

by Shilpa Coorg

Practice Tips

Millennials Demand More Diversity in the Profession

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The impact of so-called millennial values and preferences on work culture is undeniable. For example, millennials have clearly demonstrated they desire flexible and collaborative work environments, prompting companies to respond (even pre-pandemic) with remote working options and policies to promote a sense of community.¹ Chief among millennial values are diversity, equity, and inclusion (DE&I), which have now become a necessary call to action across industries. Nevertheless, the legal profession continues to lag behind other industries when it comes to diversity. According to the *American Lawyer's* 2021 Diversity Scorecard, only 18.6 percent of all attorneys are minorities.²

As statistics like the 2021 Diversity Scorecard reflect, law firms have largely focused their diversity efforts on race, gender, and/or sexuality. While this work is vitally important—particularly considering how much progress along these lines remains to be made to diversify the legal profession—many law firms limit their initiatives to only those aspects of diversity and do not

take into account diversity in other forms. Millennials, on the other hand, according to an annual survey conducted by Deloitte, more broadly define diversity to encompass other factors as well, such as diversity of thought, life experience, religious belief, socioeconomic status, religion, and disability, among others.³ In other words, millennials value an inclusive environment that invites a variety of ideas, perspectives, and life experiences, and, it would seem, more than prior generations.

Some authorities attribute these differences in values to the growth of technologies such as the Internet (which has changed the nature of the workplace and has promoted a global economy) and the “fragmenting social and political environment.”⁴ Mil-

lennials in the United States have lived through generation-shaping tragedies such as the horrifically trauma-inducing 1999 school shootings at Columbine High School in Littleton, Colorado and the terrorist attacks of September 11, 2001, not to mention the various incidents of regional and ethnic divisiveness throughout the first two decades of the new millennium.⁵

Moreover, there have been various natural disasters such as the 2004 Southeast Asian tsunami, as well as hurricane Katrina in 2005.⁶ Before anyone could sufficiently recover from these events, the Great Recession of 2008 had a rippling effect on the economy, which disrupted markets and lives not only in the United States but all over the planet.



Finally, there are the events of the last few turbulent years in which social movements like #MeToo and calls to end police brutality against people of color competed with deeply troubling political antagonisms on the national stage. Then, in 2020, the Coronavirus pandemic took center stage, shutting down whole economies and changing life globally. Against this cultural backdrop, millennials are often eager for reassurance that business leaders care about more than just the bottom line and that social and political progress is possible.⁷ These underlying motivations often get lost in the mammoth efforts by companies to raise diversity metrics.

Law firms that adopt a narrow focus on diversity, or worse, that have no focus at all, do so at their own peril. Millennial attorneys are no longer simply looking for a diverse law firm that aligns with their values—they are expecting one, and they are unafraid to vote with their feet. Millennials have never been shy about “job-hopping.”⁸

This may now be truer than ever, as the global pandemic appears to have precipitated a shift in priorities for many employees. With the pandemic came increased availability of work flexibility and/or remote work options, providing employees the opportunity to be more selective about working for employers who align with or embody their values, notwithstanding geographic location.⁹ Employees also may have felt particularly motivated to reevaluate their current job environment, especially if working in a profession that experienced increased workloads during the pandemic, increased rates of burnout, and/or hiring freezes.¹⁰ This is particularly true of millennial women, for whom the pandemic brought to a head the pressures of conflicting work and family demands.¹¹ Even prior to the pandemic, surveys indicated millennials desired employment that would drive sustainable, positive change.¹² Now, remote work has opened up a panoply of options by which millennials may pursue it.

Millennials and Gen-Z-ers are driving what has been dubbed the “Great Resignation,” in which a record number of employees have quit their jobs during 2021.¹³ This trend seems true of the legal profession as well, with firms struggling to retain associate talent.¹⁴ Dissatisfaction with work culture—of which diversity is a crucial component—appears to be a strong motivator for the associate departures.

