

# DIVERSITY, EQUITY, and INCLUSION

*In the New Hampshire Legal Community*

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NEW HAMPSHIRE SUPREME COURT STEERING  
COMMITTEE ON DIVERSITY & INCLUSION



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## NHBA Diversity Statement

The New Hampshire Bar Association's motto proudly proclaims, "Equal Justice Under Law." This phrase serves as a guiding principle and fundamental tenet of our organization's commitment to law, equality, and justice. In furtherance of this principle, the NHBA is committed to promoting and fostering a diverse and inclusive bar association. Diversity is an inclusive concept

that encompasses race, ethnicity, national origin, religion, gender, gender identity, age, sexual orientation, and disability.

The NHBA recognizes that achieving diversity in the legal profession requires the Association's continued effort and commitment, and the NHBA is committed to diversity in its membership, board of governors, staff, committees, and all leadership positions.

The NHBA is a richer and more effective Association because of diversity, as it increases our perspectives, collective experiences, strengths, capabilities, and adaptability. In addition, a diverse group of talented legal professionals is important to the success of law firms, law departments, public service organizations, and the clients we serve.

Through increased diversity, the NHBA and its members can bring

more varied perspectives, experiences, backgrounds, talents, and interests to the practice of law and the administration of justice. Through this Diversity Statement, the NHBA reaffirms its commitment to keeping the issues of inequality and injustice in our collective consciousness and to take steps toward creating a more equitable and inclusive bar association for all our members. ■

## An Introduction to the NHSC Steering Committee on Diversity and Inclusion

By Judge Susan B. Carbon, Co-chair  
With contributions from the subcommittees

Recognizing the fundamental importance – indeed mandate under the Constitution – of equality under the law, the New Hampshire Supreme Court (NHSC) determined in December 2021 that New Hampshire needed to ensure that anyone seeking access to justice is treated fairly, equally, and with respect. Two trial court judges were appointed to lead a Steering Committee on Diversity and Inclusion in the New Hampshire Judicial Branch (NHJB).



Over the last several months, a multi-part strategic plan was developed and approved by the Supreme Court in July 2022. The strategic plan calls for the Court to examine current practices and procedures and then take meaningful steps to ensure that the NHJB is welcoming, reflective of, and responsive to the public.

Its overarching goals are to: (1) Identify areas where systemic racism exists in our courts and develop a plan to address them; (2) Identify and present training opportunities for judicial officers and staff in areas such as implicit bias; (3) Develop and implement recruitment and retention strategies that help to diversify the judicial branch workforce; (4) Join with community partners to improve services and outcomes for underserved, vulnerable, or marginalized people; and develop effective, supportive, and creative solutions to respond to their legal needs; (5) Improve access to justice by eliminating barriers, continuing to simplify and streamline court processes and forms, leveraging technology, improving interpreter services, and advocating for necessary resources to keep courts safe, open, and secure; (6) Engage the public in forums outside of court to better understand their personal experiences with the courts and reaffirm our commitment to "equal justice under law;" and (7) Enhance the public's trust and confidence by listening and responding to the needs of those we serve, holding ourselves to high standards, and communicating the role of our courts in providing justice for all.



Importantly, when looking at diversity, this initiative goes beyond racial, ethnic, and gender disparities to include barriers such as those experienced by persons with disabilities and persons of varying economic means. Poverty can prevent meaningful access to justice no matter where in the state one lives. Likewise, persons with physical or mental disabilities experience barriers often hidden in plain sight.

To undertake these sweeping goals, the Diversity and Inclusion Steering Committee was created, drawing upon representatives from the trial courts and the Administrative Office of the Courts (AOC). Members of the committee include Circuit Court judges Susan Carbon (co-chair), Melissa Countway, Sawako Gardner, and Michael Mace; Superior Court judges David Ruoff (co-chair), William Delker, and Charles Temple; Circuit Court Administrator Sarah Freeman; AOC HR Manager Victoria Prestejohn; Superior Court Clerk Jenn Haggan; NHSC Clerk Tim Gudas; AOC Director Dianne Martin; NHJB Deputy Director of Access and Community Engagement Jackie Waters; NHJB ADR Coordinator Margaret Huang; and NHJB Communications Manager Av Harris.

To help guide the committee in these efforts, an advisory board comprised of attorneys and other community leaders was established to actively participate in providing candid feedback. Already, their contributions have proved invaluable. We

remain humbled by the axiom, "You don't know what you don't know."

The members, who represent a broad spectrum of constituencies critical to the committee's work, include PFLAG board member Erica Allen, Waypoint President Borja Alvarez de Toledo, Manchester Police Lieutenant Matthew Barter; Disability Rights Center Communications Director Deodonne Bhattarai, ACLU Attorney Gilles Bissonnette, New Hampshire Brazilian Council Attorney Bruno D'Britto, Overcomers Refugee Services Executive Director Clement Kigugu, Grafton County Attorney Martha Ann Hornick, Department of Justice Attorney Sean Locke, NAACP President James T. McKim, Jr., Attorney Peter Nieves; Delta Dental CEO Thomas Raffio, Public Defender Attorney Kyle Robidas, Attorney Lyndsay Robinson; and NAMI-NH Executive Director Susan Stearns.

New Hampshire now joins with state courts nationwide that have recognized that identifying cultural biases and making changes in the workplace are essential to building trust and confidence in the justice system. The effort has been supported by the National Center for State Courts (NCSC) in Williamsburg, Virginia, the nation's leading resource for state court planning, policy, and innovation.

The initiative was unveiled last December at the Manchester Community Resource Center, a non-profit organization, which for two decades has provided needed services to low and moderate

incomes residents. The site was selected as a prime opportunity to reach out to the public.

In announcing this, NHSC Chief Justice Gordon MacDonald noted, "We are going into the community to begin a conversation, to listen and to learn. We take this step with humility because we know we have a lot to learn."

Indeed, community engagement and transparency are crucial to the success of this initiative if we are to realize true reform and lasting change.

The steering committee has a variety of subcommittees to undertake examination and implementation of these goals. Each subcommittee draws upon additional representatives of the NHJB to assist with this work. As you will see, we will be reaching out to the public and members of the Bar to elicit your input. We hope you will share your time and perspectives to help us make necessary improvements to the judicial branch. This is an historic opportunity to make significant, lasting change in the court system. Please join us in this endeavor.

### Demographics and Workplace Policies

The Demographics and Workplace Policies Subcommittee is tasked with analyzing existing data sources to understand current NHJB demographics, identifying workplace policies and procedures related to recruitment and retention of personnel, and updating these policies and procedures with evidence-based practices.

In 2022, based upon feedback from staff and judges, members of the subcommittee recommended bi-monthly delayed openings to allow for consistent professional development. In August, during one of these branch-wide professional development mornings, staff and judges received training in the updated Anti-Discrimination and Harassment policy. The NCSC is assisting in the analysis of internal applicant and workforce data to help determine what is currently available beyond the data accessible in the EEO Utilization Report, located on the NHJB website.

On June 30, 2023, the Collective Bargaining Agreement between the NHJB and the State Employees' Association formally renamed several staff positions to remove "assistant" from the title, partly in recognition of the gender stereotypes

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# The Legal Focus on Diversity Inside and Outside of Your Organization

By James McKim

As fall begins, diversity efforts seem to be stalling. Laws have passed in 14 states that appear to ban discussions about the protected classes. A *Forbes* magazine article highlights a LinkedIn poll of over 500 responses wherein 40 percent of respondents felt that the future of DEI is less investment and funding. And the recent Supreme Court of the United States (SCOTUS) decision on Affirmative Action seems to have made many question whether the topic of diversity should be left to die quietly. But is that wise? Or is it even true?



In an era marked by deep divisions and heightened awareness of social justice issues, the legal profession in New Hampshire finds itself at a crucial juncture. Lawyers play a pivotal role in shaping society. As such, it is imperative that they prioritize diversity both within their organizations and in their broader client and community engagements. This article explores the importance of diversity and inclusion within the legal profession in New Hampshire and offers insights on how lawyers can contribute to a more inclusive and equitable society.

