

**EMPLOYER'S GUIDE TO
DIVERSITY, EQUITY, AND
INCLUSION STRATEGY**

Introduction

Diversity, Equity, and Inclusion (DEI) encompasses initiatives that go beyond legal compliance; combined, they offer the promise of a high performing workplace culture. This guide provides an orientation to DEI concepts and strategic DEI interventions that any employer may pursue to improve organizational outcomes. In response to evolving member needs in an ever-changing environment, Employer Council continues to develop new resources and services on DEI; members are encouraged to reach out for help with their unique needs.

Contents

CONSIDERATIONS AND GUIDANCE:

DEI in a Nutshell	4
Creating a Landscape for DEI	9
Diversity Fatigue: What It Is and Why It Matters	12
Strategies to Improve Diversity Recruiting	17
Words Matter: Gender-Coded Language in Job Ads	19
Reducing Interview Bias Through Structured Interviews	21
Eliminating Barriers in the Workplace for Transgender Employees	23
How to Support a Transgender Employee.....	24
Using Neuroscience to Increase Workplace Equity	26
Opening the Door to Pay Transparency – Even When Not Required	28
DEI Strategy: Macro Impact With Micro Interventions	31
DEI and the Public Sector	33
DEI Roadmap to Success.....	35
External Resources	38

DEI in a Nutshell (PAGE 1)

Alexander Sediva, Esq., SPHR, Director of Employment Law Services

Recent current events have prompted many organizations to take a closer look at diversity, equity, and inclusion planning (DEI). However, DEI is not necessarily a new concept, as it has always been and should be an integral part of human resource planning and initiatives. Large and small organizations that foster diverse and inclusive work cultures and environments benefit in a plethora of ways, ranging from an overall positive & encouraging work atmosphere, increased creativity, productivity, and employee retention.

We cannot operate our organizations in a bubble. The issues, conflicts, and tensions which ostensibly exist on the “outside” of our working environment are integrated into every element within the workplace. Leaders at all levels of the organization must recognize the importance of events, issues, and conflicts outside the work environment since they will necessarily affect relationships between employees and with customers. Your unique role in HR as both an advocate and a strategic partner places you in the position to facilitate diversity initiatives within your organization.

HOW IS DIVERSITY, EQUITY, AND INCLUSION DEFINED?

DIVERSITY

Diversity is the range of human differences, including but not limited to race, ethnicity, gender, gender identity, sexual orientation, age, social class, physical ability or attributes, religion, ethical values, and national origin.

INCLUSION

Inclusion is involvement and empowerment, where the inherent worth and dignity of all people are recognized. An inclusive workplace promotes and sustains a sense of belonging; it values and practices respect for the talents, beliefs, backgrounds, and ways of living of its members.

EQUITY

Equity is treating people fairly, taking into consideration, respecting, and embracing their differences. However, equity is not equality (where all individuals are treated the same). Instead, it denotes an environment where individuals share the belief that they are getting what they need so they can contribute equally.

Intersectionality is a term introduced in 1989 by Kimberlé Crenshaw, Law Professor, Attorney and Civil Rights Advocate. Merriam Webster defines it as: the complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups. *

DEI in a Nutshell

CONTINUED (PAGE 2)

This describes the reality that individuals possess multiple characteristics, and the nature of those overlapping characteristics may make them subject to higher levels of discrimination, depending on the norms as defined by the most powerful people in society. When a person's unique blend of characteristics diverge from prevailing societal norms, they face complex obstacles when dealing with people and institutions who are uninformed, biased and/ or prone to discrimination. These personal characteristics include gender identity, race, religion, disability, social class, sexual orientation, immigration status, education level, and more. Research finds that when two or more of these various divergent characteristics exist (intersect) in a person, this "intersectionality" equates to a higher level of hardship for that person in successfully navigating American society. For example, lucrative employment opportunities are more difficult to obtain for a woman who is poor, black, and an immigrant, than for a woman who is wealthy, white, and native born. Crenshaw suggests intersectionality is "basically a lens, a prism, for seeing the way in which various forms of inequality often operate together and exacerbate each other. We tend to talk about race inequality as separate from inequality based on gender, class, sexuality or immigrant status. What's often missing is how some people are subject to all of these, and the experience is not just the sum of its parts." ** Acknowledging the complexities of intersectionality, and adjusting DEI strategic efforts to target those complexities, is likely to result in more effective interventions that support higher levels of success for the workplace DEI plan.

DEI IS NOT A "CHECK THE BOX" PLAN

DEI planning is an organizational journey – it is not intended to be a "check the box" type project. Organizations must move beyond simply tolerating differences, but instead embrace the various characteristics of our colleagues and the world around us. We must learn to appreciate, respect, and understand the differences between us. A diverse, equitable, and inclusive workplace is not a matter of simply adhering to legal obligations under Title VII of the Civil Rights Act. Instead, proper DEI planning starts with executive management genuinely buying into the process at all levels. However, it is also critical that DEI planning engages all employees throughout the organization. Therefore, all parts and members of the organization should contribute to DEI planning and execution.

HOW IS DEI IMPLEMENTED

Diversity, equity, and inclusion planning is not a one size fits all approach. DEI planning and training should be tailor-made for the organization conducting it. However, the general framework of a DEI plan includes the following essential elements:

- Census
- Identification
- Implementation
- Measurement

DEI in a Nutshell

CONTINUED (PAGE 3)

CENSUS

The first step an organization should take in implementing a diversity, equity, and inclusion plan is to conduct an internal census to better understand the social and demographic make-up of the organization at large. This is a top-down review of all aspects of the organization, whether it be the front line retail associate or the c-suite executive.

When conducting an appropriate census, companies must consider gathering information related to all of the major federal, state, and local protected classes. Therefore, an organization should not limit its inquiries to race-related issues but instead consider a more expansive list of protected class-related issues, such as national origin, age, and gender. Engaging in objective fact-finding to determine the culture and make-up of the company would include, but not be limited to:

- one-on-one interviews with staff
- electronic surveys
- focus groups
- meetings with senior and mid-level management.

IDENTIFICATION

After an organization has gathered raw data from the census, they would then determine where the most salient issues of concern lay. For example:

- Which parts of the organization have the most under-represented demographics?
- Where are the most complaints?
- Does management appreciate or even recognize the issues?
- Is there a prevalent culture that lacks diversity?
- Is there a disparity between management and lower-level staff, etc.?

The analysis of the census is both the objective and subjective number crunching to determine the areas of concern. While we may have preconceived notions of our organization's diversity and inclusion, we don't find out the truth until we ask and carefully evaluate the data!

IMPLEMENTATION

This is the most organic of the steps in that it will evolve as your organization proceeds. After your organization has identified areas of concern, you must then address which objectives you will pursue to effectuate meaningful change. These decisions will often be based upon prioritization. While there will likely be many different areas that require improvement and change, efficient and effective planning demands that you prioritize those efforts which will have the most substantial impact on the organization at large. Bear in mind that this is not a one size fits all approach. Indeed, which objectives you pursue and how you implement them, will depend upon the unique nature of your organization and where it stands. Perhaps it's a start-up

DEI in a Nutshell

CONTINUED (PAGE 4)

entity just entering the marketplace or a well-established, closely held company that has existed for generations. Either way, careful research and planning are required to determine which objectives have the highest priority.

