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SPOTLIGHT ON

Corporate Diversity, Equity, & Inclusion: Beyond Labels & Altruism

A diverse workforce is not only essential to meet a company's talent needs but is good for business, benefitting the entire company and its stakeholders in many ways

By Daniel V. Yager

About this Series

HR Policy Association (HRPA) represents nearly 400 of the largest companies worldwide. Members employ more than 10 million individuals in the U.S. This report articulates the perspectives of our members regarding the trajectory of work in the U.S. and the need for specific changes in both corporate and public policies to effectively advance the future of the American workforce.

HR Policy Association's "Advancing the American Workforce" series equips policymakers and business leaders with insights from Chief Human Resource Officers (CHROs) of major companies. The profound changes employers and society have experienced over the past five years have transformed the way large employers and their employees think about work, the workforce, and the workplace and how each needs to be structured for long-term success. HR Policy provides the perspective, not only from employers, but from CHROs who bridge the goals of their companies with the talents and needs of its greatest asset: employees.

New technologies, evolving demographics, and shifting political winds demand a strategic approach to HR. Chief Human Resource Officers are at the forefront of navigating these changes, and their perspective provides invaluable insights for policymakers. This multi-part series offers practical experiences and perspectives on the critical trends shaping the future of work, and suggests policy approaches to ensure the American workforce remains at the vanguard of global excellence in the years to come.

Executive Editor: Timothy J. Bartl

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EXECUTIVE SUMMARY

Corporate Diversity, Equity & Inclusion

Chief Human Resource Officers and their companies have a strong commitment to diversity, equity, and inclusion (DEI), but this priority is often misunderstood by those who do not have the full picture of how DEI leads to company success. The primary objective of any CHRO is to ensure that the company's business needs are served by the talents of its workforce. As with every other function of a CHRO, it is that objective that drives corporate DEI efforts.

Indeed, concerns regarding social justice, the impact of history, economic inequality, and related issues have been motivating forces behind DEI, especially since the George Floyd tragedy. But DEI is not propelled primarily by corporate altruism, though that is a factor in this and many other corporate acts.

This altruism, however, is bolstered and from a pure business perspective, overshadowed by a company's talent objectives. By failing to tap into the potential capacity of a diverse workforce—particularly at the higher levels of the corporation--our companies, and our country, will fall far short of their economic potential. Indeed, the demographics of an emerging majority minority workforce make this a critical goal.

Meanwhile, many companies are considering broader definitions for the concept of diversity that go beyond the traditional categories. Because it has been widely misconstrued, people continue to debate whether the term "diversity, equity, and inclusion" is the best label for corporate efforts in this area. In addition, CHROs recognize that "getting to oneness" within their workforce is a priority that must also recognize diversity. Thus, the "I" in DEI --"inclusion"-- is an essential element of any strategy. Employee Resource Groups (ERGs) play a critical role in achieving this equilibrium.

Rethinking definitions of diversity

"...people continue to debate whether the term 'diversity, equity, and inclusion' is the best label for corporate efforts in this area."

Data shows that achieving diversity —including gender, race, and ethnicity—is still very much a work in progress and often is nowhere near the aspirational goals most companies have set. Companies' ability to tap this potential is being impeded by mixed signals from government policymakers at both the federal and state levels, with current court challenges and recent decisions further complicating the situation. Meanwhile, the broader DEI debate is constrained by well-intended thinking that dominated the public policy framework in the previous century, as well as the lack of progress in achieving greater representation at more senior levels of the company. CHROs believe those frameworks need to be reexamined.

Looking Ahead to 2030

The vital role DEI plays in companies' sustainability and competitiveness ensures that it will continue to be a key company strategy within whatever legal constraints are imposed, and regardless of how it is labelled.

The next decade is six years away. As CHROs ponder the dramatic changes in the DEI landscape that have occurred in the past six years, they can only wonder what upheavals may lie ahead. The evolving political situation and yet-to-be-adjudicated legal challenges make predictions difficult. Meanwhile, external pressure for companies to ratchet down or abandon altogether their DEI efforts in the face of these uncertainties will continue. In addition, the terminology of DEI itself may continue to evolve.

Yet, there are certainties that will not change. The most compelling, of course, is the continuing demographic shifts in the American workforce, with the U.S. becoming a majority-minority country by 2045, more retirements by baby boomers, and a steady influx of immigrants from all corners of the globe.

Most importantly, even DEI's harshest critics recognize the need for American companies to be competitive in a global economy. The vital role DEI plays in companies' sustainability and competitiveness ensures that it will continue to be a key company strategy within whatever legal constraints are imposed, and regardless of how it is labelled.