## The Legal Imperative of Diversity

Diversity is not merely a buzzword. It is a cornerstone of a just and equitable

legal system. In New Hampshire, as elsewhere, the legal profession should reflect the rich tapestry of our communities. Diversity encompasses not only racial and ethnic differences but also factors such as gender, sexual orientation, socioeconomic background, and disability status.

Embracing diversity within the legal profession is not just a matter of ethics - it's a legal imperative. The American Bar Association's Model Rule 8.4(g) underscores the significance of diversity and inclusion in the legal realm. This rule prohibits lawyers from engaging in conduct that discriminates based on various factors, including race, sex, religion, national origin, and more. This legal mandate underscores the importance of fostering a diverse and

inclusive environment within the legal community.

## The Organizational Performance Imperative of Diversity

Research done by major consulting firms such as McKenzie, PWC, and Deloitte has shown that diversity - really diversity, equity, and inclusion (DEI) - is just as important from an organizational performance perspective. And while DEI may seem to be "on the outs" with organizations, thought leaders such as Adrielle Parker point out that historically DEI initiatives have always been first on the chopping block when resources get tight for organizations. The challenge is leaning into DEI in a way that does not at worst

run afoul of the law or at the least create pushback or condemnation and, in fact, help the organization achieve its goals and objectives.

## DEI Within Law Firms

My work with law practices shows that DEI work inside a firm must begin with the goal to create not just a diverse staff, but an inclusive culture. Where lawyers and, just as importantly, staff of all personality dimensions can not only survive but thrive. What might that look like?

- Establishing a dedicated diversity and inclusion committee to develop policies, track diversity metrics, and ensure that recruitment and retention practices that can prioritize diversity and foster an inclusive atmosphere.
- Organizing diversity and inclusion training that not only raises awareness but also provides concrete strategies for addressing bias and fostering inclusivity for all members of the firm.
- Encouraging senior lawyers to mentor and sponsor junior lawyers from underrepresentation.
- Ensuring that recruitment practices are inclusive. Consider using diverse hiring panels, implementing blind resume reviews, and exploring outreach to law schools with diverse student populations.
- Establishing affinity groups with colleagues who share similar backgrounds or experiences.
- Regularly reviewing and sharing of

*DIVERSITY continued on page XII*

# The Golden Rule Is a Disability (When Representing Clients with Disabilities)

By Kirk Simoneau

When I first started writing about working with clients with disabilities, I often spoke about the Golden Rule. You know, treat others as you'd like to be treated. Over time, I realized that rule simply doesn't work in this context and, let's be honest, in this age. Whether you believe it first appeared around 2,000 BCE in an Egyptian fable, was created by Confucius in 500 BCE, was Christ's in the first century, or the bright idea of 17<sup>th</sup> Century British Anglicans, the Golden Rule is premised on the idea that people are all fundamentally the same; that they like the same things you like. It's a very assumptive rule, and assumptions and stereotypes are at the very heart of disability discrimination.



unlawyerly, but television is actually a great illustration of how little people without disabilities really know about how people with disabilities want to be treated, and therefore, shouldn't make assumptions.

The first regularly closed-captioned television show was Julia Child's *The French Chef* in 1972. You needed to have a closed caption decoder that cost about, in today's dollar's, \$1,600. I know my father, a deaf parking lot attendant, would have preferred, if he had the \$1,600, to watch the number one show of 1972, *All in the Family*, instead of learning how to make a Coq au Vin. No one bothered to ask him, a regular joe with a disability, what he wanted.

So, maybe we should retire the Golden Rule. How can any of us know how any person wants to be treated, let alone a per-

son with a disability? A disability we, ourselves, haven't experienced? So, without the Golden Rule, how do you know how a client with a disability wants to be treated? You ask.

## A New Rule

In other words, ditch the Golden Rule for a new rule, let's call it the Red Sneaker Rule; "treat others as they'd like to be treated." My rule leaves out the assumption that you know what a disabled client wants or needs, or more precisely, it stops you from assuming how you'd want to be treated if you had the foggiest idea of what having a particular disability was like.

Some people call that kind of assumptive thinking ableism. I don't like such terms, but the truth is, you don't know enough about any person with a disability

just from the label of "disabled" - even a specifically named disability; anxiety disorder, blind, and more - to make assumptions. Not all Deaf people are Deaf; some are deaf, and the fact that you probably don't understand that reference proves the point. A label tells you little. Assumptions tell you less. Questions - and lawyers are supposed to be good at asking questions - provide answers. Answers provide information about a specific person's specific needs. So, ask how that person would like to be treated. And, yes, the key word is person.

## Lawyer's Rules

My rule also helps satisfy a whole slew of the Rules of Professional Conduct; Rule 1.0 of informed consent, Rule 1.1 of competence, Rule 1.2 allocating authority, Rule 1.4 about client communication, and Rule 1.14 dealing with clients with diminished capacity, to name a few. Imagine you assume your new deaf client uses ASL, so you, thoughtfully, arrange for an American Sign Language interpreter for your intake only to discover that client is laten deaf and prefers CART (real-time typed) interpreting. Or what if your practice is to have client meetings in the afternoon when your new client's medications' side effects are most potent? Good luck getting that fee agreement signed or explaining the Rule Against Perpetuities. My rule is also nice and respectful. And we lawyers could use a little nice and respectful added to our public image.

Oh, and if you think this won't affect

*DISABILITIES continued on page X*

# Someone ‘Like Me’

By Peter Nieves

Six years ago, I was approached by a Hispanic woman I previously met at a Latinos on the Move event in New Hampshire. She expressed a desire to obtain legal representation from a Hispanic family law attorney due to a strong belief that a Hispanic attorney would better understand her ethnic and cultural background, as well as the influence it has on decisions regarding her family. When we spoke, she said to me, “I need someone like me.” Her words were filled with emotion and concern. At the time, I did not know a Hispanic family law attorney in New Hampshire. Therefore, I introduced her to an outstanding, non-Hispanic family law attorney; however, she was very uncomfortable with the situation and requested that I sit in on the meeting.



Ethnic and cultural background can have an impact on understanding a client. Attorneys desire to best represent their clients, which not only includes an understanding of the law and its application, but also an understanding of what a client desires and experiences, and then working within the law to obtain a favorable outcome. As an example, sending a grandmother to a retirement home is uncommon in a Hispanic family, while it is more readily acceptable by others.

While diversity in New Hampshire’s



general population has grown, diversity within the legal community historically has not. However, a number of joint efforts have been made recently to increase diversity within New Hampshire’s legal community. Three years ago, the University of New Hampshire Franklin Pierce School of Law (UNH Law) created the Dean’s Task Force on Racial Justice, Diversity, and Inclusion. The result was the creation of a 25-page recommendation memorandum, portions of which have been implemented.

Two years ago, local law firms in New Hampshire came together to create a 1L DEI Summer Internship Program. Law firms that typically were in competition united with a common desire to increase diversity in New

Hampshire’s legal community and built a summer internship program for first-year law students.

A little over a year ago, the Advisory Board to the New Hampshire Supreme Court’s Steering Committee on Diversity and Inclusion was formed and great efforts are being made within the judicial branch to increase diversity, accessibility, and more.

Two years ago, UNH Law also created the DEI Scholarship Fund to increase diversity within the law school and, to date, multiple law students have received scholarships aimed at increasing diversity in the student population. Local corporations also have implemented internal plans and policies to further DEI efforts, and other groups have worked together to increase diversity within the legal community. These are wonderful steps in creating a more diverse legal community and there is much more to be done. The hope is that these efforts continue even with less of a media focus on DEI issues.

It is noted that increasing diversity within the legal community will take time. The previously mentioned efforts focus on those newly entering the legal field, as well as the judicial branch levels. Efforts are also being made to bring skilled attorneys in from other states where a more diverse legal community already exists. Addressing DEI issues within the legal community at the student,

attorney, and judicial branch at the same time, provides a better chance of long-term change.

