

AN ACEC/MA BREAKFAST PROGRAM

Creating Workplace Community

Actionable Steps to Embrace Inclusion & Diversity

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What is Diversity & Inclusion (D&I)?
Different but linked

Why does it matter?
The business case for D&I

How are other firms in the industry doing?
Industry Survey Results

How can you make an impact in your firms?
Keys to Success and Lessons Learned

What is Diversity & Inclusion?

Diversity looks at who we are, the differences in our people in a wide variety of ways, much of what can be measured.

Gender

Race

Ethnicity

Sexual
orientation

Religion


Education

Political affiliation

Communication style

Socio-economic
background





Inclusion is about creating an environment that provides opportunities for all employees to realize their full potential – to bring their full self to work.

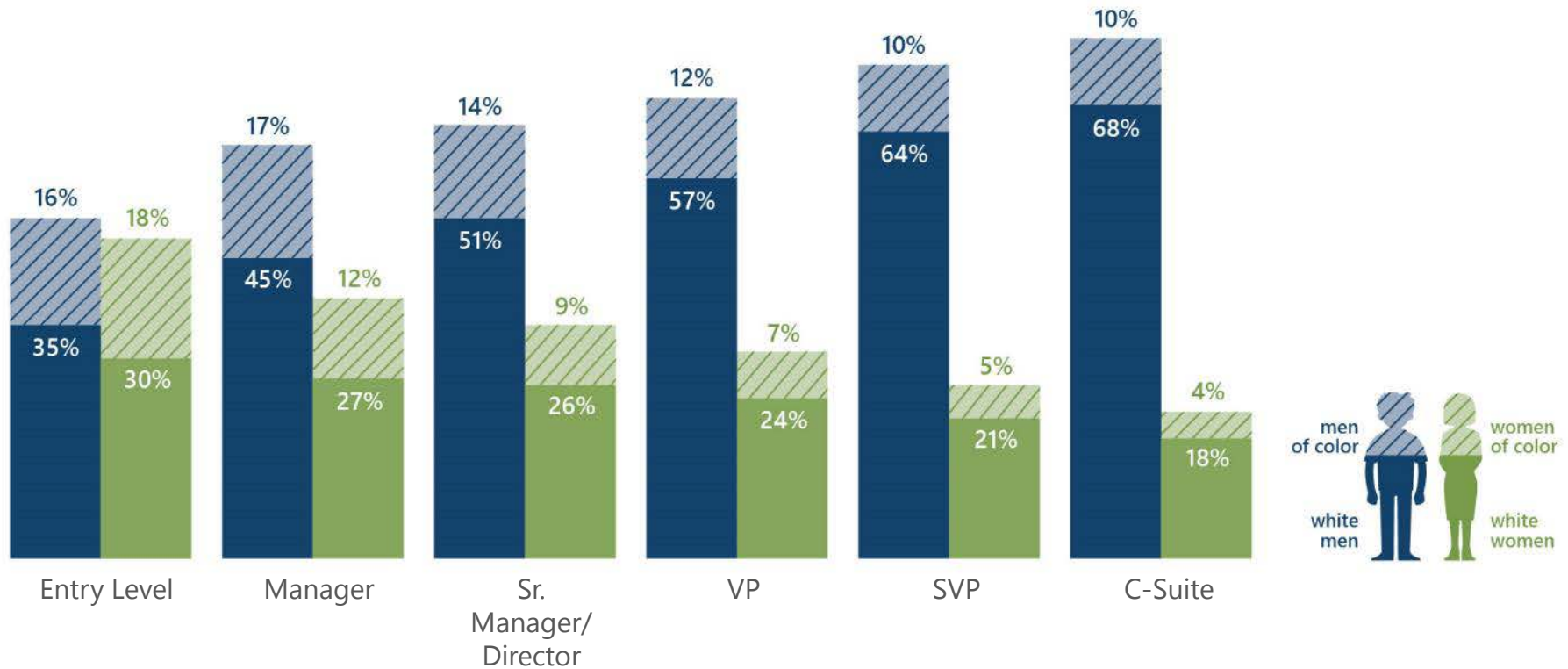
Bringing them
together is where
the value is.

An **inclusive**
environment with a
diverse workforce.



