CLM

2019 Annual Conference
March 13 -15 2019
Orlando, FL
Less Talk, More Action: Why Your Diversity & Inclusion
Program is Failing and Some Tips on How to Fix It

Typical Industry D&I Initiatives are Failing

While it is in vogue for insurance companies and law firms to feature their D&I efforts to customers, clients and recruits, their initiatives are failing. There is an abysmal absence of diversity at leadership levels of organizations. Only 5% of Fortune 500 CEOs are female. There are only three black CEOs in the Fortune 500. The path to the C-suite for black people is practically nonexistent. Black women represent only 1.5% of senior management in the Fortune 500. The EEOC reported that between 1985 and 2014, the proportion of black men in management increased only marginally, from 3% to 3.3%. These data points highlight a few of the underrepresentation problems. Similar statistics demonstrate that underrepresentation exists across most diverse groups, including, for example, Latinos and LGBTQ workers.

D&I initiatives are failing, for multiple reasons.

First, businesses jump in, to keep up with the perceived need to check the D&I box, by forming an often well-intentioned but improperly staffed committee. Human resources and marketing professionals are assigned, along with a smattering of diverse employees. Often absent from such committees are individuals with a real understanding of D&I or how to effect real change. Further, when diverse employees are required to serve on such committees, they can feel resentful and used. Employees who are required to serve on such committees are far less invested than those who volunteer. Moreover, those who are not committee members often believe that D&I is someone else's job.

Second, D&I initiatives fail because top leadership does not demonstrate a real commitment to their efforts. When the C-suite does not demand the hiring of diverse candidates and the investment into retention and promotion of diverse employees, the culture remains static. At these employers, middle managers and rank and file perceive D&I efforts as PR window dressing.

Third, stakeholders are not consulted or empowered, and committees operate from an uninformed perspective. If committees do not understand the status quo, and the needs and desires of diverse employees and candidates, the business' efforts are often misguided.

Fourth, employers lack an understanding of what "inclusion" really means, or how to work towards it. Diversity efforts are concerned with representation. Inclusion is about finding ways to retain and promote diverse talent. Absent an understanding of what an inclusive culture looks like, businesses focus only on attracting diverse candidates. There may be limited success as measured by the representation of diversity at the new hire level, but retention of diverse workers fails to improve.

Finally, "diversity fatigue" is real. Though the D&I discussion has reached a fevered pitch, diverse employees are tired of witnessing and being forced to participate in initiatives that fail to move the needle or improve culture. They perceive the seemingly endless committee meetings as PR vehicles that fail to generate real action plans intended to make a difference. Non-diverse company and firm leaders tire of investing in initiatives without seeing what they perceive to be adequate return. The perception of a lack of ROI often stems from an absence of clear goals and benchmarks.

What a successful D&I Program Looks Like and What Companies and Law Firms Should Consider

Initially, instead of jumping on the D&I bandwagon, employers should be intentional and thoughtful. Due to their complexity and sensitivity, D&I efforts require more time, attention and deliberation than other business strategies. And, because some aspects of successful D&I programs are intangible and difficult to measure, employers must be creative about defining their success.

Ensure that leaders are genuinely invested. They must be able to articulate, both formally and informally, outside the organization and within it, why D&I matters to them and to the organization.

Assemble a D&I working group with representation from the C-suite. Solicit volunteer participants from a variety of levels and departments. Consider investing in an experienced D&I consultant with a proven track record in the employer's field.

Next, assess the current state of affairs. Identify representation percentages of diverse employees at all level, as well as turnover rates. (For example, are black women leaving the employer more quickly?). Audit compensation to determine whether pay inequities exist in the diverse populations. Enlist a third party to conduct an anonymous survey of stakeholders' experiences, concerns and suggestions. Conduct voluntary focus groups.

Once the objective and subjective information about the current status is assembled, analyze it and use it to develop goals. Embrace only those goals that are endorsed by stakeholders and genuinely supported by leadership. Use the goals to create a focused plan with measurable benchmarks. Commit to re-evaluating the plan periodically and consider adjustments as necessary.

Successful D&I initiatives often include key elements. To ensure that managers understand the business' commitment to D&I, compensation schemes must be adjusted to account for the impact managers have on D&I goals.   Moreover, the better D&I programs focus on far more than increasing the representation of diverse employees. They emphasize ongoing efforts at improving inclusion. They provide ongoing and progressively more advanced training, so employees at all levels understand what an inclusive environment looks and feels like. Robust initiatives also include leadership development and mentoring programs for diverse employees, as well as the formation and support of affinity groups. Crucially, affinity groups must be set up for success. Allocate budgets and give the groups discretion over spending. Ensure that leadership engages with the groups, either by attending events when invited or providing opportunities for group members to meet with top brass.

Finally, don't give up because real change takes time. Communicate the program's progress frequently and with transparency. Invite input from internal and external stakeholders. Commit to evolving, and to embracing the journey.