Diversity Initiatives: What Works, What Doesn’t, and At What Risk

ABA NATIONAL CONFERENCE ON EEO LAW

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RATIONALE FOR DIVERSITY AND INCLUSION INITIATIVE

- Fixing an imbalance
- Compliance – Nationally and internationally
- Moral imperative; the right thing to do
- Public, board, consumer, and other pressures
- To be progressive; an employer of choice
- To keep up with competitors
- The business case: diverse companies enjoy better results
- Anti-harassment
- To defend against litigation and threats of same
- Other
LEGAL ISSUES

• Concepts
  o Affirmative action plan – major legal considerations
  o D&I training/programming – few legal considerations
  o Equal pay – a legal obligation

• Legal issues in affirmative action plans (*e.g.*, reverse discrimination claims)
  o Remedial in nature; to address imbalance
  o Quotas v. goals; factor versus reason

• Discoverability/Privilege
  o Work product
  o Privilege
EFFECTIVE STRATEGIES

- Overarching concepts
  - Skepticism/fatigue; hard to do; failed initiative; problematic
- Full buy-in – top, down; must be sincere
  - Culture; provision of substance & meaning
- The program
  - Proper assessment; robust/comprehensive program
- Measuring success; accountability
  - Strategic plan; proper funding; quarterly reviews; MBOs
- Internal and external communication
  - Publicity; town halls; mentoring; training; partnerships
THANK YOU

It was our pleasure to address Diversity and Inclusion Initiatives.