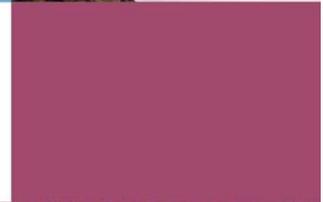
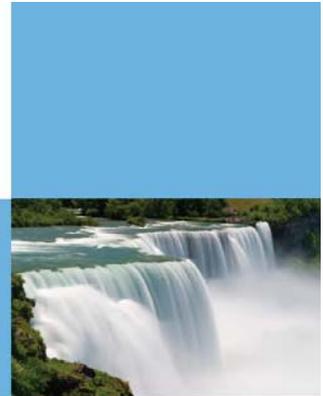


LEADERSHIP, DIVERSITY
AND LEGAL SERVICES

Strategies for Increasing
the Diversity of Legal Services Management
in New York and in America's Most Diverse City

A Study Conducted by the Baruch College, City University of New York
School of Public Affairs, Center on Equality, Pluralism and Policy
Professor Sonia R. Jarvis, Esq., Director
In Partnership with New York Leadership Project and The IOLA Fund

AUGUST 2009



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Executive Summary

Since its inception, the New York legal services community has been devoted to providing free legal services to a diverse clientele. While the racial and ethnic diversity of New York legal services clients has continued to increase, the diversity of staff attorneys and management has not kept pace. Due to other demographic factors such as the age of senior management, it is expected that within the next ten to fifteen years there will be a major turnover of senior management positions.

Leaders of New York's legal services community have been meeting over the past two years to develop strategies for turning the expected leadership vacuum into an opportunity to enhance the internal diversity of legal aid management. With the support of the IOLA Fund, The New York Leadership Project proposed a survey and self-assessment of New York City and upstate New York legal services agencies and public interest law firms on issues of diversity and leadership development. This current study reflects the results of that survey and self-assessment and suggests future actions legal aid agencies should consider when developing plans to increase or enhance the diversity of their legal staffs.

The purpose of the study is to provide a snapshot of the attorneys already in the leadership pipeline within the legal services community so that city and state legal services organizations may utilize leadership development projects to develop more diverse management teams in the future. Leadership development is a long-term process often requiring 10 to 15 years to produce concrete results. Current anecdotal experience suggests that New York's legal services community could experience a significant amount of director turnover and transition beginning as early as 2010. More significantly, these legal services offices and public interest firms serve an increasingly diverse clientele and recognize the need to improve their capacity to meet their clients' needs with both competence and cultural sensitivity.

Other bar associations have surveyed law firms and government agencies about their staff demographics; however, we are not aware of any systematic study or demographic breakdown of New York legal services offices that represent a widely racially and ethnically diverse clientele. The project directed a confidential survey to the executive directors of legal services offices and to the managing partners in civil rights groups and public interest law firms to obtain information not only about the present demographic factors their staffs exhibit, but also to ascertain whether or not the diversity of the management and staff has become a matter of concern to the current management. Moreover, the survey sought to ascertain what efforts, if any, these offices have made to increase the number of attorneys of color, openly gay or lesbian, or attorneys with disabilities who are already "in the pipeline" and thus eligible for future consideration as applicants for middle- and senior management positions.

The effort to improve the internal diversity of legal services offices is not simply a matter of having a workforce that is more consistent with the nation's increasing diversity but is also recognition of the need for legal services to become more responsive to the demographics of legal aid clients themselves. As a result, attorneys and staff who are familiar with more than one language or culture can be more responsive to the needs of the clientele. According to the LSC

Fact Book 2007, the number of ethnic minorities as clients increased slightly to 41.1 percent since 2000. Client demographics reveal the following ethnic and gender breakdown from a total national client population of 899,140:

White	46.4% (416,925)	Female Clients: 72.7%
Black	25.1% (225,897)	Male Clients: 27.3%
Hispanic	20.3% (182,904)	Group Clients: 0.1%
Asian/Pacific Is.	2.4% (21,928)	
Native American	2.3% (21,115)	
Other	3.4% (30,371)	

Staff demographics in 2007 reflect that women constitute 74.8 percent of the full time workforce and men represent 25.2 percent. The breakdown by ethnicity and race for the total staff of 8528 in 2007 was:

White	57.1% (4872)
Black	17.8% (1517)
Hispanic	18.8% (1607)
Asian/Pacific Is.	3.8% (328)
Native American	1.7% (146)
Other	0.7% (58)

The attorneys and staff members who protect the legal interests of poor and low-income residents of New York City and throughout the state are part of a long-standing tradition of the New York Bar. New York legal services organizations now find themselves called upon to meet emerging leadership challenges with respect to the future viability of their operations. New York is on the cusp of experiencing a number of critical demographic changes that will have an impact on its legal services organizations and how they are able to perform their duties on behalf of their low-income clients.

First, a significant number of attorneys who were inspired by the idealism and activism of the 1960's and early 1970's to devote their careers to legal aid to the poor are part of the so-called "Baby Boomer" generation that are now reaching retirement age. Their expected departures will only accelerate over the next 10 to 15 years, leaving a leadership vacuum at a time of emerging crises and potential opportunities.

Second, New York City has cause to celebrate the rich diversity of its residents, a diversity that is widening to include upstate New York as well as the nation at large. Recent census data confirms that the majority of cities in the United States no longer have a clear racial or ethnic majority as the diversity of the American populations continues to intensify. According to census projections, within the next 20 years no single racial or ethnic group will have a majority. Perhaps that helps to explain how in November 2008, the United States elected Barack Obama as our first African American President through a coalition of votes from various racial and ethnic voters, the gay community, voters under 35 years of age, liberals and independent voters but without a majority of White voters.

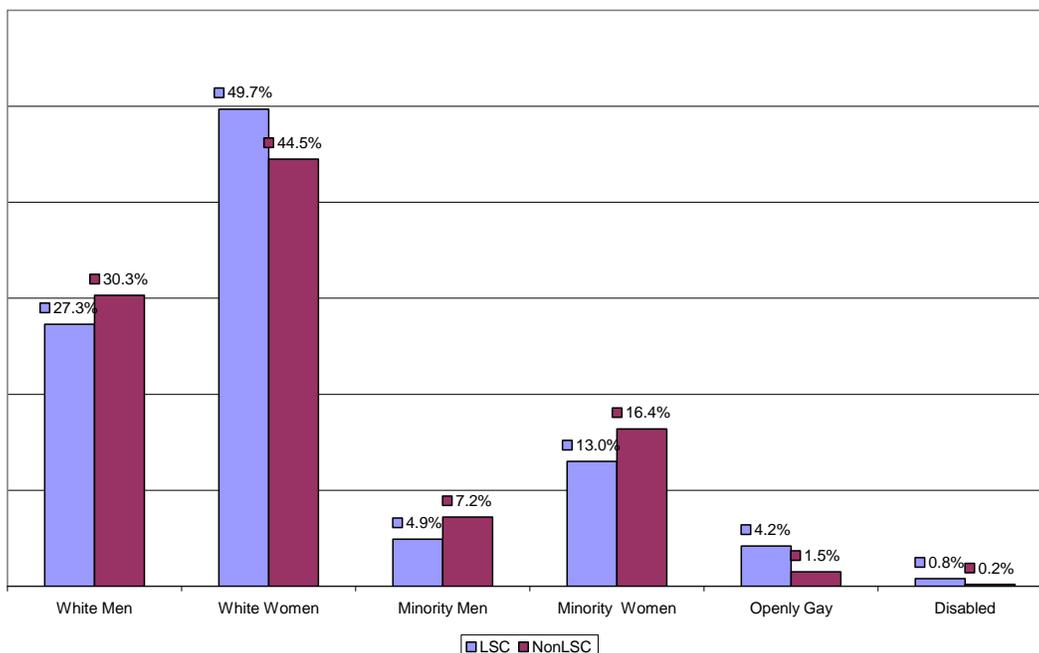
But along with that diversity, real challenges also emerge for the Legal Services community. While the clientele of city and upstate legal services offices reflect the changing diversity of New York at large, the internal diversity of legal services organizations at the highest levels remains primarily White and male. Legal services offices are painfully aware of this problem as many of them have begun to take active steps to increase the diversity of their staffs by improving outreach efforts to minority communities in order to have more attorneys of color in the so-called "pipeline" to leadership positions.

Third, at precisely the same time that the need for more proactive minority recruitment measures has been recognized, the overall number of minority law school graduates has continued to decline for a variety of reasons. As a result, those law school graduates of color with good records and potential are being presented with lucrative offers from private law firms who also have begun to view better internal diversity as an urgent business matter.

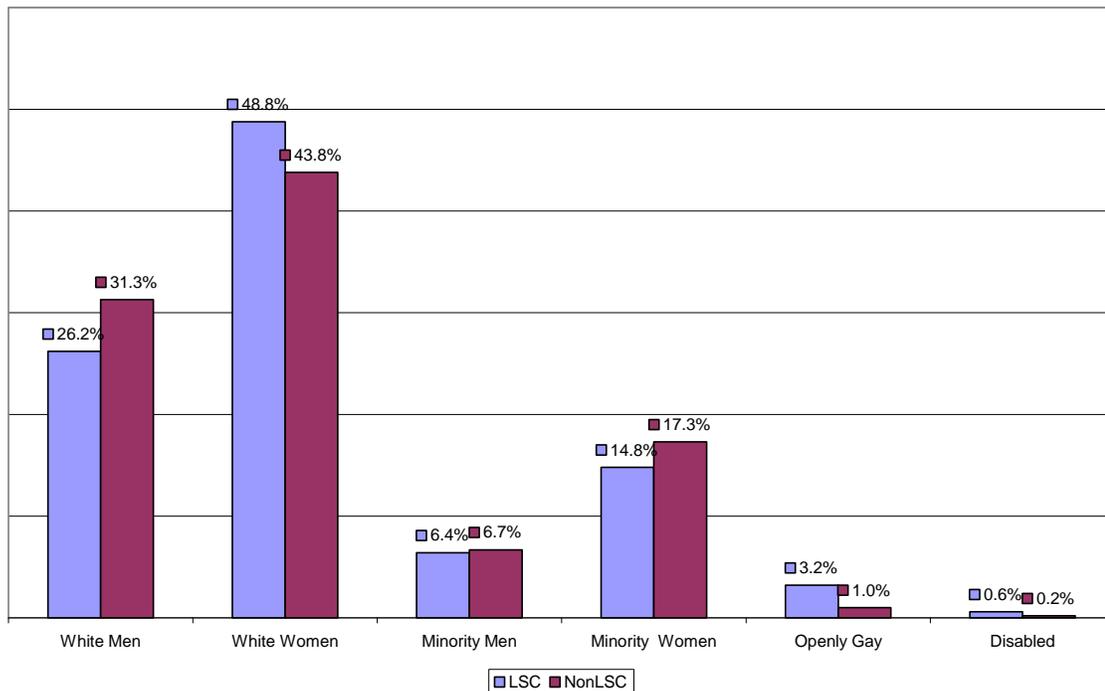
Fourth, as a nation we are experiencing a time of record national and state budget deficits, fueled in part by the worst domestic economic crisis since the Great Depression that began with the collapse of the US housing market and continues with massive layoffs, unprecedented rates of home foreclosures and evictions, as well as the largest recorded gap between the wealthiest and poorest Americans. In this troubled environment, the numbers of Americans who require the legal assistance of New York's legal services community continues to grow. Yet the funding and resources available to legal services from national and state budgets continue to shrink while the demand for services continues to rise.

These charts reflect the representation of Legal Services Corporation funded and non-LSC funded legal services organizations.

Representation Rates for LSC and Non-LSC Funded Agencies - 2007



Representation Rates for LSC and Non-LSC Funded Agencies - 2005



Comparing the representation rates of LSC providers to non-LSC agencies between 2007 and 2005 provides a quick overview of the internal diversity of providers who receive funding from the Legal Services Corporation (“LSC”) and non-LSC groups. Between 2005 and 2007, LSC funded providers increased Attorneys with disabilities by 0.2 percent while non-LSC groups remained the same at 0.2%. Openly Gay attorneys working for LSC providers increased by one full point from 3.2% to 4.2% and non-LSC Openly Gay attorneys increased 0.5%. White women working for both LSC and non-LSC providers gained about a point during the period. White men attorneys working for LSC providers had a slight increase of nearly one percent while White men in non-LSC groups lost one full percentage point.

Despite concerted efforts by LSC and the legal services community generally to focus attention and resources on the importance of recruiting and retaining more attorneys of color, the fact remains that legal services providers in New York were not able to increase the representation of minority men or women attorneys. Minority women lost ground in both LSC and non-LSC providers: for LSC providers Minority women lost nearly 2 points while non-LSC groups lost nearly one point. Similarly Minority men in LSC providers lost nearly 2 points. Only in non-LSC groups did Minority men show any gains, a slight increase of 0.5% over the 2-year period.

The demographics from New York City, New York and the United States help to establish how the Legal Services rates of representation compare:

Sex	City	State	U.S.
Male	47.7%	48.5%	49.2%
Female	52.3%	51.5%	50.8%
Race	City	State	U.S.
One Race	98.1%	98.3%	97.9%
Two or More Races	1.9%	1.7%	2.1%

Race/Ethnicity	City	NY State	U.S.
White	44.1%	67.8%	74.1%
Black or African American	25.2%	16.5%	12.4%
American Indian & Alaskan	0.4%	0.7%	0.8%
Asian & Pacific Islander	11.6%	7.2%	4.4%
Other Race	16.8%	9.6%	6.2%
More than One Race	1.9%	1.7%	2.1%
Hispanic or Latino (of any race)	27.4%	16.2%	14.7%

At the suggestion of Michael Rothenberg and Lillian Moy, we created a special chart to capture first the total representation rates by race and status for 2005 and 2007. We then created similar charts to demonstrate representation rates by position for both 2005 and 2007. These charts, appearing directly below, provide a snapshot of diversity within the New York Legal Services community as represented by those groups that voluntarily chose to participate in this Survey.

Attorneys with Disabilities

In 2005, attorneys with disabilities showed representation in Levels 2, 3, and 4 at the rate of 2.4%, 0.6%, and 0.1 percent, respectively. They were not represented at Level 1. In 2007, those figures reflected a decline with representation at 1.3 percent at Level 2 and 0.3 percent at Level 4 and no representation at Level 1 and Level 3.

Openly Gay Attorneys

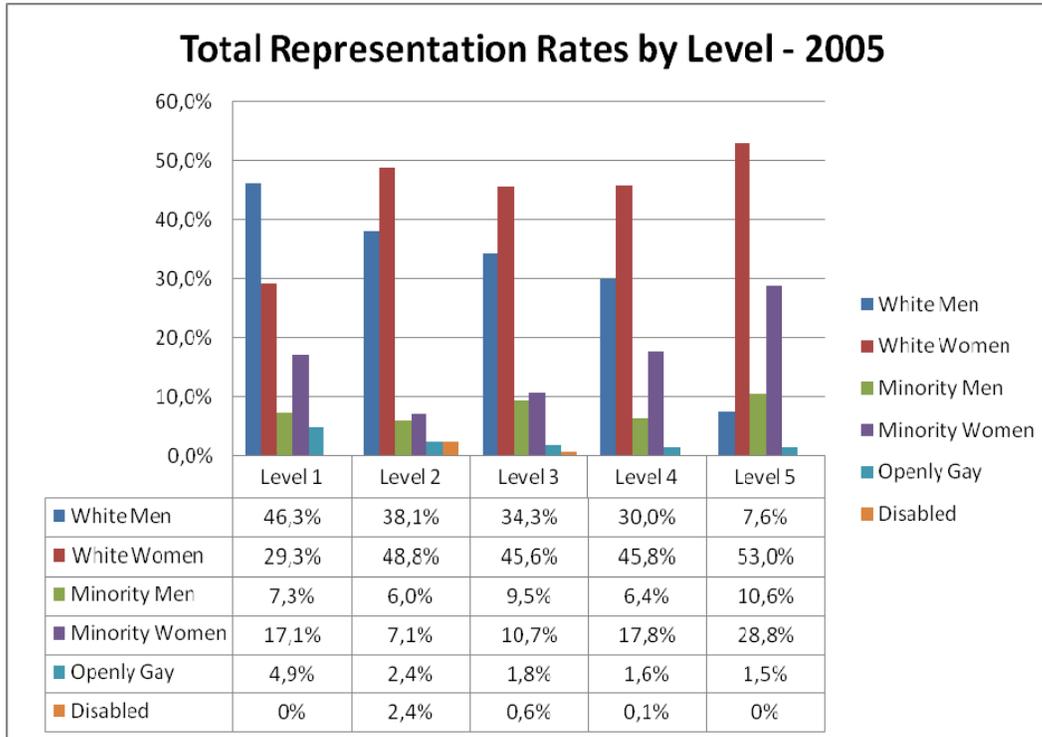
In comparing representation rates for Openly Gay attorneys between 2005 and 2007, every level showed an improvement except Level 2. For two of the Levels, 1 and 3, the gains were nearly 2 points or greater, a significant increase given the relatively small numbers involved.

Minority Men

The representation rates of Minority Men showed a decline in every level except Level 4 that had a modest increase of 0.5 percent. Minority males are underrepresented in every level and the latest numbers are not encouraging.

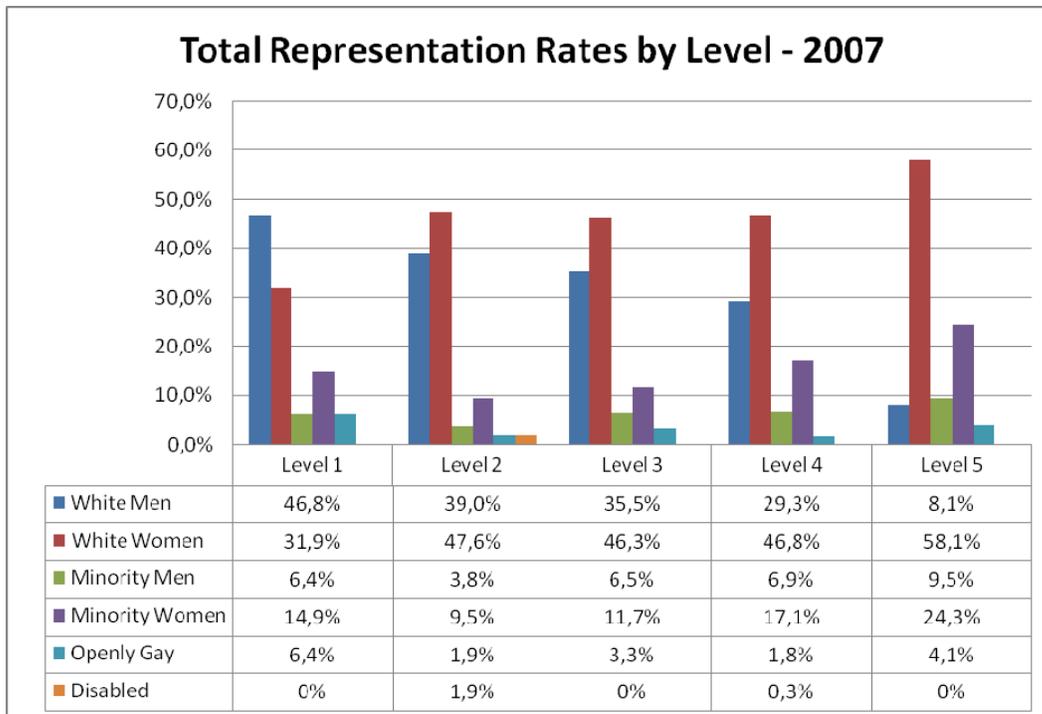
White Men

In contrast, White Men had an increase in every level except Level 4 that had a modest decrease of 0.7 percent. White males are the largest demographic cohort at 46.8 % for Level 1. Their representation in other levels varies between 29 to 40 percent.



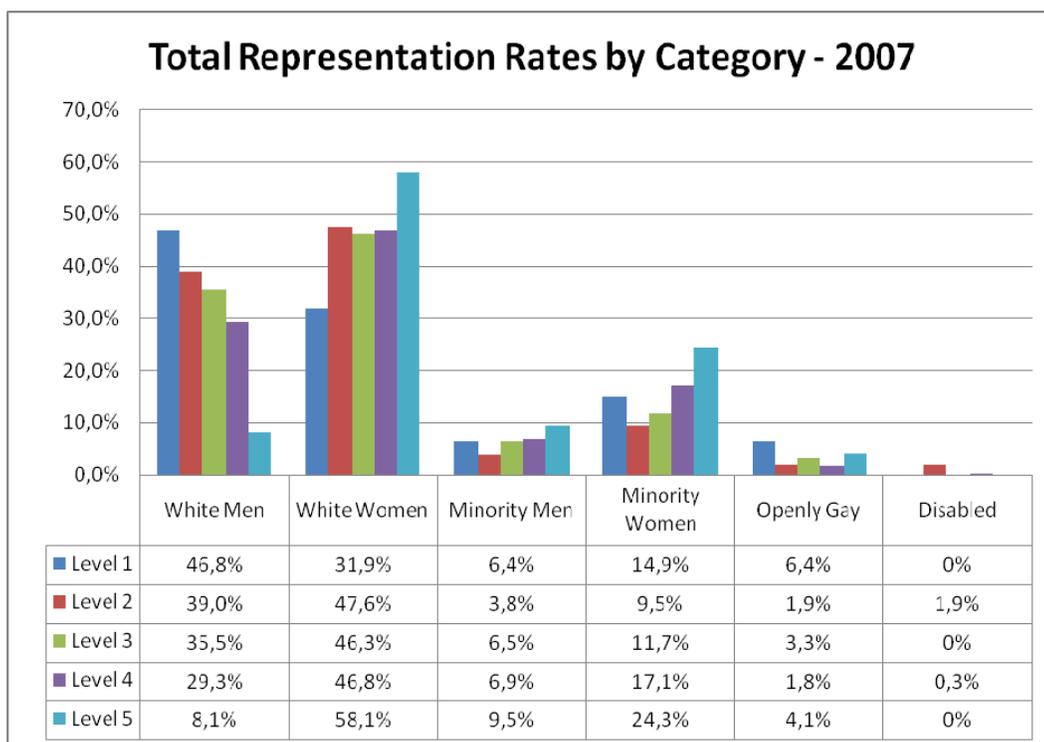
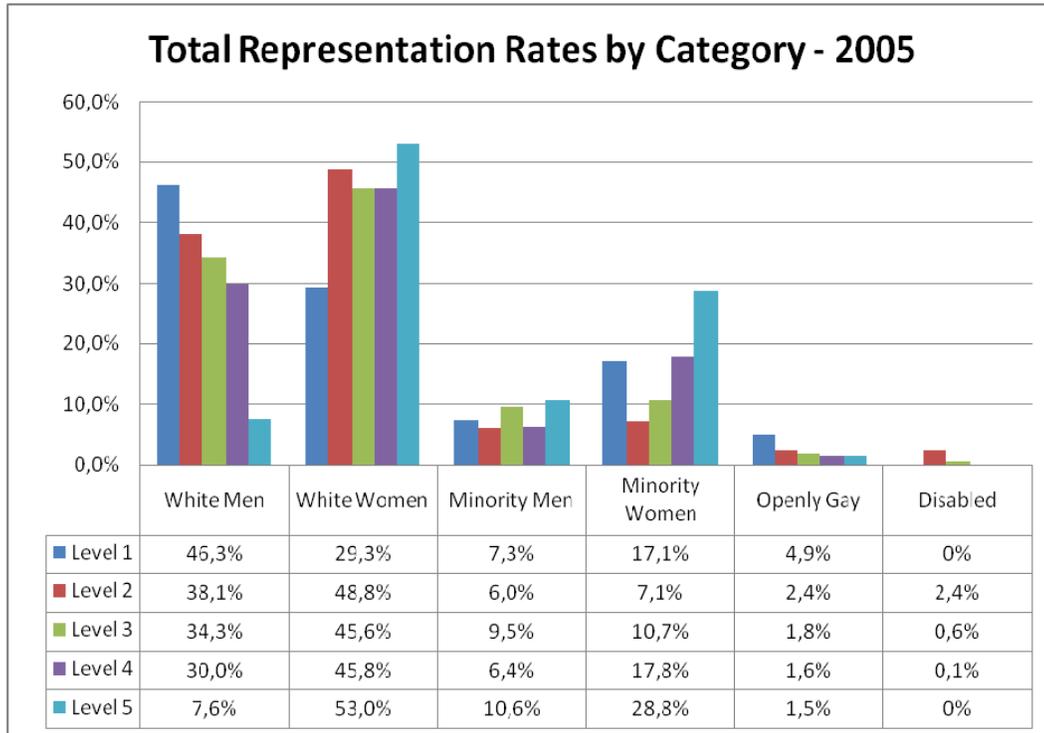
Minority Women

Minority Women are represented at a slightly higher rate than minority males. Between 2005 and 2007, they experienced an increase in representation at Levels 2 and 3 that augurs well for future leadership position, but a decrease at the highest Level 1 as well as Level 4.