DEI is primarily driven by business necessity and an increasingly diverse workforce. For the first 200 years of its existence, the American economic miracle was largely driven by a somewhat bifurcated workforce, with its leadership primarily composed of white male descendants of European immigrants. Descendants of those from outside Europe played a critical role in this development, but it was largely supportive, with very few opportunities for upward mobility even into middle management, let alone the C-Suite.

This lack of opportunity was attributable to many factors. Clearly, overt discrimination played a large role that influenced numerous other factors, such as educational and housing opportunities, rigid class distinctions, and other obstacles to upward mobility.

In the past 50 years, there have been a number of legal and public policy changes that have helped diminish—without eliminating—the role of discrimination. But there is also one other significant change that is often overlooked: a steady increase in the proportion of people of color in the American population as a whole. Indeed, in 2045, it is predicted that the white population will no longer be in the majority.[1] Meanwhile, in the last fifty years, the role of women in the workforce has changed dramatically as well, driven largely by increased participation of women in higher education, most notably in business schools.[2]

In view of these changes, employers have both an increased need and increased ability to find the skills they need across a larger and more diverse talent pool. Securing that talent, however, requires proactive measures – setting goals, expanding candidate searches, and building talent pipelines.

Data on the Benefits of Diverse Executive Teams

Korn Ferry Study: The Importance of Inclusion in the Workplace

"Companies with ethnically diverse executive teams are 70% more likely to capture new markets than less-diverse peers and generate 38% more in revenue from innovative products and services."

NY State Bar Association Task Force on Advancing Diversity

"The benefits that result from fostering diverse academic environments continue— and are amplified—in the workplace. These benefits include (1) enhancing cognitive and financial performance; (2) being better positioned to handle an increasingly diversified consumer and client base; and (3) attracting the next generation of employees."

A 2018 Boston Consulting Group Study:

"Increasing the diversity of leadership teams leads to more and better innovation and improved financial performance."

Diversity at All Levels of a Company is Good for Business

A diverse workforce is not only essential to meet a company's talent needs but is good for business, benefitting the entire company and its stakeholders in many ways:

Financial Performance

Numerous studies have proven that diversity at the highest levels of a company increases its financial performance. For example, a 2020 McKinsey & Company study of over 1,000 public companies found that those with the highest racial and ethnic diversity were 36 percent more likely to have financial returns above their industry medians, while those with the lowest levels were 40 percent more likely to underperform.[3] This study is far from alone in its conclusions.[4]

Customer/Client Base

As America's population has grown more diverse, it is no surprise that its customer base has as well. In its 2021 Multicultural Economy report, the University of Georgia's Selig Center for Economic Growth found that, since the launching of its report in 1990, the buying power for African American, Asian American, and Native American consumers, increased from $458 billion to $3 trillion in 2020.[5] Meanwhile, their combined share of the nation's total buying power rose from 10.6% in 1990 to 17.2% in 2020. This makes a strong case for greater diversity in a company's workforce, especially at the highest levels, where strategic decisions need to be guided by the makeup of the company's customer and client base. Again, numerous studies bolster this point.[6]

Attraction and Retention

From a CHRO perspective, where recruiting and retaining talent is the top priority, the role of diversity is of particular importance. The youngest segment of the workforce–Gen Z—is one of the most diverse, with 48 percent of Gen Z individuals identifying as racial or ethnic minorities.[7] Significantly, large numbers of diverse workers either quit their job or refuse to apply to companies with negative satisfaction ratings among people of color.[8]

But support for workplace diversity is not limited to people of color. A number of surveys of the broader employee population indicate that working for a company with a diverse workforce is a priority across the board.9 For example, a 2018 Deloitte survey showed that Millennials and younger workers link diversity with "a forward-thinking mindset" and "a tool for boosting both business and professional performance."[10]

Indeed, companies have made great strides in increasing the diversification of their workforces as a whole. But this progress has primarily been achieved at the entry levels of the companies, with increasing progress at intermediate levels. Yet, success at the highest levels—particularly in senior leadership and C-suite positions—has been disappointing. This is the case even with gender diversity, where, despite progress in recent years, new data from S&P Global shows that this progress may have stalled or even regressed. In 2023, for the first time since S&P Global began tracking gender parity, the positive trend reversed.[11] In addition, the World Economic Forum found that women's representation in the C-suite declined by 0.4%.[12]

The broader diversity picture in senior positions is even more discouraging. According to a USA Today study of publicly disclosed EEO-1 reports: "The top ranks are still predominantly white and male, while women and people of color are concentrated at the lowest levels with less pay, fewer perks and little opportunity for advancement."[13] With regard to Black representation, in 2023, there were only eight Black CEOs of Fortune 500 companies, with only 25 throughout our history. Moreover, only 3.3% of all executive or leadership positions in the largest companies are held by Black individuals.[14]

How the EEO-1 Report Defines Diversity

The EEO-1 Component 1 report is a mandatory annual data collection requiring all private sector employers with 100 or more employees to submit workforce demographic data by job category, sex, and race or ethnicity to the EEOC.

