

UNDERSTANDING DE&I: THE BUSINESS, LEGAL, AND MORAL

CASE – WHY IT’S IMPORTANT AND WHAT YOU CAN DO

By: Kaitlin A. Brown

I. IMPACTS AND ENHANCING WORKPLACE CULTURE AND BUSINESS GROWTH

A. What is Diversity, Equity, and Inclusion?

1. Diversity

- a. Merriam-Webster: “The condition of having or being composed of differing elements”¹
- b. Gallup: “The full spectrum of human demographic differences.”²
- c. “The representation of a range of traits and experiences in a company’s workforce.”³
- d. Multiple dimensions of diversity – beyond the ones most commonly considered. More than race, age, nationality, religion, gender, sexual orientation, gender identity, gender preference, and disability; consider life experiences, socioeconomic status, familial status, introvert/extrovert, communication styles, etc.

2. Inclusion:

- a. Merriam-Webster: “The act of including: the state of being included ... the act or practice of including and accommodating people who have historically been excluded (as because of their race, gender, sexuality, or ability.)”⁴

¹ <https://www.merriam-webster.com/dictionary/diversity>

² <https://www.gallup.com/workplace/242138/requirements-diverse-inclusive-culture.aspx>

³ <https://blog.bonus.ly/diversity-inclusion-statistics>

⁴ <https://www.merriam-webster.com/dictionary/inclusion>

- b. Gallup: "Wide demographics alone won't make a difference to an organization's bottom line unless the people within those demographics feel authentically welcomed" and "To excel, employees must feel valued, respected, accepted and encouraged to fully participate in the organization."⁵
 - c. "Involving and empowering everyone and recognizing their inherent worth and dignity ... promot[ing] and sustain[ing] a sense of belonging through its values and practices, respecting the talents, beliefs, backgrounds, and identities of its employees."⁶
- 3. Equity
 - a. Merriam-Webster: "Justice according to natural law or right, specifically: freedom from bias or favoritism."⁷
 - b. What occurs when all members of a diverse population of employees in a company have a fair and equal access to opportunities and support needed to succeed and grow.

II. THE MORAL CASE

A. Why It's Important: It's the Right Thing to Do

- 1. Boomer and Gen-X view: "a representation of fairness and protection to all, regardless of gender, race, religion, ethnicity, or sexual orientation ... the right thing to do to achieve compliance and equality, regardless of whether it benefits the business."⁸

⁵ <https://www.gallup.com/workplace/247106/no-strategy-true-inclusion-workplace.aspx>

⁶ <https://www.fastcompany.com/90551669/if-you-want-to-be-more-diverse-and-inclusive-you-need-to-start-with-this>

⁷ <https://www.merriam-webster.com/dictionary/equity>

⁸ <https://www.fastcompany.com/3046358/millennials-have-a-different-definition-of-diversity-and-inclusion>

2. Consider the events of the summer 2020, bringing to light the aspects of systemic racism in our communities and institutions. There is a heightened awareness to address inequities.⁹
3. People want to work in a place where they feel authentically welcome and respected.
4. Inclusion is lined to all aspects of wellbeing – “¹⁰coping, happiness, physical health, decision-making, being valued, talking to others, having meaning in life and close relationships.”
5. Exclusion has negative impact on mental health – lower self-esteem, low confidence.

B. What You Can Do

1. Create an inclusive culture
 - a. It’s not only about opening doors, but having people excited to come in.
2. Take initiative to learn – Ask questions of minorities, but don’t place burden on them to solve problem or teach you
3. Become aware of your own implicit or unconscious biases
 - a. Diversity is having a seat at the table, inclusion is having a voice at the table, bias is part of the reason why some voices are listened to more than others. We all have both conscious and unconscious (implicit) bias.
 - b. “Implicit bias” refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.¹¹

⁹ <https://hbr.org/2020/07/update-your-dei-playbook>

¹⁰ <https://www.psychologytoday.com/us/blog/do-something-different/201609/diversity-and-inclusiveness-is-good-your-well-being>