Some examples of implementation objectives include:

- A focus on implementing a training regimen as it relates to the unique issues of the organization
- A thorough review and/or creation of policies and procedures which integrate DEI
- Recruiting Strategies focused on a broader more diverse candidate pool
- Educating and engaging its staff for the entire life cycle of an employee

MEASUREMENT

The success of a DEI Plan is undoubtedly a moving target. DEI is not a product – it's a process. As this "process" begins and continues, it's vital that the company objectively measure the success and/or failure of its initiatives. Of course, it's worth noting that ascertaining results may sometimes be challenging in light of the fact they are not always tangible or seemingly objective.

To those ends, measurements can be in the form of factors such as:

- Employee retention
- Employee satisfaction
- Productivity Increases
- Creativity Increases
- External customer feedback
- Awards and/or public recognition

With each of these above measurements and any others that your organization considers, it's critical that they are shared and communicated to your organization. Again, these communications should be made throughout the organization – from C-suite to job seeker.

AN ORGANIZATION'S CULTURAL COMMITMENT – A FAILURE TO ADDRESS DEI

To be an effective game-changer, diversity, equity, and inclusion must tie in to the mission, vision, values, and goals of the organization. The DEI plan can and should impact how an organization values all aspects of diversity with employees, customers, and the community.

We cannot turn a blind eye to diversity and inclusion planning. As mentioned previously, we are not in a bubble. The world around our organization is the very same world our organization operates in. While this mantra seems simple on its face, you'd be surprised how organizations miss the obvious. We must learn how our organizations can address and overcome the very real issues our employees face both inside and outside the workplace.

DEI in a Nutshell CONTINUED (PAGE 5)

Whether it is complaisance? Ignorance? Or simply not caring? The ugly alternatives lead to bias, prejudice, and stereotypes within an organization and its very culture. Indeed, this leads to a cornucopia of troubles ranging from, among other things, low morale, reduced productivity/creativity, and legal exposure.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Creating a Landscape for DEI PAGE 1

Valorie Waldon, B.A., SPHR, SHRM-SCP, Director of Integrated Human Capital Services

Over the last year, many of us have fielded more calls from HR professionals and business leaders wrestling with the challenges of creating a diverse workforce than ever before. Not only is there significant pressure from outside our organizations to address issues of diversity, but there is also increasing pressure from within our organizations as well. In speaking with these well-meaning professionals, the common theme is uncertainty and confusion because diversity, equity, and inclusion issues are complex. While we know a lot, we just do not know what we might be missing. In fact, a recent assessment completed by more than 3,500 HR professionals showed that of 20 broad categories, the category with the lowest level of proficiency is DEI. Only 3% of respondents claimed to have deep expertise, and four in five HR professionals rate themselves as beginners in DEI. In my conversations, my goal is always to help them step back, take a breath, and approach the subject from a new perspective.

Simplify DEI

Let's take a quick moment to recap diversity, equity, and inclusion (DEI) in simple terms. First, diversity is difference or variety. For almost every human trait, there is variety. No two people are exactly alike, even if they are "identical" twins. Difference is a fact. What we choose to do with and about that fact is a choice. We can choose to deny it, avoid it, embrace it, or celebrate it. Whatever we choose, it is not going away. It simply is.

Equity, plainly put, is the act or process of making sure that everyone has what they need to be successful. It is not equality because equality means treating everyone the same. Equity means treating people based on what they need.

Inclusion is all about creating an environment where everyone can feel a sense of belonging, value, and acceptance. It does not mean everyone agrees about everything all the time. It does mean that even when we don't agree, we are still together.

A Conversation about Perspective

When I think of the work of DEI, my perspective may be a little different than others. I have an affinity for analogies, so I thought I would share one here. Now, I am by no means a gardener, but I enjoy the beauty of a well-designed and maintained garden. When a garden boasts a wide variety of flowers, vegetables, fruit, and greenery, it's a boon to the area's ecology. It provides beauty for the eyes, fragrance for the senses, food for the ecosystem, and the list goes on and on. How does this happen, and what does it have to do with DEI?

To have the desired end result, the gardener will first make sure that there is good soil within which to plant. My gardening friends have reinforced to me that the gardener prepares the soil, not dirt!

Creating a Landscape for DEI CONTINUED (PAGE 2)

And there is a difference. Soil is alive and made up of living organisms like worms, insects, bacteria, fungi; it is a complete and self-sustaining ecosystem. Dirt, on the other hand, is dead and is made up of sand, silt, and clay. This, to me, sounds like inclusion. When we have a work culture that values and affirms everyone within the organization, it manifests as a healthy, living, breathing organization that provides a great foundation for growing a dynamic and thriving workforce. Inclusion is not a one-and-done event. It must be intentional and aligned with every HR function and process.

After the soil is prepared and the gardener believes it is time to begin planting, they want to make certain that the supplies needed to support the various types of plants are available. To thrive, each plant has different needs. An evaluation of the sun's path tells us that each plant is planted where it gets the right amount of sunlight. Fertilizer and plant food for each plant and water according to the needs of the species is critical. This is equity. Not every plant needs the same degree of sun, water, and food. The same is true for people. Equity requires that we ensure that systems processes, policies, and programs are impartial and that the organization appropriately addresses bias and eliminates any barriers that prevent full participation. This is not a one-and-done event. Assuring equity is an ongoing process.

In this environment, the gardener has an appealing foundation within which to invite a variety of living, growing plants. Whether flower, vegetable, or greenery, annual or perennial, the environment to which we invite them will determine their longevity and ability to flourish. This is diversity. Once an organization creates an inclusive culture, people from all sorts of backgrounds will be attracted to the organization, and efforts to recruit a diverse workforce will be successful. So, diversity because of inclusion and equity, not the driver of it, can thrive.

Select a Starting Point – Inclusion

Without an inclusive workplace, diversity efforts are likely to fail. In addition, studies have shown that where DEI is treated as a core business function, rather than a side of the desk HR initiative, success is greater. According to a recent Fast Company article, "... we can effectively say that companies are doing diversity wrong all over again. The vast majority of the DEI roles posted have little to no connection to strategic planning, are far removed from the C-suite or senior leadership, and are still nestled in quiet corners of HR."

A truly inclusive workplace begins with leadership. While it is critical to hold leaders accountable for creating an inclusive environment, they must acquire the skills necessary to weave inclusion into the way they operate. According to the Harvard Business Review, there are six signature traits of inclusive leaders:

Commitment: Leaders not only articulate a commitment to inclusion and diversity, but they also hold others accountable and make it a personal priority.

Creating a Landscape for DEI CONTINUED (PAGE 3)

Humility: They admit mistakes, share credit, and allow others to contribute.

Bias Aware: They are aware of their own biases, and where bias exists within organizational systems, they work hard to ensure it is eradicated.

Curiosity: They have an open mind, seek to learn about others without judging, and empathetically seek to understand them.

