Fostering Diversity in Law Firms Is an Evolutionary Process

By Karen Jackson Vaughn

The struggle to achieve authentic diversity within the legal profession continues. From the standpoint of numbers, despite years of concerted effort to increase the representation of minority and female attorneys at all levels within the large-firm environment, progress has been minimal.
Analysis of data for 2005 by the National Association for Law Placement (NALP) reveals that attorneys of color, i.e., African-Americans, Asian/Pacific Islanders, American Indians, Hispanics of any race and multicultural individuals, make up 4.63 percent of partners in major law firms across the country, and women are 17.29 percent of partners in these firms. In 1993, attorneys of color were 2.55 percent of partners, while women represented 12.27 percent of this category.

On the local front, the numbers for Philadelphia and Pittsburgh, the two Pennsylvania cities featured in this 2005 report, show cause for concern. Although Philadelphia’s female partner percentage of 17.49 slightly exceeds the national figure, attorneys of color represent only 2.37 percent of partners, an amount that is significantly lower than the national number. In Pittsburgh, the numbers are lower in both categories, as women are 15.76 percent of all partners, and only 1.72 percent of that group are attorneys of color.

It is important to view these percentages in the context of the educational pipeline. According to statistics compiled by the American Bar Association Section of Legal Education and Admissions to the Bar, minority law students were 14 percent of those persons awarded J.D. degrees in 1993. That number increased over the years, with some dips along the way, to 21 percent in 2004. Women were 42 percent of law school graduates in 1993 but enjoyed a steady climb to practically 50 percent in 2004.

Over the years, minority and majority bar associations, law firms individually and in concert with other firms, organizations such as Lawyers for One America and NALP, and a variety of concerned individuals have struggled to develop and promote strategies to address this apparent discrepancy between the available pool of candidates and the rates of advancement for minorities and women in large firms. In the early 1990s, bar associations in San Francisco, New York and other cities adopted an approach to this dilemma that involved issuing a call to large firms and in some instances corporate legal departments to sign a “statement of goals.”

This document typically required a pledge to make every effort to increase the representation of minority lawyers within the firm or corporate legal department’s ranks and also to take steps to promote the retention and promotion rates of minority lawyers. Similar pledges focusing on these issues relative to women attorneys likewise emerged.

In 1993, while Andre Dennis was chancellor, the Philadelphia Bar Association announced the Statement of Goals of Philadelphia Law Firms and Legal Departments for Increasing Minority Representation and Retention. More than 40 law firms and corporate legal departments signed this document, thereby pledging to “achieve participation of minority attorneys at all professional levels” by hiring a “substantial number” of minority lawyers, improving their retention rate and promoting minority attorneys who satisfied the necessary requirements. All of these measures were to be taken between the years 1993 and 1997.

However, despite the fervor with which firms and corporate counsel embraced the plan of action outlined in the Statement of Goals, a survey of the signatories that The Legal Intelligencer conducted at the conclusion of the five-year period indicated that progress was limited. The number of minority attorneys increased slightly,
but the percentage of minority partners actually decreased. Things did not go well on the retention front either, as only half of the minority lawyers working in the subject firms in 1993 were still in the same firms as the sun set on the Statement of Goals.

The Philadelphia experience was unique neither within the commonwealth nor in the rest of the country, although firms in certain cities experienced somewhat better results. Thus, efforts to promote diversity in the legal profession continued. In 1997, a new national organization was created that has had a profound effect on the campaign for diversity in law firms. Lloyd Johnson, an African-American attorney, founded the Minority Corporate Counsel Association (MCCA) out of frustration with the apparent inability of corporate legal departments to achieve diversity within their ranks. Johnson’s concerns were based on his personal work experiences with two major corporations as well as on his active participation on diversity committees for two professional associations.

The mission of MCCA is to advocate for the expanded hiring, retention and promotion of minority attorneys in corporate law departments and the law firms that serve them. Although its signature programs are the Creating Pathways to Diversity Conference, the Diversity Dinner Series and the annual CLE Expo, the organization recently completed a research project that culminated in a definitive collection of diversity best practices for law firms and corporate counsel. The fact that this information is so readily available at the MCCA Web site, www.mcca.com, makes it much easier for law firm management, diversity committees and general counsel to develop action plans for creating diverse and inclusive environments.

At around the same time as the MCCA startup, the corporate community became more vocal on the subject of law firm diversity, driven by a long-standing bottom line-driven realization that in order to remain competitive in the global marketplace, corporations must have a workforce that not only is reflective of changing demographics in American society but also cultures in other parts of the world where they do business.

In 1999, Charles Morgan, who at that time was executive vice president and general counsel at BellSouth Corp., authored “Diversity in the Workplace: A Statement of Principle,” which represented a clarion call to law firms seeking corporate business. This statement, which subsequently was signed by more than 500 chief legal officers from corporations across the country, established a clear nexus between a true commitment to diversity and inclusion on the part of law firms and their ability to secure business from the signatory companies. Thus, the business case for diversity was born.

Woefully, five years later, law firm progress in the areas of recruiting, retaining and promoting minorities and women had advanced at a snail’s pace. Roderick Palmore, chief legal officer of the Sara Lee Corp., renewed the charge by issuing “A Call to Action: Diversity in the Legal Profession,” wherein he upped the ante, so to speak, by making it clear that the decision to engage the services of outside counsel would depend “in significant part on the diversity performance of the firms.”

In light of this confluence of diversity activities at the end of the 1990s, some law firms decided to add a new breed of professional to their ranks. Recognizing the value of having one person within the organization whose energies are devoted full-time to promoting diversity, several law firms across the country have hired diversity managers who are charged with implementing diversity objectives in concert with other key firm constituencies.

Within the commonwealth, Kirkpatrick & Lockhart Nicholson Graham broke new ground in 2003 by hiring Carl G. Cooper of Pittsburgh as the firm’s chief diversity officer. As such, he is responsible for designing and implementing an agenda for the firm that promotes, achieves and maintains a diverse workplace. Cooper’s position is somewhat unique.
in that he sits on the firm’s management committee and reports directly to the chairman of that committee. This enables him to maintain a bird’s-eye view of all processes within the firm, gauge the effectiveness of policies designed to achieve diversity objectives and recommend changes and adjustments as needed.

In 2004, I joined Saul Ewing L.L.P. in Philadelphia as its diversity program manager. At the time I arrived, a diversity committee composed of key firm leaders already existed and actively promoted the firm’s diversity agenda. Also in place was a strategic plan for diversity. I handle day-to-day plan implementation, guided by and in consultation with the diversity committee. A comprehensive document, the plan contains 35 action items. It was adopted by the firm’s executive committee and now is the centerpiece of a permanent infrastructure within Saul Ewing to promote and sustain workplace diversity.

The advent of diversity managers within law firms signals an evolution in the approach to creating environments in which diversity flourishes. These managers are specialists within the firm who gain an understanding of what makes the wheels of the organization turn. They also get to know people at all levels, both attorneys and staff. Armed with this knowledge, they are positioned to play a pivotal role in the achievement of law firm diversity objectives.

Nonetheless, bar associations should remain engaged in the law firm diversity agenda. In addition to our work responsibilities, Carl Cooper and I are actively involved in the PBA’s Minority Bar Committee, including its Diversity and Professional Advancement Subcommittee, and Carl chairs the association’s Leadership Diversity Task Force. All of these efforts combined are necessary to realize true diversity, a concept that is inextricably linked to the ideals of freedom, liberty and justice upon which this country is founded. Much work lies ahead, but we must continue to move forward with vigor and determination. Future generations deserve our best efforts.