



# Staff Memorandum

## HOUSE OF DELEGATES Agenda Item #9

**REQUESTED ACTION:** Approval of the report and recommendations of the Committee on Diversity and Inclusion.

As part of its mission, the Committee on Diversity and Inclusion is charged with conducting biennial surveys to evaluate the level of diversity in Section leadership, membership and activities. Surveys have been conducted since 2005; this year, the committee conducted its seventh survey. The attached report reviews the results of the 2017 survey and compares those results to the previous surveys.

Also included in the report is a review of diversity efforts by eight Association sections selected by the committee, to be used by sections to create and achieve goals.

The committee is making the following recommendations:

- The Association should retook its request for member profiles with respect to diversity and highlight the importance of data.
- Sections that do not currently provide a leadership opportunity for young lawyers should create such an opportunity, such as a seat on the section's Executive Committee. In addition, the Young Lawyers Section should continue to recruit diverse attorneys to serve as liaisons to sections.
- Diversity plan guidelines should be developed to assist in standardizing data collection and reporting of section diversity initiatives.
- Prior recommendations that have not been implemented should be considered for action.
- A team should be designated to collect and analyze data and research the history of prior recommendations.
- Unavailable report cards should be republished and made available on the Committee on Diversity and Inclusion's website.

- Members should receive regular communications about the importance of reviewing the diversity report card and participating in the member profile.

The report will be presented at the January 26 meeting by committee chair Sandra H. Buchanan



NEW YORK STATE BAR ASSOCIATION

DIVERSITY REPORT CARD

SEVENTH EDITION, 2017

JANUARY 2018  
COMMITTEE ON DIVERSITY AND  
INCLUSION

THIS EDITION OF THE DIVERSITY REPORT CARD IS DEDICATED TO THE MEMORY OF JOHN ERIC HIGGINS, ESQ., A MEMBER OF THE NEW YORK STATE BAR ASSOCIATION FOR OVER 25 YEARS AND AN ACTIVE PARTICIPANT IN MANY AREAS OF THE ORGANIZATION, INCLUDING HIS LEADERSHIP AND SERVICE ON THE HOUSE OF DELEGATES AND THE COMMITTEE ON DIVERSITY AND INCLUSION AS CHAIR OF THE DIVERSITY REPORT CARD SUBCOMMITTEE. JOHN WAS ALSO PAST CHAIR OF THE COMMITTEE ON MINORITIES IN THE PROFESSION, FOUNDER OF THE CONSTANCE BAKER MOTLEY SYMPOSIUM AND THE MOVING FORCE BEHIND THE MILES TO GO REPORT.

BECAUSE OF JOHN'S WORK, WE CONTINUE OUR VISION TO RAISE AWARENESS OF THE NEED FOR A DIVERSE AND VIBRANT LEGAL PROFESSION.

**NEW YORK STATE BAR ASSOCIATION, THE COMMITTEE ON DIVERSITY AND INCLUSION  
DIVERSITY REPORT CARD  
SEVENTH EDITION, 2017**

**I. INTRODUCTION**

The New York State Bar Association is deeply committed to enhancing diversity at every level of participation within the association and the profession.<sup>1</sup> Similarly, the mission of the Committee on Diversity and Inclusion is to promote and advance the full and equal participation of attorneys of color, women and other diverse attorneys in the Association and in all sectors and at every level of the legal profession through research, education, fostering involvement and leadership development in the Association and other professional activities, and to promote knowledge of and respect for the profession in communities that historically have been excluded from the practice of law. Therefore, with the support of the Association, the Committee continues to make regular requests that all NYSBA members complete their diversity profile as part of their member census as a means to evaluate the level of diversity in Section leadership, membership and activities and report those results. The initial survey was conducted in 2005 by the Committee on Diversity and Leadership Development.

The subsequent Committee on Minorities in the Profession (now known as The Committee on Diversity and Inclusion) transposed the results of that survey into a Diversity Report Card, which the Executive Committee considered as an informational item at its June 23rd and 24th meeting of 2005. The results of that survey were published as the first report, now called the Diversity Report Card. The chart below provides a brief history of the Diversity Report Card's development.