Cultural Intelligence: Considerate of others' cultures

Collaborative: Focus on diversity of thinking and psychological safety

Starting the work of DEI with Inclusion is approaching it from a different perspective. As with any significant culture shift, this work relies on leaders leading the way.

If you would like support in beginning the journey to creating a more inclusive and diverse workplace, Employers Council can help. Utilizing effective 360 – degree assessment instruments, leaders can identify areas they need or develop to become more inclusive leaders. One-on-one leadership coaching is an effective way to support leaders in this transition. Employers Council can help you navigate this; give us a call.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Diversity Fatigue: What It Is and Why It Matters

(PAGE 1)

Valorie Waldon, B.A., SPHR, SHRM-SCP, Director of Integrated Human Capital Services

Diversity fatigue. The term was originally coined in the 1990s to describe the stress associated with management's attempts to diversify the workforce through recruiting and retention efforts. Over recent years, it's taken on an expanded meaning, to include people just feeling tired of talking about diversity, or the lack thereof.

Diversity fatigue shows up in a variety of ways. It can trigger distress in those that are committed to the work but see inadequate results. It can cause irritation for those that see diversity work as being merely for the sake of political correctness. For those that see it as a strategy used by organizations solely to enhance and further their brand, it can cause frustration.

Regardless of how it shows up, there are several reasons cited as contributing to diversity fatigue. According to Audrey Gallien, Senior Director in Catalyst's Learning & Advisory Services, fatigue sets in when companies don't build the skillsets an organization needs to understand the intrinsic benefit of increasing diversity. Diversity is often communicated as a target number or percentage rather than by building a connection between humanity, empathy, and vulnerability. A focus on hiring more diverse employees can make it a numbers issue, rather than a human, or even a bottom-line business issue. In fact, according to Mercer, diversity fatigue occurs when organizations do a lot of diversity talk but don't walk the walk.

For over a decade, companies have made an effort to show their commitment to diversity, and more recently, inclusion in how they recruit, manage, and develop employees. Many organizations have introduced positions dedicated to their diversity efforts, often with the title of Chief Diversity Officer. In fact, the business case for diversity remains strong for many executive teams. According to a 2019 McKinsey report, the most diverse companies are now even more likely to outperform less diverse peers on profitability. They also found that the greater the representation, the higher the likelihood of outperformance. While the likelihood of outperformance for companies with more than 30% of executives being women is high, the likelihood of outperformance is even higher for diversity in ethnicity than gender.

The World Economic Forum reports that a Boston Consulting Group study found that companies with more diverse management teams have 19% higher revenues due to innovation than companies with lower diversity. Given these types of numbers, we are seeing that the desire for diversity in leadership is gaining momentum. With such compelling reasons to pursue diversity, how do we end up with fatigue? Companies are investing billions of dollars in diversity programs, and yet many of us heave a deep sigh at the mention of another diversity initiative. These deep sighs can be heard not just from majority employees, but also from those employees in underrepresented groups. What have we been doing wrong?

Diversity Fatigue: What It Is and Why It Matters

CONTINUED (PAGE 2)

Focus

Often, diversity initiatives focus on top-down activities designed to control management behaviors. The three most popular diversity interventions tend to be mandatory diversity training, hiring tests, and grievance systems to allow employees to contest manager actions. These guardrails can feel comfortable and familiar, articulating behaviors into a compilation of dos and don'ts that are easy to explain. But, according to research done by the Harvard Business Review, the following three diversity interventions can make organizations less diverse, not more, because of manager resistance.

Diversity Training

The most sought after intervention of the three is mandatory diversity training. The positive effects of mandatory diversity training don't often last longer than a day or two and can create a backlash. Following mandatory diversity training in companies in the Harvard Business Review study, the representation among African American women changed by - 9.2%, among Asian men -4.5% and Asian women -5.4%. Much of the decline is attributed to negative messaging in some diversity training. The threat of lawsuits and punishment don't provide adequate incentive to change behavior over the long term. Also, mandatory diversity training has produced no significant improvement in the representation of women or people of color in management positions. In fact, according to the Harvard Business Review, five years after instituting mandatory training, companies saw decreases in the share of black women and Asian-American men and women in those roles.

Voluntary training with appropriate messaging, on the other hand, leads to better results. Five years after this type of training, organizations saw increases as high as 9% to 13% in the percentage of black, Hispanic, and Asian American men and women in management roles. Diversity training needs to have a positive foundation, based upon the presumption that participants want to be respectful, inclusive, and kind regardless of people's racial or cultural background. This approach yields better results than the traditional approach of shaming and blaming participants from the dominant culture.

In addition, when voluntary diversity training is targeted at providing participants with skills and moving beyond awareness, long term positive results are more likely. Helping participants hone their communication skills and their ability to effectively involve difference are key components of training that addresses the concerns of real managers. Often, managers and employees struggle with how to have discussions that build relationships rather than cause alienation. How to be brave, supportive, and curious while being true to one's self. The best training will help individuals learn those skills. Life will provide the opportunity to practice them. According to Catalyst, Flip the Script: Create Connections, Not Conflict, in Tough Conversations (November 28, 2018), words are powerful, and it is easy to shut down dialogue, even when that is not our intention.

Diversity Fatigue: What It Is and Why It Matters

CONTINUED (PAGE 3)

Based on their research, they provide guidance on using words that invite different perspectives so that people may feel heard in a simple to read infographic.

Beyond Diversity Training to Employee Experience

Diversity training done well can have a tangible benefit, as we've seen. And, for organizations to fully enjoy the fullest benefit of diversity, we must move beyond diversity training and employ a broader, more comprehensive approach to diversity, equity, and inclusion. Once we are successful at attracting a highly diverse group of employees, then what? Our diversity efforts will have a greater chance of having a positive impact if we address the employee experience with intention. Employees who do not feel that they belong and are valued will respond in one of two ways. They will leave the organization for other opportunities, taking their skills and talents with them, or they will show up and leave the best of their talents at home. According to the Catalyst report "The Day-to-Day Experiences of Workplace Inclusion and Exclusion," employee exclusion is costly to organizations with some of the consequences being compromised job satisfaction, lower sense of well-being, reduced work effort, and greater intention to leave.

When I think of the concepts of inclusion and exclusion in the workplace, it takes me back to the days of middle and high school. There was always the popular or "in" group, and everyone knew who they were. They seemed to have all of the advantages, and they walked the halls with a real sense of confidence like they owned the place. Hollywood tends to portray this group as the cool kids, the quarterback and the head cheerleader were among them. Then, there was always the "out" group made up of the least popular kids. This group of kids always seemed to find each other and band together. Hollywood has pegged this group as the brainy kids, as in the cohort on The Big Bang Theory. Each of these groups has created a sense of belonging and value among their own. Finally, there were always those kids that didn't belong in either group. They wandered the halls feeling invisible, hungry to be recognized and welcomed into either group. When we grow into adulthood and enter the world of work, the assumption is often made that these experiences end. But they don't.

Diversity and Inclusion – Defeat Fatigue

According to a McKinsey & Company report – Diversity Wins: How Inclusion Matters, there are five clear actions organizations can take to win through diversity and inclusion. Interestingly, this type of cultural change starts at the top, not with HR.

