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Creating Stronger Diversity Initiatives in Employment Settings

Evan M. Roberts
Cornell University

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Abstract

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Introduction

Over the last 15 years there has been a notable increase in the number of diversity initiatives for firms in both the private and public sector.[1] Virtually every large company now employs diversity consultants to aid the firm in promoting diversity values and to identify cultural and structural barriers in the office that make it difficult for diverse people to succeed.[2] Many firms also adopt diversity programs to improve recruitment and retention, foster a more supportive office environment and better evaluate workers on their diversity aptitude.

Despite the clear increase in diversity efforts across a variety of industries, those efforts do not seem to consistently effectuate the major changes advocates want to see. While the lack of a strong diversity presence throughout firms remains a major problem that needs to be remedied, it is not the only concern for diversity advocates. Diversity initiatives themselves should also be treated as a source of concern. Part I of this article discusses several of the most common problems related to diversity planning. How the plan is framed and sold to the firm's constituencies, the type of leadership scheme put in place, which mistakes are made during hiring and promotion, and what policies commonly risk legal setbacks are addressed in detail. While some of these practices may appear startling to advocates, firms should be able to find solutions and prove to skeptics that diversity planning is worthy of the firm's resources.

Part II explores what measures to take during the creation and execution of a sound diversity plan. It attempts to outline the initial steps, including soliciting leadership involvement and empowering a committee, up until the creation stage where firms start articulating their policy plans for issues such as diversity training and conflict resolution. Several case studies in a variety of industries are then analyzed in an effort to pin down successful practices and make general recommendations.

I. Why Do Diversity Initiatives Fail?

There are numerous reasons why firms fail to deliver on their diversity strategies. For some firms the challenge is about hiring or promotion mechanisms. For others, perhaps the failure is due to branding the diversity plan in a certain way, not securing a commitment from their leaders, or using ineffective training techniques. These pitfalls are examined below.

A. Shortcomings in Selling the Plan to Constituencies

Firms often meet resistance to diversity initiatives when equating a change in strategy to an affirmative action or equal employment opportunity program. This mistake is due primarily to the idea that, for many of today's business leaders, the concept of diversity "originally sprang from concern over compliance with EEO laws, Affirmative Action regulations and the associated emphasis on race and gender."[3] If diversity initiative craftspeople think of their plan as merely a way for the firm to be in compliance with the law, it means they are likely failing to recognize a broader meaning of diversity and the powerful upside it can provide.

Two major problems arise when a firm makes diversity synonymous with law or regulation. First, it often leads to white males feeling excluded.[4] This encourages them to view diversity as

simply "a new, politically correct term for special treatment," which in turn promotes bad morale and cynicism.[5] Discounting how the plan affects white males may also lead to the development or reinforcement of forms of bias that a diversity initiative should aim to eliminate. Excluding this group also undermines the goal of becoming an inclusive setting.

Second, framing a diversity initiative only in terms of legal or regulatory compliance tends to focus the firm's attention improperly. Instead of combating institutional racism and sexism or maximizing employee output, equating the plan to legal guidelines signals that the firm is only interested in meeting a metric objective associated with hiring or retaining diverse people. Once those metrics are met, leaders often think the program can come to an end prematurely before any positive effects manifest themselves. The firm's broader business agenda also suffers when substantive policy decisions like installing promotional opportunities or providing conflict resolution training are discounted in favor of reaching an arbitrary number of diversity employees.

B. Questionable Leadership and Governance

Initiatives that aim to change the governance structure of a firm may raise a red flag. Similarly, how a firm decides to monitor its employees may impact the effectiveness of a diversity plan. If the leadership structure is not conducive towards accomplishing the goals of an initiative, either because the leaders are not committed to the plan or because their decisions do not address deep-rooted diversity dilemmas, then the firm is left with two problematic options: It can either change its governance, which is an expensive and time-consuming process, or it can face the consequences that come when a company is not investing in diversity.