**A. DIVERSITY REPORT CARD TIMELINE**

- 2005 (First Edition) Diversity data reported included gender, ethnicity/race and disability status. Nearly half of all Sections appointed a diversity chair and/or formed a diversity committee and developed a diversity plan.
- 2007 (Second Edition) Report was circulated at the Section Leaders Conference to foster increased diversity awareness. Report was also posted on the

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<sup>1</sup> On November 8, 2003, the Association's House of Delegates adopted a diversity policy, which reads:

*The New York State Bar Association is committed to diversity in its membership, officers, staff, House of Delegates, Executive Committee, Sections and Committees and their respective leaders. Diversity is an inclusive concept, encompassing gender, race, color, ethnic origin, national origin, religion, sexual orientation, age and disability.*

*We are a richer and more effective Association because of diversity, as it increases our Association's strengths, capabilities and adaptability. Through increased diversity, our organization can more effectively address societal and member needs with the varied perspectives experiences, knowledge, information and understanding inherent in a diverse relationship.*

Association's Web site and report narrative was published in the State Bar News.

- 2009 (Third Edition) Sexual orientation was added as a category to diversity data reporting.
- 2011 (Fourth Edition) The report included diversity data on House of Delegates and NYSBA Executive Committee membership. Diversity Section Challenge – year 1.
- 2013 (Fifth Edition) The report includes member diversity data in NYSBA governance, broken down by Judicial District.
- 2015 (Sixth Edition) Age data of overall Association membership added.
- 2017 (Seventh Edition) The report spotlights eight Sections of the Association in order to highlight improvements and provide specific recommendations.

This report continues to highlight the need for raising the level of diversity awareness within the profession and increase opportunities for diverse attorneys to serve in Association leadership positions.

The Committee has worked with NYSBA staff to create surveys that collect data on specific demographics that capture and assess the current data and trends within the membership and leadership of the Association.

In order to encourage member participation, member comments are read and changes are made to the survey instruments based on this feedback. In particular, the method of data collection has changed from paper surveys to an online format in 2009, to make it easier for members to participate. Categories of interest have been added and definitions changed. Currently the profile lists sexual orientation options as either "Heterosexual" or as "Lesbian/Gay/Bisexual." Data collection will be improved in the diversity profile when the transgender category is moved and placed as a separate option for "GENDER." Plans have been made to have this accomplished by the next Diversity Report Card in 2019.

The 2017 report card's format also has been revised so that readers can more easily see trends within their Section. This new format is intended to allow the report card to be used as a tool to help all Sections reach their diversity goals. The color-coded breakdown reveals where each Section's demographics are in comparison to the general NYSBA membership and Section leadership. The format also highlights areas where each Section has made strides concerning diversity issues, and areas where improvements can be made. These observations are based on the Section's diversity data.

The latest new feature for 2017 includes recommendations for a small group of Sections, which are recognized for their diversity achievements. The Diversity Report Card Subcommittee also gathered other diversity-related data and information from the respective Section leadership to

illuminate the findings of the Report Card. Lastly, the Committee made specific recommendations for achieving additional diversity goals, which is published in the Report. The Subcommittee recommends spotlighting each Section in the next edition of the Diversity Report Card, slated for 2019.

**B. MEMBER CENSUS PARTICIPATION**

One recurring challenge for the report card has been with the collection of data in terms of full participation by all NYSBA members. The rates of participation are low as evidenced by the percentage of members who have not provided gender, race/ethnicity, sexual orientation or physical disability data. The non-participation rate includes both members who have “declined to answer” and non-responsive members from the table below.

**OVERALL DATA COLLECTION**

	<b>Decline to Answer</b>		<b>No Data Provided</b>	
	<b>2015</b>	<b>2017</b>	<b>2015</b>	<b>2017</b>
Gender	0%	0%	6.16%	17.84%
Race / Ethnicity	1.67%	2.06%	54.23%	54.75%
Sexual Orientation	3.25%	3.67%	68.31%	66.33%
Physical Disability	7.09%	5.76%	55.45%	56.24%

Although the percentage of individuals who provide gender data is high, the non-participation (no data provided) rate for gender has increased by 11.68% since 2015 to 17.84%. The non-participation rate for race/ethnicity remained steady from 2015 to 2017. The non-participation rates for sexual orientation decreased slightly, but two-thirds of NYSBA membership still does not share data in this category, with more than half of its membership not providing data regarding disability status.

The message that the Committee continues to express is that without accurate statistics on NYSBA membership and attorneys in New York State, programs and services may not accurately reflect the needs of the members. Also, data is needed to inform staff where additional outreach and training is needed. The non-responsive data, in the Committee’s view, informs us that we have not reached a majority of members in connecting the import of this information to the Association’s work and the profession.<sup>2</sup> The Association must continue to discuss issues related to and celebrate “Race/Ethnicity,” “Sexual Orientation,” and “Physical Disability” for all members of the Association. Also, in order to get more accurate statistics and increase

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<sup>2</sup> This is not just a challenge within the Association. The New York State Office of Court Administration (OCA) has been collecting demographic data for nearly 10 years, as was recommended in a 2007 report, *Miles To Go In New York: Measuring Racial and Ethnic Diversity Among New York Lawyers*.<sup>2</sup>

participation, the Committee will consider additional changes to the reporting data, including creating more areas to provide information on one's background and orientation.