Representation in the Corporate Pipeline by Gender and Race

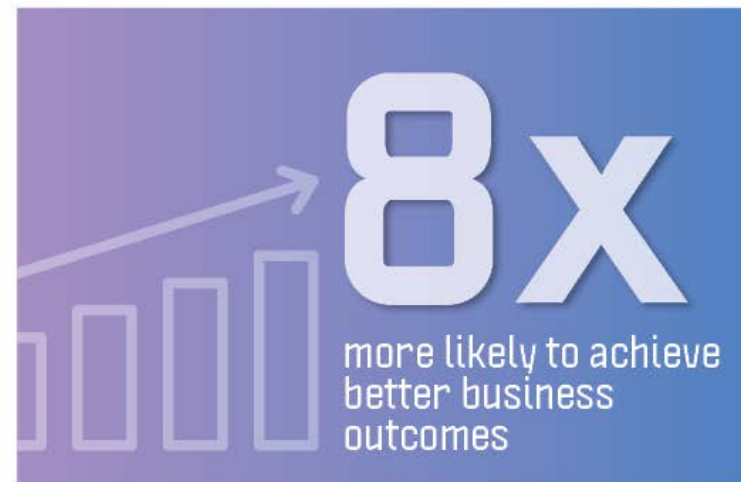
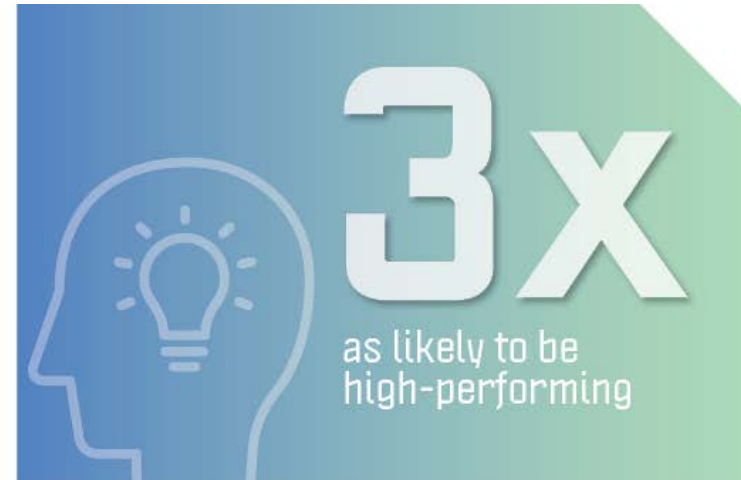
% of employees by level in 2019



Why Does it Matter?

The case for an inclusive culture

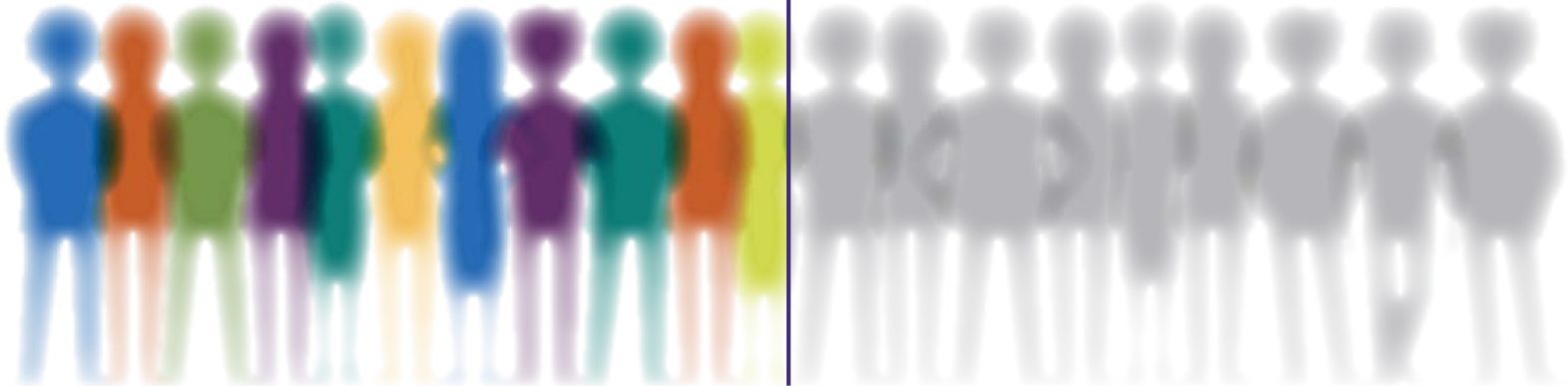
Organizations with Inclusive Cultures are:



Formal D&I Program

54%

have a D&I program



D&I Champion

79%

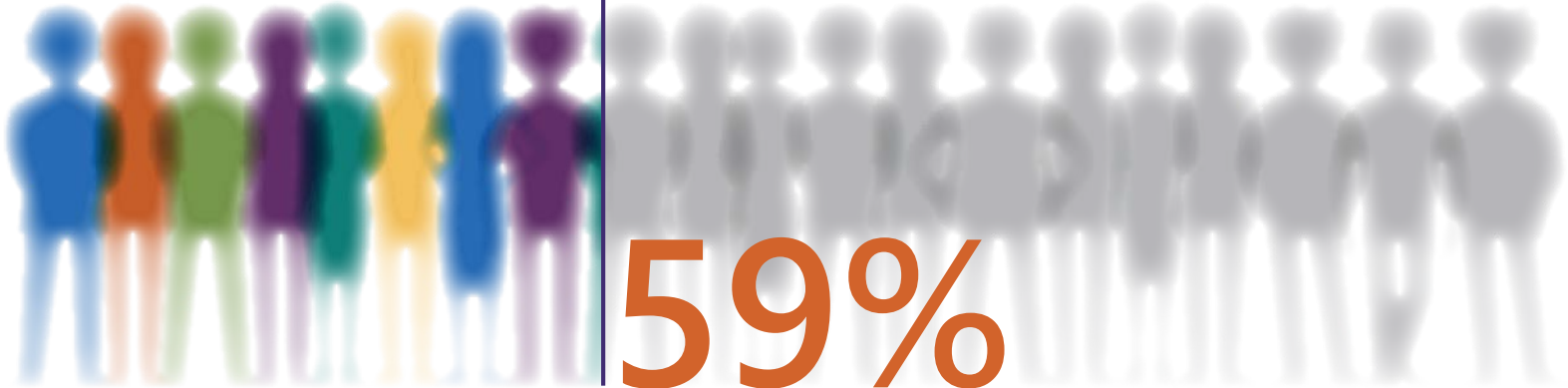
have a champion



Written Policy on D&I

41%

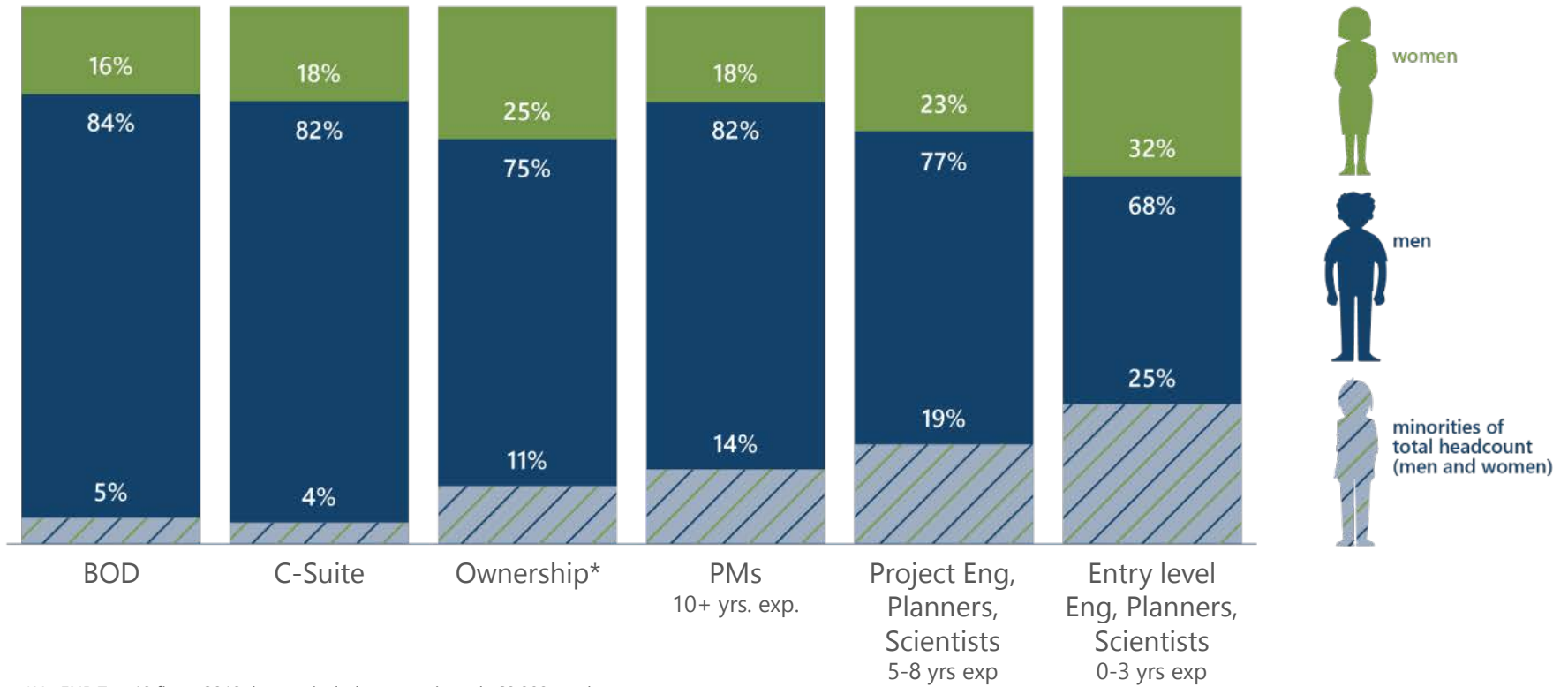
have one



59%

don't have one

Survey Headcount by Role



*No ENR Top 10 firms, 2018 data set includes approximately 60,000 employees

Purpose of the DPC Diversity & Inclusion Working Group **(DIWG)**

Assist our fellow DPC firms as we seek to ensure that our firms and our industry promote an inclusive environment with a diverse workforce

