Diversity Issues
in Corporate Compliance

Introduction

At first glance, diversity and inclusion (D&I) issues might seem a bit removed from the world of corporate compliance, a world of regulatory reporting, policy management, documentation, and risk assessment.

As important as those practical issues are, don't let that fool you. An understanding of, and appreciation for, diversity is **critical for the success of the modern corporation.** It helps to foster a stronger corporate culture in today's highly diverse workforce. It helps to reduce reputation risks by understanding how other stakeholders might perceive corporate action. And, yes, it helps businesses to comply with practical issues such as anti-discrimination regulations.

This eBook is intended for corporate leaders who want to strengthen their corporate culture through a better understanding of diversity and inclusion; and who want to assure that their compliance programs can help support that vision.

Who this ebook is for:
- Corporate ethics and compliance officers
- Board directors
- CEOs, general counsels
- HR directors

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20 million

The estimate of people who participated in social justice protests in the United States[1]

[1] Average of four polls conducted in June 2020 & reported in New York Times

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How Diversity Helps Corporate Compliance

A corporate culture of ethics and compliance is rooted in certain core values, and policies & procedures the business adopts to implement those values.

In that case, the need for diversity is clear: it broadens the perspectives that senior leaders hear, so they can assure that the organization's values, policies, and procedures are in step with stakeholders' views.

1 Diversity Can Identify Unconscious Bias

New products might ignore cultural stereotypes and spark backlash on social media. A managerial monoculture might recruit and promote within small professional networks, excluding minority groups from job opportunities. Such examples of unconscious bias can cause tremendous damage—and they are rooted in one demographic group making assumptions about others, rather than multiple groups working together.

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How Diversity Helps Corporate Compliance

2 **Diversity Supports a Speak-Up Culture**

Academic research (as well as common sense) shows that organizations with strong internal reporting achieve better business outcomes: fewer lawsuits, lower workforce turnover, higher return on assets, and so forth. That makes sense. Cultures that embrace **talking** about problems are more likely to **solve** those problems.

Workforce diversity encourages the same trait: listening to the concerns of others. It supports the broad objective of a strong speak-up culture.

**3** **Diversity Reduces Regulatory and Litigation Risk**

Employment discrimination claims are a constant risk for corporations. The best way to reduce them is simply to support diversity in hiring, compensation, and promotion.

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Leading on Diversity Requires Leadership

It isn't enough for corporations to take a "reactive" approach to diversity issues, such as tracking internal reporting data for evidence of racial discrimination or sexual harassment. That only leaves companies responding to problems in the corporate culture, rather than building a strong one.

Attention to D&I issues must come from senior leaders, who must make a clear commitment to achieving equity and a respectful workplace for all groups.
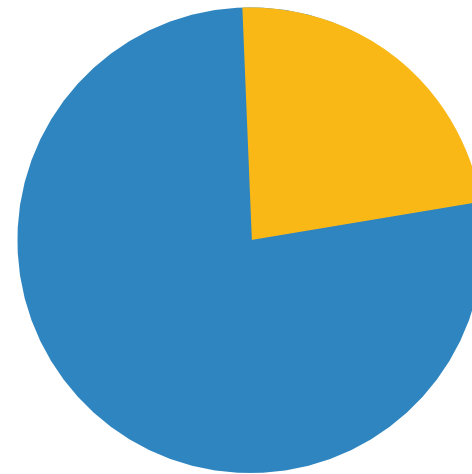
23%

The portion of U.S. organizations that routinely review performance ratings by race or ethnicity to ensure against any adverse impact.

Source: Mercer

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Leading on Diversity Requires Leadership