## II. METHODOLOGY

While the scope of the 2017 Diversity Report Card is focused on Section data and trends since 2015, it was important to review the range of recommendations throughout the history of the report card to see what areas of interest changed or were repeated. The Committee was primarily interested in assessing any positive impacts on Section's diversity outcomes since the 2015 Diversity Report Card.

The Association and its Sections have implemented prior recommendations such as the Office of Bar Services maintaining a list of affinity bar associations and its leadership. Many Sections have developed diversity committees, selected diversity chairs and participated in our Committee meetings, sharing their diversity challenges and strides.

There are, however, recommendations that have not yet been implemented. The Committee encourages analysis of the prior Diversity Report Cards and discussion by Sections and Leadership to create future diversity goals and plans. The Diversity Report Card Subcommittee will work during the non-reporting year to discuss such planning with individual sections to encourage planning of and action on such goals.

The Committee continues to recommend adequate staffing in the Association to meet the needs of collecting, analyzing and reporting on membership data (Miles to Go In New York: Measuring Racial and Ethnic Diversity Among New York Lawyers" 2007, p.25 ["systemic reporting requires systemic staffing; that is a full-time, specialized position in the NYSBA administration"]).

A new NYSBA staff position was created in 2016 to coordinate issues concerning diversity and inclusion, including working on the report card. A full-time staff was hired in March of 2017. According to the May 2017 edition of the Section Leaders Conference handbook:

*"The Membership Diversity and Inclusion Coordinator is responsible for overseeing and facilitating the Associations efforts to increase diversity and inclusion within the Associations leadership and in the legal profession on New York State, through outreach and coordination efforts with the Associations Sections and Committees.*

*This position also "[s]erves as a resource to NYSBA Section leadership, their diversity committees and Section staff liaisons regarding educational programming focused on elimination of bias and promoting diversity and inclusion, participates in membership development, engagement and retention strategies and performs outreach to diverse communities of relevance to the professional legal community including not-for profits, affinity bar associations and law schools."*

In Summer 2017, staff began working on the Diversity Report Card. In assessing the 2015 Diversity Report Card, the Membership D&I Coordinator discovered that only two of five recommendations had been acted upon. Namely, the Committee invited liaisons from Sections to its meetings, and the Association published the Report Card online with its results shared in the *State Bar News*. However, the prior recommendation, published in each report since 2007, to create public service announcements (PSAs) explaining the need for participation in the diversity profile has not been adopted. Additionally, no action has yet been taken to (1) hire a law student or intern to help with the report card or (2) to have a calendar of diversity events created (NYSBA Diversity Report Card, Fall 2015 p.30-32).

In the fall of 2017, the new Diversity & Inclusion Coordinator addressed the repeated recommendation concerning the creation of informational PSAs highlighting the importance of participating in the diversity profile. In conjunction with the Association's new Marketing Director and Digital Media Specialist, work started on the development of a series of PSAs, with an anticipated debut of the first PSA to be at Annual meeting 2018. Additionally, a Community page was created for the Section Diversity Chairs, as an online forum for Sections to share best practices concerning diversity and inclusion efforts, to facilitate discussions about the Diversity Report Card and other diversity issues, and to provide relevant resources to the Section Diversity Chairs. One of the resources is to provide each Section's demographic data in easy-to-read graphics with corresponding summary recommendations. During the drafting of this Diversity Report Card, the D&I Coordinator resigned and recommended that outside consultants experienced in the field of Diversity and Inclusion be hired to encourage and implement structural change for the organization. This particular issue should be carefully analyzed, as no diversity initiative can survive or thrive without a proper foundation or infrastructure that supports its values and goals. Further, it is likely that the Association needs data-collecting professionals to address the reporting needs of the Association.

Nonetheless, the Committee would like this report card to be used as a tool by the Section Chairs, with the Diversity Chairs and staff liaisons, to enhance their Sections' diversity efforts. Thus, even though the Committee is compelled to recommend consultants to advise on the organizational readiness to support a sustaining diversity initiative, we also challenge the Association to continue to analyze the data and implement constructive change.

The next section analyzes the demographic data. The eight Sections with specific recommendations this year can use the Committee on Diversity and Inclusion as a resource until the organization responds to the call for D&I consultants. Additionally, other Sections can similarly analyze their respective data and call upon the Committee's help to create a plan, document their goals and implement them.