White Women

For both 2005 and 2007, White Women represent that largest demographic cohort in Levels 2 through 4. While White Women are were underrepresented in Level 1 as compared to all other levels, they were able to increase their representation at the highest position by 2.6 percent, increasing from 29.3 percent to 31.9 percent. In viewing the representation rates by category, it is clear that White Women are underrepresented but catching up in Level 1, with nearly identical rates in Levels 2, 3 and 4.



Findings from the Survey:

For the programs that participated in the voluntary survey the following findings were revealed:

34 of the 42 providers that responded indicated a strong dedication to diversity on their staffs.

59.5 percent of the providers have adopted a formal affirmative action and/or diversity program; most of the providers without a formal program did not indicate a plan to do so within the near future.

29 of the 42 providers indicated the type of diversity strategies they were using to increase staff diversity. The most popular in order of preference were:

Recruitment/Outreach	82.8%
Hiring Program	48.3%
In-House Training Program	41.4%
Promotion & Retention Program	41.4%
Ethnic/Racial Sensitivity Program	34.5%
Mentorship Program	31.1%

For the agencies with an affirmative action and/or diversity plan, just over one-quarter (26.2% or 11/42) indicated that they had a formal structure for addressing diversity issues. A majority of the providers have not assessed the impact of such plans on the agency's overall diversity. None of the programs provide incentives, awards, bonuses, etc., if management's diversity goals are achieved.

Most of the providers did not believe their current programs are effective in recruiting or retaining minority, openly gay or disabled attorneys. Only 1 provider gave the highest rating, 5/great effectiveness, to its recruitment policy. Four providers rated their hiring policies as greatly effective, while another four providers rated their training policies as greatly effective. Three providers rated the retention policies as greatly effective with two rating their promotion policies as greatly effective.

Half of the providers have not identified lack of diversity within the leadership ranks as an issue of concern. Yet over half of the providers, 54.8 %, stated that their agency/firm did not have a fair representation of minorities at the upper management and/or leadership levels. For the few providers that addressed the issue of minority/gay/disabled representation at upper leadership levels (13 of 42), most focused on leadership development, diversity training and mentoring programs.

In identifying possible barriers to increasing diversity of its professional staff, 30 of 37 providers responding indicated that low salaries were a barrier with 8 providers noting it as the most important barrier. 20 of 37 providers listed the lack of competitive benefits and retirement plans as a barrier, with 2 groups identifying this as the most important barrier. A similar number of groups listed the lack of role models as a barrier with 1 group rating it as the most important barrier. Programs in New York City were more likely to list salary as a major barrier while

upstate providers were more likely to list lack of role models and uncompetitive benefits as major factors.

80 percent of the programs ranked their turnover rate as the same for all employees while the demographics indicated a higher turnover rate for Minority Female employees between 2005 and 2007, a result that is consistent with similar patterns in the corporate law sector.

From 2005 to 2007 there was a slight increase in the number of Openly Gay attorneys represented, but it was not clear if that was the result of better reporting on sexual orientation in more recent years than 4 years ago. The numbers for Disabled attorneys remained unchanged at 0.3 %.

For 2007 Levels 1 and 2, namely upper management, only Openly Gay attorneys made progress increasing from 4.9% in 2005 to 6.4% in 2007. At Level 1 in 2007, White Males continued to dominate at 46.8%, and White Women follow at 31.9%; both Minority Women and Minority Men lost ground at Level 1, with Minority Women dropping from 17.1% in 2005 to 14.9% in 2007 while Minority Men decreased from 7.3% in 2005 to 6.4% in 2007.

For 2007 Level 2 figures, White Women dominated at 47.6 percent, a slight decrease as compared to 48.8% in 2005, with White Males second at 39.0%, a slight increase from 38.1% in 2005. Minority Women at Level 2 increased from 7.1% in 2005 to 9.5% in 2007 but Minority Males suffered a drop from 6.0% in 2005 to 3.8% in 2007. Openly Gay attorneys at Level 2 increased from 1.9% to 2.4 percent while Disabled attorneys decreased from 2.4% in 2005 down to 1.9% in 2007. Minority and White Women are being hired at the same rate at Level 2, while Minority Men and Disabled attorneys were not hired at all at this level. White Males and Openly Gay attorneys were hired at the same rate of 14.3% for Level 2.

For 2007 Level 3 rates, representation increased for every group except Minority Males and Disabled attorneys. In terms of hiring, White Women again outdistanced all other groups at 50%; Minority Females were at 28.6%, White Males at 21.4%, Openly Gay attorneys at 7.1% hiring, with Minority Males and Disabled attorneys at 0 percent. Minority Males had 9.5% representation at Level 3 in 2005 that dropped to 6.5% in 2007 and Disabled attorneys decreased from 0.6% in 2005 to 0 percent in 2007.

Legal services agencies should not rely upon recruitment strategies that may have worked in the past. Fewer Black and Hispanic college graduates are opting to attend law school so that simply priming the pipeline will not be enough to increase diversity at the upper management levels. Clearly, legal services offices are doing something right in attracting and retaining White Women to the upper management levels. However, those strategies are not as successful in retaining Minority Women, Minority Men or Disabled attorneys.

Recommendations

Based upon extensive research on increasing or enhancing diversity within the legal profession, it is clear that there are a number of strategies New York legal services programs and public interest law firms can adopt that could improve the internal diversity of their respective staffs.

1. Institutionalize the diversity agenda as part of the overall management agenda for each program or office. Diversity should be supported from the top in visible, concrete ways. Structures that establish responsibility lead to significant increases in managerial diversity.
2. Make the goal of increasing diversity a part of the strategic plan for each program and provide visible rewards for meeting those goals. Accountability and oversight are two ways to convince the entire workforce that diversity has become an integral goal of the organization.
3. Diversity should be defined more broadly than just in racial and ethnic terms and should include appreciation for a range of meaningful differences.
4. Adopt a culture of inclusion that focuses more on mentorship and a formal retention policy and less on one-day diversity sensitivity sessions could help improve internal diversity. Programs that focus on addressing racial, social or cultural isolation through networking or mentorship have a modest impact on increasing management diversity.
5. Diversity training, without accountability or formal structures, will rarely result in increasing managerial diversity.
6. Education, in the form of leadership development programs, can provide an additional avenue to convince people of color and other diverse groups that the program is serious about diversifying its management structures.
7. Loan forgiveness programs can help address the salary gap between legal services and corporate law but the current economic downturn threatens to further exacerbate the salary differential.
8. Legal services programs and public interest law firms should consider engaging in outreach at the high school and college levels to offset the drop in entrance rates among minority groups.

Nomenclature

Since passage of the 1964 Civil Rights Act, this nation has struggled to define its racial and ethnic population as it began the painful process of moving away from the stark white-black paradigm that had prevailed since slavery and state supported segregation. Americans who were recognized as "white" were considered part of the dominant social class while those who were recognized as "black" or "colored" were often in a subordinated position outside of the body politic. The groups that were considered protected classes under the Civil Rights Act were described as follows: Race, Color, Religion, Sex, and National Origin. Subsequent federal civil rights acts added Age and Disability, while States have augmented the list of protected classes by adding Marital & familial relations, Sexuality, and Economic status.

In their landmark book "Racial Formation in the United States," Michael Omi and Howard Winant defined race as a "concept which signifies and symbolizes social conflicts and interests

by referring to different types of human bodies,” and as a “dimension of human representation.”¹ The author of this study finds their formulation of the social construction of race to be a useful one for the purposes of this study.

The racial, ethnic and cultural composition of the United States was always more complex than the white-black division, but that fact became more apparent after passage of the Immigration Reform Act of 1965. During the past forty years, the racial and ethnic diversity has changed so dramatically that by 2005 persons identifying themselves as Hispanics displaced African Americans as the nation's largest minority group, a designation blacks has held since the early 1800's. To add further complexity, Hispanics can also choose whether or not they are white or black: if they are identified as white Hispanic they would not be included within the term “people of color” which is intended to refer to non-white groups. Indeed, in many of the nation's largest urban areas, the combined total number of racial and ethnic minorities now exceeds the number of self-identified non-Hispanic whites.

There are a number of Americans who want to move on from explicit references to race and ethnicity, either out of a genuine desire to reach the goal of a color-blind society or as a result of willful amnesia about our nation’s abysmal historical record on race relations. Since the election of President Barack Obama, the first (self-identified) African American president (or the first bi-racial one depending on who is defining his racial background), this nation has begun its “post-racial” period, according to some experts.² Since one election, by itself, cannot erase over 200 years of racial discrimination and subordination, we will still need to refer to groups who continue to face discrimination and mistreatment in the public sphere until full social and political equality has been achieved.

The various social and cultural movements that have occurred since the 1960's have resulted in changed names and self-identities for those groups considered racial and ethnic minorities. Moreover, the demographic profile of the American population continues to change, a fact that will be further confirmed after the upcoming 2010 Census. But it is important to note that it was not until the 2000 Census that Americans could even denote more than one racial or ethnic category when identifying their race. The only racial categories that remained consistent between the first Census in 1790 and the last Census in 2000 were those denoting white and black.³

As this nation has continued to fight over the meaning of equal rights and equal protection under the law, certain words and concepts have become freighted with additional meanings, both

¹ Omi, M. & Winant, H., *Racial Formation in the United States: From the 1960s to the 1990s*, 2nd Edition (Routledge, 1994), at pp. 54-55.

² *Compare* National Public Radio, Tell Me More Show, “Are We Living in A Post-Racial America?” February 11, 2009, <http://www.npr.org/templates/story/story.php?storyId=100557180>, with Leonard Pitts, Jr., CNN Commentary: “Post-Racial’ America isn't here yet,” March 28, 2009, <http://www.cnn.com/2009/POLITICS/03/28/pitts.black.america/index.html> and Abigail Thernstrom, CNN Commentary: Identity Politics in the age of Obama, June 4, 2009, <http://www.cnn.com/2009/POLITICS/06/04/thernstrom.identity.politics/>

³ U.S. Census Bureau, *Historical Census Statistics on Population Totals by Race, 1790 to 1990 and by Hispanic Origin, 1970 to 1990*, Working Paper No. 76, Campbell Gibson and Kay Jung, authors (February 2005) www.census.gov/population/www/documentation/twps0076/twps0076.html

negative and positive. For instance, the term affirmative action initially referred to a limited policy that was intended to encourage greater hiring of members of protected classes. Over time, as various groups sued either to protect affirmative action programs or to dismantle such programs, the term itself generated negative reactions among a majority of the American public as it was viewed as unfairly benefiting racial minorities through “racial preferences” even though women (and White women in particular) were the primary beneficiaries of formal affirmative action programs.⁴ Over time, institutions still interested in promoting a more diverse work place or university that encompassed perspectives beyond race to include sexuality, ability, age, and region, began to use the term diversity in place of affirmative action. Current research shows that if diversity programs are perceived to be just about race then they generate the same negativity as affirmative action programs.⁵

During a period of transition it is often difficult to use the proper nomenclature within a report. If older, more familiar terms such as "minority groups" are used, the researcher risks offending members of the intended audience. However, reliance on newer terms like "people of color" carry an equal risk of alienating another segment of the audience who may feel that such terms are an example of "political correctness" or simply manifest divisions based on color. As other groups have asserted their political and social rights, the proper way to address their communities also present challenges.⁶

Women constitute more than half of the world’s population, but due to tradition and cultural practices, women were denied equal rights in voting, employment and other areas of public life. Hence sex was considered a protected class: the more current version is to refer to gender rather than to sex. Since the passage of the Americans with Disabilities Act, persons with disability are considered a protected class. Some advocates for the disabled prefer the use of the term "people with disability" while others use "disabled persons." At the state and local level, many jurisdictions have recognized that gay, lesbian, bi-sexual and transgendered individuals should be protected from discrimination based on sexuality; a federal district court in Boston was reported to have found gays to be a protected class. Some advocates prefer GLBT, others prefer LGBT, while still others prefer precision in describing whether one is referring to gays or lesbians.

For the purposes of this study, the author will be using a combination of terms throughout that are intended to be interchangeable in an effort to avoid offense, alienation, or any negative

⁴ See News Blog, "Poll Finds Most Americans Oppose Affirmative Action When Defined as ‘Preferences,'" June 3, 2009, *The Chronicle of Higher Education*, citing recent poll conducted by Quinnipiac University Polling Institute, downloaded from <http://chronicle.com/news/article/6577/poll-finds-most-americans-oppose-affirmative-action-when-defined-as-preferences>; and American Psychological Association, "Affirmative Action: Who Benefits?" APA Online (1995), <http://www.apa.org/pubinfo/affirmaction.html>

⁵ Mark Winston, "Diversity: The Research and The Lack of Progress," *New Library World*, Vol. 109, Issue 3/4, p. 130 (London: 2008), Abstract and Findings noted at <http://cat.inist.fr/?aModele=afficheN&cpsidt=20224311>

⁶ See generally, Joel Bleifuss, "A Politically Correct Lexicon, Your 'how-to' guide to avoid offending anyone," *In These Times*, online edition, February 21, 2007, downloaded from http://www.inthesetimes.com/article/3027/a_politically_correct_lexicon/; William Safire, "On Language: People of Color," *New York Time Magazine*, November 20, 1988; Horace Seldon, *Essays by Horace Seldon: Convictions About Racism in the United States of America*, retrieved from <http://horaceseldon.com/lets-eliminate-minorities/>; and Ruth Colker, *The Disability Pendulum: The First Decade of the Americans with Disabilities Act* (New York University Press, 2005), at pp. 17-18 and 105-119.

connotations. Accordingly, when referring to responses to the survey, the author will be using the terms used by the City Bar and contained on the survey form: White, Minority, Openly Gay, and Disabled attorneys. When quoting or paraphrasing from other sources, the author will use the original terms used in those sources, such as affirmative action program rather than substituting diversity initiative. When writing more generally, the author will refer to terms to describe protected classes, terms used in the most recent Census, or more recent terms used by advocates such as "people of color" to refer to non-white racial and ethnic groups and "attorneys with disabilities" to refer to attorneys who identify themselves as part of the disability movement.

I. Introduction

The New York Leadership Project, with assistance from the Association of the Bar of the City of New York (“City Bar”) and the NY Interest on Lawyer Account Fund (“IOLA Fund”), requested assistance from the Baruch College School of Public Affairs for help in designing a benchmarking study that would capture the demographic profile of legal services staff and managers. The purpose of the study is to provide a snapshot of the attorneys already in the leadership pipeline within the legal services community so that city and state legal services organizations may utilize leadership development projects to develop more diverse management teams in the future.

The parties worked with Professor Sonia R. Jarvis of Baruch College to undertake a statistical analysis of the data collected by the City Bar and use it to fashion a powerful case for future funding for leadership development efforts in New York. Prof. Jarvis directs the Center on Equality, Pluralism and Policy at Baruch College’s School of Public Affairs (“CEPP” or “Center”). The mission of the Center is to explore the opportunities and pitfalls associated with government policy in a racially, ethnically, and culturally diverse society. The Center’s primary objective is to develop hard nosed analytical approaches to issues of economic and social policies in societies (like New York and the United States) where the government must formulate and implement policy that promote economic growth and equal opportunity for all persons: native born citizens, newly established citizens, and long time non-citizen residents alike.

The Center was interested in working with the New York Leadership Project because the attorneys and staff of legal services organizations play a vital role in ensuring equal opportunity, access to legal representation and justice for the indigent, disadvantaged and disenfranchised living in New York. A project that seeks to survey, analyze and study current leadership demographics in New York legal services offices in an effort to improve minority representation in all levels of leadership, is entirely consistent with CEPP’s basic mission and is reflective of future realities regarding the increasing diversity of New York at large. The primary focus of this project was on publicly funded legal services offices.

Leadership development is a long-term process often requiring 10 to 15 years to produce concrete results. Current anecdotal experience suggests that New York’s legal services community could experience a significant amount of director turnover and transition beginning as early as 2010. More significantly, these legal services offices and public interest firms serve an increasingly diverse clientele and need to improve their capacity to meet their clients’ needs with both competence and cultural sensitivity. At present, the number of people of color in senior management positions within the legal services community is negligible and the same can be said for civil rights groups and public interest law firms.

In view of this expected leadership vacuum and the current dearth of minority representation at the highest levels of management within the target legal community, CEPP and the New York Leadership Project agreed that one important area of focus will be developing programs to ensure that emerging minority leaders, middle managers and supervisors will have adequate experience and skills to assume greater leadership opportunities to serve New Yorkers. In order to design leadership development programs that will address and mitigate this problem, the New

York Leadership Project needed accurate information from the legal services community about current efforts to recruit and retain more minority managers and staff.

The New York Leadership Project identified approximately 25 legal services providers within the greater New York City metropolitan area and another 22 statewide. These offices provide civil legal services to indigent, immigrant, and low-income residents who would otherwise find their legal needs unmet. The Center identified another 30 civil rights groups and public interest law firms that provide pro bono legal assistance to this target population within the state. The survey was sent to all legal services offices and a smaller subset of civil rights groups and public interest law firms in order to establish a demographic profile of both the leadership and the staff at those offices. This report on the information obtained from the participants should serve as an invaluable aid to the New York Leadership Project's efforts to develop programs that would help diversify the racial, ethnic and cultural compositions of legal services offices both city- and state-wide.

Other bar associations have surveyed law firms and government agencies about their respective staff demographics; however, we are not aware of any systematic study or demographic breakdown of New York legal services offices that represent a widely racially and ethnically diverse clientele. There have been notable studies on minority and gender representation in the law, as well as various diversity initiatives that are relevant to this study. For instance, in March 2001 the Legal Services Corporation ("LSC") teamed with the National Legal Aid & Defenders Association ("NLADA") to launch a yearlong initiative on the legal services community. This effort resulted in the National Diversity in the Legal Services Community Action Agenda, April 2002.¹

The 2000 Census reflected the increasing diversity of the nation and these groups questioned how federally-funded LSC programs were handling this national diversity:

How have LSC programs kept up with an increasingly diverse world? An examination of CSR data submitted annually by programs reveals changes in the workforce, but by increments so small that, for the most part, they do not make a significant difference. The data examined was gathered between 1996 and 2000. They show that the total number of all LSC-funded employees at our programs grew from 12,653 to 12,811. During the same period, the number of Caucasian employees increased by one percent while Asian employees increased by 45 percent. The number of African American employees declined by one percent and Hispanic employees decreased by less than one half of one percent. The number of Native American employees decreased by ten percent.

In 1996, sixty-eight percent of all executive directors were male; five years later, sixty-six percent were male. This is disappointing information in the context of the spectacular increase of women in the profession and in the legal services attorney workforce. The number of female attorneys at LSC programs rose 55.3 percent in the five-year period studied, yet the percentage of women heading programs grew by only two percent. In 19[9]6 the percentage of directors who reported as members of a racial or ethnic minority was 16 percent. Five years later it was 17 percent. An important barometer for tracking our community's progress will be the speed with which program staffs become increasingly diverse, particularly at the management and executive director levels.²

Moreover, according to Randi Youells, the LSC Vice President of Programs who was the architect of the diversity initiative, grooming the legal services leaders of tomorrow is one of the

main goals of the initiative:

Of particular importance... is hiring and retaining qualified women and minorities to serve in top leadership positions, such as executive director. A breakdown of the ethnic and gender composition of federally funded legal aid staffs for the year 2000 helps crystallize the challenges facing equal justice advocates. While ethnic minorities make up 39 percent of legal services staffs, only 17 percent of executive directors are minorities. Similarly, while women comprise 74 percent of all federal legal aid workers, only 34 percent of executive directors are women.³

The effort to improve the internal diversity of legal services offices is not simply a matter of having a workforce that is more consistent with the nation's increasing diversity but is also recognition of the need for legal services to become more responsive to the demographics of legal aid clients themselves. Over the past 25 years, legal aid clients have evolved from white and black welfare mothers, senior citizens, the non-working poor and prisoners to non-English speaking immigrants, disabled clients, American Indians, and urban minorities transitioning from welfare to work.⁴ As a result, attorneys and staff who are familiar with more than one language or culture can be more responsive to the needs of the clientele.⁵

Since 2000, the number of ethnic minorities as clients increased slightly to 41.1 percent, according to the LSC Fact Book 2007.⁶ Client demographics reveal the following ethnic and gender breakdown from a total national client population of 899,140:

White	46.4% (416,925)	Female Clients:	72.7%
Black	25.1% (225,897)	Male Clients:	27.3%
Hispanic	20.3% (182,904)	Group Clients:	0.1%
Asian/Pacific Is.	2.4% (21,928)		
Native American	2.3% (21,115)		
Other	3.4% (30,371)		

Staff demographics in 2007 reflect that women constitute 74.8 percent of the full time workforce and men represent 25.2 percent.⁷ The breakdown by ethnicity and race for the total staff of 8528 in 2007 was:

White	57.1% (4872)
Black	17.8% (1517)
Hispanic	18.8% (1607)
Asian/Pacific Is.	3.8% (328)
Native American	1.7% (146)
Other	0.7% (58)

The project directed a confidential survey to the executive directors of legal services offices and to the managing partners in civil rights groups and public interest law firms to obtain information not only about the present demographic factors their staffs exhibit, but also to ascertain whether or not the diversity of the management and staff has become a matter of concern to the current management.⁸ Moreover, the survey sought to ascertain what efforts, if any, these offices have made to increase the number of people of color who are "in the pipeline" (namely taking

management training classes or other leadership development activities) and thus eligible for future consideration as applicants for middle- and senior management positions.

