



Washington State
Minority and Justice Commission

BUILDING A DIVERSE COURT: A GUIDE TO RECRUITMENT AND RETENTION



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MESSAGE FROM THE CHAIR

A Smart Court is a Diverse Court

To be successful, the commitment to a comprehensive workforce diversity program must come from the top — from the judges and the court administrator.

The benefits to the courts and the larger justice system of recruiting, training and retaining a diverse workforce are many. A workforce that reflects the communities the courts serve increases the public's trust and confidence in the judicial branch of government and in the overall justice system. The opportunity to observe persons of color working in all areas of the court system also provides role models for young people, graphically demonstrating that career opportunities in the courts are open to everyone. Developing and implementing a comprehensive workforce diversity program creates an educated, culturally competent workforce, reduces unconscious bias and increases employee morale and job satisfaction. It focuses on valuing all employees for the unique contributions each brings to the workforce.

A diverse court is a smart court — one that is more likely to be innovative, productive and efficient in meeting the challenges facing the justice system in the twenty-first century because a diverse court is rich in human resources including a broad range of experience, background and perspective.

A diverse court is a prudent court — by developing a comprehensive diversity program of recruitment, training and retention, a court is far more likely to fully comply with federal and state laws affecting public employment. The court is also far less likely to face costly legal claims that it has violated rights protected by federal and state laws.

Finally, recruiting, training and retaining a diverse workforce is simply the right thing to do in our multicultural society.

Deborah D. Fleck

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Judge, Superior Court of Washington for King County

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INTRODUCTION

Diversity is a practical decision based on the rapidly evolving U.S. demographics.

Much has been written and said about investing in diversity over the past decade. However, much remains to be done. Demographic studies indicate the American workforce will soon be more heterogeneous by race, ethnicity, gender, age, physical ability, religion, language and educational background than ever. In 1999, the United States Department of Labor projected that nonwhites will represent more than one-third of this nation's population by the year 2010 and close to 50 percent of the population by the year 2050.¹ Immigration will account for almost two-thirds of the nation's population growth and the population of older Americans is expected to more than double.² The report also indicates that "[o]ne-quarter of all Americans will be of Hispanic-American origin," and "[a]lmost one in ten Americans will be of Asian-American or Pacific Islander descent. And more women and people with disabilities will be on the job."³

The Department further estimates that by the year 2005, the ethnic minority share of the workforce is likely to reach 28%, up from 18% in 1980 and 22% in 1990, and projects that the Hispanic-American population will be the largest group of minorities in the U.S. by 2010.⁴ Moreover, by 2005 white males will make up only 30% of the American workforce, as compared to the 42.5% of white males in 1995.⁵ These startling facts present powerful opportunities for organizations — large and small — to benefit from a variety of ideas, creativity and potential contributions inherent in a diverse workforce. Judges, court administrators and managers need to understand how this mix will present both opportunities and challenges to courts across the state as users of Washington's judicial system and the workforce in general become increasingly diverse.

Today the challenges and potential opportunities posed by employee diversity in the American workplace are a growing reality. The court, like most businesses, seeks commitment, innovation and productivity

from its employees to ensure success. Accordingly, the court must create a work environment where an employee's unique culture, professional and personal experiences, and skills are drawn upon to ensure that all employees have an opportunity to contribute to the mission and objectives of the court. To properly manage diversity, the impact of personal values, beliefs and actions, group dynamics, and institutional policies, practices and norms must be re-evaluated and altered where it is deemed necessary. "BUILDING A DIVERSE COURT: A Guide to Recruitment and Retention" should assist the court in accomplishing these tasks.

Under the auspices of the Washington State Minority and Justice Commission's Workforce Diversity Sub-Committee, this guide was assembled to offer judges, court administrators, and managers a resource tool for recruiting and retaining a diverse workforce within the framework of existing civil rights laws and in response to an ever-changing workforce. This guide is intended to assist the court's specialists, managers and judges in using available resources to coordinate, develop and implement effective training and education programs for court personnel. It is also a guide to help avoid common problems in planning and implementing diversity recruitment and retention programs, while maximizing the effectiveness of those programs. Finally, this guide will assist in planning and designing diverse recruitment and retention programs in terms of process and content; finding and working with diversity experts; building support for and promoting recruitment and retention programs; and evaluating the success of the programs. Annotated lists of relevant articles, books, training materials, videotapes and other useful resources are provided.

This guide is directed to all courts in the State of Washington: those that have already made a firm commitment to plan and implement diversity recruitment and retention practices, as well as those that have yet to develop and carry out these practices.

This guide will answer such questions as:

- What is workforce diversity?
- Why is it important to actively recruit diverse, highly qualified candidates?
- Why is it critical to implement practices to retain diverse employees?
- What are the pros and cons of developing and conducting diversity recruitment and retention programs?

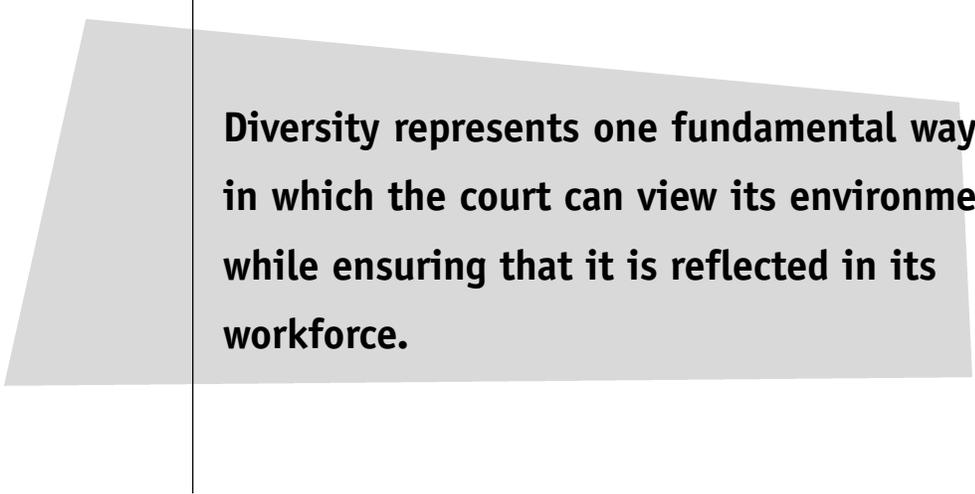
This guide provides courts with general tools and helpful suggestions to increase, manage and maintain diversity in the workplace.

- What type of planning is involved in implementing diversity recruitment and retention?
- Why is it necessary to conduct training if the court is not visibly or obviously diverse?

This guide:

- explains why “A Smart Court is a Diverse Court;”
- provides courts with general tools and helpful suggestions to increase, manage and maintain diversity in the workplace;
- explains why it is critical that the judges and senior court managers make a commitment to the concept that the court’s workforce should be diverse before attempting to build such a workforce;
- will help judges and court managers determine if the court needs to conduct diversity training programs;
- will help a court assess and survey its workforce and includes a recruitment needs assessment instrument to assist the court in designing a recruitment program;
- will help the court determine the focus, content and format of diversity recruitment, training, and retention programs and help the court decide whether to retain outside experts in these efforts; and
- provides extensive lists of resources, including books, articles, videos, websites, catalogs, newspapers, research reports, federal employment law summaries, colleges and universities, training materials, consultants and experts.

This guide can help judges and court managers determine if the court needs to conduct diversity training programs.



Diversity represents one fundamental way in which the court can view its environment, while ensuring that it is reflected in its workforce.

CHAPTER 1

WHY IS DIVERSITY A WORTHWHILE GOAL?

The benefits of diversity include effective adjustment to changes in culture and demography, increased productivity based on diverse team composition, new ideas and different problem solving approaches, a wider selection pool, and a multi-dimensional court image.

Workforce diversity is an integral part of an impartial judicial system in the United States. Some view diversity as the latest trend, while others believe it to be a politically correct term for a politically correct society. However, diversity is much more. Diversity represents one fundamental way in which the court can view its environment, while ensuring that it is reflected in its workforce. This is especially important for a judicial system that seeks the trust and confidence of the diverse population it serves. It is a necessary strategy for improving relations with members of the public and enhancing internal innovation and productivity, while driving organizational values, capabilities and strategies.

Individuals often confuse the concept of diversity with equal employment opportunity and affirmative action; however, each is distinct from the others. Below is a discussion of these three concepts to help make the necessary distinction in our exploration to understanding and promoting diversity.

A. EQUAL EMPLOYMENT OPPORTUNITY

Equal employment opportunity (EEO) means that all individuals must be treated equally by private and public entities in hiring, training and promotion. Under this concept, each person has the right to be evaluated as an individual based on merit and qualifications without discrimination based on stereotypic notions of what

members of minority groups or any other protected class are like. Classifications protected under federal or state equal employment laws are those of race, color, sex, national origin, religion, age, veteran status, disability, and marital status. Some local equal employment laws also provide protection for sexual orientation.⁶

1. Federal Government's Adoption of EEO

Federal EEO laws and policies date back to June, 1941, when President Franklin D. Roosevelt used his executive authority to implement Executive Order 8802 (1941),⁷ which directed that blacks be accepted into job-training programs in defense plants, forbade discrimination by defense contractors and established a Fair Employment Practices Commission (FEPC).⁸ The Order reaffirmed the policy of the United States against "discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin."⁹ Though the Order was technically in effect, President Roosevelt found himself faced with reluctant congressional committees and World War II. All EEO efforts were halted and eventually Congress dismantled the FEPC wartime agency. Similarly, on July 26, 1948, President Harry S. Truman issued Executive Order 9981 (1948).¹⁰ This Order, entitled "Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services," abolished segregation in the armed forces and ordered full integration of all the services.

On March 6, 1961, President John F. Kennedy issued Executive Order 10925, declaring "discrimination because of race, creed, color, or national origin is contrary to the Constitutional principles and policies of the United States."¹¹ It further stated "it is the plain and positive obligation of the United States Government to promote and ensure equal opportunity for all qualified persons, without regard to race, creed, color, or national origin, employed or seeking employment with the Federal Government and on government contracts."¹² To accomplish these objectives, among others, President Kennedy established the President's Committee on Equal Employment Opportunity.¹³ The Committee was authorized to (1) publish the names of noncomplying contractors and unions; (2) recommend suits by the Department of Justice against contractors to compel compliance with contractual obligations not to discriminate; (3) recommend criminal actions against employers supplying false compliance reports; (4) terminate the contract of a noncomplying employer; and (5) forbid contracting agencies to enter into contracts with contractors guilty of discrimination.¹⁴

However, it was not until President Lyndon B. Johnson issued Executive Order 11246 on September 24, 1965, that equal employ

ment opportunity became more of a reality.¹⁵ This Order made it the policy of the United States to provide equal opportunity in federal employment for all qualified persons.¹⁶ It further prohibited discrimination in employment because of race, creed, color, or national origin, and promoted “the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency.”¹⁷ According to the Order, equal opportunity was to apply to “every aspect of Federal employment policy and practice.”¹⁸

B. STATE GOVERNMENT’S ADOPTION OF EEO

In 1949, the Washington State Legislature adopted legislation “to prevent and eliminate discrimination in employment against persons because of race, creed, color or national origin.”¹⁹ Now codified as RCW 49.60, the Washington Law Against Discrimination (WLAD) has been revised over the years to also provide protection for persons based on gender, disability, marital status, families with children and age.²⁰

In addition to the WLAD, Governor Daniel J. Evans issued Executive Order 70-01 on January 30, 1970.²¹ The Order provided equal employment opportunity specifically for persons of color, consistent with RCW 49.60 in the awarding of public contracts.²² According to the Order, RCW 49.60 “would be contravened by awarding public contracts to contractors whose practices do not promote equal employment opportunity.”²³

C. AFFIRMATIVE ACTION

1. Background and Implementation

The ideas underlying affirmative action and equal employment opportunity are similar with respect to hiring, employment and promotion; however, affirmative action and equal employment opportunity embody different concepts. Affirmative action goes further than equal employment opportunity.

Affirmative action requires public entities to seek to overcome the effects of past discrimination against groups such as women and minorities, disabled persons and veterans, by making positive and continuous efforts in recruitment, employment, retention and promotion. Affirmative action requires organizations to actively seek to remove any barriers that artificially limit the professional and personal development of individuals who are members of a protected class. The key objective of affirmative action, therefore, is to take “affirmative steps” to increase the actual numbers of minorities and women in the workplace by offering consideration above

*Affirmative
action —
equality in
fact, not
in theory.*

and beyond the act of simply ending discrimination. These efforts include recruiting, employing and advancing qualified minorities, women, people with disabilities and veterans who have historically been excluded from jobs.

a. Federal Affirmative Action

The first federal affirmative action effort occurred by executive order in the 1960s during the Kennedy Administration. On March 6, 1961, President John F. Kennedy issued Executive Order 10925, instructing federal contractors to take “affirmative action to ensure that applicants are treated equally without regard to race, color, religion, sex, or national origin.”²⁴ However, the program did not become widespread until Congress made racial and sexual discrimination illegal by adopting the Civil Rights Act of 1964, Title VII, which prohibits employment discrimination by employers of over 15 employees, regardless of whether they have government contracts.

On September 24, 1965, President Lyndon B. Johnson issued Executive Order 11246, requiring all government contractors and subcontractors to take affirmative action to expand job opportunities for minorities.²⁵ On October 13, 1967, President Johnson amended Executive Order 11246 to include affirmative action for women.²⁶ These efforts by Presidents Kennedy and Johnson were the beginning of many federal attempts to incorporate the historically disadvantaged into the workplace.²⁷

In 1970, the Department of Labor, under President Richard M. Nixon, issued Order No. 4²⁸, authorizing flexible goals and timetables to correct the “underutilization” of minorities by federal contractors. It was an attempt by the Department of Labor to hold contractors accountable for instituting affirmative action practices. One year later, the Order was amended to include women.²⁹ In 1973, the Nixon Administration issued the “Memorandum-Permissible Goals and Timetables in State and Local Government Employment Practices.” This memorandum distinguished between proper goals and timetables and impermissible quotas. Affirmative action is not quota-based. Quotas are illegal in the United States. Instead, affirmative action requires that federal employers and contractors set flexible goals that are based on the percentage of qualified minorities and women in the region.

b. State Affirmative Action

Soon after the federal efforts began, Washington State fol-

lowed suit by establishing statewide affirmative action. The State's programs were modeled on federal laws and, similar to the federal counterparts, were created by a series of executive orders. For example, on September 21, 1977, Governor Dixie Lee Ray signed into law Executive Order 77-10: Affirmative Action Program for the Disabled and Vietnam-era Veterans.³⁰ Executive Order 77-10 requires that "affirmative action be taken by all state agencies to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam-era without discrimination based upon their disability or veterans status in all employment practices."³¹

Similarly, on October 15, 1979, Governor Ray issued Executive Order 79-08: Affirmative Action in State Government.³² The Order directed that corrective action be taken to improve the employment profile of state government to reflect its "diverse society."³³ It also affirmed Governor Ray's "commitment to attain equal employment opportunities for all, to ensure freedom from discrimination based upon race, religion, color, national origin, age, sex, marital status, [disability or veteran status]."³⁴ This Order was affirmed and reaffirmed by several subsequent governors.³⁵

c. Affirmative Action in General

Though the primary focus of affirmative action was to integrate persons of African-American descent into mainstream America, minorities and women in general were also regarded as "different" and inherently "deficient" in their ability to function in and contribute to society. They, too, were thus excluded from exploring certain privileges widely available to white men. Therefore, minorities and women became the main beneficiaries of affirmative action, but not the only individuals or groups to benefit. Vietnam-era veterans, disabled veterans, and persons with disabilities also were included.

Prior to the implementation of affirmative action programs, it was generally accepted in American society that white men would get the best jobs and the biggest salaries. Minorities, on the other hand, would take low paying menial work, and women, if they worked at all, would be limited to a few low-wage occupations. Theoretically, Title VII was to end this disparity; but when minorities and women complained that they continued to face barriers that prevented them from equal treatment in the workplace, then-President Lyndon B. Johnson ordered federal contractors to take "affirmative action not to

discriminate” against minorities and women.³⁶ He sought equality in fact, not in theory. Nevertheless, these problems and others persisted even after implementation of affirmative action programs.

In Washington State, for example, while more than half of the state’s government employees were women (higher than their proportion in the labor force) and minority employees were arguably proportionate, the two fastest-growing minority groups, Asian-Americans and Hispanic-Americans, still lagged.³⁷ White men still held the majority of top jobs as officials and managers, while women dominated only two job categories: professional and clerical.³⁸ White men also received top pay, which is largely a reflection of the type of positions they held.³⁹

Once recruited, recipients of affirmative action programs often discovered there was an innate presumption that they were not selected because they and their skills were valued, but because the employer was more concerned with meeting timetables and objectives. Recipients were often made to feel that they were expected to adjust their differences in order to fit into the organization’s culture. This shifted the focus from changing the environment to promote appreciation of diversity to altering the identity of the recruit. In essence, there was less attention to creating an inviting work environment that included practices to address recruitment and retention of diverse talents.

2. Its Partial Repeal in the State of Washington

On November 3, 1998, voters in the State of Washington considered an initiative that would abolish the state’s affirmative action program.⁴⁰ Although Initiative 200 was hotly contested, polls preceding its passage indicated that the controversial initiative was likely to pass — and it did with approximately 58 percent of the vote.⁴¹ On December 3, 1998, I-200 became law and was enacted as the Civil Rights Act, RCW 49.60.400.⁴²

Essentially, RCW 49.60.400 bans state and local governments in Washington from taking affirmative steps to overcome past discrimination against persons based on race, ethnicity, gender and national origin.⁴³ Other status categories protected under state discrimination laws, including age, disability, veteran status and marital status, were not affected by passage of the initiative.⁴⁴ Consequently, the ban has had a significant impact upon government hiring and promotion practices, granting of government contracts and admissions to public colleges.

Prior to passage of the measure, public employees accounted for approximately one-tenth of the 2.8 million workers in the state.⁴⁵ Minority and women-owned businesses represented approximately three (3) percent of the state's 175,000 registered state government contractors.⁴⁶ When applicants were admitted with race as a factor, underrepresented minorities such as Native-Americans, African-Americans and Hispanic-Americans accounted for only three (3) percent of the University of Washington and Washington State University attendees.⁴⁷ These meager numbers and the people they represent are evidence of an affirmative attempt to level the playing field. That means no longer exists.

Public institutions, such as Washington courts, are now faced with a growing challenge.

D. DIVERSITY IS NOT AFFIRMATIVE ACTION OR EQUAL EMPLOYMENT⁴⁸

Diversity is different from equal employment opportunity and affirmative action. The latter two focus on quantitative change with specific promotional and hiring goals used to correct imbalances in the makeup of an organization's workforce from long-term patterns of employment discrimination. While such programs have led to changes in the composition of the American workforce, they have not had an impact upon organizational culture. Hence, many organizations in compliance with equal employment opportunity and affirmative action laws continue to use the strategy of employee assimilation to manage increased diversity.

In contrast, diversity builds on the foundation created by equal employment opportunity laws and affirmative action efforts to hire and promote others. Unlike equal employment opportunity and affirmative action, diversity promotes the concept of differences and emphasizes qualitative, not quantitative, goals. Moreover, diversity embraces the cultural differences employees bring with them into the workplace. Employees are accepted for who they are and appreciated for the unique perspective they may bring.

The concept of diversity first emerged during the 1980s. The driving principle behind diversity is that differences do matter and opportunities lie in the leverage of these differences. Persons advocating diversity frequently analogize the concept to a beautiful tapestry of textures and colors. It is this broader recognition and appreciation of differences that encourage organizations to develop and advance minority and female talent. By appreciating a diverse employee's unique experience and overall background, employers

Diversity is any collective mixture characterized by similarities — ties that bind — and differences that distinguish.

What is Diversity?

“The condition of being different”

“Variety”

“Multiformity”

encourage a welcoming environment, which has been proven to offset attrition and enhance recruitment. Diversity also embraces and values every individual’s contribution to and perception of the organization.

Based upon demonstrated results, diversity has been proven in a business setting to show that differences create competitive advantage, drive organizational values, enhance organizational capabilities and improve capacities. These demonstrated benefits can be translated into a court’s system through case management, court operations, and responsiveness to court users. And because the focus of diversity is recognition and promotion of differences, it goes beyond race and gender to include sexual orientation, age, religion, work styles, and so forth. By focusing on the quality of the work environment and improved utilization of skills of all employees, diversity moves far beyond affirmative action and equal employment opportunity.

E. DEFINING DIVERSITY

In the truest sense of the word, all three definitions of diversity, the condition of being different, variety and multiformity, are the ideal the court should strive to achieve. However, diversity may be defined as narrowly or broadly as the court desires. Narrow definitions tend to focus on visible characteristics, such as gender, age, race, ethnicity and disability. Many criticize this approach as exclusive and too closely akin to affirmative action. Moreover, some perceive that the narrow approach may engender resistance from white males (otherwise recognized as “white male backlash”) and may hinder long-term cultural changes that focus on using the best talents of everyone, which they argue is the primary objective of diversity. As a result, the trend among most employers leans toward defining their workplace diversity in a broad manner. As articulated by the Society for Human Resource Management:

A broad definition of diversity ranges from personality and work style to all of the visible dimensions of diversity, to secondary influences such as religion, socioeconomic and education, to work diversities such as management, union, functional level and classification, or proximity/distance to headquarters. While initially these diversities seem much less important than, for example, race or sexual orientation, over time these diversity issues matter a great deal. Among the ones that frequently damage an organization or workgroup are factors around education, socioeconomics and work experience. Such facts

are relevant to the assumptions that people make about one another and the collaboration, openness, and trust (or lack thereof) that people feel in working together.⁴⁹

Persons who subscribe to the broader definition of diversity believe it helps all employees find a place to connect with other employees and create relationships that enable them to deal with potentially volatile issues that may arise in the workplace. On the other hand, opponents criticize the broader definition as irrelevant and meaningless — especially to those who have historically been excluded from career opportunities and advancement. But no matter how an organization defines diversity, it is crucial that its employees relate to and buy into the definition.

The following are examples of how certain organizations define diversity in their workplace:

Society for Human Resource Management: “To celebrate diversity is to appreciate and value individual differences. SHRM strives to be the leader in promoting workplace diversity. Although the term is often used to refer to differences based on ethnicity, gender, age, religion, disability, national origin and sexual orientation, diversity encompasses an infinite range of individuals’ unique characteristics and experiences, including communication styles, physical characteristics such as height and weight, and speed of learning and comprehension.”⁵⁰

Microsoft Corporation: “At Microsoft, we believe that diversity enriches our performance and products, the communities in which we live and work, and the lives of our employees. As our workforce evolves to reflect the growing diversity of our communities and global marketplace, our efforts to understand, value and incorporate differences become increasingly important. At Microsoft, we have established a number of initiatives to promote diversity within our own organization, and to demonstrate this commitment in communities nationwide.”⁵¹

R. Roosevelt Thomas, Jr., an early advocate of diversity and founder of the American Institute for Managing Diversity Institute, describes diversity as the “collective mix of similarities and differences wherever you might find them.”⁵² This mix presents both opportunities and challenges for management and other staff because each employee will bring a unique set of values, experiences, skills, talents, work styles and interests to the court. If their talents are effec-

tively utilized, employees can contribute to the overall goals and efficiency of the court. On the other hand, this mixture of people, who may look and sound different and have different professional and personal experiences, may adversely affect the workplace if their unique perspectives and skills are not respected and used.

What specifically are “differences?” Employees can differ on many dimensions, from permanent characteristics such as race and gender, to mutable conditions such as skills, educational level, parental status and socioeconomic status. The important point is that at any particular time, the court’s employees should present a rich mixture of backgrounds and characteristics. These differences among employees go well beyond those that are obvious at first glance.

F. SO, WHY IS DIVERSITY A WORTHWHILE GOAL?⁵³

Each court must examine its purpose for implementing diversity in its workplace. If a court jumps on the “diversity bandwagon” simply because other courts around the state are actively recruiting diverse candidates, it will discover its recruitment efforts will inevitably fail. Diversity must become an intrinsic part of the court’s culture. For this transition to take hold, judges and court administrators must make a firm and earnest commitment to changing the face and fabric of the court. The following list demonstrates why each and every court should endeavor to diversify its workplace.

1. Internal

- ***The state demographics are rapidly changing*** and diversity is becoming a strong presence in all facets of society, including Washington State Courts.
- ***Employees become more motivated*** when they see the organization making sincere efforts to value their uniqueness and tap into the full range of skills and experiences they bring to the table.
- ***Conflict can be managed more effectively***, which means more time can be spent on accomplishing tasks and achieving goals.
- ***Creative problem-solving is fostered*** because employees from diverse backgrounds bring with them different experiences, perspectives and skills.
- ***Employee morale increases*** once people respect one another’s perspectives and understand their differences and similarities.
- ***Employees become more loyal*** once they have an opportunity to contribute and participate in achieving the organization’s

goals and perceive their contribution is valued.

- **Work teams become more successful** when team members contribute their unique knowledge and experiences to the team effort.
- **Diversity encourages colorblind performance evaluations** and focuses the court and employees on performance-based criteria.
- **Attrition and absenteeism decline** because employees are more motivated to come to work in an environment that supports their development, which means less time and money are spent on recruitment, training, and grievance procedures.
- **Communication becomes more effective** when sharing of information is encouraged and communication barriers based on perceived differences or lack of acceptance break down.
- **More problems are resolved** when individuals become more receptive to different ideas and alternative solutions.
- **Managers become more effective** as they become more performance-based in their relationship with and evaluation of employees. They may also be more willing to listen to ideas from all employees and to re-evaluate basic assumptions in other operations, such as work teams, communication, decision-making and problem-solving processes.
- **Bilingual staff are fully utilized** to communicate with non-English speaking court users, giving the users an opportunity to understand the judicial system, as well as exposing other employees to different cultures.

2. External

- **Public trust and confidence is enhanced** when persons of diverse backgrounds observe persons that look and sound like themselves in all job categories of the court.
- **The public will be more apt to use court services** when the services they need, such as interpreters, are offered.
- **Better customer services are offered** when employees are encouraged to utilize their diverse experiences and skills to service the needs of diverse court users.
- **The courthouse environment becomes more welcoming** and not as intimidating or threatening to the public when court users observe a diverse workforce.

*Diversity
increases
the range
of choice
for all.*

...before a court implements any diversity program — especially recruitment efforts — it must first understand what diversity looks like in its community and how it should be reflected in its workplace.

CHAPTER 2

DIVERSITY IN THE STATE OF WASHINGTON AND YOUR COMMUNITY

The need for a diverse court can no longer be ignored as the demographics of court users and the skills required to serve the public are rapidly changing.

A. DIVERSITY IN YOUR STATE AND COMMUNITY

Understanding the demographics of the community in which the court is located is vital in determining how the court should approach creating and maintaining a diverse workforce. For the most part, the diversity in Washington State varies from county to county. As a result, before a court implements any diversity program — especially recruitment efforts — it must first understand what diversity looks like in its community and how it should be reflected in its workplace.

The United States Census Bureau reported that in the year 2000, Washington's population was estimated at 5,894,121.⁵⁴ This population was estimated to grow to 5,987,973 in the year 2001 — a difference of approximately 93,000 persons in one year's time.⁵⁵ However, most startling is the fact that the 1990 census report indicates the total population in this state was approximately 4,866,692, revealing a population growth of over 1,121,281 in 11 years.⁵⁶ Washington's population is growing rapidly, and with this rapid growth comes increasing diversity.

For example, in the 1990 census, of the 4,866,692 persons in Washington, approximately 88.5% (4,308,937) were white; 3.1% (149,801) were Black/African-American; 1.7% (81,483) were Native-Americans; 4.3% (210,958) were of Asian descent;⁵⁷ 4.4% (214,570) were of Hispanic/Latino descent;⁵⁸ and 2.4% (115,513) were of another race. Women made up a little over 50% of the population at 2,452,945, and 486,692 of adults 16 years and over were considered disabled. Compare these numbers to the 2000 census, which reports

that of the 5,894,121 persons in the state, 81.8% (4,821,823) were white; 3.2% (190,267) were Black/African-American; 1.6% (93,301) were Native-American; 5.5% (322,335) were Asian-American; 0.4% (23,953) were Pacific Islander;⁵⁹ and 7.5% (441,509) were Hispanic/Latino. Those reporting two or more races were approximately 3.6% (213,519) of the population and those of some other race 3.9% (228,923). While the population of each category increased at varying levels, Hispanic/Latino persons more than doubled their population growth since 1990.⁶⁰ Similar to the 1990 findings, women were still 50.2% of the population at 2,959,821, while the disabled population of those over the age of 18 was approximately 881,000.⁶¹

To give courts a sense of how these numbers relate to the overall judicial system in this state, as well as in individual counties, the following tables outline census findings for 1990 and 2000, both statewide and county by county.

1990

State of Washington

*** RACE⁶²**

RACE AND HISPANIC ORIGIN	
White	4,308,937
Black	149,801
American Indian, Eskimo, or Aleut	81,483
Asian or Pacific Islander	210,958
Other race	115,513
Hispanic origin (of any race)	214,570
Total housing units	2,032,378

* 1990 Census findings of "Race and Age" not available.

