



# DIVERSITY IN THE LEGAL PROFESSION: THE NEXT STEPS *Recommendations for Bar Associations*

**As organizations comprised primarily of lawyers (though also encompassing judges, law students, law professors, and other legal workers), bar associations play a central role in advancing the value and reality of diversity – understood broadly as a multidimensional concept – in the legal profession.**

At the national, state, regional, and local level, bar associations help shape the norms of the profession regarding the value of diversity to the legal profession. When bar associations prioritize diversity, new lawyers are introduced to a milieu that values the presence and distinctive skills of people across race/ethnicity, gender, sexual orientation, disability, and other dimensions of social identity, culture, privilege, and power.

When bar associations do not prioritize diversity, then new lawyers are introduced to milieus that exclude or marginalize those who do not already constitute the numerical majorities of the legal profession, which often leads to alienation, dissatisfaction, a dearth of potential mentors to socially diverse law students, and a paucity of diverse law firm partners, corporate counsel, tenure-track law professors, appointed government attorneys, and judges.

In other words, the public good of a critical mass of socially diverse lawyers in the dawning twenty-first century United States is substantially advanced.

## **Recommendations**

### ***A. Culture: Building Consensus, Establishing Common Definitions and Understanding***

1. Develop explicit definitions about particular kinds of diversity and ensure they are consistent with the self-identification standards of each community of interest.
2. Make bar association diversity statements and initiatives open-ended rather than limited to fixed categories so not to omit, exclude, or elide forms of diversity that are slowly gaining social recognition, such as transgender identification.
3. Target special diversity efforts to social groups that are historically underrepresented within the profession's diversity efforts, such as disabled, LGBT, and Native American lawyers.
4. Develop programming, initiatives, and research that address the intersectionality of identity, or how diversity crosses categories of difference, e.g., disabled or LGBT lawyers amongst Native American nations or racial/ethnic minority groups.
5. Encourage and support collaboration between and amongst mainstream bar associations and diverse affinity bar associations. Beyond such linkages, consider developing internal affinity groups for specific populations of diverse lawyers.
6. Work to help change the culture of the legal profession so that more lawyers feel free to overcome fears of publicly identifying as having a disability or being LGBT. Beyond accessibility, bar associations should promote welcoming inclusiveness for all diverse attorneys.

7. Institute continuing legal education, as part of regular bar association programming, on the elimination of bias and affirmative training on diversity in the profession (including making “service learning” qualify for CLE credit) to socialize new lawyers toward valuing diversity in the profession.
8. As to disability in particular, educate leaders and members on how to avoid impermissible inquiries and assumptions about what a person with disabilities can or cannot do, and the potential affirmative obligation (similar to religious accommodations) to make reasonable accommodations for people with disabilities—even if this involves reasonably different treatment than for individuals without disabilities.

### ***B. Planning: Assessment and Accountability***

1. Develop diversity data, programming, and initiatives targeted to sectors of the legal profession outside of large law firms and corporate legal departments; focus on government, public interest, and small and solo practitioners, which account for the majority of private practice attorneys nationwide.
2. Adopt formal diversity statements and establish formal diversity plans that commit the bar association to make measurable progress on diversity based on defined performance criteria and established timetables, including metrics on LGBT and disabled attorneys. (See Bar Association of San Francisco for reference).
3. Include in bar association diversity plans measures to ensure diverse representation throughout the leadership, presidencies, executive committees, committee chairs, membership, speakers, program attendees, and administrative staff of the association.
4. Ensure that diversity planning adequately includes the oft-forgotten dimension of disability.
5. Educate bar association leaders and members in the considerable *abilities* (which are often underutilized) of attorneys with disabilities.
6. Emphasize the importance of resources regarding disability literacy and etiquette; lack of understanding and/or insensitivity undermines efforts to increase accessibility and welcoming inclusiveness.
7. Prepare bar association leaders on dealing with and reasonably minimizing costs and liability concerns potentially associated with providing accessibility and welcoming inclusion to attorneys with disabilities.
8. Promote disability access, as far as practicable and beyond minimal required levels, to all bar association programs and resources, including websites and other electronic media.
9. Develop comprehensive public relations and communication strategies consistent with the bar association’s diversity plans to ensure broad dissemination to all quarters of the legal profession and all other stakeholder groups in diversity efforts—utilizing various media, including social media platforms and traditional print media.