Through its support of this study, the New York Leadership Project has shown its commitment to developing strategies for increasing the skill set of people of color who may be interested in managing legal services offices in the future. The School of Public Affairs at Baruch College has established itself as a national leader in designing and implementing executive leadership development training curricula and programs with a proven track record of success. This project demonstrates the synergy that happens when professional organizations such as the members of the New York Leadership Project combine their resources with an established academic program to obtain the data it needs to develop executive leadership programs that will enhance the diversity and cultural competency of the legal services community.

CEPP worked with Baruch College Survey Research Unit (“BCSRU”) to assist in the development of the survey results. BCSRU designs and conducts surveys for government agencies, nonprofit organizations, and other partners on a wide range of topics. BCSRU, under the direction of its Director, Prof. Micheline Blum, advised CEPP on the Institutional Review Board (IRB) process and reviewed the three-part online survey that CEPP created for executives of legal services offices and public interest law firms. The main advantages of using an online survey were ease of use, cost-efficiency, and confidentiality. These factors helped in increasing the overall response rate of those participating in a voluntary survey. Prof. Jarvis was assisted by Rusudan Chitaia, MPA who was responsible for research, data collection, graphics, and survey follow-up and Michelle Ronis, MPA who was responsible for research, IRB processing and related activities.

Prof. Jarvis wrote the initial draft report with additional input from members of the New York Leadership Project. The final report also benefited from comments and revisions provided by Dean David Birdsall, Prof. Blum, and members of the New York Leadership Project. The final report will be posted on the CEPP website and may also be published on the websites of members of the New York Leadership Project.

II. Background and Literature Review

Today, diversity in the workplace has a variety of definitions. In the past, affirmative action policies focused primarily on race and gender in efforts to expand employment opportunities beyond a white male workforce within the context of anti-discrimination compliance. The definition of diversity in the workplace has evolved over time in large part due to the implementation of federal legislation (namely Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, as well as the Equal Pay Act of 1963 and the Pregnancy Discrimination Act of 1978) and related regulations (by the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance and other federal agencies).⁹

Many states, cities, and legal services organizations have expanded the range of protected classes beyond those recognized by the Federal government (race, color, gender, religion, and national origin, and more recently age and disability) to include sexual orientation, domestic relationship status, gender identity, familial or marital status, and disability.¹⁰ Ironically, Title VII protections only became available to minority and female lawyers working for corporate firms after the 1984 Supreme Court decision in Hishon v. King & Spaulding, 467 U.S. 69 (1984).

For the purposes of this study, diversity will be defined as a range of different perspectives that encompass race, gender, ethnicity, sexual orientation, age, and abilities and disabilities. For the past few years, the City Bar of New York has requested demographic information from its members in order to better assess the progress of diversity within the New York Bar. In conducting this study of legal services and public interest firms, we have used the categories from the City Bar of New York for the sake of consistency and future comparisons. In assessing the demographics of the legal aid clientele, we have used the broad categories of White, African American, Native American, Asian and Pacific Islander, Multi-racial, and Hispanic rather than the more complex categories offered by the most recent 2000 Census.

The attorneys and staff members who protect the legal interests of poor and low-income residents of New York City and throughout the state are part of a long-standing tradition of the New York Bar. Indeed it could be argued that the provision of legal aid to American citizens entitled to legal representation despite their poverty and limited resources owes its original concept to the one created and developed by the New York Bar.¹¹ New York legal services organizations now find themselves called upon to meet emerging leadership challenges with respect to the future viability of their operations.

New York is on the cusp of experiencing a number of critical demographic changes that will have an impact on its legal services organizations and how they are able to perform their duties to their low-income clients. First, a significant number of attorneys who were inspired by the idealism and activism of the 1960's and early 1970's to devote their careers to legal aid to the poor are part of the so-called "Baby Boomer" generation that are now reaching retirement age. Their expected departures will only accelerate over the next 10 to 15 years, leaving a leadership vacuum at a time of emerging crises and potential opportunities.

Second, New York City has cause to celebrate the rich diversity of its residents, a diversity that is widening to include upstate New York as well as the nation at large. Recent census data confirms that the majority of cities in the United States no longer have a clear racial or ethnic majority as the diversity of the American populations continues to intensify. According to census projections, within the next 20 years no single racial or ethnic group will have a majority. Perhaps that helps to explain how in November 2008, the United States elected Barack Obama as our first African American President in spite of centuries of racial discrimination and exclusion.

But along with that diversity, real challenges also emerge for the legal services community. While the clientele of city and upstate legal services offices reflect the changing diversity of New York at large, the internal diversity of legal services organizations at the highest levels remains primarily White and male. Legal services offices are painfully aware of this problem as many of them have begun to take active steps to increase the diversity of their staffs by improving outreach efforts to minority communities in order to have more minority attorneys in the so-called "pipeline" to leadership positions. Third, at precisely the same time that the need for more proactive minority recruitment measures has been recognized, the overall number of minority law school graduates has continued to decline for a variety of reasons. As a result, law school graduates of color with good records and potential are being presented with lucrative offers from private firms who also have begun to view better internal diversity as an urgent business matter.

Fourth, as a nation we are experiencing a time of record national and state budget deficits, fueled in part by the worst domestic economic crisis since the Great Depression that began with the collapse of the US housing market and continues with massive layoffs, unprecedented rates of home foreclosures and evictions, as well as the largest recorded gap between the wealthiest and poorest Americans. In this troubled environment, the numbers of Americans who require the legal assistance of New York's legal services community continues to grow. Yet the funding and resources available to legal services from national and state budgets continue to shrink while the demand for services continues to rise.¹²

The funding for legal services for the poor was initially provided through grants from foundations such as the Carnegie Corporation of New York. Following the Kennedy Administration, the government began funding Legal Aid Societies while private law firms expanded their pro bono legal services to represent disadvantaged and disenfranchised clients. Funding for federal and state legal aid programs has continued to be a struggle as a result of ideological/political fights as well as economic realities.¹³ But as the current economic crisis broadens to include private law firms, their ability and willingness to support robust pro bono participation may be diminished.

Against this complex backdrop, New York legal services programs wanted to explore the opportunities that times of crisis can often present. For example, during this time of unprecedented economic turmoil both domestic and global, Americans have turned for leadership to a Harvard-trained attorney who did not follow a more traditional route of corporate law firm to U.S. Attorney to U.S. Senate, but instead began his legal career as a community organizer and law professor who was still able to build one of the most disciplined presidential campaigns in recent history. President Obama's career choices could inspire a new generation of idealists to consider law as a vehicle for social change.

Moreover, legal services programs understand the retirement of the “Boomer” generation presents the opportunity for new models of leadership. By promoting strategies that will place minority attorneys in a position to be considered for leadership roles, New York legal services programs can become the vanguard for showing other legal institutions how to make minority recruitment a priority rather than an afterthought. For instance, in order to have a vibrant pipeline of competent candidates for leadership positions, more minorities have to be encouraged to attend and successfully complete college and law school. Once legal services providers have developed programs for increasing the number of minority law students and providing mentorship opportunities, then the number of minority law students who are willing to consider a career in legal aid should increase thus allowing legal services organizations to tap a resource that has not been a major part of the New York experience.

Various histories of the legal aid movement point to the leadership of the Legal Aid Society of New York from the mid-1870’s as the beginning of the legal assistance to the poor model.¹⁴ The Society began as an organization created to protect recent German immigrants from exploitation and those protections were expanded to other groups without regard to race, sex or nationality. By the mid 20th Century, virtually every major city had some form of legal aid program, due to the impact on the legal profession of Reginald Heber Smith’s Justice and the Poor, as well as the American Bar Association’s recommendation to bar associations across the nation. By 1964, U.S. Attorney General Nicholas Katzenbach was calling upon the bar for new techniques and services to protect the rights of welfare recipients, installment-purchase consumers, and those affected by slum housing and crime. (NLADA, Early Legal Aid Programs).

Those attorneys who answered Attorney General Katzenbach’s call to action are now on the cusp of retirement age. These are the same attorneys who made the promise of the law real to the poor and disenfranchised as reflected in landmark cases like Gideon v. Wainwright and Goldberg v. Kelly. As these attorneys prepare for a new chapter in their lives, they recognize that diversity is important not just for the sake of appearances, but more importantly for the range of new perspectives and attitudes that a more diverse workforce brings to its legal representation of its clientele.

As representation for the poor evolved, more formalized standards were adopted by the American Bar Association (“ABA”) and local legal aid offices regarding representation of legal aid clients. Within the ABA’s approved standards for providing legal services to the poor, there are a number of standards directly related to issues of diversity. These include:

Standard 2.4 on Cultural Competence

A provider should ensure that its staff has the skills, knowledge, and resources necessary to provide assistance in a culturally competent manner.

Commentary: Each legal aid provider has a fundamental responsibility to establish a relationship of confidence and trust with the clients whom it represents and to understand and respond to the needs of all of the low income communities that it serves, including those that are culturally and linguistically diverse....

To be culturally competent in legal aid means having the capacity to provide effective legal assistance that is grounded in an awareness of and sensitivity to the diverse cultures in the provider’s service area. A

cultural group is identified by shared beliefs, values, customs and behaviors that define what it is. Cultural competence is particularly important with racially, ethnically and culturally distinct communities, and with persons who primarily use a language other than English. Cultural competence is also important with persons with disabilities for whom there are barriers to communication that might impede the formation of a relationship of trust necessary for effective representation, and with others who share distinct characteristics that call for heightened awareness and sensitivity.

A provider should function in ways that convey its openness to the cultural diversity in its service area and its competence responding to that diversity. To the degree possible, its staff should reflect the diversity of the population that it serves. The provider should have delivery strategies that respond to cultural factors that impede some populations from seeking and effectively utilizing the services offered. It should have a staff that is well trained in the skills and insight necessary to serve its diverse populations.

Diversity of the staff and board. The legal aid provider should ensure that its staff and board are both diverse and capable of relating to clients who are from a culture different than their own. Having a visibly diverse workforce and board conveys to potential clients that the provider understands and is open to people from different backgrounds.

While hiring and retaining racially, ethnically, and linguistically diverse staff is an important component of a welcoming environment for diverse client populations, such diversity does not necessarily ensure cultural competence. Differences in geography, education, immigration status, country of origin, and family background are other cultural differences that may create cross-cultural communication challenges despite other demographic similarities. Hiring people who are from the actual community being served is one way to equip the provider with deeply ingrained cultural knowledge and language skills important to that client population.

Standard 2.5 on Staff Diversity

A provider should take affirmative measures to hire and retain a diverse staff that enhance its ability to respond effectively to the legal needs of low income communities.

Commentary: Concerted efforts by a provider to recruit, hire and retain a diverse staff enhance its ability to respond effectively to the low income population it serves. Diversity is an important value for a provider to pursue for a variety of reasons.... When a provider operates in a racially, ethnically, or culturally diverse area, having a staff that includes people who have similar backgrounds to those in the service area can communicate that the program is committed to diversity internally and thus may have the knowledge, skills and abilities to engage with diverse populations, effectively.

When a provider operates in an area with a highly diverse low income population, or with a large percentage of low income persons of color, it is important that the provider reflect the low income population it serves. Relationships of mutual trust may be developed more readily when clients encounter a staff that reflects the community's diversity.... Thus, even in areas that do not have an ethnically or racially diverse population, a provider should seek to have a diversity of background, experience, and outlook on its staff.

The provider should appreciate that diversity encompasses a range of characteristics. The most important of these involves race, ethnicity, national origin, and gender, which the provider should take affirmative steps to address in its recruitment and hiring. The provider should also recognize the value of diversity with regard to disability, age, religion and sexual orientation. There are also many other characteristics, such as economic class, educational background and experience outside of legal aid that can bring a range of ideas and outlooks that will strengthen the provider.

Standard 4.5 on Access to Services**A provider should operate in ways that facilitate access to its services.**

Commentary: ... Effective outreach to the elderly, the physically handicapped and the institutionalized requires more than information. ...

Outreach should be tailored to address special access barriers encountered by some because of their culture or unique circumstances. The provider should reach out to community organizations in isolated cultural and linguistic groups to facilitate establishing a presence in those communities. Specialized delivery strategies should be directed to groups of clients such as migrant farm workers and Native Americans.¹⁵

Standard 4.6 on Communication in the Primary Languages of Persons Served**A provider should assure that all language groups within its low income communities have access to its services and should assist persons using its services in their primary language.**

Commentary: A legal aid provider has a responsibility to communicate in the language of persons seeking and using its services. A provider should have the capacity to communicate with all clients who are not proficient in English, either through bilingual staff or qualified interpreters.... In addition to addressing potential language barriers, therefore, a provider needs to be responsive to cultural issues that may inhibit some persons from accessing its service.

In order for its practitioners to meet their professional responsibilities to provide competent representation to the client, therefore, the practitioner either needs to communicate in the client's language directly or through a competent interpreter. This responsibility attaches both to persons who speak a language other than English and to persons who rely on American Sign Language (ASL) to communicate....The provider should also be prepared to accommodate the needs of persons who are sight impaired and should recognize, for example, the need to put essential documents in a readable form, such as in Braille for persons who are blind.

Excerpted from American Bar Association, Standing Committee on Legal Aid and Indigent Defendants, "Standards for Provision of Civil Legal Aid" (August 2006 Edition).¹⁶

These standards emphasize the importance of ensuring that the increasingly diverse client community should be served by a diverse and culturally competent staff

Legal Services & Bar Associations' Diversity Initiatives & Studies**Diversity and the Legal Profession**

The need for the legal profession as a whole to increase diversity within the legal profession has received increasing attention over the past 10 years. In 2006, The Association for Legal Career Professionals, known as NALP, published its "Diversity Best Practices Guide" that detailed how legal employers could move away from vague or abstract support for diversity to implementing practical strategies to increase management and staff diversity.¹⁷ The guide, structured as a resource for legal employers interested in designing diversity plans tailored for their organizational structure, focused on Leadership, Retention, Culture and Inclusion, Professional Development, and Recruitment.

The American Bar Association has created committees to study the problem and to offer programs to address the lack of diversity throughout the profession.¹⁸ Similarly, the New York State Bar Association and the City Bar of New York have supported several benchmarking surveys and studies to assess the diversity of its member firms and to promote initiatives to increase the numbers of minorities and women at the partnership level in law firms and serving as corporate legal counsel.¹⁹ LSC and the New York legal services community have also engaged in various initiatives to enhance the inclusion of minorities and attorneys of diverse backgrounds in the provision of legal aid.

During this same period, the U.S. Supreme Court ruled on the constitutionality of affirmative action programs by public universities and law schools for the first time in 25 years in deciding two cases from the University of Michigan in 2003.²⁰ Had the Supreme Court ruled against the University of Michigan Law School's use of race as one among many factors in granting admission, the use of race conscious legal remedies in admissions or employment would have become seriously constrained. Legal commentators have offered analyses of the problem of greater minority and female participation in the legal practice that range from pipeline issues, work/family balance to attacks on any affirmative action programs.²¹ Thus the various studies, reports and initiatives form the background for illuminating the challenge of creating a more diverse legal aid workforce.

In May 2001, the ABA held a Diversity Summit that was coordinated by the Commission on Racial and Ethnic Diversity ("CRED") to develop strategies to address the lack of racial and ethnic diversity within the association itself and within its leadership structure.²² The final result of that effort was the ABA Diversity Plan that would be implemented by various sections of the ABA. The most recent efforts regarding the plan include an ABA Presidential Diversity Summit at the ABA January 2009 Mid-Year Meeting and survey of the membership to assess how diversity has changed over the years and what direction it will take in the future.²³

CRED issued a landmark report entitled "Miles To Go 2000: The Progress of Minorities in the Legal Profession," that was supplemented with an updated report in 2004 (Miles to Go, 2004). Among the findings in its 2004 report was the fact that "minority representation in the legal profession is significantly lower than in most other professions."²⁴ Total minority representation among lawyers is about 9.7 percent as compared to 24.6 percent for doctors, 20.8 percent for accountants and auditors, and 18.2 percent among college and university professors, according to the US Census; overall minority entry into the profession has slowed considerably since the 1980s and mid-1990s.²⁵

The CRED report notes that people of color in general continue to face major obstacles to "full and equal" participation in the legal profession. The report concludes with numerous recommendations for the various stakeholders. Bar associations are encouraged to raise funds for more demographic surveys and group-specific research on placement by race and gender in different practice settings while law schools are encouraged to embrace admissions procedures consistent with Grutter even if more costly and discouraged from over-reliance on Law School Admission Test ("LSAT") scores. Law firms are urged to look beyond class ranks, law review editorships, and legal clerkships that are more difficult for people of color to obtain.²⁶

Legal employers in general can reverse the trend of lower participation by people of color through taking actions designed to improve the participation of minority lawyers in the profession. Those actions that can enhance participation include:

- 1) Leadership, through a sustained commitment to diversity;
 - 2) Accountability, making formal and informal managers responsible for improving diversity;
- and
- 3) Research and self-study, through surveys and changing organizational structures to encourage diversity.²⁷

The author of the CRED Miles to Go report, Elizabeth Chambliss of New York Law School, later assisted the New York State Bar Association's Committee on Minorities in the Profession in developing its own Miles to Go Report that is discussed below.²⁸

The Association of the Bar of the City of New York ("New York City Bar") published its own "Diversity Benchmarking Study" in 2005 that was notable for its inclusion of groups beyond racial and ethnic minorities, namely women, attorneys with disabilities and openly gay attorneys.²⁹ The study concluded that while the New York law firms participating in the study were more diverse than the legal profession as a whole—15.2 percent of the 17,000 attorneys in signatory firms were racial/ethnic minorities and 35 percent were women vs. 10.8 percent minorities and 29 percent women for the entire profession as of 2000—the face of the partnership at those New York firms "remains predominantly white and male."³⁰ Of the 4,791 partners, 95.3 percent were White, 84.4 percent were Men, 15.6 percent were Women, 4.7 percent were Minorities, 1.4 percent were Openly Gay, and less than 1 percent were Attorneys with Disabilities.

The New York City Bar's 2006 "Law Firm Diversity Benchmarking Report" found the diversity of signatory law firms was "virtually unchanged" since 2004, the baseline year for the data collected in the 2005 study.³¹ While women continued to be represented disproportionately at the associate level, there was a slight improvement in the representation of women at the associate and partner levels between 2004 and 2006. New law firm partners of color did not share the gains at the partnership level enjoyed by women; the increase in the number of Asian-American partners was offset by the decrease in the number of new Black partners. The proportion of lateral partners (lawyers with substantial experience hired from other firms or those at mid-career) decreased from 5.5 percent to 3.2 percent.

More data was collected on Openly Gay attorneys raising their numbers from 1.6 percent to 2.4 percent, a number that exceeds the NALP's estimate of 1.2 Openly Gay attorneys overall. Much of the increase in the number of gay attorneys may be attributable to the use of confidential and anonymous surveys. However there was little progress in increasing the number of Attorneys with Disabilities that could be attributed to the "lack of common definition on disabilities" or it could be that these attorneys continue to be "the forgotten diversity group."³²

The New York State Bar Association's Committee on Minorities in the Profession ("Committee on Minorities") noted in its 2005 report the need to follow the example of the State Bar of Texas in its ability to produce an annual report on the status of Texas minority lawyers including their distribution in different employment settings.³³ This focus is consistent with the Miles to Go

2004 report that found minority law graduates are less likely to begin their careers in private practice and are more likely to start their careers in government and public interest jobs.³⁴

In its 2007 report entitled “Miles to Go in New York: Measuring Racial and Ethnic Diversity Among New York Lawyers” (“Miles to Go in NY”), the Committee on Minorities found that there was virtually no systematic data on minority lawyers in other employment settings beyond law firms and the Federal Government (required by law to maintain such data).³⁵ In New York, some 80 percent of all attorneys work for private law firms and another 9.6 percent work for businesses. This compares with 74 percent private law practice and 9 percent engaged in businesses nationwide.³⁶ Thus the potential pool for future legal aid attorneys ready to practice right out of law school consists of just over 10 percent of all New York attorneys.

This current report seeks to address the lack of data on minority attorneys employed outside of private law firms and/or the government in New York by providing preliminary demographic data on minority participation in legal aid offices and public interest law firms. The categories used in the New York City Bar’s 2005 study were also used in our survey of legal services programs. We characterize this effort as preliminary since any participation in the survey analyzed in Section IV of this report is voluntary and not mandated as it is for law firms and government departments.

Leadership Development & Diversity

Despite the efforts of the legal community as a whole to address diversity over the past decade, the fact remains that these various initiatives and programs to integrate the profession have not kept pace with the increasing diversity of the nation. According to NALP, as of May 2008 only 5.4 percent of partners in US law firms were members of minority groups and women of color account for only 1.7 percent.³⁷ Whether corporate law firms or legal services organizations, the literature makes it clear that in order to be effective, diversity programs have to be specifically designed to work within the organizational structure of that legal entity.³⁸

Within the legal services context, attorneys and staff seek to provide representation that will provide the clientele with fair and equal treatment regardless of their race, class, national origin, gender, disability, marital status, sexual orientation, or work status. As a result, legal services workers are very familiar with laws, administrative actions, agency regulations and legal opinions governing anti-discrimination policies, cultural competence and, if applicable, race-conscious remedies in the areas of consumer, civil and human rights. Diversity plans thus have to meet a higher standard than those that may be acceptable within the private sector.

During 2001, LSC began a series of conversations about diversity, leadership and inclusion with attorneys, staff, client board members and managers. The concerns raised then helped to shape the contours of LSC’s diversity initiatives over the past few years. Some of those issues were structural, while others involved personal style:

Young women and young professionals of color were particularly eloquent about concerns that their voices were not heard, that their opportunities for professional growth were ignored and that the possibility of advancement within their legal services program was nil. ...Some women

believe that they are passed over for senior positions because their approach to litigating and supervising is collaborative and meditative rather than in the traditional, aggressive lawyering style. Others pointed out that promotion to leadership positions is denied them because, although they are women trying to achieve influence and success, they are operating in a community historically dominated by men.³⁹

Excerpt from “Diversity is a State of Being-and it-Requires Board Support” (2001), at p. 41.

