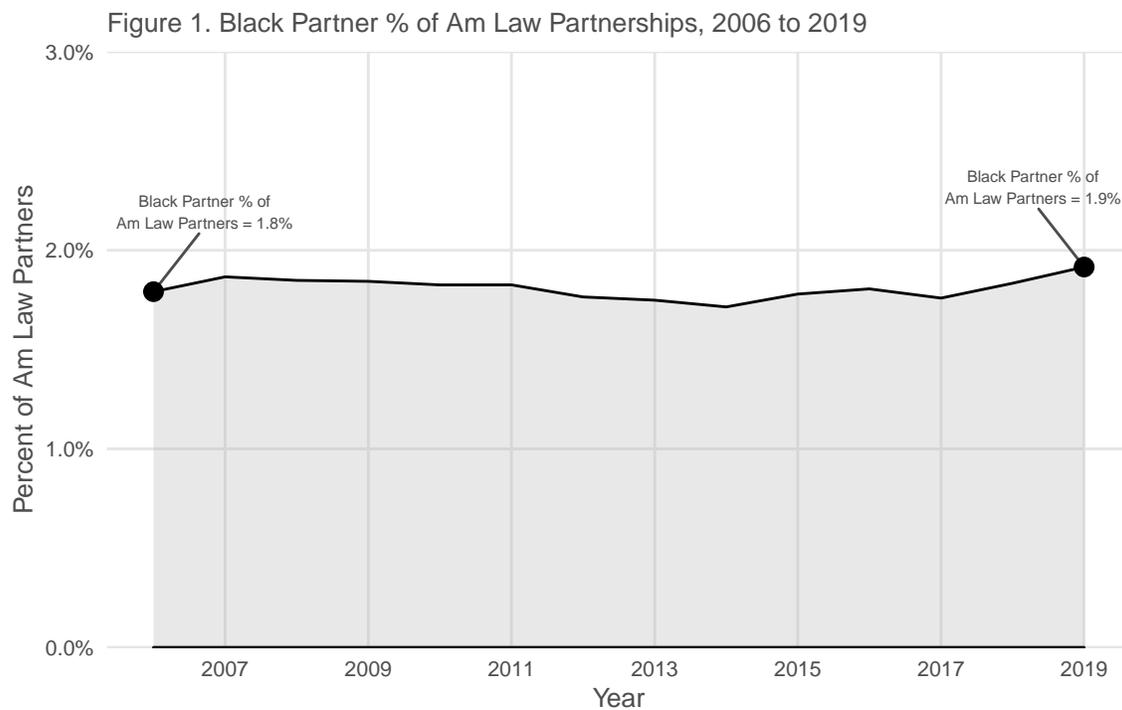


Advancing Black Lawyers: How GCs Use Data to Lead the Way

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The graphic below reminds us the legal profession marginalizes Black lawyers. In 2006, about 2% of Am Law Partners were Black. In 2019, this percentage was effectively the same. So, in a decade replete with high-publicity diversity initiatives and awards, Black representation in Am Law partnerships did not change.



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In 2018, I wrote about how corporate legal departments can use data to influence the diversity of their top firms. Since observing several data-driven approaches in action—most thoroughly in a collaboration with BASF Corporation going on five years—I’m more convinced than ever these systems promote diversity and equity and support the advancement of Black lawyers.

Consider two concrete results for 12 firms working with BASF as members of the BASF outside counsel diversity program: Between 2016 and 2019, the share of work for Partners of Color increased by 4%, and the share of work for Associates of Color increased by 24%. In the remainder of this note, I describe core features of a data-driven diversity program and elaborate on the effectiveness of this approach.

Data to Direct Action

Law firm leaders respond to feedback when it's something they can act on—a request with a basis in facts. Effectively using diversity data, therefore, requires communicating action items to firms and then tracking progress. The ABA Model Diversity Survey has ample information to support the creation of focused goals. My firm uses this and other data to help General Counsel craft focused takeaways, like the action items a GC recently shared with a firm:

1. Increase the share of Attorneys of Color across the talent pipeline in the next year.
2. Advance Associates of Color to Partner and to leadership positions, specifically the Governance Committee.
3. Consider succession planning to move toward a diverse Relationship Partner.