### III. STRIDES AND RECOMMENDATIONS

#### A. THE SECTIONS:<sup>3</sup>

##### ANTI-TRUST

Summary: The Anti-Trust Section is commended for having a high percentage of women as Leaders and Executive Committee Members as compared to NYSBA as a whole, specifically 45% and 43% respectively. Although approximately half of section members and more than a third of section leaders did not report ethnicity, among the members who did report, it appears that racial diversity in its general membership and leadership should be a specific goal for this section, as well as encouraging members to complete their profiles would greatly help the section and the Association increase efforts to target diverse anti-trust attorneys.

Specific recommendations: The Committee encourages the Section Chair and Diversity Chair to be proactive and recruit diverse lawyers as Members, Leaders and Executive Committee Members. Leadership can do this by promoting current members of color to leadership positions, utilizing NYSBA's Office of Bar Services to create an outreach strategy to affinity bars and coordinating with NYSBA's Membership Diversity and Inclusion Coordinator to create diversity initiatives that will attract more diverse members. Additionally, each section could join in pipeline efforts to increase diversity by showcases this practice area to college and law students.

The Anti-trust Section responded to this Committee's survey on diversity by stating its commitment to diversity as follows:

A Broad and Inclusive Definition of Diversity in the NYSBA Antitrust Section

In our experience, antitrust as a nationwide practice is not a particularly diverse area of the law. Indeed, in recent Section efforts to recruit diverse new lawyers, we sought feedback and have learned that antitrust is often viewed by law students and newer lawyers as more complex and inaccessible than other disciplines. Our perception is that a lack of diversity is an issue that is not specific to New York, and that our Section is likely more diverse than the overall antitrust bar due to its longstanding efforts on this topic. We have also contacted the ABA Antitrust Section to see if there is current data on the diversity of the nationwide practice area. Should we receive any information that is useful to our continuing efforts, we will share it with your Committee.

The Antitrust Section reflects a diversity of membership that extends beyond the categories described in the 2017 Report Card (e.g., age, disability, sexual orientation, race/ethnicity, gender). Our Section membership and inclusion efforts reflect a broad definition of "diversity" in our members, which we have found has

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<sup>3</sup> As an example of how the report card can be used as a tool to improve diversity outcomes, the Committee chose eight Sections, to highlight areas of achievement and areas where improvement is still needed based on the Section's demographic data and on their diversity plan, if they have one and initiatives.

helped to foster a constant and vigorous dialogue regarding antitrust law and policy, enforcement and cases:

- Gender
- LGBT / Sexual Orientation
- Race /Ethnicity
- Plaintiff, defense, in-house, government / public service attorneys, academia
- Upstate / northern New York practitioners
- International (vs. US-only practitioners)
- Law students and newer attorneys (e.g., attorneys in their first 5-10 years of practice)
- Attorneys who practice in related subject matter areas (e.g., litigation and white collar)

As the 2017 Diversity Report Card recognizes, the Antitrust Section has a higher percentage of women as Leaders and Executive Committee Members as compared to the NYSBA as a whole. More generally, antitrust is a practice area that reflects increasing gender diversity, but still requires more efforts to attract attorneys of color and from other diverse backgrounds.

#### Leadership of the Executive Committee and Section Committees Reflect Diversity

We understand that due to limitations of the NYSBA's data, including that members may not report their own ethnicity or other information, the data for the Antitrust Section is not complete. For example, the Report incorrectly states that the Antitrust Section leadership does not have Asian members, even though there are multiple Executive Committee members who are Asian, including the Section's Diversity Chair. The Section's Leadership and Executive Committee and substantive Committees include diverse members. For example:

- Section leadership (officer-level) includes LGBT and women attorneys.
- More than 40% of the Executive Committee's members are women, and the Committee includes LGBT members, African American and Asian attorneys, lawyers who are within their first ten years of experience, and attorneys who practice in Northern/upstate New York and outside of New York State. The Executive Committee shows the diverse thought leadership of the Section: EC members come from private practice, both the defense and plaintiff's bars, federal and state government antitrust agencies, academia, and in-house in multi-national corporations. Finally, the membership is growing in diversity due to members who are either internationally-qualified and/or frequently practice in cross-border areas of antitrust. The Section sponsored its first panel focused on merger enforcement in China this year, featuring expert panelists from Jun He, a top firm in Beijing.

