

# Step One: Diversity, Equity, and Inclusion Defined

By CECIL J. THOMAS AND KAREN DEMEOLA

**A**s we embark on our Diversity, Equity, and Inclusion (DE&I) journey it is important to recognize that we are not all at the same starting point. What we learn as children is imprinted deep within our unconscious mind. As language developed, we became adept at communicating what we wanted or at the very least what we needed. Language allows us to navigate systems, articulate identity, argue our position, and zealously advocate for our clients. But if the words and concepts we use are not understood by those with whom we are engaging, things have the potential to stall. Our last column explored why the legal profession should maintain a constant commitment to diversity, equity, and inclusion. This column seeks to define those concepts.

The legal profession has long been on a journey to promote greater diversity, equity, and inclusion. From a starting point of non-discrimination and equal opportunity, the profession gradually moved to discussions of “diversity,” then “diversity and inclusion,” then “diversity, equity, and inclusion.” What do these terms mean? What are we trying to achieve?

## Diversity

The simple definition of diversity is variety or a range of difference. Each of us brings diversity to the spaces we occupy. The range of difference in people includes immutable characteristics as well as shifting identities like social group, socioeconomic status, and geographic location. Our personality, learning style, familial situation, expression, political beliefs, and even birth order, are also included in a broad definition of diversity. Our conver-



sation about DE&I is not about the broad definition of diversity. This conversation is about communities that have been systemically and specifically marginalized and excluded within our profession. When we talk about diversity, our focus is on Black, Indigenous, People of Color (BIPOC), members of the LGBTQ+ community, people with disabilities, and women.

The legal profession is one of the least diverse professions in the country. The data from the American Bar Association (ABA),<sup>1</sup> Law School Admission Council (LSAC),<sup>2</sup> the National Association of Law Placement (NALP),<sup>3</sup> and the Connecticut Bar Association (CBA), all confirm this. The legal profession remains homogeneous in terms of race (83 percent white) and gender (64 percent male) despite our efforts to diversify.<sup>4</sup> Whether embracing

diversity because it is the right thing to do, it impacts the bottom line, or clients are demanding diversity, many firms and organizations have created diversity plans, have expanded their talent pool, and are engaged in DE&I training. Nationally, in 2019, the intentional actions resulted in a diverse summer associate demographic (53 percent female and 35 percent associates of color).<sup>5</sup> Declaring victory, however, is premature since diversity is only part of the equation.

Typically, any increase in diversity numbers, no matter how marginal, is celebrated. Focusing on numbers alone fails to appreciate the intentional work that must be done to change culture, perceptions, and bias in the workplace. This is the failing of an approach that only evaluates diversity. Depending on how the lens is focused,

an organization may be viewed as diverse because of the overall representation of diverse individuals. If, however, historically-marginalized groups are largely unrepresented within your organization's power structures, within those roles that are best compensated, most prominent, and hold the greatest influence, that organization cannot be said to be truly diverse, equitable, or inclusive.

**Inclusion**

Diversity and inclusion must be tackled together, and inclusion is often much harder to accomplish. Inclusion is valuing the contributions of all members of the team, including diverse members of your organization who may not fit with the dominant identity or culture. As Verna Myers, culture expert and VP for Inclu-

sion Strategy at Netflix, explains, "Diversity is being invited to the party, inclusion is being asked to dance."<sup>6</sup> Some commentators have added that equity means to be involved in the decision to hold the party, what music to play or food to serve, or whether there will be dancing at all.

Ensuring that your firm traditions are inclusive of all members of your firm, that bias does not play a role in mentorship, sponsorship, or allocation of assignments, are a few examples of how your organization may include diverse members. Negative assumptions about skills, engagement in social activities, and connections to clients and wealth contribute to negative work cultures, and serve to marginalize diverse attorneys. And performative inclusion to meet client demands result in tokenism and further marginalize attorneys. Instead, organizations should ensure equitable opportunities for all attorneys.

**Equity**

Equity is the proportional representation of opportunity regardless of identity. Organizationally, this requires constantly and consistently identifying and eliminating the formal and informal barriers to equal opportunity and participation by all. Intersecting with inclusion, equity requires organizations to focus on people,

systems, policies, culture, and process. It requires organizations to evaluate the impact of bias in those elements, and enact change to meaningfully guarantee fair treatment, access, opportunity, and advancement to all. Equity work is necessary to ensure transparency, opens up opportunity within the organization, serves as a control for individual or collective bias, evaluates the individual experience of the organization, and allows for assessments to track progress and performance.

Understanding the language of DE&I is an important first step. The rest of the journey will take time and intentionality. We are here with and for you. ■

**NOTES**

1. [www.americanbar.org/groups/diversity/DiversityCommission](http://www.americanbar.org/groups/diversity/DiversityCommission)
2. [www.lsac.org/discover-law/diversity-law-school](http://www.lsac.org/discover-law/diversity-law-school)
3. [www.nalp.org/uploads/2019\\_DiversityReport.pdf](http://www.nalp.org/uploads/2019_DiversityReport.pdf)
4. National Association of Law Placement (NALP) 2019 Report on Diversity in U.S. Law Firms. [www.nalp.org/uploads/2019\\_DiversityReport.pdf](http://www.nalp.org/uploads/2019_DiversityReport.pdf).
5. *Id.*
6. Myers, Verna, *Diversity Doesn't Stick without Inclusion*. [www.vernamyers.com/2017/02/04/diversity-doesnt-stick-without-inclusion/](http://www.vernamyers.com/2017/02/04/diversity-doesnt-stick-without-inclusion/) (February 4, 2007).


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Image credit: Steve Laschever