



MAKING NOISE: THE WORK UNDERWAY AND A CALL TO ACTION (AGAIN)

By Alison Ashe-Card, Molly Stafford, and Nicole Netkin-Collins

Many law schools and law firms have begun to address the individual and systemic inequities that we discussed in the first two articles of this three-part series, Making Noise: Doing Our Part to Dismantle White Supremacy in the Legal Profession. In this final article, we describe categories of action and highlight some of the many existing efforts underway, while also noting that the premise of many of these efforts is predicated on preconceived measures of success based upon white norms. We challenge ourselves to re-evaluate these measures of success with a call to further action in order to dismantle white supremacy in the legal profession.

SECTION 1

PRE-LAW PROGRAMS

Commonly known as “pipeline” or “pathway” programs, many law schools and even a few law firms are reaching out to elementary, middle, and high school students to start making connections that they hope will encourage more Black, Indigenous, and People of Color (BIPOC) applicants in the future. The AccessLex Institute, a nonprofit organization that furthers access, affordability, and the

value of legal education through policy advocacy, research, and student-focused initiatives, reports that “many of the differences in education outcomes begin at a very early age,” emphasizing the importance of focusing efforts on primary and secondary education settings. Below are examples of diversity, equity, and inclusion (DEI) programs that range from kindergarten to college, hosted by nonprofit organizations, local bar associations, law schools, and law firms.

K-12 YEARS: DIVERSITY PIPELINES

Programs such as “JDs for ABCs” in St. Louis, MO and “Junior Judges” in Santa Clara, CA engage volunteer lawyers to read to and talk with elementary school children, as young as kindergarten. Other programs focus on middle school students: Lewis & Clark Law School hosts a summer law camp as part of its “Diversity Pipeline” for middle school students, who spend a week preparing for and arguing a case before a local judge.

Legal Outreach is a 30-year-old nonprofit organization in New York City that prepares urban students from underserved communities to compete at high academic levels by

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Racial inequities plague the legal profession far beyond the criminal justice system.

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using intensive legal and educational programs, starting in eighth grade and continuing through high school.

Discover Law Days, funded in part by the Law School Admissions Council (LSAC), brings local elementary, middle school, high school, and community college students to law school campuses for a day of fun and thought-provoking activities (e.g., mock classes, panels of alumni, scavenger hunts throughout the law school offices, educational bingo) that plant a seed for a career in law as a possibility in their futures.

NALP has its own legal diversity pipeline program in partnership with Street Law. This program partners law firms with diverse groups of high school students with the goal of teaching the students about the law and legal careers, encouraging them to pursue legal careers, and offering support in that pursuit.

COLLEGE YEARS:

JUST THE BEGINNING

Many programs focus on college students. For example, LSAC partners with law schools to provide undergraduate sophomores and juniors from minoritized groups who are underrepresented in the legal profession with a summer program in which they sample rigorous coursework in legal writing, a variety of legal topics, and attend sessions about the law school admission process and legal careers.

Organizations like “Just the Beginning” in Chicago host camps and day-long programs for students of color and students from other underrepresented groups to engage with lawyers and judges, visiting law schools, law firms, and local courts. The Boston Law Group (BLG) is another organization whose mission is to support the efforts of its member organizations — 37 law firms and legal organizations

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— to “identify, recruit, advance, and retain attorneys of color.” BLG places undergraduate college students of color at several of its member law firms for a 10-week paid summer internship.

STATE BAR ASSOCIATIONS: OTHER PIPELINES

State bar associations also host “pipeline” programs. The North Carolina Bar Association sponsors a Minority Pre-Law Conference, which provides information to undergraduate

and high school students who are considering a career in the law.

Are these “pipeline” programs working to ensure lasting change? According to Miosotti H. Tenecora, a graduate of Boston University Law School and current law fellow in the Immigration program of East Palo Alto Community Legal Services, “...although there is no magic formula that one can apply to increase diversity in the legal field, pipeline programs must definitely be part of the equation. Diverse students not only need the tools to

navigate the application process, but also need to believe that they deserve to go to law school. These programs are crucial to developing confidence.”

SECTION 2

LAW SCHOOL OPPORTUNITIES

There are a plethora of events and hiring programs available to diverse law students. The purpose of these opportunities ranges from providing students with spaces to connect with individuals who share aspects of their identity/identities to attempting to solve for the biases ingrained in legal hiring processes. The efforts are many — and yet, the needle budes at a snail’s pace, as highlighted in our second article.

