

Will the Flame of DEI Fizzle Out?

How to Keep the DEI Flame Burning

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Let's face it – before the pandemic, the murder of George Floyd and the ensuing widespread uptick in support for the Black Lives Movement, diversity, equity and inclusion (DEI) was largely a “nice to have” for BigLaw and their clients. Decades of interviews with General Counsel and business heads at the world's largest organizations yielded the same outcome – fewer than 10% mentioned diversity, unprompted, as a factor in their hiring decisions. Until 2020. Recent moves by Fortune 1000 and Global 500 companies such as Coca Cola and Diageo have sent a clear message to law firms: We want more; and what you've been doing is not good enough.”

Now, law firms are scrambling to respond. Investments in DEI have climbed, with what feels like daily appointments of new Chief Diversity Officers and social media posts abuzz with activity about DEI initiatives at firms. Yet the million-dollar question remains: will firms (and, society in general?) maintain the DEI momentum once this initial flurry of activity dies down and, if so, how? Or, put more simply, will this time be different?

Unfortunately, as with most things, the answers to these questions are not cut and dry. While several significant shifts indicate the legal industry is approaching DEI in a more holistic, longer-lasting way, a few anticipated hurdles, along with the far-too-real concept of change fatigue, threaten to thwart DEI efforts. Five significant shifts rise to the top in determining where we go from here.

1. **The DEI discussion has changed – in a good way**

At its core, the conversation about DEI issues has expanded. At long last, firms have begun to acknowledge true transformation involves exploring the fundamentals of culture, and that mandatory training and recruitment quotas are simply not enough to move the needle. Strong cultures are built on a foundation of safety and security. The prevailing culture, both within firms and societally, needs to evolve to create more inclusive environments and a greater sense of belonging for all, not just some.

This holistic and deliberate approach to DEI differs from those of the past. Not necessarily in content – DEI advocates have been voicing this need for years – but in the willingness of law firm leaders to listen more closely and invest in deeper, more meaningful change. Leading law firms are taking steps to evaluate what they are doing well and could be doing better to cultivate inclusion. Cultural assessments provide needed perspective into potential liabilities and open the door to making relevant improvements to the “levers for change” – processes, protocols, communication approaches, goals, feedback loops, etc. – integral to shifting the way people experience culture.

Verdict: These shifts in mindset are likely to stick around.

2. **DEI ranks higher as a business imperative**

Relatedly, law firms have elevated the topic of DEI to new heights in the hierarchy of priorities. Thanks in no small part to clients for increasing the stakes, law firm leaders recognize more readily the business case for diversity – a business case which, notably, existed all along (see [McKinsey's](#) or [Acritas'](#) for details). Multiple studies have linked diversity to tangible business outcomes ranging from access to a greater share of client's wallet to increased client satisfaction to stronger financial performance. This escalation in significance has led firms to invest more in diversity efforts – to bring in experts, hire C-level executives and even promote partners to help spearhead changes. The increased prominence of diversity, however, may be more tenuous than the recently acknowledged link to culture. DEI, like any objective, will compete with other strategic priorities.

Verdict: As the world shifts and new priorities arise, keeping the hard-earned focus on diversity may falter.

3. **Deliberate, proactive communication and connection**

An unintended DEI benefit stems from the pandemic-induced move to remote work. The abrupt move from the office forced firms to be more deliberate about how people communicate and interact. No longer able to rely on casual encounters, lawyers and managers have had to adapt. Interactions are more thoughtful and proactive – whether of lawyers' own volition or through encouragement from firm talent professionals and leaders.

This dynamic is not yet ingrained in firms' psyches. Many lawyers and leaders alike continue to tout the importance of getting people back to the office – a push that may very well be misplaced. As employees return to the office, some may default to old models of interaction, relying on run-ins and proximity as their de facto means of communication. This may be one of the biggest threats to diversity progress, and not just in a direct sense. Research indicates women and people of color have dropped out of the workforce at higher rates since the onset of COVID. Relatedly, these populations are the ones more likely to demand flexibility when firms reopen, potentially reducing their capacity for "facetime."

Verdict: If firms, by default, revert to previous ways of doing business without an intentional plan, they may end up worse off than they were before the pandemic with respect to DEI.

4. **Leadership matters**

In a similar category of bonus plusses resulting from the pandemic and related upheaval to our daily lives, leadership has taken center stage and with it a core vulnerability to the future of law firms: minimal leadership development. With managers and partners at all levels being called upon to shepherd others through major shifts, the lack of training and preparedness has become glaringly obvious. Professional development heads, many of whom struggled in the past to get their firms to acknowledge the inherent value of leadership training, are being met with a greater willingness to consider the option.

The global crisis has underscored our humanity. EQ matters. Empathy makes a difference. Self-awareness is critical. People who possess and demonstrate these skills are enjoying better outcomes, both within their organizations and with clients. Lawyers are no exception; and leadership training can help anyone develop these talents. An added benefit? Better leaders yield better cultures; better cultures yield more inclusion. Bottom line: Improvements in leadership development skills and training for all results in DEI progress.

Verdict: The business case for continued investment in leadership development in the wake of this crisis has a long tail, and the associated DEI boost will be tangible.

5. **Old habits die hard**

Finally, not all changes law firms have undertaken during the pandemic have been positive. A few practices, such as transitioning underperforming partners to DEI roles or relegating the influence of DEI executives to lawyers alone, are less favorable and have the potential to undermine law firms' efforts to improve diversity in the long term. Rarely will a practicing lawyer have the depth of knowledge and experience to create cultural change. Up to half of some of the world's largest law firms are not lawyers at all and deserve equal treatment and access to the advantages of DEI investments. This exact issue is the premise behind [Calibrate ID](#), an effort to measure diversity among law firm professionals and support staff.

Verdict: As long as organizations continue to operate in old ways, they will experience old results.

The outlook for DEI in law firms and whether the legal industry will have the stamina to make real progress remains to be seen. However, to borrow the words of social psychologist Robert Livingston in a [recent interview with the Harvard Gazette](#), "what gives me optimism, it's knowing that it can be done." The things that truly matter – the shifts in mindset, the cultural transformations, the investments in leadership development – have the power to achieve, combined, what will ultimately make the difference: to make us all better people. That, and only that, will be the greatest lasting change.

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