1990

State of Washington

SEX & AGE⁶³

Subject	Number
Total population	4,866,692
SEX	
Male	2,413,747
Female	2,452,945
AGE	
Under 5 years	366,780
5 to 17 years	894,607
18 to 20 years	210,809
21 to 24 years	277,730
25 to 44 years	1,658,951
45 to 54 years	501,543
55 to 59 years	191,602
60 to 64 years	189,382
65 to 74 years	336,034
75 to 84 years	182,953
85 years and over	56,301
Under 18 years	1,261,387
65 years and over	575,288

State of Washington

RACE & AGE BY COUNTRY⁶⁴

1990

Geographic Area	Total population	White	Black or African-American	American Indian & Alaska Native	Asian-American Native Hawaiian/ Other Pacific Islander	Some Other Race	Hispanic or Latino (of any race)
Washington COUNTY	4,866,692						
Adams County	13,603	9,100	31	64	93	4,315	4,467
Asotin County	17,605	17,136	38	260	107	64	278
Benton County	112,560	102,832	1,085	861	2,246	5,536	8,624
Chelan County	52,250	48,333	80	487	378	2,972	4,786
Clallam County	56,464	52,509	321	2,695	614	325	1,150
Clark County	238,053	225,192	2,976	2,296	5,670	1,919	5,872
Columbia County	4,024	3,874	1	27	16	106	463
Cowlitz County	82,119	78,516	288	1,347	1,137	831	1,672
Douglas County	26,205	24,341	45	226	163	1,430	2,721
Ferry County	6,295	5,084	20	1,131	24	36	85
Franklin County	37,473	25,917	1,310	263	869	8,114	11,316
Garfield County	2,248	2,222	0	12	7	7	22
Grant County	54,758	46,976	599	568	641	5,974	9,427
Grays Harbor County	64,175	60,230	119	2,662	712	432	1,173
Island County	60,195	55,034	1,454	480	2,553	674	2,006
Jefferson County	20,146	19,252	84	566	195	49	241
King County	1,507,319	1,278,532	76,289	17,305	118,784	16,409	44,337
Kitsap County	189,731	171,063	5,107	3,211	8,282	2,068	6,169
Kittitas County	26,725	25,529	151	216	477	352	684
Klickitat County	16,616	15,383	26	581	128	498	928
Lewis County	59,358	57,663	189	641	372	493	1,366
Lincoln County	8,864	8,657	15	134	33	25	83
Mason County	38,341	35,769	332	1,430	478	332	883
Okanogan County	33,350	27,615	52	3,597	166	1,920	2,779
Pacific County	18,882	17,683	57	519	480	143	433
Pend Oreille County	8,915	8,640	12	206	25	32	120
Pierce County	586,203	498,642	42,210	5,344	29,035	7,972	20,562
San Juan County	10,035	9,811	23	79	86	36	121
Skagit County	79,555	74,133	280	1,712	782	2,648	4,335
Skamania County	8,289	7,987	5	198	52	47	172
Snohomish County	465,642	434,536	4,767	6,422	16,467	3,450	10,656
Spokane County	361,364	341,874	5,105	5,539	6,569	2,277	6,994
Stevens County	30,948	28,747	65	1,807	179	150	483
Thurston County	161,238	148,221	2,864	2,498	6,101	1,554	4,873
Wahkiakum County	3,327	3,281	3	53	15	36	71
Walla Walla County	48,439	43,290	720	359	625	3,445	4,703
Whatcom County	127,780	119,229	650	4,014	2,363	1,524	3,718
Whitman County	38,775	35,653	490	248	2,112	272	683
Yakima County	188,823	139,514	1,938	8,405	1,922	37,044	45,114

State of Washington

SEX & AGE BY COUNTY⁶⁵

1990

Geographic Area	Total population	Percent of population				18 yrs. & over: males per 100 females	Group quarters population	
		Under 18 years	18 to 64 years	65 years and over	Number		% of total pop.	
Washington	4,866,692	25.9	62.3	11.8	96.1	120,531	2.5	
COUNTY								
Adams County	13,603	34.1	54.6	11.3	99.8	118	0.9	
Asotin County	17,605	27.7	55.7	16.6	86.7	289	1.6	
Benton County	112,560	30.0	59.9	10.1	95.3	589	0.5	
Chelan County	52,250	26.7	57.6	15.7	94.4	920	1.8	
Clallam County	56,464	24.2	55.3	20.4	96.6	1,639	2.9	
Clark County	238,053	28.4	60.9	10.7	94.2	2,584	1.1	
Columbia County	4,024	24.8	56.1	19.1	94.2	169	4.2	
Cowlitz County	82,119	27.3	59.2	13.5	94.9	1,160	1.4	
Douglas County	26,205	28.9	59.0	12.1	99.7	274	1.0	
Ferry County	6,295	31.5	57.9	10.6	109.7	233	3.7	
Franklin County	37,473	34.6	55.5	10.0	104.4	470	1.3	
Garfield County	2,248	26.1	51.6	22.2	93.8	40	1.8	
Grant County	54,758	31.4	55.9	12.7	100.4	642	1.2	
Grays Harbor County	64,175	27.0	57.1	15.9	95.9	866	1.3	
Island County	60,195	25.7	60.6	13.8	110.0	3,225	5.4	
Jefferson County	20,146	22.6	56.7	20.7	95.4	227	1.1	
King County	1,507,319	22.6	66.3	11.1	95.2	30,512	2.0	
Kitsap County	189,731	27.9	61.4	10.7	103.7	6,386	3.4	
Kittitas County	26,725	21.1	65.6	13.3	97.2	2,404	9.0	
Klickitat County	16,616	29.3	57.1	13.6	99.5	216	1.3	
Lewis County	59,358	28.4	56.0	15.7	93.3	922	1.6	
Lincoln County	8,864	26.6	53.6	19.8	94.8	101	1.1	
Mason County	38,341	25.1	58.4	16.4	107.2	1,692	4.4	
Okanogan County	33,350	28.7	57.4	13.9	99.0	605	1.8	
Pacific County	18,882	24.1	54.4	21.5	93.3	327	1.7	
Pend Oreille County	8,915	29.4	56.6	13.9	98.4	78	0.9	
Pierce County	586,203	27.2	62.3	10.5	97.8	23,158	4.0	
San Juan County	10,035	20.5	58.0	21.4	95.3	158	1.6	
Skagit County	79,555	26.2	58.2	15.6	94.9	1,610	2.0	
Skamania County	8,289	29.7	59.6	10.7	102.4	35	0.4	
Snohomish County	465,642	27.7	62.8	9.5	97.2	5,562	1.2	
Spokane County	361,364	26.4	60.4	13.3	90.8	10,897	3.0	
Stevens County	30,948	31.5	56.0	12.5	96.7	240	0.8	
Thurston County	161,238	26.9	61.4	11.7	90.9	2,568	1.6	
Wahkiakum County	3,327	24.8	55.8	19.5	97.6	56	1.7	
Walla Walla County	48,439	24.8	59.5	15.7	100.5	4,461	9.2	
Whatcom County	127,780	25.1	62.4	12.6	94.0	4,848	3.8	
Whitman County	38,775	17.8	72.8	9.5	107.6	6,444	16.6	
Yakima County	188,823	30.3	56.7	13.0	95.7	3,806	2.0	

2000

State of Washington

RACE & AGE⁶⁶

2000

Subject	All ages		18 years and over	
	Number	Percent	Number	Percent
RACE				
Total population	5,894,121	100.0	4,380,278	100.0
One race	5,680,602	96.4	4,269,475	97.5
White	4,821,823	81.8	3,674,903	83.9
Black or African-American	190,267	3.2	131,323	3.0
American-Indian and Alaska-Native	93,301	1.6	62,084	1.4
Asian-American	322,335	5.5	245,735	5.6
Native-Hawaiian and Other Pacific Islander	23,953	0.4	15,968	0.4
Some other race	228,923	3.9	139,462	3.2
Two or more races	213,519	3.6	110,803	2.5
HISPANIC OR LATINO AND RACE				
Total population	5,894,121	100.0	4,380,278	100.0
Hispanic or Latino (of any race)	441,509	7.5	264,099	6.0
Not Hispanic or Latino	5,452,612	92.5	4,116,179	94.0
One race	5,276,686	89.5	4,022,810	91.8
White	4,652,490	78.9	3,570,441	81.5
Black or African-American	184,631	3.1	128,284	2.9
American Indian and Alaska Native	85,396	1.4	57,677	1.3
Asian-American	319,401	5.4	243,848	5.6
Native Hawaiian and Other Pacific Islander	22,779	0.4	15,276	0.3
Some other race	11,989	0.2	7,284	0.2
Two or more races	175,926	3.0	93,369	2.1

State of Washington

SEX & AGE⁶⁷

Subject	Number	Percent
Total population	5,894,121	100.0
SEX AND AGE		
Male	2,934,300	49.8
Female	2,959,821	50.2
Under 5 years	394,306	6.7
5 to 9 years	425,909	7.2
10 to 14 years	434,836	7.4
15 to 19 years	427,968	7.3
20 to 24 years	390,185	6.6
25 to 34 years	841,130	14.3
35 to 44 years	975,087	16.5
45 to 54 years	845,972	14.4
55 to 59 years	285,505	4.8
60 to 64 years	211,075	3.6
65 to 74 years	337,166	5.7
75 to 84 years	240,897	4.1
85 years and over	84,085	1.4
Median age (years)	35.3	(X)
18 years and over	4,380,278	74.3
Male	2,157,240	36.6
Female	2,223,038	37.7
21 years and over	4,127,976	70.0
62 years and over	782,897	13.3
65 years and over	662,148	11.2
Male	281,985	4.8
Female	380,163	6.4

Understanding the demographics of the community in which the court is located is vital in determining how the court should approach creating and maintaining a diverse workforce.

State of Washington

RACE & AGE BY COUNTY⁶⁸

2000

Geographic Area	Total Population	Race								Hispanic or Latino (of any race)
		One race							Two or More Races	
		Total	White	Black or African-American	American Indian & Alaska	Asian-American	Native Hawaiian/Other Native	Some Other Race Pacific Islander		
Washington	5,894,121	5,680,602	4,821,823	190,267	93,301	322,335	23,953	228,923	213,519	441,509
COUNTY										
Adams County	16,428	15,977	10,672	46	112	99	6	5,042	451	7,732
Asotin County	20,551	20,188	19,650	39	260	105	5	129	363	401
Benton County	142,475	138,646	122,879	1,319	1,165	3,134	163	9,986	3,829	17,806
Chelan County	66,616	65,193	55,711	172	661	451	77	8,121	1,423	12,831
Clallam County	64,525	62,949	57,505	545	3,303	731	104	761	1,576	2,203
Clark County	345,238	334,597	306,648	5,813	2,910	11,095	1,274	6,857	10,641	16,248
Columbia County	4,064	3,987	3,809	9	39	17	2	111	77	258
Cowlitz County	92,948	90,513	85,326	482	1,417	1,206	124	1,958	2,435	4,231
Douglas County	32,603	31,794	27,599	101	355	178	31	3,530	809	6,433
Ferry County	7,260	7,009	5,480	15	1,327	21	4	162	251	205
Franklin County	49,347	47,302	30,553	1,230	362	800	57	14,300	2,045	23,032
Garfield County	2,397	2,371	2,312	0	9	16	1	33	26	47
Grant County	74,698	72,451	57,174	742	863	652	53	12,967	2,247	22,476
Grays Harbor County	67,194	65,111	59,335	226	3,132	818	73	1,527	2,083	3,258
Island County	71,558	69,098	62,374	1,691	693	3,001	314	1,025	2,460	2,843
Jefferson County	25,953	25,169	23,920	110	599	309	34	197	784	535
King County	1,737,034	1,666,535	1,315,507	93,875	15,922	187,745	9,013	44,473	70,499	95,242
Kitsap County	231,969	221,195	195,481	6,648	3,760	10,192	1,805	3,309	10,774	9,609
Kittitas County	33,362	32,704	30,617	236	303	731	49	768	658	1,668
Klickitat County	19,161	18,635	16,778	51	665	139	41	961	526	1,496
Lewis County	68,600	67,219	63,772	259	840	475	122	1,751	1,381	3,684
Lincoln County	10,184	10,020	9,740	23	166	25	7	59	164	191
Mason County	49,405	47,908	43,705	587	1,840	519	221	1,036	1,497	2,361
Okanogan County	39,564	38,440	29,799	109	4,537	176	28	3,791	1,124	5,688
Pacific County	20,984	20,392	18,998	42	513	436	19	384	592	1,052
Pend Oreille County	11,732	11,493	10,973	17	338	74	24	67	239	241
Pierce County	700,820	664,977	549,369	48,730	9,963	35,583	5,922	15,410	35,843	38,621
San Juan County	14,077	13,790	13,372	36	117	125	12	128	287	338
Skagit County	102,979	100,511	89,070	450	1,909	1,538	163	7,381	2,468	11,536
Skamania County	9,872	9,650	9,093	30	217	53	17	240	222	398
Snohomish County	606,024	585,675	518,948	10,113	8,250	35,030	1,705	11,629	20,349	28,590
Spokane County	417,939	406,386	381,934	6,659	5,847	7,870	666	3,410	11,553	11,561
Stevens County	40,066	38,985	36,078	111	2,266	193	66	271	1,081	739
Thurston County	207,355	199,370	177,617	4,881	3,143	9,145	1,078	3,506	7,985	9,392
Wahkiakum County	3,824	3,728	3,574	10	60	18	3	63	96	98
Walla Walla County	55,180	53,761	47,081	930	465	614	123	4,548	1,419	8,654
Whatcom County	166,814	162,375	147,485	1,150	4,709	4,637	235	4,159	4,439	8,687
Whitman County	40,740	39,668	35,880	623	298	2,260	109	498	1,072	1,219
Yakima County	222,581	214,830	146,005	2,157	9,966	2,124	203	54,375	7,751	79,905

State of Washington

SEX & AGE BY COUNTY⁶⁹

2000

Geographic Area	Total Population	Percent of Total Population					Median Age (years)	Males per 100 females	
		Under 18 Years	18 to 24 Years	25 to 44 Years	45 to 64 Years	65 Years and Over		All Ages	18 Years and Over
Washington	5,894,121	25.7	9.5	30.8	22.8	11.2	35.3	99.1	97.0
COUNTY									
Adams County	16,428	34.2	9.8	26.3	19.4	10.4	29.6	104.5	102.1
Asotin County	20,551	25.5	8.1	26.1	24.0	16.3	38.8	91.1	86.3
Benton County	142,475	29.7	8.6	28.5	22.9	10.3	34.4	98.7	96.3
Chelan County	66,616	28.0	8.3	27.2	22.7	13.9	36.3	99.1	96.8
Clallam County	64,525	22.0	7.1	22.8	26.9	21.3	43.8	98.7	96.6
Clark County	345,238	28.7	8.4	30.8	22.6	9.5	34.2	98.5	95.9
Columbia County	4,064	23.9	7.0	22.8	27.7	18.5	42.4	95.2	94.8
Cowlitz County	92,948	26.8	8.3	27.5	24.1	13.3	36.9	98.2	95.8
Douglas County	32,603	29.5	8.2	27.3	22.4	12.7	35.7	98.2	96.0
Ferry County	7,260	26.9	7.6	23.4	29.5	12.6	40.0	107.7	105.2
Franklin County	49,347	34.6	10.9	28.1	17.9	8.5	28.0	109.1	108.6
Garfield County	2,397	25.9	5.4	21.9	25.9	20.9	43.0	97.9	93.8
Grant County	74,698	32.0	9.8	27.0	19.7	11.5	31.1	104.5	103.4
Grays Harbor County	67,194	25.7	7.9	26.0	25.0	15.4	38.8	98.8	96.2
Island County	71,558	25.5	8.5	28.0	23.7	14.3	37.0	100.4	97.9
Jefferson County	25,953	19.8	5.0	21.6	32.5	21.1	47.1	95.8	94.4
King County	1,737,034	22.5	9.3	34.7	23.1	10.5	35.7	99.1	97.3
Kitsap County	231,969	26.8	9.2	29.6	23.8	10.6	35.8	102.7	101.2
Kittitas County	33,362	20.6	21.6	24.6	21.6	11.6	31.4	98.7	97.2
Klickitat County	19,161	27.1	6.5	25.7	27.0	13.8	39.5	99.5	98.8
Lewis County	68,600	26.5	8.2	25.2	24.5	15.5	38.4	98.3	95.4
Lincoln County	10,184	25.3	5.2	23.2	27.4	19.0	42.8	98.4	94.7
Mason County	49,405	23.5	7.7	26.5	25.8	16.5	40.3	107.0	107.3
Okanogan County	39,564	27.7	7.3	25.5	25.5	14.0	38.2	99.2	98.0
Pacific County	20,984	21.4	6.0	21.2	28.9	22.6	45.8	98.3	95.8
Pend Oreille County	11,732	26.3	5.5	23.8	29.5	14.9	41.9	100.5	99.6
Pierce County	700,820	27.2	9.8	31.3	21.5	10.2	34.1	98.9	96.7
San Juan County	14,077	19.1	4.5	21.7	35.7	19.0	47.4	95.1	93.0
Skagit County	102,979	26.3	8.6	26.9	23.6	14.6	37.2	98.0	95.7
Skamania County	9,872	26.6	6.7	28.6	27.1	11.0	38.7	101.3	99.4
Snohomish County	606,024	27.4	8.5	33.0	22.0	9.1	34.7	100.1	98.2
Spokane County	417,939	25.7	10.6	28.9	22.4	12.4	35.4	96.4	93.6
Stevens County	40,066	28.7	6.4	24.9	27.1	12.9	39.2	99.1	96.6
Thurston County	207,355	25.3	9.3	29.3	24.6	11.4	36.5	96.0	92.7
Wahkiakum County	3,824	23.4	5.3	22.2	30.6	18.5	44.4	100.1	98.1
Walla Walla County	55,180	24.6	13.4	26.5	20.8	14.8	34.9	103.8	102.9
Whatcom County	166,814	24.1	14.2	27.5	22.5	11.6	34.0	97.1	95.0
Whitman County	40,740	18.1	32.6	24.0	16.0	9.2	24.7	102.5	101.9
Yakima County	222,581	31.8	9.8	27.5	19.7	11.2	31.2	99.6	97.1

B. DIVERSITY IN THE STATE BAR

In addition to understanding the diversity of cultures in Washington and in individual counties, the court should also be aware of how diversity is reflected in the Washington State Bar Association. As of July of 2001, there were about 22,400 active members of the WSBA, 19,307 of whom were actively practicing in Washington.⁷⁰ Of the 22,400 members, only 30.7% were women and 69.3% were men.⁷¹ Another 149 or 1.2 %⁷² of WSBA members reported a disability.⁷³ With respect to ethnicity, approximately 93 or 0.7% are reported to be Native-Americans; 401 or 2.9% Asian-American and/or Pacific Islander descent; 217 or 1.5% African-Americans; 149 or 1.1% Hispanic-Americans; 92 or 0.7% Multi-Racial; and 148 or 1.1% "other."⁷⁴ The remaining 12,913 active attorneys are white.⁷⁵ When comparing these statistics to those of April 2000, there is very little difference except that there were approximately 1,000 fewer attorneys. The percentages remained consistent.

So what does this mean for the court? Judges and court administrators will have to work harder to recruit staff attorneys and clerks because of the limited number of minority and disabled attorneys. By doing so, the court will discourage the public perception that diversity is not important to the court and increase the public's trust and confidence in the judicial system.

Individual judges can participate in a variety of efforts to reach out to students of color in middle and high school and in college to expose the students to the opportunities a legal education can provide to them personally as well as to their communities. Courts can also participate in efforts to expose young people to careers in the legal field by participating in programs such as "take your child to work day," as well as by developing internship and externship programs for undergraduate and law school students.

CHAPTER 3

SURVEYING YOUR COURT AND WORKFORCE: ASSESSING YOUR DIVERSITY

What are the challenges and opportunities?

Before implementing recruitment and retention programs, judges, court administrators and managers should assess the court's readiness for a diversity recruitment and retention program and seek to build the proper level of judicial and management support. A successful diversity recruitment and retention strategy will require a commitment of time, energy, and resources, especially from judges and upper-level management. Managerial support includes verbal and behavioral commitment, from participating in the planning process to showing a willingness to review and change organizational policies, practices and procedures. Judges, management and staff should have a realistic expectation for integrating diversity in the workplace. Furthermore, they should be willing and ready to develop an environment that encourages employees to openly discuss any diversity issues that might result from recruitment and retention efforts.

The purpose of assessing the court is to gain a fuller and more detailed understanding of the court's needs. Specific data will help the court assess its recruitment needs and determine whether the retention of certain protected groups is more disparate than others. Assessments also send a message to employees that diversity concerns are important to the court and will further engage employee support in implementing diversity recruitment and retention programs. It is important to note that diversity recruitment and retention issues may vary from court to court, and therefore assessments should be adjusted accordingly.

Before a court undertakes the assessment process, there are a few underlying principles of diversity⁷⁶ that judges and court administrators must understand and communicate to court personnel. If these principles are first realized and respected, especially by those responsible for undertaking diversity efforts, the assessment process will likely be more cogent and perhaps more appreciated by all.

Human beings are inclined to find consolation and trust in those most similar to themselves.

- No one should be blamed for the sins of the past or present. Everyone has been socialized to behave in certain ways and, on some level, has perpetrated or been subject to discriminatory treatment or stereotypes.
- Most human beings are ethnocentric⁷⁷ — they view the world narrowly and judge it based upon what is familiar to them.
- Most human beings resist change, continually striving for a state of homeostasis.⁷⁸ This may make the on-going adaptation required for diversity recruitment and retention efforts laborious for those already overwhelmed by the staggering transitions in today's workforce.
- Human beings are inclined to find consolation and trust in those most similar to themselves. Thus, there is a tendency to seek the company of and support efforts that benefit those who are like us.
- It is difficult for people to share power; history indicates that it is seldom done voluntarily and without a benefit to those who dominate the pool of wealth.
- It is essential that needs assessments be open, fair and honest, and that those charged with the responsibility of analyzing the collected data be willing to accept the results at face value. The results may suggest problems that no one anticipated, or that problems are more serious than anticipated. Conversely, the results may suggest that problems are not as extensive as some might have thought. Whatever the results might be, the truth must first be embraced before the implementation of *any* diversity recruitment and retention program may commence.

A. WHY ASSESS NEEDS FOR DIVERSITY PROGRAMS?

To design concrete recruitment and retention programs, court managers need more than a general sense of the situation. For example, management may believe that African-American clerks feel their low salary is their most serious problem, but those clerks may in fact believe that the biggest hindrance to their effectiveness is a lack of training opportunities or a forum to participate in decisions that affect their work environment. It is these differences — perception versus reality — that diversity assessments attempt to bridge.

If court managers build diversity recruitment and retention programs based on unexamined assumptions, they may address prob-

lems that do not exist and fail to identify problems that do exist. This approach is futile. In assessing the court's needs for recruitment and retention, managers may combine information gained from needs assessments with their own experience and perceptions to structure the right programs for their court.

The following are other important reasons to assess the court's needs before designing recruitment and retention programs:

- **Persuasion:** Court-specific data will validate and further support a need for diversity recruitment and retention programs.
- **Explanation:** In the absence of data, how do court administrators or managers respond to the question, "We have two minorities and a bunch of women on staff, so why are we recruiting more?"
- **Big Picture:** The description of an isolated incident or two will probably not be sufficient to convince court staff and judges that special efforts should be taken to retain diverse employees; often isolated incidents are viewed as aberrations, which they may or may not be. On the other hand, it may reflect an unwelcoming, unhealthy work environment.
- **Commitment:** The needs assessment process sends a clear message to all employees that diversity concerns are important to judges and management.
- **Participation:** The assessment process should actively engage court employees in the planning of diversity recruitment and retention programs, thereby encouraging employee support. The development of the assessment tool should also include staff input, providing a sense of ownership in the process and programs.
- **Variety:** Diversity recruitment and retention issues vary substantially among courts because each has its own culture, often determined by:
 - location;
 - size;
 - management style of the judges and court administrators; and
 - differing characteristics among the staff.
- **Uniqueness:** Given the range of differences from county to county, judges and court administrators cannot assume that

diversity recruitment and retention problems in another court exist in their court.

- **Perception:** Assessment data may be conflicting. For example, an analysis of hiring, promotion, and separation data may reveal that persons with certain characteristics are in fact being hired less, promoted less or terminated more than others. However, an analysis of employee perception may reveal that some employees do not believe that others are being hired, promoted or terminated at different rates. Both types of information — what is occurring and perceptions of what is occurring — are important in assessing diversity needs and in structuring a response to those needs.

B. ASSESSING READINESS FOR DIVERSITY

Before conducting a needs assessment and designing recruitment and retention programs, judges and court administrators should assess their court's readiness to implement these diversity programs and seek to build the proper level of management support. Here are several questions to answer before planning any diversity program:

Does the court have adequate management support for a diversity program?

- A successful diversity program requires a firm commitment of resources, including time, money and energy, especially from judges and upper-level management.
- Mid-level managers and supervisors championing diversity should not be substituted for judicial and upper-level management support, although the participation of these individuals is also necessary.

Does the court have realistic expectations for a diversity program?

- Before conducting the needs assessment, managers must be open to where the data might lead.
- Candid information should be shared with judges and staff about what they can expect as a result of the needs assessment.

Is the court willing and ready to create a work environment that encourages employees to openly discuss issues that might arise as a result of diversity recruitment and retention efforts?

- Exploring diversity needs is rarely a “feel good” moment be

cause it requires employees to confront their fundamental values and assumptions.

- Diversity programs do not create conflicts, although they may bring conflict or hostility to the surface.
- If issues are not permitted to emerge or become known upon commencement of the program, they will probably surface in unhealthy and less constructive ways later.
- The court must provide a venue for anticipated opportunities and challenges presented by a diverse workplace.

Is the court willing to implement diversity recruitment and retention as a long-term process of change?

- No organizational change occurs overnight. Long-term commitment must be made at all levels of the court and must start with the judges and the court administrator.
- Staff may be more resistant to diversity recruitment efforts during times of downsizing or hiring freezes. Nevertheless, the commitment needs to be maintained over the long term.
- The court must provide creative follow-up activities, both formal and informal, to promote diversity recruitment and retention goals and objectives.
- Education programs and ongoing training are strategies to promote organizational changes that occur as a result of the ongoing recruitment and retention of diverse persons.

Whether the court is realistically prepared to undertake diversity efforts will necessarily depend upon the responses to these questions. As a result, it is critical that responses be candid and based upon realistic expectations.

C. METHODS OF ASSESSING DIVERSITY⁷⁹

There are several methods for assessing diversity, or the absence of diversity, in any court.

Collection of data from existing personnel.

- This method can be accomplished either by verbal interviews or by written questionnaires.
- An advantage of this method is that employees will identify those diversity issues they consider most important and prevalent, which may or may not be consistent with management's beliefs.

Questionnaires are valuable tools for gauging employee sentiment.

- Careful consideration should be given to form (i.e., open-ended questions as opposed to lists of pre-determined answers or a numerical scale).

Interviews are time-intensive; however, issues are more easily explored in this format.

- One variation of the interview method is to conduct group interviews to facilitate discussion.

Group Interview. Depending on the dynamics of the particular group of employees, results from this method may not lead to accurate conclusions about the court overall because an individual may not feel comfortable sharing issues, grievances, or problems with others who may not share the same viewpoints.

- The format for individual or group interviews (again, open-ended versus closed-ended questions) is significant, and consistency is imperative.

Review personnel records (where available), data submitted to regulatory agencies, and court policies and compare the data with demographic information about the regional workforce.

Each of these methods is discussed in more detail below.

1. Questionnaires

- Questionnaires have several advantages over other needs assessment methods because data can be collected from almost everyone in the organization with relatively little expense.
- The proper wording of each question is more complicated and technical than it may appear. Therefore, expert advice may be particularly valuable when drafting the questionnaire.
- An initial decision regarding questionnaire formats is important. The following factors should be considered:
 - Questionnaires can be drafted using closed-ended questions that ask respondents to select one answer from a predetermined list; or
 - Questionnaires can be drafted using open-ended questions that ask respondents to write the answers themselves.
 - Responses to closed-ended questions are usually coll-

ected in frequencies (i.e., a compilation of the number and percentage of respondents selecting each response to a question).

- Narrative or open-ended responses are generally collected verbatim and then grouped together according to the subjects they address.

Although the analysis of large numbers of questionnaires may require special skills and the use of a computer, the end result may significantly outweigh any inconvenience caused by the process.

2. Interviews/Focus Groups

- Allowing small groups of employees (5 to 10) to discuss their perceptions of obstacles, workplace issues and conditions is another method to obtain vital information.
- A trained facilitator who is capable of keeping the group focused and on track should lead the discussions.
- Notes should be taken during the individual interview or small group discussions and the information derived should be compiled and used for assessment purposes.

3. Using Existing Records

Before designing questionnaires or interview protocols, courts should learn what they can from existing records. For example, if court managers believe there may be problems in recruitment, hiring, promotion and separation, they might seek relevant information in appropriate personnel records and then compare that data with available data from other courts, as well as demographic information about the workforce in the court's region. Having this information may help in the design of questionnaires or interviews that are used to identify problems as perceived by court employees. After analyzing questionnaires or interview data, court managers can retrieve supplementary information as necessary from existing records. In some instances, personnel information may not be readily available, or access may be difficult. Where this is the case, the court may resort to other forms of information gathering.

Court policies and procedures (including but not limited to the court's EEO plan, leave policies and work schedules) should be reviewed in order to provide a description of how the court views diversity. Because a policy might differ from practice, questionnaires and interviews can probe the manner in which policy is implemented and how implementation is perceived. The important aspect of assessing diversity is to have a clear purpose when beginning any data

Before designing questionnaires or interview protocols, courts should learn what they can from existing records.

collection effort. There is little purpose, for example, in reviewing exit interview reports without identifying how the information may reveal a need that a diversity program can meet.