The impact that millennials will have on the workforce is only going to grow with time. Millennials were the last generation to experience life before the Internet and the burgeoning technological changes that came with it. This knowledge of life both “before” and “after” uniquely positions millennials as a link between older generations (Baby Boomers, Gen X-ers), and those to come, such as Gen-Z-ers and beyond. Millennials’ desire to change the working landscape will affect the generations that precede and succeed them as well, as, given their ages, millennials will quickly be coming into the leadership

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positions needed to implement those changes themselves.

Amidst this backdrop, the case for diversity makes itself. In one survey, 69 percent of millennials who worked with a diverse senior management team viewed their workplace as “motivating and stimulating,” and 78 percent reported strong organizational performance—13 points higher than respondents who did not consider their leadership teams diverse.¹⁵ In another survey, over half of millennial/Gen-Z respondents described diversity as “paramount” to the “ideal” workplace.¹⁶ Numerous other recorded benefits for organizations that increase diversity include, for example, higher employee satisfaction, lower attrition, greater diversity of skill, and reputational advantages.¹⁷

There are various measures law firms can take to meet the growing demand for diversity, many of which have been discussed at length by leaders in the field.¹⁸ Typical initiatives include focusing on recruiting and hiring diverse applicants and using data- and metrics-driven analyses to improve firm culture and retention.¹⁹

Guidance provided by the U.S. Equal Employment Opportunity Commission indicates DE&I programs should address “barriers to equal employment opportunity specific to the organization’s culture

and work environment,” and management must “monitor the results of its efforts and decisions.”²⁰ Further, affirmative action-based diversity measures can be appropriate, as long as the measure complies with Title VII, and the employer “identifies a manifest imbalance in traditionally segregated job categories” and does not “unnecessarily trammel the rights of non-targeted groups.”²¹

The following are some additional considerations firms may want to engage with as they seek to increase diversity in all aspects—not only along the lines of race, gender, and sexuality.

Engage in reflection and involve the millennials. Self-awareness is the gateway to improvement, and law firms are no exception. To improve, law firms must first be willing to evaluate the progress they have made with their initiatives, if any. Too often, firms set long- or short-term goals without a solid understanding of what is or is not working with current policies, and where shortcomings lie. As just one example, in a survey of over 300 law firms conducted by Law360, nearly two-thirds reported having a written diversity plan completed, but only half the firms surveyed had employed a dedicated full-time or part-time diversity manager or implemented a system for measuring access by female or minority attorneys to high-profile clients, and only a third of the firms had a written succession plan that accounted for diversity.²²

Additionally, although firm initiatives may have contributed to an increase in the hiring of diverse associates, a recent ABA survey suggests there is a “diversity bottleneck” at firm leadership levels—which are largely made up of white, male attorneys.²³ As part of the necessary self-reflection efforts, firms should consider any available data and metrics and, importantly, invite the input of millennials, who are poised to be the next generation of leaders and are themselves a diverse population. Millennials know what they want and have ideas on how to get there. Decisions made without involving the emerging class of leaders may seem wise at the time but can result in policies that seem “out of touch” or are ineffective in recruiting and retaining talent from that generational pool.

Firms should consider what metrics they are—or more importantly, are not—using as a proxy to measure diversity, and why. As discussed above, millennials care about all aspects of diversity, not solely race, gender, and sexuality. Firms

should evaluate what they are doing to recruit and retain individuals from all walks of life, and whether their definition of diversity can and/or should broaden. As just one example of how metrics may inadvertently limit the pool of applicants, many law firms have a practice of screening candidates based on grades.²⁴ Although in many cases, grades may be a valid indicator of discipline, hard work, and academic skill, firms should be cognizant that race, gender, and socioeconomic status may affect student performance as well. Indeed, according to at least one empirical study, minority law students secured lower grades than their white counterparts, even after controlling for factors such as LSAT score, undergraduate GPA, college quality, college major, and work experience, leading the study authors to conclude the “racial disparity reflects something not merely about the students, but about legal education itself.”²⁵ Firms should be intentional about the decisions they make and consider thinking creatively to expand their definition of diversity.