One example of poor governance comes from S.C. Johnson & Son, a premier manufacturer of household cleaning supplies and other consumer chemicals.[6] The company decided to implement a self-governing team approach where decisions over daily operations were made as a group.[7] The strategy was developed in part to allow the company to respond faster to internal problems in the workforce, including diversity concerns.[8]

For S.C. Johnson, the ubiquitous and shifting nature of team-based leadership resulted in many challenges to race and gender in the workplace.[9] Some of those challenges were put on display when four black workers sued the company, claiming that the team-based system systematically disadvantaged African-Americans in opportunities for advancement, pay increase and day-to-day working conditions.[10] While the team-based leadership scheme is not illegal per se, it serves as an example of a faulty strategy that lead to contentious litigation.[11]

C. Problems with Hiring

Several hiring practices may signal a poor diversity plan. One of the seminal examples in bad hiring comes from Abercrombie & Fitch, a national retail clothing seller. The company was accused of discriminating against diversity applicants by refusing to hire qualified minorities as Brand Representatives to work on their sales floors.[12] Further allegations were made that Abercrombie recruited, hired and maintained a disproportionately white sales force, and that their policies discouraged minority applicants from seeking Brand Representative positions.[13]

Abercrombie also circulated a "Look Book" to store managers that explained the importance of this policy and how to regulate the appearance of its sales staff.[14]

Once the Abercrombie case was picked up by the media, the company faced a serious public backlash. Coupled with another lawsuit brought by the EEOC, Abercrombie was motivated to enter into a settlement where they announced several new measures aimed at addressing diversity, including establishing an Office of Diversity, providing diversity training, instituting an internal complaint mechanism, and amending its job criteria.[15] While the changes marked a turning point for the clothing company, Abercrombie's prior insensitivity to diversity resulted in two costly lawsuits, negative publicity, and a loss in customer loyalty, all of which could have been avoided had the company considered diversity issues in its original hiring scheme.

D. Problems with Promoting

Firms can also suffer legal, economic and social defeats when trying to accomplish their diversity agendas related to promotion. One illustrative example comes from Alcoa, the world's leading producer of primary aluminum. A human resource manager at the corporation insisted that a promotion be given to a female even though the hiring manager wanted to hire the top-ranked candidate (a male) and was unaware of the female applicant's qualifications, hiring team scores, or interview results. The initiative in place called for promoting women because they were "underutilized" in high-ranking positions, and if female candidates were minimally qualified Alcoa would still "seriously have to look at hiring one." In holding that the plan was discriminatory, the Southern District of Indiana relied on evidence that Alcoa's human resources department routinely ignored candidate information and neglected the importance of a fair interview process.[16]

Too often, firms equate competence to worthiness without considering whether the employee will succeed in a new role.[17] Characteristics like good communication, fair personnel management, and being a team player can be overlooked. Promoting diversity candidates cannot be seen as a byproduct of only their race, and firms must make a bigger effort to clearly understand why it is they choose to promote one worker over another.

II. Creating and Implementing a Successful Diversity Plan

Successful initiatives include many elements that require companies to be honest with themselves in terms of where they are and what goals they wish to accomplish. Regardless of the industry, there are several points that firms should consider carefully.

A. Involvement of the Firm's Leaders

Implementing a promising plan requires executive commitment at the onset. As committees and task forces begin to focus on diversity, they need the help of a broad-base membership that is made up of "visible, powerful, highly credible individuals" who are well-linked with employees.[18] By engaging a group of leaders, the odds of receiving adequate funding and influential advice for the initiative improves. This is especially true if high-ranking decision-

makers are involved, as they are not only closest to a company's purse strings, but likely have an ability to tap into constituencies outside the firm who may be of assistance.[19]

Part of the reason to secure leadership involvement has to do with how a diversity program will be received. Many constituencies of a firm will likely have a skeptical attitude about any endeavor that creates a change in operation or culture. By placing powerful, credible leaders at the helm of the process, the transition is made easier in a number of ways. It speaks strongly about the company's commitment to the program. It makes the leaders themselves appear accessible to the workforce, which increases the likelihood of employees accepting new policy decrees. Active leaders are also often in the best position to prepare employees for the involvement of outside consultants or human resource practitioners brought on for the project.[20]

B. Conduct Internal Research to Assess the Firm's Cultural Climate

Before a plan is formulated, it is important to know where the workforce stands on diversity. This includes knowing the racial, ethnic, and gender breakdowns of the employee base. It also means that the firm should conduct research to ascertain the current diversity concerns of their employees.