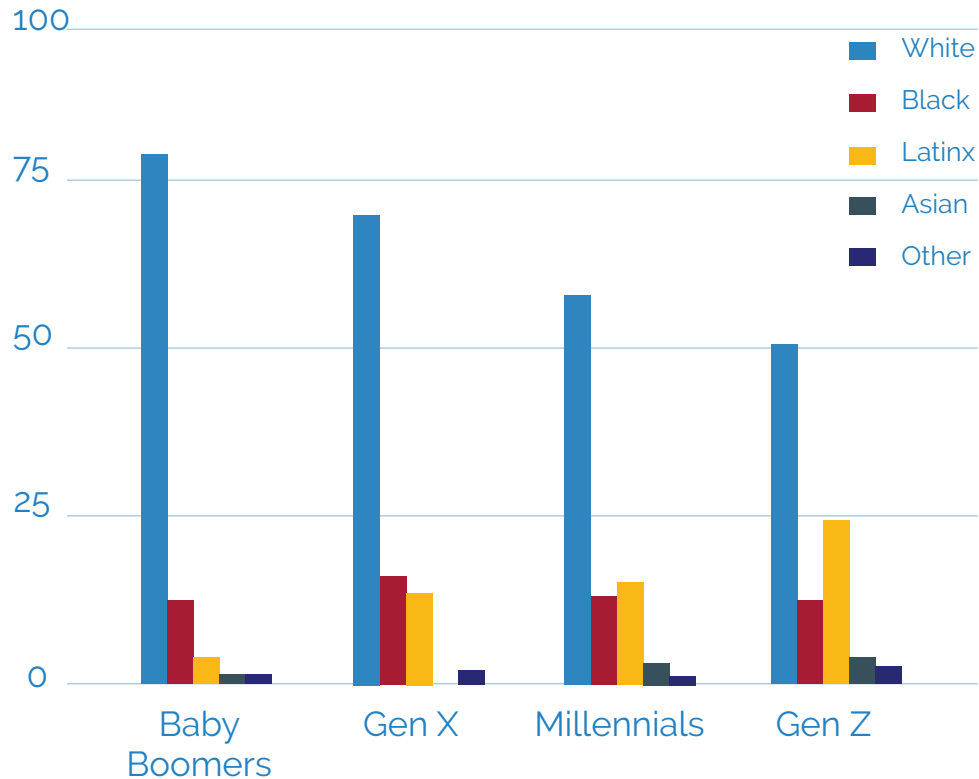## Assign Roles & Responsibilities Clearly

Multiple executives can play a role in supporting D&I issues: chief diversity officer, head of HR, chief ethics & compliance officer, and of course the CEO. The risk is that their responsibilities might overlap, leaving employees confused or disinterested. So mapping out responsibilities for D&I, and assigning them to specific individuals in a deliberate way, is a crucial first step.

To do that well, the company must have clear D&I objectives. That's why strong leadership is so important; it points to the goals on the horizon, so others can chart a course to get there.
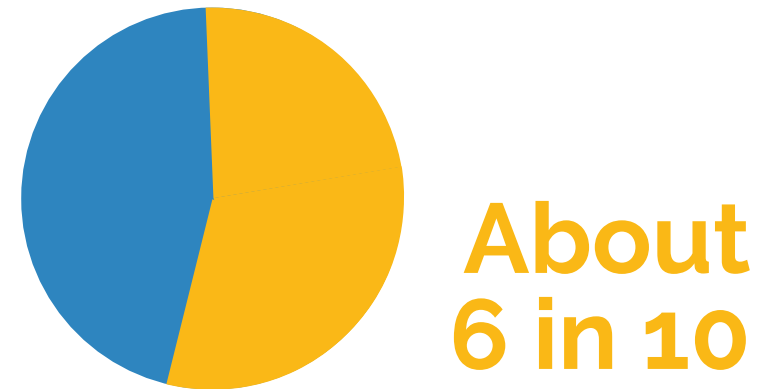
Generational Diversity

Generational change tilts toward diversity

Millennials and Generation Z are more diverse than any generations prior. That has effects in the workplace great and small, even down to how younger employees view workplace forms.

Legend:
- White
- Black
- Latinx
- Asian
- Other

X-axis: Baby Boomers, Gen X, Millennials, Gen Z
Y-axis: 0, 25, 50, 75, 100

Source: Pew Charitable Trusts, 2018

About 6 in 10

Gen Zers who say forms should offer gender options other than "man" and "woman".

Source: Pew Research Center

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Gather the Right Data

Executives need data to assess their progress toward D&I objectives. That means companies must collect useful data about diversity and inclusion, such as:

- Racial and gender demographics in the hiring, promotion, and compensation processes
- Employee sentiment as measured in workplace satisfaction surveys
- External marketing analyses of how consumers perceive your brand
- Internal analyes of complaints submitted to HR or the internal reporting hotline

Consider the Policies & Procedures You Need to Get Such Data

Some of this data, such as consumer perception of your brand, can be purchased from external providers. Most, however, will be generated internally. Compliance and HR teams will need to collaborate on how to solicit that data, and then design workflows and forms so that managers can collect that data with minimal disruption to their other duties.