¹¹ <https://perception.org/research/explicit-bias/>

- c. "Explicit bias" refers to the attitudes and beliefs we have about a person or group on a conscious level. Related but distinct mental constructs.¹²
 - d. Business Insider: 20 Cognitive Biases that Screw Up Your Decisions.¹³
 - e. Affinity bias – when individuals favor or migrate toward those who are similar to them. For example, hiring someone who went to the same school as you, someone who has the same personal interests as you, or someone who has a mutual friend.¹⁴
- 4. Explore your role in the system of inequities
 - a. Systemic biases and structural issues allow biases to be perpetuated in the workplace and other institutions.
 - b. "Half of the gender wage gap since 1980 can be attributed to women working in different occupations and industries than men, making it the single largest factor. Discrimination accounts for another 38%."¹⁵
 - 5. Take action to make a change
 - a. Consider how exclusion and implicit biases significantly and negatively impact the trajectory of an employee's career.
 - b. Intentionally consider who should be included in meetings, processes, and other interactions that might result in a positive impact for employees who otherwise may be excluded.

III. THE LEGAL CASE

A. Why It's Important: It's the Legally Compliant Thing to Do

¹² <http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/>

¹³ <https://www.businessinsider.com/cognitive-biases-that-affect-decisions-2015-8>

¹⁴ <https://www.nber.org/papers/w9873>

¹⁵ <http://www.nber.org/papers/w21913.pdf>

1. Employees who feel targeted may feel subject to a hostile work environment, which is prohibited under Title VII if based on a protected class.
 2. Negative impact on productivity and mental health when treated differently or subject to harassment.
 3. Litigation for harassment and discrimination claims is costly
 - a. According to Gallup, 45% of American workers experienced discrimination and/or harassment in the past year.¹⁶
 - b. In 2019, the EEOC recovered \$385 Million in monetary benefits through administrative charges and litigation.¹⁷
 - c. Michigan is the eleventh highest state for the number of EEOC charges filed in 2019, accounting for 3.2% of claims nationwide (behind Texas – 10.2%, Florida – 8.2%, Georgia – 6.6%, California – 5.9%, Pennsylvania – 5.9%, Illinois – 5.4%, North Carolina – 4.6%, New York – 4.4%, Ohio – 3.3%, and Tennessee – 3.3%)¹⁸
 4. Different from Affirmative Action Programs
 - a. Striving for an end result of equal opportunity with a level playing field, not only a workplace free from discrimination and harassment.
 5. Perception matters more than intent (within reason)
- B. What You Can Do
1. Be intentional in company policies and procedures

¹⁶ https://www.gallup.com/workplace/215939/invest-diversity-inclusion.aspx?utm_source=link_wwwv9&utm_campaign=item_236264&utm_medium=copy

¹⁷ https://www.eeoc.gov/sites/default/files/2020-06/OEDA_All%20Charges%20Infographic_052620.pdf

¹⁸ https://www.eeoc.gov/sites/default/files/2020-06/OEDA_All%20Charges%20Infographic_052620.pdf

- a. Create policies that firmly prohibit discrimination and harassment.
 - b. Consider going above legal requirement by including a diversity, equity, and inclusion statement and mission.
2. Understand, address, and stop microaggressions
- a. Merriam Webster: "A comment or action that is subtly and often unintentionally hostile or demeaning to a member of a minority or marginalized group."¹⁹
 - b. Microaggressions can be generally categorized into one of the following categories: a microassault, microinsult, and microinvalidation.²⁰
 - c. Microaggressions seem small, but "compounded over time, they can have a deleterious impact on an employee's experience, physical health, and psychological well-being. In fact, research suggests that subtle forms of interpersonal discrimination like microaggressions are at least as harmful as more-overt expressions of discrimination."²¹
 - i. Doesn't always support discrimination claims in and of themselves.
 - ii. Claimant can use that language as evidence that the discrimination was the reason for the adverse action.
 - d. Examples of microaggressions:
 - i. Taking pictures of minorities for the appearance of diversity, even though not empowered or included in organization.

