

Recapping Diversity Summit 2020: The Issues, Solutions, and What's Next

Overview

On January 21, I attended “Diversity Summit 2020,” a program convened by the Bar Association of San Francisco, Berkeley Law’s California Constitution Center, and California ChangeLawyers. The conference explored two questions to address the state of diversity in the legal profession: Where are the leaks in the pipeline? And what can we do to fix them?

As I recently wrote in the *Daily Journal*, legal profession surveys show that the profession has a persistent, systemic inclusivity problem. This conference brought together key stakeholders — including California’s Chief Justice Tani G. Cantil-Sakauye, leaders from the Bar Association of San Francisco, the State Bar of California, ChangeLawyers, AccessLex, and retired Judge Jeremy Fogel, executive director of the Berkeley Judicial Institute — to discuss the unique issues California’s legal community faces in terms of representation, what these issues mean for the profession as a whole, and how to resolve them. The conference unearthed root causes and concentrated on solutions to improve the profession’s current state of representation, create pipeline programs to law school, and promote key advancement opportunities, such as federal judicial clerkships.

The problems

The conference highlighted two high-level issues.

First, presenters agreed that the long-term and recent trends in

representation within the legal profession are discouraging. Early significant gains achieved by diverse groups like women and people of color have slowed to small

long-term gains across all categories. For example, women went from near-zero representation

to around 30% of lawyers in the 1970s. But since then, women's representation has only marginally increased. In 2009, women made up about 31% of the profession, and by 2019, they constituted just 36%.

The 10- and 20-year trends are also either flat or declining for most demographically underrepresented categories. The conference reviewed over 20 long-term studies from national bar groups, which showed that while the newest cohorts in the California bar are far more diverse than in years past, attorneys in California are much less diverse than the state's population.

Latinos are particularly underrepresented among California licensed attorneys. And the studies showed that across the country, the profession today looks much like it in 1980: about 80% white and male.

Second, presenters explained that lawyers from diverse backgrounds lag behind at every point in the academic and career timeline:

graduating from law school, passing the bar, and advancing at work, in judicial clerkships, and in judicial appointments. Compared with their percentage of the population, and with white men, diverse lawyers do not experience similar advancement

in their careers. Compared with their peers, they underperform most in private law firm employment and partnership advancement.

And there are other significant disparities.

The data shows that addressing any single point in the timeline may be inadequate to achieving parity. Rather, any solution must focus on achieving parity of diverse lawyers at every stage and in every sphere.

Despite that seemingly dire state of affairs, the presenters proposed several promising solutions.

Solution One: to achieve inclusion, we must create conditions for success

Chris Punongbayan, executive director of ChangeLawyers, shared a poignant insight with attendees. He explained that inclusion in the legal profession requires examining whether we are creating the right conditions for diverse groups to succeed — from the law school experience to bar preparation and eventually in practice. This means addressing many challenges that manifest in law school and in the profession as a whole, such as impostor syndrome, stereotype threat, implicit bias, and internalized stigma. Punongbayan also drew attention to one under-analyzed obstacle to entry: the bar exam. He explained how myriad barriers affect bar exam passage rates, including time, knowledge, and skills, as well as financial and health barriers.

Punongbayan's solution to these problems: Making diversity a mission statement (instead of an occasional agenda focus item) and a personal responsibility for managers creates more favorable conditions for increasing diversity and benefits the organization.

Solution Two: mentorship increases the potential for success

Judge Fogel's presentation on solutions to increase federal law clerk diversity built upon findings from California Supreme Court Justice Goodwin Liu's 2017 analysis, *A Portrait of Asian Americans in the Law*. The data Fogel shared demonstrated the role of mentorship in obtaining judicial clerkships. His findings showed that black law students with one or multiple mentors were much more likely to obtain judicial clerkships compared to their peers with only one mentor or no mentor at all. One mentor was better than none, and each additional mentor significantly increased success rates.

Focusing on an earlier part of the pipeline, Punongbayan and Sara Berman, director of academic and bar success programs at Access Lex, revealed that mentorship and resources can be key to strengthening the diversity of law school applicants and matriculants. Their findings showed

that contributing to pipeline programs, providing financial assistance to students to reduce the cost of applications, creating scholarships specifically for LSAT preparation, and supporting law school diversity recruitment efforts can all help diverse law school applicants — and eventually diverse law students — get the resources they need to succeed and advance in the profession.

The takeaway: mentoring and supporting diverse law students and graduates greatly increases their chances of success.

Solution Three: improved attorney workplace satisfaction can minimize attrition

Yolanda Jackson, executive director of the Bar Association of San Francisco, and Donna Hershkowitz, executive director of the State Bar of California, presented data showing that attorney satisfaction is impacted by three key areas: collective work issues, individual/career issues, and work-life balance. Limited individual advancement opportunities due to negative performance evaluations or unchallenging assignments, the absence of meaningful opportunities in the workplace for leadership and mentoring, as well as a lack of employer-led initiatives to improve work-life balance such as family leave and flexible hours, all create low satisfaction among diverse attorneys. Job satisfaction will remain low unless those conditions are addressed, leading to more diverse attorneys dropping out of the profession. That leaves fewer diverse role models and mentors for upcoming diverse lawyers.

The solution here: If you are a non-white-male attorney in practice, staying in the game while trying to make it work for you means you can be there to model for and support the next generation.

Conclusion

Improving the profession's perennial diversity problem can seem like a daunting task, especially

if you aren't a hiring partner or equipped to endow scholarship funds. If you are so vested, then consider thinking critically about creating conditions to improve success for diverse law school applicants, law students, and attorneys. And if not, then play small ball: even one mentorship meeting over coffee with a young-and-diverse lawyer could make all the difference. Every diverse lawyer at the conference (including the Chief Justice) had a story about someone — a mentor, a teacher, a colleague, or a friend — who told them that they belonged in the profession and were capable of success. Say so to the next young lawyer who doesn't look like you, and that could become the story a future Chief Justice tells.

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