There are a few different tools that a firm could utilize for this purpose. Open-ended questionnaires that aim to gather the opinions of employees are a good way to capture unique perspectives. Focus groups are another initial step that could yield an important selection of views. It is important that the firm not only make their employees feel their opinions are valued, but actually take the time to contemplate what those opinions mean about the firm's culture and whether it is in the best interest of the company to implement a change.[21]

Firms will have to wrestle with the decision of whether or not to make participation in surveys and focus groups mandatory. One suggestion is to make the first round of inquiries optional to participate in. This will give firms a chance to gauge the level of concern over diversity without appearing to impose on the private lives of their workforce. Furthermore, questions relating to race and gender are sensitive subjects for many people, and it is crucial that the firm carefully design its polling so as not to appear to be implying favoritism or bias. Depending on how the materials are received, it may be wise at this stage for the firm to consult trained diversity consultants who have experience in designing inquiries.

To clarify what obstacles the firm will have to confront, opinion and statistics from all levels of employees should be sought, including low-level staff. This sends a message that the firm values the input of everyone who could be affected. It may also insulate the firm from risks that come with narrowing the selection pool. For instance, if only middle managers are polled, and there is a disproportionately low number of minorities who serve in those roles, that could skew the opinions in a way that does not reflect the general concerns of a majority of employees.

C. Empowering a Diversity Committee

Many successful firms dedicate resources towards the creation of diversity committees or task forces. The composition of the committee is of great importance, and successful teams appear to

include members from different departments, professional backgrounds and managerial levels.[22] This affords the firm the ability to conduct their diversity inquiries across multiple departments. It also brings a breadth of opinions and concerns to the discussion table, which the firm can then take into account when deciding what issues need to be prioritized.

Forming the committee is only the beginning. How a firm empowers their committee to act plays a vital role in determining whether or not the entire initiative will be a success. The committee itself may be charged with designing the initiative in addition to being tasked to perform other functions such as brainstorming remedies and monitoring progress.[23] It may also be wise to allow the committee to delegate responsibility to other groups. For example, the diversity committee of consulting and accounting firm Deloitte & Touche created several sub-groups charged with analyzing minority and gender gaps at different levels within their workforce.[24] Deloitte also empowered the committee to monitor those results and design steps to ensure accountability.[25]

D. Designing Conflict Resolution and Training Plans

One of the goals of good diversity planning is to develop skills and techniques that can be used to solve diversity-related workplace dilemmas. A strong plan also seeks to avoid potential legal challenges and promote a healthy work environment. For those reasons, effective training and conflict resolution procedures are a key part of good diversity planning.

1. Effective Conflict Resolution

Discrimination and harassment are serious problems regardless of what the firm specializes in. Fortunately, there are procedures that firms can put in place to reduce the number of workplace conflicts or solve them in a healthy way. It is important to keep in mind that issues of discrimination and harassment are sensitive subjects, and many victims may be unwilling to file formal complains because of fear of stigma or retaliation.[26] Plans should be devised with these concerns in mind.