AFFINITY BAR ASSOCIATION AND STUDENT GROUPS: AN INVALUABLE RESOURCE

Affinity bar associations and student groups are invaluable to students finding support from individuals who can

relate to their experiences and provide guidance, mentorship, and a sense of belonging. Recall research from the Law School Survey of Student Engagement (LSSSE) that was cited in the second article of this series which highlighted the fact that BIPOC students are

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Not enough has happened. The progress of the profession – and more specifically the progress of large law firms – had stagnated.

- Sara Lee's General Counsel Roderick Palmore

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less likely than their white counterparts to feel included on their campuses.

While affinity groups should not be the only places where we strive to ensure that diverse students are comfortable, these spaces are key to creating that sense of belonging students require to succeed. For example, 2L Clement Asante at the University of Colorado Law School noted the connection he feels toward his law school is due to his friendships with fellow students, relationships with staff, and involvement with the school's Black Law Students' Association. Here are three things to keep in mind:

- **CSOs should empower and assist affinity student groups.** Ask student leaders what they need. Assistance may include programming collaboration, finding panel speakers, advertising help, and more.

- **CSOs should foster connections with local area affinity bar associations.** CSOs can help students become aware of affinity bar associations and encourage involvement.
- **Employers should connect with, but not overburden, affinity student groups.** Remain conscientious of student leaders' role as students. For example, CSOs should remain the points of contact for hiring programs.

LEGAL EMPLOYERS' OUTREACH EFFORTS

In Fall 2019, diverse students at the University of Colorado Law School were invited to attend approximately two to three diversity receptions per month. 2L Erandi Ratnayake relayed her deep appreciation for the opportunities, but also noted that the volume was overwhelming at times, particularly during

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Building a Just and Prosperous World Together



At LSAC, we believe in a justice system that reflects everyone it serves. We're proud to join the celebration for NALP's 50th anniversary, and to continue our work as a community to open access to legal education and the legal profession. Through the many programs we offer to enhance opportunities for all individuals to add their unique voices to the future of justice, we will build a just and prosperous world where all may thrive.

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her first semester. Erandi was grateful for the events including multiple employers, reducing the need for more evenings away from studying.

One of the most well-loved programs for first-year students at Colorado Law, University of Denver Sturm College of Law, and the University of Wyoming College of Law, is the Practical Skills Program from Hogan Lovells, which is part of their contribution to the Colorado Pledge to Diversity 1L Summer Clerkship Program. This event includes a reception, a mock interview program, and a panel of diverse employers who address topics such as imposter syndrome. Here are some key takeaways from successful out-reach efforts:

- **Employers should consolidate DEI events.** This is important during students' first semester when they are adjusting to the rigors of law school.
- **Employers should host events** which can help diverse students prepare for their legal careers.
- **CSOs should help students prioritize DEI events** relevant to their interests.

PRIVATE SECTOR INTERNSHIP AND SCHOLARSHIP PROGRAMS

There are a multitude of law firm and corporate hiring programs, career fairs, and scholarship opportunities available to diverse students. Some initiatives are specific to BIPOC applicants, others include veterans, students with disabilities, first-generation students, and LGBTQ+ students, and still others are open to any students with a commitment to DEI work.

Most, but not all, of these diversity hiring initiatives are outlined below in the resources section. Upon review, it's notable that the majority of such initiatives are geared toward students' 1L summer. Although not 100% of the time, such opportunities might lead to return offers for 2L summer and then post-grad job offers. This is the case for 2L Marcia Levitan-Haffar, a student at the University of Colorado Law School who accepted a 1L LCLD Scholars position at Bryan Cave Leighton Paisner and will be returning this summer. Moving forward, we hope to see more 2L summer opportunities, which traditionally have a greater impact on post-grad entry level hiring.

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The prevalence of diversity hiring, scholarship, and career fair opportunities can place students in an awkward position as job searches ramp up on campus. Marcia Levitan-Haffar noted that she sometimes “felt conflicted” about being able to benefit from such programs. Her classmate, Clement Asante, noted that at times he could “feel” the eyes of his (white) classmates roll when he was dressed for interview opportunities not available to them.

It’s up to CSOs and employers to do a better job of explaining why such programs remain necessary. One helpful resource is NALP’s *2020 Report on Diversity in U.S. Law Firms*, which, among other findings, reveals that people of color continue to make very slow progress in representation at major U.S. law firms.

