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So, You Say You Have Diversity?! Now What?

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<u>**SO YOU SAY YOU HAVE DIVERSITY: NOW WHAT?**</u>

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<u>**DIVERSITY MANAGEMENT IN LOCAL GOVERNMENT**</u>

Introduction

In the paper that we presented at the 2021 CalCities annual conference, we discussed some foundational concepts: defining diversity, equity, and inclusion, microaggressions and the impact they have on underrepresented individuals, and the case for a diverse and inclusive workplace, at the city level and within law firms that serve cities. While we do not have statistics specific to city attorneys' offices, the legal industry as a whole has made some progress in the last few years, while still facing challenges, especially at the partner level. (NALP 2021). Similarly, management has also remained largely dominated by white male executives (ICMA, 2021), despite considerable diversity increases in communities they serve (Nishishiba, 2012).

Public agencies are challenged to sustain meaningful diversity management programs that encourage equity and inclusion of minority populations. Diversity management involves the recognition, effective deployment, and synchronization of individual employee values and cultures. Successful diversity management helps managers to maximize employees' knowledge and expertise to better achieve organizational objectives (Allen et al., 2004). Diversity can stem from a wide range of factors including gender, ethnicity, personality, cultural beliefs, social and marital status, disability, or sexual orientation (Shen et al., 2009). In a 2012 study of 500 local and state government agencies in the United States, over three quarters of the organizations employed active diversity management practices. While this is a promising statistic, only 33% of the surveyed municipal agencies reported using consistent performance measures to track progress toward diversity goals (Wyatt-Nichol & Antwi-Boasiako, 2012). The study also found that only 23% of respondents working in local governments reported a formal organizational policy linking diversity to a strategic plan with accountability goals; including diversity in management recruitment. Consequently, diversity initiatives have not progressed due to a lack of personnel and resources to track, champion, and accomplish equity and inclusion goals.

A subtle trend in American cities is the recruitment of Chief Diversity Officers tasked with monitoring and achieving diversity goals, whether those goals are adopted in the organizational vision and action plan or not. However, in a survey of 250 municipalities, only one quarter of those agencies employed a Chief Diversity Officer responsible for implementing diversity management practices (Cooper & Gerlach, 2019). Additionally, many cities have embarked on the diversity management initiative superficially, resulting in under-resourced outcomes toward equity and representation. Harris (2012) highlights that the roots of

diversity programs in local government are often merely symbolic, largely initiated from the top down and in response to changing leadership, employee grievances, and threat of litigation. In short, symbolic or superficial DEI efforts are not a real commitment to meaningful and sustained diversity management by public agencies, and fall short in substance and practice, resulting in ineffective efforts to recruit and retain women and minorities.

In this paper, we address the steps that cities and law firms that represent cities can take to make their diversity, equity, and inclusion practices effective in the long term rather than simply paying lip service to the concepts.

Diversity Management Literature Review

Scholars of diversity management research have agreed on several defining characteristics of diversity management and its benefits to civic operations. Diversity management is the practice of maintaining an environment characterized by inclusiveness of individual differences and responsiveness to the needs of diverse groups of employees, by way of recruitment, retention, and development strategies beyond the legal framework of Equal Employment Opportunity and Affirmative Action (Wyatt-Nichol & Antwi-Boasiako, 2012). Cooper and Gerlach (2019) add that diversity management is the ability of top management to develop strategies as well as programs and policies to manage and accommodate diversity in their workplaces. Moreover, a commitment to diversity management creates an environment that helps every employee of majority and minority groups to fully utilize their potential to contribute to their organization (Choi & Rainey, 2014). Local government has a unique opportunity to leverage workforce and constituent diversity to improve service delivery and performance by way of understanding the values and norms of target populations the organization serves, particularly for public employees in service delivery organizations.