In corporate legal departments, the general counsel sets the tone for hiring and firing decisions within the department. In 2004, over 100 companies became signatories to the “Call to Action” on diversity issued by Sara Lee Corporation’s general counsel Roderick Palmore.⁴⁰ A survey of corporate in-house counsel in 2006 found that while a handful of high profile companies had increased the diversity of their staffs, “the in-house bar as a whole is lagging way behind.”⁴¹ Among the findings was the importance of the department’s leadership to any meaningful progress on diversity.

For instance, in departments that lacked racial diversity, it appeared that senior leadership had failed to set goals. In contrast, for those departments that were making headway in terms of diversifying their staffs, sustained commitment from both the general counsel and the corporation’s Chief Executive Office was essential.⁴² Half of the legal departments lacked a formal, written diversity policy and for those that did, the general counsels often failed to communicate those policies. If achieving certain diversity goals was not directly tied to the leadership’s compensation (such as bonuses or other indicia of success), then diversity policies were viewed as a headache rather than as a viable component of the business of the department.⁴³

Backlash against race-conscious or gender-specific employment policies can undermine even the most well designed affirmative action or diversity plans whether in a private business or the public sector. In analyzing the acceptance of diversity-management initiatives in the local office of a federal agency by its employees, the researcher found:

The merits of diversity and diversity-management programs, promoted in various organizations, have been met with considerable backlash. In the Agency study, employees do not have a clear idea about why diversity initiatives exist and what they are supposed to accomplish. Different employee groups have different perceptions about who has the most to gain from diversity-management initiatives. White males extensively believed that diversity programs are designed only to benefit women and minorities [cite omitted]. Minorities feel that white females have been the primary beneficiaries of both affirmative action and diversity programs.⁴⁴

Education and well-designed diversity training programs have demonstrated some success in reducing backlash against diversity programs. Those most successful have been longer than one-day conferences or brief workshops held after viewing sensitivity training videos.⁴⁵

Comprehensive education, training and mentoring programs are also critical components to resolving the problem of retaining attorneys from diverse backgrounds. A firm may be very successful at hiring minority and openly gay staff but over time may find retention of those same employees much more difficult. In the Diversity Survey of corporate law departments, only 7

percent had a formal mentoring program.⁴⁶ Laurie Robinson, CEO of Corporate Counsel Women of Color was quoted as saying, “Failing to do more than just recruit is a major mistake. Bringing in a minimum number of diverse individuals and leaving them to fend for themselves while experiencing the minefields of discrimination and stereotyping from those in the workforce who have not bought into diversity can be costly to a diversity program.”⁴⁷ Departments that provided leadership development and advancement opportunities had greater success in retaining attorneys after 3 or 4 years.

NALP’s Best Practices Guide noted that retention efforts tended to focus on lawyers while efforts to create a more inclusive organizational culture addressed both lawyers and staff.⁴⁸ As the Supreme Court noted in Grutter, the law school’s desire to attract and retain a critical mass of underrepresented groups was narrowly tailored and passed constitutional muster. Attorneys from diverse backgrounds may prefer to work in environments where there is at least some number of persons, namely a critical mass, who share their difference. Those lawyers designing their diversity plans need to consider not only actual mentoring and retention programs but also how the organization’s culture can be modified to be more culturally inclusive. In sum, a stated commitment of diversity, that is not backed up by a formal written policy endorsed by leadership with accountability measures, that does not enjoy the support of the line attorneys and staff, and that further lacks organization-specific programs, education and training, is at best just lip service that maintains the status quo.

Minority and Female Attorneys’ Demographics and Attitudes

There have been a number of significant studies and reports documenting the fact that the number of students of color attending and successfully graduating from law school has been in a general decline over the past 10 years at precisely the time that minority populations within the United States continue to grow.⁴⁹ According to the Law School Admissions Council’s (LSAC) data on minority admissions, **no single minority group accounts for more than 4 percent of the lawyers in the United States.**⁵⁰

A 2004 report by Lawyers for One America noted that the numbers of potential minority attorneys has not shown any dramatic increases despite proactive programs to enhance diversity within all sectors of the legal profession:

Diversity efforts will encounter inherent obstacles as long as there remain too few members of color who decide to enter the profession in the first place, particularly without role models and mentors demonstrating a reason and purpose to become part of the legal profession.

Other professions, such as engineering, included diversity pipeline programs as early as the 1980’s. They recognized that a more diverse workforce benefits the general population and the clients those professions serve. The legal community, however, has fallen short in implementing an effective professional pipeline that invites and prepares students of color to transverse the arduous route to the bar. Therefore, while our nation’s minority population increases, the comparative percentage of attorneys of color—and potential attorneys of color—lags far behind.⁵¹

The disparity in numbers increases at top public law schools in states with large minority populations that have limited or prohibited affirmative action programs by constitutional amendment or initiatives such as California, Washington, Texas, and Florida.⁵² Whether the issue is entrance into law school, attrition before graduation, graduation rates or bar passage, it is clear that rates for Black, Hispanic and American Indian students are significantly less than those of Asian American and White students.⁵³

Moreover, it is clear that an outreach strategy that works for one group of color may have no impact on the admissions or graduation rates of another minority or other diverse group. For instance, women have made great strides in overcoming their historic exclusion from the legal profession. In 1993, women law students were represented at the percentage of their population at 50.4 percent, the highest total ever recorded according to Catalyst, the nonprofit women's research and advisory group. However in the past few years, female numbers are beginning to drop, especially amongst minority women law students. The reasons for this decline are complex: some are related to the persistence of the gender gap in pay and leadership positions within law firms and other legal institutions experienced by all women while others have to do with stereotypes and cultural issues.

Some statistics from Catalyst help to illustrate some of the challenges that continue to perpetuate the gender gap in the legal field. The following facts are excerpted from the Catalyst "Women in the Law" Quick Takes Report:

In 2007, women made up 32.6% of all lawyers. Women were 45.3% of associates in 2008. Catalyst estimates women will not achieve parity with men in law firm partnerships until 2088.

In a survey of the 50 best law firms for women, 18% of the firms had women managing partners. According to a 2006 survey of the nation's 200 largest law firms, women represent 30% of of-counsel, 26% of non-equity partners, and almost 16% of equity partners.

There is a drastic difference between women at the lowest and highest levels in law firms: According to a recent survey, women make up nearly 1 out of every 2 law firm associates, but only 1 out of every 6 equity partners.

90% of law firms reported that their highest paid lawyer was a man.

Women were general counsels at 90 Fortune 500 companies in 2007.

Women lawyers made 77.5% of men lawyers' salaries in 2007.

More women work for the public interest at 6.1% than male graduates at 3.4 %.

Minority women faced even more obstacles:

People of color were 19.1% of all associates, and 6.1% of all partners. Women of color, on the other hand, represented just 10.7% of all associates, and 1.9% of all partners.

19% of law firms do not have any associates who are people of color.

77% of women of color entry-level associates leave within 5 years, compared to 69% of men of color entry-level associates.

There are only 7 women of color general counsels in the Fortune 500.⁵⁴

Excerpts from Catalyst, Quick Takes, Women in the Law in the U.S. (October 2008).

Women of color lawyers have been leaving firms in record numbers. A recent ABA of minority women's experience was particularly startling. Paulette Brown and Arin Reeves wrote the 2006 report for the ABA entitled, "Visible Invisibility: Women of Color in Law Firms." Of the women of color who participated, some 44 percent reported being passed over for desirable assignments, compared with 39 percent of white women. Some 62 percent said they had been excluded from formal and informal networking opportunities as compared to 4 percent of white men. Finally, 49 percent of the women of color complained of being subjected to demeaning, stereotypical and harassing comments from their supervisors and peers.⁵⁵ The minority women also suspected that they were being held to a higher standard. Most of the white associates went to state schools but all of the minority associates attended top 10 schools and according to one woman of color: "If you're not from a top ten school and you're a minority candidate, you're not on the same playing field as a white applicant from any law school."⁵⁶

Some minority men are finding their crisis at mid-career. African American and Hispanic mid-level attorneys are finding their billable hours, client development and bonuses lag behind those of Asian American and White mid-level associates, while their debt levels are considerably higher. Minority males with higher student loan debt and lower billable hours are feeling the squeeze and are more likely to jump ship to a new position than face a layoff.⁵⁷ Firms that are willing to assist minority men with the staggering debt loads, and pass out important work assignments and client contact on a fair and equal basis have greater retention rates. The minority men feel more valued when the firm invests in their future and success, according to the Minority Law Journal's Minority Experience Study that included over 7200 participants, White and minority.⁵⁸

Similarly, the data from this survey and others reveal a broader definition of the concept of diversity, but to date the numbers of disabled and openly gay and lesbian attorneys have not shown major increases.⁵⁹ In one of the surveys of New York law firms, some participants indicated that they felt uncomfortable collecting data on their employees' sexual orientation while the problem with counting attorneys with disabilities was characterized as both a matter of lack of recruiting and lack of reliable data on the potential pipeline for disabled attorneys.⁶⁰ In other studies it has been suggested that GLBT attorneys may be out socially but not at work and that attorneys who do not have visible disabilities may not be willing to identify their issue regardless of the anonymity of diversity surveys.⁶¹ Those attorneys practicing less main stream religions may also feel a need to protect their privacy in the workplace and choose not to participate in the surveys.

Whether an initiative is referred to as an affirmative action program or by the more moderate term diversity outreach, the fact remains that the nation is still struggling over the best means to balance remedies for past discriminatory practices with the concerns of those non-diverse attorneys who believe they should not have to bear the brunt of diversity policies. Even after the

Supreme Court upheld the constitutionality of the University of Michigan Law School's admissions program in the Gratz decision, the citizens of Michigan voted against the use of affirmative action programs by public institutions thereby creating new difficulties for the law school that fought to have diversity recognized as a compelling state interest and for other schools that planned to pursue more aggressive diversity programs.

In addition, debate has continued to rage within the legal academic community since the Bakke decision over whether affirmative action programs have benefited minority students. The Bush Administration's Department of Education (DOE) threatened to remove the ABA's accreditation authority if the ABA refused to modify Standard 212, its diversity standards. Both the DOE and the US Commission on Civil Rights charged the ABA with adopting rules that amount to mandatory racial preferences in violation of Grutter. As the Society of American Law Teachers noted, regardless of the Court's ruling in Grutter, opponents and proponents of affirmative action and diversity were going to continue to fight over this issue in other arenas.⁶²

Against this backdrop of continuing controversy over affirmative action in general and diversity initiatives by the ABA, state bar associations, law schools and the academic community, is it any wonder that minority students are not embracing law as a career choice? When students undertake public interest careers like legal aid or public defender positions they may also fear that they are limiting their future career choices if law firms or corporate legal departments are unwilling to hire them in lateral positions at mid-career. They must also be concerned about the lack of professional advancement within legal services organizations given the lack of movement at the top. These factors, in addition to the issue of student debt, may help to explain why the minority students who have made it through to successfully passing the bar do not find a career in legal aid as their most attractive alternative, especially since corporate firms are now making a more concerted effort to hire them.

Yet the news about diversity in the law also has some bright spots. The Minority Law Journal 2006 Diversity Scorecard Survey reports that the percentage of minority lawyers at the largest US firms continues to rise. Some 240 firms participated in the survey that showed a one point increase over 2005 from 10.4 to 11.4 percent. Asian Americans demonstrated the largest increase as they now are represented at 5.2 percent of all lawyers in the survey. African Americans are at 3.4 percent while Hispanic Americans recorded 2.6 percent of the total numbers. Their 2008 Diversity Scorecard was sent to 254 firms with 211 responding: minority attorneys now account for 13.4 percent of attorneys at the largest firms. Asian Americans again led with 6.1 percent, African Americans stayed at 3.6, and Hispanic Americans edged up to 3.1 percent. Overall, 6.2 percent are partners.⁶³

Law firms are participating in these surveys in part because law students across a range of backgrounds are paying attention to the results. Diverse students have also raised the ante by having students who work in law firms during the summer rate their respective firms' commitment to diversity. Some students at Stanford Law School started a project entitled "Building a Better Legal Profession" that would rank firms by the number of female, minority and gay lawyers employed by each firm. The students hope to have Fortune 500 companies pay attention to these rankings when making hiring decisions about law firms. The rankings may be found at www.betterlegalprofession.org.⁶⁴

LSC has implemented its “LSC Quality Initiative,” and one of its goals is to make a legal services career more attractive to diverse candidates. With over 50 million Americans eligible to receive civil legal aid, legal services programs, whether funded by LSC or not, need pro bono assistance from other sectors of the bar. The thrust of the program is to establish and implement clear performance standards for the delivery of high-quality legal services. The initiative also includes an LSC diversity project called the Leadership Mentoring Pilot Program that will support leadership development of program staff. LSC further has a pilot loan repayment program.

NALP has launched the NALP/Street Law Diversity Pipeline Program in July 2008. The program will pair local high schools with NALP member law firms. Lawyers from those firms will be teaching law-related topics in high school classrooms to expose them to interaction with legal professionals. The model being used for this program was first developed as under the auspices of the Corporate Legal Diversity Pipeline Program that was run by Street Law and the Association of Corporate Counsel.

Corporate Law Firm’s Diversity Initiatives

In New York and in other major cities, the bar and corporate law firms have devoted considerable resources and have sponsored surveys to help them identify programs and initiatives that would improve the number of diverse attorneys practicing law. State bar associations have answered the ABA’s call to action in terms incorporating diversity initiatives in their committee work. It also helps that the number of state bar presidents of color has continued to increase over the past three decades.⁶⁵

Given the range and complexity of various diversity programs currently under development in the private sector, it is not possible to list all of the noteworthy programs that have had a positive impact on hiring and retention numbers of attorneys of color. An even greater number of firms have worked hard to increase their female associates and partners. Firms that have made some strides regarding the recruitment and retention of women are those that have invested time to develop a more workable work/family balance.

We will mention just a few of the firms that have shown real leadership in understanding and implementing diversity policies. However, as the results of our Survey show, it is painfully obvious that like corporate law firms, legal services organizations must work to broaden and deepen the concept of diversity within their respective spheres if the range of talents and perspectives offered by those who may not fit a traditional conservative mode or even a liberal one are to be recognized and valued.

For instance, the Survey demonstrates that legal services agencies have made significant progress in recruiting, retaining and promoting White women but have not made the same strides with respect to Minority Women or Minority Men and have just begun to develop plans that reach out to Openly Gay and Disabled attorneys. Corporate firms have improved their recruitment and retention of women, but the numbers of minority men and women remaining at

law firms have continued to fall; they have yet to address the outreach needed to increase attorneys with disabilities and gay attorneys in significant numbers.⁶⁶

Early studies of workforce diversity within the corporate sector focused on three different models. These included the Education/Training Model, the Benefit/Reward Model and the Organization Culture Model.⁶⁷ The Education/Training Model relies on corporate support and advocacy of initiatives to improve education programs as a means of increasing workforce diversity while the Benefit/Reward Model seeks to improve benefits packages, child care and flexible work arrangements to attract a more diverse workforce. Both of these models are based on traditional corporate cultures and represent an expansion rather than redirection of basic corporate policies and procedures.⁶⁸ The third model, Organization Culture Model, requires fundamental changes in the systems and policies of the workplace in order to better manage the challenges of diversifying the workforce. The first element of an Organization Culture Model is a “redefinition of diversity” beyond race and gender to include age, ethnicity, class, educational level, regional origins and other differentiating characteristics.⁶⁹

When reviewing some of the best practices utilized by corporate law firms to increase internal diversity, it is clear that the most successful programs begin with a clear message of support from top management. Diversity initiatives become part of the corporate structure rather than a mere adjunct to the Human Resources department and the success or failure of diversity programs becomes integrated within the managerial reward system, including top quality management (TQM) efforts.⁷⁰ Diversity is represented at all levels of leadership that often requires a renewed organizational focus on leadership training. Leaders within the firm become accountable for the inclusion of diversity goals as part of the management structure which often requires a fundamental change to the organization’s culture.⁷¹ Other key practices include formal retention programs, professional development, and culture and inclusion initiatives.⁷²

Leaders in Promoting Diversity in the Law

As noted previously, the legal profession has acknowledged the need to improve and enhance the diversity of the profession. Because the focus of this study is on legal services programs and public interest law firms rather than on corporate law firms, it is beyond the scope of our research to list all of the law firms that have taken leadership roles to address the diversity concerns within the bar. The *Minority Law Journal* publishes a Diversity Scorecard that ranks law firms according to the number of minority attorneys that work for the firms.⁷³ However, we wanted to highlight a few programs that legal service organizations may find useful in assessing future diversity initiatives for their workforces.

Skadden, Arps

www.skadden.com

Skadden lists on its website Key Diversity Initiatives. Among the various programs noted, Skadden listed its efforts to work with organizations, like the Legal Aid Society, that seek to protect the rights of, and ensure equal opportunity for, members of diverse groups. The Legal Aid Society award for outstanding pro bono services was listed first under Firm Honors/Recognition

Sidley, Austin

www.sidley.com

Sidley, Austin was a leader in the bar when it created its Diversity Committee in 1998. Since then it has received the 2005 Catalyst Award and in 2008 was named as one of the 2008 Best Law Firms for Women by Working Mother magazine and Flex-Time Lawyers. It has established a formal mentoring program for minority attorneys and women. The firm has received numerous pro bono awards including *The National Law Journal's* 2008 Pro Bono Award.

Holland and Knight

www.hklaw.com

The Minority Law Journal ranked the firm as the second highest in the nation for the number of minority partners at the firm. Holland and Knight was named as one of the 2007 Best Law Firms for Women by Working Mother magazine and Flex-Time Lawyers. The Human Rights Campaign ranked the firm as 100/perfect score as a Best Place to Work for gay, lesbian, bisexual and transgender Americans.

The Bar Association of San Francisco

www.sfbar.org

Over 19 years ago, the San Francisco Bar began its first diversity program when it adopted its Goals and Timetables for Minority Hiring and Advancement. Those goals have expanded to include disabled, gay, lesbian and transgender attorneys. The association now provides leadership to other bar associations

Diversity Strategies by Non-legal Organizations

Despite the greater legal community's efforts to focus on increasing minority attorneys and attorneys from diverse backgrounds, the fact remains that the pipeline of new attorneys is becoming less diverse at the same time the nation as a whole is increasing its overall racial, ethnic and cultural diversity. Since other professions have a better track record in terms of better proportional representation, perhaps a quick review of non-legal affirmative action programs could be useful.

Adecco USA

Adecco has been honored by the United Nations during the World Diversity Leadership Summit for its Workplace Insights surveys of American workers' views on the role of diversity at the office. Some of the findings from Adecco's July 2008 survey are illuminating:⁷⁴

61 percent of workers surveyed believe that having a more diverse workforce makes their organization more successful, but some 47 percent of those workers suffered some form of discrimination at the office;

Age was the most prevalent form of discrimination (52 % experienced it), followed by gender bias (43 %), race (32 %), religion (9%) and disability (7%);

Workforce diversity is a work in progress: 60 % of employers identify diversity as a top priority, but only one-third (34 %) have made any significant progress; and

78 percent of the workers surveyed feel that most companies publicize having a diverse workforce more than they actually implement diversity.

According to Lois Cooper who heads Diversity & Inclusion at Adecco USA:

As the idea of a truly diverse continues to evolve, what's become more and more clear to employers is that achieving this is not only about adhering to regulations or being seen as politically correct, but directly ties to their organization's success and their ability to be innovative and profitable. Building an inclusive culture continues to be a top priority on most companies strategic agendas, and it is certainly attainable with the right amount of commitment, communication and follow-through at all levels of an organization.⁷⁵

Cornell University College of Human Ecology

Cornell's diversity program started in 1999 and is entitled "Open Doors, Open Hearts, Open Minds." The efforts of the program are directed at students and faculty. In addition to appointing a Diversity Coordinator, Cornell has urged faculty and graduate TAs to include diversity within the curriculum. Similarly, Cornell has urged students to participate in curriculum that includes diversity issues. The program included plans for a Resource Center that would publish a newsletter and that the Diversity Committee would develop methods to evaluate progress achieving these diversity goals.

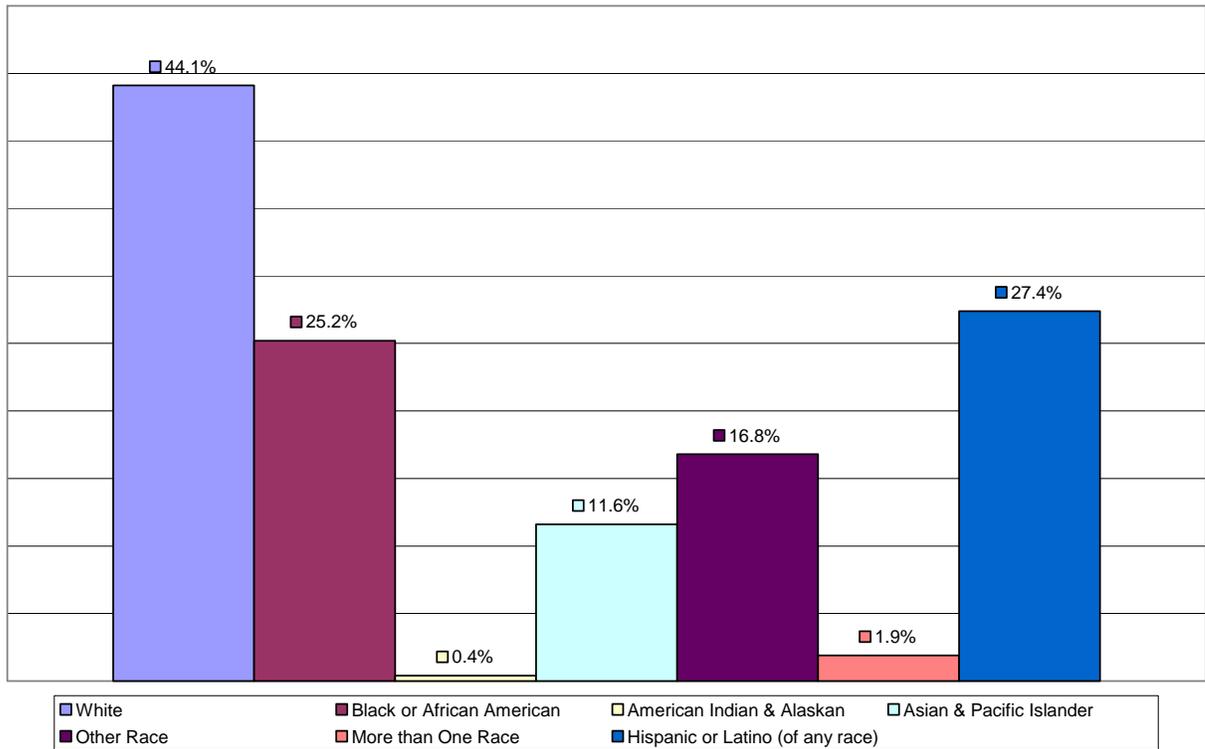
University of Missouri-Kansas City

Beginning in 2003, UMKC has been producing an annual survey to capture students, staff and faculty perceptions of how well UMKC is living up to its core value of diversity, inclusiveness and respect. The surveys may be found at www.umkc.edu/chancellor/ode/.