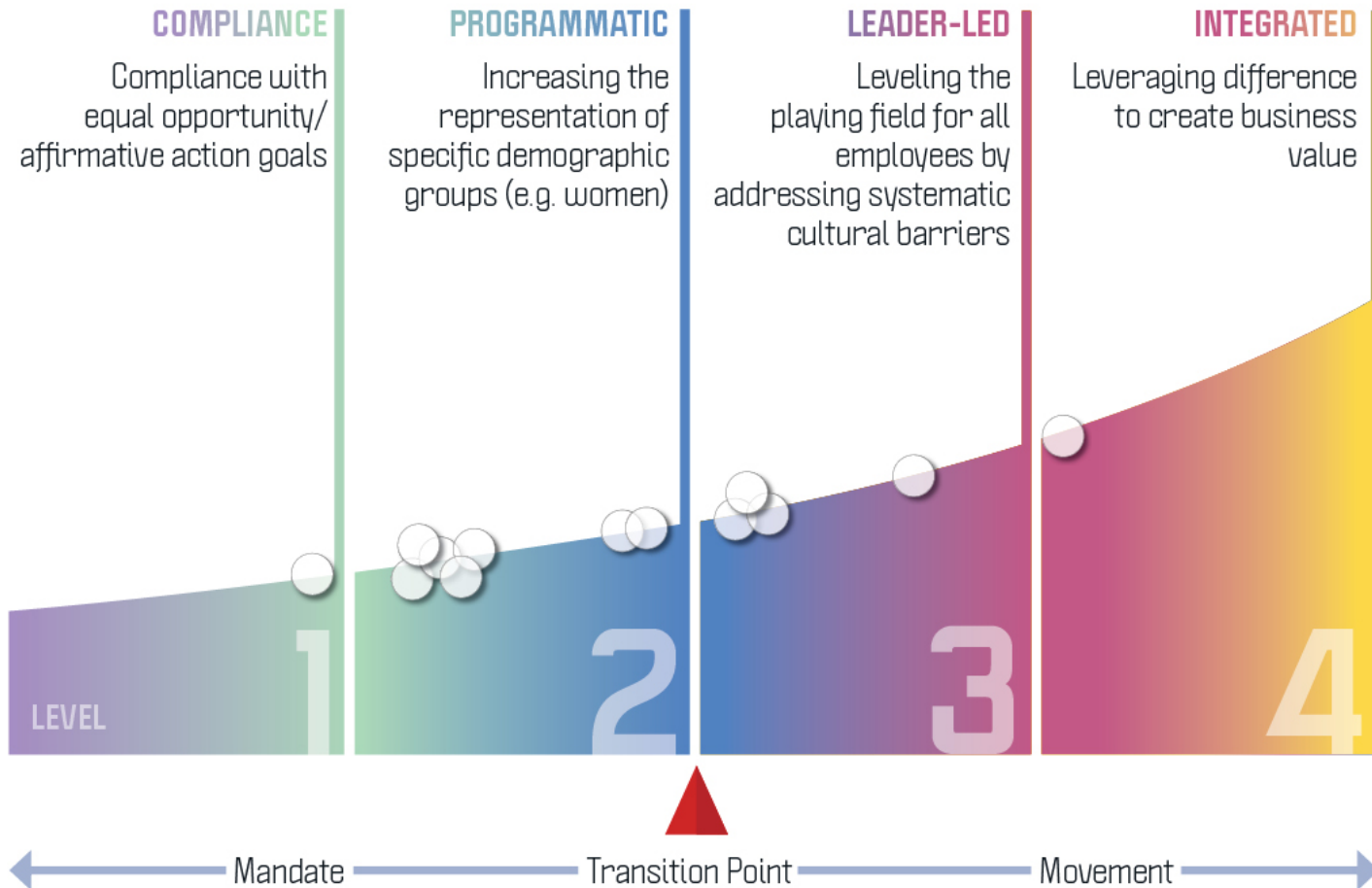
- Create diverse and inclusive environments throughout our industry
- Create a Keys to Success & Lessons Learned document
- Create a virtual resource library for member firms
- Provide direction to improve impact at ACEC level through D&I programs
- Insights to improve the DPC D&I survey