Equally important is the need to increase awareness of these efforts within the community. Like the young lady from the prior example, for years, the minority community has desired legal representation from people “like them.” Informing the minority community of the scholarship fund, law school changes, law firms building the 1L program, judicial branch changes, and efforts to bring in attorneys from neighboring states, works toward building a confidence and trust in the legal community that is needed.

Meeting with community leaders to report on recent DEI efforts is helpful as is requesting their feedback. Attending community events, going to community centers, providing information sessions within the community on different legal principles like currently provided conferences for clients, and other efforts, build a level of comfort within the community. Group efforts work best and with law schools, law firms, the judicial branch, and the community working together and sharing information focused on DEI efforts within the legal community, transformation happens with greater ease.

The alternative is that we can build a more diverse legal community over an elongated period of time, but not build community confidence. Making the community aware of changes and getting them involved as transformation takes place, illustrates a united front to address a common goal. Communication within the community also increases chances of laterals from neighboring states so involving members of this more diverse community provides many benefits.

In summary, we are taking great steps toward addressing DEI issues within our legal community and there is more to be done. Keeping the most diverse communities aware of these efforts and seeking their feedback and involvement will provide better acceptance of efforts and may accelerate transformation. ■

*Peter A. Nieves is a founding member of Nieves IP Law Group, LLC. He is also a member of the Diversity and Inclusion Steering Committee’s advisory board.*

Meeting with community leaders to report on recent DEI efforts is helpful as is requesting their feedback.

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## Recognizing and Supporting the Mental Health Needs of Diverse Community Members

By Susan Stearns  
Executive Director, NAMI-NH

The National Alliance on Mental Illness New Hampshire’s (NAMI-NH) mission is to improve the lives of Granite Staters affected by mental illness and suicide – work that’s done by providing support, education, and advocacy. It is critically important to understand the unique experiences, needs, and challenges of the individuals and commu-

nities we serve. As such, DEI was incorporated as a pillar of NAMI-NH’s strategic plan in 2021. In early 2022, the NAMI-NH DEI Committee, which includes a diverse mix of volunteers, board members and staff, began meeting monthly. The group developed a charter and working ethos, crafted principles, updated values language, and established a wide array of short- and long-term goals. ■

# A Path to Progress: The 1L Diversity Internship Program

By Grace Yurish

Now in its third year, the New Hampshire 1L Diversity Internship Program is a collaborative effort between five prominent law firms in the state, all dedicated to advancing diversity, equity, and inclusion (DEI) within the New Hampshire legal community. These firms, Sulloway & Hollis, Sheehan Phinney, McLane Middleton, Nixon Peabody, and Orr & Reno have united their efforts to provide first-year law students who are committed to DEI with enriching programming and internship experiences.

Created in 2021, the internship program is a ten-week paid summer opportunity for first-year law students who will contribute to the DEI efforts of the firms and the New Hampshire legal community. For the last two years, the five firms have each welcomed a student to learn more about practicing law in the Granite State. To oversee this initiative, two committees have been established: the Executive Committee and the Administrative Committee, with at least one representative from every participating firm. Attorney Allyson Moore of Sulloway & Hollis serves as one of the three members on the Executive Committee.

“The goal of the program is to assist with developing an early access to law firm experience for individuals with a commitment to DEI,” Moore says. “Hopefully [it leads] to an increased focus on those issues, not just in law firms in the state of New Hampshire, but the New Hampshire Bar as a whole.”

The summer internship provides students with experience in private practice,



professional development opportunities, networking events, resume and cover letter workshops, and mock interview training. One of the most popular events of the summer is a New Hampshire legal panel, with representatives from various areas of legal practice. Jointly hosted with the NHBA, students are exposed to an array of legal career opportunities within the state.

Additionally, members of the judiciary welcomed the participants to meet with them, tour the Supreme Court, and observe proceedings in the Circuit and Superior Courts. During their summer, students also learn about life in New Hampshire, attend community events and local activities, and meet practitioners throughout the state.

Elijah Santos, an internship partici-

pant from Roger Williams School of Law says, “The 1L Diversity Internship allows students to connect with skilled attorneys, handle challenging cases, and explore many practice groups. In short, the program is an unparalleled experience, especially for someone entering law school as a first-generation student.”

Recognizing that New Hampshire is not inherently diverse, the program has actively reached out to more diverse communities to attract applicants and has been successful in this effort. The program has partnered with the University of New Hampshire Franklin Pierce School of Law (UNH Law), which has also made a significant commitment to DEI. But the program has also expanded its reach to students at law schools where New

Hampshire employers may not be regularly considered.

“When the program first started, most of our applicants came from UNH Law because we’re right here,” Moore says. “It makes sense for them to want to learn more about the New Hampshire legal community, but now we’ve seen in our second year that we were able to attract a majority of students from outside of the state to come for this internship program. That was exciting for us to see that we’re getting a good, wide base. We have people applying from California to Florida.”

This past summer, four of five participants were from out of state.

“I believe this program is instrumental in the advancement of DEI in the state,” says Andy Almonte, a participant from the University of Maine School of Law. “It provides diverse and underrepresented law students the opportunity to connect and learn from talented and influential practicing attorneys in the state. Intentionally recruiting diverse 1Ls thus builds and benefits the entire legal community. Moreover, by providing these opportunities, you open a pathway to create relationships with diverse communities, which can inspire the next generation of diverse attorneys.”

This opportunity is unique from others, as most students are unable to get paid positions in their first year. Moore explains 1Ls often face a choice between earning money and gaining experience in legal practice, but this internship bridges that gap, allowing students to do both.

INTERNSHIP *continued on page X*



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# Women in the Bar: A Very Brief History

By Judge Susan Carbon

Since 1987, the New Hampshire Bar Association has made tremendous strides toward advancing the progression of women in the profession. While we still have a long way to go before achieving full equity, it is helpful to reflect upon this history to appreciate the present

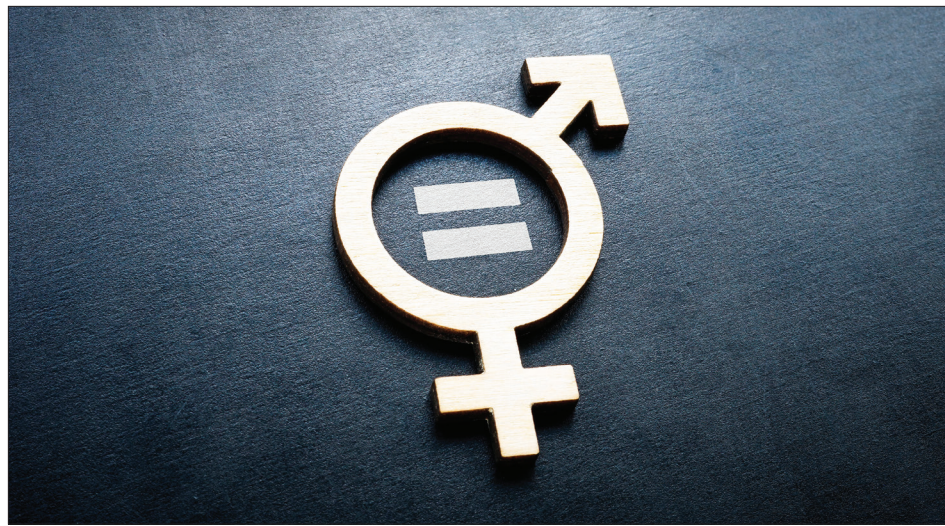


and to chart the future. What follows is a very brief history of women in the legal profession, with apologies to the many whose names will out of necessity be omitted and the milestones achieved that have helped women be where they are today.

Women at common law were property of their husbands and fathers. For example, in 1824, the Mississippi Supreme Court allowed husbands the right to “exercise moderate chastisement” against their wives. In 1871, Alabama was the first state supreme court to repudiate such control when writing: “The wife is not to be considered as the husband’s slave. And the privilege, ancient though it be, to beat her with a stick, to pull her hair, choke her, spit in her face, or kick her about the floor, or to inflict upon her like indignities, is not now acknowledged by our law.” Twelve years later, Maryland became the first state to legislatively ban wife-beating.