D. COLLECTION OF DATA

The data collected from court personnel (in an oral or written format, and from an individual or group of employees simultaneously) should identify whether specific diversity recruitment and retention problems exist, whether court personnel perceive they exist and how court employees experience or observe these problems in their day-to-day interactions with their peers, supervisors and the public. The following are factors to consider when choosing a specific method or methods:

1. External Factors

- What are the demographics, i.e., ethnicity, gender, age, education, income, etc., of the county and those who utilize the court's services for civil, criminal and domestic matters? ⁸⁰
- How many different languages are spoken by persons who are participants in this judicial system and what are they?
- Does our court have interpreter services for non-English speaking court users and if so, for what languages?
- Does our court provide interpreter services for deaf court users?
- How frequently do court users require court interpreter services and for what languages?
- Do certain court users, i.e., African-Americans, for example, complain of inequitable treatment and if so, who?
- Does our court have a complaint mechanism available to the public?
- How frequently do persons of diverse backgrounds file complaints against court personnel, including judges, managers and supervisors?

2. Internal Factors

- Do interpersonal conflicts frequently arise among certain groups of employees?
- Does the court have an Ombudsman or another conflicts mediator and if so, what is that person's assessment regarding employee conflict and dissatisfaction?

- Do employees feel their talent and skills are appreciated and rewarded?
- Are there general grievance patterns?
- Has there been any specific complaint of discrimination or harassment by current or former employees, and if so, has there been any complaint that resulted in legal fees or settlement costs to the court?
- Is our work environment “welcoming” to diverse candidates?

3. Recruitment

- What are our recruitment numbers and who is being recruited?
- How much does our court spend annually on recruitment?
- If the court uses recruitment materials, do the materials reflect diversity?
- Have specific instructions been given to decision-makers to increase diversity in the workplace and if so, with what frequency?
- Are our court’s policies and benefits attractive to applicants and prospective employees of diverse backgrounds?

4. Development and Promotion

- What are our promotion numbers and who is being promoted?
- What are our training and development patterns?
- Who is being trained and why?
- How much does the court spend annually on training and development?
- Does the court offer the possibility of career advancement and development?

5. Retention

- What are our employee retention rates and who is staying?
- What are our employee separation rates and why are they leaving?
- Are members of certain minority groups being terminated more frequently than others?
- Are members of certain minority groups voluntarily leaving employment more frequently than others?

- Is there a high level of turnover among African-Americans, Asian-Americans, Hispanic-Americans, women, disabled persons or persons over the age of 40?
- What are the effects of employee turnover on the courts, such as costs, disruption, etc.?
- Does the court use exit interviews or other data gathering methods to document why an employee is leaving?
- Of the departing employees, have any expressed that they were leaving because they feel devalued, not included or not heard?

E. CONFIDENTIALITY AND USE OF EXPERTS

Whichever method the court chooses to assess its diversity needs and issues, confidentiality should be a primary concern, although it may not always be guaranteed. Employees are more apt to respond candidly if they believe their responses are confidential. Some courts may want to have an outside entity conduct interviews or review the questionnaire data to better ensure privacy as well as to acquire a professional analysis of the data. A social scientist will certainly fit this bill, because that person can:

- provide expertise in constructing questions or protocols and in interpreting results;
- help ensure confidentiality and objectivity; and
- help ensure at least one person can devote adequate time to the process.

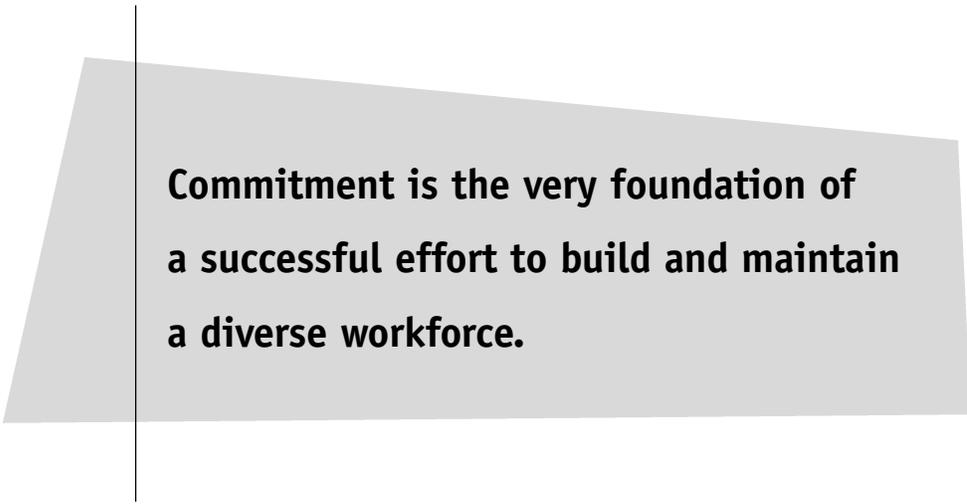
F. EVALUATING DIVERSITY IN THE WORKPLACE

After determining what method or methods the court will utilize, it is time to gather the relevant information. In doing so, the court must understand its current demographic situation. This is done by developing a complete workforce profile and assessing how it reflects diversity at all levels, in all key occupations, and in all organizational components. The court may gather this information by gauging its employees' views on diversity issues.

A useful tool is a survey that documents and measures the court's strengths and weaknesses in promoting diversity. Various referred to as a "cultural audit" or "organizational assessment," the questionnaire is an organized method to examine diversity conditions. The questions should focus on employee perception of recruitment and retention efforts and provide employees an opportunity to of-

fer suggestions regarding how the court might overcome its lack of diversity. Appendix A contains a recruitment assessment questionnaire reprinted with permission from “The Multicultural Advantage” (<http://www.multiculturaladvantage.com>). The questionnaire will assist the court in determining whether it is taking the appropriate steps to recruit diverse persons. As with most companies in corporate America, the questionnaire will likely reveal that the court needs to recruit more diverse individuals. Ultimately, the information gathered should reveal the reasons the court should initiate a diversity recruitment program.

In some cases, a personnel officer or another trained person outside the court, such as an Employee Assistance Program counselor, may be able to facilitate focus groups, or conduct interviews, or do both.



**Commitment is the very foundation of
a successful effort to build and maintain
a diverse workforce.**

CHAPTER 4

BUILDING MANAGEMENT SUPPORT

Having commitment from the top will reinforce desired outcomes and assist in conveying the expectation of cooperation, involvement and commitment from employees.

The key to successfully building a diverse workforce for tomorrow begins with a strong leadership commitment today. Commitment is the very foundation of a successful effort to build and maintain a diverse workforce. This commitment should be clearly stated and communicated from the most senior judges and the court administrator to employees at all levels. Judges and senior managers should be involved in the planning process because they can make valuable contributions and their commitment and support are essential. Commitment from the top sends a clear message to employees about the importance, relevance, value and legitimacy of implementing diversity in the court.

To reflect their commitment, judges and senior managers of the court should demonstrate their interest and involvement in the following ways:

- Judges and senior managers should encourage a leadership that fosters an environment of inclusion and values differences.⁸¹
- Judges and senior managers should participate in diversity planning.
- At least one senior manager should be a member of the diversity recruitment and retention committee.
- Every judge and court manager should receive status or progress reports on the needs assessment process and methods, selection of a consultant, and other planning decisions if they cannot or choose not to be directly involved.

- Judges and court managers should provide feedback on the needs assessment methods, questions, selection, consultants and planning, because the process must take into account the expectations of judges and court managers for diversity recruitment and retention programs and must reflect the objectives they believe are important.
- Judges and managers should sincerely convey through action and words a desire to understand what diversity is and why it is important for the court.
- Judges and court managers should communicate legitimate benefits derived from diversity recruitment and retention.
- Judges and court managers must make diversity a part of management's effort to increase productivity, including team building, conflict resolution, quality improvements, coaching and mentoring.
- Judges and court managers should make every effort to ensure that adequate resources are assigned to the court's diversity recruitment and retention programs.
- Judges and senior level managers should encourage employees at various levels of responsibility to be an integral part of the court's diversity efforts.

Above all, it is important that the court's judges and senior managers not be surprised by its diversity efforts. If they learn about the programs from subordinates or outside sources, they may be understandably suspicious or baffled by the efforts and may raise unwanted opposition to diversity recruitment and retention efforts. As a result, all endeavors to implement diversity recruitment and retention programs should first be brought to the attention of those who have the influence to make or break these efforts. Also keep in mind that judges and court staff have a right to ask: "Will this help my court function better?" "Can we afford the time to do this?" Questions such as these provide diversity champions the invaluable opportunity to educate their colleagues about the importance of and necessity for diversity recruitment and retention programs.

CHAPTER 5

DIVERSITY INITIATIVES

A. CREATING AND IMPLEMENTING

In light of the passage of I-200, as well as the litigious atmosphere that exists in Washington and around the country regarding the use of quotas such as race and gender in making hiring decisions, the creation of any diversity initiative must clearly reflect the positive contributions that a diverse workforce provides. Many of the positive contributions of a diverse workforce are set forth in Chapter 1 of this manual. Recitation of some or all of these factors in a “diversity mission statement” will clearly demonstrate that the court is committed to diversity for the right reasons.

After Surveying your Court and Workforce, Chapter 3, and Building Management Support, Chapter 4, the third step in establishing and drafting the diversity initiative is to establish specific recruitment and retention objectives. The objectives set should be based on specific demographics of the county’s population, demographics of the population of the bar within that county and demographics of the state. In relying on these factors to establish objectives, the court is more likely to establish achievable objectives.

Once objectives have been established, the most important factor in establishing a diversity initiative is to assign responsibility to a specific individual or individuals to accomplish each specific task. Although the concept of diversity must be embraced by the group in order for it to take hold, be accepted and be successful, individual responsibility and accountability are far greater motivators and are more likely to lead to the success of the initiative. Individual managers or leaders can create the appropriate motivation among their team members. Individual leaders and managers will be far more motivated not to let down a court’s senior leadership that has committed to diversity as a positive objective.

Once individuals have been assigned responsibility for achieving objectives of the diversity initiative, hold them accountable. Failure to hold accountable those vested with the responsibility to shepherd the diversity initiative is tantamount to paying “lip service” to

the initiative. Make performance on the initiative a part of the evaluation process.

Outline the broad steps that will be used to achieve the objectives. See Chapter 7, *infra*.

After creation of the diversity mission statement, the diversity initiative should also include at least two separate timetables to accomplish the objectives in the mission statement and in the statement of objectives. The first timetable should establish a date for short range objectives to be accomplished. The second timetable should establish a specific time for review of the overall diversity initiative to determine in what areas revisions to the diversity initiative might be appropriate. The time frame for meeting short-term goals should be twelve to eighteen months. Setting a time frame of this duration provides a realistic, yet foreseeable, period in which the court should achieve visible change. In addition, a review of the overall diversity initiative should occur every three to five years. When conducting a review of the overall diversity initiative, the analysis should very closely track the analysis that is done in long-term or strategic planning. Those responsible for reviewing diversity programs should carefully evaluate its strengths and weaknesses, and the opportunities to improve as well as any threats to the goals and objectives of the diversity initiative. Once completed, this analysis should be integrated into the court's long-range strategic planning.

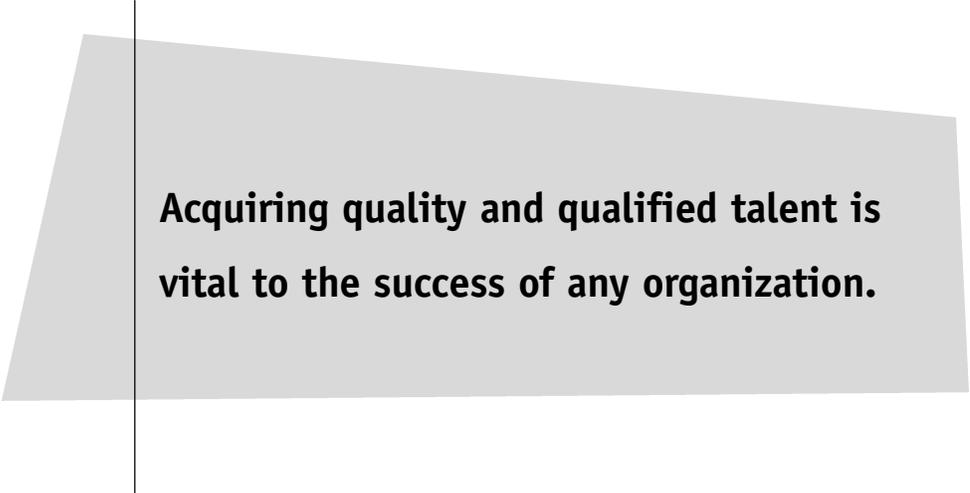
B. SETTING OBJECTIVES

Objectives should only be set after the court has adopted its diversity initiative and, evaluated and determined the strengths and weaknesses of its workforce diversity. The objectives should be clear, concise and realistic. Objectives should also be concrete and measurable. This means the court should be able to determine whether it has reached its objectives or fallen short of obtaining them. For example, if the court has high turnover of Hispanic-American employees, it may list "reduce turnover of Hispanic-American employees by 25 percent" as an objective. If questionnaires reveal low morale among certain groups of employees, it may set the objective of "increasing satisfaction of all employees by 10 percent and reducing satisfaction disparities among specified groups by 50 percent." Whatever the case might be, objectives should be specifically tailored to meet the ultimate mission of your court.

The following is a general list of possible areas the court may wish to consider when setting objectives:

- Recruitment
- Hiring
- Retention
- Development/Training
- Mentorship
- Advancement/Promotion

Objectives should only be set after the court has adopted its diversity initiative and, evaluated and determined the strengths and weaknesses of its workforce diversity. The objectives should be clear, concise and realistic.



Acquiring quality and qualified talent is vital to the success of any organization.

CHAPTER 6

OUTREACH AND RECRUITMENT: DEVELOPING A DIVERSE CANDIDATE POOL; CHANGING YOUR RECRUITING HABITS

“Companies spend all this time aggressively recruiting and then their minority hires leave and the employers wonder why. They think, ‘Our recruitment program is failing.’ No. It’s just that they don’t have the proper support mechanisms in place.”

Lisa Willis-Johnson

*Vice Chair of the Society for Human Resource Management’s
Workplace Diversity Committee*

A. RECRUITMENT STRATEGIES

To build a diverse workforce, the court should incorporate tailored approaches to hire diverse individuals into its overall strategies. Therefore, the first step is to find the right candidates.

Acquiring quality and qualified talent is vital to the success of any organization. A well-planned recruiting strategy will maximize the likelihood that the right employee is recruited and hired; however, the plan must be implemented and consistently applied in order to ensure long-term results.

The purpose of effective recruiting is to attract strong candidates who are prepared to meet the court’s strategic goals and priorities. Recruitment has two major components: (1) outreach and (2) equal and consistent treatment. Outreach is vital to recruitment. The court’s ability to ensure the greatest potential for staffing excellence lies in the pool of candidates from which its selections will be made. All applications for employment and responses to inquiries for information must be handled fairly and consistently to avoid the appearance of favoritism, bias, or inaccessibility. Inconsistency can hamper outreach efforts and, therefore, impact the quality of the candidate pool.

Below is a list of suggestions that should be considered when implementing a recruitment strategy.⁸²

- The qualifications sought for an available position should be consistent with job duties and not based upon historical precedent.
- Credentials sought should be based on competence such as volunteerism, knowledge of subject matter, etc., as opposed to only paid employment experience.
- Persons involved in the recruitment and hiring process should:
 - Receive diversity training; otherwise, those individuals might not be capable of offering a fair evaluation of applicants during the hiring process.
 - Cultivate relationships with organizations that cater to the needs and interests of people of color, women, the disabled and other diverse groups.
 - Establish relationships with high schools, colleges and universities that have a diverse population. This will yield a pool of prospective employees in the future.
 - Ensure that the interview panel is culturally diverse. This may minimize potential bias or allegations of bias. It also communicates to prospective applicants that your court promotes and welcomes diversity.
 - Utilize nontraditional networking to produce a diverse applicant pool, such as ethnic bar associations, ethnic community-based organizations, or asking diverse entities to forward job announcements to their e-mail distribution lists.
 - Encourage and seek out diverse employees who work in the court to assist in providing names of prospective recruits. Many minorities continue to maintain close relationships with their respective ethnic communities.
 - Eliminate the concept that “there just aren’t many or any qualified minorities” from your thought process and vocabulary. This negative thought process will impede efforts and reinforce the perception of many that diversity deserves only lip service and no action.

Developing a large and diverse candidate pool is one of the most important aspects of conducting any search. It is often stated that

the pool of women or minorities in a given discipline is small or practically nonexistent. It may be challenging at first. However, with effort and time, it will become easier to attract qualified diverse applicants. Keep in mind, it is generally accepted that an organization that already has a reputation for having a strong commitment to diversity, exemplified by its diverse workforce, will find it easier to attract more diverse candidates.

B. RECRUITMENT RESOURCES⁸³

There are various resources an employer may utilize to build a diverse, qualified candidate pool. Below is a general list of sources courts may wish to explore in search of qualified applicants to develop a diverse workforce.

1. Internal Sourcing

Internal job postings may be a good recruitment source if the court already has a diverse population. E-mailing the announcement to employees and asking them to share it with their networks may enhance the candidate pool. Effective ways to recruit from within include: (1) making job information available internally, which may help identify qualified diverse candidates and avoid claims of discrimination; (2) encouraging decision-makers to consider multiple candidates for all positions; and (3) reviewing policies regarding internal transfers and promotions to eliminate barriers to increase diversity.

2. External Sourcing

External sourcing offers the court a variety of options for recruiting diverse candidates. This process can be as active or passive as the court desires. However, a court should consider an active approach at first. As diversity in the workforce improves, a court may then adopt a passive approach. Listed below are numerous sources the court may utilize in an effort to recruit diverse candidates.

a. Mainstream Newspaper Advertisements

The more common form of advertisement for an available position is the newspaper. Running job announcements in newspapers and other periodicals will continue to be an important method of reaching candidates — whether the source pool is local, statewide or nationwide. There is an added bonus to advertising a position in the newspaper: many newspapers also run their printed advertisements on the Internet. In such cases, it may be helpful to provide information in the court's advertisement that will direct candidates to its website for

additional information and perhaps give candidates an opportunity to apply by filing an electronic application.

Classified ads should contain enticing language that outlines the qualifications for and duties of the position. To avoid any claim of discrimination or an implied contract, the job advertisement should not include any reference to race, sex, color, religion, age, disability, sexual orientation, national origin or any other protected status, except to the extent that the advertisement specifically indicates that the court is an “Equal Opportunity Employer.” Advertisements should encourage “diverse” candidates to apply. Doing so is permissibly legal, even in the face of RCW 49.60.400, because there is no promise of special treatment for persons who consider themselves to be diverse. Advertisements should not contain language that suggests employment for a lifetime, i.e., “permanent.”

Appendix B contains a list of state and local newspapers throughout Washington State.

b. Minority Media Advertisements

Advertising employment opportunities in local minority newspapers and on local radio stations should not be overlooked. There are numerous advertising mediums that target specific groups of minorities and thus may be an invaluable tool for the court. Most local newspapers and radio stations that cater to minority communities do not charge a fee to advertise job announcements. As a result, using these forms of advertisement is both strategic and cost effective.⁸⁴ Appendix B contains a list of local periodicals.

c. Recruitment Firms

A recruitment firm or “headhunter” is a helpful resource, if the court has limited recruitment expertise, time or contacts from which to generate a diverse candidate pool. Generally, recruitment firms may be available as either on a contingent fee or on retainer. A contingency firm typically will focus on the prospective candidate by presenting the candidate to several organizations. Once the candidate begins work, the contingent firm will charge the acquiring organization a finder’s fee. On the other hand, retainer recruitment firms are generally used by organizations seeking employees at the senior manager level, as well as applicants for more specialized positions, such as technical positions, because these positions typically require unique contacts to identify and recruit diverse candidates. In these instances, a retainer recruitment firm

will charge a fixed fee that is usually paid before the search begins. The fees assessed by contingent and retainer recruitment firms can run from 20% to 30% of the candidate's first year annual salary. Although the fee is not generally negotiable to newcomers, if the court gives the recruiting firm a significant volume of work and thereby develops a relationship with the firm, it should attempt to negotiate a better fee for new agreements. However, given the lack of public resources available to the court, this method of recruitment may prove to be the least desired. Appendix C provides a list of recruitment and retention firms.

d. Minority Owned Recruitment Firms and/or Recruiters

Minority-owned recruitment firms and recruiters are usually a valuable resource for obtaining a diverse group of candidates because they generally have established networks and a rapport with the community that gives them access to a broad range of qualified candidates. The use of minority-owned recruitment firms or recruiters is also beneficial because they lend credibility to an organization's recruiting efforts. Appendix C provides a list of recruitment and retention firms.

e. Employee Referrals

When seeking to fill available positions, employers should not overlook one of the more inexpensive forms of recruitment: employee referrals. Friends and associates of current employees can be a viable source of applicants because a satisfied employee is an organization's best recruiting source. E-mail job announcements and ask employees to forward them to their personal distribution lists. Employees are generally familiar with the work environment and therefore should be able to assess which of their friends or associates would be a good fit for the court. In order to solicit the assistance of employees, many private employers have implemented incentive programs, in which employees receive some form of reward, such as certificates or merchandise, after the successful placement of the referral. Although the courts must be mindful of the constitutional prohibition on gifts of public funds, other forms of appreciation may be substituted, such as certificate of appreciation, court-produced merchandise, or acknowledgment in an internal newsletter or publication. The continued internal publication of progress, including the names of those who contribute to the program's success, acknowledges the contributions of employees, tangibly recognizes employees as an asset to the court and fosters goodwill with employee participants.

Minority-owned recruitment firms and recruiters are usually a valuable resource for obtaining a diverse group of candidates...

The continued internal publication of all employee referral programs, as well as prompt follow-up with the prospective applicant, usually will have a direct bearing on the success of the program. The latter is also important in terms of establishing credibility and goodwill with employee participants. However, there is a high risk that this type of referral program may be perceived as discriminatory in practice. Therefore, it is essential that internal referrals are used only in conjunction with the recruitment outreach process.

f. The Internet

The Internet is a fast and inexpensive recruitment tool. Prospective candidates may view detailed information about the court and the job sought. Jobs may be posted on Internet sites at a nominal cost and are usually retained for periods of 30, 60 or more days permitting perspective applicants to view job postings at his/her convenience because the Internet is available to job seekers 24 hours a day. This is especially helpful when websites offer prospective candidates the option to submit applications electronically. The Society for Human Resource Management suggests the following considerations when setting up an Internet recruiting program:

- Post jobs on major hub-sites such as Monster, CareerPath, Hot Jobs or CareerMosaic;
- Post jobs on state, local and standard and minority bar association websites, such as those for the Washington State Bar Association, the King County Bar Association, the Loren Miller Bar Association, the Asian-American Bar Association and the Washington Hispanic Bar Association.
- Post available positions on specialty sites that cater to a regional, technical or functional area of interest, including the Administrative Office of the Courts (AOC);
- Set up an organization profile on a major hub-site that is also linked to the court's website;
- Subscribe to databases that will allow the court to access posted résumés;
- Regularly upgrade the employment section of the court's website;
- Consider utilizing a program, such as Spider or Web crawler, that will perform multiple searches simultaneously;

- Subscribe to a web-based résumé management system; and
- Consider specialized Internet recruitment training for persons responsible for recruiting.

Appendix D contains a list of Recruitment and Retention Websites the court may wish to consult.

g. College/Vocational Recruitment

College campuses are a great source for recruiters. To attract some of the best and brightest candidates, it is important that the court make its career opportunities known to graduating students. Vocational schools train students on a variety of skills, such as secretarial, computers, data-entry, etc., whereas colleges and universities remain a source for entry level professional and administrative employees. After the court has developed a target list of schools, those schools' career placement offices should be contacted regarding their processes for organizations seeking to recruit graduating students. Appendices F through I contain lists of minority colleges and universities from which the court may consider recruiting. Appendices J and L contain tables of diversity statistics related to undergraduate and law school programs at the University of Washington, Seattle University and Gonzaga University for 1999 — 2003.

College campuses are a great source for recruiters.

h. Job Fairs/Career Days

Job fairs and career day opportunities are an obvious recruitment source. Whether commercial, school or community based, job fairs can draw significant numbers of applicants of diverse backgrounds and experience. However, participation may require an extensive amount of time and money. As a result, the court should determine whether the investment is appropriate for its recruitment efforts. If the court determines attendance at a job fair or career day is appropriate, the representative selected to attend should be a skilled interviewer who can quickly determine whether an individual should be invited back to the court for a more extensive interview. The court can communicate its commitment to diversity by enlisting individuals with diverse backgrounds who have good interviewing and assessment skills to assist in the recruiting process.

i. Co-ops and Interns

Co-ops (a joint enterprise between the court and learning institutions), interns and externs are an often-overlooked resource.

Courts should seriously consider establishing one or both of these programs because both offer quality employees at minimal or no cost. Co-ops, internships and externships are usually coordinated with schools and provide students with an opportunity to gain valuable and marketable skills in a work setting and position for which they otherwise would not qualify. Although students may require flexible hours to meet their school schedules, productivity and loyalty are usually the exchange. These students may also develop an interest in future employment with the courts.

j. Specialty Sourcing

Depending upon the court's location, special efforts may be required to ensure that qualified applicants from specific groups are represented in the applicant pool. These include schools, professional organizations, community groups, military placement organizations, state and local labor departments and Internet sites. Local chapters of the NAACP, Hispanic Chamber of Commerce, Black Minority Business Association ("Black MBA"), the Urban League, and organizations such as the YMCA and YWCA post available positions on a regular basis. For an expanded list, refer to the Minority & Justice Commission Workforce Diversity Resource Directory located at www.courts.wa.gov/mjc/directory.

k. Networking

Networking can be a time-consuming effort to gather names, make contacts and develop relationships with people and institutions. However, once developed, the reward is great with a network of friends and colleagues as well as a source of solid prospective candidates.

C. ATTRACTING DIVERSE TALENT

In order to attract a diverse and talented candidate pool, the court must offer a candidate what the candidate is seeking in an employment relationship. The following is a list of practical measures that the court may adopt and advertise to attract talented candidates from diverse groups:⁸⁵

- Focus on retention;
- Provide training and development opportunities;
- Develop internal candidates for promotional opportunities;
- Build a reputation for being diversity-friendly;

- Build and expand upon networking opportunities with diverse organizations;
- Establish a meaningful mentoring program;
- Adopt an “open door policy” that invites employees to discuss concerns with a manager without repercussions;
- Assign pivotal projects that provide critical experience for all employees;
- Strictly and consistently enforce non-discrimination and anti-harassment policies;
- Provide reasonable accommodations to disabled persons and for religious purposes;
- Pay specific attention to diversity in personnel decisions to ensure more qualified, diverse employees are not overlooked; and
- Create incentives such as certificates and other forms of recognition for employees who actively recruit and mentor less senior diverse employees.

D. INTERVIEWING DIVERSE CANDIDATES

Interviewing diverse candidates is one of the most important stages in the search and selection process. Two very important things are taking place at this stage: the court is assessing the candidate, and the candidate is assessing the court. Careful planning of the interview is critical to elicit the necessary job-related information.

A list of questions that will be asked of all candidates should be devised. A patterned interview with every candidate permits the committee to make the best comparison. It also ensures that each candidate is treated fairly and minimizes unconscious biases. The questions should be aimed at discovering what the candidate can bring to the position and the court. Questions should also be limited to issues that directly relate to the job to be performed. Certain inquiries should not be permitted because they request or allow for use of information that may lead to unfair and perhaps illegal decisions. The following is a list of basic principles pertaining to non-discriminatory interviewing.

- Matters related to a candidate’s race, ancestry or national origin are not open for discussion, except under very limited circumstances.

Interviewing diverse candidates is one of the most important stages in the search and selection process.

- It is permissible to ask whether candidates have legal permission to work in the U.S., or whether they are citizens or permanent residents of the U.S.
- Religious preference is not employment-related and should not be discussed.
- Jokes related to race, religion, sexual orientation, disability, sex and other protected status categories must be avoided.
- Marital status and living arrangements are not employment-related topics and should not be discussed.
- It is unwise to make assumptions or to seek information about a candidate's spouse and employment unless the applicant indicates that this is a factor to be considered.
- Candidates should not be questioned about childcare arrangements, birth control practices, plans for family, etc. These issues are not relevant to a prospective employee's candidacy.
- Avoid discussing age. Do not assume that young and vital are synonymous or that stability and good judgment are functions of age.
- Do not ask whether the candidate has ever been engaged in civil rights litigation with former employers.
- Avoid introducing biases into the discussion as a means of testing a candidate's reaction. For example, do not say to a woman, "You would be the only woman in the department. Do you think you can handle teasing or horseplay?"
- Comments about a candidate's physical appearance are inappropriate, even when intended as compliments. It is best to avoid making such remarks at all. However, dress codes should be mentioned to all candidates, if they exist; and, if they exist, they should be non-discriminatory and uniformly applied.
- Do not express value judgments about workplace culture which could operate to discourage unmarried or minority candidates. Provide factual information and leave the appraisal to the candidate.

E. USE OF REFERENCES

Reference information requested by the court or offered by a prospective employee should be job-related. As with interviewing, the

same basic questions should be asked about each candidate so that all candidates can be evaluated fairly. When following up with references, references should not be asked any questions that cannot be asked of the candidate.

