How Legal Ops Can Enable a Diversity Program

Cultural Competence

Law Department Management

If you are reading this, you are likely involved in the profession of law in some way, whether as an in-house lawyer, legal operations professional, or law student. My company's general counsel, David Feinberg, recently communicated to our department: "As legal professionals, we all should recognize that our society ultimately depends on the legitimacy and fairness of the legal system that we participate in and benefit from." Considering systemic racism and what can be done to create change may feel overwhelming. What can we do to contribute to change? What can we do to eliminate unintentional bias? This column focuses on diversity and inclusion efforts that corporate legal

departments can take to become catalysts of change.

For this month's column, I spoke to Don Knight, director of legal and tax operations at Crown Castle, a wireless communication infrastructure company. He has implemented diversity programs at various points in his career and has a few tips to share.

Initial set-up

Does your organization have some sort of formal diversity and inclusion program? If so, great! You'll want to partner with this group closely as you set up your own committee within the legal department.

If not, it's your chance to blaze the trail. You'll obviously want to get leadership buy-in for this new committee and understand the goals and objectives of executives. This initiative is likely to create some tricky situations given the subject matter. Making sure leadership and your diversity committee are on the same page provides the best shot at success. It is also helpful to understand what metrics are already available about the employee base and what information you would like to track. Many organizations choose categories like gender, race/ethnicity, LGBTQ+ status, disability, and veteran status. If this type of information is not available, I recommend working with your HR department and labor and employment attorney to devise a strategy to capture it. You need a baseline to measure against.

General education

People need to understand the "why" behind this initiative. The business case for diversity should be made clear. It is helpful to expose the fact that there are things inherent to the systems and processes currently in place, combined with human nature (unconscious bias), that can present unintentional barriers to diversity. Some of the most powerful education can come from allowing colleagues to share their own experiences with things like racism, sexism, ageism, etc. You might be surprised at how common these stories are among the team. Coming from people you (I hope) know and respect can make it less of an academic or theoretical construct.

A great resource to use for diversity initiative information is the Diversity Lab (*diversitylab.com*). The Diversity Lab is an incubator for innovative ideas and solutions that boost diversity and inclusion in law.

Internal hiring

Where are you posting your open positions? Are you specifically targeting minority and LGBTQ+ bar or trade associations? Taking that extra small step can signal that your company is a welcoming environment for these groups. Are you actively ensuring you have a diverse slate of candidates for hiring managers to review? Consider following a standard like the Mansfield Rule. Now on version 3.0, Mansfield is basically patterned after the NFL's Rooney Rule, which requires a minority candidate to be interviewed for a head coaching position. Are there things about your hiring process that may introduce or facilitate unconscious bias? Perhaps consider stripping names and other identifying information from your initial screen of resumes and having candidates interview with

multiple people to gather unique insights. We all have our blind spots.

Development

What are you doing to develop the diverse talent you just spent so much time and careful effort to hire? Are you providing opportunities for mentorship and meaningful work for these employees? Diversity is being invited to the party. Inclusion is being asked to dance. Are you considering a diverse slate as promotion opportunities arise? If you are a leader of people, does everyone on your team have the same opportunity for networking and social interaction with you? Maybe that golf outing becomes a trip to TopGolf instead. Small tweaks can make a big difference.

Law firm and vendor management

Study after study shows that diverse teams outperform non-diverse teams. We've just discussed ways to improve your internal department above, but remember to address that significant extension of your legal team, outside counsel. I recommend using your matter management/e-billing system to gather two layers of metrics.

a. High-level firm statistics — Diverse-owned, diversity of the management committee, partners, associates, and staff.
b. Diversity data about people working on your matters — In the same way you are gathering hourly rate, year of law school graduation, and other details, you can also obtain diversity data of your choosing. Common examples are gender, race/ethnicity, LGBTQ+ status, disability, and veteran status. This data can then be tied to the billing data as it flows through the system to produce reporting on hours and dollars tied to all staff working on your matters. You will be able to measure what percent of your work is being performed by diverse staff. You will also be able to compare roles and diversity status to see if the diverse staff are progressing.

Gathering the data isn't enough, though. You'll also need to produce the reporting and have ongoing conversations with your firms about their progress on these metrics. It needs to be clear that this is important to you and that it is something you are using as a factor in deciding how to allocate your legal dollars. I've found that being open about your own progress as a department helps make the conversation less threatening. Each organization needs to decide for themselves whether to set specific targets and how stringently to enforce them. I suggest starting slow and evolving that stance over time. The act of tracking and discussing this frequently will move the needle. In one case, I saw the percentage of women and other diverse categories double on our matters in a three-year period. You also may find that part of the issue is that the firm has diverse resources available, but your internal team is not requesting them. This is why having high-level firm stats is so important. I'm not suggesting you automatically replace counsel who have been highly effective for your organization, but there may be opportunities for them to involve diverse resources in support of your matters.

Each step you take to promote diversity and inclusion will cause positive ripple effects for years to come.

Julie Richer

LEGAL OPERATIONS AND DISCOVERY MANAGER

AMERICAN ELECTRIC POWER (AEP)