2019 Diversity & Inclusion Working Group Participating Firms



Diversity & Inclusion Maturity Model

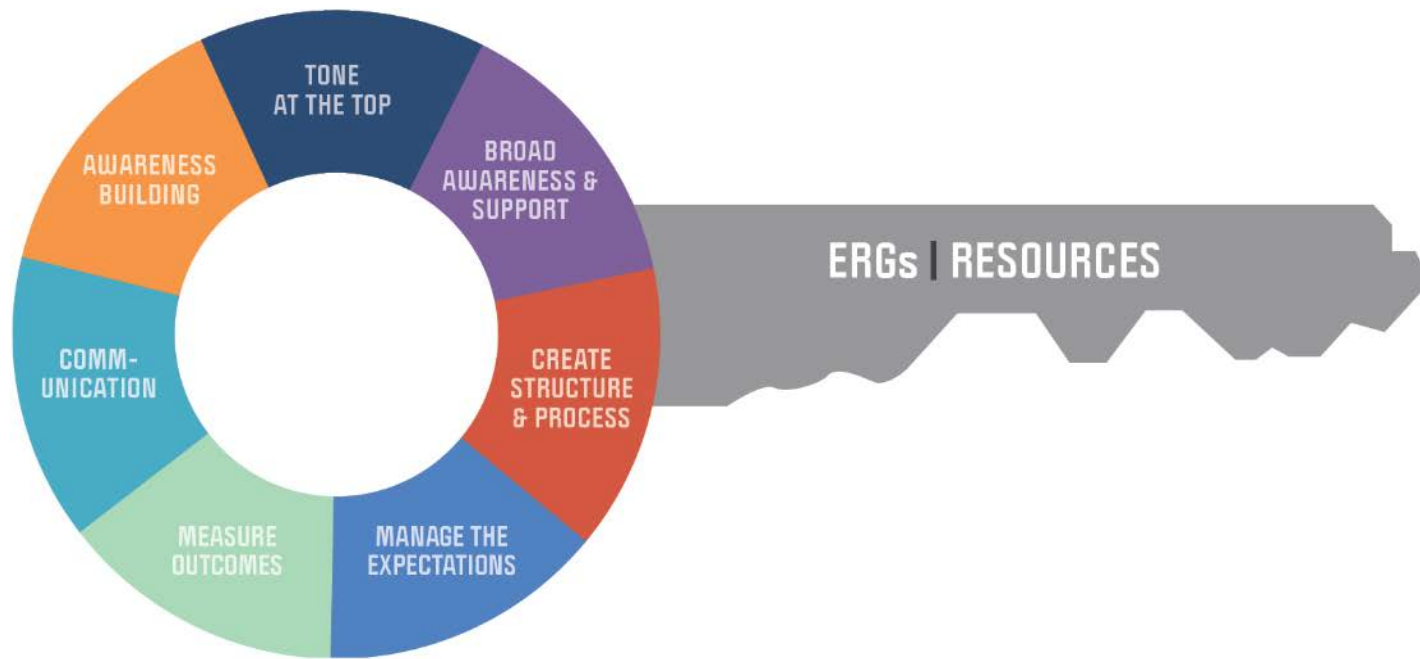


Deloitte Insights, deloitte.com/insights

D&I Efforts at Participating DIWG Firms (self-reported as of 2019)

○ = DIWG Firm (sampling)

Keys to Successful D&I Programs



Tone at the Top:

- Set a vision
- Board commitment
- Senior leadership or sponsorship
- Don't default to HR
- Write a plan and work the plan



Managing Expectations

Don't let the fear of missteps prolong the deployment of actions

- It's hard, challenging and time consuming ...and not everyone will agree
- It is not just a metric—needs to be part of culture
- Perfect is the enemy of good
- Under promise and over deliver
- Set reasonable expectations each year



Managing Expectations

Don't let the fear of missteps prolong the deployment of actions

- Promote awareness and have a general plan to get started
- Key decisions are sequential not parallel
- Expect some missteps
- Use as learning moment for everyone



Awareness Building Efforts (...don't call it "training")

- Thoughtful development is critical
 - Rife with opportunities for people to feel a sense of offense or "spoken down to"
- Your firms' D&I Champion must be well-versed in building and leading change management efforts
- Engaging experienced outside consultants and facilitators are valuable
- Weave into your firm's everyday processes and ongoing leadership development programs



Why Launch an ERG?

Effective component
to overall D&I approach

Creates inclusion and
awareness, encourages
dialogue, etc.



Keys to Successful ERGs

Listen and ask questions

- Encourage discussions and explore ways for you to be involved
- Grassroots level vs a proclamation from leadership
- Provide an Executive Liaison, and an HR Liaison
- Communication



