sponsorship for social equity

Most people have benefited from sponsorship in some form or another to advance in their professional lives. The recognition of its power leads many of us to focus on ensuring that we have sponsors who will amplify, boost, connect, or defend us. But if we're truly committed to social equity, we need to start thinking not only about how we can benefit from sponsorship but also how we can help others who need it. To do that, we must first contend with deciding whom to sponsor. Ask yourself: What are my criteria for sponsoring someone? Are they accurate measures of performance and talent, or am I using a potentially problematic

proxy for quality? Am I applying my criteria equitably across all the people I could sponsor? Are there people I see as high-performing who seem to be consistently flying under the radar?

Once you identify a protégé, you should then be attuned to opportunities for enacting sponsorship. If a protégé has an achievement to celebrate, amplify it to people who might be interested. Bragging on behalf of others is often seen as a positive social skill. If a boosting opportunity presents itself, name the protégé and advocate for them. Enhance the protégé's exposure by inviting them to a meeting or connecting them with important people. Finally, and perhaps most importantly, if others are inappropriately impugning a protégé, stand up and defend them.

Mapping the ABCDs of Sponsorship to Specific Behaviors and Goals

Examples of behaviors that fall under each sponsorship category and the intended goal of the sponsorship tactic.

Sponsorship tactic	Example behavior(s)	Intended goal
Amplify	Being aware of and talking up a protégé's accomplishments	Create or increase perceivers' positive impressions of the protégé
Boost	Formally nominating a protégé for specific opportunities; writing letters of recommendation, attesting to the protégé's future potential	Increase others' expectations of the protégé's potential and readiness for advancement
Connect	Introducing a protégé to high-status individuals; inviting a protégé to exclusive events or meetings	Create or enhance perceivers' positive impressions of the protégé; increase the protégé's visibility

Defend	Challenging others' negative perceptions of a protégé; providing an alternative explanation for poor performance; protecting a protégé from harmful exposure	Reverse or neutralize others' uncertainty or negative perceptions of the protégé
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Understanding the difference between sponsorship and mentorship is key to ensuring that women and members of HMCs are fully supported in their careers. Allies need to not only offer the emotional support of mentoring but also be intentional about identifying opportunities for sponsorship and using our social capital to lift up those who might otherwise go unnoticed. Sponsorship alone isn't enough to address the deep-seated challenges associated with systemic racism, but it is a personal action that all of us can take to help make the world a more equitable place.

RC

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The Key Role of Sponsorship

According to research from the Center for Talent Innovation (CTI), the vast majority of women (85%) and multicultural professionals (81%) need navigational support to advance in their careers but receive it less often than Caucasian men. However, a 2010 Catalyst study revealed that more women than men have been assigned mentors yet 15% more men won promotions. Why? The findings indicate that having more mentorship did not lead to advancement but having a senior mentor in a position to provide sponsorship did.

What is the difference between having a mentor or having a sponsor?

In short, mentors advise you and sponsors advocate *for you*.

Mentors	vs	Sponsors
Mentors have mentees	→	Sponsors have protégés.
A mentor could be anyone in a position with experience desired by a mentee who can offer advice and support.	→	A sponsor is a senior level staff member invested in a protégé's career success.
Mentors support mentees through formal or informal discussions about how to build skills, qualities and confidence for career advancement	→	Sponsors promote protégés directly, using their influence and networks to connect them to high-profile assignments, people, pay increases and promotions.
Mentors help mentee craft a career vision	→	Sponsors help drive their protégé's career vision
Mentors give mentees suggestions on how to expand their network	→	Sponsors give protégés their active network connections and make new connections for them
Mentors provide feedback to aid a mentee's personal and professional development	→	Sponsors are personally vested in the upward movement of their protégé
Mentors offer insight on how a mentee can increase visibility through finding key projects and people	→	Sponsors champion their protégés visibility, often using their own platforms and reputation as a medium for exposure.
Mentors passively share the "unwritten" rules" for advancement in their organization with mentees	→	Sponsors actively model behavior and involve protégés in experiences that enable advancement

Consider the following questions to help identify a sponsor for your employee (or yourself).

	Potential Sponsors
1. Who makes pay, promotion or project assignment decisions that affect you/your employee?	
2. Which senior leaders could benefit from you/your employee's career advancement?	
3. Which senior leader has a network or platform most equipped to help you/your employee advance in their career?	
Best Choice:	

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