- The Antitrust Section also has multiple substantive Committees, which provide significant opportunities for newer attorneys in their first 10 years of practice to gain leadership experience in the Section. These Committees develop written content (e.g., newsletters) and antitrust-related panels and other programs that showcase the talent in the Section. Each of these Committees also reflects the diversity of the Section and includes members who are diverse from a race / ethnicity and gender perspective, as well as members who are government enforcers. The following substantive Committees have diverse members: Mergers Committee, Cartel & Criminal Practice Committee, Unilateral Conduct Committee, Coordinated Conduct Committee, Class Action Committee.

Online rosters for these committees are available at:

[http://www.nysba.org/Sections/Antitrust\\_Law/Committees/Antitrust\\_Section\\_Committees.html](http://www.nysba.org/Sections/Antitrust_Law/Committees/Antitrust_Section_Committees.html)

Diversity and Membership Committee Initiatives to Increase Diversity

The Antitrust Section has undertaken important initiatives specifically aimed at increasing race / ethnicity and other diversity in its membership:

- *Antitrust Diversity Fellowship with the New York Bar Foundation:* Since 2013, the Antitrust Section has co-sponsored a summer diversity fellowship for first and second-year law students to work at federal and state antitrust enforcement agencies in New York. The selection criteria and interviews focus on diversity as one of the key factors for Fellows. Fellows benefit from a \$6,000 stipend for their summer work and exposure to cutting-edge enforcement at government agencies, which is a resume-building experience and unparalleled networking opportunity. The last class of Fellows included students who were diverse from a race / ethnicity perspective, as well as educational and other background. The Fellowship alumni include African American, Asian / Indian, and other diverse attorneys.

Fellows are invited to the Section's events and Section members have made efforts to keep in touch with past Fellows to provide mentoring and other helpful connections, including resume advice and potential opportunities.

- *2017 Diversity Fellow Alumni Lunch:* In 2017, the Section sponsored the first Diversity Fellow alumni lunch, which was attended by twelve former Fellows. The lunch was attended by Section leadership, and there was a lively discussion focused on how the Section can improve the Fellowship program and increase the number of opportunities for diverse students. From this lunch, the Diversity Committee took suggestions for the upcoming program and selection process, which has begun for 2018.
- *Mentoring Program:* This year, the Section kicked off a mentoring pilot program during which attorneys with up to five years of experience could request a Section

mentor. From January to June 2017, mentors provided guidance, direction and advice to their mentees, including insight on how to get more involved with the Antitrust Section. The program hosted a social and networking event at the close of the program for the mentees and mentors to get to know each other better.

- *Contact with New York Affinity Bars:* The Section also makes efforts to keep in touch with affinity bars in the hope of attracting new members and coordinating on programs. In the past, the challenge has been that affinity bars have their own busy calendars of events for their own members, which has impeded the planning of joint events. In addition, antitrust is a very specific focus (vs. general litigation or corporate) and some of the affinity bar associations have given feedback that more work needs to be done to determine which of their committees would be interested in the topic (e.g., litigation, corporate, IP, all of which could be connections). However, our Section continues to explore opportunities with these important diverse bar associations.

#### Diversity Reflected in Antitrust Programming and Participation Throughout the Year

In addition to showing diversity through its membership and targeted initiatives, the Antitrust Section seeks to raise the profile of diverse members and other attorneys, including newer attorneys in the practice area. Antitrust is a complex disputes practice that involves high stakes cases and economic evidence, and therefore can be a difficult area for newer lawyers to thrive and advance without mentoring and support. The Section also focuses on these newer attorneys in its programming and events during the year. This focus on fostering a diversity of viewpoints is reflected in our programs:

- During its Annual Antitrust Law Section Meeting, the Section makes efforts to identify and feature panelists from diverse viewpoints. For example, all six substantive panels at the 2017 Antitrust Law Section Meeting featured one or more women panelists and/or a panelist who was racially diverse, as well as speakers from the private vs. public sector (DOJ, FTC, and NY Attorney General speakers) and with international experience (two European-qualified women panelists).

The Diversity Committee also made efforts to reach out to affinity bars to offer free invitations to the Symposium and Annual Section Dinner, including the Metropolitan Black Bar Association (MBBA), Le-GaL (LGBT Bar Association of Greater New York), Asian American Bar Association of New York (AABANY), Hispanic Bar Association (HBA/HNBA), and others.

- “*Why Antitrust?*” Panel and Networking Event – In June 2017, as in years prior, the Antitrust Section sponsored a panel and networking event aimed at educating newer lawyers and law students about the area of antitrust law. This panel focuses on the opportunities in the area of antitrust, and aims to make the subject matter interesting and less intimidating. Invites were circulated to New York affinity bar

associations to increase attendance by diverse attorneys. Follow-up is conducted by the Membership Committee to try to recruit new Section members.