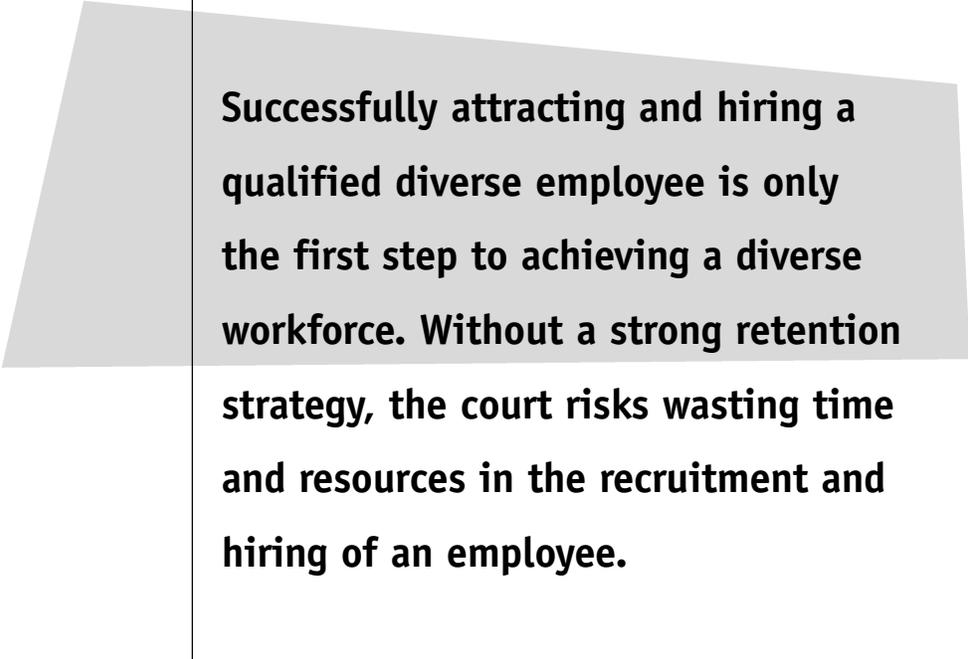
Some candidates may submit written references, while others may simply offer names, addresses and telephone numbers for contacts following the interview. Every person listed as a reference need not be contacted. Questions directed to the person giving the reference should focus on the candidate's job-related experience, qualifications and accomplishments. Personality issues, unless disruptive or egregious conduct is exemplified during the interview, should not be entertained. However, ability to work well with others should be assessed.

Specific job-related questions should be developed for all references. If the reference is contacted by mail, a copy of the job description for the position sought should be enclosed and the reference asked to provide comments based upon the job description. If references are contacted by telephone, the interviewer should take written notes of the conversations and those notes should be placed in the candidate's folder. References should be pursued only to gather information regarding job-related skills not necessarily developed at work; they should not be used to gather information on the candidate's religion, race, color, sexual orientation, age, disability, marital status or national origin.

It is best to use references submitted by the candidate; however, if an unsolicited reference makes contact with the search committee or interviewer, it is advisable to ask that the reference restrict his or her remarks to job-related issues only. The names of all references, solicited and unsolicited, should be retained in the candidate's records.

F. HIRING A DIVERSE CANDIDATE

After finding a diverse, highly qualified candidate the court wishes to hire, the court should move expeditiously to make an offer of employment. Before the hiring process begins, it is important to be familiar with internal human resource policies, processes and operations that relate to hiring. This avoids delays in making an employment offer. When an employer is unable to make quick job offers, good candidates are often lost to competitors who move more quickly. However, decision-makers should not circumvent hiring policies in an effort to act expeditiously because doing so can be perceived as discriminatory and illegal.



Successfully attracting and hiring a qualified diverse employee is only the first step to achieving a diverse workforce. Without a strong retention strategy, the court risks wasting time and resources in the recruitment and hiring of an employee.

CHAPTER 7

RETENTION AND ADVANCEMENT

“Career development has been one of our most appealing recruitment tools. Rarely in the first five minutes of an interview do employees ask about money. The first things they want to know is opportunity and how committed the company is to developing employees.”

Ron Brown, Capital Management, LLC

Successfully attracting and hiring a qualified diverse employee is only the first step towards achieving a diverse workforce. Without a strong retention strategy, the court risks wasting time and resources in the recruitment and hiring of an employee. Thus, the court’s next objective is to ensure that the new employee stays with the court because retention of talented employees is critical to the continuity, and ultimately the success, of any organization.

Failure to retain key talent can lead to poor quality service, failure to meet goals and objectives, lack of organizational knowledge, and a decrease in morale and recruitment. To estimate the organizational costs of turnover, Hewitt Associates suggests that the employer simply multiply 1.5 times the salaries of former employees who have left the organization during the preceding year. The numbers may be stunning. To offset the inherent impact of attrition, courts should implement programs that foster a supportive work environment and encourage open communication and feedback without retaliation. Mentorship and training opportunities should also be explored, as well as other creative morale boosters, such as rewards and recognition. By implementing these types of strategies, the court creates a positive and inclusive work environment.

Creating a supportive environment includes the quality of supervision and leadership employees receive.

A. SUPPORTIVE WORK ENVIRONMENT

Creating a supportive environment includes the quality of supervision and leadership employees receive. A supportive work environment is one that provides employees with the guidance and resources they need to perform their duties to the best of their ability.

The court should provide regular training for supervisors and managers on topics that include cultural diversity, inclusiveness, leadership and management skills. These attributes can heighten the understanding and awareness of supervisors and managers regarding the necessity and benefits of diversity including providing better service to court users and creating a cohesive working environment. The training also gives them the tools to relay to all employees both the necessity of and benefits derived from a diverse workforce.

In addition, the court should explore programs that would enrich and contribute to the employee's overall quality of life. The following is a list of such programs:⁸⁶

- Alternative work schedules;
- On-site childcare;
- Part-time employment and job sharing;
- Telecommuting;
- Family-friendly leave programs for at-will employees (and perhaps for union employees if provided in collective bargaining agreements);
- Dependent-care support programs;
- Employee Assistance Programs (EAP);
- Social activities, such as softball; and
- Volunteer opportunities, such as blood and toy drives.

The court should develop a process to provide reasonable accommodation to job applicants and employees with disabilities. Employers are required to take steps to reasonably accommodate the physical and mental limitations of an applicant or employee who is a qualified person with a disability, unless the accommodation would impose an undue hardship upon the employer. The court should consider including reasonable accommodation language in its job announcement to inform applicants with disabilities that the court will consider reasonable accommodation requests.

The court should assure employees that the court offers a safe and productive work environment. Employees spend a significant portion of their lives at work. Maintaining a pleasant environment conveys a sense of pride and respect that helps to keep employees on board. Retention is also encouraged when employers foster a community spirit and a sense of belonging by offering employees a vehicle for becoming involved outside the formal workplace. This can be accomplished by court-sponsored events, including a variety of recreational and volunteer activities, such as monthly potlucks, lunch hour book clubs, and annual staff appreciation picnics.

Finally, the court should always promote openness and respect for differences. This is best implemented by training employees to be open to new and differing perspectives, modes of interaction and communication, relational styles and traditions, as well as fair access to resources and pay equity. Being listened to and heard by others is a sign of being respected and valued. There is no better retention tool than the recognition by employees that their employer truly appreciates them and the contributions they bring to the table.

B. DEVELOPMENT AND TRAINING OPPORTUNITIES⁸⁷

Development and training opportunities are important reasons valued employees choose to stay with an organization. Another reason is loyalty to an employer who values the talents of its employees and makes them feel included. The court should anticipate allocating a portion of its budget to staff development similar to that provided for judges. Although this may be difficult especially during limited budget cycles, the court should view it as an investment in its employees, with anticipated returns of higher retention rates and reduction in the cost and time associated with continuous recruitment and training of new employees.

The court should encourage and support continuous learning and development by employees. The court may provide information on training opportunities available to staff through the Administrative Office of the Courts, the County, the Washington State Department of Personnel, other state agencies, or local community colleges. Another option is to coordinate internal training sessions. Topics may include skills development, computer skills, and continuing legal education programs. Training should be viewed as an opportunity to build skills to improve productivity and development for the next job opportunity. Another option is to provide full or partial reimbursement for continuing education, higher education or continuing legal education programs.

Mentoring, whether formal or informal, structured or otherwise, is a mainstay of any organization.

Development opportunities for employees should be widely publicized to give everyone interested a chance to participate in specific projects and training, especially if there is a possibility that the function will prepare employees for higher level positions. Through investments in leadership and development, the court reflects the value it places on employees and further supports employees in the interest of keeping their skills updated and competitive.

C. REWARDS AND RECOGNITION⁸⁸

Programs that reward and engage employees are key to maintaining a diverse workforce. Everyone desires some form of recognition for their efforts. For example, the court may use awards to recognize significant contributions by employees. These awards can be certificates, employee recognition events, feature articles in Internet publications, and informal departmental potlucks. The court should be vigilant about ensuring that merit and results serve as the driving forces where there are differences in rewards. It should also continually monitor its use of awards, incentives and recognition to ensure that individuals and groups all receive their fair share based on transparent criteria and well-understood processes for nominating and granting awards. If the court wishes to implement this retention strategy, it should monitor the use of such opportunities for any evidence of discrimination and act quickly in the event discrimination is detected. Such internal accountability will help preserve the credibility of this retention tool and its utility in dealing with retention problems.

D. MENTORING

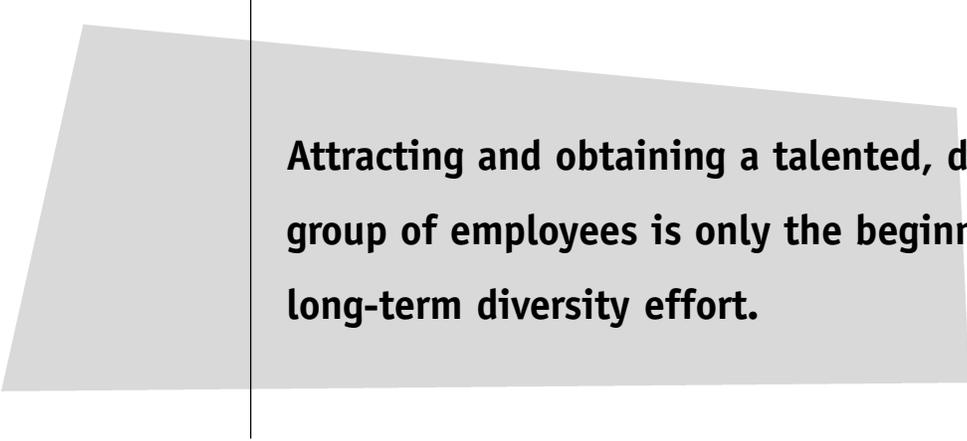
Mentoring, whether formal or informal, structured or otherwise, is a mainstay of any organization. Employers sometimes overlook important sources of talent and may ultimately lose talent because of underutilization, lack of appreciation, neglect, or competition. This is especially true with respect to skilled minorities and women. Informal and formal mentoring programs are among the most common programs currently in place to cultivate relationship-building, skills development, and pride in the organization, resulting in retention and advancement.

Most senior managers attribute their career success to the benefit of a rewarding relationship with one or more mentors at key stages in their careers. An effective mentor will groom less senior employees for advancement and ensure that the employee has the necessary skills to progress. Mentors generally provide a sounding board for junior level employees and offer insight about the organization,

such as how to avoid certain pitfalls or pursue development opportunities. The mentor may also offer a measure of protection from false complaints or misunderstandings. The mentor often fosters a positive understanding of the mentee's general qualities and skills. More importantly, a mentor is an ally for a mentee, who may not feel accepted by the court and staff.

Many individuals believe that mentoring should be an informal partnership that happens naturally when senior managers take an interest in sharing their insights and guidance with protégés who attract their interest. The problem with this approach is that inhibitions, fears, subtle stereotypes and discomfort with differences may keep senior managers from focusing on diverse candidates for mentorship. Such factors also discourage diverse employees from seeking a mentor. By establishing a few structural supports to a mentoring program, the court can help bridge these potential gaps.

A key element of a mentoring program is that mentoring is a "two-way street." Benefits should flow from the mentor to mentee and vice versa. If mentors concentrate exclusively on teaching mentees how to "fit in," the mentor and the court may lose much of the learning inherent in diversity, including unique knowledge, life experience and other expertise that persons of diverse backgrounds may bring to the workplace. While often overlooked, these attributes can contribute to the court's diversity efforts as well as foster public confidence in the court. Mentors should also expect to learn new ways of thinking and seek to identify ways that the court might change to gain greater access to diverse talents.



Attracting and obtaining a talented, diverse group of employees is only the beginning of a long-term diversity effort.

CHAPTER 8

DIVERSITY TRAINING

Attracting and obtaining a talented diverse group of employees is only the beginning of a long-term diversity effort. The more important challenge is to create and sustain an environment where individual differences are respected and valued, and where hard work and results are consistently acknowledged and rewarded. One solution is to implement regular training. Diversity training is one step in creating a work culture that is more open to people of different backgrounds. The common goals in diversity training are: (1) to develop employees who interact well with colleagues and court users of diverse backgrounds; (2) to educate employees about and optimize the unique contribution inherent in different cultures; (3) to anticipate the impact of cultural differences; and (4) to remove obstacles to equity and inclusiveness wherever possible.

Diversity classes are conducted all over our nation, as many organizations are now attempting to increase employee sensitivity and awareness to diversity issues. Employers also direct their training efforts to developing employee skills, such as teamwork and conflict resolution as they relate to people from diverse backgrounds. Training for managers and supervisors focused on recruiting and retaining a diverse workforce should be mandatory. Classes may be conducted by internal staff or external consultants, and should include activities and exercises to increase awareness on the state's changing demographics and the value of a diverse workforce.

A. DEVELOPING A TRAINING PROGRAM

Some organizations develop their own diversity training programs. If the court chooses to do so, it must first determine what "diversity" looks like for the court. The court will need to develop measurement instruments that consider the kinds of awareness and training that employees receive and the behavioral modifications expected. Also, the court may wish to incorporate diversity into its performance evaluation system once employee training is completed. Each of these suggestions should increase the effectiveness of the court's diversity training. To this end, the court may want to consider one or more of the following training tools: employee attitude surveys, cultural studies, focus groups, and management and employee evaluations.

B. USE OF EXTERNAL CONSULTANTS

Courts may consider seeking assistance from AOC education staff, the Minority and Justice Commission Education Sub-committee, or the Washington State Department of Personnel, in addition to external private consultants to conduct diversity training. Appendix E lists organizations and individuals that provide leadership, management and professional development training. The referenced organizations have not been independently interviewed and the court is thus encouraged to make its own independent evaluation of any organization it may consider using. The court may also obtain recommendations through referrals from the American Society for Training & Development.⁸⁹

CHAPTER 9

SUSTAINING COMMITMENT

The mark of truly successful diversity recruitment and retention programs is the degree to which they become ingrained in the culture and processes of the workplace. Such programs are likely to be sustained over time. The court can take several steps to facilitate this continuity.

A. MONITOR RESULTS⁹⁰

First, the court should develop systems of measurement to continually monitor the effectiveness of its diversity programs and make adjustments when necessary. This may be accomplished by monitoring the court's workforce profile. Periodic analysis of this data will help determine progress and success. In turn, the same data may be used to adjust recruiting strategies and other workforce planning as needed. Another means to measure results is to periodically distribute a workplace environment questionnaire. Typically, these types of questionnaires provide employees an opportunity to evaluate the workplace and offer suggestions for improvement. Questionnaires also provide the court with an opportunity to evaluate employee satisfaction. They can also be used to solicit court user comments and suggestions. The results will provide the court with concrete evidence of public perception and should be discussed with senior judges, court administrators and managers.

Similarly, the court should evaluate and monitor existing career development programs by reviewing who is being selected for non-routine assignments, special projects, rotational opportunities and training to ensure that cultural or personal bias is not a factor in the participation rates. After evaluating career development and leadership results, the court may need to modify the program to better achieve the court's diversity objectives. Finally, the court should monitor the number of diversity applicants and participants who participate in development opportunities to assess the effectiveness of development publicity and inclusiveness efforts.

To succeed in developing and sustaining a diverse workforce, managers and supervisors should be held accountable for achieving results.

B. REQUIRE ACCOUNTABILITY⁹¹

To succeed in developing and sustaining a diverse workforce, managers and supervisors should be held accountable for achieving results. This may be achieved by building accountability for hiring, retaining and developing a diverse, high-quality workforce into the performance appraisals of managers and supervisors. Moreover, the court should ensure that managers and supervisors have leadership competencies, specifically including cultural awareness training. Persons responsible for hiring should be held accountable to make sure that candidates for these positions are culturally sensitive and demonstrate such competencies. Taking this precautionary measure can avoid unraveling a nascent diversity program.

C. CELEBRATE SUCCESS⁹²

In addition to holding managers and supervisors accountable for building and maintaining a diverse workforce, the court should not overlook its successes. The court should identify and reward champions of diversity by publicizing their accomplishments. Establishing a statewide or countywide diversity award for court personnel is just one example of how the court may celebrate this worthwhile endeavor.

D. COMMUNICATE COMMITMENT TO DIVERSITY AND PROVIDE TRAINING

To sustain the triumph of expanding diversity, the court must continually communicate that diversity is a priority and that the court's judges and senior managers are committed to sustaining it. Training in cultural diversity, including understanding differences, cross-cultural communication, isms,⁹³ and benefits of diversity, should be mandatory for all staff. Training helps engender greater tolerance of differences and creates an inviting working environment for all. In addition, managers, supervisors, and judges need additional training in federal and state laws governing equal employment opportunity laws and their responsibilities.

E. AVOID DIVERSITY'S WORST PRACTICES AND PITFALLS

Often, an organization will design its diversity programs and initiatives based upon a "Best Practices" search. "Best Practices" as used here is defined as a set of recommended practices based on an organization's quantitative and qualitative findings. Although these recommendations should be derived from an in-depth and data-driven analysis, some fail to meet this standard by omitting neces-

sary information such as the organization's standard for success, the correlation between results and bottom-line outcomes, what information, if any, was collected to assess the organization's diversity, whether the information was from all levels of the organization or was merely departmental, etc. Instead of utilizing the "Best Practices" approach alone, the Minority Corporate Counsel Association recommends that organizations such as the court learn from the painful failures of others. The following is a list of diversity "Worst Practices," reprinted with permission from the Minority Corporate Counsel Association at <http://www.mcca.com>.⁹⁴

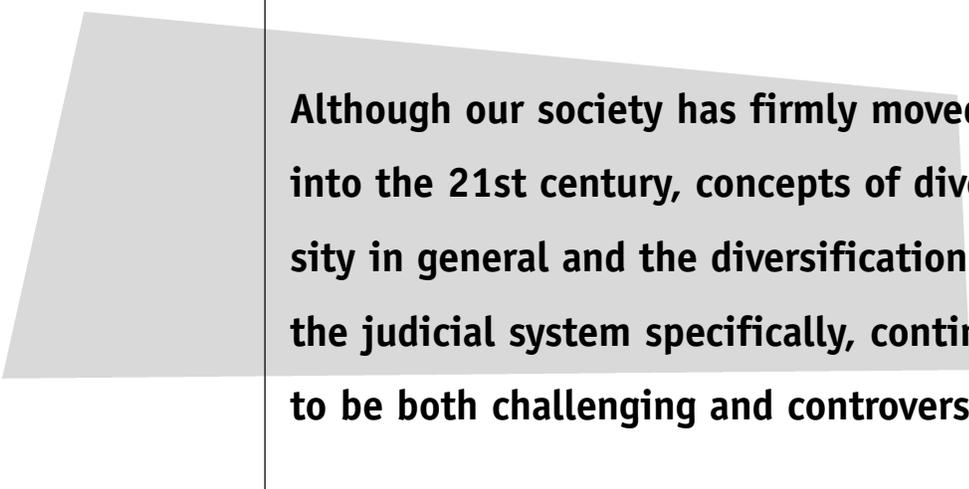
- **Broadening the focus to include all individual differences when the real issues are based on innate group identities such as race, gender, sexual orientation, national identity, age and/or ability.** This general language only serves to insult employees and customers and dissipates the focus of energy on measurable outcomes. If a product were being targeted to a particular segment of society, would we call that segment all interested individuals? And could we then measure our success as compared to others?
- **Believing that continued research on and restating of the business case for diversity will convince the dominant group of white men that diversity is the right thing to do.** When dominant group members resist the diversity effort this is a resistance based on emotions — not based on lack of knowledge about the business case. Resistance to diversity efforts by white men is an important dynamic that is necessary for true change. This resistance must be engaged with energy, caring, and thoughtfulness — not deflected by intellectual arguments.
- **Senior leadership delegating the formation of a diversity philosophy and approach to those in staff positions.** True change in the culture of an organization in the area of diversity requires full leadership involvement. Top leaders must both experience and model the personal and business changes necessary for a diversity process to succeed.
- **Focusing the change strategies and actions on the subordinate or excluded groups. Diversity efforts fall short when they target people of color, women, gays and lesbians, the disabled and other excluded groups as the primary focus of change.** While designing strategies to include a previously excluded group is important, the primary change strategies for diversity must engage the dominant organizational

culture – and those who benefit from the existing practices and policies.

- **Creating a series of activities that have no strategic link to success will only give the appearance of true commitment.** Over time, managers and employees will become discouraged that significant time and energy is not resulting in changes in their day-to-day experience. Diversity strategies must become part of the business purpose and vision.
- **A desire to only see the positive and/or moving to action before the current negative state has been fully understood will generally result in time, money, and energy invested in solving the wrong problem.** Many corporate cultures place such a heavy emphasis upon framing all work in the positive tone that the work needed in diversity efforts to fully describe and understand the current state, which may be blocking the inclusion of employees because of their race, gender, or sexual orientation, is often kept to a surface skin. Leadership fears that the work of the enterprise will *get stuck* in the negative; when in reality, change theory teaches us that exposing the blocking forces fully will ignite the energy needed to address the *real* problems.
- **Failing to see a diversity effort as an understanding that requires knowledge and experience in the content of diversity and systems that change theory can lead an organization into frustration and negative backlash.** All organizational change requires extensive knowledge and experience with planned change strategies — adding the issues of diversity to the work calls for additional depth of experience.
- **Seeing resistance to the diversity issues as failure has stalled many diversity efforts that were on the right track.** Unfortunately, no real change takes place in organizations without significant resistance. Resistance is the source of energy for systems change. If there is no resistance, then nothing significant is changing. Diversity strategies must include major attention to engaging and transforming — not reducing — resistance.
- **Believing that a diversity effort can be implemented without making some employees unhappy — and, worse yet, developing a process and a plan aimed at keeping everyone happy — will surely result in failure.** When did the new accounting system meet with cheers and applause? Did

all employees welcome your last change in benefits with enthusiasm? Do companies stop mergers and downsizing because employees are unhappy? Leadership must be committed to diversity strategies because they are necessary for business prosperity. Leadership must then demonstrate the benefits of this change to employees instead of working to keep them satisfied in an inequitable system.

- **Assuming that training changes behavior is a common worst practice in diversity.** Awareness training to shift perceptions and unarticulated assumptions is critical to change and must be a part of an overall strategy that includes specific goals, measurement, behavior skills training and accountability. Awareness training alone will not change behavior.
- **Leadership being influenced by individual women or people of color who personally fear change and advise the dominant leadership to avoid any controversial issues or approaches is a common worst practice.** Open dialogue on issues of race, gender, racism, sexism, homophobia and other topics on which employees have strong opinions must be a part of any successful diversity effort.
- **Leadership making decisions for others in the organization who will be expected to implement diversity plans is a grave error.** Management and employees at all levels must be involved in diversity planning. Those who are being asked to change know the most about what will help them change.
- **Beginning a diversity effort focused solely on external public relations will lead to false expectations.** Priorities should be initially focused on internal culture and commitment — and once employees trust in the leadership, they will lead the work to the public. Presenting an organization to its public as a leader of diversity before key components of the organization are committed to the change will foster the belief by employees that leadership doesn't *walk the talk*.



Although our society has firmly moved into the 21st century, concepts of diversity in general and the diversification of the judicial system specifically, continue to be both challenging and controversial.

CHAPTER 10

JUST FOR JUDGES: WHY DIVERSITY IS IMPORTANT

“The ultimate measure of a man is not where he stands in moments of comfort and convenience but where he stands at times of challenge and controversy.”

Dr. Martin Luther King, Jr.

Although our society has firmly moved into the 21st century, concepts of diversity in general and the diversification of the judicial system specifically, continue to be both challenging and controversial. However, if one gains a better understanding of the benefits of diversity and the reasons diversity is necessary for the courts, active promotion of diversity and greater inclusiveness will be received more favorably.

In order to gauge the importance of diversity to those who have the greatest influence on the judicial system, several judges were randomly selected to respond to some very simple questions: “Why is diversity important to the bench and the judicial system as a whole?” and “What changes have you observed regarding issues of diversity during the time that you have served as a judge in Washington?” The responses of each of the selected judges, which included individuals of both genders, different ethnic groups, disparate ages, and differing years of judicial experience, were strikingly similar regarding the importance of diversity in the judicial system and the changes they have had observed over the years. A representative sample of the judge’s responses to the questions follows.

A. WHY IS DIVERSITY IMPORTANT TO THE BENCH AND THE JUDICIAL SYSTEM AS A WHOLE?

“People are generally more accepting of a system where they can see that there are others like themselves who are a part

of the established system, thereby creating more confidence in the system.”

“Greater confidence in the system creates greater respect for the system and those who are responsible for administering justice.”

“A diverse bench presents an opportunity for judges and judicial staff to share concepts and ideas lending a broader perspective to the decision-making process.”

“Diversity among the judges and judicial staff helps to dispel stereotypes and misconceptions held not only by other judges who may view articulate people of color or individuals with disabilities as an exception, but also helps to dispel such stereotypes and misconceptions among members of the public.”

“The faces of those who are constituents of the judicial system are changing; the more monochromatic the bench, the less likely people will feel that they are on equal footing with all other constituents of the system.”

B. WHAT CHANGES HAVE YOU OBSERVED REGARDING ISSUES OF DIVERSITY DURING THE TIME THAT YOU HAVE SERVED AS A JUDGE IN THE STATE OF WASHINGTON?

In response to questions about what had changed over the years with respect to diversity, the judges observed a number of different changes. Here are but a few of the observations that were made:

“Ethnic diversity has changed with increasing representations from Hispanic-American and Asian-American populations.”

“Jury panels are increasingly diverse.”

“Attorneys of color are no longer presumed to be the defendant when they walk into the courtroom.”

“Women are no longer presumed to be the court reporter when they arrive in the courtroom.”

“There is no longer a presumption that people with disabilities are unqualified to serve on juries.”

“The belief that people of certain age, a certain gender or certain ethnic groups hold specific attitudes has been shattered by jury decisions.”

C. WHAT CAN JUDGES DO TO INCREASE AND SHOW RESPECT FOR DIVERSITY AT ALL LEVELS OF THE COURT?

“Actively recruit qualified people with different backgrounds to seek positions in the judicial system.”

“Help to educate the public about the true constituents of the judicial system — for example, all criminal defendants are not people of color; all business litigants are not Caucasian.”

“Discuss among yourselves the different emotional reactions and perceptions that people from different communities may have about the judicial system — understand cultural differences and apply that understanding to the administration of justice.”

“Be willing to mentor within the community and serve as a role model for someone who is different from you both in appearance and in perception.”

“Treat all within the courthouse, employees and constituents alike, with dignity and respect — how you treat people makes a difference in not only how you are perceived but in how those with whom you associate are perceived.”

“There is a plethora of ethnic groups who use the court’s services — if you do not know how to pronounce an individual’s name, have the professional courtesy to ask.”

“Encourage more frequent training and dialogue on issues of diversity — don’t be content with a once-a-year celebration on Martin Luther King Jr. Day, Cinco de Mayo or Chinese New Year. Make the celebration of diversity a yearlong commitment, if not in the entirety of the courthouse, at least in your courtroom.”

“Go into the public schools and into other public forums to assist students at all levels of education to understand the judicial system.”

“Listen carefully to responses from jurors during the voir dire panel. If responses evidence discriminatory attitudes, address them head on. Do not take the attitude that you are powerless to facilitate change in those circumstances.”

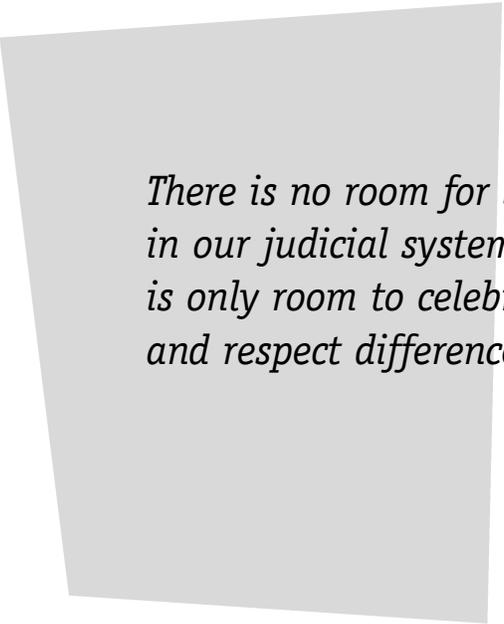
“Do not tolerate bigoted attitudes directed toward any member of the judicial staff, attorneys or others appearing in

your court; otherwise the negative attitude will be assumed permissible.”

“Before drawing any conclusions, ask yourself what can each person contribute? Believe that their contributions will raise the bar and enlighten you regardless of their level of education, gender, ethnic background, political orientation, sexual orientation, age, marital status, national origin or religion.”

Remember that as judges, each of you sets an example. When you least expect it, someone will be thinking to themselves, “If they can do it, I can do it.” If you can make diversity a reality, others will believe that they can achieve the goal as well.

There is no room for bigotry in our judicial system. There is only room to celebrate and respect differences.



*There is no room for bigotry
in our judicial system. There
is only room to celebrate
and respect differences.*

CHAPTER 11

WORKING WITH YOUR JUDGES

The results of the court's recruitment and retention efforts will necessarily depend upon the court's leadership and commitment to increasing diversity in the workplace. In addition to the suggestions outlined in the preceding chapters, the following is a list of practical ways the court may wish to exemplify its continued support of diversity in its workplace and the community at large. Court administrators and managers should coordinate and take the lead in ensuring that judges and court staff integrate many of these suggestions. The opportunities to reach out to diverse communities are many.

- Include underrepresented diverse persons among the court's leaders and staff.

Establish a long-term commitment to achieve this goal and regularly monitor the court's progress.