With this backdrop, the passage of the 19<sup>th</sup> Amendment granting women the right to vote changed the landscape. For decades, women had endured beatings, incarceration, force-feedings and the like to secure this fundamental right. Yet it was still decades before Native American and African American women were guaranteed this right. Still, having rights and exercising them are not one and the same, and one cannot overlook the struggles that have continued.

Most are familiar with the United States Supreme Court’s 1873 opinion in *Illinois v. Bradwell* denying Myra Bradwell admission to the Bar of Illinois holding: “The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother.” Six years later, however, through an act of Congress [the Lockwood Bill], Belva Lockwood became the first woman admitted to the United States Supreme Court. One of her arguments was that she was by then widowed and her children grown. Nonetheless, this marked an early milestone.



Three years later in 1882, our own Marilla Marks Ricker became the first woman admitted to the DC Bar. It was not until 1890, however, that she secured for women eligibility for admission into the New Hampshire Bar. New Hampshire was, by that time, the 23<sup>rd</sup> state to admit women. Ms. Ricker never practiced in New Hampshire, returning to DC to eventually practice with Attorney Lockwood. It was Agnes Winifred McLaughlin who in 1917 became the first woman admitted to the New Hampshire Bar. This milestone occurred 44 years after the Bar was established in 1873.

By the centennial anniversary of the Bar in 1973, 56 years after Ms. McLaughlin was admitted, only 17 women were members of the Bar, representing a paltry one percent. But, 44 years later, on the 100<sup>th</sup> anniversary of women in the Bar, women comprised 34.5 percent.

As women have increased in numbers in the Bar, so too have they expanded their representation on the bench. Although the first female judge was appointed in 1935 (Idella Jenness, to the Pittsfield Municipal Court), it was not until 1979 that a female law-trained judge was appointed (Jean Burling, to the Claremont District Court). A year later, Linda Dalianis was the first woman to be appointed to the Superior Court. In 2000, she became the first female justice (and later, first female Chief Justice) of the New Hampshire Supreme Court. A decade later, the state celebrated its first female jurist on the federal court when Landya McCafferty was appointed US Magistrate Judge. Today, four of the five federal jurists are women.

The number of women judges in New Hampshire continues to increase. As of October 2023, our federal court is most im-

pressive with women comprising 80 percent (four of five) of the full-time bench. The number of women in state court is a little more nuanced. When looking at active full-time judges, 40 percent of the state bench is comprised of women (19 of 42 in the Circuit Court, seven of 21 in Superior Court, and one of five in the Supreme Court).

The expansion of women in the Circuit Court is illustrative. When considering all Circuit Court judges (which includes those in senior status and part-time judges), 36 percent are women. However, 45 percent of active full-time Circuit Court judges are women, with one more appointment pending.

Progress for sure, but it is important to note that numbers on the Supreme Court are markedly low. Presently, at 20 percent, we are tied for 45<sup>th</sup> place (with Indiana); only four states have a lower percentage. Add to that, 17 percent of states have 50 percent or more. There is work to be done before we achieve equity on the bench.

The Bar Association undertook its first significant foray into examining gender bias when in 1987, it established the Task Force on Women in the Bar. In its groundbreaking report issued a year later, discrimination in many forms was identified: economics, attitudes, treatment in and out of court, opportunities, and advancement. The Bar has continued to survey its members to track progress in the 35 years since. Some of the findings revealed in the most recent [2017] survey are troubling. Frequently or occasionally *outside of court*:

- Fifty-seven percent of women have observed or experienced condescending treatment;
- Fifty-four percent have experienced sexist jokes; and

- Fifty-two percent have experienced inappropriate comments on their appearance/apparel.

Perhaps most disconcerting is that 25 percent of women – a full one-quarter – have observed or experienced condescending treatment of female attorneys *by judges in court or chambers* occasionally or frequently; and 17 percent (nearly one-fifth) of the entire Bar reports this. Mind-numbing.

With the expansion of women on the bench, these statistics may fade into history. Still, the Bar Foundation’s 2022 survey on Diversity and Inclusion found that 78 percent of men, but only 59 percent of women, are satisfied with diversity in the workplace. One response was particularly poignant. “Female lawyers still face sexual harassment regularly, judges still treat us differently, male members exclude us or are openly rude, and our pay rates are lower than males in the exact same position.” This needs to change.

What can be done to promote gender equality within the Bar? What can any individual attorney or judge do to support diversity? These are important questions which beg much deeper analysis. This special supplement in the *Bar News* is intended to promote thought and discussion, but a few suggestions are offered here:

- When you see or hear sexist or condescending treatment, call it out. Failure to act is nothing short of complicity. (Of course, when and how is also important.)
- Support/mentor women in their careers. As attorneys, ensure they have equal opportunities with men.
- Support work/life balance. Support healthy relationships and mental health. Women ought not have to choose between progression in the profession and family.
- Make sure that all women are included – not just heterosexual white women. We can’t ignore compounded barriers.
- Support women seeking appointments to the bench.
- Speak out about the importance and benefit of having a diverse Bench and Bar.

This is not a zero-sum undertaking. We all are better when we best reflect those we serve. ■



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# New Hampshire DEI Milestones Timeline

**1849-1865**

William Henry Johnson becomes the first African-American to practice law in NH. He was also the first African-American lawyer in the US. \*

**1890**

Marilla M. Ricker (first woman to vote in NH) files *Petition of Ricker*, wherein the NHSC holds that women may be attorneys. Despite her success, Ricker never becomes a member of the NH Bar.



**1917**

Agnes Winifred McLaughlin becomes the first woman admitted to the NH Bar.



**1920**

Jennie Blanche Newhall, the second woman admitted to the NH Bar, becomes the first female law clerk (NH Attorney General's office). She was also the first woman to be appointed Justice of the Peace in the state.

**1935**

Idella B. Jenness becomes the first female municipal court judge.

**1964**

Ivorey Cobb becomes the first African-American jurist.



**1977**

Nancy O. Dodge becomes the 100th female lawyer admitted to the NH Bar.

**1979**

Jean K. Burling becomes the first female district court judge.



**1980**

Linda S. Dalianis is nominated by Governor Hugh Gallen to become the first female Superior Court Judge.



**1988**

The *NH Bar Journal* publishes the "Report of the NHBA Task Force on Women in the Bar" as the first gender survey of NHBA's membership.



**1992**

Patti Blanchette becomes the first female NHBA president.



**1994**

The NHBA Gender Equality Committee is created.

**1998**

The NH Women's Bar Association is formed.



**2000**

Linda S. Dalianis becomes the first female NHSC justice; later becomes the first female Chief Justice in 2010.

**2004**

Kelly Ayotte becomes the first female Attorney General of NH.



**2005**

Richard Uchida becomes the first Asian-American president of the NHBA.



**2013**

Landya B. McCafferty becomes the first female judge of the US District Court for the District of NH.



**2015**

Emily Gray Rice becomes the first female US Attorney for the District of NH.



**2017**

The NHBA, NHBF, and NHWBA hold a Centennial Celebration Gala to honor 100 years of women lawyers in NH.



**2022**

The NHBF releases the results of its first Diversity and Inclusion survey. The NHBA establishes a Diversity, Equity, and Inclusion Standing Committee.

**2023**

Talesha Saint-Marc becomes the first African-American female to serve as a federal magistrate judge in NH.



\*Little is known about William Henry Johnson. According to BlackPast.org, a website dedicated to providing comprehensive and accurate information relating to the history of African Americans in the United States, Johnson had begun to practice law as early as 1842, but for reasons unknown, he was not sworn in until 1865. He signed the lawyer's register in 1842 as Wm. Henry Johnson but there is no record of him practicing law until 1859, six years before being sworn in. There is no explanation for the discrepancy. He was first sworn into the Massachusetts Bar but also practiced in New Hampshire.

