

THE DIVERSITY JOURNEY

A Push to Boost Law Firm Diversity

An ABA resolution is behind the latest effort

By David Hechler

On August 23, Metropolitan Corporate Counsel hosted a webinar that offered law departments advice on how they can boost the diversity of the law firm lawyers they hire to represent them. Called “Implementing a Law Firm Diversity Program,” it was sponsored by LexisNexis and inspired by American Bar Association Resolution 113, which the ABA adopted at its annual meeting last year. The resolution urged “all providers of legal services, including law firms and corporations, to expand and create opportunities at all levels of responsibility for diverse attorneys.”

The ABA placed the onus on law departments, said Dan Ruderman, strategic business development manager at LexisNexis CounselLink, who moderated the discussion. Why? Law departments “recognize that their law firms are not as diverse as themselves,” Ruderman said. They’re in a position to gather data from the firms. And all of the money they spend on outside counsel provides leverage to influence behavior. But the trick is knowing how to do it.

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Ruderman and colleague Kris Satkunas presented an eight-step plan to build diversity and inclusion within a law department. Part of the process they recommended was using CounselLink software, and they invited Jenita Gillespie, director of legal operations for Mercy Health, to discuss how this actually works in the real world.

“It seems obvious,” Satkunas began, “but you need to decide what diversity means to your organization.” Many of their customers, said Satkunas, who is director of strategic consulting at LexisNexis CounselLink, define it as anyone who is not a white male. But there are other kinds of diversity, she points out: “orientation, disability, veteran status.” Then there’s the issue of who you’re counting: “Would you want to include paralegals? Would you want to include all time keepers?”

Mercy Health’s Gillespie said her company only looks at race and gender. And they only count partners, associates and paralegals. “But we also expect our law firms to use diverse consultants, experts and other vendors that they may engage,” she added. “That’s the way we’ve been tracking it, and we do plan to expand our diversity to get aligned with the ABA resolution.”

Definitions aren’t always easy, she continued. “I can’t look at a law firm that has all women there and say, ‘OK, this is diverse.’ If you look at a firm that has all women, then where are the males? Diversity is a culture of different people. We also look at it that way.”

While you are wrestling with definitions and whom to count and where you want to be, Ruderman emphasized, you also need to gather data on where you are right now. “It’s hard to set goals,” he said, “if you don’t have a baseline.”

You want all the firms you use to report their data (which can be recorded in CounselLink). Then you can set a realistic target for improvement. For instance, Mercy Health’s first target was to get 100 percent of the firms to report their diversity. Its goal, Gillespie said, is to ensure that 10 percent of its legal spend is with diverse candidates. “If I get the 100 percent data,” she said, “I’m able to run my reports to ensure that we’re meeting our 10 percent target.”



Dan Ruderman is strategic business development manager at LexisNexis CounselLink. With over 25 years’ leadership experience, Ruderman advises Fortune 1000 corporate legal clients on operational excellence, matter and legal spend management, and outside counsel management. His particular expertise is in helping insurance company claims departments. He can be reached at Dan.Ruderman@lexisnexis.com



Kris Satkunas, director of strategic consulting at LexisNexis CounselLink, leads the team’s efforts to advise corporate legal department managers on improving operations with data driven decisions. She has over 15 years of consulting experience in the legal industry. Her areas of expertise include benchmarking, practice area metrics and scorecards, dashboard design, matter pricing and staffing, and cost management. She can be reached at kristina.satkunas@lexisnexis.com.



Jenita Gillespie is director of legal operations at Mercy Health, which is one of the largest healthcare systems in the country. She joined the company in 2011 as a paralegal and assumed the responsibility of legal billing administrator for the entire system the following year. In this role, she was recognized for reducing outside legal fees, including an initial savings of \$1.2 million in the first year, and for assisting in establishing systemwide outside counsel guidelines. She has extensive experience in e-billing on both the law firm and the client side. She can be reached at Jenita_Gillespie@mercy.com.

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Next, the presenters suggested, you need to clearly communicate your expectations to the law firms. A good place to start is to update your outside counsel guidelines. If you want to be sure that the message has been delivered, you can also require your outside counsel to formally acknowledge receipt by literally checking a box in the guidelines right in CounselLink before they can submit invoices using the software.

Mercy's Gillespie said that she takes it one step further. She'd noticed that often it was an office manager or a biller who was signing the form, and the law firm partners were unaware of what was going on. Now she requires the lead counsel responsible for the account to acknowledge and accept the guidelines. Of the 80 law firms Mercy Health works with, 75 percent have signed the form so far, she added.

It can be quite handy having the attention of some of the firm's top lawyers, she continued. If she wants to obtain detailed information about a law firm's diversity, custom fields are available in the software. And Gillespie has found she has a much easier time obtaining it quickly when she sends her request directly to the firm's managing partner.

You should also share information about your initiative internally, the panelists suggested. Your company's sourcing department may be pushing for similar results on the business side, and they will want to know about this.

As a law department continues to accumulate detailed diversity data, the CounselLink software allows the company to assess the law firms' compliance. The department can display the metrics in a dashboard that gives the lawyers a visual snapshot of where the firms stand.

The next major step is enforcement. For law departments that have incorporated diversity into their outside counsel guidelines, obviously the ability to reject invoices can be a major component. But Satkunas advised law departments to be careful about using it.

"It's a very useful rule to gather the data," she said. "However, I would caution for anybody who has access to a similar sort of rule: Before activating it, you need make sure that you've clearly communicated your expectation and the fact that the rule will be triggered." And expect lots of phone calls from law firms whose bills you reject, she added.

The final step is to communicate the results of your efforts. In fact, as the presenters emphasized, communication is key throughout the process. "We talked a little bit about communicating expectations," said Ruderman shortly before the webinar ended, "so communicate early, communicate often, communicate the results." Tell the law firms how they're doing compared to your department's overall profile and its goals. And report your data to the ABA, he added.