### ***C. Pipeline Practices: Outreach and Mentoring***

1. Develop and implement mechanisms to equip bar associations to serve as public education advocates. Fundamental changes in American education are necessary in order to develop a critical mass of diverse law applicants, law students, lawyers, and leaders of the legal profession.
2. Continue to support, fund, and expand the development of pipeline programs that help diverse youth imagine and work toward joining the legal profession—as early as elementary or middle school, and particularly in high school and college.
3. Collaborate and encourage development of systems and protocols to track the operation and success of pipeline diversity programs over time to ensure efficacy and sustainability. See, e.g., CSIRE (continuity, sustainability, impact, replicability and evaluation) criteria developed by The State Bar of California’s Diversity Pipeline Task Force.

4. Seek opportunities to incorporate into diversity programs targeted efforts to increase the ranks of self-identifying attorneys with disabilities (which will depend in part on societal progress in encouraging self-identification, admitting to the bar, and employing individuals with disabilities).
5. Partner with local high schools, university student organizations and advocacy organizations to support the aspirations of diverse students to become lawyers. (See, e.g., For People of Color, Inc., <http://www.forpeopleofcolor.org>.)
6. Encourage development of mechanisms to define and require diversity curriculum in accredited law schools; collaborate to support these efforts.

#### ***D. Leadership Development: Networking and Mentoring within the Legal Profession***

1. Encourage all members—younger and mature generations—to use emerging technologies of networking to truly integrate and knit together the entire legal community (including bar-association leadership, many of which tend to use new technologies less often).
2. Facilitate the use of mentoring circles as a means of expanding access to the limited number of senior diverse lawyers who can serve as role models within the profession.
3. Ensure that mentoring programs provide opportunities to integrate into substantive programs, committee work and the social fabric of bar associations those attorneys with disabilities, less experience, or who otherwise may feel unwelcome.
4. Collaborate to develop national and regional leadership academies to identify, develop, and place diverse lawyers in positions of leadership throughout national, state, and local bar associations.
5. Explore the feasibility of including on the governing boards of large national and state bar associations representation from constituent affinity bars.
6. Develop collaborative relationships amongst and between national, regional, state, and affinity bar organizations to maximize impact, coordinate resources, and ensure the continuity of messaging, data, and programming regarding the collective diversity efforts within the geographic legal communities they serve.
7. Coordinate efforts among relevant national and regional affinity bar organizations to promote diversity on the bench by supporting diverse judicial candidates and assisting with the development of programs that groom diverse lawyers for judicial service.

## **RESOURCES**

***The ABA Center for Racial and Ethnic Diversity*** (<http://www.americanbar.org/groups/diversity>) provides the framework for effective utilization of ABA resources committed to diversity; improves coordination and collaboration of diversity efforts throughout the Association; and helps to maintain racial and ethnic diversity as a priority issue for the Association, in support of ABA's Goal III. The Center is comprised of three racial and ethnic diversity entities.

***ABA Commission on Racial and Ethnic Diversity in the Profession*** provides services for racially and ethnically diverse lawyers, judges, and others who are in the legal profession. The Commission's projects include: Minority Counsel Program; Spirit of Excellence Award and Goal III Report.

***ABA Coalition on Racial and Ethnic Justice*** addresses and provides services on social justice matters related to racial and ethnic bias in the justice system. COREJ's projects include: Overrepresentation of Juveniles of Color in Juvenile Justice Project; Natural Disaster Response & Social Justice Strategies Initiative and Election Protection.

***ABA Council for Racial and Ethnic Diversity in the Educational Pipeline*** provides services to increase diversity among students in the educational pipeline to the legal profession. The Pipeline Council's projects include: ABA/LSAC Pipeline Diversity Directory; Judicial Clerkship Program and Regional Pipeline Diversity Roundtables and Workshops.

***The Commission on Mental and Physical Disability Law***

***([http://www.americanbar.org/groups/public\\_services/mental\\_physical\\_disability.html](http://www.americanbar.org/groups/public_services/mental_physical_disability.html))***

promotes the ABA's commitment to justice and the rule of law for persons with mental, physical, and sensory disabilities; and, to promote their full and equal participation in the legal profession. Its current projects include National Law School Disability Programs Directory (online), National Mentor Program for Lawyers and Law Students and with Disabilities, and the Paul G. Hearne Award, which is given annually to an individual or organization that has performed exemplary service in furthering the rights, dignity, and access to justice for people with disabilities.