A two-track approach seems particularly popular and effective.[27] First, the firm should begin with informal counseling and private mediation for the victim and alleged abuser. The informal system essentially treats the conflict as a private matter between two individuals, and if resolutions are made they are kept confidential. Overall workplace culture, institutional policies and general patterns of discrimination are not considered a focal point of the mediation. Rather, the emphasis is placed on working out a solution that is acceptable by both parties and obviates the need for intervention by other actors.[28]

If the issue cannot be resolved during the informal stage, then the conflict should be addressed through a second process that is significantly more formal.[29] At this stage there are often adversarial hearings in the presence of authority figures. Firms also tend to conduct formal investigations that result in the inclusion of other actors besides the victim and the abuser, such as witnesses or supervisors. To the extent that the firm's handling of a complaint is an issue, part of the investigation should inquire about whether the firm's conflict resolution procedure was

accessible, if the investigation was thorough, and if any sanctions imposed on the abusive party are appropriate given their behavior.

2. Effective Diversity Training

Firms need to provide employees with skills for operating in a diverse setting. Values, beliefs, attitudes, strengths, and cultural norms of people from different backgrounds cannot be ignored if the training is to be effective. Employee education on diversity should be about more than just sensitivity to differences between genders and race; the best training will help employees understand the need for valuing diversity and teach how to maximize the strengths that diverse individuals bring to the firm.

A training program geared towards diversity education will be heavily influenced by the firm's definition of "diversity." Most agree that the definition needs to be sufficiently broad. For example, Roosevelt Thomas believes that a firm's definition should go beyond race and gender in order to create an environment that maximizes potential and appreciates the diversity of every employee, not just women and minorities. Thomas' definition is broad, but simple: diversity is "all the ways in which we are similar and all the ways in which we differ."[30]

Once the firm establishes a definition of diversity, the next step is to identify specific needs. Organizations can differ greatly depending on location, workforce composition, function, and size. For example, a multinational corporation with employees from all around the world, such as Microsoft, will likely have different needs and concerns than a small, regional law firm. Similarly, an office located in a heavily diverse area like Sacramento, California may need a different program than an office in Lincoln, Nebraska.

Some characteristics of good diversity training appear to be universal. For instance, many plans call for ongoing evaluations of the effectiveness of the training. All levels of the firm, including top-level managers, should participate. Good training is presented as part of the firm's general education and training system, rather than treated as a separate enterprise.[31] Finally, most firms with good training do not limit it to only a handful of lessons, but instead require employees to attend regular sessions throughout the course of their employment.[32]

E. Case Studies in What Works

Studying successful companies has many benefits. First, implementing strategies used by peers can bring the firm up to date with the industry's best practices. Second, it affords the firm a chance not only to see what works for the competition, but also what does not work, which creates less risk of implementing the wrong policy. Third, using a blueprint from a peer should cut down on the transaction and start-up costs associated with implementing a new or amended initiative.[33] Finally, following the practices of peers may help legitimize the firm in the eyes of external constituents such as business partners and customers.

One case study comes from Hewlett-Packard (HP), a company that implemented numerous effective strategies. In an effort to increase diversity, the technology company began actively recruiting from historically black colleges. They also began hosting diversity leadership summits

in countries like India, Costa Rica and Bulgaria. In addition, annual talent reviews, succession planning, and identifying key talent to be offered developmental experience has put HP in a stronger position relative to other tech companies and helped solidify it as a diversity role model in the eyes of advocates.[34]

Similar strategies have proven beneficial in other industries. Home Depot, a home improvement retailer considered a pioneer in do-it-yourself homemaking, created a robust diversity plan in hopes of transforming from a close-knit, family-oriented company to one of America's leading craft corporations.[35] In response to a class-action lawsuit brought by a group of disenfranchised women, Home Depot decided to implement a new automated hiring and promotion system called the Job Preference Process.[36] The purpose of the automated system was to eliminate potential bias by managers by filtering candidates through a neutral process. The individualized information is used to assist in matching candidates to positions they favor, identify race and gender gaps and increase the overall effectiveness of the personnel system.[37]