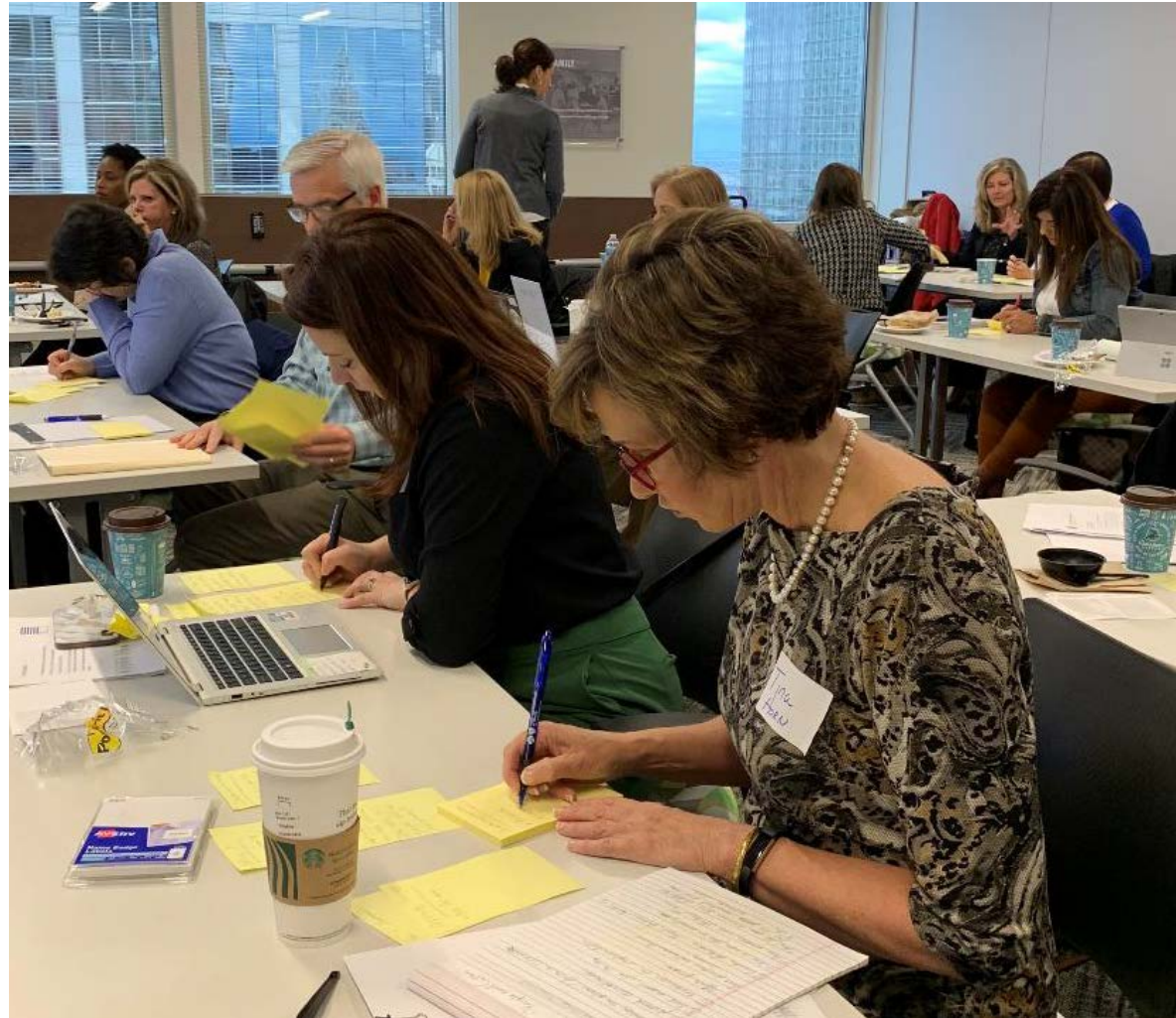
Keys to Successful ERGs

Listen and ask questions

- Establish a mission, charter, and goals
- Center around the opportunity to learn and network with others
- Celebrate accomplishments
- Encourage a succession planning effort for the group
- Establish and allow for an annual budget



What Would I
Ask/Tell my CEO...



Understanding Cognitive Bias

Its impact on us and the workplace

Amanda DeGiorgi

February 26, 2020

The Value of Fostering Community and Inclusion

Employee Value



Business Value



What is cognitive bias?



Cognitive bias

- Ways in which human judgments and decisions differ from rational choice
- A systematic error in thinking that impacts one's choices and judgments
- Utilizing mental shortcuts for swift estimates of the possibility of uncertain occurrences

The source of our perceptions

“The source of perception, our way of seeing, lies in our unconscious mind. Most of our perceptions are erroneous. They carry with them all the errors of subjectivity. We praise or blame, are happy or complain depending on our perceptions. Our perceptions are made of many things, including our afflictions, such as craving, anger, and ignorance, as well as our habit energies and past experiences. Whether we are happy or whether we suffer depends largely on our perceptions. It is important to look deeply into our perceptions and recognize their source.”

- Thich Naht Hanh



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Types of bias according to the NeuroLeadership Institute SEEDS Model

- **S**imilarity
- **E**xpedience
- **E**xperience
- **D**istance
- **S**afety



Similarity

What it looks like

- People similar to me (who look, think, act, talk like me), are better than those who are different when making decisions about them.

Example biases: In-group and out-group

Ways to mitigate

- Be authentically you and look beyond the surface for similarities
- Remove irrelevant qualifiers from decision making and seek an “outside” opinion
- Grow a diverse network



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Expedience

What it looks like

- This feels familiar and easy in a complicated, overwhelming, or hurried situation so it must be true.