Place accountability for diversity & inclusion efforts with leadership and equip them for it. Define as an organization a vision of inclusion and create a visible system of rewards for managers that demonstrate inclusive behaviors. Help leaders develop their ability to be inclusive and to focus on things like building team cohesion. Leaders should commit to educating themselves on diversity, inclusion, equity, and bias, just as they would any other aspect of their work responsibility.

Diversity Fatigue: What It Is and Why It Matters

CONTINUED (PAGE 4)

Bring down barriers to equity and equality through evenhandedness and transparency. Equality is creating a level playing field, particularly concerning promotions, pay, and the criteria behind them. Equity means having systems in place that ensure that employees get what they need to thrive, whether it is access, resources, or information. Utilize analytic tools to check and verify that processes are without bias.

Make sure you have diverse talent. This includes thinking about diversity in broader terms than just gender and ethnicity. Diversity, at its core, is simply difference. It includes the traditional race and gender and also includes diversity of experience, culture, religion, political beliefs, religious beliefs, socio-economic status, and thought. Any and all of those things that make each individual unique. Cast a broad net in your recruiting efforts. Look for ways to bring diverse talent into a variety of roles, including technical and management positions.

Tackle microaggressions head on and refuse to tolerate bullying or harassing behavior. Microaggressions are those daily verbal or behavioral indignities that communicate derogatory or negative prejudicial insults toward another. They can be intentional or unintentional, and they are a big deal, although often overlooked as harmless. It is important to help managers understand what they are and how to address them, in the moment. They can even sound like a compliment, although when I was growing up, they were called back-handed compliments. For example, “Wow, you don’t sound black!!” was one I heard a lot. The American Psychological Association says, regarding racial microaggressions, “Some racism is so subtle that neither victim nor perpetrator may entirely understand what is going on – which may be especially toxic for people of color.”

Foster a sense of belonging through unequivocal support for multivariate diversity. It is important to create an environment where all employees can bring their whole selves to work. When employees feel undervalued, discounted, or excluded, expressions like “everybody counts” may backfire. Make sure that there is not a disconnect between what leaders say and the way that they behave. If everyone’s input is needed, pay attention to which voices are being heard and validated and which voices you do not hear. I remember sitting in meetings and speaking up with an idea, which no one heard. Five minutes later, a colleague would make the same suggestion, and the room would practically erupt in applause. That occurs in the workplace every day for many overlooked, excluded employees.

Diversity fatigue is real, and we can overcome it! Creating an inclusive and diverse workplace can be a significant cultural change for an organization. Be sure to encompass the humanity of the change, not just the processes, policies, and numbers. Help managers develop the skills necessary to provide support to their employees by demonstrating regard for their skills, talents, differences, and their voice and by addressing anything that works against efforts to build a

Diversity Fatigue: What It Is and Why It Matters

CONTINUED (PAGE 5)

cohesive team. This can include programs, processes, systems, and individual behaviors. As organizations make significant progress in intentionally creating an environment for diversity to thrive, they will be able to leverage that talent and see greater organizational success.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Strategies to Improve Diversity Recruiting

PAGE 1

Kim Robinson, SHRM-SCP, Human Resources Consultant, Integrated Human Capital Services

Often, diversity recruiting rises to the top of the list for organizations implementing, formalizing, or expanding a diversity, equity, and inclusion (DEI) plan. Recruiting, of course, is only part of a bigger picture that includes a top-down commitment, training, and systematic approaches to equity and inclusion. But successful recruiting means getting the right people for the right jobs in the door, creating an opportunity for organizations to further their DEI programs and plans. It's not hard to find great sites for recruiting diverse talent. A quick Google search yields long lists of sites targeting underrepresented candidates. The downside is that it's a passive approach – post it and wait. Here are some strategies above and beyond posting to attract and select diverse candidates for your organization.

JOB POSTINGS

Be careful of language. Job ads sometimes use words like ninja, driven, high energy, collaborative, or conscientious. Ostensibly, these words are to make the ad more exciting and to sell company culture. While members of any gender or age group can demonstrate these types of qualities, they can unintentionally steer diverse candidates away. Stick to the facts about the job, using straightforward, clear language.

Include only must-haves. Inflating requirements can deter diverse candidates from applying. An example is top-notch university. Success in the job is likely predicated less on where someone went to school than academic success in schools with strong or accredited academic programs, or through relevant internships or prior employment.

REFERRALS

Job candidates who receive a referral from an employee are statistically more likely to get hired. They are also more likely to be engaged employees because they know someone at work. However, gaining diversity in the workplace through referrals can be difficult, as employees tend to refer those that are similar to themselves, like family members or close friends. Employers that rely solely on referrals may not end up with the diverse workplace they want to see.

Employers have encouraged employees to refer those from a wider social network, such as their connections on platforms on LinkedIn – in fact, one employer-sponsored an open-mike event for employee contacts on LinkedIn for a fun event that also served as a job fair of sorts.

For employers who want to increase diversity, business as usual must change. With a bit of ingenuity, you can use your current referral network to increase the diversity at your workplace.

Strategies to Improve Diversity Recruiting

CONTINUED (PAGE 2)

INTERVIEWING AND SELECTING

Replace names with numbers. Candidate names can imply race, religion, national origin, or gender. There is software that removes names from resumes and replaces them with numbers, or recruiters can do the same before forwarding candidates to the interview team.

Use structured interviews. A planned interview with behavioral questions focused on job-related information and a rubric or scorecard can help minimize bias.

Watch for the word “fit.” When you hear yourself or others say a candidate is, or is not, a good fit, dig deeper. What behaviors or qualities does this refer to? Is it a proxy for unrecognized bias? Raise awareness of unintentional bias. One of the most common biases in selection is affinity bias or being drawn to people like us, with similar racial or ethnic backgrounds, personal qualities, traits, or experiences. The result is a work team that looks and acts alike, limiting creativity and innovation. Consider training, challenging each other’s assumptions, and holding everyone accountable when bias creeps in.

COMMUNICATING CULTURE

Add and promote benefits that appeal to a diverse workforce. Things like parental or elder care leave, floating holidays, volunteer days, professional development, tuition reimbursement, remote work, and generous time off may attract a more diverse talent pool, as well as provide a window into your organization’s culture.

Use images and videos to tell your story. Research says that people process images 60,000 times faster than written words. Be sure images genuinely reflect your organization. Examples may include community involvement, work environment, and staff interactions with each other and customers.

Employers Council offers public and onsite training on interviewing and hiring to help organizations improve the effectiveness of their selection processes. To find out more about these and all our training offerings, check out our website, or contact an Employers Council representative.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization’s unique needs. [Contact us for more information.](#)

Words Matter: Gender-Coded Language in Job Ads

PAGE 1

Kim Robinson, SHRM-SCP, Human Resources Consultant, Integrated Human Capital Services

Employers generally recognize the importance and good business sense of a diverse workforce. Sometimes the best intentions can be derailed using language that unwittingly encourages one gender to apply over others. How can we know when this is happening, and what can we do about it?