¹⁹ <https://www.merriam-webster.com/words-at-play/microaggression-words-were-watching>

²⁰ https://www.cpedv.org/sites/main/files/file-attachments/how_to_be_an_effective_ally-lessons_learned_microaggressions.pdf

²¹ <https://hbr.org/2020/07/when-and-how-to-respond-to-microaggressions>

- ii. Assuming the minority should be involved in or leading DE&I initiatives.
- iii. Assuming minority is not in leadership position.
- iv. Applying stereotypes.
- v. Claiming another person's idea as your own; recognizing the idea as important when coming from a person of majority and dismissing the same idea when coming from a minority.
- vi. Talking over other people or interrupting.
- vii. Stating that you do not see a personal characteristic of the person (e.g., "When I see you, I don't see color")
- viii. Failing to appreciate the different experiences and opportunities by making assumptions about groups of people or all people (e.g., "If you work hard, you can succeed.")
- ix. Comments that carry with them offensive signals or connotations: 'You're so articulate'; 'You're transgender? Wow, you don't look like it at all'; 'Oh, sorry, wrong person'; 'Oh, you're gay? You should meet my friend Ann. She's gay, too!'; 'My boss is crazy'; 'The way you've overcome your disability is so inspiring'; 'Your name is so hard to pronounce'; 'I think you're in the wrong room — this is the programmers' meeting'; 'Do you even know what Snapchat is?'; 'Are you an intern? You look so young!'; 'Is that your real hair?'; (Interrupting) 'Well, actually, I think...'; 'Why do you wear that?'²²

²² <https://www.businessinsider.com/microaggression-unconscious-bias-at-work-2018-6#youre-so-articulate-1>

- e. Recommendations for how to respond to microaggressions: Let it go; respond immediately; or respond later. Ask questions – What did you mean when ...? What makes you think ...?²¹
 - f. “Subtle discrimination is at least as important to consider and address as its overt counterpart.”²³
3. Create clear and open policies for reporting instances when employee is subjected to unlawful conduct; establish reporting responsibility when witness to unlawful conduct.
 4. Conduct trainings on respectful workplaces, reporting procedures, investigation process, and management responsibilities.

IV. THE BUSINESS CASE

A. Why It’s Important: It’s the Best Thing to Do

1. Millennial view: “The blending of different backgrounds, experiences, and perspectives within a team ... the combination of these unique traits to overcome challenges and achieve business goals.”²⁴
2. Promotes innovation
 - a. “Companies with higher-than-average diversity had 19% higher innovation revenues.”²⁵
3. Increased Revenue
 - a. Companies with the most ethnically diverse executive teams were 33% more likely to outperform their peers.²⁶
 - b. Having gender diversity on executive teams, specifically, to be consistently positively correlated with higher profitability.⁴

²³

https://journals.sagepub.com/doi/abs/10.1177/0149206313506466?casa_token=B5WnQHQLzmgAAAAA%3AlqVaFdOmCkg5tuzbrACoMBE8Ctu2EIkggAVAHOXLv8pGmARvbikoYmMu8oFatTyS6cNCNGbZuw&journalCode=joma

²⁴ <https://www.fastcompany.com/3046358/millennials-have-a-different-definition-of-diversity-and-inclusion>

²⁵ <https://hbr.org/2018/01/how-and-where-diversity-drives-financial-performance>

²⁶ <https://www.mckinsey.com/business-functions/organization/our-insights/delivering-through-diversity>

4. Attract top talent, including minorities and millennials
 - a. By the year 2025, 75% of the global workforce will be made up of millennials.²⁷
 - b. Millennial and Gen-Z generations in the United States are the most diverse in history.²⁸
 - c. In the 40 years between 1980 and 2020, the white working-age population will have declined from 83% of the nation's total to 63% while the number of minority workers will have doubled.²⁹
 5. Improve retention
 - a. "According to a study from the Work Institute, a shocking 42 million US employees left their jobs voluntarily in 2019—27% of the workforce. This was an increase of over 2 million in 2018, which saw 40 million voluntary departures and an increase of over 88% since 2010."³⁰
 - b. Millennials and Gen-Z place value on happiness and workplace culture more than any other generation. 83% of Gen-Z candidates consider diversity and inclusion when choosing an employer to be important.³¹
 6. Clients/customers demand it
- B. What You Can Do
1. Create sustainable pipeline programs