Then that data must feed into HR and compliance management systems automatically, to allow for fast, versatile reporting of progress on D&I objectives.

Develop Policies, Procedures, and Training

As data you collect uncovers shortcomings in your D&I objectives, the company then needs to work on remediation. For a subject as people-centric as diversity and inclusion, that often means developing new policies, procedures, or training to help employees understand—and address—difficult issues such as systemic racism, implicit biases, cultural sensitivities, or inappropriate personal behavior. Whatever form those measures take at your organization, they should always connect back to D&I objectives and risks.

Potential Policies

- **Anti-discrimination issues**
- **Employee dating**
- **Offensive language**
- **Religious holidays**
- **Harassment investigations**

Potential Procedures

- **Reporting of complaints**
- **Diversity recruitment**
- **Promotion reviews**
- **Mentoring or sponsoring**
- **Employee surveys**

Potential Training

- **To recognize implicit bias**
- **To conduct fair investigations**
- **To speak up when you see inappropriate behavior**
- **To talk about racism**

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Putting Effort Into the Promises

Promising to address diversity and inclusion is easy. Putting those promises into effect requires concrete, visible action.

For example:

- Perform an audit of compensation or promotion practices, and release the results

- Review your vendors and other third parties to assess the diversity of your supply chain

- Publish annual reports on diversity progress

Black persons in the United States...

- 0.8% of Fortune 500 CEOs

- 3.2% of senior managers

- 8% of professional workers

- 13.4% of overall population
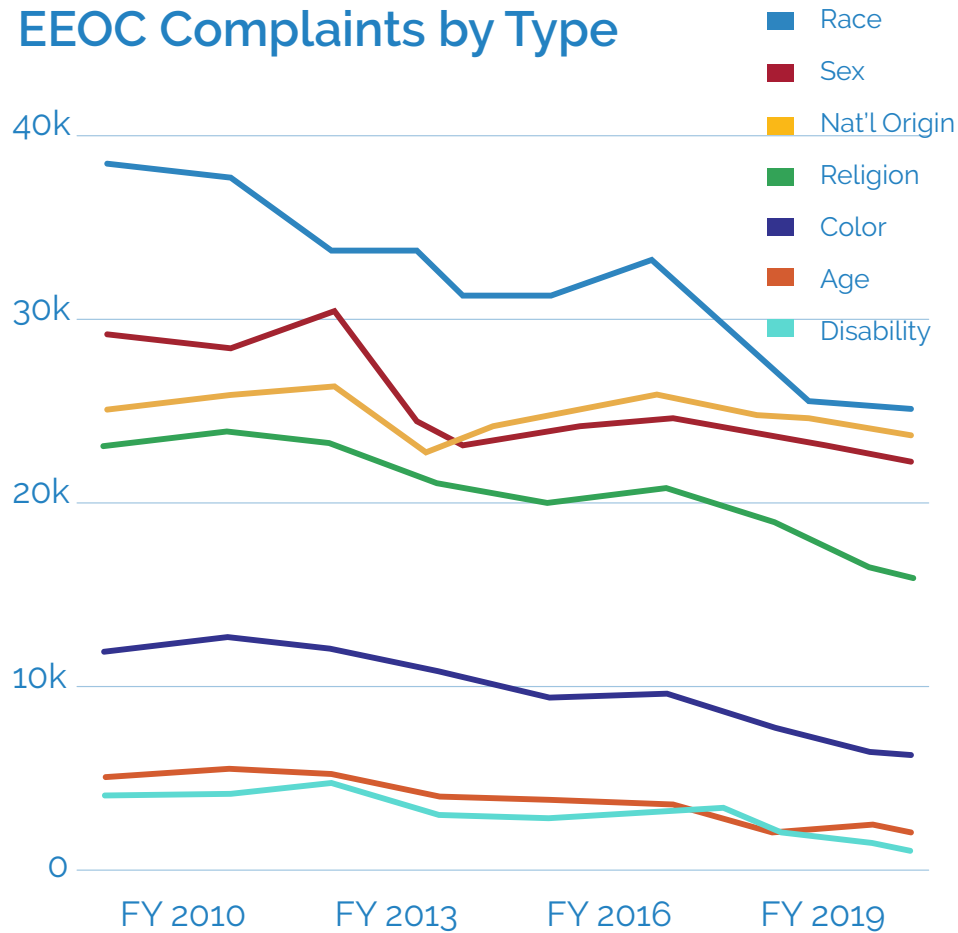
Putting Effort Into the Promises

The biggest sign of commitment:
Allocation of resources

A serious commitment to diversity and inclusion requires time, attention, and usually money. In the ideal, a company that creates, say, a diversity committee or a mentorship program, will allow employees to devote time from their regular schedules to those issues. Otherwise, employees will be doing more work without due compensation; or the D&I efforts might whither due to lack of attention.