***The Commission on Sexual Orientation and Gender Identity***

***([http://www.americanbar.org/groups/sexual\\_orientation.html](http://www.americanbar.org/groups/sexual_orientation.html))***

works to secure equal treatment of persons in the ABA, the legal profession and the justice system, and to remove barriers to professional advancement without regard to sexual orientation or gender identity. SOGI has been working on ways to increase LGBT attorney membership in the ABA. It has also worked with American Bar Endowment to expand coverage to include domestic partners and American Bar Insurance to expand their coverage to LGBT attorneys and their domestic partners.

***The Commission on Women in the Profession (<http://www.americanbar.org/groups/women.html>)***

is committed to secure the full and equal participation of women in the ABA, the legal profession, and the justice system. One of its major projects is the Women of Color Research Initiative, which examines the professional trajectory of women of color. The first phase of this project explored diversity and inclusion in the experiences of lawyers in law firms. The second phase will study the experiences of lawyers in the government sector; and the third research phase will focus on the perspectives of lawyers in the Fortune 500 legal departments. Another highly respected Commission project is its annual ABA Margaret Brent Women Lawyers of Achievement Awards.

**American Bar Association Websites:**

**Center for Racial and Ethnic Diversity**

***<http://new.abanet.org/centers/diversity>***

**Commission on Mental and Physical Disability Law**

***[http://www.americanbar.org/groups/public\\_services/mental\\_physical\\_disability.html](http://www.americanbar.org/groups/public_services/mental_physical_disability.html)***

**Commission on Sexual Orientation and Gender Identity**

***[http://www.americanbar.org/groups/sexual\\_orientation.html](http://www.americanbar.org/groups/sexual_orientation.html)***

**Commission on Women in the Profession**

***<http://www.americanbar.org/groups/women.html>***

## Other Websites:

**Anapata** (web-based platform that aims to advance diversity in the legal profession)  
<http://anapata.com/aboutus.html>

**Association for Legal Career Professionals (NALP) — Diversity Page**  
[www.nalp.org/diversity](http://www.nalp.org/diversity)

**Council on Legal Education Opportunity (CLEO)**  
[www.cleoscholars.com](http://www.cleoscholars.com)

**Cuban American Bar Association**  
<http://cabaonline.com>

**CUNY Center for Diversity in the Legal Profession**  
[www.law.cuny.edu/clinics/JusticeInitiatives/](http://www.law.cuny.edu/clinics/JusticeInitiatives/)

**Diversity is Natural**  
[www.diversityisnatural.com](http://www.diversityisnatural.com)

**Diversity Research**  
[www.diversityresearch.com](http://www.diversityresearch.com)

**DRI – The Voice of the Defence Bar Diversity Committee**  
<http://www.dri.org/open/Committees.aspx?com=0440>

**Hispanic National Bar Association (HNBA)**  
[www.hnba.com](http://www.hnba.com)

**LatCrit, Inc.**  
[www.latcrit.org](http://www.latcrit.org)

**Law School Admission Council (LSAC)**  
[www.lsac.org](http://www.lsac.org);  
Diversity Initiative,  
<http://www.lsac.org/SpecialInterests/minorities-in-legal-education.asp>

**Lawyers for One America**  
[www.lawyersforoneamerican.org](http://www.lawyersforoneamerican.org)

**Minority Corporate Council Association**  
[www.mcca.com](http://www.mcca.com)

**National Asian Pacific American Bar Association (NAPABA)**  
[www.napaba.org](http://www.napaba.org)

**National Bar Association**  
[www.nationalbar.org](http://www.nationalbar.org)

**National LGBT Bar Association**  
[www.lgbtbar.org](http://www.lgbtbar.org)

**National Minority Law Group (certified minority-owned law firm)**  
<http://www.nmlg.org>

**National Native American Bar Association**  
[www.nativeamericanbar.org](http://www.nativeamericanbar.org)

**North American South Asian Bar Association**  
[www.nasaba.dom](http://www.nasaba.dom)

**The National Association of Bar Executives**  
<http://apps.americanbar.org/nabe/index.html>

**The National Tribal Justice Resource Center**  
[www.ntjrc.org](http://www.ntjrc.org)

**The Tribal Law and Policy Institute**  
[www.tribal-institute.org](http://www.tribal-institute.org)