

# Getting Inclusive about Inclusion: A Talent Management Strategy

by Lisa B. Horowitz

*Traditionally siloed efforts to advance diversity and inclusion in law firms have stalled; a new strategy that gets inclusive about inclusion by integrating efforts to advance inclusiveness into daily talent management functions can make a difference.*

During the last ten years, law firms began focusing on firm-wide talent management(TM) as an important driver of organizational performance. During this same time period, law firms also implemented diversity initiatives with their own separate leadership, activities, and resources. Diversity initiatives have had and continue to have an important role. Unfortunately, when “siloed” from other firm-wide initiatives, including the firm’s TM system, they are too often marginalized and under-resourced.

The result is that the advancement of diversity and inclusion in law firms has stalled with law firms losing rather than leveraging all their potential talent. At last measure, women are entering the legal profession and law firms at roughly the same rate as men, but they begin to leave law firms within two years. In 2013, women represented only 17% of equity partners in two-tier Am Law 200 firms, 22% of equity partners in one-tier Am Law 200 firms, and 29% of non-equity partners in Am Law 200 firms.<sup>1</sup> Minority women lawyers occupied only 2% of equity partnerships in Am Law 200 firms.

There is no one cause of this problem. It is, however, apparent that this siloed approach to diversity and inclusion has not worked. It is time to consider a new strategy — one that gets *inclusive about inclusion* — by intentionally leveraging and embedding efforts to advance inclusiveness directly into the daily operations and culture of our firms through key TM functions. This article takes a look at how this can be accomplished.

## Talent Management in Law Firms — An Overview

With “people” as their major asset, law firms engage in TM on a daily basis. Key TM functions include:

- Talent development;
- Talent deployment; and
- Performance management.<sup>2</sup>

Talent management is most effective when approached systematically with functions that are:

- *Aligned*: integrated with each other and as a whole with the firm’s strategic goals and rewards system;
- *Dynamic*: adaptable to changing markets and business environments;
- *Efficient*: have processes and practices that allow the organization to place the right people with the right skills in the right place at the right time;
- *Vital*: have commitment, engagement, and accountability at all levels;
- *Measurable*: include articulated measurable criteria for success; and
- *Simple and transparent*.

Law firms have reached different stages when it comes to developing their approaches to TM. Some firms have comprehensive, consistent, and aligned systems built upon transparent compe-

tencies that serve as a foundation for each TM function. Others use competencies to align their talent development activities but not their talent deployment or performance management efforts. Still other firms take a less systematic approach to TM, focusing largely on training without reference to any articulated competencies or other TM functions.

## Incorporating and Advancing Inclusiveness Through Each TM Function

Regardless of the sophistication and nature of a firm's approach to TM, building inclusiveness into each TM function is possible. *Each TM function can serve as a regular and powerful platform for advancing (or delimiting) inclusiveness.* Discussed below are some ways in which inclusiveness can be built into, and effectively advanced through, three critical TM functions: talent development, talent deployment, and performance management.

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## Building Inclusiveness into the Talent Development Function

Inclusiveness can be advanced through various talent development activities including competencies, training, career planning, career advising, and mentoring.

### Competencies

Attorney talent development best starts with the articulation of firm-wide and/or practice area specific competencies — namely core skills and behaviors determined by the firm to be necessary to be a successful attorney. These competencies, once articulated, can serve as a foundation for the creation, integration, and alignment of firm-wide and practice group training, career planning, career advising, and mentoring as well as

other TM functions, e.g., talent deployment, performance management, and talent acquisition.

Competencies can be grouped into categories relating to:

1. Substantive knowledge and skills;
2. Attorney management (self and others);
3. Business management (project and financial);
4. Business development; and
5. Leadership.

Where defined, competencies can also be articulated by level of attorney — associate (junior, mid-level, senior) and partner.

Articulating competencies clearly and making them readily available to all attorneys is a valuable means of fostering inclusiveness. It allows all attorneys to know what skills and behaviors need to be demonstrated in order to advance and helps to eliminate much of the ambiguity, discretion, subjectivity, and unintentional bias that accompany systems without them, and that impede the advancement of women and diverse attorneys.

In addition, inclusiveness can be fostered through the content of the competencies themselves. Requiring attorneys to demonstrate competencies that promote inclusiveness, such as effectively participating in and building diverse teams, communicating across differences, and understanding/addressing “unconscious bias” can go a long way toward promoting inclusiveness.

### Training

Training is another powerful attorney talent development tool through which inclusiveness can be advanced. Training can serve to advance inclusiveness both through its substance and through its delivery.