Example biases: Availability, Confirmation, and Halo

Ways to mitigate

- Take a deep breath and mentally slow down
- Take in all information and challenge yourself to search for different solutions, not just the easiest
- Assess your decision making process for potential flaws
- Get a second (or third, or fourth...) opinion



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Experience

What it looks like

- My perspective is the only perspective and is completely accurate.

Example biases: False consensus and Fundamental attribution error

Ways to mitigate

- Get objective opinions from outside the situation or project
- Take a break and come back later
- Walk in someone else's shoes



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Distance

What it looks like

- Things that are closer or in the short-term are better than those that are far away or long-term.

Example biases: Temporal discounting

Ways to mitigate

- Take distance out of the equation and weigh other factors first
- Imagine you're reviewing something that already happened
- Create opportunities for face-to-face interactions, either through travel or technology



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Safety

What it looks like

- Risk is more powerful than reward.

Example biases: Loss aversion and Sunk cost

Ways to mitigate

- Imagine you're making the decision for someone else
- Assess the risk by imagining the decision has already been made
- Utilize an abundance mentality



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River of perceptions

“In each of us there is a river of perceptions. Perceptions arise, stay for a period of time, and cease to be. When our mind is not calm, we do not see clearly. Like the surface of a lake on a windy day, the image we see is distorted. Our perceptions are often erroneous, and cause us to suffer and cause others to suffer. It is very helpful to look deeply into the nature of our perceptions, without being too sure of anything. When we are too sure, we suffer. When we ask ourselves, “Are you sure?” we have a chance to look again and see if our perception is correct or not.”

- Thich Naht Hanh

Universal bias mitigation trick

P – Pay attention to what’s happening beneath the judgement/choice/perception

A – Acknowledge or identify your reactions/interpretations/judgements

U – Understand other possible reactions/interpretations/judgements

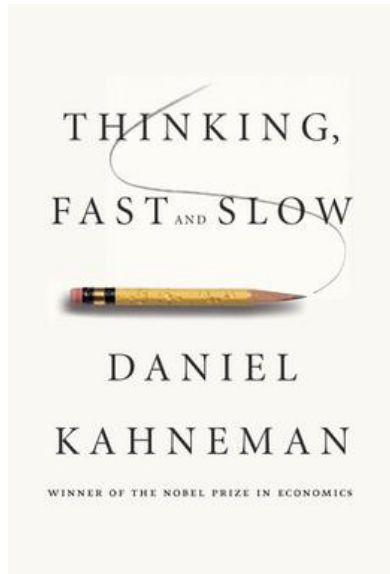
S – Search for the most constructive, empowering, or productive way to learn from and address the situation

E – Execute your action plan (act consistently based on what you have learned, not just on expedience/experience)

Starting down the path

- ✦ Set the ground rules ([Catalyst](#))
- ✦ Acknowledge we hold back with fear, shame, and ignorance
- ✦ Create opportunities to learn and share joy in your community
- ✦ Encourage change through openness, honesty, and compassion
- ✦ Listen compassionately, not to judge, criticize or analyze, but to allow the other person to express their self and their story
- ✦ Understand, be aware, and look deeply to see the true nature of things
- ✦ Love

Reading resources



Thinking, Fast and Slow
– Daniel Kahneman

Together We Are One
– Thich Nhat Hanh

Thank you!

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Reinventing tomorrow.



INCLUSION AND DIVERSITY AND THE LAW

“Inclusion is a right, not a privilege for a select few.”
- Oberti v. Board of Education

Breaking Down Bias: Legal Mandates vs. Corporate Interests

Anti-discrimination law “has the capacity to promote positive beliefs about inclusion and curb discriminatory behaviors, which can help lessen systemic bias within organizations.”

- a. Policies that “promote education about antidiscrimination law may increase positive attitudes about inclusion and facilitate more equitable behavior.”
- b. Knowledge of antidiscrimination laws, with ties to history, morality and civil rights, can change moral judgments and behavior.

- Jamilla Bowman Williams
- 92 Wash. L. Rev. 1473-1513 (2017)



Anti-discrimination Laws

- Knowledge about anti-discrimination statutes can foster diversity and inclusion.
- Cases can provide guidance to avoid discrimination and liability.
- To avoid liability, reject discrimination and promote inclusion:
 - 1) Train, educate about the law
 - 2) Be consistent when hiring, conducting reviews, making assignments, promoting and terminating
 - 3) Document policies, procedures, reviews, complaints
 - 4) Review before acting
 - 5) Keep data



Federal Laws Prohibiting Workplace Discrimination

- **Civil Rights Act of 1964 (Title VII):** Illegal to discriminate against a person on the basis of race, color, religion, sex, or national origin. Protects individuals from retaliation.
- **Pregnancy Discrimination Act:** Illegal to discriminate against a woman because of pregnancy or childbirth.
- **The Equal Pay Act of 1963:** Illegal to pay different wages to men and women if they perform equal work in the same workplace. Protects individuals from retaliation.