PUBLIC SECTOR INTERNSHIP PROGRAMS

We would be remiss to not mention the public sector diversity opportunities, some of which are highlighted below. Funding, of course, is often



an issue and should be evaluated by CSOs and employers alike as efforts to diversify and make the hiring processes for opportunities with judges, government, and public interest organizations more equitable and inclusive.

SECTION 3

LAW FIRM PROGRAMS AND SCHOLARSHIPS

There are numerous programs and scholarships designed to diversify law firms. Law firms are slowly becoming more diverse, but they continue to struggle with retention of diverse lawyers, particularly lawyers of color.

Retention of Black/African American lawyers and other lawyers of color remains an ongoing issue, as they continue to leave their firms at a higher rate than other groups. Law firms must be fully vested in the success of BIPOC attorneys. Below are a few representative initiatives that demonstrate firms’ investment in BIPOC attorneys.

LEADERSHIP COUNCIL ON LEGAL DIVERSITY

The Leadership Council on Legal Diversity (LCLD) is made up of more than 350 corporate chief legal officers and law firm managing partners, working to build a more open and diverse legal profession. In addition to the programs for diverse law students, they have a Fellows Program designed for diverse, high-potential, mid-career attorneys (with eight to 12 years of experience) at LCLD Member organizations. The program is designed to supplement training initiatives already in place at LCLD Member organizations. The goal of this program is to provide Fellows with:

- professional and personal development opportunities,
- leadership training,
- relationship-building opportunities, and
- access to LCLD members (managing partners and general counsel).

BILLABLE CREDIT HOURS

In 2010, Nixon Peabody launched a Diversity Challenge, calling on its attorneys to dedicate at least 40 hours a year to diversity-related initiatives and projects. In 2015, Miller Nash Graham & Dunn began offering up to 150 hours of billable credit for associates per year for hours spent on diversity and inclusion efforts. Since then, several other law firms have stepped up to provide billable hour credit for attorneys involved with diversity and inclusion work — Dorsey & Whitney in 2019 (50 billable hours for associates), Hogan Lovells in 2021 (50 billable hours for all U.S. counsel and associates), and Nixon Peabody (which re-framed its Diversity Challenge to offer billable hour credit).

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Recently, Reed Smith announced a similar policy (retroactive to Jan. 1, 2021) that extends to *all timekeepers*, not just lawyers. As Reed Smith's Global Managing Partner Sandy Thomas noted, "Building an inclusive culture is integral to our business and should be rewarded and incentivized, not left to chance."

Ropes & Gray not only has a 20-hour annual commitment for *all* lawyers related to advancing diversity, but the firm also offers up to 100 hours of billable credits to associates and counsel for diversity, equity, and inclusion activities. Those hours count toward the 20-hour commitment.

To date, Baker McKenzie, Cooley, Davis Wright Tremaine, Sheppard Mullin, and Stroock Stroock & Lavan have instituted similar billable credit hour policies. Billable credit hour policies place *real value* on diversity, equity, and inclusion work and compensate attorneys (often led by attorneys of color and women) who have been doing the work in addition to their billable work without compensation. These policies also encourage everyone to get involved in firms' diversity efforts.

LEGAL INNOVATORS

Legal Innovators and Orrick are collaborating on a pilot program through which two Legal Innovators lawyers will join Orrick's incoming class of law school graduates as "Orrick Legal Innovators' Fellows." Legal Innovators moves beyond traditional hiring metrics. Utilizing predictive analytics, they look at more than 20 factors, such as accolades and work experience in undergrad, to determine the potential success of a candidate.

Through this collaboration, Orrick's Legal Innovators Fellows will be fully integrated into Orrick client teams while continuing to receive the support of Legal Innovators' unique training and mentorship program. After their second year with the firm, the Fellows may be offered full-time associate positions. Orrick and Legal Innovators hope to build on the experience to devise strategies that can drive systemic change in diversity and inclusion. Bechtel Corporation also announced a collaboration with Legal Innovators in December 2020 to expand its in-house model.

CALL TO ACTION: DOING OUR PART

In 2020, the United States faced a reckoning with the racial inequality that has existed throughout our nation's history and continues to impact the daily lives of Black people and other people of color. This reckoning began with the stark inequities of the impact of the COVID-19 pandemic; the tragic killings of George Floyd, Breonna Taylor, Ahmaud Arbery, and others; and the anti-racist protests that followed marked with the teargassing of and violence against peaceful protesters lawfully protesting against injustice.