Focus on inclusion. While many firms tend to have policies in place to expand diversity—whether through recruitment or

retention—efforts at inclusion sometimes get ignored. As DE&I expert and TED (Technology, Entertainment, and Design)²⁶ Talk speaker Verna Myers once said: “Diversity is being invited to the party; inclusion is being asked to dance.”²⁷ Firms should ask themselves whether their attorneys feel like they belong and identify areas of improvement.

Like it or not, this next generation of millennial leaders is carving a new path at the workplace. Law firms would be well-served by leading the charge. ■

¹ Alan Kohll, *Why Millennials are Good for Employee Well-Being*, FORBES, Oct. 3, 2018, available at <https://www.forbes.com/sites/alankohll/2018/10/03/why-millennials-are-good-for-employee-well-being/?sh=7387c91da5>.

² AMERICAN LAWYER, THE 2021 DIVERSITY SCORECARD, available at <https://www.law.com/americanlawyer/2021/05/24/the-2021-diversity-scorecard-ranking-the-legal-industry/?slreturn=20211106143233>; TED: Ideas Worth Spreading, Our Organization, <https://www.ted.com/about/our-organization> (last accessed Dec. 14, 2021) [hereinafter TED].

³ DELOITTE, 2018 DELOITTE MILLENNIAL SURVEY: MILLENNIALS DISAPPOINTED IN BUSINESS, UNPREPARED FOR INDUSTRY 4.0, at 10, available at <https://www2.deloitte.com/content/dam/Deloitte/pe/Documents/human-capital/2018-Millennial-Survey-Report.pdf> (last accessed Dec. 14, 2021) [hereinafter 2018 DELOITTE MILLENNIAL SURVEY].

⁴ *Id.* at 1.

⁵ U.S. CHAMBER OF COMMERCE FOUNDATION, THE MILLENNIAL GENERATION RESEARCH REVIEW, available at <https://www.uschamberfoundation.org/reports/millennial-generation-research-review> (last accessed Dec. 14, 2021).

⁶ *Id.*

⁷ 2018 DELOITTE MILLENNIAL SURVEY, *supra* note 3, at 1.

⁸ Amy Adkins, *Millennials: The Job Hopping Generation*, GALLUP, available at <https://www.gallup.com/workplace/231587/millennials-job-hopping-generation.aspx>.

⁹ Luciana Paulise, *Why Millennials and Gen-Z Are Leading The Great Resignation Trend*, FORBES, Oct. 26, 2021, available at <https://www.forbes.com/sites/lucianapaulise/2021/10/26/why-millennials-and-gen-z-are-leading-the-great-resignation-trend/?sh=7380c42f44fe>.

¹⁰ Ian Cook, *Who Is Driving The Great Resignation?*, HARVARD BUS. REV., Sept. 15, 2021, available at <https://hbr.org/2021/09/who-is-driving-the-great-resignation>.

¹¹ Lauren Herring, *Retaining Millennials Amidst The Great Resignation*, FORBES, Nov. 30, 2021, available at <https://www.forbes.com/sites/committeeof200/2021/11/30/retaining-millennials-amidst-the-great-resignation/?sh=50d13bcfa01b>.

¹² *E.g.*, 2018 DELOITTE MILLENNIAL SURVEY, *supra* note 3.

¹³ LZ Granderson, *Why The ‘Great Resignation’ of 2021 Is A Sign of Hope*, LOS ANGELES TIMES, Aug. 28, 2021, available at <https://www.latimes.com/opinion/story/2021-08-28/lz-granderson-employment-workplace-genz-millennials-resignation>.

¹⁴ *E.g.*, Aebra Coe, *Where Have All The Associates Gone?*, LAW 360, (July 26, 2021), <https://www.law360.com/articles/1405682>.

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¹⁵ 2018 DELOITTE MILLENNIAL SURVEY, *supra* note 3, at 8.

¹⁶ Valerie Bauman, *Half Of Millennials And Generation Z Want Employers To Prioritize Diversity Over Ability When It Comes To Hiring, Survey Reveals*, DAILYMAIL.COM, Apr. 16, 2019, available at <https://www.dailymail.co.uk/news/article-6929385/Half-Millennials-Generation-Z-want-employers-prioritize-diversity-ability-hiring.html>.