- *Cartel & Criminal Practice Committee Enforcement Panel:* In October 2017, the Cartel & Criminal Practice Committee held a substantive panel regarding trends in federal criminal enforcement. Cartel practice has historically been an area in which there were few women and diverse attorneys. This panel featured all women (and one of the three is a diverse woman attorney), from the DOJ, in-house, and private sector. Each panelist has been practicing for less than 20 years, so this panel also reflected an effort to feature younger lawyers as leads in the field.
- The Antitrust Section participates in NYSBA Committee on Diversity and Inclusion meetings to understand better what other sections are doing to increase their diverse membership.
- The Antitrust Section participates in the Diversity Reception at the NYSBA Annual Meeting and has a table to provide information to potential new members. Ongoing and Future Efforts to Increase African American and Other Diverse Membership.

We appreciate the feedback and ideas about increasing diversity from a race / ethnicity perspective in our Section, in particular African American members. In the coming year, we plan to continue our work with targeted initiatives including:

- Outreach to the Metropolitan Black Bar Association (MBBA), in addition to other affinity bar groups.
- Seeking further diverse members via the Diversity Fellowship Program and ongoing membership recruitment efforts, and continuing to ask for feedback from Fellow alumni about how to recruit more diverse members.
- Sponsor at least one New York area law school event in 2018, aimed at connecting with diverse law students. The Diversity Committee has solicited ideas from student contacts at several schools, and one of the proposals under consideration is a resume / interview preparation opportunity aimed at introducing students to the Section.
- Reach out to diversity contacts at the ABA Antitrust Section to share ideas from their recruitment efforts

## **CRIMINAL JUSTICE**

Summary: The Criminal Justice Section is commended for having a large percentage of Black/African Americans in leadership positions, approximately 14% and 12% of section leaders

and section executive committee members who responded to the profile requests identify as Black/African American; however, it appears only Black/African American and White/Caucasian members are leaders, and less than a quarter of the leaders who responded to the survey are female. The section also appears to have fewer female members than the NYSBA membership. The Criminal Justice Section has recently established a diversity committee that is focused on recruit and retain women and people of color.

Specific recommendations: We recommend that the section's diversity committee partner with this Committee, Committee on Women in the Law, the Committee on LGBT and the Committee on Civil Rights and sponsor certain activities related to criminal justice for one or more minority law school associations. The senior members should actively take interest in and mentor law students and new members to the section, where possible.

To the extent possible, the Criminal Justice Section should foster relationships with the District Attorney's offices across New York State, indigent legal services providers and public defenders' offices to recruit more women and people of color to join NYSBA and specifically the Section. Additionally, the Committee should encourage more women and people of color already in the Section to take on leadership roles. Finally, the Section can utilize the newly established diversity committee to assist in advancing the above recommendations and work with law school courses and clinics relevant to the work of the Section to bring in new and diverse members.

## **CORPORATE COUNSEL**

Summary: The Corporate Counsel Section is commended for having a diversity committee and high levels of women leaders, who make up more than half of section leaders, and 63% of the section's executive committee. Additionally, the section has excellent rates of participation in the diversity profile. While Black/African American members enjoy a higher rate in leadership in comparison with NYSBA members at approximately 16%, Asian members also have a higher percentage of members at 9%, are not reflected in leadership at all.

Specific recommendations: The section should actively recruit a diverse panel of leaders among its ranks. Because the section is in a leadership position among other sections, it should work with the Committee to develop best practices guide to help other Sections and the Association as a whole to improve their diversity participation rates.

## **FOOD, DRUG & COSMETIC LAW**

Summary: The Food, Drug and Cosmetic Law Section is NYSBA's smallest section. The Section has reached gender parity with its Members, Leaders and Executive Committee members being 50 to 55% female in each category. Section leadership has done an excellent job of sharing participation opportunities with its members. However, the Section leadership is not as racially diverse as NYSBA membership, with those in leadership positions being exclusively White/Caucasian.

Specific recommendations: The section should also work with law school associations to introduce the work of the section to bring in new and diverse members. The section should also work with the new Membership Diversity and Inclusion Coordinator and the Office of Bar Services to develop a diversity plan including outreach to attract more diverse members. Additionally, the Section can take advantage of programming and sponsorship opportunities with other Sections and Committees, for outreach purposes.