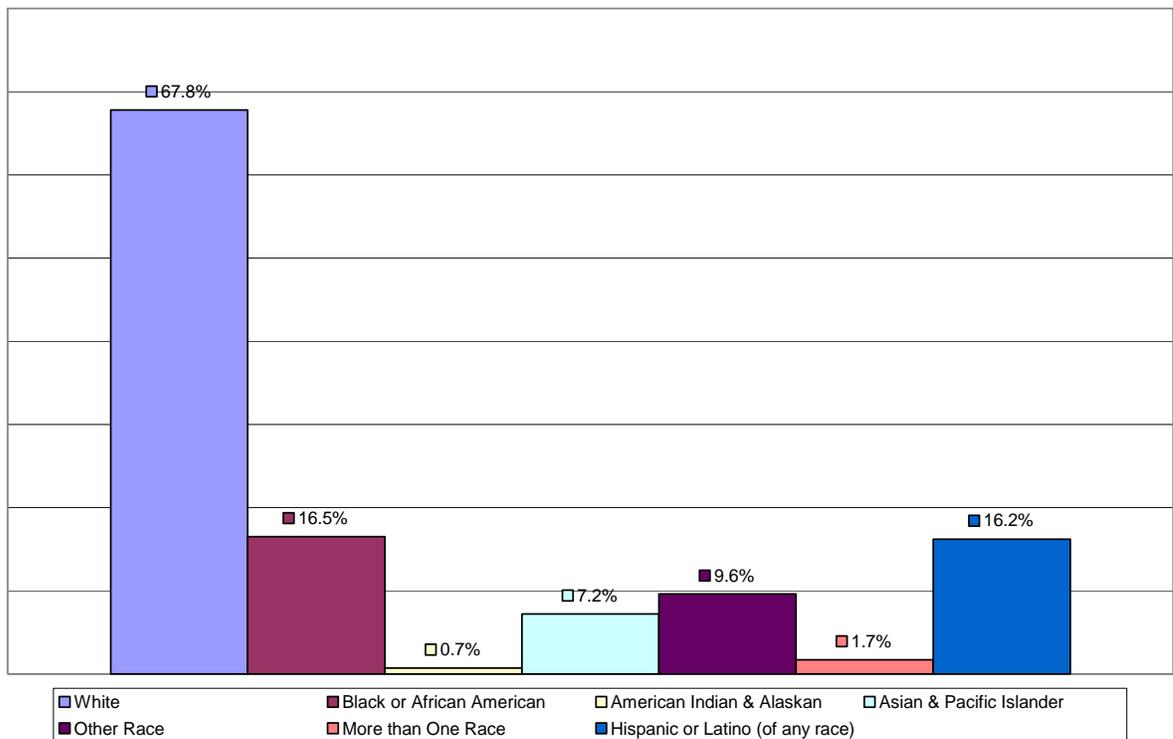
Selected Demographics

The following charts provide selected demographic information for New York City and the State of New York. The comparisons to the national totals demonstrate the extraordinary diversity of New York.

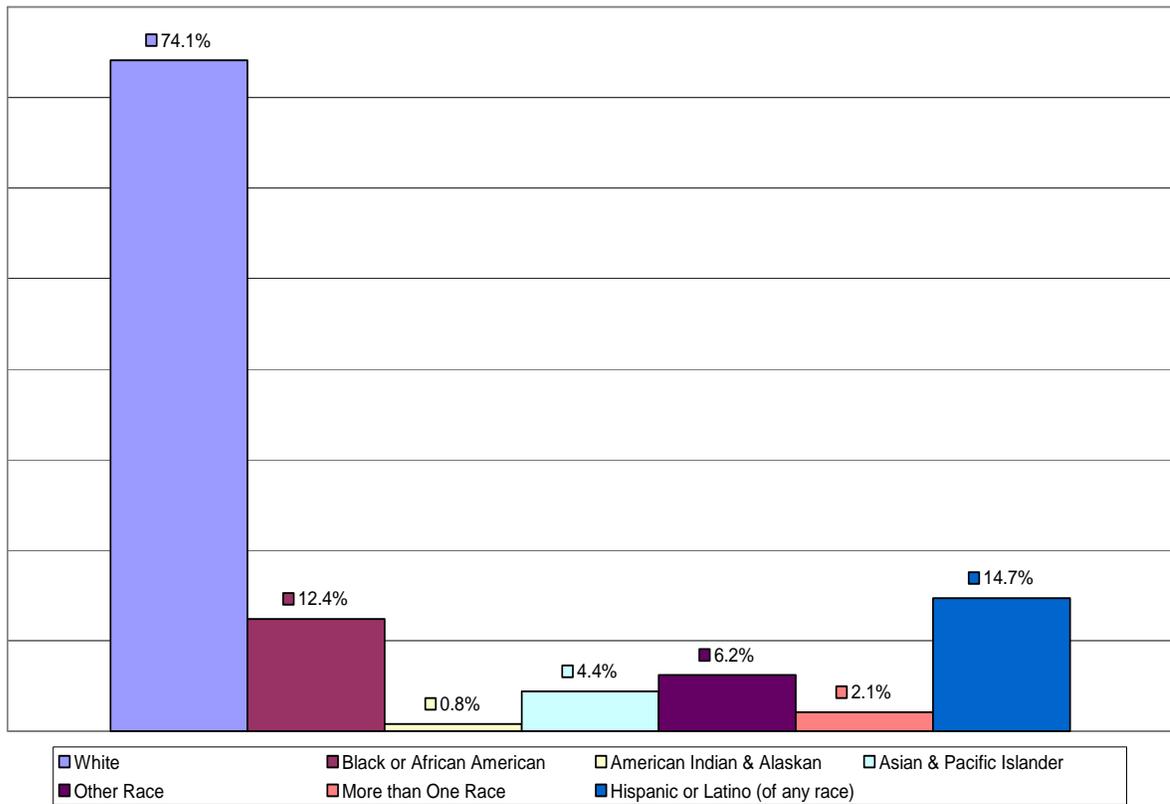
New York City Selected Demographic Data 2005-2007



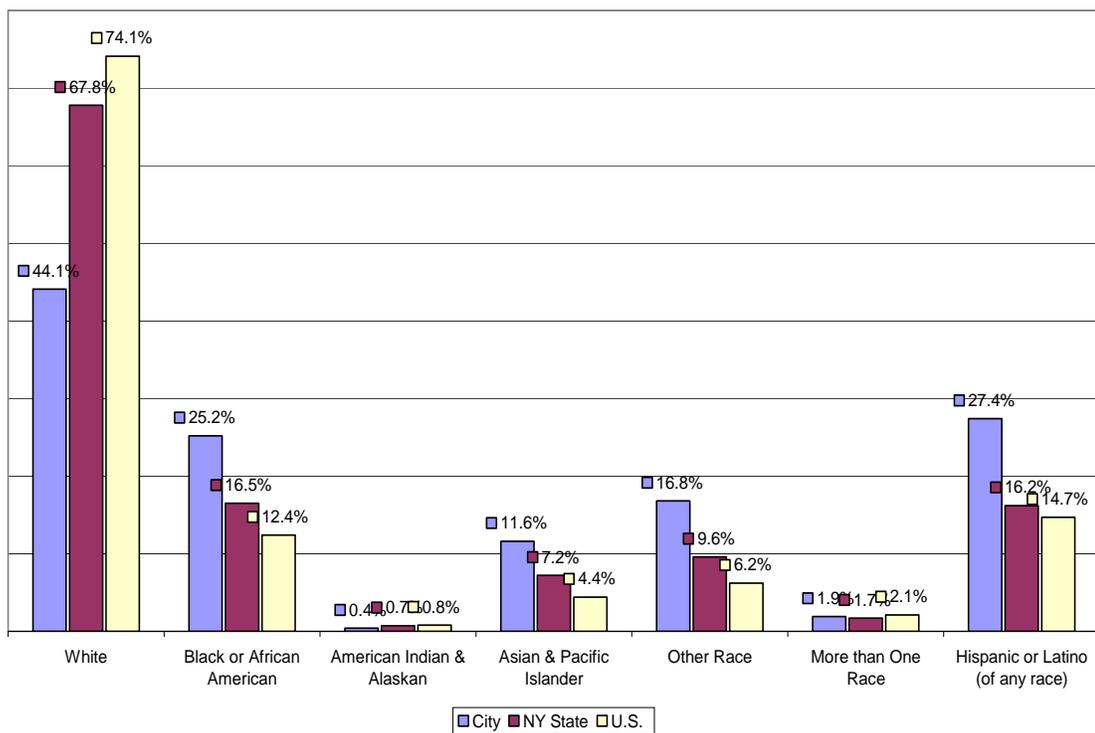
New York State Selected Demographic Data 2005-2007



U.S. Selected Demographic Data 2005-2007



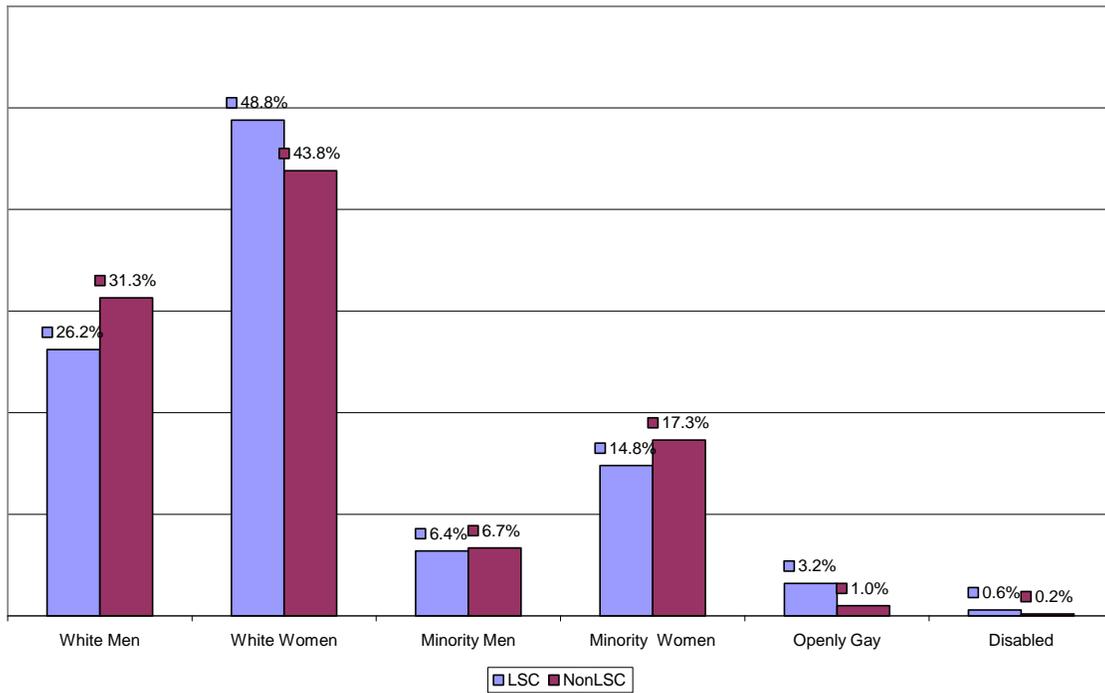
New York City, State and U.S. Selected Demographic Data 2005-2007



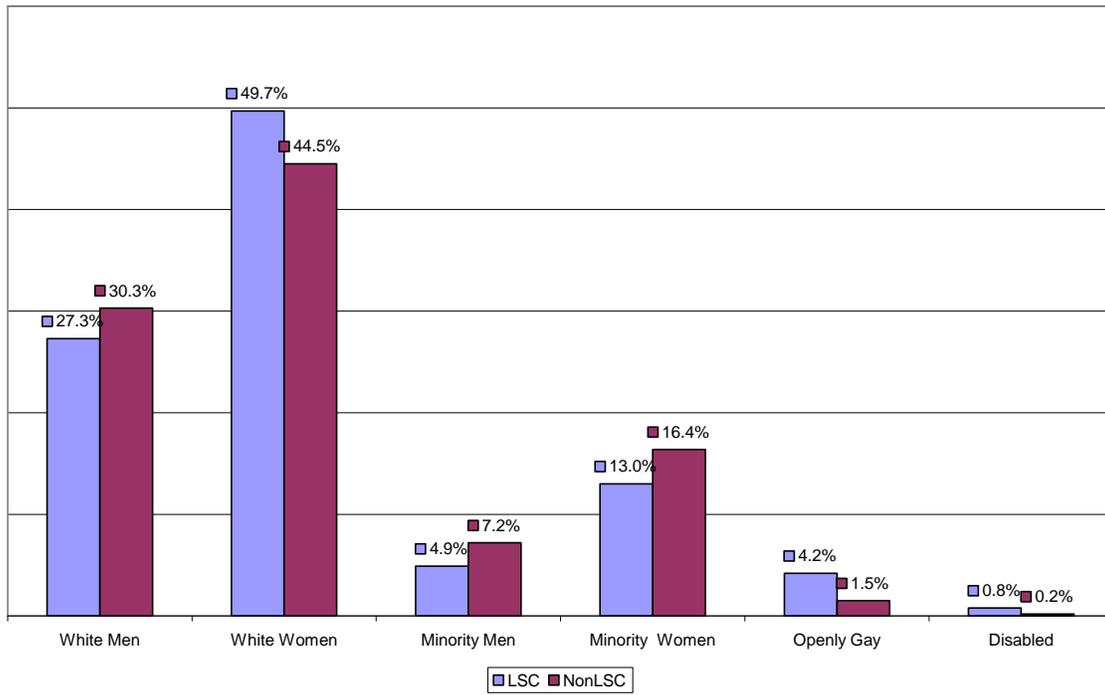
Sex	City	State	U.S.
Male	47.7%	48.5%	49.2%
Female	52.3%	51.5%	50.8%
Race	City	State	U.S.
One Race	98.1%	98.3%	97.9%
Two or More Races	1.9%	1.7%	2.1%

Race/Ethnicity	City	NY State	U.S.
White	44.1%	67.8%	74.1%
Black or African American	25.2%	16.5%	12.4%
American Indian & Alaskan	0.4%	0.7%	0.8%
Asian & Pacific Islander	11.6%	7.2%	4.4%
Other Race	16.8%	9.6%	6.2%
More than One Race	1.9%	1.7%	2.1%
Hispanic or Latino (of any race)	27.4%	16.2%	14.7%

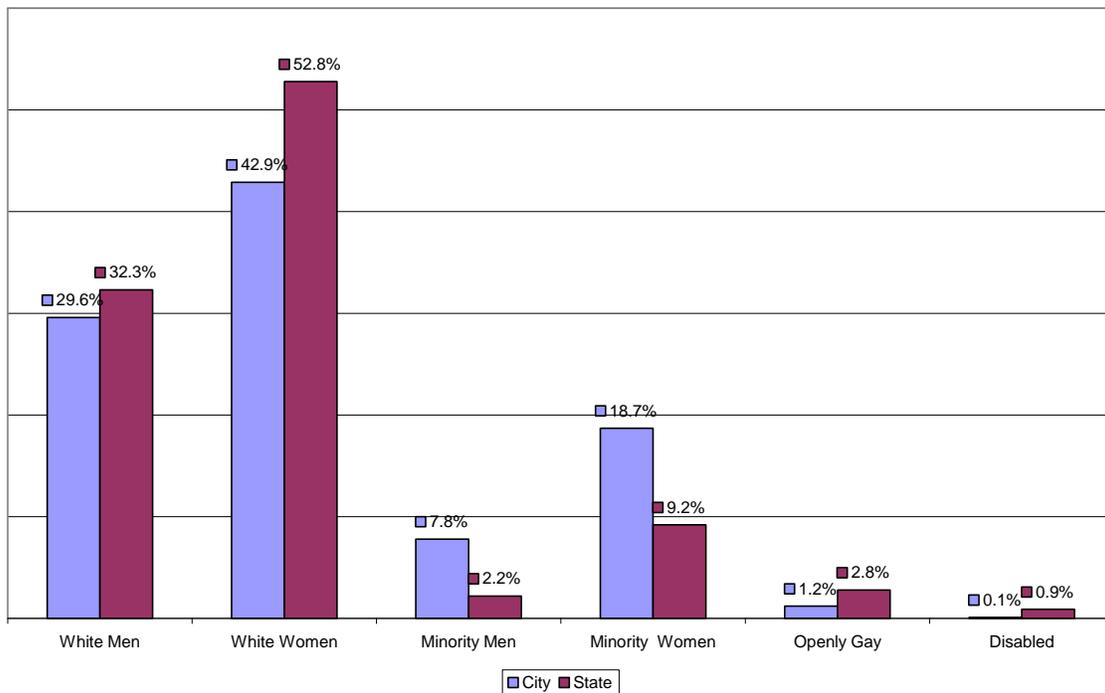
Representation Rates for LSC and Non-LSC Funded Agencies - 2005



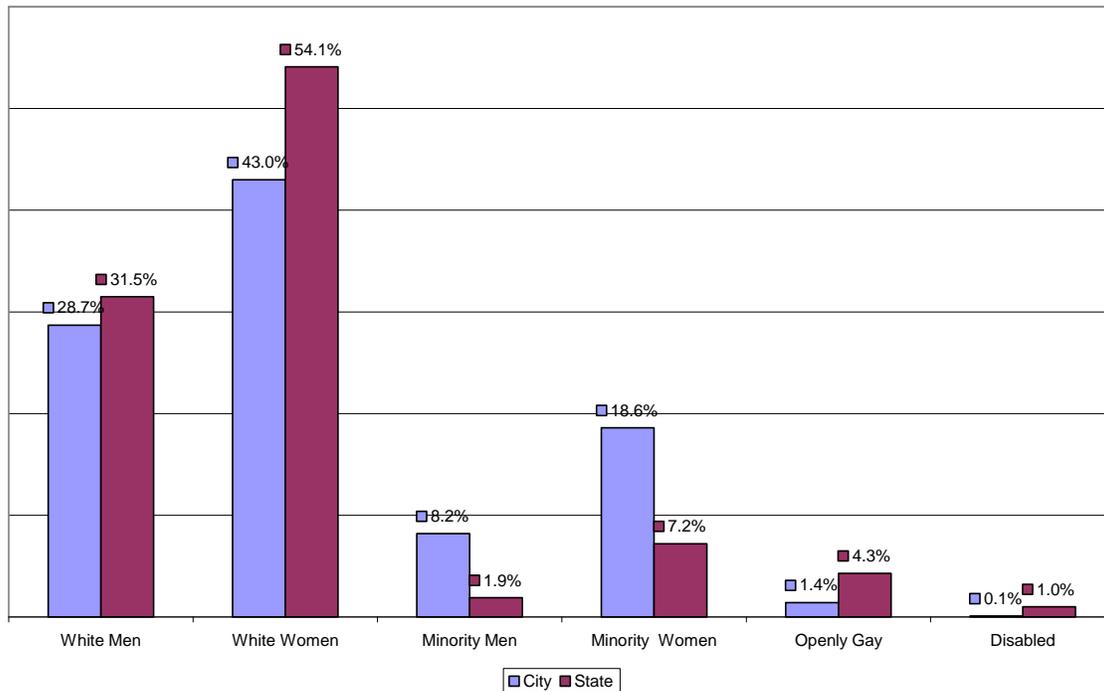
Representation Rates for LSC and Non-LSC Funded Agencies - 2007



Representation Rates for NYC and NYS Agencies - 2005



Representation Rates for NYC and NYS Agencies - 2007



Comparing the representation rates of LSC providers to non-LSC agencies between 2007 and 2005 provides a quick overview of the internal diversity of providers who receive funding from the Legal Services Corporation (“LSC”) and non-LSC groups. Between 2005 and 2007, LSC funded providers increased Attorneys with disabilities by 0.2 percent while non-LSC groups remained the same at 0.2%. Openly Gay attorneys working for LSC providers increased by one full point from 3.2% to 4.2% and non-LSC Openly Gay attorneys increased 0.5%. White women working for both LSC and non-LSC providers gained about a point during the period. White men attorneys working for LSC providers had a slight increase of nearly one percent while White men in non-LSC groups lost one full percentage point.

Despite concerted efforts by LSC and the legal services community generally to focus attention and resources on the importance of recruiting and retaining more attorneys of color, the fact remains that legal services providers in New York were not able to increase the representation of minority men or women attorneys. Minority women lost ground in both LSC and non-LSC providers: for LSC providers Minority women lost nearly 2 points while non-LSC groups lost nearly one point. Similarly Minority men in LSC providers lost nearly 2 points. Only in non-LSC groups did Minority men show any gains, a slight increase of 0.5% over the 2-year period.

The demographics from New York City as compared to New York State are offered as another point of comparison. White women, in the City and statewide, increased their rates of representation while Minority women experienced a loss of representation in both the City and statewide as did White men when compared to 2005. Openly Gay attorneys increased their representation in the City and statewide, while Minority men had a slight increase in representation rates in the City and Attorneys with disabilities had a very slight increase statewide.

At the suggestion of Michael Rothenberg and Lillian Moy, we created a special chart to capture first the total representation rates by race and status for 2005 and 2007. We then created similar charts to demonstrate representation rates by position for both 2005 and 2007. These charts, appearing directly below, provide a snapshot of diversity within the New York Legal Services community as represented by those groups that voluntarily chose to participate in this Survey.

Attorneys with Disabilities

In 2005, attorneys with disabilities showed representation in Levels 2, 3, and 4 at the rate of 2.4%, 0.6%, and 0.1 percent, respectively. They were not represented at Level 1. In 2007, those figures reflected a decline with representation at 1.3 percent at Level 2 and 0.3 percent at Level 4 and no representation at Level 1 and Level 3.

Openly Gay Attorneys

In comparing representation rates for Openly Gay attorneys between 2005 and 2007, every level showed an improvement except Level 2. For two of the Levels, 1 and 3, the gains were nearly 2 points or greater, a significant increase given the relatively small numbers involved.

Minority Men

The representation rates of Minority Men showed a decline in every level except Level 4 that had a modest increase of 0.5 percent. Minority males are underrepresented in every level and the latest numbers are not encouraging.

White Men

In contrast, White Men had an increase in every level except Level 4 that had a modest decrease of 0.7 percent. White males are the largest demographic cohort at 46.8 % for Level 1. Their representation in other levels varies between 29 to 40 percent.