First, let's set the stage. In 1968, Equal Employment Opportunity Commission (EEOC) determined job advertisements could not specify that only men or women could apply or would be considered for specific jobs. That ruling was quickly challenged in the courts, but in 1973, the Supreme Court ruled that sex-segregated job ads were unconstitutional. The ruling opened the door for women to apply for higher-paying jobs that generally were restricted to male applicants.

What is gender-coded language? It is words or phrases associated with a particular gender, specifically male or female, often based on stereotypes. Here are some examples of gender-coded words that often show up in job ads:

Male: competitive, aggressive, challenge, decisive, courage/courageous, dominate, champion, driven, fearless

Female: collaborative/collaborate, dependable, honest, loyal, interpersonal, enthusiastic/enthusiasm, committed, connect/connected, patient

Consider what these words have in common. They are predominantly adjectives that describe personal attributes rather than required outcomes of the job, specific experience, or other factual information.

Certainly, all genders can exhibit characteristics from either list. However, in the case of male-gendered language, using it may send a subtle message that mostly men work at the company, that other genders may not belong or be welcome there, and therefore make the job less appealing. The same may be true for male candidates considering jobs with female-gendered language. Using non-gendered language serves to encourage men, women, and non-binary people to apply, providing even greater opportunities for a diverse and inclusive workplace.

The consequences of using gender-coded language show up in the applicant pool's diversity and, therefore, diversity of new hires. Another impact is increased costs per application and an overall negative impact on the employer's brand. Consider the results Goldman Sachs realized when they removed the word "aggressive" from their ads. Hiring women increased dramatically, one outcome of which was ultimately a workforce of 50% women.

Words Matter: Gender-Coded Language in Job Ads

CONTINUED (PAGE 2)

How can employers avoid the trap of gender-coded language? Here are a few tips and pointers: Use language that clearly describes the duties and expectations of the job and the specific, required qualifications. Be factual and avoid embellishment, industry-speak, and cliches. Make sure job titles accurately describe the job. Replace creative titles with words like ninja, rock star, and superhero (gender-coded male terms) with neutral, descriptive titles like project manager, systems engineer, trainer, or sales territory manager.

Assess the applicant pool. Are applicants predominantly one gender? If so, it may be time to carefully review the job ad to see where adjustments can be made.

Minimize the list of requirements and keep them job-related. Women are less likely to apply unless they meet 100% of the requirements, while men will apply if they meet roughly 80%.

Challenge ad writers to consider incumbents of all genders who perform the job well. If everyone in the role has historically been one gender, be intentional about choosing language that is less likely to be gender-coded.

Emphasize your brand using images and a well-written commitment to diversity and inclusion that accompanies the organization's EEO statement.

Provide and communicate benefits offerings that include programs that support a diverse candidate pool. Consider family leave, flexible or hybrid schedules, and tuition reimbursement, or professional development programs.

The rewards for taking a focused approach to checking for gender-coded language are a deeper understanding of the organization's culture, a careful look at what makes someone well qualified for a job, and of course, a more diverse workforce. Please contact Employers Council for more suggestions for boosting the effectiveness of your hiring programs.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Reducing Interview Bias Through Structured Interviews

PAGE 1

Beth Brown, SPHR, RPA, CEBS, Human Resources Consultant, Integrated Human Capital Services

Workplace diversity helps strengthen organizations and make them more successful. Reducing interview bias is an essential step in achieving a more diverse workforce.

Many managers take an unstructured approach to interviewing, using conversation to allow information about the candidate's experience and expertise to come forward. While this tactic may feel comfortable, unstructured interviews are not a good indicator of a candidate's potential for success on the job.

Instead, structured interviews, with each candidate being asked the same set of questions, help standardize the process, minimize bias, and ensure greater on-the-job success. In a structured process, employers can focus on the factors that directly impact successful performance.

Here are suggestions on creating and using a structured interview process:

First, understand the requirements of the job before the interview. Review the job description and position goals to clarify the skills and behaviors needed to be successful in the job.

Create a standard set of interview questions to ask all candidates. Concentrate on work history and job-related accomplishments and how they achieved them. Ask how the candidate would solve specific on-the-job problems, to learn their approach to work, understand their level of technical skill, and gain insight on their expectations for interacting with others to accomplish job goals. Using scripted questions allows for clearer comparisons between all candidates.

Consider a phone screen conversation before an in-person interview, using shortened questions from your interview script. This conversation can help reduce first impression bias.

Have interviewers note the candidate's answers immediately during the interview. This provides a more complete picture of the information provided by the candidate. Noting responses later, even immediately after the interview, can result in information gaps and recalling only dramatic examples. To make notetaking feel less awkward, explain to the candidate that the interviewers believe the interview is essential, and want to accurately remember what is said, so they will be taking notes during the interview.

Conduct a live debriefing session with all interviewers to share the information learned from the candidate. Comparing the candidates' responses "horizontally" across each question allows interviewers to see the strengths and weaknesses of the answers provided. For example, if you interview three candidates, compare all three candidates' answers to question one, then question

Reducing Interview Bias Through Structured Interviews

CONTINUED (PAGE 2)

two, and so on. This can make it easier to see the strongest candidate based on each question and is particularly helpful if the interview questions are weighted based on success in the job.

What about whether the interviewer likes the candidate or not? Should that be a factor in the hiring decision? First, think about whether it is important for the interviewers to like the person being hired. If it is, consider adding likeability as an item that is scored during the interview. Having interviewers give a “likeability” score makes it more controllable in the overall analysis of each candidate.

Iris Bohnet, Albert Pratt Professor of Business and Government, co-director of the Women and Public Policy Program and the Academic Dean at Harvard Kennedy School, in her April 18, 2016, article for Harvard Business Review, entitled “How to Take the Bias Out of Interviews,” explains that structured interviews can be taken even further:

Structured interviews are not just about discipline in asking questions — some companies, including Google, structure the content of their interviews using data. Their people-analytics departments crunch data to find out which interview questions are more highly correlated with on-the-job success. A candidate’s superb answer on such questions can give the evaluator a clue about their future performance, so it makes sense that responses to those questions receive additional weight.

Using structured interviews, asking work situation questions, and doing comparative evaluations of candidate’s answers all can help your organization choose a candidate with a good chance of success in the position while reducing bias in hiring.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization’s unique needs. [Contact us for more information.](#)

Eliminating Barriers in the Workplace for Transgender Employees

PAGE 1

Lorrie Ray, Esq., SPHR, Director of Membership Engagement

By now, you have read that the U.S. Supreme Court held that sexual orientation and gender identity are protected classes under Title VII of the Civil Rights Act. Many employers report that they are accustomed to practices concerning sexual orientation, but want to be sure they are on firm footing when it comes to gender identity.

There is support and guidance employers can and should turn to when learning more about this topic. Employers may want to first turn to federal agency guidance. As an example, the Occupational Safety and Health Administration (OSHA) has a page on its website devoted to restroom access. Employers are required to have such facilities available to all employees under OSHA sanitation standards, and OSHA issued guidance to make sure that this was not compromised due to the needs of transgender employees who are moving through gender re-identification.