- Regularly provide diverse persons with opportunities to chair or otherwise lead or take part in the court's committees.

Do not be discouraged if your first efforts fail.

If someone declines the invitation, ask if they might reconsider for some future committee or if they can refer you to other underutilized speakers of diverse backgrounds.

Inquire regarding what types of committees the employee might have an interest in being a part of now or in the future.

- Become familiar with specialty and minority bar groups that exist in your county and in the state of Washington.
- Cultivate a meaningful relationship between senior staff members and the leaders — past, present, and future — of local and statewide specialty and minority bars.

- Encourage fellow judges and other court leaders to attend meetings, programs and social events of local specialty and minority bar groups.
- Initiate meetings, joint programs, co-sponsorship opportunities and other social and networking events with leaders and members of local and state specialty and minority bar groups, individually and jointly.
- Raise the court's profile in the local community.
- Encourage court leaders to serve on boards and committees and to support civic, social service, and other efforts in the local minority communities.
- Develop a mentoring program.
 - Use senior managers to mentor diverse persons within the court.
 - Mentors do not have to be the same race, ethnicity or gender as the mentee.
- Strive to make the court a welcoming and supportive place for people of color, women, the disabled, etc.
- Include art from minority communities among the court artwork and décor. Posters are available from the Minority Justice Commission.
- Include minorities and other diverse persons as panelists, speakers, writers or commentators on programs.
- Include perspectives and experiences of minorities and other diverse persons in court newsletters or other court publications.
- Awards given by the court should include diverse personnel.
 - This is an excellent way of making sure that the court honors and gives public recognition to employees of diverse backgrounds for their achievements and accomplishments.
- Learn about the people, issues, causes and concerns that are of particular interest to diverse persons.
- Encourage informal potluck events, brown bag lunch discussions, book clubs and the like that facilitate socialization among staff.

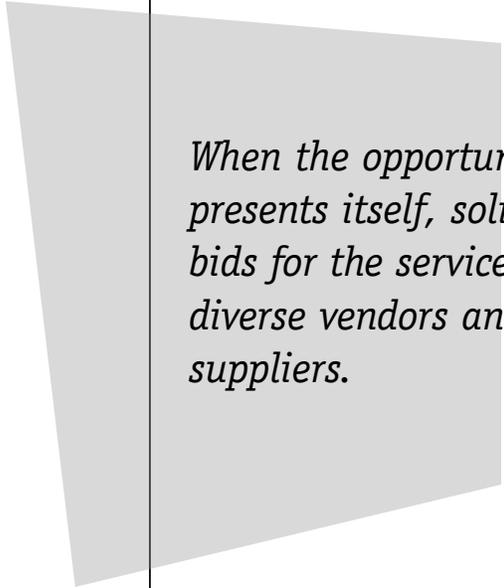
- Encourage fellow judges and senior managers of the court to subscribe to and read major newspapers, magazines and journals from diverse communities, both locally and nationally.
- Send representatives to national programs where diversity efforts and strategies will be discussed, explained and examined.

These programs feature some of the best and most experienced speakers on the subject of diversity.

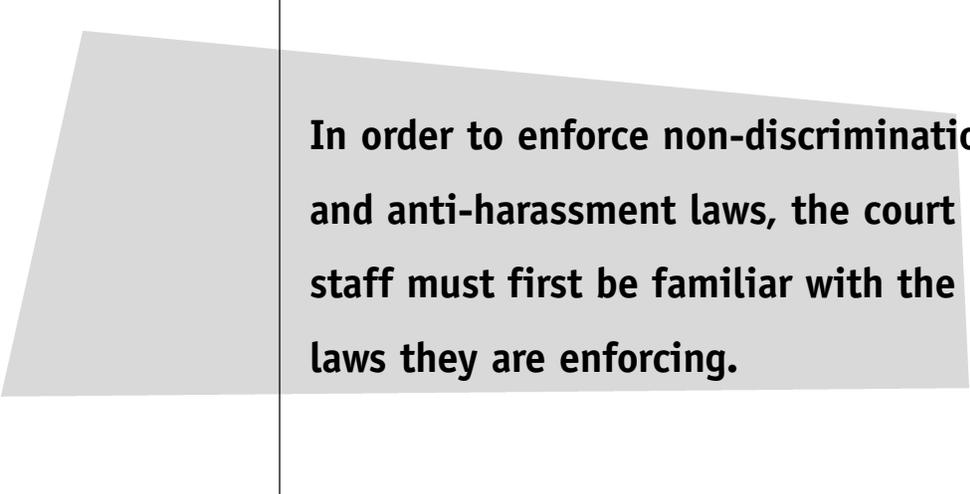
- Support and actively assist in efforts to diversify the composition of your court.
- When the opportunity presents itself, solicit bids for the services of diverse vendors and suppliers.

This will heighten the court's visibility in various communities.

Check with city, county and state government agencies that oversee certification of minority business enterprises, and ask for a copy of their directory of minority-owned vendors.



When the opportunity presents itself, solicit bids for the services of diverse vendors and suppliers.



In order to enforce non-discrimination and anti-harassment laws, the court staff must first be familiar with the laws they are enforcing.

CHAPTER 12

ENFORCEMENT OF NON-DISCRIMINATION LAWS

In order to enforce non-discrimination and anti-harassment laws, the court staff must first be familiar with the laws they are enforcing. Both federal and state statutes provide individual employees with protection from illegal conduct by employers. The following is a brief overview of employment-related laws of which every employer, including the court, should be aware.

A. FEDERAL NON-DISCRIMINATION AND ANTI-HARASSMENT LAWS

Equal Employment Opportunity is a right of all people and it is the responsibility of every employer — public and private. The most important federal laws that provide the legal basis for equal employment opportunity are summarized below.

1. *Civil Rights Act of 1866*⁹⁵

The Civil Rights Act of 1866 protects persons from discrimination based on race and national origin. It was enacted shortly after the abolition of slavery. This law provides protection in situations not specifically covered by the Civil Rights Act of 1964.

2. *Equal Pay Act of 1963*⁹⁶

This act is an amendment to the Fair Labor Standards Act of 1938.⁹⁷ It prohibits sex discrimination in the payment of wages and fringe benefits. It was amended in 1972 to include executive, administrative and professional employees.⁹⁸

3. *Civil Rights Act of 1964*⁹⁹

Title VII of the Civil Rights Act states that: “No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, or be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Title VII of the Civil Rights Act provides that it is unlawful for an employer with 15 or more employees: “. . . to limit, segregate, or

classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."

Title VII was later amended to empower the Equal Employment Opportunity Commission (EEOC) to administer the law. The amendment also extended the EEOC's jurisdiction to include public employers, as well as private employers.

In total, the Civil Rights Act of 1964 prohibits discrimination in hiring, promotion, salaries, benefits, training, treatment of pregnancy, and other conditions of employment on the basis of race, color, religion, national origin, or sex. These protections are offered regardless of the citizenship status of the applicant or employee. Today, most employment discrimination charges are filed under Title VII.

4. Age Discrimination in Employment Act of 1967¹⁰⁰

The ADEA prohibits employers from discriminating in advertising, testing, promotions, benefits, and conditions of employment on the basis of age against anyone over the age of 40.¹⁰¹

5. Vietnam-Era Veterans' Readjustment Assistance Act of 1974¹⁰²

The Act prohibits discrimination in employment practices on the basis of either disabled veteran status or Vietnam-era veteran status. It also requires that employers take affirmative steps to employ and promote qualified disabled veterans and Vietnam-era veterans.

6. Americans with Disabilities Act of 1990¹⁰³

The ADA prohibits discrimination against individuals with disabilities in private and state and local government employment; public accommodations; public transportation; state and local government services; and telecommunications.¹⁰⁴

B. STATE LAWS

Under the Washington Law Against Discrimination, RCW 49.60, it is an unfair practice for an employer to refuse to hire, discharge, or discriminate in compensation or in other terms or conditions of employment because of a person's age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability, or use of a trained guide dog or service animal.¹⁰⁵ Discrimination on the basis of sex is also prohibited by

Washington Constitution Article 31 and RCW 49.12.175.200. The state law applies to all employers except nonprofit religious organizations that employ eight or more persons. It protects independent contractors as well as employees.¹⁰⁶ Specifically excluded from the protection of the law are persons employed by their parents, spouses, or children, and domestic workers.¹⁰⁷

Because of the similarity of the provisions of federal and state laws, regulations and decisions made pursuant to federal statutes are persuasive to courts in the interpretation of the state law. Appendix M provides a brief and general overview of federal employment laws.

C. ENFORCING EMPLOYMENT LAW

Employment discrimination exists where employees are dismissed or mistreated on account of race, gender, religion, national origin, age, disability or any other status protected under the law. To provide a remedy for victims of employment discrimination and to eliminate unfair and unequal conduct, federal and state governments have enacted employment non-discrimination and anti-harassment legislation and remedial procedures. An employer would benefit by establishing the following practices:

- Adopt and implement policies prohibiting harassment and discrimination.
- Make sure the policy is comprehensive and clearly explains what constitutes discrimination and harassment under state and federal laws.
- The non-discrimination and anti-harassment policies should identify how and to whom to report discrimination or harassment (with several alternatives).
- Policies prohibiting discrimination and harassment should outline how the court will investigate allegations and how it will address violations.
- The court should adopt a non-retaliation policy.

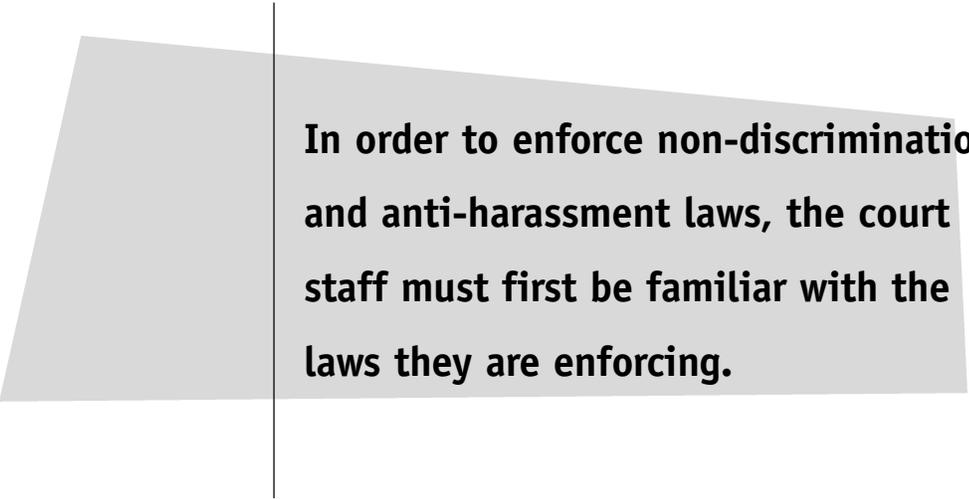
The non-retaliation policy should assure employees that they will not be subject to retaliation for good faith reporting of policy violations.

The non-retaliation policy should also state the employer's intention to keep reports of harassment and discrimination as confidential as possible, subject to such disclosure as may be required to investigate and remedy the situation.

- Distribute non-discrimination and anti-harassment policies to all employees on a periodic basis and have them sign a receipt, acknowledgment form, or sign-off sheet to document distribution.
- Prominently post non-discrimination and anti-harassment policies throughout common areas, i.e., lunch and break rooms, photocopy areas, etc.
- Designate supervisors, other than an employee's direct supervisor, who are to receive reports of harassment and discrimination.
- Monitor work areas regularly.
- Follow up on all suspected discrimination and harassment immediately and aggressively.
- When complaints of discrimination or harassment are made, the court must:
 - respond promptly;
 - treat the complaint seriously;
 - investigate the complaint thoroughly using a trained investigator; and
 - take appropriate actions designed to end any discrimination or harassment that is found to have occurred.
- Fully document all actions taken in response to reported or suspected discrimination or harassment.
- Regularly educate managerial, supervisory and non-supervisory employees on harassment and discrimination issues.
- Train managers and supervisors how to identify and report all potentially inappropriate behavior of which they become aware and evaluate that behavior in compliance with discrimination policies.
- Managers and supervisors should be required to know the employer's non-discrimination and anti-harassment policies and complaint procedures.
- Enforcement of non-discrimination and anti-harassment policies should be included as a performance measurement for managers and supervisors.

- Make sure word is out that the court has a zero tolerance policy regarding discrimination and harassment and that managerial, supervisory and non-supervisory employees know this.
- Hold supervisors and employees accountable for any inappropriate behavior that is or could be construed as discrimination or harassment.
- Explicitly state commitment to equal employment opportunity.
- Commit and endeavor to maintain a workplace free of harassment and discrimination.

Fully document all actions taken in response to reported or suspected discrimination or harassment.



In order to enforce non-discrimination and anti-harassment laws, the court staff must first be familiar with the laws they are enforcing.

CHAPTER 13

RENEWING YOUR PERSONNEL SYSTEM AND UPDATING YOUR POLICIES

“To be effective, company policies must be well structured, carefully drafted in plain language and reflective of the company’s current practices and culture.”

Betty Sosnin¹⁰⁸

A. UPDATE YOUR POLICIES

Like cleaning house at springtime, the court should seek to review court policies on an annual basis. Some organizations resolve to disseminate their policies through a series of memoranda, e-mail messages and other miscellaneous documents. The problem with this approach is that there is usually no one place to locate documentation to policy-related questions. Some organizations maintain their policies in an employee handbook or personnel policies manual. While the problem of organizational policies being scattered throughout the organization has been overcome, there still may be another conflict lurking if an organization relies on the same handbook over the course of several years. If the court’s handbook or manual has not been revised and major legislation has been passed or practices have changed, then it is time to compile a new or updated handbook or manual.

Even in the court system, there may be judges or managers who imprudently resist creating written documentation of workplace policies. This approach is misguided and will not shield the court or its employees from liability or disciplinary action. Nothing will drive an employee to seek the advice of an attorney more quickly

than arbitrary and capricious enforcement of substandard or ill-defined policies. Each court should carefully draft and review its policies and procedures.

The court should first gather and review multiple samples of employee handbooks and policies from other organizations. This will help determine how its handbook should be structured, as well as the types of policies and procedures that should be included. The following is a list of suggested policies and procedures to be placed in employee handbooks or manuals:

- A statement of respect for all employees.
- Key employment policies, including an equal employment opportunity statement, anti-harassment and non-discrimination policies, policies on drug, alcohol and tobacco use, and a complaint procedure.
- General workplace policies, i.e., dress codes, standard of conduct, discipline procedures, business expense reimbursement, and workplace rules, including e-mail and Internet usage, company vehicle use and workplace violence.
- Hours and attendance, employment classifications, absenteeism and tardiness, severe weather and emergencies, meals and rest periods, and overtime policies.
- Employee development, performance evaluations, promotional opportunities and transfer policies.
- Pay periods and pay checks.
- Leaves of absence and time off, including holidays, vacation, sick and personal leave, funeral and bereavement leave, jury and witness duty, military leave and leave under the Family and Medical Leave Act.
- Benefits, including general benefits policy, health insurance, disability and life insurance, COBRA, retirement and educational assistance.
- A statement regarding reasonable accommodation for the disabled.
- A statement of reasonable accommodation for religious purposes.
- Employment separation, post-employment references and conflict of interest provisions.
- An employee receipt and acknowledgment form.

Each of these subjects should not only be included, where applicable, but strictly and consistently enforced — otherwise, the manual may be deemed invalid and of no use if judicially challenged. Furthermore, any inconsistent enforcement of workplace policies can be construed as discriminatory or unfair.

Keep in mind that an employee handbook containing the court's policies is not an operation manual telling employees how to perform their day-to-day duties. Therefore, there is no need to include a job description or detailed information pertaining to any one position.

Policies should also be modified to reflect the time and culture in which we currently live. Stephen Rubinfeld, Ph.D. and James Laumeyer recommend that organizations pay special attention to the modification of the following policies, if they exist:

- Time Off — Policies outlining when and how an employee may take time off should be modified to include paid time off (PTO), personal leave days and leaves of absence.
- Benefits — Employees should be offered options from which they may choose benefits, including medical and dental, and retirement plans.
- Position — Broadly drafted job descriptions allow employee development opportunities and should be work-oriented, as opposed to task-oriented. Job descriptions should also include explicit behavioral expectations.
- Staffing and Work Schedules — Non-traditional staffing policies are an emerging trend, offering employees and employers multiple alternatives. Such policies focus on part-time employment, job sharing, telecommuting and temporary employment. Flexible hours and work schedules are also an option.
- Training and Development — If possible, the court should consider adopting a training and development policy. Such policies can be broadly or narrowly drafted.

Consider conspicuously placing disclaimers within the handbook. The following is a list of disclaimers often implemented by non-union employers:

- This handbook supercedes any preceding handbook or unwritten policies.

- This handbook does not create a contract, express or implied.
- This handbook is not all-inclusive and is only a set of guidelines.
- This handbook does not alter the “at-will” relationship between employer and employee.
- This handbook does not guarantee employment for any definite period of time.
- This handbook applies to the following categories of employees.
- This handbook can only be changed in writing by the [insert position] of the court
- The court may unilaterally change this handbook at any time.
- Violation of the provisions of this handbook is grounds for progressive discipline up to and including termination.

The following is a list of disclaimers often implemented by unionized employers:

- This handbook supercedes any preceding handbook or unwritten policies.
- This handbook does not create a contract, express or implied.
- This handbook is not all-inclusive and is only a set of guidelines.
- This handbook does not alter or replace the terms of the collective bargaining agreement, but is incorporated therein.
- This handbook does not guarantee employment for any definite period of time.
- This handbook applies to the following categories of employees.
- This handbook can only be changed in writing, by the [insert position] of the organization.
- The court may unilaterally change this handbook at any time, unless the collective bargaining agreement provides otherwise.

- Violation of the provisions of this handbook may constitute “for cause,” where “for cause” is the ground for termination. “For cause” is defined by management and the Collective Bargaining Agreement (“CBA”).

This following is an example of how the court may implement the foregoing disclaimers:

This Handbook is applicable to employees of [court’s/county’s name]. The material contained in this Handbook is informational only. It supersedes, revokes and replaces any other handbooks, manuals and policies in place prior to the distribution of this Handbook. It does not apply to any employee with a written employment contract unless specifically incorporated in the contract, nor does it supercede any conflicting provisions already provided within any corresponding collective bargaining agreement. Provisions of this Handbook may be modified, revoked or changed by [court’s/county’s name] at any time without notice, unless any applicable collective bargaining agreement provides otherwise. You are encouraged to read this Handbook periodically and to keep it for future reference.

This Handbook is not intended to create, and is not to be construed to create a contract or a promise of specific treatment in specific situations. This Handbook is designed to provide only general guidelines. It does not create any implication or promise of continued employment or that the provisions herein will apply to all situations. Rather, employment with [court’s/county’s name] is on an at-will basis, meaning that [court’s county’s name] may terminate your employment with the court/county with or without cause, for any reason not expressly forbidden by law. Likewise, you may terminate your employment at your discretion.

The most effective employee handbook will accurately reflect the court’s values and culture. Make sure that both existing and new employees receive copies of new or updated handbooks. Employees should sign and return a receipt of acknowledgment, which should be placed in the employee’s personnel file. To the extent possible, old handbooks should be collected and destroyed. This will minimize the possibility of outdated information circulating throughout the court.

A current employee handbook will prove invaluable in clarifying policies, answering employee questions and integrating employees into the court’s culture.

B. MAKE SURE YOUR POLICIES ARE IN COMPLIANCE WITH THE LAW

As with most areas of law, employment laws are ever-changing on both the federal and state level. Within the past decade there have been significant developments in the laws relevant to most workplaces, such as the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), the Civil Rights Act Amendment of 1991, the Polygraph Protection Act and the Fair Labor Standards Act. For example, regulations issued under the FMLA require the court to include its FMLA policy in *any* applicable handbook. Regulations issued under the ADA do not require inclusion in the handbook, but may require careful scrutiny of earlier handbook versions to ensure that no statement is made in violation of federal (or state) laws against disability discrimination and that attendance policies properly accommodate persons with disabilities. Any handbook or personnel policies manual created more than two years ago probably has also failed to address hundreds of state and federal court cases that tackle handbook related issues.

Moreover, federal and state government agencies have also issued numerous regulations and interpretive decisions in recent years that affect handbook policies. As a result, employers with handbooks and personnel policies manuals should constantly monitor them, with the assistance of legal counsel, to determine when and whether revisions are needed. Therefore, if the court has an employee handbook addressing any of these issues that is more than five years old, it would be prudent to revisit the policies.

C. POLICIES SHOULD BE EMPLOYEE FRIENDLY

Employee-friendly policies are practical and easy to understand. They should be written using plain language. Disclaimers and reservations of management's rights should never be diluted or hidden to the extent that they lose their effectiveness. The handbook should be written in a positive and friendly manner, and should attempt to foster a feeling of well-being among employees. If the drafter experiences trouble phrasing a policy in natural language, that person should attempt to orally explain the policy to another and use that same language to write that particular policy. A clear, conversational tone will make it easier for all employees to access the information needed. Achieving this tone may require numerous revisions and edits, but is well worth the investment. Finally, when making the finishing touches, delete unnecessary words and phrases and check grammar, spelling and punctuation. The court might even wish to have a professional writer review its final version.

CONCLUSION

From creating a workforce that is more productive and efficient to increasing public trust and confidence, the fruits to be reaped from diverse recruitment and retention efforts are many. Moreover, it simply cannot be ignored; diversity in the State of Washington is a reality. It must also become a reality in Washington's judicial workforce. At first glance this opportunity may seem daunting, but with a firm commitment and a well thought out plan, the diversity represented in the counties and state in which our courts are located can become a reality in our courts.

All it takes is communication from the top down that diversity in the court matters, a knowledge base of the population served by the court, a realistic assessment of the court's current workforce and cultural awareness training to introduce court employees to the court's effort to create a welcoming and open environment to all employees and court users. These steps are necessary to develop and implement diversity recruitment and retention initiatives and goals, which should be drafted, put into practice and thereafter monitored. If these recommendations are adopted, the foundation of a very successful diversity program will be established and the diversity in Washington State will be reflected in the court.

HELPFUL DIVERSITY RESOURCES

The following are a list of books/articles, videotapes, diversity catalogs, training materials, web sites, magazines, and periodicals you may wish to consider as you develop your own sensitivities and diversity programs:

BOOKS/ARTICLES

BNA Bulletin to Management, *Keeping Diversity in Mind*, Vol. 43, No. 26, July 2, 1992.

BNA Bulletin to Management, *Thriving on Diversity*, Vol. 43, No. 6, February 13, 1992.

BNA Fair Employment Practices, *Managing Diversity: Successes and Failures*, Vol. 27, No. 15 August 1, 1991.

Baytos, Lawrence, *Designing and Implementing Successful Diversity Initiatives*, Alexandria: Society for Human Resource Management, 1994.

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Colin, Carmen and Diane Johns, *Working with People From Diverse Backgrounds*, available at www.diversophy.com.

Conrad, Pamela and Robert Maddux, *Guide to Affirmative Action: A Primer for Supervisors and Managers*, Crisp Publications, 1997.

Covey, Stephen R., *The 7 Habits of Highly Effective People*, Simon & Schuster, New York, 1990.

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Gardenswartz, Lee, Ph.D., and Anita Rowe, Ph.D., ***Managing Diversity: A Complete Desk Reference & Planning Guide***, Business One Irwin, 1992.

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Hateley, Barbara and Warren H. Schmidt, ***A Peacock in the Land of Penguins***, Berrett-Koehler, 1997.

Hayles, V. Robert, Ph.D. and Armida Mendez Russell, ***The Diversity Directive: Why Some Initiatives Fail and What To Do About It***, McGraw-Hill Trade, 1996.

Helgesen, Sally, ***The Female Advantage: Women's Ways of Leadership***, Doubleday/Currency, New York, NY, 1990.

Hetherington, Cheryl, ***Working With Groups in the Workplace: Celebrating Diversity***, Duluth, MN: Whole Person Associates, 1995.

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Blue-Eyed/Brown-Eyed. Originally designed in 1968 for her third grade class in Iowa, Jane Elliott's simple racism exercise demonstrates the devastating impact of discrimination and introduces the basic concept of diversity training. This video is a effective training tool for any organization that is grappling with the challenges and opportunities presented by a diverse workforce. Other diversity training videos are also available. Contact: California Newsreel, 149 Ninth Street/420, San Francisco, CA 94103; Phone: 415/621-6196; Fax: 415/621-6522; Internet: <http://www.newsreel.org>.

Cultural Competency: Rising to the Challenge (expanded version), produced by the Washington State Minority and Justice Commission's Education Sub-Committee, 2000. The video features judges, lawyers, and trainers addressing issues of cultural misunderstanding, communication skills, bias in the courts and more to enhance cultural competency in the courts.

Getting Along: Words of Encouragement. Perfect as an uplifting opening or closing to any meeting, convention, or training session. The following topics are covered: diversity, employee orientation, teamwork, expatriate training, quality, customer service, leadership and management, empowerment, communications, cross-cultural and international business. American Media.

Dialogue on Diversity: Straight White Men Speak Out. Produced by Mariloy Loden, 1996. This video features seven White men and is an unrehearsed, “live” discussion about diversity. Although these men do not speak for all White men, they value diversity yet struggle with common issues: how to be inclusive; how to communicate effectively across cultural barriers; how to build trust. Best used as a conversation catalyst, this video is 30-minutes long and includes a 23-page facilitation guide. Loden Associates, Inc.

Diversity Management with Dr. R. Roosevelt Thomas. In candid format, Dr. R. Roosevelt Thomas, author of Beyond Race and Gender and Redefining Diversity provides answers to 20 tough questions on diversity: Why does diversity have to be managed? Can you have too much diversity? How do you begin implementing diversity management practices? This video is 30-minutes long and includes a self-study book, Handling Diversity in the Workplace. Provant Media.

A World of Difference. This animated short video communicates the message that living in a world of diversity is a privilege, not a threat. Features the music of Sounds of Blackness, Vanessa Williams, David Koz, and the voice of James Earl Jones as storyteller. 10-minutes. Free preview available.

Diversity Unplugged: Provocative Insights, Practical Solutions. Using a realistic approach, this video workshop inspires personal responsibility for making diversity work. This dynamic videotape addresses real issues, voiced by real people, not actors, and is guaranteed to motivate passionate and productive discussions. The highly interactive design uses a spirited mix of group discussion and targeted group activities that create relevant awareness. The goals are the following for workshop participants: to understand the value of a diverse workforce as it relates both to themselves and their organization; to identify their own role in the effectiveness of a diverse workplace; and to develop strategies for their organization. Includes 33-minute video, 74-page comprehensive Leaders Guide for 6 to 8 hour workshop, plus 10 participant workbooks. The Richardson Company.

continued

VIDEOS

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Cornel West: Restoring Hope

May 1998 NMCI Conference Keynote Address

Produced 1988

(www.nmci.org/pubs/catalog.htm)

Between Two Cultures: Refugee Adolescents in Transition

Produced 1990

(www.nmci.org/pubs/catalog.htm)

From Survival to Adaptation: The Adolescent Refugee Experience

Produced 1988

DIVERSITY CATALOGS

SHRMStore

Phone: 800/444-5006

Internet: www.shrm.org/shrmstore

ConnectCo. Diversity Catalog

Phone: 800/665-5894

Diversity Library Online

Internet: www.diversityhotwire.com

Intercultural Press, Inc.

Phone: 207/846-5168

Internet: www.bookmasters.com/interclt.htm

Cultural Diversity Materials for 1999 (Rod Enterprises)

Phone: 626/577-8297

Diversity and Cross-Cultural Communications Resources

Phone: 800/858-4478

Cultural Diversity At Work

Phone: 202/362-0336

TRAINING MATERIALS

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SHRM® *Sexual Orientation In the Workplace Issue Brief*
SHRM® HIV/AIDS Web Toolkit (Available online at www.shrm.org/diversity (w/SHRM member number))

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TRAINING MATERIALS

Thiagarajan, Sivasailam, Ph.D., *Diversity Simulation Games*, Human Resource Development Press, 1995.

Winfeld, Liz, *Straight Talk About Gays in the Workplace*, Amacom, 1998

WEB SITES

Affirmative Action and Diversity Project
<http://humanitas.ucsb.edu/aa.html>

AFL-CIO Working Women's Department
<http://www.aflcio.org/home.htm>

American Association for Affirmative Action
<http://www.fga.com/aaaa>

American Association of Retired Persons (AARP)
<http://www.aarp.org>

American Institute for Managing Diversity
<http://www.aimd.org>

Department of Justice ADA Home Page
<http://www.usdoj.gov/crt/ada/adahom1.htm>

Equal Employment Opportunity Commission (Best Practice Study Results)
<http://www.eeoc.gov>

Institute for Corporate Diversity
<http://www.diversityonline.com>

National Association for the Advancement of Colored People (NAACP)
<http://www.naacp.org>

National Asian Pacific American Legal Consortium (NAPALC)
<http://www.napalc.org>

National Council of La Raza
Policy and Program
<http://www.nclr.org>

National Multicultural Institute

<http://www.nmci.org>

Society for Human Resource Management

<http://www.shrm.org/diversity>

University of Maryland Diversity Web Page

<http://www.inform.umd.edu/diversity>

Women in Apprenticeship and Nontraditional Occupations

<http://www.womenintradef.org>

Workplace Solutions

<http://www.workplacesolutions.org>

MAGAZINES/PERIODICALS/BOOKS

Cultural Diversity at Work

The GilDeane Group,

13751 Lake City Way NE, Suite 106, Seattle, WA 98125-8612

Phone: 206/362-0336; Fax: 206/363-5028

Internet: <http://www.divesityhotwire.com>

The Diversity Factor (quarterly journal)

PO Box 3188, Teaneck, NJ

Phone: 201/833-0011; Fax: 201/833-4184

Managing Diversity (monthly newsletter)

Jamestown Area Labor Management Committee, Inc.,

PO Box 819, Jamestown, NY 14702-8060

Phone: 716/665-3654; Fax: 716/665-8060

Workforce Diversity

Remy Publishing Company,

401 North Franklin Street, Third Floor, Chicago, IL 60610

Phone: 312/464-0300

Race, Ethnicity and Self: Identity in Multicultural Perspective

Edited by Elizabeth Pathy Salett and Diane R. Koslow

Published 1994

Crossing Cultures in Mental Health

Edited by Diane R. Koslow and Elizabeth Pathy Salett

Second Edition 2001

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In diversity is strength: Capitalizing on the new work force, 75th Anniversary Symposia Series, The Conference Board.