¹⁷ E.g., Anja Zojceska, *Top Ten Benefits of Diversity in the Workplace*, TALENTLYFT (Dec. 19, 2018), <https://www.talentlyft.com/en/blog/article/244/top-10-benefits-of-diversity-in-the-workplace>.

¹⁸ See, e.g., A.B.A., *Increasing Law Firm Diversity*, https://www.americanbar.org/groups/tort_trial_insurance_practice/publications/committee-newsletters/increasing_law_firm_diversity/ (last accessed Dec. 14, 2021); MAKING THEIR MARK: HOW MILLENNIAL LAWYERS COULD RESHAPE THE INDUSTRY: FINDINGS, MAJOR, LINDSEY & AFRICA AND ABOVE THE LAW MILLENNIAL SURVEY (2021), available at https://centerforlegalinclusiveness.org/resources/MCM211_MLA%20Millennial%20Survey%20Findings_FINAL.pdf; JOHN PATRICK BOX, *THE MILLENNIAL LAWYER: HOW YOUR FIRM CAN MOTIVATE AND RETAIN YOUNG ASSOCIATES*, ABA Book Publishing (2017); Sharon Miki, *5 Tips and Strategies to Build a Diverse and Inclusive Law Firm*, CLIO (last updated Oct. 5, 2021), <https://www.clio.com/blog/diversity-inclusion-in-law-firms/> (last accessed Dec. 14, 2021).

¹⁹ THOMSON REUTERS, *MIDSIZE LAW FIRM INNOVATION MOVES TO ADVANCE DIVERSITY & INCLUSION*, available at <https://www.thomsonreuters.com/en-us/posts/legal/midsize-law-firm-advancing-diversity-inclusion/>; see also Raymond Williams, *Yes, Data and Metrics Can Improve Your Diversity & Inclusion Outcome*, LAW.COM (Oct. 1, 2021), available at <https://www.law.com/thelegalintelligencer/2021/10/01/yes-data-and-metrics-can-improve-your-diversity-inclusion-outcome>.

²⁰ U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *BEST PRACTICES OF PRIVATE SECTOR EMPLOYERS*, at Section 1.E, available at <https://www.eeoc.gov/best-practices-private-sector-employers> (last accessed Dec. 14, 2021).

²¹ *Id.*

²² Jacqueline Bell, *Law360's Diversity Snapshot: What You Need To Know*, LAW360 (Aug. 30, 2020), <https://www.law360.com/pulse/articles/1303148>.

²³ Debra Cassens Weiss, *Diversity Bottleneck And Minority Attrition Keep Law Firm Leadership Ranks White And Male, New ABA Survey Says*, A.B.A. J., Feb. 17, 2021, available at <https://www.abajournal.com/news/article/diversity-bottleneck-and-minority-attrition-keep-law-firm-leadership-ranks-white-and-male-aba-survey-says>.

²⁴ E.g., Karen Sloan, *Is BigLaw's Addiction to Elite Schools Hobbling Diversity Efforts?*, REUTERS (Oct. 18, 2021), <https://www.reuters.com/legal/legalindustry/is-big-laws-addiction-t-14-hobbling-diversity-efforts-2021-10-18/>.

²⁵ Marks, Alexia Brunet and Moss, Scott A., *What Makes a Law Student Succeed or Fail? A Longitudinal Study Correlating Law Student Applicant Data and Law School Outcomes*, SSRN 42 (July 6, 2015), <https://ssrn.com/abstract=2627330> or <http://dx.doi.org/10.2139/ssrn.2627330>.

²⁶ TED, *supra* note 2.

²⁷ Janet Cho, *"Diversity is being invited to the party; inclusion is being asked to dance," Verna Myers tells Cleveland Bar*, CLEVELAND.COM, May 25, 2016 (updated Jan. 11, 2019), available at https://www.cleveland.com/business/2016/05/diversity_is_being_invited_to.html (last accessed Dec. 14, 2021).

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