The goal isn't just to make D&I an objective for the company; it's to make D&I objectives a high priority among the company's other objectives.

Diversity Reports

EEOC Complaints by Type

Legend:
- Race
- Sex
- Nat'l Origin
- Religion
- Color
- Age
- Disability

40k
30k
20k
10k
0

FY 2010   FY 2013   FY 2016   FY 2019

Source: EEOC

What should a diversity report include? Consider the following:

- Demographic data for whole workforce on race, gender, ethnicity, religion, veteran status

- Demographic data by managerial level

- D&I objectives

- Regulatory obligations

- Data on internal complaints about discrimination

- D&I initiatives launched

- Timeframe for progress

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Workplace Investigations

Investigations are crucial to a corporate culture of ethics and compliance. As attention to diversity and inclusion surges, that means investigations must meet clear standards of fairness, objectivity, and commitment to identifying wrongdoing no matter how uncomfortable those conclusions might be. If that's the case, then several steps become urgent priorities.

1 Have Protocols in Place

The best tool for effective investigations is a set of clear, agreed-upon investigation protocols before a matter ever arises. Those investigation processes (filing an allegation, managing an investigation, interviewing witnesses, gathering evidence, and more) should be designed by experienced, competent people with the independence to draft effective protocols. Those policies and procedures should be put in writing and distributed to all employees and relevant third parties.

2 Document the Findings

Discrimination issues can simmer for years, or explode quickly into public view. In all cases, the company should document how each investigation unfolded. For example, all data and case files should be stored in one secure repository; and auditors or examiners should be able to see how the investigation followed existing protocols. Discussions and decisions on discipline should be documented as well.

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Workplace Investigations

3 **Communicate the Results**

"Inclusion" means that employees feel heard when they bring matters to management. So the company should strive to tell reporters (without divulging sensitive personal information) how an allegation was resolved. When possible, discuss the issue and lessons learned in employee newsletters or similar venues.

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Conclusion

An understanding of diversity and inclusion is imperative for the success of global organizations today. Employees, business partners, consumers, and other stakeholders are demanding it like never before. More pragmatically: an organization that addresses diversity well tends to be a better business. There is a strategic imperative here that corporations should take D&I seriously.

Corporate compliance programs should be key players in that goal. Compliance officers can bring expertise on regulatory obligations for anti-discrimination policies; and they can work with the HR department and other functions to develop policies, procedures, and training that help the organization to achieve its D&I objectives.

Those steps will often be practical: procedures or workflows to collect useful data, for example; or investigation protocols to assure fair, independent investigations of issues reported to management. Building sustainable processes to achieve progress on core values and business objectives is what CCOs do, after all.

Success may come slowly, and with difficulty along the way. But the stronger organization that results is always worth the investment.

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About Ethico

For more than 20 years, Ethico has put our customers and the quality of our work before profits to become the leading provider of ethics and compliance (E&C) solutions and second- largest player in the space. Our clients trust us to listen to their employees and empower us to assist in the identification of unethical, illegal, and questionable behavior.

In building this trust, we have provided compliance solutions in 50,000 locations to more than 6 million employees in 100+ countries through our highly-trained, caring, and compliance-minded professionals.

We have helped E&C leaders investigate nearly 10 million reports, offering employees the industry's leading-edge tools to report unethical or illegal behavior free from retaliation.

Our client companies include Fortune 500 companies, such as International Paper and AT&T, a higher concentration of risk-conscious industries, including 6 of top 7 US healthcare systems, and brands of all sizes who value their people and their impact, like Johns Hopkins University, Raytheon Technologies, Blue Cross Blue Shield, and numerous county and city governments.

OUR SERVICES:

Hotlines (Issue Intake)

Exit/Stay Interviews

Sanction Screening

Case Management

Disclosure Forms

Compliance Training

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