As highlighted in our second article, racial inequities plague the legal profession far beyond the criminal justice system. Many law firms and law schools were quick to publish statements denouncing these inequities and reaffirmed their commitment to racial equality. However, this is not the first time that the legal profession reaffirmed its commitment to diversity, equity, and inclusion.

In spring 2004, Sara Lee's General Counsel Rick Palmore created "A Call to Action:

Diversity in the Legal Profession," a document reaffirming a commitment to diversity in the legal profession and to taking action to ensure that corporate legal departments and law firms increased the numbers of women and minority attorneys hired and retained. And if law firms didn't, the document states: "We (the undersigned corporate legal department representatives) further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse."

Palmore wrote the Call to Action to build on a previous manifesto — former BellSouth General Counsel Charles Morgan's "Diversity

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— Happy 50th NALP & Thank You!

And to my NALP Board of Trusted Advisors (and you all know who you are!), thank you for your love, support, friendship, business and encouragement, especially when I launched MPTD five years ago! Take extra good care! --Molly



in the Workplace: A Statement of Principle,” written in 1999. “In that document, signatories espoused an interest in diversity and the principle of diversity, which was a fabulous thing at the time,” Palmore says.

“But it struck me that not enough has happened. The progress of the profession — and more specifically the progress of large law firms — had stagnated.” The Call to Action takes the Statement of Principle a step further, Palmore adds. “Its purpose is to take the general principle of interest in advancing diversity and translate that into action, into a commitment to act on, to make decisions about retaining law firms based in part on the diversity performance of those law firms.”

Despite these calls to action and the numerous existing programs to increase diversity, the legal profession is still not representative. Black/African American and Latinx/Hispanic individuals represent 12.3% and 18.3%, respectively, of the U.S. population but only represent 5.9% and 5.7%, respectively, of the population of lawyers in the country. Black and Latinx individuals represent 3.50% and 4.08%, respectively, of all lawyers in law firms yet they are only 1.94% and 2.62, respectively, of equity partners.

As we challenge ourselves to take further action, we should critically evaluate existing and new initiatives to ensure that we are not unconsciously reinforcing notions of success based on traditional white norms. For example, we need to look at dress code requirements, what we define as academic success, and other metrics of success — or the potential to be successful — that traditionally have been used to exclude BIPOC individuals knowingly or unknowingly.

So, what are we going to do differently to truly effectuate change? As John Lewis said: “We may not have chosen the time, but the time has chosen us.” 

RESOURCES

Review of 261 selected Pipeline projects: [Pipeline Diversity Directory](#), ABA Council for Diversity in the Educational Pipeline and the Law School Admission Council (LSAC).

Leadership Council on Legal Diversity. Available at: <https://www.lclldnet.org/>

[Inclusion Blueprint Guide for Firm Leadership](#), Diversity Lab, December 2020.

[Press Release](#): Orrick and Legal Innovators Team Up to Pilot a New Approach to Developing Junior Legal Talent and Driving Gains in D&I, February 15, 2021.

[“Charles R. Morgan: Leading General Counsel - And Their Law Firms - Up The Path To Diversity,”](#) Corporate Counsel Business Journal, March 1, 2006.

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[“Call to Action – Sara Lee’s General Counsel: Making Diversity A Priority,”](#) MCCA, October 24, 2004.

[Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color](#) by Destiny Peery, Paulette Brown, and Eileen Letts, June 2020.

[“How Law Firms Can Hire And Retain More Black Attorneys,”](#) by Benjamin F. Wilson, Law360, September 2020.

[“The Importance of Pipeline Programs: I Would Not be Here Without Them,”](#) by Miosotti H. Tenecora, September 2009.

2020 Report on Diversity in U.S. Law Firms, February 2021 (NALP). Available at: https://www.nalp.org/uploads/2020_NALP_Diversity_Report.pdf



Alison Ashe-Card



Molly Stafford



Nicole Netkin-Collins

Alison Ashe-Card (asheay@wfu.edu) is the Associate Director, Diversity & Inclusion in the Office of Career and Professional Development at Wake Forest University School of Law. Molly Stafford (mstafford@pacific.edu) is the Assistant Dean of Career Development & External Relations at the University of the Pacific, McGeorge School of Law. Nicole Netkin-Collins (nicole.netkincollins@colorado.edu) is the Director for Law Firms at the University of Colorado Law School. This three-part article series was submitted on behalf of the NALP Diversity, Equity & Inclusion Section. The first article in the series appeared in the September 2020 edition, and the second in the January 2021 edition.

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