- a. Wolf, D. Whither the work force?
- b. Hediien, W. E. Managing diversity: A full-time, top-down commitment.
- c. McCormick, R. D. Making sure diversity works at US WEST.
- d. Perlman, L. Turning diversity into opportunity.
- e. Handy, C. Will diversity win?

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APPENDIX A

Diversity Recruitment Program Assessment Test

(Reprinted with the permission from the Multicultural Advantage <http://www.multiculturaladvantage.com>.)

Are you taking the right steps to recruit minorities?

Use the rating scale below to evaluate your response to the diversity recruitment program assessment test and to develop an understanding of how to improve your efforts.

1. Do you regularly advertise in publications and professional journals designed specifically for minorities? Yes ___ No ___
2. Do you regularly mail a list of position openings to community leaders to pass on to members of the community? Yes ___ No ___
3. Is your court represented at job fairs targeting minorities? Yes ___ No ___
4. Does your court provide any type of sponsorship for minority organizations? Yes ___ No ___
5. Do you hold any open houses that target minorities? Yes ___ No ___
6. Do members of your staff or company speak at minority professional association or community group meetings and events? Yes ___ No ___
7. Do you encourage existing minority employees to refer family, friends, and colleagues for open positions? Yes ___ No ___
8. Does your court provide minority students with meaningful and challenging summer internships and co-op job assignments? Yes ___ No ___
9. Are you working from a written plan with clearly defined measurable goals and objectives for minority staffing efforts? Yes ___ No ___
10. Does human resources receive a high level of support for its minority recruitment efforts from line, middle, and senior management? Yes ___ No ___
11. Has your organization committed sufficient resources (both human and financial) to achieve minority recruitment goals? Yes ___ No ___
12. Is your court a participant in any minority business/education alliances that brings the court's skills and resources together with colleges and universities to develop entry-level talent? Yes ___ No ___
13. Is your court a partner with any minority professional associations? Yes ___ No ___
14. Does your court participate in any mentoring programs that develop minorities about to graduate from secondary schools or universities? Yes ___ No ___

15. Does your court maintain a database or talent pool of minority professionals to target as position become available? Yes___ No___
16. Do you list your position openings in minorities job banks? Yes___ No___
17. Does your court use recruiting literature that targets minorities? Yes___ No___
18. Are recruiters and management trained on the impact of cultural differences in recruiting and interviewing? Yes___ No___
19. Do you bring in outside delivery recruiters on a search at the beginning of a search? Yes___ No___
20. Does your court have active minority affinity/support groups? Yes___ No___
21. Are interview questions screened for bias? Yes___ No___
22. Are position qualifications screened for bias or traditional notions of what is required for the job? Yes___ No___
23. Do managers involved with hiring receive diversity training? Yes___ No___

Answered yes to 1 – 6 questions.

Rating – Poor. You probably responded no to the majority of the questions. This indicates there are several areas where you are not achieving success, or programs and activities critical to success are not in place. You may need to rethink your goals and strategies for diversity recruiting.

Answered yes to 7 – 12 questions.

Rating – Fair. You have a variety of ongoing diversity recruiting efforts but have questions about their effectiveness. You may need to reevaluate your efforts, outline clear goals and incorporate new strategies to achieve these goals.

Answered yes to 13 – 18 questions.

Rating – Good. You probably have achieved successes with your diversity recruiting efforts. However, there may be some strategies you could add to your current program that could improve your efforts that you have not considered or implemented. Explore ways to enhance present programs and to incorporate new, creative additions to present efforts.

Answered yes to 19 – 23 questions.

Rating – Excellent. You have achieved great success with your present efforts. You have effective strategies and programs in place to identify, attract and retain top minority employees. To sustain effort over the long-term, you must periodically evaluate your efforts and continuously search for new ideas and new strategies.

APPENDIX B

NEWSPAPERS

Aberdeen Daily World

Aberdeen, WA
<http://www.thedailyworld.com>

Anacortes American

Anacortes, WA
<http://www/goanacortes.com>

Asia Today

17250 Bothell Way NE
Seattle, WA 98155
(206) 365-8807

Battle Ground Reflector

Battle Ground, WA
<http://thereflector.com>

Bellingham Herald

Bellingham, WA
<http://www.bellinghamherald.com>

Bremerton Sun

Bremerton, WA
<http://www.thesunlink.com>

Cambodian Community News

Seattle, WA 98101
(206) 277-7184

Camas-Washougal Post Record

425 NE 4th Avenue
Camas, WA 98607
(360) 834-2141

Cashmere Valley Record

201 Cottage Avenue
Cashmere, WA 98815
(509) 782-3781

Chinese Post Seattle

P.O. Box 3468
Seattle, WA 98114
(206) 223-0623

The Daily News

Longview, WA
<http://www.tdn.com>

Eastside Journal

Bellevue, WA
<http://www.eastsidejournal.com>

El Mundo Communications

10 North Mission Street
Wenatchee, WA 98801
(509) 663-5737

Ellensburg Daily Record

Ellensburg, WA
<http://www.newswest.com/dailyrecord>

Everett Herald

Everett, WA
<http://www.heraldnet.com>

Grand Coulee Star

Grand Coulee, WA
<http://grandcoulee.com>

Hispanic Directory

12001 NE 12th Street
Bellevue, WA 98005
(425) 646-8846

Hispanic News

9825 16th Avenue SW
Seattle, WA 98106
(206) 763-8090

Impacto Latino

1650 South 308th Street
Federal Way, WA 98003
(253) 945-1141

Independent

P.O. Box 5
Chewelah, WA 99109
(509) 935-8422

International Examiner

622 South Washington Street
Seattle, WA 98104
(206) 624-3925

The Island Times

Bainbridge Island, WA
<http://www.islandtimes.com>

Issaquah Press

Issaquah, WA
<http://isspress.com>

Japan Pacific Publications, Inc.

419 Occidental Avenue South
Seattle, WA 98104
(206) 622-7443

Journal of the San Juan Islands

Friday Harbor, WA
<http://www.pacificrim.net>

Kitsap Filipino News

Bremerton, WA 98337
(360) 377-7464

Korea Central Daily

13749 Midvale Avenue North
Seattle, WA 98133
(206) 365-4000

Korea Post

28815 Pacific Highway South
Federal Way, WA 98003
(253) 529-4330

Korea Times

426 Yale Avenue North
Seattle, WA 98109
(206) 622-2851

Korean Sunday News of Seattle

4210 198th Street SW
Lynnwood, WA 98036

Kyocharo

23416 Highway 99
Edmonds, WA 98026
(425) 712-1236

La Voz Hispanic Newspaper

116 North 5th Avenue
Pasco, WA 99301
(509) 543-9932

La Voz Newsmagazine

115 North 85th Street
Seattle, WA 98103
(206) 706-7776

Leavenworth Echo

Leavenworth, WA
<http://leavenworthecho.com>

Lynden Tribune

Lynden, WA
<http://lyndentrib.com>

Mercer Island Reporter

Mercer Island, WA
<http://www.mi-reporter.com>

NEWSPAPERS

continued

Methow Valley News

Twisp, WA
<http://www.methowvalleynews.com>

Northlake News

Bothell, WA
<http://www.nwnews.com>

Northwest News

Washington
<http://www.nwnews.com>

Olympia Zone

Olympia, WA
<http://olympiazone.com>

Olympian

Olympia, WA
<http://www.theolympian.com>

Omak-Okanogan County Chronical

Omak, WA
<http://www.omakchronicle.com>

Othello Outlook

Othello, WA
<http://www.othellooutlook.com>

Pacific Publishing Co.

Seattle, WA
<http://www.seamedia.com>

Pasco-Kennewick-Richland

Tri-City Herald
Kennewick, WA
<http://www.tri-cityherald.com>

Peninsula Daily News

Port Angeles, WA
<http://www.peninsuladailynews.com>

Peninsula Gateway

Gig Harbor, WA
<http://www.gateline.com>

Phuong Dong Inc.

6221 39th Avenue South
Seattle, WA 98118
(206) 760-9168

Port Townsend & Jefferson County Leader

Port Townsend, WA
<http://www.ptleader.com>

Rawhide Press

Spokane Tribes of Indians
Box 373
Wellprint, WA 99040
(509) 258-4581

Seattle Chinese News

612 8th Avenue
Seattle, WA 98104
(206) 622-6371

Seattle Gay News

Seattle, WA
<http://sgn.org>

Seattle Post-Intelligencer

Seattle, WA
<http://seattle-pi.com>

Seattle Times

Seattle, WA
<http://seattletimes.nwsourc.com>

Seattle Weekly

Seattle, WA
<http://www.seattleweekly.com>

Sequim Gazette

Sequim, WA
<http://www.sequim-gazette.com>

Sin-Wit-Ki from the Yakama Language

P.O. Box 151
Toppenish, WA 98948
(509) 865-6262

Skaget Valley Herald

Mount Vernon, WA
<http://www.newswest.com>

South County Journal

Kent, WA
<http://www.southcountyjournal.com>

Spokane Exchange Nickel Want Ads

Spokane, WA
<http://www.nickel-wantads.com>

Spokane Spokesman-Review

Spokane, WA
<http://www.spokane.net>

Spokane Woman

429 East 3th Avenue
Spokane, WA 99202
(509) 456-5257

Stanwood/Camano News

Stanwood, WA
<http://www.scnews.com>

Tacoma News Tribune

Tacoma, WA
<http://tribnet.com>

The Chronicle

Centralia, WA
<http://www.chronline.com>

The Methow Valley News

Twisp, WA
<http://balsam.methow.com>

The Star Newspaper

Grand Coulee, WA
<http://www.grandcoulee.com>

Vancouver Columbian

Vancouver, WA
<http://columbian.com>

Vietnamese NW Newspaper & Directory

3107 Martin Luther King Jr.
Seattle, WA 98144
(206) 722-6984

Washington CEO

Seattle, WA
<http://www.fivash.com>

Washington Free Press

Seattle, WA
<http://www.speakeasy.org/wfp>

West Seattle Herald

Seattle, WA
<http://www.robinsonnews.com>

Whidbey News-Times

Oak Harbor, WA
<http://www.zwire.com>

Woodinville Weekly

Woodinville, WA
<http://comzone.com>

Yakama Herald-Republic

Yakama, WA
<http://www.yakama-herald.com>

APPENDIX C

RECRUITMENT AND RETENTION SPECIALISTS

Tina M. Abbott

Recruitment and Retention Specialist
Public Health-Seattle & King County
tina.abbott@metokc.gov

Botzer, Marsha

MBotzer@BotzerConsulting.com

Capestany, Sheila

AterCap@hotmail.com

Business Careers

1001 Fourth Avenue
Seattle, WA 98154-1119

Lorrie Church

Office of Minority Recruitment and Retention
University of Washington
lorriec@u.washington.edu

Downtown Human Services Council

115 Prefontaine Place S
Seattle, WA 98104
Phone: (206) 461-3865
Fax: (206) 461-8579

Diverse Employment, Inc.

1932 First Avenue, Suite 314
Seattle, WA 98101

Employment Opportunities Center (EOC)

675 S Lane, Suite 402
Seattle, WA 98104
Phone: (206) 587-2828
Fax: (206) 587-2826

Employment Opportunities Center – Multi-Ethnic Center

1811 156th Avenue NE
Bellevue, WA 98007
Phone: (425) 643-3559
Fax: (425) 644-8798

Goodwill Industries

1400 S Lane Street
Seattle, WA 98144
Phone: (206) 329-1000
Fax: (206) 726-1502

Hispanic Employment Program Committee

3009 112th Avenue NE, Suite 200
Bellevue, WA 98004-8019
Phone: (425) 889-7370
Fax: (425) 889-7255

Lopez, Leticia

lopez@serv.net

Manpower Professional

9720 NE 120th Place, Suite 120
Kirkland, WA 98034
Phone: (425) 825-5627
Fax: (425) 825-9512
Professional@na.manpower.com

Northwest Career & Job Education Expo

P.O. Box 336
Vaughn, WA 98394

Office Careers

3701 6th Avenue
Tacoma, WA 98406-4950

Private Industry Council/Seattle-King County

2001 Western Avenue
Market Place One, Room 250
Seattle, WA 98121
Phone: (206) 448-0474

Reconciliation Consulting

2525 East 29th Avenue, Suite 10B-238
Spokane, WA 99223

Ricardo Hidalgo MA Psychotherapist

3019 37th Avenue SW
Seattle, WA 98126

Sarju, David

sarju@uswest.net

Seattle Indian Center and Health Board Leschi Center

611 12th Avenue South, Suite 200
Seattle, WA 98144
Phone: (206) 324-9360
Fax: (206) 324-8910

South Park Community Career Center

8319 8th Avenue South
Seattle, WA 98108
Phone: (206) 762-7780
Fax: (206) 762-7861

Stern, Emily

shehas8@hotmail.com

Tammy Pitre

Washington State Diversity Task Force
WA St. Employment Security Department
Urban Enterprise Center
tammyp@seattlechamber.com

Today's Careers

The Employment Paper
Phone: (425) 487-9456
Fax: (425) 487-9876
webmaster@todays-careers.com

Torres, Dennis

ditorres@u.washington.edu
Wakinikona Hawaiian Club
211 SW 153rd, Suite 245
Burien, WA 98166
Phone: (206) 242-3446

Windows to the World

526 W Mercer Place #303
Seattle, WA 98119

Work Opportunities

6515 202nd Street SW
Lynnwood, WA 98036
Phone: (206) 778-2156
Fax: (206) 670-1459

Laura Yergan

Diversity Analyst
Lane County Human Resources Department
Laura.Yertgan@co.lane.or.us

Eric Yamada

Washington State Diversity Task Force
The Boeing Company
Phone: (425) 234-9155
Fax: (425) 234-5381
eric.t.uamada@boeing.com

APPENDIX D

RECRUITMENT AND RETENTION WEBSITES

A Magazine

<http://www.aonline.com>

America's Job Bank -
U.S. Department of Labor
<http://www.ajb.dni.us>

Asia Net

<http://www.asia-net.com>

Asian-Nation, your one-stop information source on the historical, political, social, economic, and cultural elements and issues that make up today's diverse Asian American community.
<http://www.asian-nation.org>

The mission of Asian American Government Executives Network (AAGEN) is to promote, expand and support Asian Pacific American leadership in the Federal, state and local governments.
<http://www.aagen.org>

Asian American Journalist Association (AAJA)
<http://www.ajja.org>

Asian Fortune newsletter
<http://www.asianfortune.com>

Asian Pacific American Labor Alliance (APALA)
<http://www.apalanet.org>

Asian Recruitment Handbook
<http://estore.chinaonline.com>

Career Development Center - Job banks for special populations.
<http://rock.careers.csulb.edu>

CareerMart - News article listing specific schools for recruiting minority engineering graduates.
<http://careermart.com>

DiversiLink - The Society of Hispanic Professional Engineers.
<http://www.diversilink.com>

Diversity Careers Online - Professional career opportunities in engineering and information technology.
<http://www.diversitycareers.com>

Diversity Employment - Multicultural employment resource & resume database.
<http://www.diversityemployment.com>

Employus - Site for African-American professionals to submit their resumes and search job openings with major corporations.
<http://www.employus.com>

Employment Central for Washington
<http://www.rural-america.net>

HispanData - Recruitment service linking minority job seekers with Fortune 500 employers.
<http://www.hispanstar.com>

Hong Kong Professionals
<http://www.hkprof.org>

Hot 250: Career Management - Search and career management resources.
<http://wesley.stanford.edu>

Internet Recruiting Sites - Searchable databases, links to other job sites.
<http://careerservices.byu.edu>

Job Banks - Links to job banks on the internet.
<http://www.socojoblink.org>

Job Information Center - Job banks, job databases, top job lists.
<http://www.tvpress.com>

Job Square
<http://www.jobsquare.com>

Minorities' Job Bank - Search jobs database or resumes.
<http://www.minorities-jb.com>

Minority Search - Search minority candidate resumes.
<http://www.search25.com>

National Asian American Pacific Bar Association (NAPABA)
<http://www.napaba.org>

National Asian Pacific American Law Student Association (NAPALSA)
<http://www.napalsa.org>

National Asian Pacific American Women's Forum (NAPAWF)
<http://www.napawf.org>

National Federation of Filipino American Associations (NaFFAA)
<http://www.naffaa.org>

Northwest Indian Bar Association
www.nwiba.org

Organization of Chinese Americans (OCA)
<http://www.ocanatl.org>

Recruiters Network - Career sites for minorities.
<http://www.recruitersnetwork.com>

Saludos Hispanics - Bilingual Hispanic college graduates.
<http://www.saludos.com>

Targum WWW Search - Many sub-directories for candidate search.
<http://dailytargum.com>

The Black Collegian Online - Site for students and professionals of color.
<http://www.black-collegian.com>

The LatPro Professional Network - Source for bilingual professionals.
<http://www.LatPro.com>

Tips for Minority Recruiting - Recruiting advice for employers.
<http://www.asne.org>

Vietnamese American Society (VAS)
<http://www.vas-dc.org>

Women's Wire - Opportunities for female candidates.
<http://www.womenswire.com>

APPENDIX E

EXTERNAL CONSULTANTS

CALIFORNIA

Blanchard Training and Development

125 State Place
Escondido, CA 92029
(800) 728-6000

Decker Communications, Inc.

44 Montgomery Street
San Francisco, CA 94104
(415) 391-5544

The Tom Peters Group

555 Hamilton Avenue, Suite 300
Palo Alto, CA 94301
(800) 333-8878

GEORGIA

Speakeasy, Inc.

3414 Peachtree Road N.E.
Monarch Plaza, Suite 800
Atlanta, GA 30326
(404) 261-4029

ILLINOIS

Executive Technique

716 North Rush Street
Chicago, IL 60611
(800) 992-1414

James H. Lowry & Associates

211 West Wacker Drive, Suite 950
Chicago, IL 60606
(312) 223-9570

MASSACHUSETTS

Better Communications

1666 Massachusetts Avenue, Suite 14
Lexington, MA 02173
(800) 878-5440

J. Howard & Associates, Inc.

10 Quest Street
Brighton, MA
(617) 862-8887

MINNESOTA

Executive Speaking, Inc.

3036 Plaza VII Tower
45 South 7th Street
Minneapolis, MN 55402
(612) 338-5748

Personnel Decisions International

2000 Plaza VII Tower
45 South 7th Street
Minneapolis, MN 55402-16098
(800) 633-4410

NEW JERSEY

Blessing White

230 Orchard Road
Skillman, NJ 08558
(800) 222-1349

Center for Excellence

12 Chestnut #A
Ridgewood, NJ
(201) 612-5203

NEW YORK

American Management Association

PO Box 319
Saranac Lake, NY 12983
(800) 262-9699

Communispond, Inc.

300 Park Avenue, 22nd Floor
New York, NY 10022
(212) 486-2300

NORTH CAROLINA

Center for Creative Leadership

1 Leadership Place
PO Box 26300
Greensboro, NC 27438
(336) 545-3740

OREGON

Hein Consulting Group

16110 SW Regatta Way
Beaverton, OR 97006
(503) 246-0067

Intercultural Communication Institute

8835 SW Canyon Lane, Suite 238
Portland, OR 97225
(503) 297-4622

VIRGINIA

NTL Institute

1240 North Pitt Street, Suite 100
Alexandria, VA 22314-1403
(800) 777-5227

The Diversity Training Group

11654 Plaza America Drive
Reston, VA 20190
(703) 478-9191

UTAH

Covey Leadership Center

3507 North University Avenue, Ste 100
Provo, UT 84606
(800) 331-7716

WASHINGTON

ALD Family & Youth Support Services

2857 SW 340th Place
Federal Way, WA 98023
(253) 874-9217

Achievement Architects North

18613 109th Avenue SE
Renton, WA 98055
(425) 277-2087

Doris Lock & Associates, Inc.

Interurban Building
157 Yesler Way
Seattle, WA 98104
(206) 624-3875

Edge Learning Institute

2217 North 30th Street, Suite 200
Tacoma, WA 98403
(800) 858-1484

Executive Diversity Services, Inc.

675 South Lane #305
Seattle, WA 98104
(206) 224-9293

Integral Leadership, Inc.

1800 Cooper Point Road SW, Bldg 11
Olympia, WA 98502
(360) 866-1931
learnleadcoach.com

Kang, Hye-Kyung

hyekyung@u.washington.edu

Laura Pierce Consulting

7970 Seward Park Avenue South
Seattle, WA 98118
(206) 721-0795

Phoenix Rising 2000

7825 Urquhart Street NW
Olympia, WA 98502
(360) 866-7400

The GilDeane Group, Inc.

Cultural Diversity at Work
13751 Lake City Way NE, Suite 210
Seattle, WA 98125-8612
Phone: (206) 362-0336
Fax: (206) 363-5028

APPENDIX F

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

ALABAMA

Alabama A&M University - Normal, Alabama
Alabama State University - Montgomery, Alabama
Bishop State Community College - Mobile, Alabama
Concordia College - Selma, Alabama
J.F. Drake State Technical College -
North Huntsville, Alabama
Lawson State Community College - SW Birmingham, Alabama
Miles College - Fairfield, Alabama
Oakwood College - Huntsville, Alabama
Selma University - Selma, Alabama
Shelton State Community College - Tuscaloosa, Alabama
Stillman College - Tuscaloosa, Alabama
Talladega College - Talladega, Alabama
Trenholm State Technical College - Montgomery, Alabama
Tuskegee University - Tuskegee, Alabama

ARKANSAS

Arkansas Baptist College - Little Rock, Arkansas
Philander Smith College - Little Rock, Arkansas
University of Arkansas at Pine Bluff -
Pine Bluff, Arkansas

CALIFORNIA

Charles Drew University - Los Angeles, California

DELAWARE

Delaware State University - Dover, Delaware

DISTRICT OF COLUMBIA

University of the District of Columbia -
Washington, District of Columbia

FLORIDA

Bethune Cookman College - Daytona Beach, Florida
Edward Waters College - Jacksonville, Florida
Florida A&M University - Tallahassee, Florida
Florida Memorial College - Miami, Florida

GEORGIA

Albany State University - Albany, Georgia
Clark Atlanta University - Atlanta, Georgia
Fort Valley State University - Fort Valley, Georgia
Interdenominational Theological Center - Atlanta, Georgia
Morehouse College - Atlanta, Georgia
Morehouse School of Medicine - Atlanta, Georgia

Morris Brown College - Atlanta, Georgia
Savannah State University - Savannah, Georgia
Shorter College - Rome, Georgia
Spelman College - Atlanta, Georgia
Paine College - Augusta, Georgia

ILLINOIS

Chicago State University - Chicago, Illinois

KENTUCKY

Kentucky State University - Frankfort, Kentucky

LOUISIANA

Dillard University - New Orleans, Louisiana
Grambling State University - Grambling, Louisiana
Southern University and A&M College -
Baton Rouge, Louisiana
Xavier University - New Orleans, Louisiana

MARYLAND

Bowie State University - Bowie, Maryland
Coppin State College - Baltimore, Maryland
Morgan State University - Baltimore, Maryland
University of Maryland Eastern Shore -
Princess Anne, Maryland

MICHIGAN

Lewis College of Business - Detroit, Michigan

MISSISSIPPI

Alcorn State University - Alcorn State, Mississippi
Coahoma Community College - Clarksdale, Mississippi
Hinds Community College - Raymond, Mississippi
Jackson State University - Jackson, Mississippi
Mary Holmes College - West Point, Mississippi
Mississippi Valley State University -
Itta Bena, Mississippi
Rust College - Holly Springs, Mississippi
Tougaloo College - Tougaloo, Mississippi

MISSOURI

Harris-Stowe State College - St. Louis, Missouri
Lincoln University-Missouri - Jefferson City, Missouri

NEW YORK

CUNY -The Medgar Evers College - Brooklyn, New York

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES *continued*

NORTH CAROLINA

Barber-Scotia College - Concord, North Carolina
Bennett College - Greensboro, North Carolina
Elizabeth City State University -
Elizabeth City, North Carolina
Fayetteville State University - Fayetteville, North Carolina
Howard University - Washington, District of Columbia
Johnson C. Smith University - Charlotte, North Carolina
Livingstone College - Salisbury, North Carolina
North Carolina A&T State University -
Greensboro, North Carolina
North Carolina Central University - Durham, North Carolina
Saint Augustines College - Raleigh, North Carolina
Shaw University - Raleigh, North Carolina
Winston-Salem State University -
Winston-Salem, North Carolina

OHIO

Central State University - Wilberforce, Ohio
Wilberforce University - Wilberforce, Ohio

OKLAHOMA

Langston University - Langston, Oklahoma

PENNSYLVANIA

Cheyney University of Pennsylvania -
Cheyney, Pennsylvania
Lincoln University Pennsylvania -
Lincoln University, Pennsylvania

SOUTH CAROLINA

Allen University - Columbia, South Carolina
Benedict College - Columbia, South Carolina
Claflin University - Orangeburg, South Carolina
Clinton Junior College - Rock Hill, South Carolina
Denmark Technical College - Denmark, South Carolina
Morris College - Sumter, South Carolina
South Carolina State University -
Orangeburg, South Carolina
Voorhees College - Denmark, South Carolina

TENNESSEE

Fisk University - Nashville, Tennessee
Knoxville College - Knoxville, Tennessee
Lane College - Jackson, Tennessee
Lemoyne-Owen College - Memphis, Tennessee
Meharry Medical College - Nashville, Tennessee
Tennessee State University - Nashville, Tennessee

TEXAS

Huston-Tillotson College - Austin, Texas
Jarvis Christian College - Hawkins, Texas
Paul Quinn College - Dallas, Texas
Prairie View A&M University - Prairie View, Texas
Southwestern Christian College - Terrel, Texas
Texas College - Tyler, Texas
Texas Southern University - Houston, Texas
University of Texas at El Paso - El Paso, Texas
Wiley College - Marshall, Texas

VIRGINIA

Hampton University - Hampton, Virginia
Norfolk State University - Norfolk, Virginia
Saint Pauls College - Lawrenceville, Virginia
Virginia State University - Petersburg, Virginia
Virginia Union University - Richmond, Virginia

VIRGIN ISLANDS

University of the Virgin Islands - St. Thomas, Virgin Islands

WEST VIRGINIA

Bluefield State College - Bluefield, West Virginia
West Virginia State College - Institute, West Virginia

APPENDIX G

TRIBAL COLLEGES AND UNIVERSITIES

Arizona

Dine College

California

D-Q University

Kansas

Haskell Indian Nations University

Michigan

Bay Mills Community College

Minnesota

Fond du Lac Tribal & Community College

Leech Lake Tribal College

Montana

Blackfeet Community College

Dull Knife Memorial College

Fort Belknap College

Fort Peck Community College

Little Big Horn College

Salish Kootenai College

Stone Child College

Nebraska

Little Priest Tribal College

Nebraska Indian Community College

New Mexico

Crownpoint Institute of Technology

Institute of American Indian Arts

Southwestern Indian Polytechnic Institute

North Dakota

Cankdeska Cikana Community College

Fort Berthold Community College

Sitting Bull College

Turtle Mountain Community College

United Tribes Technical College

South Dakota

Cheyenne River Community College

Oglala Lakota College

Sinte Gleska University

Washington

Northwest Indian College

Wisconsin

College of the Menominee Nation

Lac Courte Oreilles Ojibwa

APPENDIX H

HISPANIC SERVING INSTITUTIONS

Arizona

Arizona Western College
Pima Community College
South Mountain Community College

California

Allan Hancock College
Bakersfield College
California State University, Bakersfield
California State University, Fresno
California State University, Los Angeles
California State University, Northridge
Citrus College
College of the Sequoias
Compton Community College
Don Bosco Technical Institute
East Los Angeles College
Fresno City College
Fullerton College
Gavilan College
Hartnell College
Imperial Valley College
Los Angeles City College
Los Angeles Harbor College
Los Angeles Mission College
Los Angeles Trade-Technical College
Los Angeles Valley College
Mount St. Mary's College
Mt. San Antonio College
Oxnard College
Pasadena City College
Porterville College
Reedley College
Rio Hondo College
San Bernardino Valley College
Southwestern College
University of LaVerne
Ventura College
Woodbury University

Colorado

Community College of Denver
Pueblo Community College
Trinidad State Junior College

Florida

Barry University
Florida International University
Miami-Dade Community College
St. Thomas University

Illinois

City Colleges of Chicago-Malcolm X College
City Colleges of Chicago-Richard J. Daley College
City Colleges of Chicago-Truman College
City Colleges of Chicago-Wilbur Wright College
St. Augustine College

New Jersey

Hudson County Community College

New Mexico

Albuquerque Technical Vocational Institute
Eastern New Mexico University-Roswell
New Mexico Highlands University
New Mexico State University-Main Campus
Northern New Mexico Community College
Santa Fe Community College
University of New Mexico-Main Campus
University of New Mexico-Valencia Campus
Western New Mexico University

New York

Boricua College
College of Aeronautics
CUNY-Borough of Manhattan Community College
CUNY-City College of New York
CUNY-Hostos Community College
CUNY-Hunter College
CUNY-John Jay College of Criminal Justice
CUNY-LaGuardia Community College
CUNY-Lehman College
Mercy College