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# Legal Rights and Language Barriers: Ensuring Justice for LEP Litigants

By Jacqueline Waters

New Hampshire is growing more culturally diverse. Data shows that the foreign-born population in New Hampshire has increased by more than 50 percent from 2000 to 2021, compared to about a 10 percent rise in the US-born population.



Approximately 26 percent of foreign-born people in New Hampshire report they speak English less than “very well.” – an increase of 40 percent in the same period.<sup>1</sup>

New Hampshire is gradually reflecting demographics like the rest of the United States, a diverse nation with a rich history of immigration, whose strength has often been attributed to its ability to embrace and integrate people from different backgrounds and cultures.

Integrating cultural diversity into the justice ecosystem enriches the entire community. It improves public trust and confidence that all people, regardless of race, ethnicity, gender orientation, physical ability, or socio-economic factors, will receive due process and equal protection under the law. Diversity broadens perspectives and ideas, resulting in improved problem-solving and better decision-making. Diverse communities strive to understand each other and, by doing so, create a better environment where all may thrive.

Fostering diversity can create linguis-

tic challenges that must be addressed through robust language access programs. Such programs are not only a legal requirement<sup>2</sup> but also a fundamental aspect of avoiding misunderstandings, misinterpretations, and errors in legal proceedings that may result in wrongful convictions or other profound consequences. Providing the means for Limited English Proficiency (LEP) litigants to tell their stories in court in their first language prevents injustices, promotes trust in the legal system, and upholds the principles of equality and due process for all. In other words, language access is fundamental to access to justice for all.

The New Hampshire Judicial Branch Office of Access & Community Engagement (OACE) provides language access services to all who have business before the court. The program offers interpreter services – including American Sign Language – for court proceedings or when LEP litigants request information from clerks’ offices and the Information Center. Staff and judges are trained in the importance of providing language services whenever needed and in the processes, procedures, and policies that provide the framework for language access. Other help provided by the court includes listening devices, Communication Access Real-time Translation (CART) services, “I speak” language cards, Language Line (24/7 phone assistance), and Spanish and Portuguese interpreters in Manchester and Nashua. The NHJB also employs multilin-

## Language by the Numbers Top Ten Interpreted Languages

Spanish	71%
Portuguese	8%
Arabic	4%
Swahili, American Sign Language, Kinyarwanda, and Nepali	3% each
Chinese (Mandarin) and French	2% each
Vietnamese	1%

gual staff and provides other resources on the judicial branch website.<sup>3</sup>

Recently, the judicial branch has received requests for Japanese and Burmese interpreters – two languages uncommon to New Hampshire; therefore, few local resources could respond. The search extended to metropolitan areas outside New England, and fortunately, the Judicial Branch met the need. However, the experience revealed the necessity to expand interpreter capabilities to include Video Remote Interpreting (VRI). Widely adopted throughout the United States, OACE is pursuing VRI and other language access program improvements. The Office recognizes the increasing needs in the number of requests and unique languages requiring interpreters. Other language access improvement initiatives include expanding the number of translated self-help materials, court signage, improved training, and technology solutions for re-

al-time translation at the clerk’s window. Look for these changes in language access services beginning in early 2024.

New Hampshire and the entire United States are growing in diversity. The strength of our democracy is often attributed to our ability to embrace and integrate people from many backgrounds and cultures. By fully supporting robust language access services, the court system and the broader justice community build upon that strength by ensuring equal access under the law for everyone, regardless of their language needs.

For more information on the judicial branch’s language access program, email [la@courts.state.nh.us](mailto:la@courts.state.nh.us). ■

*Jacqueline Waters is the Deputy Director of Access and Community Engagement at the New Hampshire Judicial Branch and sits on the Diversity and Inclusion Steering Committee.*

## Endnotes

1. Migration Policy Institute; [migrationpolicy.org/data/state-profiles/state/language/NH](https://migrationpolicy.org/data/state-profiles/state/language/NH)
2. See Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d, and the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Safe Streets Act), 42 U.S.C. § 3789d(c)(1).
3. Language Access/Interpreter Services; [courts.nh.gov/your-visit/interpreter-services](https://courts.nh.gov/your-visit/interpreter-services)

## Bar Members Share Their Experiences with Discrimination

*Editor’s Note: Members of the New Hampshire Bar were asked to share personal stories in which they experienced or observed discrimination or inequality, with the option to remain anonymous.*

### Anonymous A

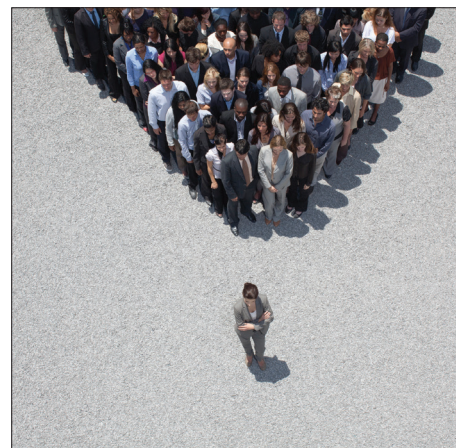
“When I was a young associate, a senior male partner at the large and well-known New Hampshire-based law firm I worked at consistently approached me with inappropriate commentary. Once, he literally cornered me with his arm at the Friday social and told me how he visited his son’s high school and saw all the ‘young ladies’ there wearing thong underwear and couldn’t understand how his son or any of the other boys could concentrate. He then started to interrogate me about my underwear choices

and whether I also wore thong underwear.

Another time, he told me about how he was thinking about me in the middle of the night when he couldn’t sleep, and he almost called me because he was hungry, and he felt like having some yogurt (he knew I made my own yogurt). He described how he was standing in his kitchen with only his boxer shorts on. I could go on and on. I made sure to stay clear of him as much as possible.”

### Anonymous B

“I was retained in a military law case. Upon learning that I had been retained, the two male JAG attorneys – not New Hampshire attorneys – who were detailed (assigned) counsel on the case went behind my back to my client and told them they



were concerned that I was not experienced enough to handle the case. Effectively, they tried to convince my client to stick with their prior plan and terminate my representation.

These attorneys never asked me about my experience. They did not ask anyone who knows me about my experience. They made a snap judgment about me and felt it proper to convey it to my client. The reality is, I have significantly more experience than either of the male JAG attorneys in the areas of both litigation and military law. I served in the US Army for eight years, four of them as an active-duty human resources officer. I am very familiar with military regulations, and I also did residency this past spring with a military law attorney whom I worked with on military law cases for almost ten years.

The two detailed counsel male attorneys have been doing military law for what I estimate to be a total of between six to eight months each. Regardless, the threshold qualifications to serve as a military law attorney are relatively low; maintaining a

law license is not even required. It’s administrative law.

I am more than fully qualified. Having spoken to other male attorneys in the field, none of them have ever experienced something like this in their careers, not even in the very beginning. I did not expect to be treated so terribly by counsel who was on the same team as me, and I cannot help but believe the snap judgment about my experience was exclusively due to my gender.

Thankfully, my client opted to keep me on board and terminated the detailed counsel. That’s just the tip of the iceberg. The amount of “mansplaining” that happens with every male officer I speak to in the military is a little infuriating. I did not expect this within the legal community at all.

In another instance, a large and very respected military law firm (not in New Hampshire) recently made me an offer. At the time, I was aware their firm was all male. I knew my gender would be a big selling point for them, because there are not a lot of female attorneys in this niche area of law. At some point, however, it became painfully obvious to me that the firm had not even read my bio before making me an offer. They had no clue what experience I had or did not have. I explored my suspicion further in contract negotiations, which verified my concerns. The firm was interested in obtaining my name, image, and likeness above all. My experience did not matter to them. This is an interesting situation where the outcome would have been favorable due to gender, but the respect was nonexistent. I declined their offer. I do not ever want to be hired for my face or my gender. I want to be offered jobs because I am a great attorney.” ■

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# A Reminder of the Diversity Survey Recommendations

By Lyndsay N. Robinson

In June 2021, the New Hampshire Bar Foundation brought together a number of stakeholders to design our state's first ever, data-driven diversity survey. In February 2022, the results were published.