With respect to substance, adding programs to a firm's training curriculum specifically relating to issues of diversity and

inclusiveness is important. These programs can, at a minimum, create an awareness of the issues impeding inclusiveness, as well as advancing behavioral changes.<sup>3</sup> Topics might include those of unconscious bias, effective communication (across gender, generations, and cultures), building and leading diverse teams, and conducting performance evaluations (see further discussion below).

Training related to diversity and inclusiveness has often been delegated to diversity initiatives and committees to arrange and promote. *Making these programs an integral part of the firm's talent development curriculum sends an important message that inclusiveness is a priority and responsibility of the firm as a whole, and one that is driven by the firm as a whole and not solely its diversity initiatives and committees.*

The manner in which training is delivered can further impact inclusiveness. Ensuring that *male and female attorneys teach substantive programs* so that both are viewed as substantive experts and role models is a valuable way to promote and reinforce inclusion. Moreover, *engaging the firm's male attorneys in the delivery of diversity training* and having them share the benefits of inclusiveness, their commitment to it, and their own experiences developing competencies related to advancing inclusiveness (including an awareness of their own unconscious biases) *are all also effective means of enhancing the impact of training.*<sup>4</sup> Reinforcing classroom training with individualized coaching both by male and female, internal and external, coaches can also be a very effective and often critical tool.

## Career Planning and Advising/Mentoring

A commitment to inclusiveness can be built into a firm's TM system through yet another attorney development activity — the firm's career planning/advising/mentoring activities.

Following the example of their corporate brethren, progressive law firms now require, as an element of their talent development activities, that every attorney have a written individual development plan. This plan helps each attorney think strategi-

cally about their career path and the competencies and experiences needed to succeed. Where a firm has articulated competencies that foster inclusiveness (like the ones discussed above), attorneys can look to these to design their plan, set goals and action steps, monitor progress, and hold themselves accountable. By and in the process of achieving their goals, inclusiveness becomes embedded not only in the attorneys' behavior but also the fabric of the firm.

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A career plan also serves as a vehicle for attorneys and career advisors/mentors of both genders to work together. Mentor and protégé can use this plan to identify appropriate training and experiential learning opportunities aligned with the attorney's developmental needs, including those related to advancing inclusiveness competencies. Engaging majority men to advise, mentor, and sponsor women and diverse attorneys puts them in a better position to understand the developmental needs of their protégés and to use their influence to facilitate assignments needed for their growth and advancement. Moreover, and not all that surprisingly, research by Catalyst has found that the exposure of men to women mentors (and I would add protégés) provides men with opportunities to develop an awareness about gender bias — the first step in creating change.<sup>5</sup>

## Building Inclusiveness into the Attorney Deployment/Assignment Function

Experiential learning is critical to attorney development. As such, the assignments given to attorneys play a critical role in their ability to contribute fully to the success of the firm. Providing meaningful assignments to *all* attorneys allows *all* attorneys to develop and allows the firm to leverage *all* of its talent. Moreover, meaningful assignments create commitment and engagement — both of which are critical to retention, client service, and profitability.

Notwithstanding the foregoing, ensuring that *all* attorneys — including women and diverse attorneys — have an equal opportunity to receive meaningful assignments is often not a consideration in making assignments and creating teams. There is now convincing research that diverse teams lead to better financial and innovative results.<sup>6</sup> In recognition of this finding, more clients are now demanding diversity on their client teams. *Intentionally designing inclusiveness into the talent deployment function/assignment processes of a law firm's TM system has, therefore, become not only a developmental issue but also a business imperative for law firms.*

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How is your firm making assignments? Are you seeking to align assignments with the developmental needs of *all* the members of your team by tracking their individual career goals and performance reviews? Are you, like the managing partner of the leading French firm TAJ,<sup>7</sup> tracking the assignments being given to women and other diverse attorneys to ensure parity? Are you holding your managing attorneys accountable for ensuring that women and diverse attorneys have an equal opportunity to get the “meaty” assignments they need to develop and become full contributors on the diverse teams being demanded by clients? Are you assigning women and diverse attorneys to management and leadership assignments that will help them develop the skills they need to serve in departmental and firm management and leadership positions and as role models for other diverse attorneys?