Recently, the form was updated to include seven categories of race and/or ethnicity: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Middle Eastern or North African, Native Hawaiian or Pacific Islander, White (Not Hispanic or Latino) and respondents can choose all that apply. In addition, the EEOC introduced a nonbinary gender identification option. These changes should lead to a more nuanced view of diversity in the workplace, but also present compliance challenges for employers.

This is sometimes explained as a "pipeline issue," with women and minorities positioned outside the "leadership pipeline" in functional roles that are less involved in corporate strategy and thus less likely to lead to the CEO role.[15] For example, the CHRO role stands out among the C-Suite as the most diverse, with 67% female and 14% people of color in the position.[16] Yet, as noted above, diverse leadership is essential to navigating an increasingly diverse workforce and customer and client base.[17]

The increases in corporate Board diversity bears this out.[18] For example, experience has shown that women can bring a distinct point of view recognized by those who serve with them as beneficial to the company. As corporate boards have become more diverse, many members of diverse corporate Boards note that they would be very unwilling to return to a homogenous Board.

Flexible numerical goals, as opposed to quotas, help ensure effectiveness in diversity efforts through legal means. It is often stated that "what gets measured gets done." Efforts to achieve greater diversity in a company's workforce at all levels, like most other corporate initiatives, must have a distinct target in order to measure progress to the overall goal.

CHROs do not view their diversity strategy as a strict adherence to a specific set of numbers. Rather it is driven by the overall goal of achieving a sufficient level of diversity within the company. Yet, progress toward that goal cannot be assessed unless it is measured against numerical targets that will ultimately determine success or failure.

Such goals, or targets, are sometimes misconstrued as being "quotas," which, with very limited exceptions, have been illegal in the employment context for many years. Recent litigation against employers in the wake of the Supreme Court's decision in the Harvard case seek to link the two, but **corporate diversity goals are very different from quotas in a number of respects:**

- They are established voluntarily with no governmental or other enforcement mechanism to impose sanctions on the company if the specific goal is not met. Thus, a company has a legal ability to flex the goals if necessary and appropriate.
- They are typically broadly applicable to the company as a whole or large components (such as subsidiaries or divisions) rather than specific occupations or positions.
- Since the company is still committed to hiring the best candidate for the position, they ensure increased opportunities for targeted populations rather than a guarantee of positions.
- They do not bar advancement by those outside the targeted population and do not seek to achieve a permanent balance between races or genders once the goals have been achieved.
- Notably, the absence of specific goals by the universities in the Harvard case was cited as evidence that the schools "lacked sufficiently focused and measurable objectives warranting the use of race," and thus was one of the factors in the Court's ruling their programs unlawful.[19]

The aforementioned legal challenges to company diversity initiatives are stoking the misconception of goals as quotas, but it is important to note that these cases are yet to be adjudicated. The Harvard decision notwithstanding, the legal requirements applicable to private sector diversity efforts have not changed.

Even as diversity efforts stepped up in the wake of the George Floyd murder, CHROs and their companies have continued to adhere to longstanding jurisprudence in this area established by the U.S. Supreme Court. Generally speaking, this allows diversity efforts that: 1) expand opportunities for populations that were previously foreclosed from them; 2) do not unnecessarily have a negative impact on opportunities for white, male workers; and 3) are a temporary measure to address an imbalance without seeking to impose a permanent balance.[20]

The Role of Employee Resource Groups

One way companies are seeking to expand diversity through their development pipelines is through the sponsorship of Employee Resource Groups (ERGs), which are used by more than 90% of Fortune 500 companies.[21] ERGs are voluntary, employee-led communities within organizations that provide support, networking, mentorship, and advocacy for underrepresented groups and individuals with shared characteristics. These groups foster inclusion, diversity, and professional development by creating spaces for employees to connect and collaborate. ERGs typically have executive sponsors and are open to all employees.