Some firms have used aggressive diversity plans to help them emerge from challenging times stronger than ever. McDonalds, who serves 56 million customers a day across 118 countries, is considered a leader in diversity hiring and retention.[38] But in the early 2000s, McDonalds was at the center of a nationwide debate over America's obesity epidemic. McDonalds underwent a "complete cultural change" in response to the intense scrutiny.[39] They implemented a diversity training and development program that called for mentoring entire restaurant crews, emphasizing leadership development and identifying employees with the most potential for advancement. They also created academic-style learning labs in order to conduct internal studies to uncover which tactics were working and which ones were underperforming. These tactics helped transform McDonalds into a strong example for the business case rationale.[40]

Conclusion

Diversity in the workplace will increase significantly in the coming years, and it will be important to have a diverse employee population as businesses become more global and complex. This article attempts to draw out some of the common mistakes firms make when crafting diversity programs, but also suggest practical strategies firms can adopt which will help in recruitment, retention, and office environment.

The challenge for diversity advocates is to continue to apply pressure, but towards the right measures. Simply having an idea of diversity is not enough; both the firm and its employees need the plan to work. The initiative process demands flexibility and continual re-evaluation because diversity is never finished. א

[Evan M. Roberts](#) is a third-year student at the University of California, Berkeley School of Law, where he serves as Senior Submissions Editor for the Berkeley Business Law Journal. Prior to law school he worked as a diversity management consultant at The GilDeane Group.

1. The word "firm" is used throughout this article to represent any possible employment scenario, including a company, corporation (public or privately-held), partnership or public entity such as a government agency.

2. Elisabeth Lasch-Quinn, Race Experts: How Racial Etique, Sensitivity Training and New Age Therapy Hijacked the Civil Rights Revolution, W.W. Norton & Company (2001).

3. Terrance R. Simmons and Peggy Hazard, *The Changing Landscape: Ten Red Flags in a Diversity Initiative,* Greater Rochester Diversity Council, *available at* http://www.workforcediversitynetwork.com/docs/ArticleTenRedFlags.pdf.

4. *Id*.

5. *Id*. at 2

6. Timothy D. Schellhardt, *Race Bias Suit at S.C. Johnson raises Some Worker-Team Issues,* Wall St. J., Feb. 13, 1997, at B7.

7. *Id*.

8. *See* Susan Sturm, *Race, Gender, and the Law in the Twenty-First Century Workplace: Some Preliminary Observations*, 1 U. Pa. J. Lab. & Emp. L. 639, 646.

9. This problem is not unique to S.C. Johnson. The team-based leadership approach requires workers to interact effectively with one another on a regular basis. Research indicates that these communications are especially prone to influence by relationships and perceptions about race and gender that exist within the firm prior to implementing the new form of governance. *See* Annelise Goldstein, *Who's on Top: Unchanging Demographic Patterns*, Organizations, (Aug. 1995).

10. Susan Sturm, *Race, Gender, and the Law in the Twenty-First Century Workplace: Some Preliminary Observations*, 1 U. Pa. J. Lab. & Emp. L. 639, 649.

11. Timothy D. Schellhardt, *Race Bias Suit at S.C. Johnson raises Some Worker-Team Issues,* Wall St. J., Feb. 13, 1997, at B7.

12. Brief for Petitioners, *Gonzalez v. Abercrombie & Fitch Co.*, No. 03-2817, 2008 WL 3540205, at *2 (N.D. Ca. 2008). Abercrombie's image goal centered on the "A&F Look" which was "a virtually all-white image that Abercrombie uses not only to market its clothing, but also to implement its discriminatory employment policies and practices."

13. *Id*.

14. *Id*.

15. Settlement Agreement at 22-28, *Gonzalez v. Abercrombie & Fitch Co.*

16. *White v. Alcoa, Inc.*, No. 3:04-CV-78 RLY/WGH, 2006 WL 769753, at *11 (S.D. Ind. 2006).

17. Jeff Wuorio, *Promoting Employees: How to Get it Right*, Microsoft Business, *available at* http://www.microsoft.com/business/en-us/resources/management/employee-relations/promoting-employees-how-to-get-it-right.aspx?fbid=sV037nMZM5W#Promotingemployeeshowtogetitright.

