

How the “Best Person for the Job” Advances Diversity and Inclusion

Cultural Competence

Employment and Labor



During my all associates meetings, we use a technology that allows my entire team to anonymously ask questions and then vote them up or down. This means I need to address the most highly desired questions — regardless of how tough they are. I am a huge supporter of the technology since it allows me to answer what is really on everyone's mind, as compared to one question from a single person who is brave enough to ask in front of hundreds of their peers. In my most recent meeting, one of the more highly rated questions was, "Senior leaders are so gung-ho on diversity and inclusion these days … Why is 'diversity and inclusion' more important than 'the best person for the job?'" My response: "Excellent question."

An underlying premise of the question separates three different concepts — diversity, inclusion, and individual performance. For the best results, all three are interrelated. We always should choose the best person for any position — and the best one will also be a supporter of diversity and inclusion. But why is this so?

Building a culture of diversity and inclusion will allow you to attract superior talent. As indicated in my previous columns, any leader or legal team is only as strong as the team as a whole. Our talent pool is rapidly changing. Around the year 2042, the white majority in the United States will become the minority — never to be reversed. Currently, approximately 56 percent of enrollees at American colleges are women. Women comprised 51 percent of the law students in the 2018 class. To identify and attract the very best talent, you need to be able to choose from this most expansive population pool.

To attract the best talent, an organization also needs to affirmatively and publicly display that it values all people and their views. With diverse attorneys in leadership and other significant positions with accompanying recognition and reward, it will be clear that every individual can become successful

because of their talent and results. Evidence of diverse attorneys “making it” will benefit the current team and attract new recruits.

Just as the demographics in the United States are changing for attracting talent, they are also changing for our customers. Customers and suppliers of almost all businesses are also becoming more global; the population in the United States certainly does not reflect the population of the world as a whole. Effective and successful interactions with suppliers and customers require a team of individuals who not only reflect these constituents but also understand their needs and how they can best be met. Competitive alternatives exist for almost all our products and services. Customers trust and want to do business with an entity whose workforce, marketing, and messaging reflects their individual characteristics. Incorporating diversity in all aspects of an organization sends a message to customers that you value differences and, therefore, value them.

Having this full range of diversity is necessary, but not sufficient, to improve results. It is critical to have an inclusive environment where different perspectives are truly encouraged, listened to, and valued. While “diversity” reflects the makeup of the team, “inclusion” is the active, intentional, and ongoing engagement with the diversity in the organization. For this reason, to get the full value of inclusion, diversity must be defined broadly and should not be limited to the traditional protected classes. Diversity should encompass all our differences, including personal and professional/career experiences, interests, and other experiences, which, of course, are also correlated to the various protected classes.

Inclusion allows for superior decision-making by bringing balance and equilibrium to any team or group and to the environment in which the team operates. And a diverse group will develop different strategies, approaches, solutions, and ideas. The more alternatives that exist to solve a particular problem, the greater the potential for a better decision. Another benefit of a broad range of ideas is the counterbalancing of “group think.” A clubby group may be more cautious about calling out what is wrong, crosses the line, or may be illegal. Understanding, evaluating, and vetting different methods allows a team to sharpen its thinking and choose better approaches.

An organization that demonstrates its commitment to accepting and respecting individual differences will also be receptive to “idea” differences. Creativity and innovation are the natural output of such an environment. Individuals will feel more comfortable both expressing their own ideas and challenging institutional assumptions and the ideas of others because the organization has established a safe environment, and a safe culture, to encourage and try new things. I would rather have 10 ideas with only two good ones than none at all. As Pat Martin, the former CEO of StorageTek, for whom I worked, often said, “when smart people ask dumb questions — listen.” You need to create an environment where smart people are comfortable asking “dumb questions.” The freedom from conventional thinking inspires individuals to move out of their silos, and the diverse collaboration enhances innovation.

Whenever I need to develop a unique legal strategy, provide a solution to a challenge, or respond to an adverse result, I do not close my door and start working. My first step is to pull together a team. The diverse group uses good judgment to timely evaluate alternatives, weigh the value of the range of facts, and consider, among other things, the impact on various stakeholders, as well as the risks, cost, and likelihood of the successful implementation of the proposed solution (as covered in my September 2018 column “Judgment Day”). A diverse and inclusive team will bring valuable input to each of these components, enhancing and refining both the decision-making process and the decision itself.

An organization that promotes diversity and inclusion has employees who are comfortable with bringing their full selves to work. This means that diverse individuals feel they are welcome and can "show up" to their jobs in full, without holding anything back. They trust they will not have to deal with the pain and discomfort of an unwelcoming environment, and they can instead focus on adding value. Employees do not come to work wanting to be failures — they come to work wanting to be valued and to add value.

If we think about our careers, we all know how much more we enjoy working for a leader whom we respect and who cares about us, our work, and our careers. Studies support the idea that diversity and inclusion improve business results by increasing employee retention, facilitating collaboration, and inspiring employees to work harder. Moreover, if we think about how much more productive we are when we are valued by our leaders and have high job satisfaction, it is startling. We are energized to come to work early, go the extra mile on a project, or spend our free time thinking about how to achieve better results. Recognizing this value of an engaged workforce, many enterprises survey their employee engagement every year with the desire for continuous improvement. There is a very close and positive correlation between engagement and organizations that promote diversity and inclusion — this is a clear way to drive improvement!

All of the factors outlined in this column work together to increase productivity and make for significantly better results. When I was growing up, diversity was described as "civil rights" and was championed in the name of "equality" and as being the "right thing to do" from legal, moral, and religious perspectives. This certainly remains true today. Yet, law departments that want superior performance recognize the business value of diversity and inclusion. They move beyond satisfying the minimal standard of what is legally required. They attract, develop, and establish a culture that is different by being inclusive of all views and perspectives. Such a team, and the environment it creates, allows every individual to provide his or her greatest value to the organization. The outcome is more creativity. You will see more proactive legal approaches and better decision-making that will generate superior results in addressing complex legal challenges and customer needs.

Diversity and inclusion is not a topic or objective we can delegate to our diversity and inclusion teams, employee/business resource groups, or our diverse team members, but rather it must be a priority for all of us. It is simply in the best interest of our company, customers, and us — personally — to advance and promote such an inclusive and diverse environment.

So to answer the question, my overall experience is that, as a member of a legal team, ***if you want to show competitively superior results, you need to always pick the "best person for the job" — and this person will make developing a diverse and inclusive culture as important as any other operational and leadership actions taken to drive performance and maximize success***. Such a person will not treat this effort as a "feel good" extracurricular exercise but will pursue it like other significant business objectives — purposefully and with a sense of urgency. It has worked for me. I have had a great career, in large part by surrounding myself with diverse and inclusive teams that have delivered innovative, superior results — ***so I'm not changing!***

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