With the results, Parker Analytics made several recommendations. Specifically, after reviewing the survey results, the recommendations included:

## Member Education (CLE) and Outreach

This was anticipated to include marketing and member outreach. It was recommended that the New Hampshire Bar Association (NHBA) website include a diversity and inclusion (D&I) tab to add links to NHBA diversity commitment and statement of goals, separate tab for D&I, curated D&I news feed, D&I-related CLE and bias interruption programs, host events/bar meetings on D&I, and D&I resources and recruitment.

## Recruitment

The recommendations focused on educating employers regarding the Mansfield Rule and other industry D&I initiatives; provide recruiting best practices guidelines; and publish an annual NHBA minori-



ty recruiting calendar. The results further recommended taking pipeline initiatives to include launching mentoring programs with New Hampshire high schools and HBCU (Historically Black Colleges & Universities) institutions. Additionally, the recommendations included responsibility to educate corporations regarding ABA Resolution 113 and offer an annual NHBA diversity scorecard to corporate clients to benchmark and advance diversity on outside legal systems.

## Court System

Another area for opportunity is within our judicial system. The survey recommended expanding opportunities for the

judiciary to interact with Bar members, including diverse members at Bar Association events; implement Supreme Court mentoring partnerships for existing and newly admitted diverse lawyers; collaborate with the University of New Hampshire Franklin Pierce School of Law to engage their increasing enrollment of diverse students; training for all court personnel with respect to implicit bias and multiculturalism; and establishing formal reporting and recourse processes for those who witness or experience disparate treatment.

I share this with you all as a reminder. Our state Bar engaged in a survey and provided thoughtful and important feedback.

Based on all our collective input, the survey results yielded several recommendations on how we can better meet the needs of all present and future members of our Bar. While we have taken several steps to work on these recommendations, we still have a long way to go.

It is incumbent upon all of us – individual attorneys, law firms, the Board of Governors of the Bar Association, and the Bar Foundation – to actively undertake implementation of these recommendations. Some of these are relatively “easy” to accomplish. Others will require more significant effort and coordination with collateral D&I initiatives across the state.

We cannot afford to let these important recommendations languish on a shelf.

We cannot afford to let these important recommendations languish on a shelf. Please take every opportunity in our efforts to continue to improve the Bar to keep these recommendations at the forefront. ■

*Lyndsay Robinson is an attorney with Shaheen & Gordon, PA. She is the former chair of the New Hampshire Bar Association's Gender Equality Committee and the current ABA Young Lawyers Delegate.*

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# DEI in Alternative Dispute Resolution

By Margaret Huang

Earlier this year, I was on the phone with a gentleman who called the courts to ask for pre-filing mediation through our Eviction Diversion program. He spoke fluent English but was giving me minimal responses to the standard intake questions I was asking him. In the middle of my list of questions, he interrupted me and asked me if I spoke Mandarin. I cautiously responded that I did, but qualified that my Mandarin was much worse than his English. Despite this caution, as soon as he heard that I spoke Mandarin, he lowered his guard and eagerly shared his story with me. This is a story about inclusion.



To achieve equal justice under the law, we must be aware of how important it is for people to feel invited in; to see themselves and who they are reflected in the people who are a part of the system. When the gentleman I spoke to learned that I was Chinese, he stopped speaking to a system and started speaking to a person. I was certainly better able to assist, but I was also able to give him a greater sense of being heard – a greater sense that the court system cares about him as an individual, not just as a metric or a case number.

Alternative Dispute Resolution (ADR) refers to a variety of processes (such as mediation and arbitration) that help people settle legal conflicts, often in a manner more collaborative and less costly than litigation. The New Hampshire Judicial Branch offers litigants access to ADR services in many case types in our court system.<sup>1</sup> Improving diversity, equity, and inclusion (DEI) in the ADR field has had a long and complex history,<sup>2</sup> and our current efforts are built on the work of many who

came before us.

Defining “diversity” itself is a challenge; “diversity” is a broad term that encompasses the struggles of many different marginalized communities, all of whom face different challenges, have different needs, and may have different goals.<sup>3</sup> Thus, to be effective in creating more diverse, inclusive, and equitable ADR programs, we have to make a concerted effort to design initiatives that address the needs of each community, as well as examine all aspects of ADR administration.<sup>4</sup> Knowing what others are doing and what projects are successful can improve ADR and legal professionals’ work toward greater inclusivity.

On May 19, 2023, Cardozo Law Mediation Clinic Director Robyn Weinstein and I presented our findings on DEI initiatives in ADR from across the country at the American Bar Association’s Dispute Resolution Conference. Knowledge of DEI initiatives in ADR are scattered and not easily accessible.<sup>5</sup> Thus, our mission in surveying the country’s DEI initiatives in ADR was to find, compile, sort, and present the initiatives we found in hopes of inspiring others to start their own DEI ADR initiative. We divided our findings into three categories: one, initiatives to increase the diver-

sity of mediator rosters, which included scholarships, mentorships, and fellowship programs, and recruiting diverse neutrals; two, initiatives that increased community engagement; and three, initiatives that promoted inclusive and diverse policies and practices.

Through our research, we found that a significant number of ADR organizations offered scholarships for people to attend mediation training. We found that the most successful organizations recruited diverse neutrals through direct, repeated personal connections with local communities and individuals who identified as diverse. We found that most state and local organizations had offered or required some form of DEI training to mediators in recent years. Topics ranged from implicit bias to mental illness in dispute resolution.

At the start of the project, I was paralyzed by the immensity of the work that is improving DEI in ADR. Though cataloguing current projects is only the beginning, the work of my colleagues across the country inspired me to take the next step.

The Office of Mediation and Arbitration in the judicial branch is launching the bilingual/multilingual certified family mediator scholarship. The scholarship will

provide bilingual/multilingual candidates who are interested in becoming certified family mediators funding to achieve their goals. The monetary investment to becoming a certified family mediator can be a barrier to some who would otherwise seek this professional training. The scholarship is designed to help remove those barriers so more New Hampshire residents, like the litigant above, can see themselves in the ADR professionals who serve them. Improving DEI in ADR is a complicated and difficult task, but necessary for equal justice under law. ■

*Margaret Huang is the Alternative Dispute Resolution Coordinator for the New Hampshire Judicial Branch.*

## Endnotes

1. *New Hampshire Judicial Branch, Mediation*. Available at [courts.nh.gov/resources/mediation](https://courts.nh.gov/resources/mediation).
2. Marvin E. Johnson and Maria Volpe, *Roots of Diversity in the Dispute Resolution Field: Some Preliminary Observations*, ACR Resolution, (Winter 2013).
3. Race, ethnicity, gender identity, age, disability, national origin, sexual preference, socioeconomic status, and others.
4. ADR Administration consists of neutral management, program administration, and workplace policies. Neutral management includes (1) determining the qualifications of who can become a neutral, (2) recruiting people to the field (3) considering how neutrals are selected for a case (4) training neutrals and continuing to ensure quality. Program administration refers to the rules, practices, and policies of each program, such as how the program is accessed, what data is collected, the cost of the service, the forum in which the service takes place, and who the decision maker is. And workplace policies include the personnel who administer the program, the culture of how neutrals and staff interact, and internal policies that affect the administration of the program.
5. See Marvin E. Johnson and Maria Volpe, p. 16, *supra* note 1.

## Disabilities from page III

your practice, you’re wrong. According to the University of New Hampshire’s Institute on Disability, 12.6 percent of New Hampshire’s population identify as having a disability. At some point, you are bound to have a client with a disability. And there are opportunities galore if you want to gain more courtroom experience. I learned yesterday that some 3,910 cases related to mental health disabilities and incapacity go through our courts annually and you can get assigned, by the Circuit Court, and paid to work on those cases. And, yes, the key word is paid. Reach out to Kate Geraci at [kgeraci@courts.state.nh.us](mailto:kgeraci@courts.state.nh.us), if you want to learn more about that.