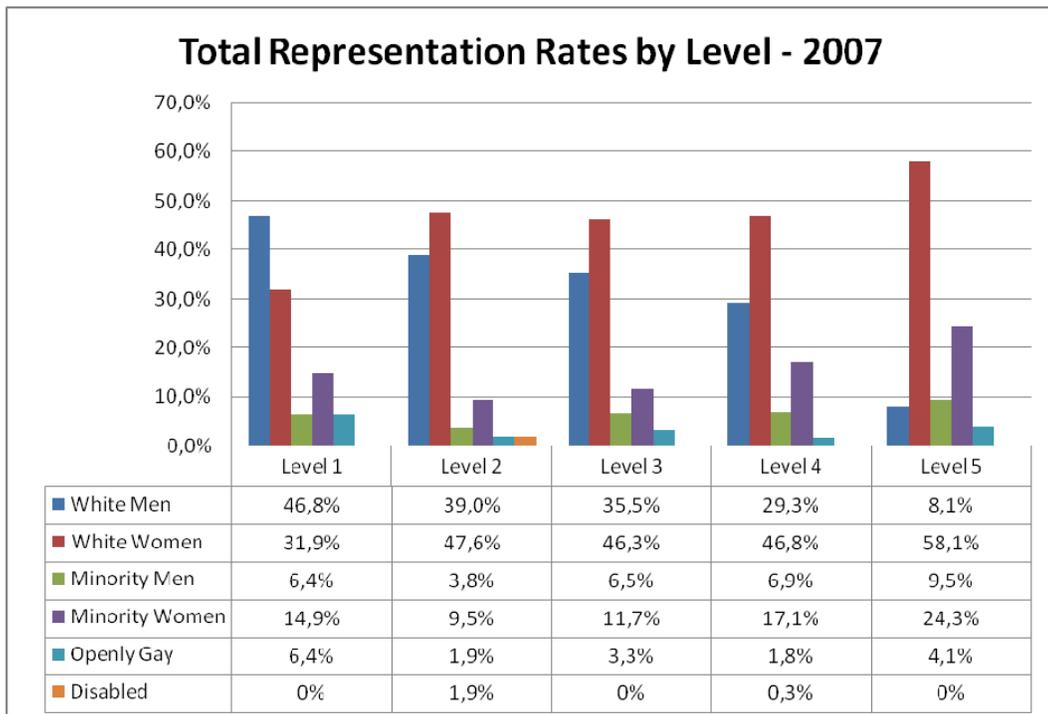
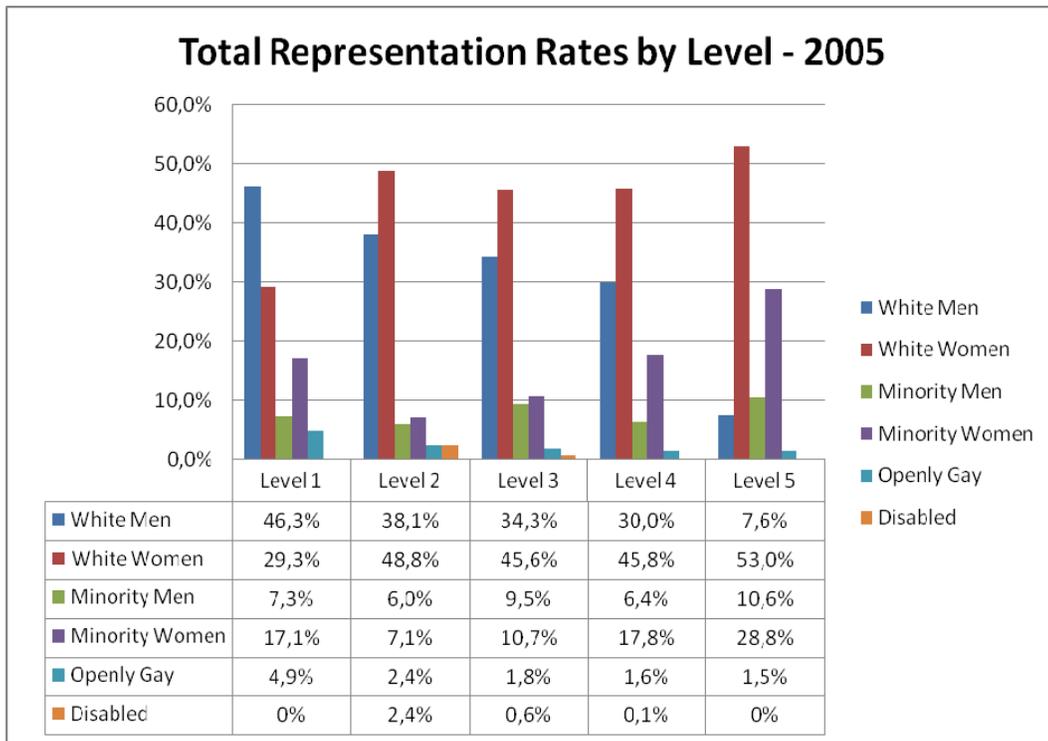
Minority Women

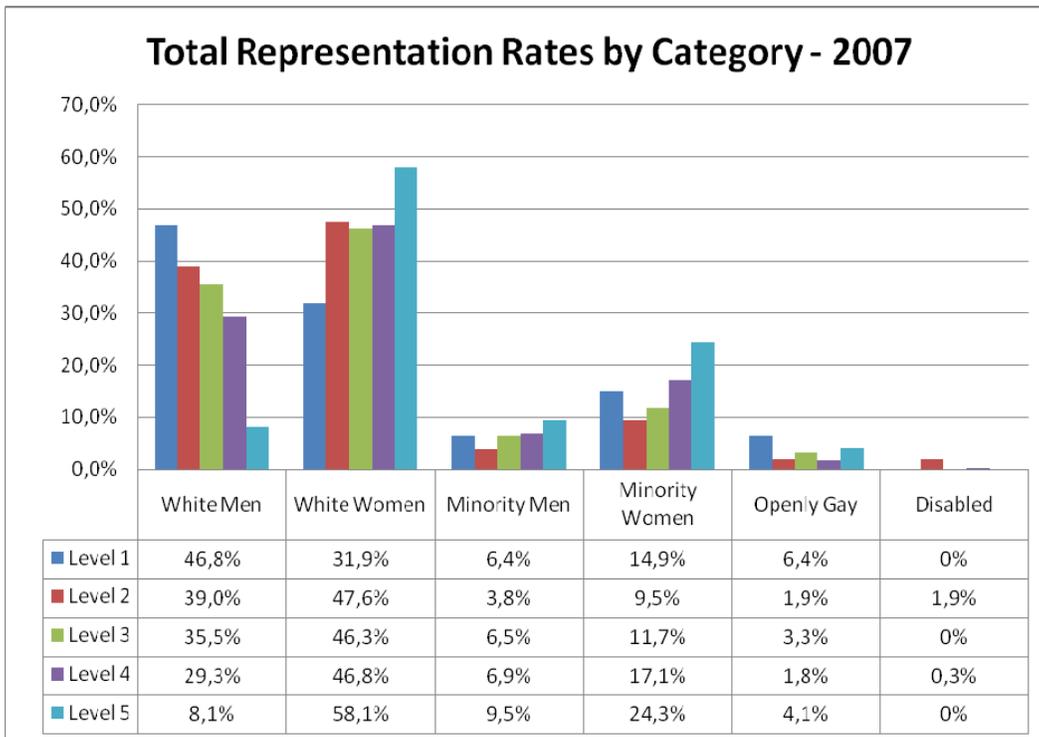
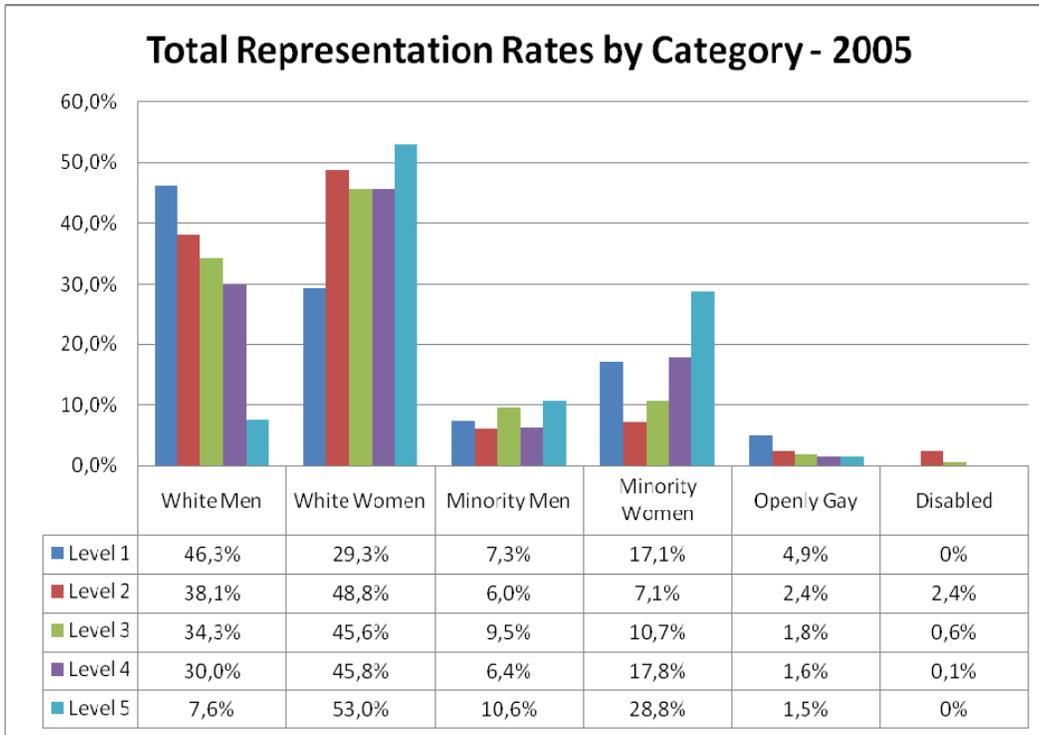
Minority Women are represented at a slightly higher rate than minority males. Between 2005 and 2007, they experienced an increase in representation at Levels 2 and 3 that augurs well for future leadership position, but a decrease at the highest Level 1 as well as Level 4.

White Women

For both 2005 and 2007, White Women represent that largest demographic cohort in Levels 2 through 4. While White Women are were underrepresented in Level 1 as compared to all other levels, they were able to increase their representation at the highest position by 2.6 percent, increasing from 29.3 percent to 31.9 percent. In viewing the representation rates by category, it is clear that White Women are underrepresented but catching up in Level 1, with nearly identical rates in Levels 2, 3 and 4.

Levels 1 through 4 are attorney positions while those holding Level 5 positions are non-attorneys.





III. Methodology

Development of the Survey

The Process

Survey participants included public interest and civil rights law firms located in New York State. The initial list of the participants of the survey was compiled from various sources. The New York Leadership Project (NYLP) provided the Center for Equality, Pluralism and Policy (CEPP) with an initial list of legal services organizations. CEPP's staff supplemented this list with additional organizations collected from various internet sources. After researching pro bono legal providers in New York State using various search engines and Baruch College Library resources, the contact information and names of the organization's Executive Director, managing attorneys or human resources managers were retrieved from each organization's website.

After completing the research process, and finalizing the survey instrument, CEPP had to apply for approval of the study by the Institutional Review Board (IRB) of the City University of New York (CUNY). According to the CUNY guidelines, every study that involves human subject research has to be approved by the IRB of the college. The approval process is extremely prolonged and complicated. CEPP had to prove that the study would not create risks for the survey subjects. The benefits of the research to the subjects had to clearly outweigh the potential risks that the survey might have on them.

The benefits to the organizations for completing the survey were numerous. First, it would raise awareness about the makeup of staff at legal organizations with respect to race, sex, and sexual orientation and disabilities. Second, it would highlight the diversity policies that these organizations currently implement that could be shared with other legal services organizations. Finally, the survey results could leverage new funding to support leadership development for members of diverse groups so that those members will be better prepared to attain upper management positions. The potential for funding for leadership development programs and seminars could encourage more classes that might lead more legal services programs to institutionalize their commitment to diversity.

CEPP believed that the diversity survey should be exempt from IRB approval because it is "research that involves the collection or study of existing data, documents, records, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects." (City University of New York Institutional Review Board (IRB) Application for Approval to Use Human Subjects in Research, p. 7)

Information that we requested from the survey participants was being recorded in such a manner that legal services providers and civil rights firms would not be identifiable. We were gathering information to pool together a composite profile that depicted demographical makeup of the staff employed at the legal services providers and civil rights firms. The purpose in doing so was to illustrate that there is a lack of diversity among employees at the leadership level in these agencies. It would be nearly impossible to identify a firm's individual data since we would

compile all the information together. Therefore, we requested exempt status since there is no manner in which subjects could be identified.

CEPP had to also describe in detail every step made towards implementation and completion of the study. IRB was provided with the memo that would be sent to the participants, and the actual survey instrument. The application described the purpose of the study, the means that would be used to inform participants about the voluntary nature of the survey, and to obtain consent to contact the survey subjects via phone or email, and how the results of the survey would be treated and kept safely by protecting identities and confidential information of the participants. According to the IRB level of risk, this survey can be considered to present a low level of risk to the survey subject, e.g. executive directors. They might feel uncomfortable providing demographic information which would most likely show the lack of diversity present in their firms. The risk present however, was offset by the voluntary nature of the survey, which was clearly indicated in the letter sent to the participants of the study.

Together with the hard copy of the survey, CEPP sent out letters to approximately 125 agencies informing them about the purpose of the study. The letter also contained a link to a website where the survey could be completed online.

The letter stated that participation in the survey was voluntary and would not affect any funding decisions made by the IOLA Fund in the future. By completing the survey, the organization was giving informed consent to participate in the survey and agreed to allow CEPP to use their data in an anonymous fashion. The informed consent letter also affirmed that the survey results would remain confidential and that only CEPP employees would have access to any individual agency or firm's data. If an organization requests a copy of its survey results, then CEPP would provide that group with its own results. The letter also stated that the CEPP staff might contact the organization by phone in the near future to confirm their contact information and to see if the organization has received the survey.

Shortly after mailing out the survey, CEPP also reached out to the respondents by phone and requested email addresses of the persons responsible for completing the survey, which might include executive directors, managing attorneys or human resource managers of the legal service providers. Subsequently, emails including the letter and online survey link were sent to these email addresses. In addition, there were several cases when the respondents requested a hard copy or an electronic version of the survey.

CEPP staff also followed up with two consecutive phone calls to the participants who did not complete the survey to ensure their completion.

Data received by mail and electronically was entered in an Excel spreadsheet. Names of the organizations were converted into numbers, so that the respondent could not become identifiable by accident. The survey results are being kept at the CEPP office and the data is stored on a secure server. The only parties who have access to the raw data and can identify each individual agency include CEPP employees who are working on analyzing the survey.

CEPP has multiple layers of data security in place:

- Access to the Baruch College building that houses the Center is controlled by CUNY Public Safety Officers at all entrances. Video cameras monitor other areas of the campus around the clock. Only those with a CUNY ID are able to enter the building.
- The computers on which data analysis is conducted are in a locked office. These computers require log-in passwords.
- Access to the data is password protected. Only the PI, co-PI and one graduate assistant have access.
- Once the data was analyzed it was declassified and stripped of any identifiers. This data was removed from hard drives and stored on CD-ROMS in secure cabinets. The data and the contact lists are stored on separate discs in separate locations.

The Survey

CEPP created the survey with assistance and advisement from the NYLP and Baruch College Survey Research Unit. The survey is divided in two parts: demographic spreadsheet and a questionnaire. The demographic spreadsheet includes questions regarding the amount of staff, their race, gender, disability or sexual orientation at various management levels of the organization. This spreadsheet serves as a tool to clarify how many people from diverse groups are employed by legal services providers and what level positions they occupy within the organizational hierarchy.

The employees of the organization were divided up in 5 categories: Head of Organization, Department Heads and Bureau Chiefs, Supervising Attorneys, Non-Supervising Attorneys, Other Top Management (non-attorneys). Each of these five categories was divided in three sub categories: Full time (Standard Schedule), Formal Full Time (Flexible Work Arrangements) and Formal Part Time (Flexible Work Arrangements) positions. The Survey asked the respondents to provide this information for Representation as of January 2007 and December 2005, with interim Hiring and Voluntary Attrition rates for the year of 2006.

The questionnaire asked respondents about the demographic profile of the clients of the organization. Respondents were asked to rate dedication of their organization to diversity, if they had implemented or were planning to implement any diversity programs in the near future, and related questions. Based on literature review conducted for the study, some of the most common affirmative action/ diversity programs were identified on the questionnaire. Respondents were asked whether they had implemented any of these programs in their organizations. These programs include: Recruitment/Outreach Program; Ethnic/Racial Sensitivity Program; Cultural Competency Program; Mentorship Program; Hiring Program In-House Training Program; Promotion & Retention; and Periodic Staff Retreats. Respondents were also given the option of describing any other program they may have developed to enhance diversity at their organizations.

Organizations were also asked if they had any institutionalized policy to address diversity issues and what impact did their affirmative action/diversity program have on the overall diversity of the office. In addition questions were asked about organizational recruitment, hiring, training, retention, and promotion policies. We included questions to ascertain if the diversity policies adopted had been institutionalized: for example, if there existed any incentives, such as awards or bonuses in the organization to acknowledge and support achievement of diversity goals and whether the organization identified lack of diversity as an issue of concern. Respondents also had to classify some of the barriers to developing new leaders from diverse racial and ethnic backgrounds, such as: salary, lack of pension/retirement benefits, isolation, lack of mentors, lack of role models, lack of peers, management style or other.

The Survey also asked what practices, if any, that the organization uses to address the issue of minority representation within upper management and /or leadership level. The specific practices mentioned included Mentoring, Diversity Training, Leadership Development Training, Diversity Committee or other. Other questions asked if the respondents felt that their agency had a fair representation of minorities at the upper management or leadership level of the organization and whether minorities and non-minorities have the same opportunities for advancement to upper positions within the organization. Another part of the puzzle was the turnover rate and/or retention strategies experienced by the organization: 1) whether the attrition rate was the same for minority and non-minority staff and 2) had the organization developed any strategies for retaining minority staff intent on leaving the organization for other opportunities.

Finally we asked whether the organization filling any open leadership positions was doing so from outside or within the organization as a point of comparison. Respondents were also asked if they had in place any of these specific programs: Mentoring Programs; Advanced Professional Classes with Tuition Reimbursement; Substantive Law Programs; Leadership Development Seminars; Professional Development Conferences with Travel Reimbursement; or Other. At the end of the survey, respondents were also offered an opportunity to make any general comments about minority recruitment, retention, or leadership development strategies and share their experiences regarding these programs.

IV. Analysis of Survey Results and Study Findings

In the Questionnaire, we were seeking information on specific diversity policies and programs adopted by legal services organizations and public interest law firms. Of the 125 surveys we sent out, we received responses from 42 organizations, most of whom were legal services providers with only a few responses from public interest law firms. While the sample was smaller than we would have liked, the groups that participated provide a broad cross section of small to large legal aid groups with about half, 19 of 42, from the New York City and the balance from other areas in New York State.

Section A. New York Leadership Group Questionnaire

Questionnaire Results

1. Demographic profile of attorneys working for each organization will be reported in Section B of the Survey Results
2. Demographic profile of New York legal services clients (estimated percentages):

Number of Groups Responding to Question 2: 38 out of 42

Client demographics represented in chart form:

15.8 percent of the providers have 2-4% American Indian/Alaskan Native clients with most of the groups, 84.2 percent, having 1 percent or fewer American Indian/Alaskan Native clients.

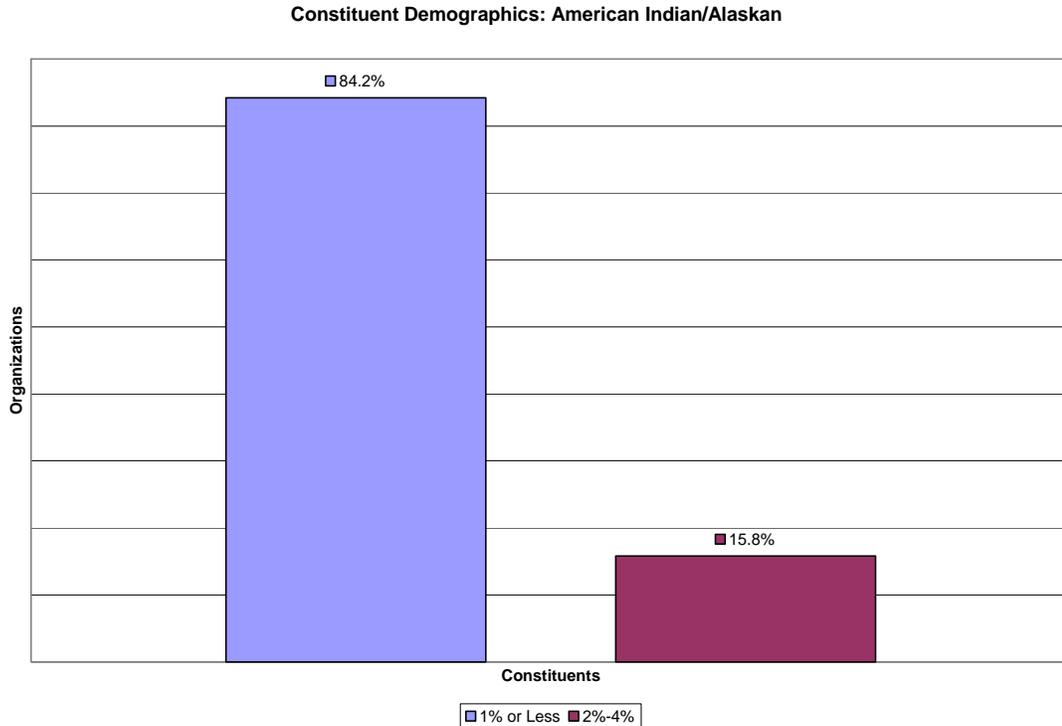
67 percent of the providers represent Asian/Pacific Islander clients in the range of 1-4 %; just over a quarter of the groups, at 28.5 percent, have between 5-15 % Asian/Pacific Islander, with 3.5 percent of groups representing a predominantly Asian/Pacific Islander population at 95 percent.

Over one-third of the providers, at 37.9 percent, have a Black/African American client population in the 30-39 % range; another one-quarter of the groups, some 24.9 %, have Blacks/African Americans clients in range of 40-55 % with the remaining groups at 18.9 percent representing Black/African American clients in the ranges of 1-14 % and 15-29 %, respectively.

Nearly 40 percent of the providers represent Hispanic clients (who may be of any race) in the 1-14 % range and nearly a quarter of the providers have a Hispanic client range from 15-29 %. 21 percent of the groups have Hispanic clients ranging from 30-49 % with 15.8 percent of the providers representing 50-85% Hispanic clients.

Nearly one-third of the providers, 30.1 percent had White clients in the 30-49 % range while another quarter of the providers had a White client range of 50-97 %. 27.8 percent of the providers had low numbers of White clients at 1-14 %, while another 16.7 percent of the providers had a 15-29 % White client base.

