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T

imes change, but do they? Recently, the American Bar Association released a study showing that gender and racial bias in the legal profession is still rampant.

The study, titled “You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession,” shows that women and people of color continue to suffer from bias in hiring, mentoring, assignments, networking opportunities, evaluations, compensation and promotions.

It posits that many of the diversity tools we have relied on in the past have been ineffective because they focus on helping individuals overcome barriers, rather than eliminating barriers in the first place.

The study provides toolkits designed to eradicate the workplace systems that typically prevent women and people of color from advancing.

In the study, four basic patterns of bias are identified:

Prove-It-Again Bias: The study shows that women and people of color often need to work harder than white men to demonstrate their value in the workplace because they are held to different standards.

In other words, such individuals need to provide more proof that they are competent. This type of bias may derive from the fact that when many people think of a lawyer, they think of a white man.

The study shows that women and people of color are mistaken for clerical staff, court personnel or janitorial staff at rates far higher than white men. On a personal note, over my lengthy career, I have been twice mistaken for the court reporter.

Tightrope Bias: In the study, women and people of color report having to conform their behavior to a narrow range of what is deemed acceptable behavior for their groups. They note that women are expected to act in a “feminine manner” (i.e. nice, modest, agreeable).

If women engage in what is traditionally viewed as “masculine behavior” (i.e. assertive, competitive, ambitious), they often receive backlash. Interestingly, many of the qualities associated with a good attorney (i.e. unemotional, assertive, ambitious) are deemed by many as masculine characteristics.

Maternal Wall Bias: Another key aspect of the study demonstrates that women with children are viewed as less competent and less committed than their counterparts without children.



FOUR TYPES OF BIAS

Tug of War, Prove-It-Again and other too-familiar stories

By CAMILLE KHODADAD

Women often find that they are treated differently after having children, receiving “mommy track” assignments, being passed over for promotions or being paid less.

Tug of War Bias: Systematic bias in the workplace can fuel internal conflicts among disadvantaged groups.

The study found that when people within a group think there is only one position open for a woman or person of color, that perception — which may very well be true — fuels competition for that one opportunity.

Some women may align themselves more closely with men to help deal with the bias. Yet, these women may be viewed as “joining the men’s club,” creating further internal conflict among women.

There also may be generational dynamics within disadvantaged groups. For example, senior women who feel they fought to get to the top may resent younger women who are held to different standards.

Not surprisingly, women of color often experience higher levels of bias. Interestingly, women and people of color in law firms generally report more bias than their in-house counsel counterparts.

In an effort to alleviate the effects of these biases, the study offers two cutting-edge toolkits

that provide a road map for interrupting bias in workplace processes. One is geared toward law firms and the other concentrates on in-house legal departments.

The purpose of the toolkits is to “change the systems, not people.” They stress the importance of using metrics to encourage and track progress and compliance with goals in hiring, assignments, evaluations, promotions and compensation. As stated in the study, “If you’re not keeping score, you’re only practicing.”

The toolkit encourages a three-step approach:

1. Use metrics to pinpoint problems and assess goals.
 2. Implement recommended bias interrupters.
 3. Evaluate progress and repeat, as necessary.
- By utilizing these three steps, we can systematically eliminate barriers that keep women and people of color from advancing.

The question for all of us — are we keeping score or just practicing? [CL](#)

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