Puerto Rico

American University of Puerto Rico
Inter American University of Puerto Rico-San German Campus
Pontifical Catholic University of Puerto Rico
Universidad del Turabo
Universidad Metropolitana

Universidad Politecnica de Puerto Rico
University of Puerto Rico-Aguadilla Regional College
University of Puerto Rico-Arecibo Technological University College
University of Puerto Rico-Bayamon University College
University of Puerto Rico-Cayey University College
University of Puerto Rico-Humacao University College
University of Puerto Rico-La Montana Regional College
University of Puerto Rico-Mayaguez Campus
University of Puerto Rico-Medical Sciences Campus
University of Puerto Rico-Ponce Technical University College
University of Puerto Rico-Rio Piedras Campus
University of the Sacred Heart

Texas

Coastal Bend College
Del Mar College
El Paso Community College
Laredo Community College
Mountain view College
Odessa College
Our Lady of the Lake University of San Antonio
Palo Alto College
San Antonio College
South Plains College
Southwest Texas Junior College
St. Edward's University
St. Mary's University of San Antonio
Sul Ross State University
Texas A&M International University
Texas A&M University-Corpus Christi
Texas A&M University-Kingsville
Texas State Technical College-Harlingen
University of Houston-Downtown
University of Texas at Brownsville and Texas Southmost College
University of Texas at El Paso
University of Texas at San Antonio
University of Texas-Pan American
University of the Incarnate Word

APPENDIX I

OTHER INSTITUTIONS OF INTEREST

California

Charles R. Drew University of Medicine
and Science
Contra Costa College
Merritt College
University of California-Riverside

District of Columbia

Southeastern University
Strayer University
Trinity College

Georgia

Atlanta Metropolitan College

Illinois

Chicago State University

Maryland

Sojourner-Douglass College

Mississippi

Hinds Community College

New York

CUNY-Medgar Evers College
CUNY-York College
Long Island University

Texas

Cedar Valley College
El Centro College

APPENDIX J

University of Washington School of Law
 1100 NE Campus Parkway
 Seattle, WA 98105-6617
 (206) 543-4551

JD ENROLLMENT GENDER & ETHNICITY – 1999 & 2001

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	6	2.5	8	3.0	14	2.8	0	0.0	3	1.8	5	2.8	6	3.7	0	0.0	14	2.7	14
American-Indian	7	2.9	10	3.7	17	3.3	0	0.0	5	3.0	4	2.2	8	5.0	0	0.0	17	3.3	8
Asian-American	30	12.3	45	16.9	75	14.7	0	0.0	30	17.8	24	13.3	21	13.0	0	0.0	75	14.7	43
Mexican American	9	3.7	17	6.4	26	5.1	0	0.0	7	4.1	6	3.3	13	8.1	0	0.0	26	5.1	6
Puerto Rican	3	1.2	1	0.4	4	0.8	0	0.0	0	0.0	2	1.1	2	1.2	0	0.0	4	0.8	3
Hispanic-American	7	2.9	6	2.2	13	2.6	0	0.0	8	4.7	2	1.1	3	1.9	0	0.0	13	2.5	2
Total Minorities	62	25.5	87	32.6	149	29.3	0	0.0	53	31.4	43	23.9	53	32.9	0	0.0	149	29.2	76
Foreign Nationals	1	0.4	0	0.0	1	0.2	0	0.0	0	0.0	1	0.6	0	0.0	0	0.0	1	0.2	2
Caucasian	180	74.1	180	67.4	359	70.5	1	100.0	116	68.6	136	75.6	108	67.1	0	0.0	360	70.6	99
TOTAL	243	47.6	267	52.4	509	99.8	1	0.2	169	33.1	180	35.3	161	31.6	0	0.0	510		177

* Degrees Awarded

UNDERGRADUATE STUDENT BODY

YEAR 2000

21,236 full time, 4,037 part time; 48% male, 52% female; 1% American Indian; 23% Asian-American, 3% African-American; 4% Hispanic-American; 67% Caucasian; 2% International.¹⁰⁹

YEAR 2001

21,674 full time; 3,964 part time; 48% male; 52% female; 1% American Indian; 22% Asian-American; 3% African-American; 4% Hispanic-American; 67% Caucasian; 2% International.¹¹⁰

YEAR 2002

22,204 full time; 3,778 part time; 48% men; 52% women; 3% African-American; 23% Asian-American; 4% Hispanic-American; 1% Native American; 67% Caucasian; 3% International.¹¹¹

University of Washington School of Law
 1100 NE Campus Parkway
 Seattle, WA 98105-6617
 (206) 543-4551

**JD ENROLLMENT
 GENDER & ETHNICITY – 2000**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	9	3.9	8	3.1	17	3.5	0	0.0	9	5.2	3	2.1	5	2.9	0	0.0	17	3.5	5
American Indian	3	1.3	6	2.3	9	1.8	0	0.0	0	0.0	4	2.8	5	2.9	0	0.0	9	1.8	6
Asian-American	14	6.1	40	15.4	54	11.1	0	0.0	19	10.9	24	16.7	11	6.4	0	0.0	54	11.0	14
Mexican American	12	5.2	16	6.2	28	5.7	0	0.0	6	3.4	10	6.9	12	7.0	0	0.0	28	5.7	12
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Hispanic-American	7	3.1	14	5.4	21	4.3	0	0.0	7	4.0	5	3.5	9	5.3	0	0.0	21	4.3	4
Total Minorities	45	19.7	84	32.3	129	26.4	0	0.0	41	23.6	46	31.9	42	24.6	0	0.0	129	26.4	41
Foreign Nationals	2	0.9	3	1.2	5	1.0	0	0.0	4	2.3	0	0.0	1	0.6	0	0.0	5	1.0	1
Caucasian	182	79.5	173	66.5	354	72.5	1	100	129	74.1	98	68.1	128	74.9	0	0.0	355	72.6	119
TOTAL	229	46.8	260	53.2	488	99.8	1	0.2	174	35.6	144	29.4	171	35.0	0	0.0	489		161

* Degrees Awarded

University of Washington School of Law
 1100 NE Campus Parkway
 Seattle, WA 98105-6617
 (206) 543-4551

**JD ENROLLMENT
 GENDER & ETHNICITY – 2002**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	6	2.5	3	1.2	9	1.8	0	0.0	1	0.6	xx	xx	xx	xx	xx	xx	9	1.8	3
American Indian	1	0.4	2	0.8	3	0.6	0	0.0	1	0.6	xx	xx	xx	xx	xx	xx	3	0.6	4
Asian-American	24	9.9	41	15.8	65	13.0	0	0.0	20	12.7	xx	xx	xx	xx	xx	xx	65	12.9	28
Mexican American	8	3.3	14	5.4	22	4.4	0	0.0	3	1.9	xx	xx	xx	xx	xx	xx	22	4.4	16
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
Hispanic-American	9	3.7	4	1.5	13	2.6	0	0.0	5	3.2	xx	xx	xx	xx	xx	xx	13	2.6	0
Total Minorities	48	19.8	64	24.7	112	22.4	0	0.0	30	19.0	xx	xx	xx	xx	xx	xx	112	22.3	51
Foreign Nationals	5	2.1	3	1.2	8	1.6	0	0.0	4	2.5	xx	xx	xx	xx	xx	xx	8	1.6	1
Caucasian	190	78.2	190	73.4	379	75.6	1	100	122	77.2	xx	xx	xx	xx	xx	xx	380	75.7	84
Unknown	0	0.0	2	0.8	2	0.4	0	0.0	2	1.3	xx	xx	xx	xx	xx	xx	2	0.4	7
TOTAL	243	48.4	259	51.6	501	99.8	1	0.2	158	31.5	xx	xx	xx	xx	xx	xx	502		143

* Degrees Awarded

University of Washington School of Law
 1100 NE Campus Parkway
 Seattle, WA 98105-6617
 (206) 543-4551

**JD ENROLLMENT
 GENDER & ETHNICITY – 2003**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	3	1.3	2	0.8	5	1.0	0	0.0	2	1.2	xx	xx	xx	xx	xx	xx	5	1.0	7
American Indian	7	2.9	3	1.2	10	2.1	0	0.0	4	2.3	xx	xx	xx	xx	xx	xx	10	2.1	1
Asian-American	22	9.2	23	9.3	45	9.3	0	0.0	17	9.9	xx	xx	xx	xx	xx	xx	45	9.3	37
Mexican American	6	2.5	5	2.0	11	2.3	0	0.0	6	3.5	xx	xx	xx	xx	xx	xx	11	2.3	0
Puerto Rican	1	0.4	0	0.0	1	0.2	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	1	0.2	0
Hispanic-American	4	1.7	4	1.6	8	1.6	0	0.0	5	2.9	xx	xx	xx	xx	xx	xx	8	1.6	8
Total Minorities	43	18.0	37	15.0	80	16.5	0	0.0	34	19.9	xx	xx	xx	xx	xx	xx	80	16.5	53
Foreign Nationals	11	4.6	19	7.7	30	6.2	0	0.0	13	7.6	xx	xx	xx	xx	xx	xx	30	6.2	0
Caucasian	178	74.5	187	76.0	365	75.3	0	0.0	122	71.3	xx	xx	xx	xx	xx	xx	365	75.3	110
Unknown	7	2.9	3	1.2	10	2.1	0	0.0	2	1.2	xx	xx	xx	xx	xx	xx	10	2.1	0
TOTAL	239	49.3	246	50.7	485	100	0	0.0	171	35.3	xx	xx	xx	xx	xx	xx	485		163

* Degrees Awarded

APPENDIX K

Seattle University School of Law
 900 Broadway
 Seattle, WA 98122-4340
 (206) 398-4300

JD ENROLLMENT GENDER & ETHNICITY – 1999 & 2001

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	10	2.4	26	6.3	22	3.4	14	7.4	16	6.3	8	3.1	6	1.9	6	XX	36	4.3	14
American Indian	16	3.8	9	2.2	18	2.8	7	3.7	4	1.6	7	2.7	11	3.5	3	XX	25	3.0	9
Asian-American	33	7.9	41	9.9	57	8.9	17	9.0	28	10.9	23	8.8	19	6.1	4	XX	74	8.9	23
Mexican American	0	0.0	2	0.5	2	0.3	0	0.0	2	0.8	0	0.0	0	0.0	0	0.0	2	0.2	0
Puerto Rican	1	0.2	1	0.2	2	0.3	0	0.0	1	0.4	1	0.4	0	0.0	0	0.0	2	0.2	0
Hispanic-American	11	2.6	8	1.9	14	2.2	5	2.6	9	3.5	4	1.5	5	1.6	1	XX	19	2.3	11
Total Minorities	71	17.1	87	21.0	115	17.9	43	22.8	60	23.4	43	16.5	41	13.1	14	XX	158	19.0	57
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Caucasian	345	82.9	327	79.0	526	82.1	146	77.2	196	76.6	217	83.5	236	75.2	23	XX	672	81.0	215
TOTAL	416	50.1	414	49.9	641	77.2	189	22.8	256	30.8	260	31.3	314	37.8	0	0.00	830		272

* Degrees Awarded

UNDERGRADUATE STUDENT BODY

YEAR 2000

2,687 full time; 428 part time; 42% male; 58% female; 1% American Indian; 20% Asian-American; 4% African-American; 5% Hispanic-American; 59% Caucasian; 11% International.¹¹²

YEAR 2001

2,869 full time; 376 part time; 42% male; 58% female; 1% American Indian; 20% Asian-American; 4% African-American; 5% Hispanic-American; 59% Caucasian; 10% International.¹¹³

YEAR 2002

2,878 full time; 424 part time; 40% men; 60% women; 5% African-American; 20% Asian-American; 5% Hispanic-American; 1% Native American; 58% Caucasian; 10% International.

Seattle University School of Law
 900 Broadway
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 (206) 398-4300

**JD ENROLLMENT
 GENDER & ETHNICITY – 2000**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	12	3.2	39	8.4	34	5.2	17	9.0	26	8.4	14	6.1	10	3.8	1	2.8	51	6.1	11
American Indian	7	1.9	8	1.7	10	1.5	5	2.7	5	1.6	3	1.3	5	1.9	2	5.6	15	1.8	10
Asian-American	33	8.8	52	11.2	72	11.0	13	6.9	33	10.7	27	11.8	25	9.4	0	0.0	85	10.1	21
Mexican American	5	1.3	13	2.8	17	2.6	1	0.5	10	3.2	4	1.7	4	1.5	0	0.0	18	2.1	3
Puerto Rican	1	0.3	1	0.2	2	0.3	0	0.0	0	0.0	1	0.4	1	0.4	0	0.0	2	0.2	0
Hispanic-American	9	2.4	4	0.9	7	1.1	6	3.2	5	1.6	7	3.1	0	0.0	1	2.8	13	1.5	3
Total Minorities	67	17.8	117	25.3	142	21.8	42	22.3	79	25.6	56	24.5	45	16.9	4	11.1	184	21.9	48
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Caucasian	310	82.2	346	74.7	510	78.2	146	77.7	230	74.4	172	75.1	222	83.5	32	88.9	656	78.1	196
TOTAL	377	44.9	463	55.1	652	77.6	188	22.4	309	36.8	229	27.3	266	31.7	36	4.3	840		244

* Degrees Awarded

Seattle University School of Law
 900 Broadway
 Seattle, WA 98122-4340
 (206) 398-4300

**JD ENROLLMENT
 GENDER & ETHNICITY – 2002**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	10	2.4	37	7.2	37	5.1	10	4.7	10	3.1	xx	xx	xx	xx	xx	xx	47	5.0	17
American Indian	5	1.2	13	2.5	15	2.1	3	1.4	6	1.9	xx	xx	xx	xx	xx	xx	18	1.9	1
Asian-American	38	9.0	58	11.2	78	10.7	18	8.5	40	12.5	xx	xx	xx	xx	xx	xx	96	10.2	26
Mexican American	7	1.7	4	0.8	9	1.2	2	0.9	5	1.6	xx	xx	xx	xx	xx	xx	11	1.2	2
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	1
Hispanic-American	13	3.1	11	2.1	18	2.5	6	2.8	11	3.4	xx	xx	xx	xx	xx	xx	24	2.6	8
Total Minorities	73	17.3	123	23.8	157	21.6	39	18.5	72	22.5	xx	xx	xx	xx	xx	xx	196	20.9	55
Foreign Nationals	3	0.7	4	0.8	7	1.0	0	0.0	1	0.3	xx	xx	xx	xx	xx	xx	7	0.7	0
Caucasian	321	76.1	360	69.8	517	71.1	164	77.7	217	67.8	xx	xx	xx	xx	xx	xx	681	72.6	188
Unknown	25	5.9	29	5.6	46	6.3	8	3.8	30	9.4	xx	xx	xx	xx	xx	xx	54	5.8	6
TOTAL	422	45.0	516	55.0	727	77.5	211	22.5	320	34.1	xx	xx	xx	xx	xx	xx	938		249

* Degrees Awarded

Seattle University School of Law
 900 Broadway
 Seattle, WA 98122-4340
 (206) 398-4300

**JD ENROLLMENT
 GENDER & ETHNICITY – 2003**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	12	2.5	21	3.9	22	2.9	11	4.5	10	2.9	xx	xx	xx	xx	xx	xx	33	3.3	15
American Indian	4	0.8	9	1.7	10	1.3	3	1.2	4	1.2	xx	xx	xx	xx	xx	xx	13	1.3	8
Asian-American	46	9.6	65	12.2	91	11.9	20	8.2	31	9.0	xx	xx	xx	xx	xx	xx	11	11.0	19
Mexican American	13	2.7	7	1.3	15	2.0	5	2.0	11	3.2	xx	xx	xx	xx	xx	xx	20	2.0	2
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
Hispanic-American	13	2.7	6	1.1	14	1.8	5	2.0	2	0.6	xx	xx	xx	xx	xx	xx	19	1.9	6
Total Minorities	88	18.4	108	20.3	152	19.9	44	18.0	58	16.9	xx	xx	xx	xx	xx	xx	196	19.4	50
Foreign Nationals	7	1.5	9	1.7	15	2.0	1	0.4	5	1.5	xx	xx	xx	xx	xx	xx	16	1.6	5
Caucasian	346	72.4	378	71.1	539	70.5	185	75.5	247	71.8	xx	xx	xx	xx	xx	xx	724	71.7	193
Unknown	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
TOTAL	478	47.3	532	52.7	765	75.7	245	24.3	344	34.1	xx	xx	xx	xx	xx	xx	1010		261

* Degrees Awarded

APPENDIX L

Gonzaga University School of Law
P.O. Box 3528
Spokane, WA 99220-3528
(509) 328-4220

JD ENROLLMENT GENDER & ETHNICITY – 1999 & 2001

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	9	3.0	3	1.5	11	2.3	1	5.3	7	4.1	3	2.1	1	0.6	1	11.1	12	2.4	5
American Indian	8	2.6	4	2.0	12	2.5	0	0.0	3	1.8	1	0.7	8	4.5	0	0.0	12	2.4	3
Asian-American	16	5.2	15	7.6	31	6.4	0	0.0	11	6.5	7	4.8	13	7.3	0	0.0	31	6.2	9
Mexican American	16	5.2	5	2.5	21	4.3	0	0.0	10	5.9	3	2.1	8	4.5	0	0.0	21	4.2	5
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1
Hispanic-American	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Total Minorities	49	16.1	27	13.6	75	15.5	1	5.3	31	18.2	14	9.7	30	16.8	1	11.1	76	15.1	23
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Caucasian	256	83.9	171	86.4	409	84.5	18	94.7	139	81.8	131	90.3	149	83.2	8	88.9	427	84.9	146
TOTAL	305	60.6	198	39.4	484	96.2	19	3.8	170	33.8	145	28.8	179	35.6	9	1.8	503		169

* Degrees Awarded

UNDERGRADUATE STUDENT BODY

YEAR 2000

2,409 full time, 159 part time; 45% male; 55% female; 2% American Indian; 4% Asian-American, 0% African-American; 4% Hispanic-American; 90% White; 0% International.

YEAR 2001

2,548 full time; 199 part time; 46% male; 54% female; 1% American Indian; 5% Asian-American; 1% African-American; 2% Hispanic-American; 85% Caucasian; 5% International.¹¹⁴

YEAR 2002

2,676 full time; 176 part time; 45% men; 55% women; 1% African-American; 5% Asian-American; 3% Hispanic-American; 2% Native American; 87% Caucasian; 3% International.¹¹⁵

Gonzaga University School of Law
P.O. Box 3528
Spokane, WA 99220-3528
(509) 328-4220

**JD ENROLLMENT
GENDER & ETHNICITY – 2000**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	8	2.9	8	3.8	16	3.5	0	0.0	8	4.3	5	3.4	3	2.1	0	0.0	16	3.3	2
American Indian	6	2.2	5	2.4	8	1.7	3	11.5	4	2.1	3	2.0	1	0.7	3	27.3	11	2.3	6
Asian-American	17	6.1	14	6.7	31	6.7	0	0.0	17	9.0	8	5.4	6	4.3	0	0.0	31	6.4	13
Mexican American	7	2.5	9	4.3	16	3.5	0	0.0	5	2.7	8	5.4	3	2.1	0	0.0	16	3.3	8
Puerto Rican	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Hispanic-American	0	0.0	1	0.5	1	0.2	0	0.0	1	0.5	0	0.0	0	0.0	0	0.0	1	0.2	0
Total Minorities	38	13.7	37	17.6	72	15.6	3	11.5	35	18.6	24	16.2	13	9.3	3	27.3	75	15.4	29
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Caucasian	239	84.3	173	82.4	389	84.4	23	88.5	153	81.4	124	83.8	127	90.7	8	72.7	412	84.6	158
TOTAL	277	56.9	210	43.1	461	94.7	26	5.3	188	38.6	148	30.4	140	28.7	11	2.3	487		187

* Degrees Awarded

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**JD ENROLLMENT
GENDER & ETHNICITY – 2002**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
African-American	3	1.2	11	4.9	14	3.1	0	0.0	5	3.0	xx	xx	xx	xx	xx	xx	14	3.0	5
American Indian	9	3.6	4	1.8	13	2.9	0	0.0	7	4.2	xx	xx	xx	xx	xx	xx	13	2.8	3
Asian-American	15	6.1	13	5.8	26	5.8	2	7.7	11	6.6	xx	xx	xx	xx	xx	xx	28	5.9	7
Mexican American	9	3.6	7	3.1	15	3.4	1	3.8	7	4.2	xx	xx	xx	xx	xx	xx	16	3.4	6
Puerto Rican	0	0.0	1	0.4	1	0.2	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	1	0.2	0
Hispanic-American	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
Total Minorities	36	14.6	36	16.0	69	15.5	3	11.5	30	18.0	xx	xx	xx	xx	xx	xx	72	15.3	21
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
Caucasian	211	85.4	189	84.0	377	84.5	23	88.5	137	82.0	xx	xx	xx	xx	xx	xx	400	84.7	120
Unknown	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	0	0.0	0
TOTAL	247	52.3	225	47.7	446	94.5	26	5.5	167	35.4	xx	xx	xx	xx	xx	xx	472		141

* Degrees Awarded

Gonzaga University School of Law
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(509) 328-4220

**JD ENROLLMENT
GENDER & ETHNICITY – 2003**

	Men		Women		Fl-Time		Pt-Time		1 st Yr		2 nd Yr		3 rd Yr		4 th Yr		Total		*		
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%			
African-American	5	1.9	6	2.5	10	2.1	1	4.8	4	1.9	xx	xx	xx	xx	xx	xx	xx	xx	11	2.2	4
American Indian	8	3.1	4	1.7	12	2.5	0	0.0	4	1.9	xx	xx	xx	xx	xx	xx	xx	xx	12	2.4	3
Asian-American	17	6.5	13	5.4	29	6.0	1	4.8	14	6.7	xx	xx	xx	xx	xx	xx	xx	xx	30	6.0	9
Mexican American	12	4.6	10	4.2	22	4.6	0	0.0	11	5.3	xx	xx	xx	xx	xx	xx	xx	xx	22	4.4	5
Puerto Rican	1	0.4	1	0.4	2	0.4	0	0.0	1	0.5	xx	xx	xx	xx	xx	xx	xx	xx	2	0.4	0
Hispanic-American	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	xx	xx	0	0.0	0
Total Minorities	43	16.4	34	14.2	75	15.6	2	9.5	34	16.3	xx	xx	xx	xx	xx	xx	xx	xx	77	15.4	21
Foreign Nationals	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	xx	xx	0	0.0	0
Caucasian	219	83.6	205	85.8	405	84.4	19	90.5	174	83.7	xx	xx	xx	xx	xx	xx	xx	xx	424	84.6	127
Unknown	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	xx	xx	xx	xx	xx	xx	xx	xx	0	0.0	0
TOTAL	262	52.3	239	47.7	480	95.8	21	4.2	208	41.5	xx	xx	xx	xx	xx	xx	xx	xx	501		148

* Degrees Awarded

APPENDIX M

FEDERAL EMPLOYMENT LAWS

Legal Theories to Prove Unlawful Discrimination

To prove unlawful discrimination under Title VII, an employee may use the following legal theories: (1) direct evidence discrimination; (2) prima facie discrimination; (3) mixed motive discrimination; (4) disparate impact discrimination; (5) pattern and practice discrimination; and/or (6) hostile work environment discrimination.

1. Title VII of Civil Rights Act of 1964.

Title VII of Civil Rights Act of 1964 ("Title VII") prohibits discrimination on the basis of race, color, religion, national origin and sex. 42 U.S.C. § 2000e-2. Title VII is applicable to employers who have 15 or more employees. 42 U.S.C. § 2000e-2.

a. Direct Evidence of Discrimination.

Direct evidence of discrimination is established when an employer states it made an adverse employment decision because of the employee's race, color, religion, national origin, sex or other prohibited basis. Usually, the decision-maker discloses these statements to a manager, supervisor or other who then tells the employee. Cases of direct evidence of discrimination are rare. Thus, courts have developed other legal theories to prove discrimination, which are set forth below.

(1) Prima Facie Case of Discrimination.

A prima facie case of discrimination is made when an employee shows he or she (1) was within a protected group (race, color, religion, national origin, etc.); (2) was subject to an adverse employment decision; (3) was replaced by a person outside of the protected group; and (4) was qualified to do the job. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). Once the employee satisfies these elements, there is a rebuttable presumption of unlawful discrimination. *St. Mary's Honor Center v. Hicks*, 113 S.Ct. 2742 (1993). The employer is then entitled to articulate a legitimate, non-discriminatory reason for the adverse employment decision. If the employer meets its burden, the presumption of discrimination is eliminated. The burden then shifts to the employee who must show the reason set forth by the employer was a mere pretext for unlawful discrimination. *Id.*

(2) Mixed Motive Case of Discrimination.

Mixed motive discrimination occurs when an employer makes an employment decision for both proper and discriminatory reasons. If an employee can establish the discriminatory reason was a motivating factor in the decision, he or she will have grounds for a mixed motive case of discrimination. *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). Once the employee has shown the discriminatory reason was a motivating factor, the employer's other reasons are irrelevant. 42 U.S.C. § 2000e5(g)(2)(B). To rebut, the employer must show it would have made the same decision absent the discriminatory factor. *Trans World Airlines, Inc. v. Thurston*, 469 U.S. 111 (1985).

(3) Disparate Impact Discrimination.

Even where there is no proof of discriminatory motive, an employer may still violate Title VII. Disparate impact discrimination occurs when an employment practice, though neutral on its face, operates to discriminate against employees in a protected class. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (employer's requirement of high school degrees for all applicants disparately impacted black applicants); 42 U.S.C. 2000e-2. Therefore, even if an employer treats employees or applicants equally, if the results of that treatment disproportionately excludes members of a protected group, that employer may be in violation of Title VII.

The employee has the burden to show that challenged practice caused an adverse impact on a protected group. *42 U.S.C. 2000e-2(k)*. That impact must be significant and can be demonstrated by statistics or circumstantial evidence. *Dothard v. Rawlinson*, 433 U.S. 321 (1977) (height requirement for prison guards had significant adverse affect on women who were statistically shorter than men). Once an employee has shown a significant adverse impact, to avoid liability, the employer must prove the challenged practice is job related for the position and consistent with business necessity. *42 U.S.C. 2000e-2(k)*.

(4) Individual Liability for Discrimination.

Under Title VII, an action does not lie against an individual supervisor or co-worker for discrimination. *Miller v. Maxwell*, 991 F.2d 583 (9th Cir. 1993).

b. Unlawful Discrimination under Title VII.

(1) Sexual Harassment.

Title VII provides it is “an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s . . . sex” *42 U.S.C. § 2000e-2(a)(1)*. Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature. It takes one of two forms: quid pro quo sexual harassment or hostile environment sexual harassment.

(a) Quid Pro Quo Sexual Harassment.

Quid pro quo (“something for something”) sexual harassment is the extortion of sexual favors for tangible job benefits or the absence of a job detriment by an executive, supervisory or management-level employee. To establish this claim, an employee must prove that he or she (1) is a member of a protected group, (2) was subject to unwelcome sexual harassment in the form of sexual advances or requests for favors, (3) the harassment was based upon sex, and (4) the employee’s reaction to the harassment affected compensation, terms, condition or privileges of employment. *Jones v. Flagship Int’l*, 793 F.2d 714, 721-22 (5th Cir. 1986), cert. denied, 479 U.S. 1065 (1987). An employer will be strictly liable for the quid pro quo harassment of a supervisor. *Miller v. Bank of America*, 600 F.2d 211, 213 (9th Cir. 1979).

(b) Hostile Work Environment Sexual Harassment.

Hostile work environment sexual harassment arises where sexually demeaning behavior is so severe or pervasive it alters the terms and conditions of employment, therefore unreasonably interfering with the employee’s work. *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (hostile environment where bank officer repeatedly requested sexual favors from and had sexual relations with female employee for several years until she was dismissed). To make this claim, an employee must prove he or she: (1) was a member of a protected group; (2) was subject to unwelcome sexual advances, requests for sexual favors, verbal abuse, or physical contact; (3) the harassment was based upon sex; and (4) the harassment unreasonably interfered with his or her work performance or created an intimidating, hostile or offensive work environment. *Harris v. Forklift Systems, Inc.*, 113 S.Ct. 367 (1993). To determine whether a hostile work environment existed, courts consider the frequency of the discriminatory conduct, its severity, whether it was physically threatening or humiliating, and whether it unreasonably interfered with the employee’s work performance. *Harris*, 113 S.Ct. at 371. A mere offensive utterance does not, in itself, create a hostile work environment. *Harris*, 113 S.Ct. at 370.

An employer will be liable for hostile work environment harassment by the employee’s co-workers or third parties if it knew or should have known of conduct but failed to take prompt corrective action. *EEOC v. Hacienda Hotel* 881 F.2d 1504, 1515 (9th Cir. 1989). Once aware of an allegation of harassment, the employer must investigate and take remedial action of disciplinary nature appropriate to the seriousness of the offense or face liability. *Intlekofer v. Turnage*, 973 F.2d 773, 779-80 (9th Cir. 1992).

(c) Changes in Sexual Harassment.

June 26, 1998, the United States Supreme Court released two decisions regarding sexual harassment by supervisory employees: *Burlington Industries, Inc., v. Ellerth*, 118 S.Ct. 2257, 141 L.Ed. 2d 633 (1998) and *Faragher v. City of Boca Raton*, 118 S.Ct. 2275, 141 L.Ed. 2d 662 (1998). These decisions redefined an employer's liability for sexual harassment by its supervisors. In its ruling in both cases, the Court held "an employer is subject to vicarious liability to a victimized employee for an actionable hostile environment created by a supervisor with immediate (or successively higher) authority over the employee." This holding called into question the efficacy of the distinction between quid pro quo and hostile work environment as set forth above.

(i) Quid Pro Quo Sexual Harassment.