Two-thirds of the provider, some 65.2 percent, had few Multi-racial clients at 1-4 %. The remaining providers at 34.8 percent had a surprising 5 to 15 % Multi-racial clientele. Only one provider reported “Other” for racial/ethnic group data and that client base was 6 %.

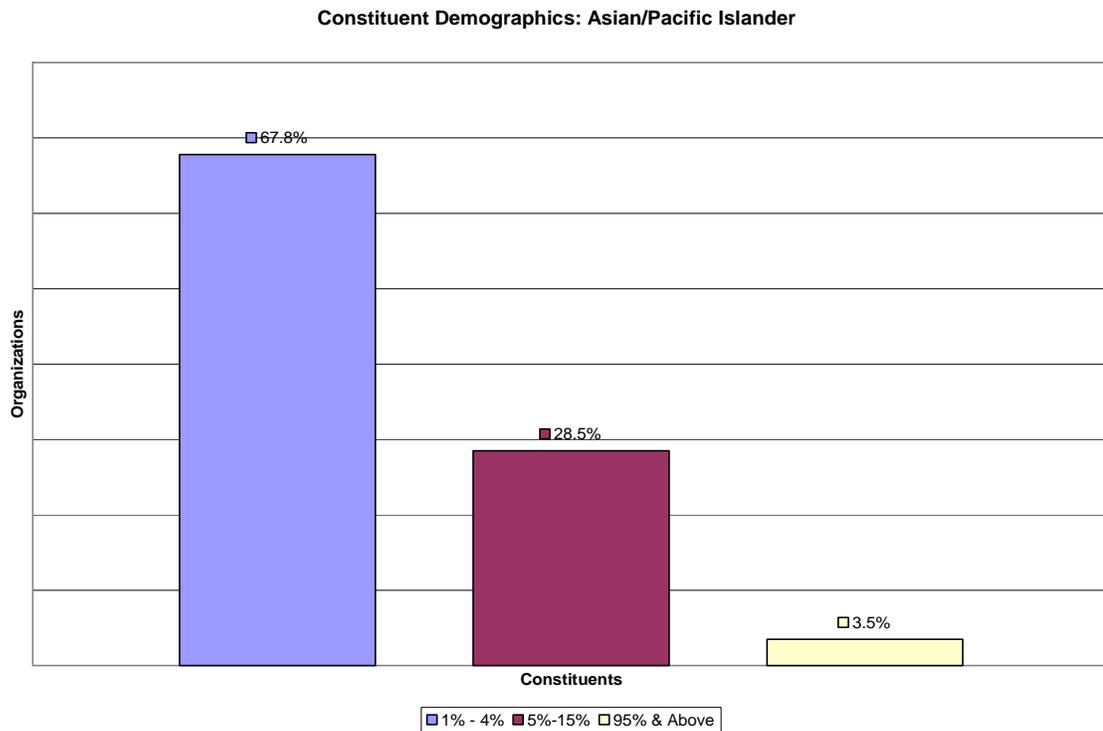


As this chart shows, over 84 percent of the Survey participants represent American Indians and Alaskan natives at the rate of 1 percent or less, while 15.8 percent of the participants have American Indian and Alaskan native clients in the 2 to 4 percent range. As the statistics from LSC noted earlier reflect, nationwide Native Americans are approximately 2.3 percent of all LSC clients with Native American attorneys at 1.7 percent (LSC Factbook 2007).

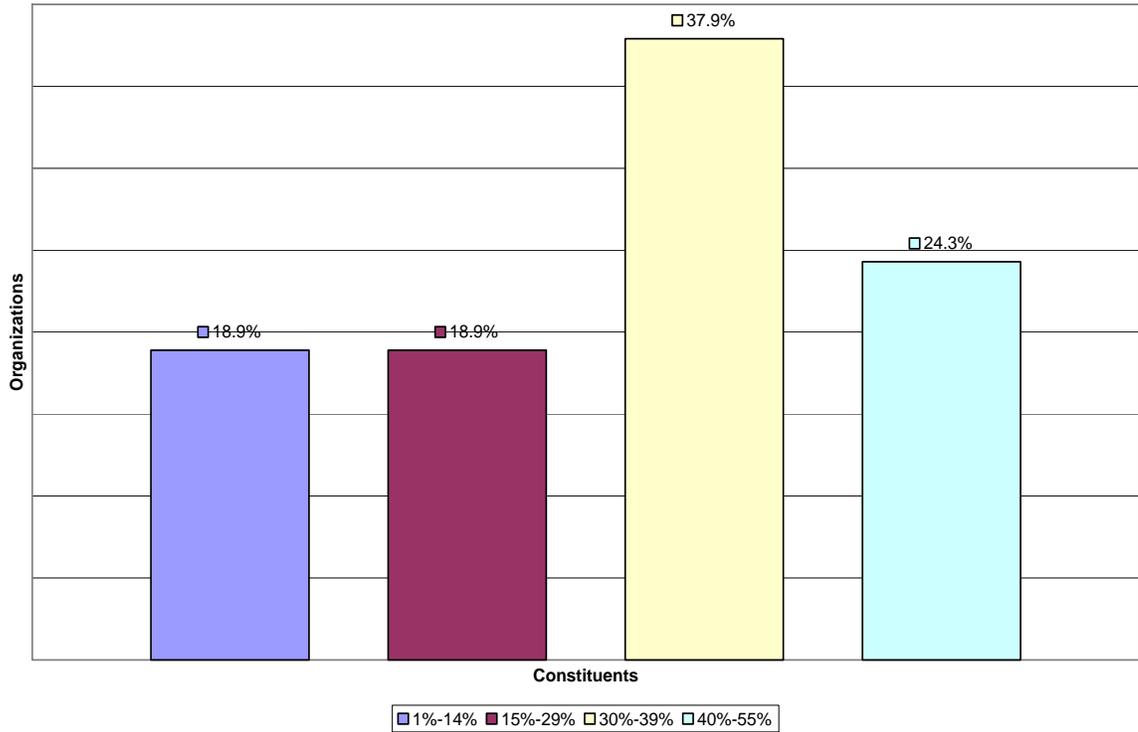
As the following charts reveal, the client base of the Survey participants follows a similar pattern. The majority of participants, 67 percent, represent only 1 percent Asian/Pacific Islanders clients; this figure contrasts with LSC national figures that show 2.4 percent of legal aid clients are Asian/Pacific Islander with A/PI attorneys at 3.8 nationwide. For Blacks/African Americans clients, nearly one-quarter of Survey participants have 40 to 50 percent black client base; over 37 percent represent 30-39 percent African American clients. These statistics are quite higher than the LSC’s national demographic of 25.1 percent African American clients. Black attorneys nationally are 17.8 percent according to LSC.

The largest percentage of Survey participants, 39.5 percent, have 15 percent or less Hispanic clients, with 36.8 percent of the participants representing 30 percent or more Hispanic clients. Nationally, Hispanics are about 20.3 percent of LSC clients and some 18.8 percent of LSC attorneys are Hispanic. Survey participants, some 55.5 percent, represent 30 percent or more White clients as compared to 46.4 percent White clients nationwide. White attorneys are 57.1 percent of LSC attorneys nationally. In the providers’ self-assessment we did not ask them to identify areas of diversity other than race. As Standard 2.5 provides, legal services providers can

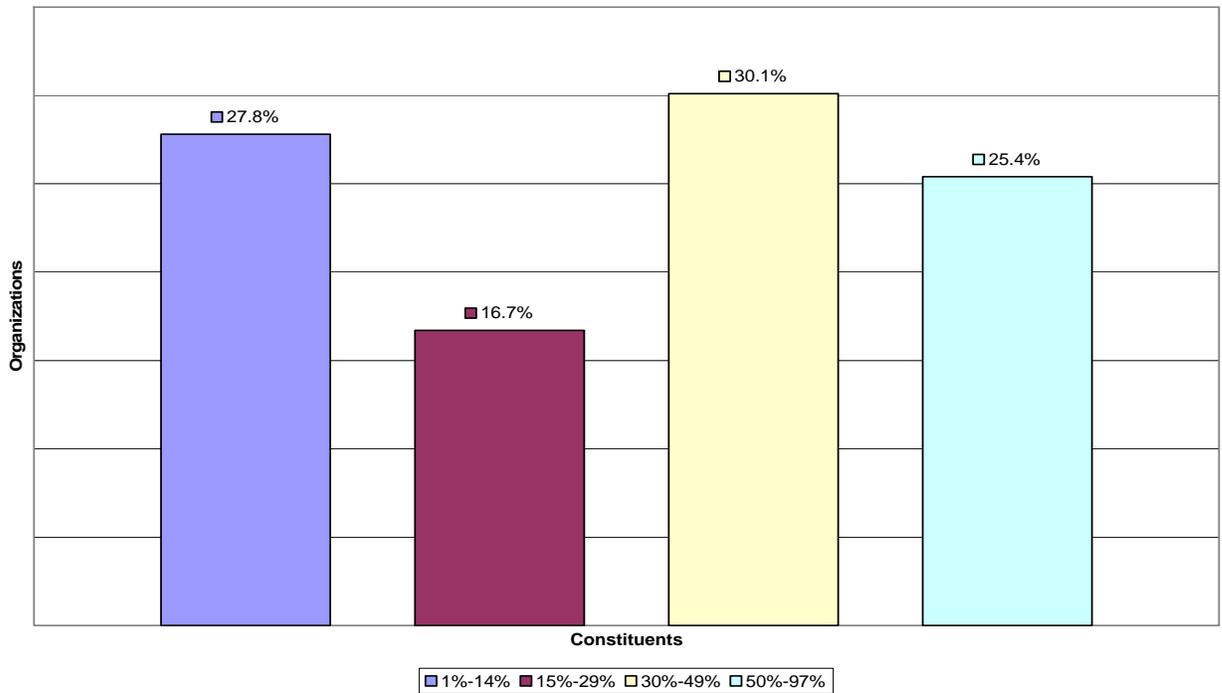
meet their goal of enhancing the diversity of their offices by adding attorneys and staff from low-income backgrounds. When attorneys and staff have backgrounds in common with that of the clientele, it helps with communication and in showing the range of diversity. Future surveys may wish to include a few questions about class consistent with Standard 2.5.



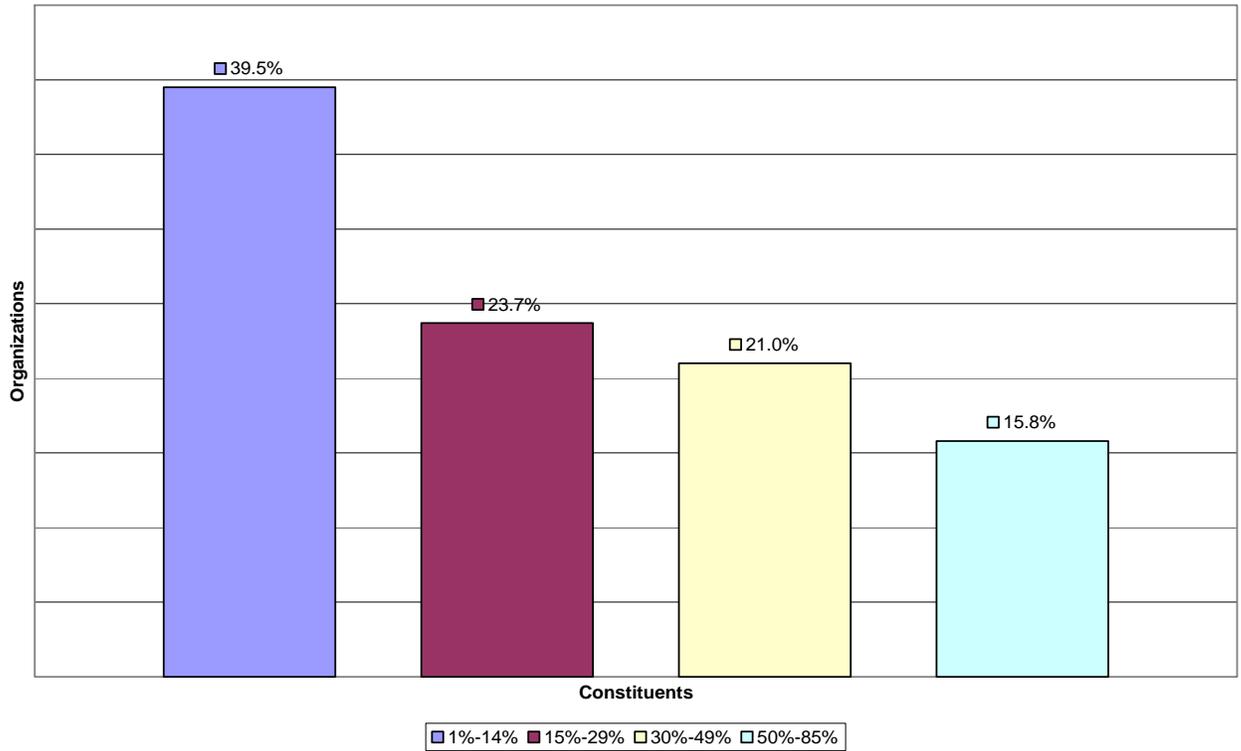
Constituent Demographics: Black



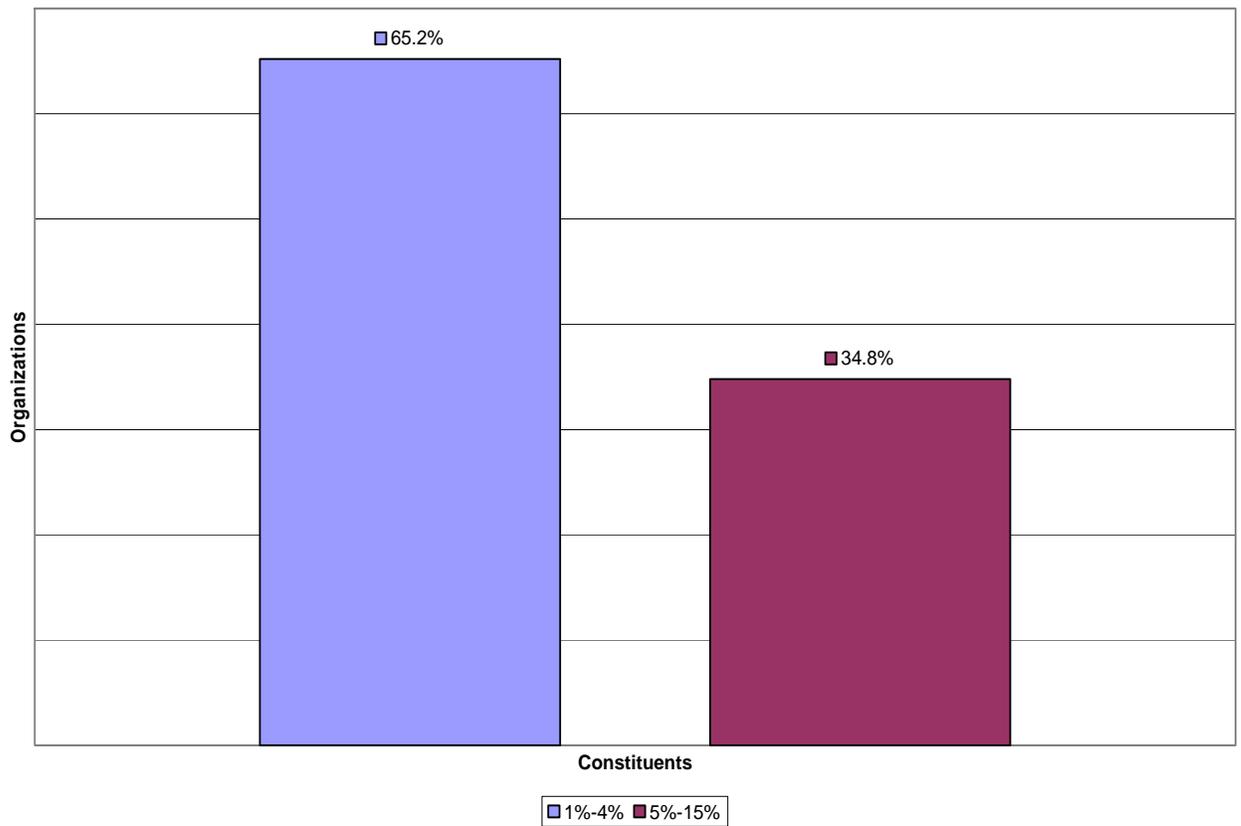
Constituent Demographics: White



Constituent Demographics: Hispanic



Constituent Demographics: Multi-Racial



3. Agency/firm's dedication to diversity (1=not dedicated; 5= extremely dedicated):

1-- 2.4% (1/42)

2 --2.4% (1/42)

3 --14.2% (6/42)

4 --31% (13/42)

5 --50% (21/42)

34 of the 42 groups responded indicated a strong dedication to diversity

4. Agency/firm has adopted a formal affirmative action and/or diversity program?

Yes 59.5% (25/42)

No 35.7% (15/42)

Don't Know 4.8 (2/42)

A. If not, any plans to create an affirmative action/diversity program in the near future (within 3-6 months)?

Yes 7.1% (3/42)

No 14.3% (6/42)

Don't Know 26.2% (11/42)

No Response 52.4 (22/42)

B. If so, describe the program (check all that apply*) 29 of 42 groups responded

Recruitment/Outreach Program	82.8%	24/29
Ethnic/Racial Sensitivity Program	34.5	10/29
Cultural Competency Program	27.6	8/29
Mentorship Program	31.1	9/29
Hiring Program	48.3	14/29
In-House Training Program	41.4	12/29
Promotion & Retention	41.4	12/29
Periodic Staff Retreats	24.2	7/29
Other (Please describe):	10.4	3/29
Don't Know	6.9	2/29
No Response	31%	13/42

*Due to multiple answers, total will exceed 100%

5. Program has an institutionalized policy (responsible individual or internal group) to address diversity issues? If so, please describe:

Yes 35.7% (15/42)

No 26.2% (11/42)

Don't Know 2.4% (1/42)

No Response 35.7% (15/42)

For the programs that had a policy, 11 described a Formal Structure, 2 groups indicated an informal structure, and 1 group named the Executive Director as the responsible individual.

A. Agency/firm has assessed the impact of the affirmative action/diversity program on your organization's overall diversity?

Yes 21.4% (9/42)

No 54.8% (23/42)

Don't Know 9.5% (4/42)

No Response (2 N/A) 14.3% (6/42)

If Yes, what impact did the adoption of a formal affirmative action/diversity program have on the agency/firm?

Positive impact 8/42

No Discernible impact 3/42

Negative impact: None reported

Don't Know 4/42

B. On a scale from 1 to 5, Assess the impact of any policies that apply to agency/firm's overall level of diversity (1=Not Effective to 5=Excellent Effectiveness; Groups added the "0" category),

C. Providers' responses in bold.

Number of providers responding: 33/42

No Response (1 N/A): 9/42)

Effectiveness of recruitment policy:

0 -- 1 **2** 2_6_ 3_13_ 4_10_ 5_1_ N/A 1

Effectiveness of hiring policy:

0 – 1_1_ 2_5_ 3_10_ 4_11_ 5_4_ N/A 2

Effectiveness of training policy:

0 **5**_ 1_2_ 2_4_ 3_10_ 4_7_ 5_4_ N/A 2

Effectiveness of retention policy:

0 **5**_ 1_2_ 2_3_ 3_11_ 4_8_ 5_3_ N/A 2

Effectiveness of promotion policies:

0 **3**_ 1_2_ 2_2_ 3_9_ 4_13_ 5_2_ N/A 3

Only 1 provider gave a 5/Great effectiveness to its recruitment policy;
 4 providers rated their hiring policies as 5/Great effectiveness;
 4 providers rated their training policies as 5/ Great effectiveness;
 3 providers rated their retention policies as 5/Great effectiveness; and
 2 providers rate their promotion policies as 5/Great effectiveness

C. Does the agency provide any incentives (awards or bonuses) if management’s diversity goals are achieved?

Yes 0%
 No 95.2% (40/42)
 Don’t Know 4.8% (2/42)

6. Has the organization identified lack of diversity within the leadership ranks as an issue of concern?

Yes 45.2 (19/42)
 No 50% (21/42)
 Don’t Know 2.4% (1/42)
 No Response 2.4% (1/42)

A. What are the barriers to developing new leaders from diverse racial and ethnic backgrounds (indicate in order of priority from 1 to 5, with 1=least important barrier; 5=most important), Providers' responses in bold.

Number of groups responding: 37/42*
 No Response (1 N/A): 5/42

Salary:	1_14_	2_0_	3_4_	4_4_	5_8_
Lack of Pension/Benefits:	1_12_	2_0_	3_2_	4_4_	5_2_
Isolation:	1_7_	2_3_	3_2_	4_2_	5_2_
Lack of Mentors:	1_4_	2_4_	3_7_	4_1_	5_1_
Lack of Role Models:	1_8_	2_3_	3_6_	4_3_	5_0_
Lack of Peers:	1_7_	2_2_	3_5_	4_3_	5_0_
Management Style:	1_12_	2_2_	3_2_	4_0_	5_0_
Other barriers (specify):					

Funds for education/
 Student loans: 2 providers
 Limited Language
 skills: 1 provider
 Lack of applications/
 Limited pool of diverse
 attorneys: 5 providers
 Upstate Office/Hard to
 retain diverse attorneys: 3 providers
 Few Promotion chances: 1 provider

8 providers gave Salary a 5/Most Important Barrier;
 2 providers gave Lack of benefits a 5/Most Important Barrier;
 2 providers gave Isolation a 5/Most Important Barrier; and
 1 provider gave Lack of Mentors a 5/Most Important Barrier

30/37 providers listed Salary as a barrier
 20/37 providers listed Lack of benefits as a barrier
 20/37 providers listed Lack of Role Models as a barrier

Providers in New York City were more likely to list Salary as a barrier: providers upstate were more likely to list Lack of Role Models and Lack of Pension/Retirement Benefits as barriers.

*Some providers checked off a category but did not rank the category: unranked choices are listed under Rank Number 1

B. If agency/firm has addressed the issue of minority representation within the upper management and/or leadership levels, please indicate whether any of the following practices were implemented (check all that apply):

13 of the 42 providers responded	
Mentoring	5 groups
Diversity Training	6 groups
Leadership Development Training	6 groups
Diversity Committee	2 groups
Other (please specify):	2 groups
AA/EEO Committee	
Conscious Diversity effort	

C. The agency/firm has a fair representation of minorities at the upper management and/or leadership level?

Yes	33.3% (14/42)
No	54.8% (23/42)
Don't Know	7.1% (3/42)
No Response (1 N/A)	4.8% (2/42)

7. Minorities and non-minorities have the same opportunities for advancement to leadership positions in the agency /firm?