One way to incorporate inclusiveness into the talent deployment function is to design and implement a deployment/assignment process that aligns assignments with attorney developmental needs, tracks the assignments given to each

attorney, and holds partners accountable for ensuring that male and female attorneys have equal opportunities to obtain the meaningful developmental assignments needed to become full contributors. Such a process allows the firm to develop and leverage *all* its attorneys effectively while meeting client expectations regarding diversity and excellent results.<sup>8</sup>

## Building Inclusiveness into the Performance Management Function

Performance management involves performance evaluation, promotion, and advancement. In an integrated TM system, performance management practices are closely aligned with the firm's attorney development function (discussed above) and reinforced by the firm's compensation/reward system. The manner in which an attorney's performance is evaluated and she or he is compensated is critical to fostering diversity and inclusiveness in the firm.

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To advance gender parity and inclusiveness, it is essential that a law firm's evaluation, promotion, and advancement criteria be clear and transparent. Tying these criteria to competencies (including the inclusiveness skills and behaviors identified earlier), making them readily available (in print and/or online), and ensuring that inclusiveness competencies are evaluated with the same weight as other more task-based competencies, is also critical.

With respect to the evaluation process in particular, research by the ABA Commission on Women has found that left unchecked, unintended hidden gender bias exists in law firms — especially in the evaluation process — and that these biases detrimentally impact the professional development, advancement, and retention of women attorneys.<sup>9</sup> To stem these biases and the resulting

negative impact on a firm's performance and ability to foster inclusiveness, the ABA Commission on Women set forth a number of steps that law firms can take to promote consistency and objectivity in the evaluation process. These include:

- Developing specific job-related performance competencies;
- Defining the rating scale both quantitatively and qualitatively;
- Training lawyers on the major patterns of gender biases impacting women and the evaluation process and providing best practices for preventing these biases from infecting the evaluation process;<sup>10</sup> and
- Assigning an individual or a committee to review all completed evaluations before they are finalized.

Rewards and compensation are powerful tools for advancing inclusiveness. It is a fundamental tenet of organizational development that what is rewarded is achieved. According to Deloitte, rewards are an investment to be managed rather than a cost to be controlled. As such, rewards should be aligned with business strategies and with the performance that supports the business strategies.<sup>11</sup> To the extent that it is a firm's business strategy to foster and facilitate inclusiveness, rewarding and incentivizing those whose behaviors (TM and others) advance inclusiveness, and penalizing those whose behaviors do not, is essential.

## Implementing Change — 4 Ms

Implementing change — especially culture change — is never an easy task. Intentionally advancing diversity and inclusiveness through changes to a firm's TM strategy, functions, and activities will undoubtedly present such a challenge. Set forth below are a few suggestions for overcoming this challenge.

### Mindset — “Zero Sum” to “Expand the Pie”

What is good for women and diverse attorneys is good for law firms as a whole. What a concept! Unfortunately, this frequently is not the law firm “mindset.” Too often, diversity and

inclusiveness are viewed with a “zero sum” mindset — namely, a belief that advancing women and diverse attorneys can only be undertaken at the expense of majority attorneys. This mindset is a formidable barrier to advancing inclusiveness and parity and it must change.

Creating a shift in law firm mindset from that of “zero sum” to “expand the pie” is no easy task. It will need to start at the top. Firm leaders will need to be convinced of the costs they and their firms are incurring by retaining a “zero sum” mindset<sup>12</sup> and the benefits to be gleaned from a shift to an “expand the pie” approach that fosters the development, deployment, and leveraging of *all* attorney talent (not just half) with a corresponding increase in firm revenues, profit, and compensation for all.

### Middle Manager Buy-in

Successfully building inclusiveness into a firm's TM system will require the buy-in and commitment of firm “middle managers” as well as firm leadership. These middle managers are typically the junior partners who are the “boots on the ground” building and managing teams, making assignments, mentoring, and coaching. Encouraging, supporting, and rewarding their efforts to demonstrate inclusiveness (and, again, penalizing them for not doing so) through these activities will go a long way to advance the ball.

### Men (Must Be Engaged)

According to Catalyst, a leading organization working globally with businesses and professions to build inclusive workplaces, gender initiatives have fallen short of their goals to advance and retain women because they:

1. Focus *solely* on changing women — from the way they network to the way they lead; and
2. Look to women alone to change the organizational practices that maintain the status quo.<sup>13</sup>

According to Catalyst, to accelerate change, organizations need

to stop treating gender equity and inclusion as just a woman's burden and must enable and encourage both women and men to make necessary behavioral changes. To this end, Catalyst provides specific actions men and women can take to work together as allies in changing the organizational norms and structures that perpetuate gender disparities.<sup>14</sup>

## Measurement

What gets measured gets achieved. Metrics — both quantitative and qualitative — can be defined to monitor gender parity and inclusivity in law firms. While it may be difficult to quantify immediately the impact on inclusivity of the TM changes described herein, efforts can and should be made from the outset to identify specific criteria to be measured and to begin to monitor them early. As a start, such measurement might include monitoring whether/how each of the suggestions described herein (and others) have been implemented (and, if not, why not) and their impact (qualitatively and quantitatively) on the inclusion and advancement of women.<sup>15</sup>