Human Resources Continuum

The local government Human Resources Management discipline has a history of accommodating diversity initiatives in workplace application. Notably, Affirmative Action and Equal Employment Opportunity legislation were early mandates aimed at improving workforce diversity. However, these campaigns were limited to legalistic directives, focused on representation equity rather than agency principles. Pitts (2007) outlines three types of diversity management that span the Human Resources Management spectrum:

1. Legislating diversity: the laws regulating anti- discrimination, hiring, termination (Affirmative Action/Equal Employment Opportunity);

2. Valuing diversity: norms and values focused on inclusion, awareness, tolerance, and acceptance; and

3. Managing diversity: adopted policies and strategies to help diverse employees succeed.

Ewoh (2013) identifies these categories as concrete practices with three distinct intentions: policy and enforcement, employment requirements, and cultural awareness. This

continuum highlights a movement away from legal approaches to diversity and toward a productivity and resource maximization method (Ewoh, 2013). It also presents various motivations for local government to pursue diversity management that focuses on inclusion and equity in the workplace.

Local governments have embraced diversity management practices in the past two decades largely due to the changing demographic of their citizenry, legal compliance, and most importantly organizational effectiveness (Nishishiba, 2012). By adopting diversity management practices, agencies access changing demographic markets by mirroring increased diversity in the population. In turn, organizations gain a competitive advantage and improve bureaucratic legitimacy, moving agencies from passive to active representation (Cooper & Gerlach, 2019). Furthermore, diversity in the local government workplace fosters creativity and innovation from varied perspectives, with new approaches to problem solving. Unfortunately, diversity management practices have also been met with skepticism by some minorities. A 2014 survey of 221,479 local government employees revealed that many minorities viewed their agencies' diversity management efforts as disingenuous due to perceived bias in the implementation (Choi & Rainey, 2014). They also acknowledge that diversity management practices have seemingly been created in response to political pressure or an attempt to appear that they are adapting to a social demand for diversity and inclusion (Harris, 2013). To combat this perception, agencies have an opportunity to employ wholistic diversity management approaches that exceed traditional legal requirements.

Conceptual Frameworks

A variety of models and frameworks have been developed by scholars to guide organizations with genuine diversity management practices that effectively improve perceptions of agency equity and inclusion. Cooper and Gerlach (2019) present a three-pronged model that prioritizes recruitment and outreach, valuing cultural differences, and the implementation of pragmatic policies and programs. Shen et al. (2009) expand upon that model with a framework for line managers to implement at the strategic, tactical, and operational level. The strategic level focuses on organization culture, vision, mission, values, policies, measurement and auditing. The tactical level prioritizes staffing, training, appraisal, remuneration. The operational level prescribes education, networks/community, and flexibility in work-life balance. Both scholars' models require a degree of human resource competency in diversity management that values contributions from all employees, leverages staff diversity for strategic advance, and enforces a policy of no tolerance for prejudice (Wyatt-Nichol & Antwi-Boasiako, 2012). To advance these conceptual approaches, scholars have developed a variety of best practices for application in workplace settings.

Best Practices in Diversity Management

The literature catalogues an abundance of strategic real-world applications that showcase the positive effects of diversity management practices in action. Scholars agree on a broad set of concrete practices that positively impact equity and inclusion in the workplace. The following have been identified by researchers as being among the best practices for managing diversity and creating an inclusive work environment (Allen et al., 2004; Ewoh, 2013; Nishishiba, 2012; Pitts, 2007; Shen et al., 2009; Wyatt-Nichol & Antwi-Boasiako,

2012):

- Incorporate diversity goals and objectives in your strategic plan

- Implement practices in recruitment and hiring to diversify your workforce

- Communicate diversity priorities to all levels of the organization

- Provide recurring diversity trainings and educational opportunities

- Hold managers accountable to diversity initiatives; require commitment from leadership

- Implement formal mentoring/sponsorship of minority employees and minority/student internship programs

- Allocate resources specifically for diversity initiatives

- Establish a diversity management review committee, task forces, and minority support networks

- Create and host meaningful cultural affinity groups, whose leadership have real influence and decision making authority

Each of these best practices have shown effectiveness in creating favorable outcomes for public organizations. For example, an organizational commitment to diversity management can increase both job satisfaction and work group performance (Pitts, 2007). Moreover, diversity management can also influence representative bureaucracy, civic engagement, and local initiative success. Filla and DeLong (2014) argue that greater ethnic diversity in larger cities may result in more local initiatives as the citizenry is more politically homogeneous; requiring agency administrations to adopt policies and employ staff that are more diverse and inclusive. In these instances, diversity management practices are driven by resident demand fueling a shift of power from singular, dominant groups to more ethnically diverse groups forming new majorities (Filla & DeLong, 2014).