Federal Laws Prohibiting Workplace Discrimination

- **Americans With Disabilities Act:** Illegal to discriminate against a person with a disability. Protects individuals from retaliation.
- **Age Discrimination in Employment Act of 1967:** Protects people who are 40 years or older from discrimination because of age.
- **Genetic Information Nondiscrimination Act:** Prohibits the improper use of genetic information in health insurance and employment.



State Laws Prohibiting Workplace Discrimination

- **Massachusetts Unlawful Discrimination Act:** Prohibits discrimination against an individual in the terms and conditions of employment because of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, pregnancy, age, disability, ancestry or status as a veteran.
- **Massachusetts Equal Pay Act:** Prohibits wage discrimination based on gender. An employer who violates this law is liable for twice the amount of wages owed. However, the law provides for a defense for an employer that has conducted a good faith, reasonable self-evaluation that is reasonable in scope and taken steps to eliminate any pay disparities.
- **Massachusetts Pregnancy Fairness Act:** Provides for reasonable accommodations.

Proving Discrimination

■ Complainant

- Member of protected class
- Adequately performing duties of job
- Subject to adverse action
- Treated differently – from individuals not in protected class

■ Respondent

Articulates lawful reason for its action

■ Complainant

Must prove employer's decision was motivated by unlawful discrimination (false reason) (acted with discriminatory intent, motive, state of mind)



False Reason/Discriminatory Animus

- Changing reasons
- Similarly situated employees treated differently
- Delay after alleged reason for adverse action
- Designing failure (goal not obtainable)
- Deviation from policy
- Failure to document
- Performance history (satisfactory or superior performance)
- Reason discovered after termination



Implicit bias / Unconscious bias

*Study – 76% respondents showed implicit preference for people without disabilities
Even those with disabilities*

Case Law: Hiring

- A Massachusetts state court judge for administration and management selected a male candidate over a female candidate for a newly-created position of Operations and Maintenance Supervisor.
- MCAD determined that the actions of the judge in making changes to the hiring process (differing from hiring process for similar position at other court) supported finding of **unconscious bias about a woman's ability to perform a top management job traditionally held by men.**
- The judge changed the hiring process when a three-person panel recommended a woman and claimed he thought the panel members were candidate's friends and that a DCAMM representative needed to be on the panel.



Take away - - Be consistent, adhere to the policy, do not change procedure after recommendation of candidate in a protected class.

Case Law: Promotion

- African-American associate attorney denied promotion to partner. Claimed racial discrimination, including offensive comments. Law firm reviews consistent. Evaluated as “solid” first year, then “uphill climb”, then decidedly critical.
- Hispanic female applied for position at RIDOC and claims she did not get position because of national origin. No connection between her national origin and the decision. **The court noted expert opinion could support implied bias but none here.** The process did not indicate any discrimination.

Take away - - Process and documents support employer decision. Expert may be used to show implicit bias.



Case Law: Termination

- When a black male physician from Belize was terminated, the hospital cited poor performance. Reviews were extremely mixed, some excellent, some completely opposite and negative.
- The physician claimed discrimination and that he was treated differently because other interns were given a chance to correct and remediate.
- The jury could interpret comments as stereotypical thinking. The comments included “too confident for own good”, “not well suited for career in internal medicine in this country”. **This could be reflection of a subconscious sense that, as a black foreigner, he did “not know his place”.**

Take away - - Review of performance and documentation indicates conflicting evaluations and that termination may not be supported.

Case Law: Termination



- The only black customer service representative, and a woman, claimed her layoff was discriminatory because it relied on racially biased performance appraisals by one supervisor over three years when all prior evaluations were very positive.
- Although the plaintiff also offered other evidence of unfair treatment, the lower court found for the employer because there was no connection between the plaintiff's treatment by the supervisor and her race.
- The reviewing court found that she was the only black CSR and the only CSR evaluated unfairly.

Take away - - Review all factors. Here, there was other evidence that plaintiff was treated unfairly. She was the only black CSR and courts have found that the “unique” employee is often evaluated more harshly.

Employer Checklist

- Promote a culture that is free from discrimination and fosters inclusion
- Train managers and employees on anti-discrimination law
- Adopt, maintain, and adhere to employment policies on hiring, reviews, terminations
- Distribute anti-discrimination policy to all employees and post it in a conspicuous place at all offices
- Identify a number of individuals, females and males, to whom complaints can be made
- Consider a confidential hotline for anonymous reporting
- Take all concerns seriously and make your policies/procedures stricter than the law
- Investigate promptly and thoroughly all complaints and provide responses to individuals involved
- Make clear that retaliation will not be tolerated
- Take prompt and appropriate action when discrimination is reported
- Keep written evaluations and review pertinent files when adverse action is being considered
- Consider conducting a good faith, reasonable self evaluation of pay practices and other employment practices
- Keep data on inclusion efforts



Questions or Comments?