²⁷ <https://www.weforum.org/agenda/2019/04/business-case-for-diversity-in-the-workplace/>

²⁸ <https://money.cnn.com/interactive/economy/diversity-millennials-boomers/>

²⁹ http://www.highereducation.org/reports/pa_decline/decline-f1.shtml

³⁰ <https://www.peoplekeep.com/blog/employee-retention-the-real-cost-of-losing-an-employee>

³¹ <https://hiring.monster.com/employer-resources/recruiting-strategies/workforce-planning/workforce-diversity-for-millennials/>

- a. Support underrepresented people with opportunities and resources to advance. Mentorship, sponsorship, and scholarship opportunities to enhance access.
- 2. Engage employees
 - a. Gallup: "Disgruntled employees disengage and cost the American economy up to \$350 billion a year in lost productivity."³²
 - b. Enhance collaboration and participation
 - i. Harvard Business Review: Programs that get results in changing representation among managers include: voluntary training, self-managed teams, cross-training, college recruitment, mentoring, diversity task forces, and diversity managers.³³
 - ii. "On average, companies that put in diversity task forces see 9% to 30% increases in the representation of white women and of each minority group in management over the next five years."³⁴
- 3. Be transparent in opportunities and processes
 - a. Eliminate biases from hiring, review, and promotion processes.³⁴
- 4. Link DE&I Initiatives to positive impact on business growth
 - a. Research market, talent, and other opportunities.
 - i. Define your values and their drivers.
 - b. Conduct internal audit – collect data of the demographics of your organization.

³² <https://www.fastcompany.com/3004595/secrets-americas-happiest-companies>

³³ <https://hbr.org/2016/07/why-diversity-programs-fail>

³⁴ <https://journals.aom.org/doi/abs/10.5465/amr.2017.0109>

- i. What are the current barriers? Knowledge, structural, and culture?
5. Establish and reinforce growth mindset instead of fixed mindset
 - a. "A growth mindset culture is one that encourages the belief that ability and talent can be developed through effort, informed strategies, and high quality mentoring. This is contrasted with a fixed mindset culture, a culture that is focused on how talented people are today, instead of encouraging the development of their abilities. ... (e.g., Growth Mindset language: "we offer opportunities for personal growth and professional development."; fixed mindset language: "our success has resulted directly from the talent of our people.")"³⁵

V. CONSIDER SOCIAL TRENDS AND PRACTICAL TOOLS FOR INCLUSIVE PRACTICES

A. The DE&I Strategy

1. Commitment to DE&I it top down, bottom up, and inside out
2. Create a DE&I strategy:
 - a. Identify team and leader (with authority).
 - b. Establish the goal.
 - c. Create a budget.
 - d. Prioritize the initiatives.
 - e. Create an inclusive culture.
 - f. Track the metrics.
 - g. Set benchmarks.
 - h. Tailor for maximum impact.

³⁵ https://neuroleadership.com/your-brain-at-work/employees-want-growth-mindset-culture/?utm_campaign=YBAW%20Blog%20Subscription%20-%20WP&utm_medium=email&_hsmi=97808165&_hsenc=p2ANqtz-81fd9g-z0xEkdkVM57LFEnetfACgEwWCWCsUAq75uGdcKF8I5QV9PbNwqS0wJDESlcPtDOoq1M07RTW3urxBxa4Z6kaw&utm_content=97808165&utm_source=hs_email