There is also assistance from the Job Accommodation Network (ASK JAN) website with a page devoted to this topic. A blog post on the site points out in its list of tips for employers to follow. This includes having those in management receive training so that they can set an example, making sure that employees are using the proper pronoun when referring to all of their coworkers, and talking to any employee going through a gender transition to find out how to best support them.

The more employers inform themselves about this topic, the more likely they are to not only follow the law but to embrace all employees and create a successful work environment.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

How to Support a Transgender Employee

PAGE 1

Christina Husman, Esq.

When employees transition their gender identity, employers often have questions about how an organization should (or if it must) accommodate them.

Documentation

In this context, the question frequently arises of what to do when an employee begins using a name that is different than their legal name, especially when the name is indicative of a different gender. To mitigate the risk of litigation in states where transgender status is protected by law, employers and coworkers should consider using the name and pronouns that the employee prefers. Employers may also want to consider updating business cards, nameplates, and email addresses to reflect the employee's chosen name. In states like Colorado and California, for example, the failure to use the pronouns associated with an employee's gender identity is considered unlawful discrimination.

Though employees may be entitled to the use of their chosen name in the workplace, the question still remains as to what name should appear on business documentation. Employers should generally use the employee's legal name for business documentation, such as personnel files, I-9 documentation, and payroll. This applies even when that name is inconsistent with the employees' preferred gender. If the employee chooses to change their name legally, employers should then update their documentation to reflect the employee's chosen name. In other words, employers should be mindful that federal agencies (like the Internal Revenue Service) have strict requirements when it comes to use of an employee's "legal name" that cannot be circumvented by the preferences of that employee. Failure to abide by these restrictions may even result in liability for the employer.

Bathrooms

Since workplaces commonly have separate bathrooms for men and women, employers may have questions about bathroom access for transgender employees. In many states with protections for transgender employees, these employees are required to have access to restrooms that correspond to their gender identity, even if it is different than their sex at birth. Indeed, these rules typically do not apply just to bathroom, but all gender-segregated facilities. It is important for employers to understand the regulations in the states in which they conduct business.

Employers may face a situation where one employee is uncomfortable sharing a restroom with a coworker who is transgender. Many states with protections for transgender workers hold that employers cannot question or ask an employee about their transgender status regarding bathroom choice. In these states, the discomfort of the coworker are usually outweighed by the legal or regulatory freedom of the transgender employee with respect to bathroom selection.

How to Support a Transgender Employee

CONTINUED (PAGE 2)

One potential solution to this situation could be to allow the uncomfortable employee to use a restroom away from their typical work location. Some employers have implemented greater access to single user, unisex bathrooms, where possible, to avoid or resolve this issue.

Dress Code

Another question employers may face is how to enforce the dress code as it relates to a transgender employee.

Typically, transgender employees will assume the appearance and dress of their preferred gender. Employers are generally allowed by the laws in states that prohibit discrimination based on transgender status to impose a dress code that is reasonable and serves a business purpose. Employers may face an issue if they have gender-specific dress codes. Generally, it is recommended, in accordance with those state laws, that employees apply dress codes consistently between the preferred gender of the transgender employee and other employees of that same gender. This means that employers should not, given state law, require a transgender employee to dress in a way that would be inconsistent with their gender identity.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Using Neuroscience to Increase Workplace Equity

PAGE 1

Employers Council Staff

We have all heard that the human brain is hard-wired to make quick decisions about our environment and the people in it. Unfortunately, this can lead to prejudices and biases that most of us develop over time. These are based on the images we are exposed to as a daily part of our life. Still, this is only part of the story.

In fact, as pointed out in “The Egalitarian Brain,” we can train ourselves and those around us to reduce prejudicial or biased thinking that may cause us to treat people differently based on race, gender, disability, sexual orientation, and other perceived differences.

As explained in the article, our amygdala is in the part of the brain that we have in common with our distant ancestors – the subcortex – and it is designed to see threats quickly and have an immediate survival response. Surrounding the subcortex is the neocortex, and it has grown more sophisticated as our world became more complex. It uses more intricate thoughts to process experiences and learn from them, overcoming the amygdala and making more informed decisions.

If you as an employer are interested in increasing workplace equity, here are some helpful hints from the neuroscientists:

Have clear policies in your handbook that explain what behavior is required in your workplace that employees can read and understand. Employers Council has sample policies for members.

Educate your employees about discrimination and explain what is not acceptable. Include examples in the training. Our anti-harassment trainers use this technique to spark conversations in class about what is and what is not acceptable, helping employees engage in deeper thinking. This provides a frame of reference that can be called upon later in workplace situations.

If you hear or see an employee or a co-worker act in a way that would foster prejudice or discrimination, explain what you observed and why it might cause harm. Explain to the employee why your organization doesn't value this and what they can do to avoid this behavior. Employees will feel like this was a lesson rather than an attack. Engage the neocortex and not the amygdala.

If an employee complains about treatment in your workplace, make sure you understand all the details, and why it was a concern. Find out how they want to be treated instead – if it is not obvious to you. Listen to understand before you react. It is also wise to consider whether you would need to conduct an investigation. Members who are not sure may talk to one of our staff for guidance.

Using Neuroscience to Increase Workplace Equity

CONTINUED (PAGE 2)

Create workgroups that are as diverse as possible. When employees have good experiences working with those who are different from them, they learn more about what makes them the same and begin to view people who might be different from them as part of their team.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

Opening the Door to Pay Transparency – Even When Not Required

PAGE 1

Diana Sadighi, SPHR, SHRM-SCP, Human Resources Consultant, Integrated Human Capital Services

Historically, it has been a social taboo within American workplaces to discuss wage rates and compensation approaches. Employers are often reluctant to disclose employee pay information, relying on confidentiality claims or employee privacy to restrict disclosure. With that said, we are on the edge of historical change where many states are putting provisions in equal pay laws that support pay transparency. The NLRB has always protected employees, allowing discussion regarding employment terms and conditions, including pay. New laws are passing, requiring employers in these states to provide pay transparency, pay equity, and restrictions from inquiring about historical pay.

Several states have already passed pay transparency, salary history restrictions, and pay equity for comparable work laws. Colorado is leading the Rocky Mountain region by passing the Equal Pay for Equal Work Act. Employers in Colorado are adjusting to the state's Equal Pay for Equal Work Act's salary disclosure requirements. Still, even if you don't do business in Colorado, there are benefits to explaining how pay is determined in your organization.

What is pay transparency? It's providing employees information about how they are paid, the organization's compensation philosophy, policies, and practices when it comes to compensation. It means explaining how pay decisions are made. It may also include knowing more about what others in the organization are paid.

Why dive into these waters if you don't have to?

Reducing Wage Disparity – Salary transparency helps uncover pay gaps between similar individuals and has been proposed as the best remedy to address pay discrimination issues in the workplace. Research indicates that in states that outlaw pay secrecy, wages are higher for women, even when accounting for standard human capital controls and state effects.

Attracting New Talent – Employees are looking to work for a company that offers not only competitive but what they would consider fair wages. A company with a philosophy of providing pay equity is seen as more progressive to many talented job seekers, making it a more desirable company to want to work for. Pay transparency can also help streamline the recruiting process. A salary posted on a job ad can help weed out applicants who would typically go through the recruiting process to determine the salary below their expectations.