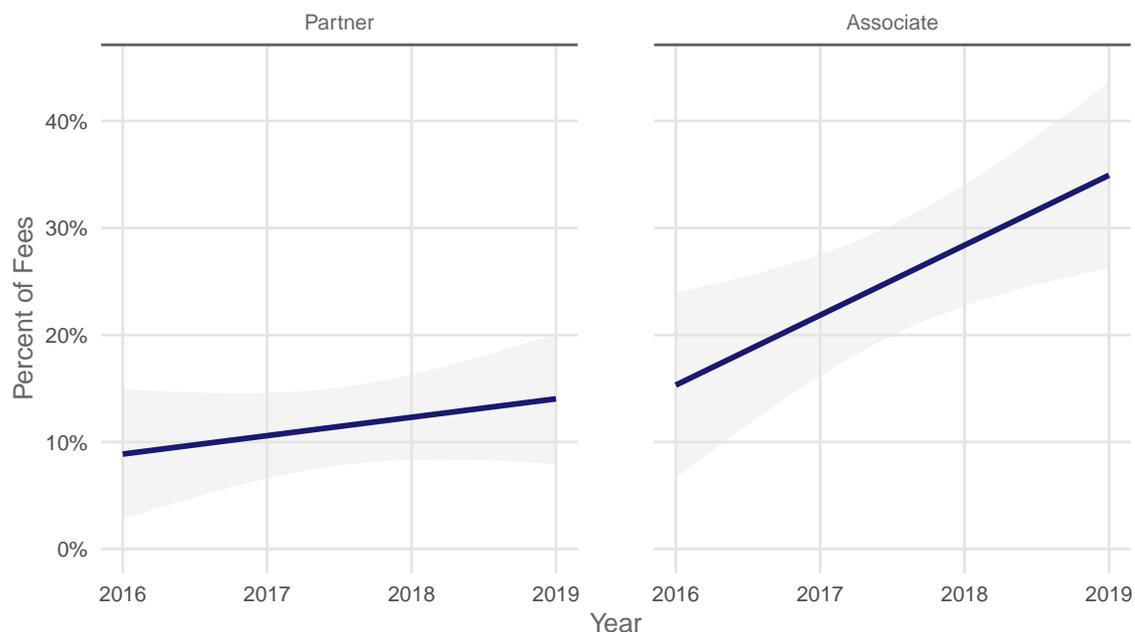
When a corporate legal department delivers information as action items, and these items are grounded in a comparative analysis of data, the firm has everything it needs to know. The Relationship Partner is now accountable in the next year to report favorable progress or not. And with data underlying the process going forward, the legal department gets this information in advance. “Did this firm achieve the goals we established? Let’s look at the data and act.”

Evidence On Effectiveness

The legal department's greatest opportunity involves the diversity profile of their legal teams. By tracking shares of fees contributed by diverse race/ethnicity, gender, and LGBT attorneys, corporate teams get signals on their firms' commitment to diversity. Over time, BASF tracked detailed information about changes in work performed by Partners and Associates, firmwide headcounts, and leadership demographics. BASF now has evidence of significant increases in work performed by Partners of Color (+4%) and Associates of Color (+24%), where the aggregate trend is illustrated in Figure 2. Additionally, they've observed significant gains in shares of work for Female Partners (+21%) and Female Associates (+19%). And BASF now works with more diverse Relationship Partners than ever before.

Underlying these aggregate gains, the firms in BASF's program report different degrees of progress. Rewarding those experiencing sustained progress with billable work is what drives a virtuous cycle. Using data on over 500 client-firm relationships, I observed a strong positive relationship between a firm's total fees and fees billed by diverse lawyers. When a legal department increases a firm's share of work, diverse attorneys' share of the work increases in proportion.

Figure 2. Attorneys of Color % of BASF Work, 2016 to 2019



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Blue lines reflect four-year regression line trend for BASF Firms, 2016 to 2019

Conclusion

A data-driven system works when corporate leaders collaborate with their firms and their data analysts to produce clear and concrete goals. Shifting work to firms that demonstrate sustained success reinforces credible commitments—the system operates on accountability supported by data.

To advance Black lawyers to positions of influence, firms must give junior lawyers formal and informal work opportunities. A data-driven approach enables corporate leaders (plus firms) to counteract the structural and implicit factors that make Black associates the least likely to come to these work opportunities organically. I'm convinced increasing representation of Black attorneys won't occur on a wide scale until law firms diversify their leadership ranks. To make this happen, buyers of legal services must be more aggressive in their demands to see Black and other diverse lawyers advance. Having data will give them the confidence.

Looking back on my views in 2018, I'd still say data-driven diversity programs are rare in law, albeit not "Missing In Action." But I don't think the reason is that these programs are hard to design and use—instead, many firms are unwilling to develop credible diversity commitments. If that statement offends you, I'd ask you to revisit Figure 1 and act in ways that prove me wrong.