Recommendations

The disparities in diversity management programs in local government presents opportunities for progressive administrators to implement transformational change in the industry.

Of the various best practices suggested by scholars in the literature, three present promising opportunity for change in the public sector. Organizations have different needs and different resources and should decide which or these make sense to implement and who best to do so.

The first suggested practices it to engage in intentional strategic planning that incorporates diversity, equity, and inclusion goals and objectives. To support this practice, it is recommended that the organization's legislative body create a diversity and inclusion

action plan, which can be created internally or with the assistance of an outside consultant. The strategic plan can put in motion specific tasks, action steps, and performance measures to track progress. Ideally, the organization's DEI goals and objectives would address the hiring and promotion processes of the organization. There are three distinct phases of the hiring and promotion process where the organization has the opportunity to employ diversity management practices:

(a) Diversifying the talent pool by evaluating talent-sourcing methods to attract candidates from underrepresented identities, develop recruitment messaging that effectively attracts candidates from underrepresented identities, and isolate and address sources of bias when recruiting and initially screening candidates.

(b) Adopting inclusive hiring practices by examining the value of inclusive decision making in candidate selection, isolating and addressing sources of bias when interviewing and selecting candidates, and developing inclusive interview assessment and selection practices. An area to focus on here is to look for a culture add rather than a culture fit (Tulshyan 2022).

(c) promoting inclusive employee onboarding and career success strategies by constructing inclusive approaches to offers and negotiations, building inclusive onboarding experiences, designing inclusive internal promotional practices, and tracking and monitoring progress in inclusive hiring over time

Another suggested practice is to provide recurring educational opportunities for the workforce with the intention of educating employees on the historical and cultural experiences of the communities they serve as well as the people they work with. With the assistance of professional diversity trainers, human resources managers and department heads are ideal conduits for delivering trainings as leaders of institutions. Some organizations might be able to organize smaller groups who are interested in having courageous conversations about topics that are typically difficult to discuss. The purpose of such conversations would not be to create an action plan but rather to create a space where people can really break down the concepts and fundamentally shift how they operate – this is especially effective if the organization's leaders are involved in these conversations.

Finally, management's involvement also provides a clear message and example to the workforce that leadership is committed and genuine in pursuing diversity initiatives. Additionally, agencies can commit to empower female managers to champion these initiatives as gender diversity can increase organizational performance, perception of trust and fairness, inclusion, job satisfaction, and lower turnover (Feeney & Camarena, 2019).

These recommendations are simplistic and seemingly easy to implement from a financial and logistical perspective. That said, resistance to diversity initiatives typically occurs at the political level with opponents proclaiming a waste of resources, limited time, and lack of relevance. Many are also concerned that best practices ultimately lead to a reduction in power and influence by the dominant leadership. Consequently, diverse representation in local government will hopefully change the makeup of management over time.

Conclusion

   Local government trails behind the private sector and higher education in the application of diversity management, with over 20% of Fortune 1000 companies and 90 U.S. colleges and universities having hired Chief Diversity Officers to implement diversity management initiatives for their respective workforces (Cooper & Gerlach, 2019). Furthermore, a survey by Allen et al. (2004) of 396 private sector companies revealed that 68% of employees reported their organizations had a long-term strategic plan to ensure diversity is achieved and maintained. Additionally, 43% had diversity mentioned in the mission statement, numeric goals, and specific personnel to manage and track progress. One third of the companies had minority mentoring programs and over 80% instituted minority internship and student worker programs. Finally, nearly all organizations adopted a zero-tolerance policy for prejudice and discrimination. By comparison, less than 40% of local governments reported activity in similar best practice categories according to a study of 500 human resources professionals in city and state agencies (Wyatt-Nichol & Antwi-Boasiako, 2012). In short, local government is playing catch-up as it attempts to better represent and serve citizens. Changing demographics in American cities has revealed a need to ensure agencies mirror citizen diversity (Hur et al., 2010) in their public administrations, as well as implement diversity management that is truly responsive, inclusive, and equitable for all.