### Food (But Not Coq au Vin) For Thought

So, what do you do if you have a client with a disability? The process is simple:

1. Ask, don’t assume, if they need an accommodation; and
2. Ask what accommodation they’d prefer and try your best to provide it.

If you have to pay for an accommodation, you cannot pass that cost to the client. Sections 44 and 190 of the Tax Code allow for tax credits of up to \$10,250 for small

businesses and a \$15,000 deduction for all businesses to assist with ADA compliance. Use those tax breaks because if you bill your client for the ramp, the interpreter, or any accommodation, they call me, and I sue you. You’d be surprised how often I must remind my friends in the Bar that they can’t bill disabled clients for accommodations.

If you expected a list of accommodations or helpful tips based on different types of disabilities, then you’ve missed my point. What I want you to do if you have a client with a disability is to maintain some fluidity and flexibility in your thinking. I want you to be nice. I want you not to make assumptions or use stereotypes. I want you to ask and treat others as they’d like to be treated, not as you want to be treated. ■

*Kirk Simoneau is a lawyer with a disability, thus the red sneakers, and prenatally disabled parents. He is also vice chair of the Board of the Disability Rights Center-NH, a “Best Lawyer” for civil rights, and a “Super Lawyer” for personal injury, who has created a successful niche practice focusing on clients with disabilities. Emails of praise can be sent to [kirk@redsnakerlaw.com](mailto:kirk@redsnakerlaw.com). Less polite emails can be sent to Congress.*

## Internship from page V

While the program has not yet had the chance to assess its long-term impact, as all past participants are still in law school, it anticipates gaining a better understanding of the results once these students graduate.

However, the program has already determined that there has been a significant increase in students’ consideration of practicing in the state because of their internship experiences.

“I was able to see the true collegiality and benefits that come from practicing in New Hampshire, and it made me excited to do so upon graduation,” says Julia Burke, a participant from UNH Law.

In the coming years, the program aims to establish an alumni network where all participants can continue to expand their professional connections as they enter the legal community, while also offering additional mentoring opportunities. The program also hopes to attract more firms to participate,

thereby providing an even greater number of future lawyers with the opportunity to gain valuable experience in the Granite State.

“This program shows that firms are taking diversity seriously,” says participant Sultana Tufts from the University of Maine School of Law. “Participating in the Diversity Program demonstrates firms are actively pursuing diverse candidates for internships and possible job offers. The program isn’t just a statement on a firm’s website saying, ‘we support a diverse legal community.’ It is putting actions to those words, and we all know actions speak louder than words.”

Tufts continues: “In a predominantly white state like New Hampshire, it is imperative to foster a legal community that values diversity and is committed to bringing in a diverse class of future legal professionals. Drawing diverse talent to New Hampshire and hopefully giving them a good experience to keep them here is a step in the right direction.” ■

“This program shows that firms are taking diversity seriously.”  
– Sultana Tufts

# DEI: A Journey Without a Finish Line

By Tom Raffio

I am proud to share the gains that Northeast Delta Dental has made toward Diversity, Equity, and Inclusion (DEI), and the most important advice I can share about DEI is that it is a race without a finish line. It is a continuous work in progress, spread across many company initiatives and departments.



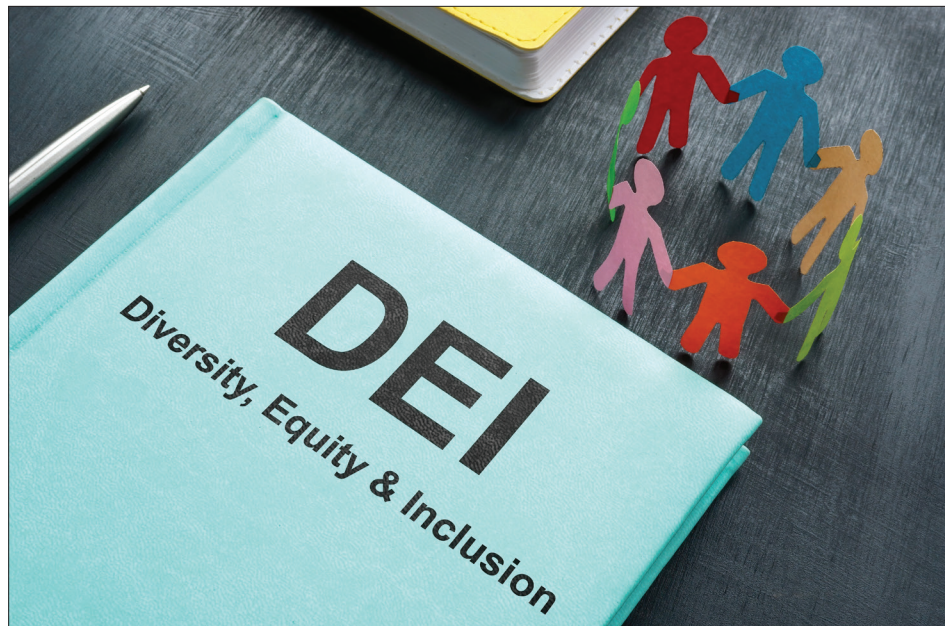
As a nonprofit company dedicated to improving the health, wellness, and quality of life across communities in Maine, New Hampshire, and Vermont, we realized we had to gain a better understanding of racially oriented inequity in oral health within ourselves and our business. This requires developing partnerships with community stakeholders in the BIPOC (Black, Indigenous, People of Color) community and creating sustainable initiatives that address, in some part, the drivers behind racially oriented oral health inequity.

To carry out these initiatives, we established the Social Justice Committee. Additionally, realizing the importance of these endeavors, we founded a Tri-State Board DEI Committee so that our board could help support and facilitate the work of the Social Justice Committee. Both committees monitor opportunities to support communities through the Northeast Delta Dental Foundation and corporate giving programs.

As a result, we have launched programs like the Justice and Equity Dental Initiative (JEDI) Age One Dental Visit. JEDI addresses the great disparities and lack of equity experienced in culturally diverse communities in access to oral health care and helps break down these barriers by providing early childhood preventive care.

We also support established programs such as Building Community in New Hampshire, created to help reduce childhood obesity among Congolese families by improving diet and physical activities, and the Vermont Health Equity Initiative, a program that addresses dental health disparities in the BIPOC communities in Vermont.

I truly believe that DEI is one of those initiatives that is a journey without a finish line. Whether it's aiding the uninsured with our grants that give them access to oral health care, focusing on training our em-



ployees on topics such as generational differences, supporting community events, or recruiting diverse candidates, it is and will always be an ongoing, multi-disciplinary endeavor.

At its very core, our company mission of advancing the oral health and wellness of our customers and the general public is an ideal platform for DEI. It encompasses our commitment to serve underrepresented populations. This year:

- On April 1, after working with other advocates from across New Hampshire for the last 25 years urging our government to adopt the legislation, New Hampshire passed a law extending dental benefits to adult Medicaid recipients, never before eligible for oral healthcare.
- In 2022 Northeast Delta Dental provided over \$200,000 in dental treatments to 92 New Hampshire veterans who can't access care through Veterans Affairs.
- Our Foundation and corporate giving programs assisted many populations facing economic hardship, including the Friends of New Hampshire Drug Courts. A grant we awarded provides free dental care for program participants.
- We help address the shortage of dentists in northern New England areas and those serving the Medicaid population by providing scholarships and loan repayment programs to encourage dental students to practice in rural and underserved areas.
- We are recognized for leading efforts to advocate for high-quality, accessible mental health care.

- We partner with many organizations every year that support and celebrate BIPOC and LGBTQ communities.

Looking inward, we continue to provide training on a variety of topics that address DEI directly and indirectly, including:

- New Hampshire Businesses for Social Responsibility DEI Workplace Innovation Challenge
- Civility Workshop
- Generational Diversity
- Bystander Workshop
- The Psychological Impact of Racial Trauma and how it Manifests at Work

Although we are proud of our low turnover rate, averaging close to 12 years, this incredible wealth of experience, combined with the demographics of the New Hampshire area, presents challenges for recruiting diverse candidates.