The Food, Drug and Cosmetic Law Section responded to this Committee's inquiry with the following statement:

The Food, Drug and Cosmetic Law Section makes every effort to engage all members who want to be involved in senior section leadership which includes committee chairs. The Section is open to ideas that have been successful in other sections for active engagement by their diversity members and has established a Diversity Committee. Those interested in serving can contact Brian Malkin.

## **HEALTH LAW**

Summary: The Health Law section is commended for its large number of Hispanic leaders and female membership – almost half of the section members of women and almost 10% of leadership identified as Hispanic. The section also enjoys good representation of persons in all age categories. The section has a diversity committee that offers Summer Diversity Fellowships each year. In 2016, the Committee held a luncheon to bring together current and former fellowship recipients. The section is also connected with the law school community through its diversity committee and hosted a recent panel at Brooklyn Law School.

Specific recommendations: Connect with general counsel offices of companies to recruit more members with a focus on recruiting people of color. Additionally, the diversity committee may want to host a panel at a local law school and invite attorneys from the aforementioned organizations to serve as panelists, thereby attracting them to join the section. The Committee should also work on encouraging the female section members to take on leadership roles.

The section notes that since 2011, the Health Care Section Diversity Committee has worked to expand the diversity of its membership, particularly by offering opportunities to law students interested in health law thereby developing a pipeline to membership. For example, the Committee has sponsored a Fellowship Program where it places diverse law students in paid summer positions at major medical centers. Such placements have included Montefiore Medical Center, Mt. Sinai and NYU Medical Center. The Committee sponsors panel discussions on health law careers. The first panel discussion in 2013 was sponsored by Proskauer, the second in 2015 was held at Brooklyn Law School and reflected a diverse panel from the insurance and hospital industries. In 2016, the Section co-sponsored a discussion on "What Now? The Role of Diverse Managers During the Trump Presidency" with Brooklyn Law School. From its inception, the Diversity Committee has worked with local law schools to identify and mentor diverse students interested in healthcare law.

## Action Plan

<b>Project</b>	<b>Goals and Objectives</b>	<b>Tasks</b>
<b>Diversity Summer Fellowship in Health Law</b> Dionne Shuler, Chair Lisa D. Hayes Beverly Jones Edwina Martin	Sponsor and place a Health Law Fellow in an in-house law office of a major medical center by March 1, 2018	1. Contact schools with law health programs. 2. Send out notices 3. Conduct selection process 4. Identify institutions to place a Fellow
<b>Health Law Careers Program</b> Lisa D. Hayes Karen Porter	Sponsor the Third Health Law Careers Program in the Spring of 2018.	1. Identify a partner – possibly a law school. 2. Develop budget and solicit sponsors. 3. Develop a topic. 4. Identify panelists.

## **INTELLECTUAL PROPERTY**

Summary: The Intellectual Property Law Section should is for its efforts in reaching gender equity in its Members, Leaders and Executive Committee. The Section also has matched or exceeded racial diversity in section membership and leadership compared to NYSBA membership. However, the higher percentage of Asian members is not reflected in percentages of leadership positions.

Specific recommendations: The section should recruit more members of color, specifically encourage Asian/Pacific Islander members, to be leaders or aspire to sit on the Executive Committee. The Section can further improve diversity through enhanced recruitment plans, including working with law school associations to introduce the work of the section to bring in new and diverse members.

The Section reviewed the recommendations on increasing Asian membership and leadership. The Section believes that the way to accomplish this is by ensuring that program panels are more diversified. It can only attract people when they see people who look like them on panels and in leadership positions. The Chair, Erica Klein, is committed to this and recently reminded program chairs and those heading up panels that they have to do better. Erica mentioned that the Diversity Committee can help recommend diverse speakers. The Section is looking forward to putting this to work for the annual meeting in January and beyond.

## **SENIOR LAWYERS**

Summary: The Section is commended for the high rate of its leadership participating in the diversity profiles. However, the Members and Leaders and are disproportionately male. Members, Leaders and Executive Committee Members have virtually no racial diversity. And

while the Section is limited to attorneys aged 55 and older, the Leaders and Executive Committee Members are disproportionately represented in the 66+ category.

Specific recommendations: The Section may wish to research and recruit members of color and women into the section by creating an outreach plan utilizing the new Office of Bar Services and Membership Diversity and Inclusion Coordinator. The section can also work with the Committee on Women to proactively take measures to recruit women, and promote diverse and younger attorneys within its age group to be leaders and executive committee members.

The Section provided the possible action plan:

The section is considering offering, as a special diversity effort, another one-year free section membership to all women members of NYSBA who are 55 or older and not a member of our Section.