- i. Adapt to your local community and culture.
 - j. Collaborate with other sectors and industries.
 - k. Be accountable.
- B. Employee resource groups (also known as affinity groups or business network groups)
 - 1. Be proactive and find out where there is a need for and ERG, employees might not speak up themselves.
 - a. Can create a safe space for underrepresented groups to feel heard and valued.
 - b. Creates cultural support and inclusivity.
 - 2. Promote your ERG to potential new employees and as part of onboarding.
- C. Hiring practices
 - 1. Analyze gaps in staffing, "Unless a company conducts what is known as an 'underutilization' analysis to determine the availability of qualified minorities and women within a reasonable recruiting area, they should make clear that these are purely aspirational goals."³⁶
 - 2. Define objective criteria and variables to evaluate candidates and limit referral hiring
 - a. Only waive this agreed upon criteria in rare circumstances and require an explanation for each exception.
 - i. Keep track of these instances long-term to track trends.
 - 3. Draft objective job descriptions, based on skills
 - a. [Talent Acquisition Suite](#) - "Our technology ensures job postings are built based on skills. We use AI to take out the details that could lead to unconscious bias. It takes out the human error of

³⁶ <https://www.law.com/2020/07/08/inside-track-analyzing-metrics-can-reduce-legal-issues-around-diversity-inclusion-hiring/?slreturn=20200915133012>

creating terms and words that reflect a tendency towards a demographic that isn't relevant to the job."

4. Consider putting in place blind systems to assess candidates
 - a. Remove names from applications (gender and race identifiers).
 - i. Research shows that the odds of hiring a woman are 79 times as great if at least two women are in the finalist pool, while the odds of hiring a nonwhite candidate are 194 times as great with at least two finalist minority applicants.³⁷
5. Consider digital structured interviewing: asks the exact same questions, in the same manner, in the same order, to all candidates.
 - a. Candidates are chosen based on objective results, rather than subjective instincts.
 - b. Can protect the employer from potential lawsuits.
6. Multiple diverse people should assess each potential candidate
 - a. Be cognizant of the "diversity tax" when implementing new strategies. (e.g. you only have 3 out of 50 employees who are underrepresented, but you want to diversify your interview panel; creates extra work for those persons just because of their membership in a certain underrepresented group).

D. Retention

1. Inclusive engagement
2. "Though closely aligned, diversity and inclusion are unique and complementary; diversity focuses on the demographics of employees in a given context, and inclusion embraces individuals' experiences and viewpoints to create a culture of belonging."³⁸

³⁷ <https://hbr.org/2019/11/how-the-best-bosses-interrupt-bias-on-their-teams>

³⁸ <https://ideas.bkconnection.com/want-to-attract-and-engage-millennials-start-with-workplace-diversity>

3. Workshops/trainings
 - a. Implicit Association Test (IAT)³⁹
 - b. Annual racial equity and inclusion competence surveys
4. Policy and procedural considerations
 - a. Parental leave (for mothers and fathers)
 - b. Equal pay assessments
 - c. Open door policies
 - d. Complaint procedures providing for greater range of leaders to whom concerns may be reported
 - e. Flexible leave policies
 - i. Burden of childcare disproportionately falls to women, on average, women currently spend 15 hours more on domestic labor each week than men.⁴⁰

E. Advancement

1. Mentoring programs – Provide new employees with a mentor, and regularly check back to ensure the relationship is meaningful.
2. Sponsor – Identify whether anyone in leadership is becoming a sponsor for individuals in underrepresented categories. Have conversations about what this means and why someone should consider it.
3. Create metrics of incentives to promote culture change ⁹
4. Empathetic and accountable leadership
5. Understand DE&I is an on-going journey

³⁹ <https://implicit.harvard.edu/implicit/takeatest.html>

⁴⁰ <https://www.bcg.com/publications/2020/helping-working-parents-ease-the-burden-of-covid-19>

F. Top Companies according to DiversityInc 2020 Top 50 Companies for Diversity:⁴¹

1. Marriott International, Inc.
 - a. Marriott's D&I success is built on "the fundamental human need for opportunity, community and purpose in the workplace," David Rodriguez, International Global Chief Human Resources Officer
2. Hilton
3. Eli Lilly and Company
4. ADP
5. Accenture
6. Mastercard
7. Comcast NBCUniversal
8. Abbott
9. TIAA
10. Toyota Motor North America, Inc.

⁴¹ <https://www.diversityinc.com/the-2020-top-50-diversityinc/>