

Drafting a Diversity, Equity and Inclusion Policy for your Company



Erin Nathan Simmons Perrine Moyer Bergman PLC

Many organizations have begun to realize that including a Diversity, Equity and Inclusion Policy and implementing that policy is critical for recruiting, retention, job satisfaction, and client development.

For many industries, like the law, where diversity has not increased, even with more diverse individuals graduating from

law schools every year, new tactics are being taken to increase diversity, equity and inclusion, one being to draft a Diversity, Equity and Inclusion (“DEI”) Policy.

For example, according to the American Bar Association (ABA) [National Lawyer Population Survey for 2021](#), 85 percent of lawyers are white and 63 percent

are male – statistics that have been fairly stable since 2011. Yet, many lawyers understand that increasing diversity and inclusion leads to more diverse opinions, which in turn leads to better decisions. The ABA collected studies in its article [Banking on Diversity: Diversity and Inclusion as Profit Drivers – The Business Case for Diversity](#)

which noted that over and over diversity and inclusion are drivers for law firm profitability. In the law, clients may drive that change, for example, since many corporate clients have begun to demand diversity when determining which law firms they will hire. Corporations may create formal policies, like requiring a certain percentage of female and/or BIPOC individuals as partners, or more informal policies, like requiring a female and/or BIPOC individual to be lead counsel on matters. The [Wall Street Journal reports](#) that Microsoft Corp., U.S. Bancorp, Uber and Intel are asking the law firms they hire to detail how many diverse lawyers they employ and whether those lawyers are assigned meaningful work. Novartis AG reports it withholds 15 percent of legal fees if diversity benchmarks are not met, and Intel will only hire U.S. law firms whose U.S. equity partnerships are comprised of at least 21 percent women and 10 percent underrepresented minorities. State bar associations have also begun to create incentives for law firms to create and participate in diversity, equity and inclusion programs. My own state bar association's young lawyers division created a [diversity, equity and inclusion pledge](#) for the state's lawyers.

So, if you too believe that a Diversity, Equity and Inclusion Policy ("DEI Policy") is necessary for you, carefully consider the launch of such a policy. Real and meaningful change will not occur if your organization merely pastes a policy into its handbook or procedures. Rather, it will be critical for all participants, from the newest staff member to upper management, to participate. When launching a DEI Policy and related initiatives, they should not be a "top-down" approach, but rather stakeholders at a variety of levels within your company should participate so that the impact is meaningful and long lasting. If the approach is one pushed down from management, there is opportunity for a lack of engagement, participation and, potentially, the loss of any meaningful change. The only way to launch a successful DEI Policy and related initiatives at your company is to provide transparency and inclusiveness at each level of launch.

PRE-LAUNCH: EVALUATE

Before drafting a DEI Policy, consider reviewing internal data to determine what is and is not working at your organization. Generalized goals like "we want to hire with more diversity" can be difficult to implement and can render meaningless without reviewing data on whom you currently hire, how you hire (e.g., where you recruit) and who participates in hiring decisions.

Before drafting a DEI Policy, review your organization's mission statement and/or statement of values. If you do not have such a statement, consider drafting one. A mission statement or a statement of values should consider all interested individuals – owners, managers, employees, vendors and clients - and provide direction for decision making and action for all levels of engagement. The statement should include general guidance and rules of engagement and be consistent with how the organization will operate both internally and externally.

Another step before even drafting the DEI Policy is to consider and review your educational efforts. Consider: What types of education and training does your company offer on diversity, equity and inclusion? Does your company train on implicit bias? Does your company sponsor outside diversity, equity and inclusion efforts? Are there any barriers to educational opportunities? For example, is everyone at your organization provided the same opportunities to attend courses on diversity, equity and inclusion or are those opportunities only afforded to more senior-level executives and managers? If you are a law firm and not currently offering education and training on DEI and/or implicit bias, a good resource is your local bar association as many offer coursework, initiatives and guidance on how to provide this key education.

PRE-LAUNCH: DRAFT

After evaluating your current practices and training, it is time to review any existing policies or draft a new DEI Policy. So, what should go into a DEI Policy?

A successful DEI Policy navigates concepts relating to both values, current activity and planned activity:

Values: Your DEI Policy should explain the organization's values and why diversity, equity, and inclusion matter to the company, both internally and externally. Meaning, these value statements should translate not only how the company treats its owners, managers and employees, but also address how the company will navigate in the community.

Approach: Your DEI Policy should explain how the organization approaches diversity, equity and inclusion with respect to hire, retention, promotion, discipline and engagement. Your DEI Policy may even express an intent regarding client selection and approach.

Initiatives and Goals: Your DEI Policy should address any initiatives your organization is taking on as a part of this policy. Perhaps in your review, you found areas in need of improvement. Your DEI Policy is a

place to set goals and timelines for achievement.

PRE-LAUNCH: REVIEW

After you have drafted your DEI Policy, it should be reviewed, and not just by management. For maximum transparency and accountability, consider forming a committee of management and non-management individuals to review the DEI Policy and provide input.

LAUNCH!

You have evaluated the current state of your organization's DEI efforts, identified areas for improvement and drafted a policy with input from a variety of individuals within your organization – now it is time to launch your policy. To successfully launch your DEI Policy, you should consider a training component to couple with that new policy. Sending out an email with the new DEI Policy may simply get ignored; however, if you present the new policy in the context of a dynamic and relevant training, your company is more likely to remember concepts and participate in the new initiatives.

MONITOR, EVALUATE AND SHARE

After you have launched your DEI Policy and provided dynamic training, your job is not done! You should continue to monitor efforts, evaluate goals, and, as necessary, modify. You may find that a goal you thought would be easily met, like training all employees, could not be accomplished. Evaluate with your DEI committee why that goal was not met, get feedback, and perhaps revise your strategy to encourage participation. Share those results with the entirety of the organization. You may even find you get more participation the more transparent you become.

Share your efforts with your community. Clients are increasingly focused on the DEI efforts of the companies and law firms they hire. External communication could be in the form of a more formal press release about diversity efforts, or it may be required as part of your next pitch.



Erin Nathan is a partner in Simmons Perrine Moyer Bergman PLC's employment law practice group. She provides counseling, workplace training and represents businesses and individuals before state and federal courts and agencies involving all aspects of employment law. Erin can be reached at enathan@spmbllaw.com.