Currently, our employee demographic is composed of 68 percent female, 32 percent male and eight percent BIPOC. Although this composition exceeds the state demographics, it still needs work and we are actively recruiting through organizations and events that serve the BIPOC population, including NAACP, Diversity Connect, Employee Diversity, Diversity Workforce Coalition, and the Diversity Hiring Coalition.

Our efforts in board recruiting have been more successful. Currently 17 percent of our New Hampshire board members are from the BIPOC population. However, we continue to strive for an even more diverse board. In addition, we have strong gender equity with 55 percent of our board members being female.

Our DEI efforts are part of a never-ending journey to provide equal access to health and wellness for all. I am inspired and encouraged by the extraordinary commitment of my colleagues and fellow community partners to practice inclusivity and cultivate a more empathetic workplace and society. ■

*Tom Raffio is the president and CEO of Northeast Delta Dental and sits on the Advisory Board to the New Hampshire Supreme Court's Steering Committee on Diversity and Inclusion.*

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## Committee from page II

associated with the word.

### Training and Pipeline Diversity

This subcommittee has completed three training sessions with the Mars Hill Group and reached most of the members of the judicial branch with an introduction to language and ideas relating to diversity and inclusion and cultural competency. Survey results from these trainings are consistently positive, and we estimate that 630 people participated in these trainings (70 in-person clerks/administrators; 60 in-person judicial officers; and about 500 NHJB employees in a remote session).

We participated in several events for the New Hampshire 1L Diversity Internship Program including the Meet the Judiciary event on July 18, 2023, at the New Hampshire Supreme Court. Students in this program also visited Hillsborough County Superior Court and the Circuit Court in Laconia to observe Judge Delker's and Judge Countway's dockets. Judges also spent an evening on a boat cruise onboard the Thomas Leighton with this group of students.

We launched a standardized application for law student interns and are one of the first states to participate in a nationwide internship portal to reduce barriers for law students and broaden the pool of applicants to work in the New Hampshire court system. We have had a record number of applications in all branches of government for summer internships and externships during the school year. We have also provided an above-average number of internship and externship opportunities in the NHJB.

The Superior Court Law Clerk Committee has solicited applications from a broad range of law schools along the East Coast to the mid-Atlantic states. The committee has also engaged in in-person outreach to area law schools, including an event co-sponsored by the Diversity Coalition and Career Services Office at UNH Franklin Pierce School of Law to generate interest from a diverse applicant pool for clerkships.

### Data Collection

The Data Collection Subcommittee is charged with executing the strategic



plan's objective to identify any disparities and disproportionalities within the court system by using empirical data to uncover potential systemic racism, disparate impact, unfair and exclusionary practices, and other barriers to equal and fair justice for all. The subcommittee is partnering with data experts from the NCSC pursuant to a grant from the State Justice Institute. The NCSC and the subcommittee have established three principal stages for this work.

In the first stage, the subcommittee is analyzing existing court data in selected case types, including domestic violence, civil stalking, abuse/neglect, and juvenile delinquency, and supplementing it with census data to identify any disparities or disproportionalities in case processes or case outcomes based on race, ethnicity, gender/sex, age, or socioeconomic status.

In the second stage, the subcommittee will extend that work to criminal cases.

The third stage, which will run concurrently with the first two, focuses on developing additional, more reliable, and more expansive data-collection capabilities across a full range of case types (such as small claims, landlord-tenant, guardianship, and parenting matters) and across a

broader set of demographic criteria (such as national origin, sexual orientation, English language proficiency, and self-represented status). An upcoming NCSC-developed survey of our external stakeholders will provide additional data to assess perceptions of fairness and inclusivity.

### Qualitative Analysis

This subcommittee partnered with the NCSC to survey the NHJB as a whole regarding the subject matters identified in our strategic plan. With thanks to the NCSC, we are working through the survey results of 585 individual respondents representing the majority of our branch's workforce ranging from entry-level staff members to senior judges. We are working presently to understand the data we collected and to make recommendations to the Steering Committee regarding areas where our data inform our objectives as outlined in the strategic plan. The large data set we now have is both statistical and anecdotal in form and will require a significant amount of additional work to fully internalize and understand for further action. Those efforts are underway and will be ongoing for some time.

In addition, we are working to design

### Conclusion

In this time of division and social change, the legal profession in New Hampshire has a unique and critical role to play in promoting diversity and inclusion. Lawyers have a moral and legal obligation to create diverse and inclusive environments within their organizations and to work toward a more equitable society outside of them.

Embracing diversity is not just a matter of ticking boxes or complying with regulations. It is about recognizing the inherent value of different perspectives and experiences, and how these differences enrich the legal profession and society as a whole. By actively fostering diversity and inclusion, lawyers can contribute to a fairer and more just New Hampshire.

Lawyers' actions have a ripple effect. By championing diversity and inclusion, the legal profession can not only uphold the principles of justice but also inspire positive change in our communities. In doing so, it can help bridge the divisions that persist in our society and work toward a brighter, more inclusive future for all. ■

our external survey for the members of the public we serve. The NCSC is also assisting us with designing the external survey and we have sample templates used by other jurisdictions engaged in similar work to guide us. We plan to contact stakeholders in the near term to discuss best practices to maximize participation in the external survey and to encourage the same. Finally, members of our subcommittee are traveling to more remote locations in New Hampshire as part of our ongoing public outreach in an effort to better understand the data and to make recommendations guided by it. The internal and external surveys are the twin pillars of our subcommittee's work, and we look forward to the ability to view these issues both internally and externally with the excellent data the NCSC helps us to collect and internalize for further action.

### Communications

Earlier this year, the D&I Communications Subcommittee organized and hosted community engagement sessions with PFLAG and NAMI-NH. PFLAG is an organization that provides support, education, and advocacy for LGBTQ+ people ([see pflag.org/about-us](http://pflag.org/about-us)). NAMI-NH is an organization that provides support, education, and advocacy for people affected by mental illness and suicide ([see naminh.org/about](http://naminh.org/about)).

Participants at these sessions provided examples of positive and negative court experiences, as well as thoughtful recommendations on how court experiences could be improved. Because we want to respect the heartfelt and vulnerable stories that people shared with us at these sessions, we will be anonymizing and aggregating the information collected throughout our community engagement sessions into a report before distribution. Thank you to those who participated.

We are planning for the third community engagement session to be held in Berlin. Starting in 2024, we plan to host community engagement sessions in other towns across the state. We encourage you all to attend these sessions and share your court experiences and recommendations with us. Through your voices, we will be able to build a court system that embodies "equal justice under law." ■

## Diversity from page III

compensation structures ensure they are fair and free from disparities that may hinder attrition or the firm's ability to hire talent.

- Engaging with diverse communities outside of the firm to improve understanding of how the world works and how people live.

### Outside the Firm

What is your competitive advantage? Are you providing the most value you can to your clients? Beyond the confines of the firm, lawyers have a unique opportunity to not only help with compliance but also to go above and beyond that base expectation and become a true partner helping them improve efficiency, effectiveness, and relevance through DEI. What might that look like?

- Offering *pro bono* legal services to individuals and organizations that are

dedicated to promoting diversity and inclusion. For example, help the NAACP address discrimination reports that do not rise to the level of requiring legal counsel.

- Acting as mentors to aspiring lawyers from underrepresented backgrounds.
- Advocating for policies and legislation that promote diversity and inclusion. For example, speak up against municipal rules or state legislation that limits the rights of the protected classes. Support the work of the New Hampshire Justice Bureau's Diversity & Inclusion Committee.
- Engaging in educational outreach programs or offer workshops, seminars, or presentations at schools, colleges, and community centers to raise awareness about diversity, equity, and inclusion. For example, join and actively participate in diversity and inclusion committees within the New Hampshire Bar Association.
- Assisting with a plan to generate a positive DEI return on investment.

*James McKim is the Founder/Managing Partner at Organizational Ignition and President of the Manchester NAACP.*

Want to go beyond compliance?

We ignite superior performance through diversity, equity, & inclusion.



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