CASE STUDY-CITY OF CHULA VISTA

In this part of this paper, we look at actions taken by the City of Chula Vista to implement DEI principles. We will also examine DEI in the employment context for an in-house City Attorney's Office, including providing recommendations from an in-house City Attorney's Office perspective. The City of Chula Vista is located in San Diego County. With a population of 277,000 residents, Chula Vista is the second largest city in the County and the 15th largest city in the State. Chula Vista has a diverse population. City government consists of a City Manager form of government with a five member city council that includes a separately elected mayor. Chula Vista is a full service city, that includes a police and fire department, and has about 1400 employees. The City also has an in-house elected City Attorney. The City Attorney's Office consists of the City Attorney, nine attorneys, a risk manager, and four support staff.

Preliminarily, many view promoting diversity, equity, and inclusion as a moral imperative and the right thing to do. It is important to understand why DEI is more than just the right thing to do. Commitment to DEI helps create a better community and workplace. The Forbes Human Relations Council identified various areas where DEI improves the workplace, including[i]:

- Diversity equals excellence because solutions to issues/problems can come from different vantage points
- DEI helps employees feel safe, respected, and connected- allowing employees to freely express and be themselves
- Diverse teams innovate quicker
- Employees feel a sense of belonging
- Employees are encouraged to thrive
- DEI allows for differing opinions and diversity of thought
- DEI improves team building
- DEI improves retention of employees

The common thread identified by Forbes involves creating a workplace where employees feel a sense of belonging and that their differences and opinions are valued. DEI is particularly important in public service given the diversity of the communities we serve. Public employees serve all members of our community, not only the majority.

As a City, Chula Vista has found that an effective DEI program requires creating a culture that values DEI. Creating that culture requires a commitment to DEI from City leadership, specifically the City Manager and City Council. This is particularly important for an in-house City Attorney's Office because it does not operate in a vacuum and is impacted by City leadership's commitment to DEI.

The City of Chula Vista has shown its commitment to DEI in a variety of ways, including conducting the initial round of state required SB 1343 harassment training in person for all its city employees rather than using on online platform (pre-pandemic); obtaining "Welcoming City" certification[ii]; and creating a Human Relations Commission[iii]. While Chula Vista is committed to DEI, the City Manager wants a more coordinated commitment and is

seeking to create a city-wide DEI action plan. Accordingly, the City Manager recently sent out a Request for Proposals for a consultant to create that DEI action plan. The DEI action plan would include input from City employees, members of the community, and various stakeholders. The action plan seeks to implement DEI into the following areas:

- Communication and civic engagement
- Digital equity and inclusion
- Education
- Employment
- Health
- Housing and land use
- Inclusive economic development
- Internal practices
- Mobility and transportation
- Public safety
- Race and social justice
- Sustainability and environmental justice

Understanding DEI helps staff more readily identify and understand how their actions may impact the community, including in the areas identified above. For example, an on-line survey may be sent out via email or posted to a webpage, but certain segments of the community may lack reliable access to the internet affecting their ability to respond to the survey. Are other means of participation going to be considered to include more responses from various populations of the community? Thought needs to be given as to how to improve access so all communities can participate. Awareness and understanding of DEI leads to that thought process ahead of time as opposed to a reactionary response. Given the actions undertaken by the City and future actions proposed by the DEI action plan, Chula Vista leadership is committed to creating a culture that values and supports DEI.

To develop and foster DEI within a City Attorney's Office requires consideration of many areas, such as: creating a culture that values DEI, examining hiring recruitment, career development-mentoring, retention, training and engagement, and continual re-evaluation. A DEI program should include commitment from top leadership, opportunities to learn, and cultivating a sense of belonging. The following are actions and recommendations that a City Attorney's Office can take to develop and foster DEI and which we have found beneficial in implementing DEI.

A City Attorney's Office can and should foster a culture that values DEI. Steps to do this include training on various issues such as discrimination, inclusive conversations, implicit bias, and micro-aggressions. In addition, participation in a DEI 21-day challenge should be considered.[iv] As a team building event and through DEI champions, employees can learn about various cultural events and holidays, including a brief discussion of the cultural meaning and importance. The goal should be to create an environment where employees feel a sense of belonging and where their differences and opinions are valued. This environment can encourage people to want to work for the office.