Increasing Retention – Pay equity can play a critical role in retaining your top talent. An employee who feels they are being treated equitably is far less likely to leave an organization because of pay, even if they are paid below market.

Opening the Door to Pay Transparency – Even When Not Required

CONTINUED (PAGE 2)

Increasing Diversity – Diverse candidates are more likely to join a company when they are sure they are being treated fairly. Making salaries common knowledge can be a first step in showing employees that pay discrimination does not exist in company practices.

Increasing employee engagement – In an Aptitude study in 2017, respondents were asked to assign a percentage to each of six categories (work environment, development, recognition, etc.), indicating its relative impact on employee engagement and retention. Compensation was the number one component of engagement and retention. Organizations that make pay equity a priority see, on average, 13% higher engagement levels.

Increasing Productivity – Pay transparency has been shown to increase productivity. A study from UC Berkley found that individuals worked harder and more productively when they received information about peer earnings. When employees don't know what their coworkers are paid, they tend to overestimate what their peers might be earning, leading to increased levels of job dissatisfaction and decreased productivity.

Increasing trust – When employees feel that there is a process in place to determine pay and see that it is fair, it drives confidence in the organization, which, in turn, can lead to increased trust that that company is making decisions that are in the best interest of the employees.

Improving your brand – Your employer brand is what your employees are saying about your organization to others. Employees are more likely to speak positively about the company if they feel they are being paid fairly. From a reputation perspective, how you pay employees can be viewed as a way of communicating externally to customers and shareholders what you value as an organization. Companies that structure pay programs that are viewed as creating a great work environment and a great place to work can also be seen as a great place to do business. Pay transparency practices can send the message that your employees are your most valued asset, helping the company attract new clients and customers.

Pay transparency is not a new trend: many organizations have been transparent about pay practices for years, including government workers, federal contractors, US Military, unionized workforces, and some non-profit staff.

Jumping from complete secrecy to full transparency can breed chaos. There is a pay transparency spectrum that ranges from only knowing your specific pay rate to knowing everyone's pay. Review your current status, what your organization is ready for, and decide on your goal. A step-by-step approach may be best for your organization.

Are You Ready for Pay Transparency? Here are some things to consider:

Opening the Door to Pay Transparency – Even When Not Required

CONTINUED (PAGE 3)

Do you have a defined compensation philosophy that articulates how you pay for your jobs (market focus) as well as how you pay employees within each job? What are the components of compensation in addition to base pay? For example, do you have an incentive, bonus, or commission structure?

Do you have a structure of pay levels or grades with an assigned pay range?

Are you consistent in your pay practices, such as hiring rates, merit increases, and promotions

Are you paying employees in those already established ranges?

Have you answered yes to all these questions? Only now should you consider sharing all employees' pay information.

Ultimately, a compensation program should provide the ability to attract, motivate, and retain qualified workers; provide internal and external equity; be legally defensible; and be linked to an organization's business strategy, goals, and culture. Use this opportunity to explain how your organization's business strategy is reflected in your compensation programs and how those compensation programs drive results.

Employers Council can help you develop a compensation program, review existing practices for compliance with federal and state laws, and provide salary survey resources.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

DEI Strategy: Macro Impact With Micro Interventions

PAGE 1

James McDonough, Human Resources Research Consultant, Member Engagement

In her article, *Diversity Fatigue – What it is and Why it Matters*, Valorie Walden, Director of Integrated Human Capital Services, defines microaggressions as “those daily verbal or behavioral indignities that communicate derogatory or negative prejudicial insults toward another. They can be intentional or unintentional, and they are a big deal, although often overlooked as harmless.” Microaggression often takes the form of a combination of body language and verbal remarks; the sum of the parts makes a powerful impact experienced and interpreted differently by others. The impact and response will vary by individual; what is harmless to one person is harmful to another. Often, a nuance changes the meaning; an eye roll, facial expression, or tone of voice may completely negate an otherwise positive statement. Such communication nuances may make it challenging to identify and address microaggressions when they are not blatantly harmful.

Creating a workplace atmosphere that is authentically tolerant and inclusive means holding individuals accountable for their words, actions, and behaviors that occur daily. Policies, goals, and training are a start, but not enough. It is the daily conversations and interactions in the workplace between employees, customers, vendors, and others, that also require attention. These interactions can make employees feel unwelcome, undermine trust, and harm workplace relationships when microaggressions occur; thus, understanding and combatting microaggressions is an important part of a successful DEI (Diversity, Equity, Inclusion) strategy.

To productively counter microaggression, a study (*Disarming Racial Microaggressions*) published in *American Psychologist* finds that micro interventions are effective and provide very specific guidance for individuals when they experience interactions that are hurtful to themselves personally and/or to others. These micro interventions are straightforward conversations and behavioral responses that occur in the moment when a microaggression occurs. This requires a degree of confidence and a willingness to experience discomfort; objecting to what someone else does or says, especially if they are a co-worker, is never easy. Importantly, bystanders have a crucial role and responsibility to engage in addressing harm they observe. The study focuses on racial microaggressions; however, the study clarifies the framework may be applied to harmful behaviors prompted by other characteristics such as gender, disability, religion, etc.

The study describes these four micro intervention strategies:

Make the “Invisible” Visible

Harmful words or actions cannot be ignored; they must be surfaced and exposed in order to be addressed productively.

Example: When a bystander observes a microaggression against a colleague, they must speak up

DEI Strategy: Macro Impact With Micro Interventions

CONTINUED (PAGE 2)

or visibly react to “name” the hurtful incident. This alerts all people who are present to what just happened, that it was unacceptable, and you object.

Disarm the Microaggression/ Macroaggression

This is a direct intervention that may cause discomfort. Clear, straightforward language challenges the words/ actions taken; body language is used to send the message, “What just happened is not alright!”

Example: “Ouch!” or “Excuse me, but what you just said was offensive.”

Educate the Offender

This important step reveals the need to inform and build relationships, not punish or “cancel” others who may have unintentionally hurt others with their behaviors.

Example: “I appreciate you as a co-worker, and I believe you did not wish to harm anyone. I am not sure you are aware of how your words/ actions were hurtful and disrespectful. Sometimes co-workers say things that are hurtful to others, and they don’t even know it! In our workplace, we value all employees and care about the relationships between all employees. It is important to be aware of how our choice of words and actions impact others and make different choices when they cause harm or are disrespectful.”

Seek External Intervention

Victims of microaggressions need healing, and bystanders often need support from higher levels of authority in the workplace.

Example: If a bystander speaks out to their supervisor about hurtful words and behaviors in the workplace, they are ignored or retaliated against; they should seek HR support if conditions do not improve or worsen.