## Align and Integrate TM and Diversity Efforts

Historically, and still today, efforts to advance diversity and inclusion in law firms have been the responsibility of diversity initiatives. To this end, diversity initiatives have engaged in a cross-section of extraordinarily valuable activities from policy development, training, and mentoring to providing safe venues for diverse attorneys to raise questions and concerns related to their development and advancement. These activities have been, and continue to be, invaluable. Unfortunately, when undertaken independently from other firm-wide systems, like a firm's TM system, these activities have, too often, tended to be marginalized and underfunded.

Diversity initiatives must continue to serve as thought leaders, change agents, and monitors in the drive for parity and inclusiveness. Diversity initiatives and TM efforts must be aligned and integrated — not siloed — and must support and reinforce

each other to leverage and maximize the impact of their efforts toward a common, firm-wide goal of inclusion.

## Conclusion

Traditional efforts to advance diversity and inclusion in law firms have stalled. As a result, law firms are losing rather than leveraging the diverse talents of *all* their attorneys. It is time for a new strategy — one that embeds activities that advance inclusiveness directly into the daily operations and culture of law firms through essential TM functions — talent development, talent deployment, and performance management.

## Endnotes

1. National Association of Women Lawyers, [Report of the Eighth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms](#), February 2014.
2. Horowitz, L., "Talent Management: Taking Professional Development in Law Firms to the Next Level," *Practice Innovations*, January 2010.
3. Catalyst, "[Calling All White Men: Can Training Help Create Inclusive Workplaces?](#)" July 18, 2012.
4. Ibid. See also Catalyst, "[Engaging Men in Gender Initiatives: Stacking the Deck for Success](#)," December 15, 2009.
5. Catalyst, "[Engaging Men in Gender Initiatives: What Change Agents Need to Know](#)," May 4, 2009.
6. See, e.g., Feitler, D., "[The Case for Team Diversity Gets Even Better](#)," HBR Blog Network, March 27, 2014; Catalyst, "The Bottom Line Corporate Performance and Women's Representation on Boards (2004-2008)," March 1, 2011.
7. Wittenberg-Cox, A., "[How One Law Firm Maintains Gender Balance](#)," HBR Blog Network, May 27, 2014.



8. Ibid.
9. Williams, J., and Pinto, C., *Fair Measure: Toward Effective Attorney Evaluations*, ABA 2d. ed., 2008.
10. The four major patterns of gender bias discussed in the ABA Report are: (i) maternal wall bias; (ii) double standards; (iii) double bind; and (iv) ambivalent sexism. See Williams, J., and Pinto, C., ABA 2d. ed., 2008.
11. Deloitte Development LLC, *The Chemistry of Talent, Straight Talk Book No. 10*, 2008.
12. This “zero sum mindset” negatively impacts law firm compensation systems as well. While this is a topic beyond the scope of this article, for more information on closing the compensation gap between men and women, see Rikleen, L., *Closing the Gap: A Road Map for Achieving Gender Pay Equity in Law Firm Partner Compensation*, ABA Commission on Women in the Profession, 2013.
13. Catalyst, “[Engaging Men in Gender Initiatives: What Change Agents Need To Know](#),” 2009.
14. See the entire Catalyst Research Series: *Engaging Men in Gender Initiatives*.
15. For example, partners and practice group leaders might be asked to address in their annual group reports and self-evaluations specific questions regarding how they and their groups have initiated and supported the efforts of others (e.g., professional development, WI, recruiting) to advance gender parity and inclusiveness through their individual/practice group’s talent development, talent deployment, and performance management functions.

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## About the Author



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Lisa has also been a leader in the area of diversity and inclusiveness. She served as president of the National Association of Women Lawyers and as a commissioner on the ABA Commission on Women in the Profession. She received the Star of the Bar Award from the Women’s Bar Association of the District of Columbia in 2012.

Lisa recently founded the Attorney Talent Strategy Group, LLC ([www.atalentstrategy.com](http://www.atalentstrategy.com)). She consults with law firms and legal departments on the design and implementation of their strategic talent management initiatives. She regularly coaches attorneys on career planning, navigating career transitions, business development, management skills, and leadership competencies. She is a graduate of Tufts University and the National Law Center at George Washington University. Lisa can be reached at [lbhorowitz@gmail.com](mailto:lbhorowitz@gmail.com).