ERGs are recognized as potentially important tools for expanding inclusion, promoting diversity, and incorporating employee views into business strategy. A recent McKinsey report notes that employees in effective ERGs report higher positive inclusion scores than those not in ERGs, and ERGs are most effective at developing community within the company, with external engagement and allyship also important impacts. Some companies have focused and named their ERGs as Business Resource Groups (BRGs), to reinforce the connection to their businesses. Regardless of what they are called, there is growing realization that as these groups evolve, companies need to make sure that the expectations of participating employees and management are aligned to fit the culture of the company.

Diversity Goals and the Harvard Decision

Even as they continue to strongly adhere to their diversity goals, CHROs are very much aware that, following the Harvard decision and the litigation against employers in its wake, the law in this area is subject to change. This could require some modification of their efforts, just as the Harvard decision has led to some changes in corporate internship and development programs and ERG structures. But until that change occurs, they will continue policies that are legal under current law. Meanwhile, even in Harvard, the Court signaled a willingness to permit mechanisms to achieve diversity goals short of race-based decision-making. In addition, it has let stand a lower court decision allowing an admissions policy at a magnet school in Fairfax County, Virginia, that achieves its diversity goals through consideration of socioeconomic factors without taking race into account directly.[22]

Policy Recommendations

Despite the legal challenges, CHROs recognize that diversity efforts continue to receive strong support from the American workforce.[23] Yet, they are receiving mixed signals from policymakers about such support. In recent months, some states have taken action clamping down on DEI,[24] while other states encourage companies to continue their efforts.[25]

Meanwhile, in Washington, in the wake of the Harvard decision, legislators and regulators from the two parties have sent conflicting signals, with the 2024 elections likely to muddle the situation further. A politically divided EEOC may be on the verge of imposing a new DEI-centric requirement: disclosure of the racial and gender components of a company's pay data with a new Component 2 added to the EEO-1 reporting form. Ahead of that, it is in the process of changing how employee ethnicity is reported, as directed by the White House following the 2020 Census results. The EEOC will revise its EEO-1 rules to consolidate the current questions on race and ethnicity into a single question that allows employees to select as many options as they believe relevant. The change is intended to avoid confusion that often occurs among respondents who identify as multi-racial.

In addition, the Securities and Exchange Commission is expected to require public companies to disclose, among other things, the demographic makeup of their workforces as part of a human capital metrics (HCM) reporting requirement.

Finally, while key investor groups continue to support DEI, there is now some opposition from that quarter as well.[26]

Still, CHROs and their companies are committed to continuing their DEI efforts. This commitment is not dependent on political, or even public, support. It is because, as outlined above, DEI continues to be a critical component of their companies' business strategy – their talent strategy. Thus, while the law's application may be further clarified by the courts, these companies will continue their commitment within legal bounds.

When examining DEI, HR Policy recommends the following for policymakers:

- **Federal, state and local enforcement agencies** need to recognize the conflicting signals companies are receiving from various authorities as allegations of violations of antidiscrimination laws are lodged by agencies and private actors. Companies' best efforts to comply with those laws should be a factor in any enforcement action.
- **Federal agencies pursuing new DEI initiatives**, such as EEOC's Component 2 requirement and the SEC's HCM disclosure rules, should, if implemented, be promulgated and enforced with recognition of the fact that other governmental bodies and policymakers are actively challenging corporate DEI efforts. In addition, Component 2 pay data collection should be subjected to pilot testing to identify and correct the failings of the EEO-1 form such as outdated job titles and ethnic definitions, as well as to avoid the failures of the Obama Administration's pay data disclosure proposals as detailed by the National Academies of Science, before subjecting all employers to the new requirement.
- **Government agencies should recognize the need for uniformity in legal corporate DEI efforts** and take whatever steps (or nonsteps) to enable this uniformity. Currently, there is considerable inconsistency between Republican and Democratic states and various agencies depending on the political makeup of those agencies regarding whether companies should lean into DEI or lean away from it.
- **Policymakers should "turn down the heat" on criticisms of corporate DEI efforts** and recognize the constraints companies are operating under in an unsettled period. For example, the EEOC should not bow to pressure from America First Legal Foundation and others demanding they investigate companies "infused with woke ideology" simply for legal efforts to increase diversity in the workplace.
- **Executive order 11246, establishing affirmative action requirements for federal contractors** should be thoroughly reviewed—with participation by all stakeholders—to ensure continued support for the program within legal requirements.

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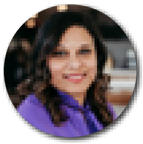

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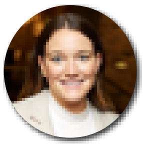

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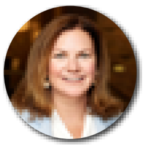

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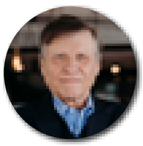

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