Micro interventions connect individuals with the impact of their words and actions on others, builds personal accountability, and offer an opportunity for personal growth. Consequently, boosting self-awareness in a meaningful way that goes beyond simply complying with policies and expectations. The study asserts that these micro interventions’ cumulative ripple effect may have a macro impact of meaningfully aligning everyone with a vision of workplace equality and equity for all. This study is worth reviewing for additional useful details, charts with practical tips, and actionable guidance to improve workplace interactions that support DEI initiatives.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization’s unique needs. [Contact us for more information.](#)

DEI and the Public Sector PAGE 1

Lorrie Ray, Esq., SPHR, Director of Membership Engagement

Diversity Equity and Inclusion (DEI) initiatives are becoming a focus for employers, and the public sector is no different. Still, any municipality, county, state, or other subdivision of state government, such as a school or other district, has constitutional considerations that impact its employees' policies.

Constitutional Concerns

The 14th Amendment of the U. S. Constitution grants equal protection to all citizens, including employees who work in the public sector. The first section of the fourteenth amendment makes clear that any governmental action that classifies persons by race is presumed to be unconstitutional because of the equal protection clause. Employers who want to hire based on race, even if they are working to diversify their workplace, are subject to the most exacting judicial scrutiny and may not pass that scrutiny.

Any diversity plan that a public employer wishes to implement must be consistent with Title VII's purpose and cannot unduly infringe any employee's rights, minority or not. The employer must first determine whether its consideration of candidates' race is justified by manifest racial imbalance that reflected underrepresentation of a particular minority in traditionally segregated job categories.

The underrepresentation must be present when the plan is developed to determine whether the plan itself provided the proper remedy for that imbalance. This means that there exists some sort of finding of racial imbalance. A full discussion of the court cases that lead employers through a legal thicket is helpful. At the crux of the issue is to never make individual characteristics, such as race, age, or gender, the main reason for the hiring promotional decision.

Public sector employers should be aware that the State of Texas is encouraging the Supreme Court to take a case on how Harvard chooses its students and eliminate race as a consideration altogether. This would override the Supreme Court decision in *Fisher v. University of Texas*, 136 S. Ct. 2198, 2207 (2016), the most recent Supreme Court decision. The Court upheld an admissions system that allowed race as one of many factors in context. It will be interesting to see if the Supreme Court puts the Harvard case on its docket.

Recommended Actions for Recruiting

There are certain do's and don'ts, and an article that describes the anti-discrimination law in Utah is helpful since most states' anti-discrimination laws have strong similarities. The article encourages employers to create a welcoming environment where all people are encouraged to apply for positions at a particular employer, including mentioning this in advertisements. Employers have long been told to use recruiting that casts a wide reach to pull in applicants from many job sites, including those that cater to people across all groups. This has proven effective for many employers.

DEI and the Public Sector CONTINUED (PAGE 2)

The concept of branding in recruiting is gaining popularity, and it could be used successfully when an employer wants to increase diversity. Starbucks has a video of what it is like to work there, and when watching the video, you can see that the population of employees is diverse. To create a strong brand for diversity, conversations with employees have worked well for some employers. These must be approached with curiosity and openness for changing practices and interactions that do not make employees who are different feel welcome in the workplace.

A critical factor for recruiting for diversity is to retain diverse employees. If the employer makes strong efforts to recruit diverse candidates, presumably retaining the employees is also important. A plan of action is to be comfortable following the law while creating a diverse workforce, harnessing the knowledge, skills, abilities, and perspective that diversity can bring. This, again, is where conversations with employees are critical. If this is a path you are following at your workplace, [contact Employers Council](#), we can help.

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

DEI Roadmap to Success PAGE 1

Based on a DEI four-step framework of Census, Identification and Analysis, Implementation, and Measurement, this roadmap is intended to help employers begin and plan for those efforts.

PRELIMINARY CONSIDERATIONS

- How will DEI efforts support the organization's mission, vision, values, and goals?
- Does top-level management fully support an initiative to create and maintain meaningful DEI efforts?
- Is leadership sufficiently self-aware and able to support psychological safety throughout the workplace when addressing the challenges of an initiative that may invite uncomfortable and possibly confrontational conversations among employees?
- How are employees likely to respond to DEI efforts?
- Is HR adequately prepared to help drive organization-wide DEI efforts, including training and conflict management, as well as the revisions of policies and practices?
- Is there support for managers and supervisors to be trained on new organizational expectations of them?
- Will the organization allow and encourage employees to engage in training and facilitated conversations about DEI in a safe environment?
- Is the organization prepared to assess its relationship to the community to determine potential partners who may inform, support, and benefit from a DEI initiative?
- Will the organization reach out to inform stakeholders to engage their support for a DEI initiative?

CENSUS

- What systems of measurement can we use to collect data on diversity and demographics?
- In assessing the current organizational culture, what is the current level of inclusiveness or sense of belonging? What is the level of trust between management and employees? Amongst employee workgroups?
- How will we measure our current state of diversity, equity, and inclusion?
- Consider one-on-one interviews with staff, electronic employee surveys, focus groups, and meetings with senior and mid-level management.
- How will we know where we stand in terms of diversity? What benchmarking information is available and appropriate?

DEI Roadmap to Success CONTINUED (PAGE 2)

IDENTIFICATION AND ANALYSIS

- What story does the data tell about the current state of diversity, inclusivity, and equity in the workplace?
- What demographics are most under-represented?
- Which parts of the organization have the most under-represented demographics? Is there a correlation with where we receive the most complaints?
- How can management recognize/appreciate the issues?
- Is there a prevalent culture that lacks diversity?
- Is there disparity between top-level management and lower-level staff?
- What gaps or opportunities exist to improve diversity, equity, and inclusion? How can we use DEI to strike an advantage in our market?

IMPLEMENTATION

- What training is available to help reach our DEI goals?
- How can we recruit a more diverse workforce?
- What policy changes or initiatives can we implement to encourage a more inclusive workplace?
- How can DEI be implemented in our succession planning and talent development projects?
- In what ways can we include DEI as part of our operational processes and practices?
- What is the best format to facilitate conversations between employees about diversity, inclusion, and equity?
- Internally, who has a demonstrated ability to lead difficult conversations on DEI? On the other hand, should we consider external assistance with leading conversations?
- How can we make our DEI efforts more inclusive of all employees?

DEI Roadmap to Success CONTINUED (PAGE 3)

MEASUREMENT

- How will we know if/when DEI efforts are successful?
- How have DEI efforts changed our demographics? What groups remain under-represented?
- Have DEI efforts been successful in improving our bottom line? If not, how can we re-tool to optimize this?
- What employee opinion survey questions will help us gauge improvement?
- What other measurements can we take to see if DEI efforts are working?

External Resources PAGE 1

[Disabilities: AskJAN resource for accommodations](#)

[EEO Protections for LGBTQ employees](#)

[Engaging and including employees with Disabilities](#)

[Intersectionality: Khan Academy offers a brief overview](#)

[IPMA \(public sector employers\) Racial Equity Resource Page](#)

[OSHA Transgender Best Practices](#)

[Racial Equity Tools](#)

[Transgender rights in the workplace](#)

[Veterans in the workplace](#)

[Wharton Business School: DEI Strategy](#)

Employers Council assists members with their DEI strategies, including customized services tailored to an organization's unique needs. [Contact us for more information.](#)

THANK YOU

We're here to help you navigate the workplace and make the best decisions for your business in challenging times.

Talk to a member representative today.