With respect to quid pro quo claims, the Court ruled an employer is vicariously liable for the harassment of an employee by his or her immediate supervisor where the supervisor takes tangible employment action against a subordinate who refuses sexually related demands or behavior. In sum, if an employee can prove he or she suffered economic injury from a supervisor's discriminatory decision, the employer will be responsible for the damages caused by the discriminatory decision. Consequently, there is no defense an employer can make in such a situation, other than it did happen.

(ii) Hostile Work Environment Sexual Harassment.

The Court also held an employer is vicariously liable to an employee subjected to a hostile work environment created by his or her immediate supervisor or someone higher in the direct chain of command, even in the absence of a tangible adverse employment action. Generally, the Court reaffirmed the requirement that the conduct must be severe and pervasive enough to taint the workplace and create an abusive working environment. However, it also imposed a higher threshold for hostile environment claims stating that "simple teasing, offhand comments and isolated incidents (unless extremely serious)" will not amount to a sexually hostile environment.

Although the Court found employers are vicariously responsible for the effects of a supervisor's sexually harassing conduct, it also created an affirmative defense for proactive employers. In order to avoid or minimize liability or damages, an employer can prove as an affirmative defense, by preponderance of the evidence, that (1) the employer exercised reasonable care to prevent and promptly correct the sexual harassment; and (2) the plaintiff employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to avoid harm otherwise.

(2) Racial Discrimination.

Title VII provides that it is "an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . race . . ." 42 U.S.C. § 2000e-2(a)(1). The employee must show because of race he or she was treated less favorably than similarly situated non-minority employees. *Int'l Brotherhood of Teamster v. U.S.*, 431 U.S. 324, 335 n.15 (1977).

(3) National Origin Discrimination.

Title VII provides it is "an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . national origin . . ." 42 U.S.C. § 2000e-2(a)(1). Title VII protection applies to anyone from a foreign country or having ancestors from a foreign country. *Sethy v. Alameda County Water District*, 545 F.2d 1157 (9th Cir. 1976).

(4) Religious Discrimination.

Title VII provides it is “an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s . . . religion” 42 U.S.C. § 2000e-2(a)(1). Religion includes all aspects of religious observances and practices as well as beliefs. 42 U.S.C. § 2000e(j). Under Title VII, an employer has a duty to reasonably accommodate an employee’s religious beliefs. *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 75 (1977) (Jewish employee sued airlines for refusing to accommodate his request not to work on Saturday which was the Sabbath). The employer, however, need not accommodate an employee’s religious beliefs if it would cause undue hardship to the business. 29 C.F.R. § 1605.2(c)(1).

(5) Retaliation.

Title VII prohibits discrimination on the basis of an employee’s opposition to perceived discriminatory conduct or participation in a proceeding instituted in furtherance of the statute. 42 U.S.C. § 2000e-3(a). Even if the employee makes a claim of discrimination, which is later found to be insufficient, an employee may still have a retaliation claim if he or she had a good faith belief that the conduct violated Title VII. *EEOC v. Crown Zellerbach Corp.*, 720 F.2d 1008 (9th Cir. 1983) (4 month suspension of black employees who wrote protest letters constituted unlawful retaliation).

c. Procedural Requirements for Invoking Title VII.

To bring a Title VII claim, an employee must file a charge with the Equal Employment Opportunity Commission (EEOC) within 180-300 days after the adverse employment action depending on the locale. 42 U.S.C. § 2000e-5(e). Before filing suit, the employee must receive a Notice of Right to Sue from the EEOC. 42 U.S.C. § 2000e-(f)(1). After receiving the Notice of Right to Sue, the employee has 90 days to file suit, or the right to sue under Title VII is lost. 42 U.S.C. § 2000e-(f)(1).

d. Damages for Violation of Title VII.

An employee may recover lost wages and benefits (e.g., sick pay, vacation pay, bonuses, etc.), lost fringe benefits, discretionary prejudgment interest, reinstatement or front pay, emotional distress, expert witness fees, attorneys fees, and possibly punitive damages. 42 U.S.C. §§ 2000e-5(g) & (k) and § 1981a. The employee’s interim earnings should be deducted from the award. 42 U.S.C. § 2000e-5(g). The employer’s offer of reinstatement may limit the back pay award. *Ford Motor Co. v. EEOC*, 458 U.S. 219 (1982). An award of punitive damages is based upon the size of the employer. Combined compensatory and punitive damages against an employer with 15 to 100 employees is limited to \$50,000; for an employer with 101 to 200 employees \$100,000; for an employer with 201 to 500 employees \$200,000; and, for an employer with 500 or more employees \$300,000. 42 U.S.C. § 1981a.

2. Pregnancy Discrimination Act Of 1978.

The Pregnancy Discrimination Act of 1978 (“PDA”) prohibits employer practices that discriminate on the basis of pregnancy or have an adverse impact on pregnant woman. 42 U.S.C. § 2000e(k). An employer cannot require a female worker to stop working because she is pregnant as long as she can perform the essential functions of her job.

PDA is an extension of Title VII, so the same procedures and remedies are applicable. As a result, courts use the same Title VII legal standards to find liability: (1) direct evidence discrimination; (2) prima facie case of discrimination, (3) mixed motive discrimination; and (4) disparate impact discrimination. 29 C.F.R. § 1604.

a. Relationship between Pregnancy and Disability.

Under the PDA, the employer must provide the pregnant employee with the same benefits that it would have provided to a disabled employee. 42 U.S.C. § 2000(e)(k). If a disabled person would have been permitted to take temporary leave or would not have been discharged, then a pregnant employee must be treated in the same manner. *Southwestern Bell Tel. Co. Maternity Benefits Litigation*, 602 F.2d 845 (8th Cir. 1979). However, an employer cannot assume that a pregnant person is automatically disabled and thus refuse to hire her, force her to take leave, or fire her. *Greenspan v. Automobile Club*, 495 F. Supp. 1021 (E.D. Mich. 1980).

3. Equal Pay Act of 1963.

The Equal Pay Act of 1963 (“EPA”) prohibits an employer from paying a female employee less than a male employee when both are performing substantially the same jobs. 29 U.S.C. § 206(d)(1). The EPA does not compare jobs of

equal worth but jobs that require equal skill, effort, and responsibility performed in similar working conditions. *County of Washington v. Gunther*, 452 U.S. 161 (1981). The EPA applies to employers who have 15 or more employees.

a. Legal Standard to Prove a Violation of EPA.

An employee must prove the employer paid male and female employees different wages for substantially the same work, and such pay differential was the result of an intent to discriminate on the basis of sex. *Seep v. Commercial Motor Freight, Inc.*, 575 F. Supp. 1097 (D.C. Oh. 1983). However, the employer may pay male and female employees' different wages when such payments are based upon (1) a seniority system, (2) a merit system, (3) a quantity or quality of production system, or (4) a system based on another factor besides sex. 29 U.S.C. § 206(d)(1). However, the employer bears the burden to justify its wage disparity. *Kouba v. Allstate Insurance Co.*, 691 F.2d 873 (9th Cir. 1982).

b. Procedural Requirements for Invoking EPA.

The employee does not need to follow any procedural requirements to file an EPA claim as with filing a Title VII sex discrimination claim. *Ososky v. Wick*, 704 F.2d 1264 (D.C. Cir. 1983).

c. Damages for Violation of EPA.

Under the EPA, an employee may recover back pay, liquidated double damages (unless the employer acted reasonably), front pay, prejudgment interest, liquidated double damages, and attorneys' fees. 29 U.S.C. § 216(b).

4. Age Discrimination in Employment Act of 1967.

The Age Discrimination in Employment Act of 1967 ("ADEA") prohibits discrimination on the basis of age. 29 U.S.C. § 623(a). An employer may not discriminate against an individual 40 or over by refusing to hire him or her or by altering the terms, conditions or privileges of employment. The ADEA applies to employers who have 20 or more employees.

a. Legal Standard to Prove Age Discrimination.

(1) Prima Facie Case of Age Discrimination.

Under the ADEA, an employee can establish a prima facie case of age discrimination if he or she: (1) was over the age of 40; (2) was subject to an adverse employment decision; (3) was replaced by a younger person; and (4) was doing satisfactory work at the time of the adverse decision. *Pejic v. Hughes Helicopters*, 840 F.2d 667, 674 (9th Cir. 1988). Once an employee satisfies these four elements, a rebuttable presumption of age discrimination is created. *St. Mary's Honor Center v Hicks*, 113 S.Ct. 2742 (1993). Thereafter, if the employer articulates legitimate non-discriminatory reason for its conduct, the employee must prove the employer's proffered reason was pretextual. *Id.*

(2) Direct Evidence of Age Discrimination in a Mixed Motive Case.

When an employee proves age was a motivating factor in the adverse decision, the employer must show that the employment decision would have been made even if age had played no role. *Sischo-Nownejad v. Merced Community College Dist.*, 934 F.2d 1104, 1110 (9th Cir. 1991).

(3) Disparate Impact Age Discrimination.

An employee can establish disparate impact age discrimination by establishing the employer practice appears neutral but operates to discriminate against individuals over the age of 40. Circumstantial or statistical evidence can support an inference of age based discrimination. *Rose v. Wells Fargo & Co.*, 902 F.2d 1417, 1420 (9th Cir. 1990). To rebut, an employer should show the neutral qualifications were reasonably related to a particular business or occupation, including standards for skill, aptitude, physical ability, education, maturation and experience. 29 U.S.C. § 623(f); 29 C.F.R. § 1625.8.

(4) Retaliation.

The ADEA prohibits discrimination on the basis of an employee's opposition to perceived discriminatory conduct or participation in a proceeding instituted in furtherance of the statute. 29 U.S.C. § 704(a).

b. Permissible Age Discrimination.

Age discrimination may be permissible where it is reasonably necessary for public safety. The employer must demonstrate that (1) all persons over the age could safely and efficiently perform the job, or (2) it would be

impossible or highly impracticable to deal with employees on individualized basis. *Western Air Lines, Inc. v. Criswell*, 472 U.S. 400, 412 (1985).

c. Procedural Requirements for Invoking ADEA.

The employee must file charges with the EEOC within 180-300 days of the adverse action and 60 days before filing suit. 29 U.S.C. §§ 626(d) and 633(b). After receiving notice that proceedings have been terminated, the employee has 90 days to file suit, or the right to sue under the ADEA is lost. 29 U.S.C. § 626(e).

d. Damages for Violation of ADEA.

An employee can recover the same damages under the ADEA as those recoverable under Title VII.

e. Waiver of ADEA Rights.

An employee may waive his or her ADEA rights if such waiver was done knowingly and voluntarily. See Older Women's Benefit Protection Act which requires various notifications and waiting periods for an effective release of ADEA claims. 29 U.S.C. § 623(f).

5. Americans With Disabilities Act of 1990.

The Americans with Disabilities Act of 1990 ("ADA") prohibits discrimination against a qualified person with a disability because of such disability. 42 U.S.C. § 12112(a). The ADA provides in part,

no covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. 42 U.S.C. § 12112(a).

Prohibited discrimination includes the failure to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual with a disability unless the accommodation would impose undue hardship on the operation of the business of the employer. 42 U.S.C. § 12112(b)(5)(A). The ADA applies to employers who have 15 or more employees. 42 U.S.C. § 12111(5)(A).

a. Qualified Person with a Disability.

An employee is protected by the ADA if he or she has a disability and can perform the essential functions of the position [with or without reasonable accommodation]. 42 U.S.C. § 12111(8). The EEOC regulations add that the individual must satisfy the requisite skill, experience, and education requirements of the job. 29 C.F.R. § 1630.2(m).

(1) Definition of Disability.

An employee is disabled when he or she (1) has a physical or mental impairment that substantially limits a major life function, (2) has record of such impairment, or (3) has been regarded as having such impairment. 42 U.S.C. § 12102(2); 29 C.F.R. §§ 1630.2(h)-(l).

A physical or mental impairment is any physiological or psychological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems. 29 C.F.R. § 1630.2(h). Homosexuality, bisexuality, transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identification disorders, compulsive gambling, kleptomania, pyromania and psychoactive substance use disorders are not considered disabilities. 42 U.S.C. §§ 12114 & 12211; 29 C.F.R. § 1630.3(e). A major life activity is one that an average person performs regularly with little or no difficulty such as working, walking, speaking, breathing, seeing and hearing. 29 C.F.R. § 1630.2(i). A substantial limitation on major life activity means the impairment significantly restricts the condition, manner or duration under which an individual can perform the activity. 29 C.F.R. § 1630.2(j).

A record of disability applies to persons who are no longer disabled but have a record or history of having a substantially limiting impairment. 29 C.F.R. § 1630.2(k).

A person is regarded as disabled if he or she (1) has a physical or mental impairment which is not substantially limiting but is treated by as having such limitation, (2) has an impairment which is substantially limiting only because of the treatment and attitudes of others, or (3) does not have an impairment but is treated as if he or she has a substantially limiting impairment. 29 C.F.R. § 1630.2(k).

(2) Essential Functions of the Job.

To be covered under the ADA, the employee must be able to perform the essential functions of the job with or without accommodation. 42 U.S.C. § 12111(8). The essential functions of a position are the fundamental job duties. 29 C.F.R. § 1630.2(n). Courts generally defer to the employer's preselection judgment as to what functions of a job are essential, and if the employer has prepared a written description before advertising or interviewing applicants it is considered evidence of the essential functions. 42 U.S.C. § 12111(8). Basically, essential functions are those that individual who holds the position must be able to perform unaided or with the assistance of a reasonable accommodation. A job function may be considered "essential" for reasons including but not limited to:

- (1) the reason the position exists is to perform that function;
- (2) the limited number of employees available among whom the performance of that job function can be distributed; and
- (3) the function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

29 C.F.R. § 1630.2(n)(2); EEOC Interpretive Guidance, 29 C.F.R. Part 1630, Appendix, § 1630.2(n). Evidence that a particular function is essential includes:

- (1) the employer's judgment as to which functions are essential;
- (2) the written job descriptions prepared before advertising or interviewing applicants for the job;
- (3) the amount of time spent on the job performing the function;
- (4) the consequences of not requiring the incumbent to perform the function;
- (5) the terms of a collective bargaining agreement;
- (6) the work experience of past incumbents in the job; and/or
- (7) the current work experience of incumbents in similar jobs.

29 C.F.R. § 1630.2(n)(3).

(3) Duty to Reasonably Accommodate.

An employer must make reasonable accommodations for the disability so that the employee can perform the essential functions and enjoy equal benefits and privileges that non-disabled employees enjoy. 42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.2(o). Reasonable accommodation includes (1) making existing facilities accessible to individuals with disabilities, and (2) job restructuring, part time or modified job schedules, reassignment, purchase of equipment or devices, qualified readers or interpreters. 42 U.S.C. § 12111(9). Employers should consider the following for the reasonable accommodation process:

- (1) Analyze the particular job involved and determine its purpose and essential functions;

(2) Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;

(3) In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and

(4) Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for the employee and the employer.

EEOC Interpretive Guidance, 29 C.F.R. Part 1630, Appendix, § 1630.9.

An employer is not required to accommodate an employee with a disability if such accommodation would cause undue hardship on the employer. *42 U.S.C. § 12112(b)(5)(A); 29 C.F.R. § 1630.2(p)*. To decide whether there is undue hardship, courts will consider the nature and cost of accommodation, the financial resources of employer, its type of operations, and the impact of accommodation upon operations. *42 U.S.C. § 12111(10)(B)*.

An individual is not "otherwise qualified" if that person poses a direct threat to the health or safety of others because of the disability which cannot be eliminated by reasonable accommodation. *42 U.S.C. §§ 12113(a)-(b)*. A direct threat is a "significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation. *42 U.S.C. § 12111(3)*. Where the individual's disability creates a direct threat, the employer must determine whether a reasonable accommodation would either eliminate the risk or reduce it to an acceptable level. *EEOC Interpretive Guidance, 29 C.F.R. Part 1630, Appendix, § 1630.2(r)*.

(4) Medical Examinations under the ADA.

When interviewing prospective employee, an employer cannot generally require medical examinations or inquire into an applicant's disability; however, the employer may inquire as to whether the applicant can perform specific job functions. *42 U.S.C. § 12112(c)(2)(A)*. Also, an employer may condition a job offer on a medical examination if all other applicants for the position must also submit to the same examination. *42 U.S.C. § 12112(c)(3)*.

(5) Retaliation.

The ADA prohibits discrimination on the basis of an employee's opposition to perceived discriminatory conduct or participation in a proceeding instituted in furtherance of the statute. *42 U.S.C. § 12203*.

(6) Damages for Violation of ADA.

An employee may recover damages including back pay, prejudgment interest, reinstatement or front pay, emotional distress, attorneys' fees and possibly punitive damages. *42 U.S.C. §§ 12115 & 1981a*.

ENDNOTES

¹ U.S. Department of Labor, *Futurework: Trends and Challenges for Work in the 21st Century*, Washington DC (Labor Day 1999).

² Id.

³ Id.

⁴ Id.; Cornelius Grove & Associates, *Diversity in Business: What is it. Why it's useful. How it works* (June 1995, Reviewed May 2000).

⁵ Id.

⁶ State of Washington Exec. Order 91-06; Seattle Municipal Code § 14.04; King County Code 12.18.030; Bremerton Municipal Code 22.01.261; Olympia Municipal Code 1.24.010.

⁷ Exec. Order No. 8,802, 6 Fed. Reg. 3,109 (1941).

⁸ FEPC was to “receive and investigate complaints of discrimination” and “take appropriate steps to redress grievances which it finds to be valid.” However, the Committee was never given direct means of enforcing any directives it might issue.

⁹ Id.

¹⁰ Exec. Order No. 9,981; 13 Fed. Reg. 4,313 (1948).

¹¹ Exec. Order No. 10,925; 26 Fed. Reg. 1,977 (1961).

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965).

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ 1949 c 183 § 1; Rem. Supp. 1949 § 7614-20.

²⁰ See RCW 49.60.010; see also, 1997 c 271 § 1; 1995 c 259 § 1; 1993 c 510 § 1; 1985 c 185 § 1; 1973 1st ex.s. c 214 § 1; 1973 c 141 § 1; 1969 ex.s. c 167 § 1; 1957 c 37 § 1; 1949 c 183 § 1; Rem. Supp. 1949 § 7614-20.

²¹ Exec. Order No. 70-01 (1970).

²² Id.

²³ Id.

²⁴ Exec. Order No. 10,925, 26 Fed. Reg. 1977 (1961).

²⁵ Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965).

²⁶ Exec. Order No. 11,375, 30 Fed. Reg. 14,303 (1967).

²⁷ See Exec. Order No. 11,625, 36 Fed. Reg. 19,967 (1971); Exec. Order No. 12,138, 44 Fed. Reg. 29, 637 (1979); Exec. Order No. 12,432, 48 Fed. Reg. 32,551 (1983); see also, Exec. Order No. 11,375.

²⁸ 41 C.F.R. § 60.2 (1971).

²⁹ 41 C.F.R. § 60-2.10 (1972).

³⁰ Exec. Order No. 77-10 (1977): Affirmative Action Program for the Disabled and Vietnam-Era Veterans.

³¹ Id.

³² Exec. Order No. 79-08 (1979): Affirmative Action in State Government.

³³ Id.

³⁴ Id.

³⁵ See Exec. Order No. 81-02 (1981); Exec. Order No. 84-10 (1984), Exec. Order No. 85-09 (1985); Exec. Order No. 91-06 (1991); and Executive Order No. 93-07 (1993); see also, RCW 49.74 regarding affirmative action in Washington State government and institutions of higher learning.

³⁶ Exec. Order No. 11,246.

³⁷ U.S. Census Bureau, Census 1990 (detailed occupation by race, Hispanic origin, and sex).

³⁸ Id.

³⁹ Id.

⁴⁰ See Joni Balter, Separating Fact from Fiction on this Misleading Measure, *Seattle Times*, November 1, 1998; Tom Brune, Questions and Answers About Initiative 200, *Seattle Times*, October 25, 1998.

⁴¹ Id.

⁴² DISCRIMINATION, PREFERENTIAL TREATMENT PROHIBITED

1. The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

2. This section applies only to action taken after December 3, 1998.

3. This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

4. This section does not affect any otherwise lawful classification that:

a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

c) Provides for separate athletic teams for each sex.

5. This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

6. This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

7. For the purposes of this section, "state" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state.

8. The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington anti-discrimination law.

9. This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington State Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington State Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

See RCW 49.60.400

⁴³ Id.

⁴⁴ Id.

⁴⁵ State Government Data: March 1998, Census (July, 1998).

⁴⁶ U.S. Bureau of the Census, 1997 Economic Census: Surveys of Minority and Women-Owned Business Enterprises.

⁴⁷ University of Washington, Enrollments and Percentage change by Ethnic Group Autumn 1998 through Autumn 2001, <http://www.washington.edu/diversity/statistics/stats02.html>.

⁴⁸ Weaver, Diversity: One Size Doesn't Fit All, at 2.

⁴⁹ Lee Gardenswartz, Ph.D. and Anita Rowe, Ph.D., Workplace Diversity: A Product of the SHRM Diversity Initiative, at 11 (1999).

⁵⁰ Id. at 11, 12.

⁵¹ Id. at 12.

⁵² R. Roosevelt Thomas, Jr., Majorre Woodruff and Tracy I Gray, Differences Do Make A Difference, American Institute for Managing Diversity (March 1992).

⁵³ Cornelius Grove & Associates, Diversity in Business.

⁵⁴ U.S. Census Bureau, Census 2000.

⁵⁵ U.S. Census Bureau, Population Estimates Program 2000.

⁵⁶ U.S. Census Bureau, Census 1990.

⁵⁷ The category of "Asian-American" includes Asian-Indian, Chinese, Filipino, Japanese, Korean, Vietnamese and other persons of Asian descent. U.S. Census Bureau, Census 2000.

⁵⁸ The federal government considers race and Hispanic origin to be two separate and distinct concepts. Those categorized as "Hispanic" or "Latino" include a person of Cuban, Mexican, Puerto Rican, South and Central American, or other Spanish culture or origin regardless of race... therefore Hispanics may be of any race (www.census.gov/prod/2001pub/c2kbr01-1.pdf). Although, the population of Hispanics are separated and quantified for clarity, in reality the Hispanic population figure is already included in the race category and the total population figure.

⁵⁹ The "Pacific Islander" category includes Native Hawaiian, Guamanian or Chamorro, Samoan and other persons of Pacific Island and Native Hawaiian descent. U.S. Census Bureau, Census 2000.

⁶⁰ Between 1990 and 2000, the White population increased by approximately 512,886 persons, Black/African-American persons increased by 40,466, Asian-Americans increased by 111,377 and Hispanic/Latinos increased by 226,939 persons. The question on Hispanic origin for Census 2000 was similar to the 1990 census question (www.census.gov/prod/2001pub/c2kbr01-1.pdf). *Supra*, endnote 58.

⁶¹ Department of Health Genetic Services Section, Disability in Washington State, at 8 (January 2001).

⁶² U.S. Census Bureau, Census 1990 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

⁶³ U.S. Census Bureau, Census 1990 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

⁶⁴ U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1 and PL2.

⁶⁵ U.S. Census Bureau, Census 1990 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

⁶⁶ U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

⁶⁷ U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1 and PL2.

⁶⁸ U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1 and PL2.

⁶⁹ U.S. Census Bureau, Census 2000 Summary File 1, Matrices PCT12 and P13.

⁷⁰ "Active" includes members with the following status: Active (22,306); Emeritus (20); Foreign Law Consultant (4); and In-House Counsel (70).

⁷¹ Only 14,205 WSBA members responded to this inquiry of gender, leaving 8,195 non-respondents.

⁷² Of the reported 22,400 WSBA members, only 12,507 responded to this inquiry. Approximately 9,893 did not.

⁷³ Disability is defined according the Americans with Disability Act, 42 U.S.C. § 12102(2): "A physical or mental impairment that substantially limits one or more of the major life activities . . ."

⁷⁴ The WSBA collects limited demographic information about its members. Providing information pertaining to race and/or ethnicity is strictly volunteer, in compliance with WSBA Bylaw, Article XIII.A.1.

⁷⁵ Of the 22,400 licensed attorneys, only 14,013 responded to this inquiry, while 8,387 did not.

⁷⁶ These principles, as articulated by Diversity Consultants Lee Gardenswartz, Ph.D. and Anita Rowe, Ph.D. of Gardenswartz & Rowe, are: Gardenswartz and Rowe, *Workplace Diversity*, at 13.

⁷⁷ Webster's defines ethnocentric as "having race as a central interest; characterized by or based on the attitude that one's own group is superior." Webster's Ninth Collegiate Dictionary (1991), at 427.

⁷⁸ Homeostasis is defined as "a relatively stable state of equilibrium or a tendency towards such a state between the different but interdependent elements or groups of elements of an organism or group." *Id.* at 577.

- ⁷⁹ Gardenswartz and Rowe, *Workplace Diversity*, at 31-32.
- ⁸⁰ Sondra Thiederman, Ph.D.
- ⁸¹ U.S. Office of Personnel, *Building and Maintaining a Diverse Workforce*, at 12.
- ⁸² The Multicultural Advantage Diversity Recruitment Tips, *Diversity Recruitment for the New Millennium: 10 Strategies for Improving Diversity Recruitment*.
- ⁸³ Susan L. Barleigh and Kevin C. Wilson, *Developing a Recruiting Strategy: A Critical Human Resource Initiative*, SHRM Whitepapers, December 1999, at 3-6.
- ⁸⁴ The Facts Newspaper; The Medium Newspaper, *Colors NW Magazine*, P.O. Box 69694, Seattle, WA 98168; (206) 444-9251 (tel.) (206) 860-7286 (fax).
- ⁸⁵ Gardenswartz and Rowe, *Workplace Diversity*, at 39-40.
- ⁸⁶ U.S. Office of Personnel Management, *Building and Maintaining a Diverse Workforce*, at 21.
- ⁸⁷ *Id.* at 21.
- ⁸⁸ *Id.* at 22.
- ⁸⁹ American Society for Training and Development at <http://www.astd.org>.
- ⁹⁰ *Id.* at 22-23.
- ⁹¹ *Id.* at 23.
- ⁹² *Id.* at 23 – 24.
- ⁹³ Ism: A distinct doctrine, system or theory. *The American Heritage Dictionary* (2nd College ed. 1985).
- ⁹⁴ Delyte D. Frost, *Diversity Worst Practices*, *The Minority Corporate Counsel Association* (2001).
- ⁹⁵ Act of April 9, 1866, Ch. 31, § 1, 14 Stat. 27, 42 U.S.C. § 1981 (1966).
- ⁹⁶ Pub.L. 88-38, 77 Stat. 56, 29 U.S.C. § 206(d).
- ⁹⁷ Pub.L. 75-718, 52 Stat. 1060, 29 U.S.C. § § 201-209.
- ⁹⁸ Amends the Fair Labor Standards Act as codified at 29 U.S.C. § 206(d). See also 29 C.F.R. § § 1620 et seq. and 29 CFR § 1614.408.
- ⁹⁹ Pub.L. 88-352, 78 Stat. 241, 42 U.S.C. § § 1971, 1975a-d, 2000a et seq. (1964) (as amended by Pub.L. 92-261, 86 Stat. 103, 42 U.S.C. § 2000e et. seq. (1972); Pub.L. 95-555, 92 Stat. 2076, 42 U.S.C. § 2000e(k) (1978); Pub.L. 102-166, 105 Stat. 1071, 42 U.S.C. § 1981a et seq. (1991)).
- ¹⁰⁰ Pub.L. 90-202, 81 Stat. 602, 29 U.S.C. § § 621-634 (1976) (as amended by Pub.L. 93-259, 88 Stat. 74, 29 U.S.C. § § 630(b), (c), (f), 633a, 634 (1976); Pub.L. 95-256, 92 Stat. 189, 29 U.S.C. § § 623, (f)(2), 624, 626(c), (d), (e), 631, 633a(a), (f), (g), 634 (1981); Pub.L. 99-592, 100 Stat. 3342, 29 U.S.C. § 623 (1986); Pub.L. 101-433, 104 Stat. 978, 29 U.S.C. § 621 et seq. (1990); Pub.L. 101-433, 104 Stat. 978, 29 U.S.C. § 621 et. seq. (1990)).
- ¹⁰¹ See 29 U.S.C. § § 621 et seq.; 29 U.S.C. § § 631a(b) and 633a are applicable to Federal Employees.
- ¹⁰² 38 U.S.C. § 4212 (1974).

¹⁰³ Pub.L. 101-336; 104 Stat. 327; 42 U.S.C. § 12,01 (1990).

¹⁰⁴ Sec. 42 U.S. C. § § 12101 et seq.

¹⁰⁵ RCW 49.60.030, 180.

¹⁰⁶ *Marquis v. City of Spokane*, 130 Wn.2d 97, 922 P.2d 43 (1996).

¹⁰⁷ RCW 49.60.040.

¹⁰⁸ Betty Sosnin, Packaging Your Policies, HR Magazine, Vol. 46, No. 7 (July 2001); Stephen Rubenfeld, PhD & James Laumeyer, Human Resource Policies: Are They "Anchors" or "Oars?", (February 2000, Reviewed March 2002); Maurice Baskin, Is it Time to Revise Your Employee Handbook?, SHRM Legal Report (February 1998, Reviewed June 2000); Dale Scharinger, Preparation of the Employee Handbook, SHRM White Paper (November 1996, Reviewed June 2000 and March 2002).

¹⁰⁹ America's Best Colleges, 2000 Edition.

¹¹⁰ America's Best Colleges, 2001 Edition.

¹¹¹ America's Best Colleges, 2002 Edition.

¹¹² America's Best Colleges, 2000 Edition.

¹¹³ America's Best Colleges, 2001 Edition.

¹¹⁴ America's Best Colleges, 2001 Edition.

¹¹⁵ America's Best Colleges, 2002 Edition.

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