## **TAX**

Summary: The section is commended for having a diversity chair. However, the Tax Section's ratio of female Members, Leaders and Executive Committee members falls 11 to 14% short in comparison with NYSBA members. The section has also achieved improvement in reporting in the sexual orientation category. However, there is also very little age and racial diversity among the leadership. We also note that the Section supports this Committee's Diversity Reception.

Specific recommendations: The Section's Diversity Chair can work with its staff liaison and the Membership Diversity and Inclusion Coordinator to create a diversity plan. That plan should focus on recruiting female and diverse section members and promoting more women to leadership positions. Additionally, the Section can work with the Young Lawyers Section to help create a recruitment plan to attract younger attorneys. Additionally, the section can take advantage of programming and sponsorship opportunities with other sections and committees, such as the International Section or the Civil Rights Committee, for outreach purposes. The Committee could also work with law school courses and clinics relevant to the work of the Section to bring in new and diverse members.

### **B. ACCESSING DIVERSITY RESOURCES**

These section snap shots are meant as feedback and a tool for each section to create goals and achieve them. The Association recognizes the need for resources to be available to assist the Sections reach their diversity goals.

The Committee on Diversity and Inclusion's prior recommendations on establishing Diversity chairs, diversity sub-committees and diversity plans have been widely accepted. Currently,

22 out of 25 (88%) of the Sections have a Diversity Committee

21 out of 25 (84%) of the Sections have a diversity Chair or co-Chairs

23 out of 25 (92%) have a diversity plan or at least one diversity initiative

As all sections are different, and so are their diversity plans and initiatives. There are no basic requirements for a diversity plan. The Committee recommends that guidelines or a template be developed outlining minimum requirements. This will allow data to be standardized, improve data collection and reporting. For example, one section may wish to encourage diverse speakers to participate in panels and conferences. In such instance, the section should set a goal as to how many diverse speakers it will seek to contact and include in these programs. These aspirational goals can be included in future diversity report cards, which will assist the Committee and the Association in keeping track of progress and working initiatives.

In conjunction with the section liaisons, the Association has other resources to help improve diversity outcomes. The Office of Bar Services provides contact information for Affinity bars, and a new Membership Diversity and Inclusion Coordinator will be available to coordinate diversity efforts throughout the Association. We also recommend a Section Diversity Chairs have a community and share best practices among the Sections.

It is the Committee's hope that these resources, in conjunction with the recommendations to follow, will enable each section to assess their own success and utilize the resources available to them to set and attain higher diversity goals. Each section's successes will build upon each other to make NYSBA more diverse and attract more members in the legal profession in New York State.

### **C. GENERAL RECOMMENDATIONS FOR THE DIVERSITY REPORT CARD**

#### **1. New Recommendations:**

a. The percentage of members that report their disability status and sexual orientation is extremely low. Further, approximately, 54% of NYSBA members, 39% of Section members, 31% of Section leaders do not report their race. The Committee recommends the Association retool the diversity profile requests and work with the relevant Committees to demystifying the import of the data for the Report Card. The Committee also recommends that the Section Chairs and Diversity Chairs work with their Diversity Committees to improve the data collection.

b. The Committee recommends that each section that does not currently provide a leadership opportunity for a young lawyer create a new leadership opportunity; for example, a seat on their executive committee for a young lawyer to create mentorship opportunities as well as a pathway to leadership positions in the section. The Committee recommends that the Young Lawyers Section continue to recruit attorneys with disabilities, LGBTQ attorneys, attorneys of color and female attorneys and encourage diverse attorneys to serve as liaisons to sections.

c. The Committee recommends that diversity plan guidelines be developed, to assist in standardized data collection and reporting of section diversity initiatives.

d. Based on the 2017 Section demographic data, the Committee recommends that each prior recommendation that has not had any action taken thus far should be considered for action to be taken by the Association.

**2. Repeat Recommendations:**

a. The Diversity Report Card requires many staff hours. As the report card remains a priority for the Association, the Committee recommends that a team is designated to collect and analyze data, and to research the history of each of the prior recommendations so a status update can be included in the 2019-2020 edition of the report card.

b. Any unavailable prior Diversity Report Card should be republished and have permanent home on the NYSBA's or Committee on Diversity and Inclusion's Web page, making it readily accessible to all NYSBA members.

c. Additionally, regular communication should be given to members about the importance of reviewing the diversity report card and participating in the diversity profile. Updated PSAs should be created on a biennial basis to address the current participation issues within NYSBA's membership and Section leadership.

**COMMITTEE ON DIVERSITY AND INCLUSION**

**2017-2018**

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