18. Lynn Hecht Schafran & Norma J. Wikler, *Gender Fairness in the Courts: Action in the new Millennium* at 20, *available at* http://womenlaw.stanford.edu/pdf/genderfairness-strategiesproject.pdf (2002).

19.   *See* Cindy-Ann L. Thomas, *A Theoretical Framework for Implementing Workplace Diversity*, Federal Lawyer at 6.

20.   The importance of involving firm leaders is something that successful diversity firms recognize themselves. Pat Harris, the Global Chief Diversity Officer at McDonald's, says that "the first requirement [in formulating a diversity strategy] is a commitment from senior leadership to diversity as a core value of the organization. Top management must be determined that diversity [is to become] a cornerstone of how you do business." Patricia Harris, *The McDonald's Diversity Story*, *available at* http://views.washingtonpost.com/leadership/guestinsights/2009/11/diversity-as-a-business-driver.html (Nov. 25, 2009).

21.   Randy Wilson, *Assessing Organizational Culture Through the Context of Diversity: Determining the Influences that Primary Dimensions of Diversity Have on Organizational Development*, *available at* http://prtl.uhcl.edu/portal/page/portal/HSH/HOME/HSH Programs/Cross Cultural Studies/Theses_Projects_Internships/Content/WILSON_2007.pdf (2007).

22.   Alexandra Kalev, Frank Dobbin and Erin Kelly, *Best Practices of Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies*, American Sociological Review, Vol. 71 at 589, 594 (Aug. 2006).

23.   *Id.*

24.   Susan Sturm, *Second-Generation Employment Discrimination: A Structural Approach*, 101 Colum. L. Rev 458. This tactic helped to "dramatically [increase] women's advancement in the company and [reduce] the turnover rate of women in particular and employees in general." The task forces that the committee designed paid close attention to the nature and causes of the gaps and made recommendations back to the committee. Those recommendations were then implemented with the support of regular data gathering and analysis.

25.   *Id*. at 492.

26.   Margaret S. Stockdale, *What We Need to Learn About Sexual Harassment,* Sexual Harassment in the Workplace 3, 17 (Margaret S. Stockdale ed, 1996).

27.   Thomas L. Pfister, *Recent Developments in Employment Discrimination Class Actions*, American Bar Association Section of Labor and Employment Law, Equal Opportunity Committee (Mar. 23. 1999).

28.   *Id*. at 25.

29.   *Id*. at 27.

30.   R. ROOSEVELT THOMAS, BEYOND RACE AND GENDER, Amacom (1992).

31.   For similar and other trends on diversity training, *see* Rose Mary Wentling, *Diversity Initiatives in the Workplace*, *available at* http://vocserve.berkeley.edu/CW82/Diversity.html.

32.   *See generally* The GilDeane Group's "Cultural Diversity at Work Archive," *available at* http://www.diversityhotwire.com.

33.   Cost-cutting measures may influence how a firm approaches diversity. *See generally* Rita McGrath, *A Better Way to Cut Costs*, Harv. Bus. Rev. Blog Network, *available at* http://blogs.hbr.org/hbr/mcgrath/2009/03/a-better-way-to-cut-costs.html.

34.   Diversity/Careers in Engineering and Information Technology, *Diversity in Action: Hewlett Packard keeps on evolving new diversity initiatives*, *available at* http://www.diversitycareers.com/articles/pro/08-octnov/dia_hewlett.html (Oct. 2008).

35.   Chris Roush, Inside Home Depot 1-2, McGraw-Hill (1999).

36.   *Butler v. Home Depot, Inc.*, 984 F. Supp. 1257, 1258 (N.D. Cal. 1997).

37.   Sturm, *supra* note 10, at 515.

38.   Aman Singh, *McDonald's Makes Diversity About the Bottom Line*, Forbes, *available at* http://blogs.forbes.com/csr/2010/09/08/mcdonalds-makes-diversity-about-the-bottom-line/ (Sept. 2010).

39.   *Id*.

40.   *Id*.