A commitment to DEI includes the hiring process. The pipeline to hiring begins well

before you have a job opening. It begins with high school age students interested in becoming lawyers, law students looking for internships, and attorneys starting their careers. For high school students, helping them understand what it takes to get into law school and what the practice of law is like, including the various types of practice, opens the possibility of the profession to them. Providing them internships is also a valuable tool, particularly if there is an educational component to the internship in addition to traditional work assignments. The educational component should include training on City structure and municipal law.

Law students can also be assisted by providing them tools to be hired. A City Attorney's Office should work with a law school's career center and law student associations to provide training on interview skills, resume building, and preparing a writing sample. Law student internships are important to develop law students into future municipal lawyers. Finally, we should be available to provide mentorship opportunities outside of traditional internships. Local law schools may host networking events that provide you an opportunity to engage with students to speak about public law that can lead to informal mentorships. Finally, the City Attorneys Department's Attorney Development and Succession Committee is available to provide assistance. One of their subcommittees focuses on law school outreach, and members are available to help provide materials, give panels, and provide connections regarding existing public law programs at law schools about municipal law practice and internship programs in private firms and in-house offices.

Attorneys who are at the beginning of their career can be assisted even if you are not hiring. Create mentoring opportunities. Participate in local bar associations. In that relationship, attorneys can ask questions about being a lawyer (including balancing work and personal life) and what to highlight in their resumes; and, net-working opportunities can be created which can lead to learning about job opportunities.

When ready to hire, a City Attorney should reach out to various communities, including specialty bars. The outreach should be more than just sending job announcements but should also involve attending meetings and events. Being present tells prospective applicants that your office is committed to DEI and welcomes applicants from all populations. In addition, barriers to hiring should be identified. Often times, employers place significant emphasis on the law school that was attended and class ranking. (Yet, that assumes all attorneys were able to select schools without regard to financial considerations.) Other factors should be equally considered, including work history, writing sample, and interview. As part of the interview process, a review of those that were not interviewed or hired should be conducted to determine the basis for such decisions and if any unintended barriers to employment exist.

Hiring is just the start of the employment relationship. The on-boarding process should include training on DEI, emphasizing importance of DEI to the City and the Office. New attorneys should be provided a copy of the City's EEO policy. A new attorney should be paired with a peer attorney that can answer questions and help them adjust to the office.

Career development should be discussed with attorneys, identifying goals and pathways to achieve those goals. Career development should be reviewed regularly. Also, while it's easy to give certain attorneys "plum" assignments, it is important to provide all

attorneys assignments where they can excel. Doing so creates a sense of belonging and of being valued.

It is also important to include support staff in all DEI efforts, including hiring, career development, and creating a sense of belonging. They should be part of office decision making processes. Staff is part of the City Attorney team and creating an us (attorney) and them(staff) should be avoided.

Fostering a sense of belonging includes having regular discussions with attorneys to ensure they are doing well and feeling heard (this applies to office staff as well). This also assists in employee retention. Knowing when an attorney is struggling or not satisfied at work provides an opportunity to identify and correct those issues, particularly if a systemic issue is identified.

DEI efforts are not static. They should be reviewed regularly. Soliciting input from staff and client departments is key. Input may be obtained via one-on-one discussions, focus groups, or surveys.[v] The review ensures the DEI culture and efforts are maintained and improved upon.

A commitment to DEI creates a work environment that is welcoming, creates a sense of belonging, and motivates employees to do their best-they become invested in their office and profession. Advancing DEI advances overall success.

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[i] https://www.forbes.com/sites/forbeshumanresourcescouncil/2021/05/19/15-key-benefits-of-dei-to-communicate-with-team-members/?sh=5fe6b099195c

[ii] https://welcomingamerica.org/

[iii] https://www.chulavistaca.gov/departments/city-clerk/boards-commissions/boards-commissions-list/human-relations-commission

[iv] https://www.phi.org/press/register-ca4healths-21-day-racial-equity-social-justice-challenge/; https://www.americanbar.org/groups/labor_law/membership/equal_opportunity/; and https://diversity.ucsd.edu/initiatives/21-day-anti-racism-challenge/index.html

[v] https://www.shrm.org/resourcesandtools/tools-and-samples/hr-forms/pages/diversitysurveys.aspx