Yes	95.2% (40/42)
No	0
Don't Know	2.4% (1/42)
No response	2.4% (1/42)

8. For Overall agency/firm staff, assess the turnover rate?

Low	69% (29/42)
Moderate	28.6% (12/42)
High	2.4% (1/42)

- A. Regarding the turnover rate, describe the rate with respect to minority staff and non-minority staff (check the one that applies to your office):

The rate of turnover is the same for all employees:	80.9% (34/42)
The rate of turnover is higher for non-minority staff:	4.8% (2/42)
The rate of turnover is higher for minority staff:	9.5% (4/42)
N/A:	4.8% (2/42)

- B. Developed any strategies for encouraging minority staff to stay once they have indicated an intention to leave the agency/firm? If so, please specify.

Yes	11.9 (5/42)
No	35.7 (15/42)
No Response	47.6 (20/42)
N/A	4.8 (2/42)

Strategies Used/by groups as specified:

Meetings and negotiations	2 groups
Internal Job Change	2 groups
Leadership Development	1 group

9. When filling leadership positions, hire professionals from outside the agency/firm or do prefer to recruit from within the organization?

Recruit from outside 2/42
 Recruit from inside 3/42
 Do both 34/42

10. The agency/firm currently offers the following programs (check all that apply):
 36 of the 42 groups responded:

Mentoring programs	22.3% (8/36)
Advanced Professional Classes with tuition reimbursement	25% (9/36)
Substantive Law Programs	61.2% (22/36)
Leadership Development Seminars	50% (18/36)
Professional Development Conferences with travel reimbursement	72.4% (26/36)
Other (please specify):	14% (5/36)
EAP Training	
CLE	
Minority law student internship	
Self designed professional development plan	

No Response: 5

No Programs: 1

11. General comments about minority recruitment, retention or leadership development strategies:

Several programs mentioned the lack of diverse candidates within the hiring pool and their difficulty in finding qualified diverse candidate. Programs in upstate New York noted the dearth of diverse candidates to even consider and that when they are successful in hiring, issues of isolation and lack of peers cause those employees to look for more attractive opportunities in New York City. Smaller programs lamented the problem of devoting scarce resources to minority outreach and training only to lose those candidates to larger organizations or better professional opportunities. Some of those smaller providers noted that some of the questions were simply not applicable given the size of their overall budget and staffing.

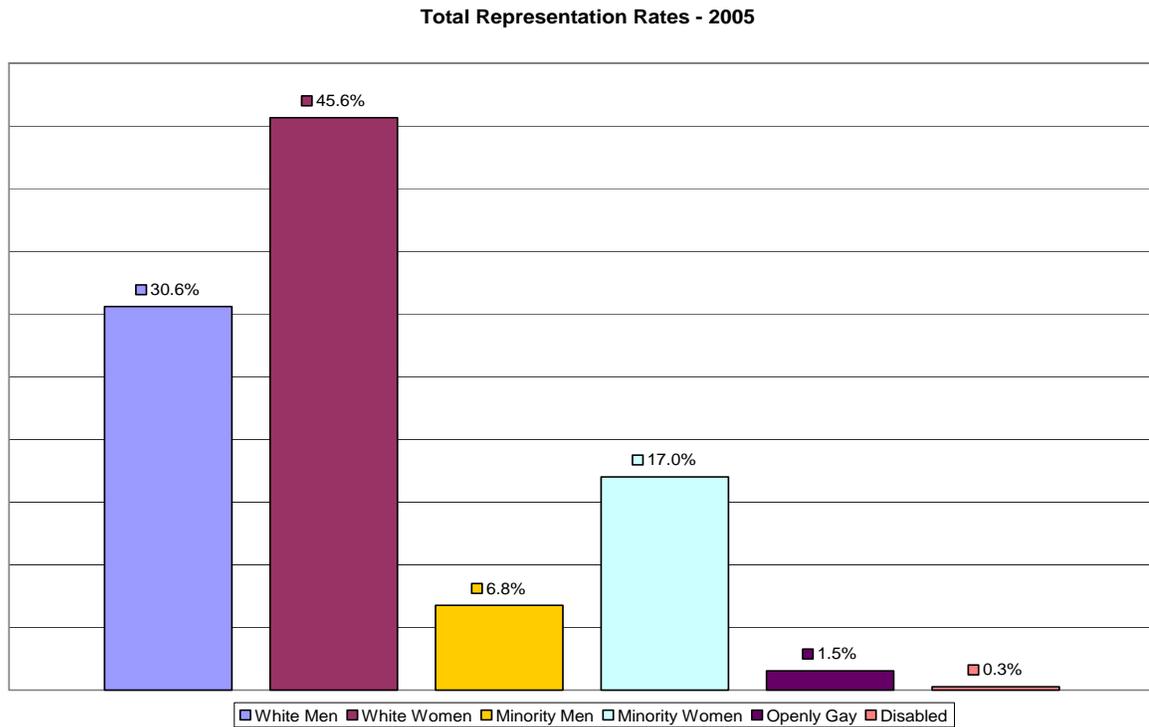
One provider stated that the commitment to diversity must come from the top supplemented by support from funders: sharing best practices to develop new programs was also recommended to avoid "reinventing the wheel." Several providers indicated that while they believed their respective organizations offered a fair chance for advancement to leadership positions for all staff attorneys, they expressed some skepticism since positions opened up so rarely. Another program expressed the hope that this survey would lead to some positive insights into the lack of diversity in legal services/legal aid groups.

One program questioned whether key barriers to improved diversity in this practice area in the law are those listed in question 6A, though undoubtedly there is much more a legal services organization can do in terms of recruitment, training and leadership development. The barriers appear to be largely structural issues of the legal profession - largely having to do with the cost of legal education. This program, which is not a traditional legal services provider, is considering ways to sponsor members of its organization to attend law school and receive mentorships and support during the process, as well as other similar strategies. The program would like to see some substantive work/data on why law students of color and from working class and poor backgrounds do not end up doing public interest law, and why those same groups are substantially underrepresented in law school in general.

Section B. Leadership New York Demographic Data Sheet

The information provided by the participating organizations and firms is presented graphically in the following series of charts.

We begin with a review of the demographic breakdown by gender, minority status, sexual orientation and disability. White women are the largest group representing nearly half of the attorneys working for the participating groups at 45.6 percent. The next largest group consists of White men who account for almost a third of the staff at 30.6 percent. Minority women follow at 17 percent and the remaining groups are Minority men at 6.8 percent, Openly Gay attorneys at a mere 1.5 percent and Disabled staff at less than 1 percent.

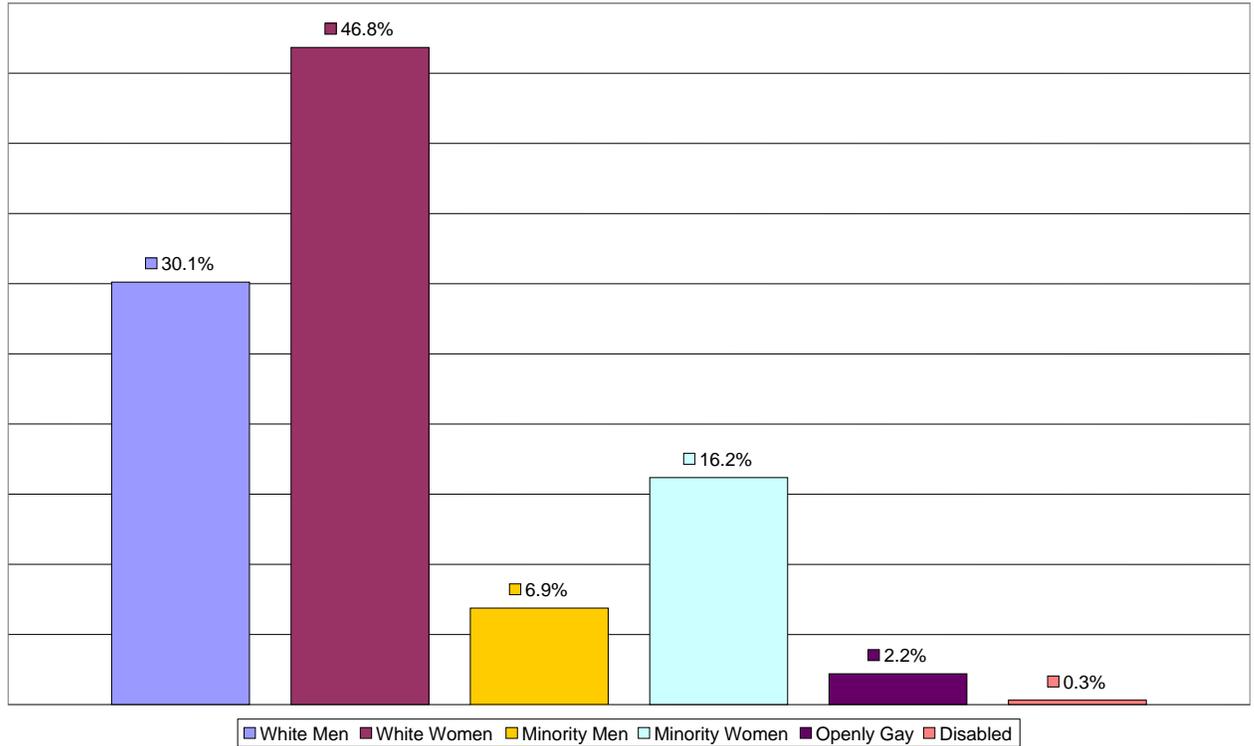


The size of the offices represented range from 2-person operations to major legal aid organizations in multiple locations employing thousands of attorneys and staff. The average size for a majority of the offices is about 25 attorneys.

The 2005 to 2007 period analyzed in this survey is the same period reflected in the census data charts shown at the end of Section II. The demographic data described in the following charts was captured from the demographic data sheet developed by the City Bar of New York and attached in the Appendix.

For 2007, the total number of attorneys working for the participating groups total 3,768. While 42 groups participated in the Survey, two of those groups provided data insufficient to be included in the demographic analysis. As a result N=40 groups.

Total Representation Rates - 2007

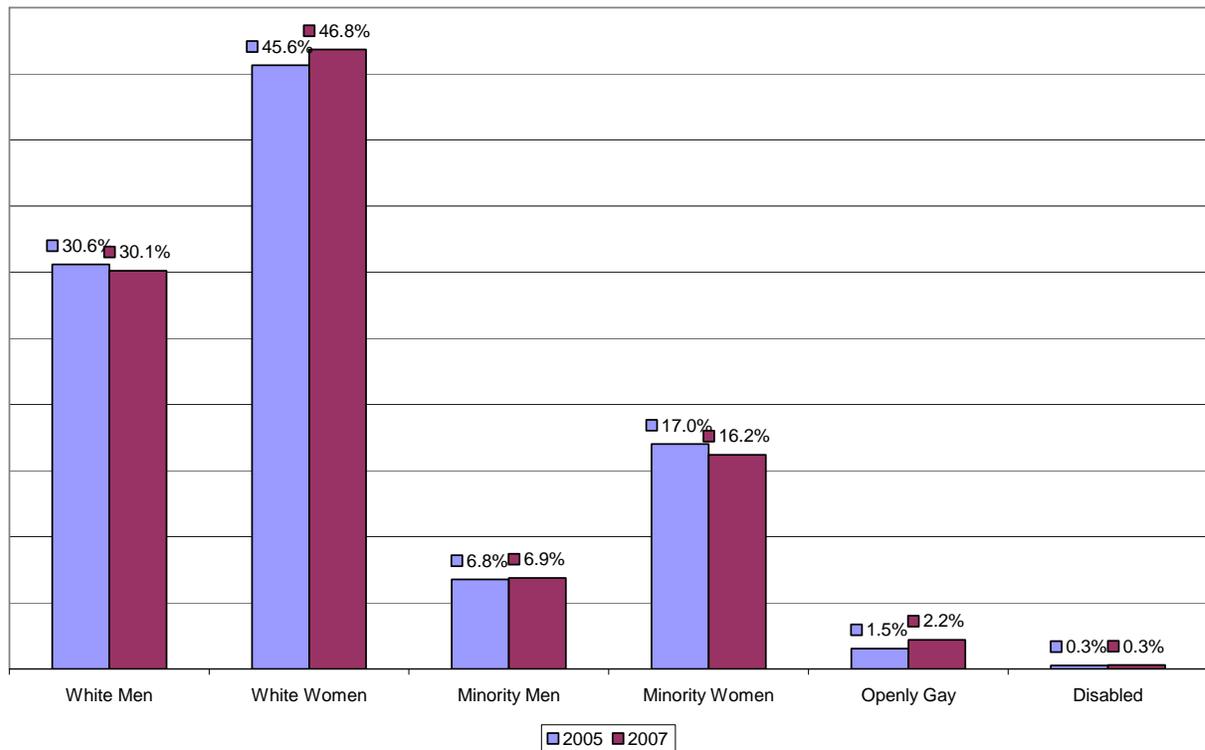


Over the 2-year period encompassed by the Survey, White women increased their proportion just over a point from 45.6 to 46.8 percent. White men held steady losing less than .1 percent. Minority women lost ground dropping from 17 percent to 16.2 while Minority men increased by a mere .1 percent. Openly Gay attorneys improved their numbers from 1.5 percent to 2.2 percent and Disabled attorneys were unchanged at 0.3 percent.

In order to have a more complete picture of the hiring, attrition, and work expected at each employment level, we sought data on attrition and hiring rates for the interim Year 2006. Putting this data together with the employment levels will help to illustrate various trends such as which groups are being recruited and which ones are leaving.

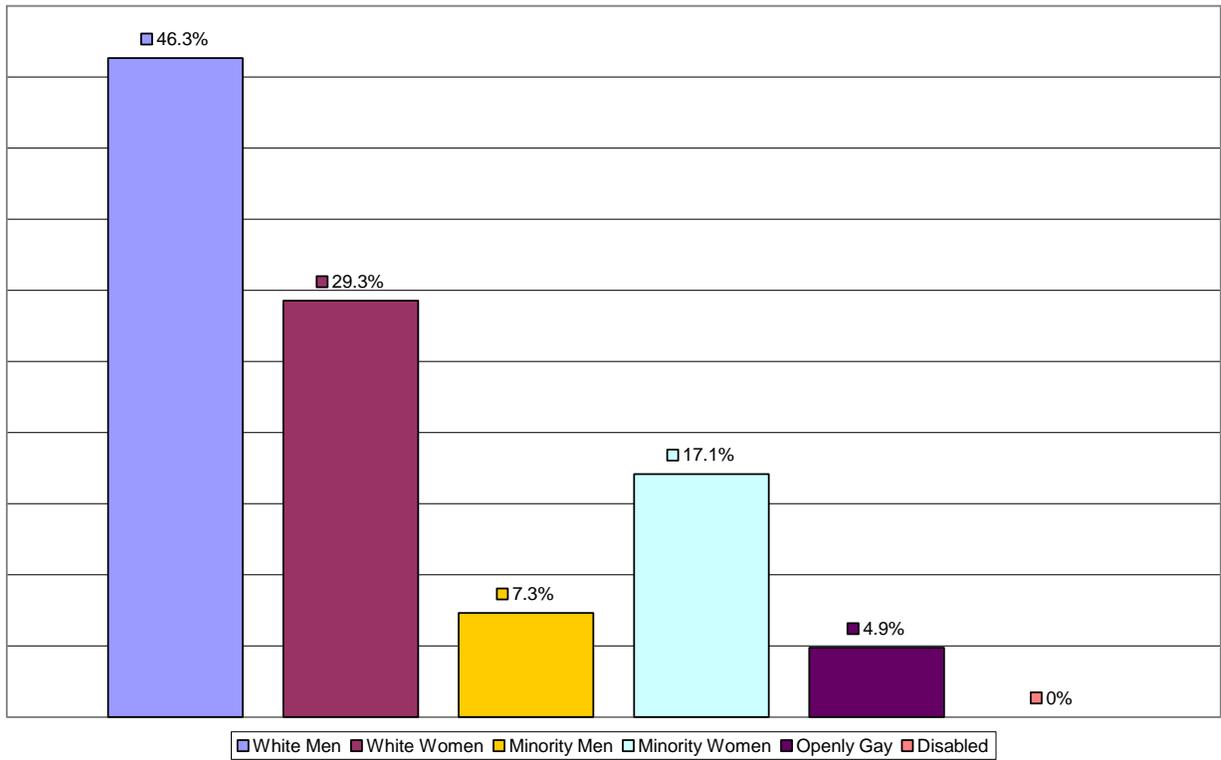
Level 1 is the highest leadership level in each organization run by the Head of the organization such as an Executive Director. Level 2 positions are generally Deputy Directors that prepare employees in those positions for future advancement. Level 3 positions are Supervising Attorneys who are charged with supervising more junior attorneys. Level 4 attorneys are staff attorneys who generally do not have major supervisory responsibilities. Level 5 positions are non-attorney management members.

Total Representation Rates 2005-2007

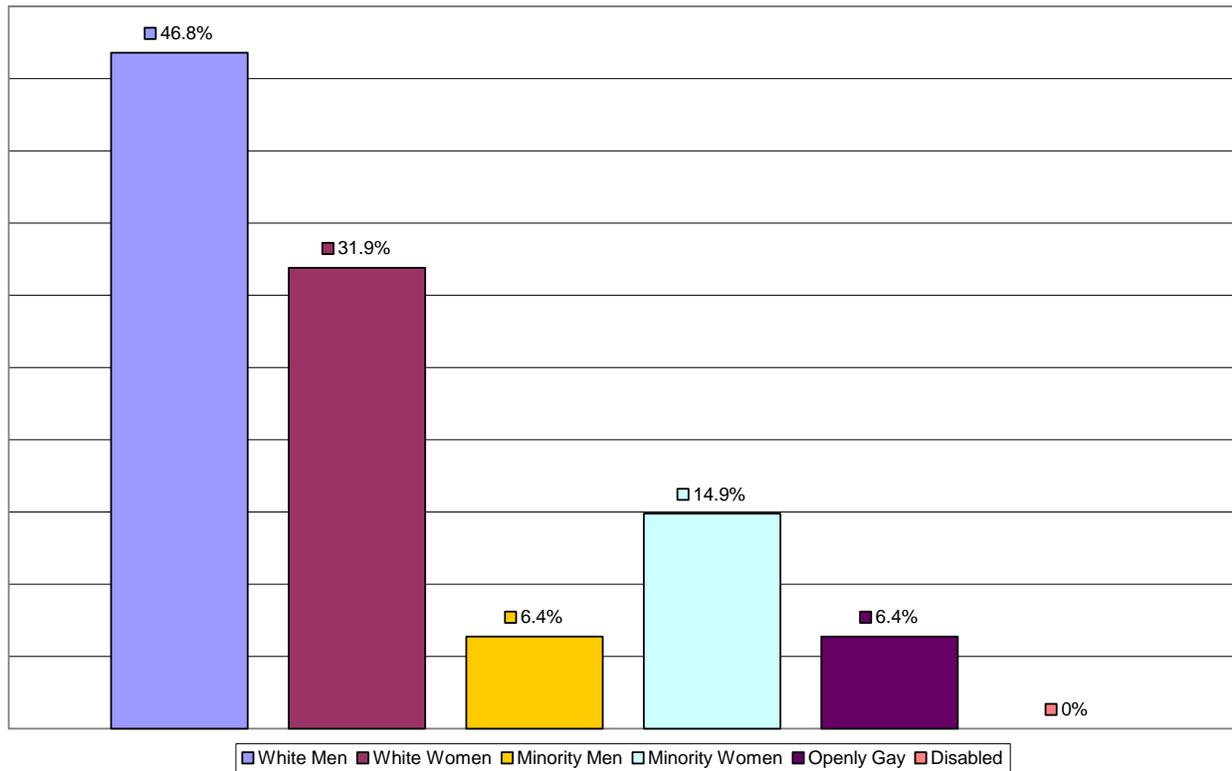


In 2005, White men account for 30 percent of the legal aid talent pool yet hold 46.3 percent of the positions under Level 1. The situation is completely reversed for women: they hold nearly half of all the jobs yet their numbers at 29.3 percent at Level 1 do not reflect that fact. Minority men account for 7.3 percent of Level 1 jobs which is slightly higher than their overall representation at 6.8 percent whereas Minority women had a 17 percent total representation that is exactly the same as their Level 1 participation. Openly Gay attorneys have nearly doubled their representation in Level 1 at 4.9 percent while Disabled attorneys are essentially not represented at this level.

Level 1 Representation - 2005



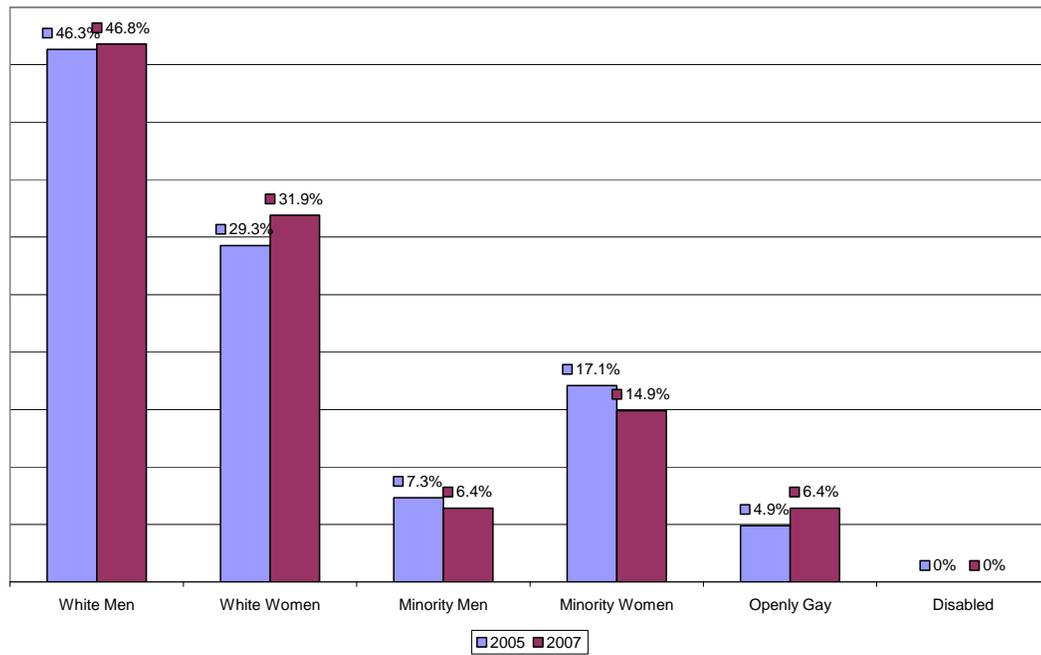
Level 1 Representation - 2007



White men are holding about the same percentage of Level 1 positions as they did in 2005. White women have slightly increased their representation from 29.3 percent to 31.9 percent. Both Minority men and women have lost ground as the men have dropped from 7.1 percent to 6.4 percent and the women have had the largest drop from 17 percent to 14.9 percent. Openly Gay attorneys continue to make progress from 4.8 to 6.4 percent while Disabled attorneys continue to be invisible.

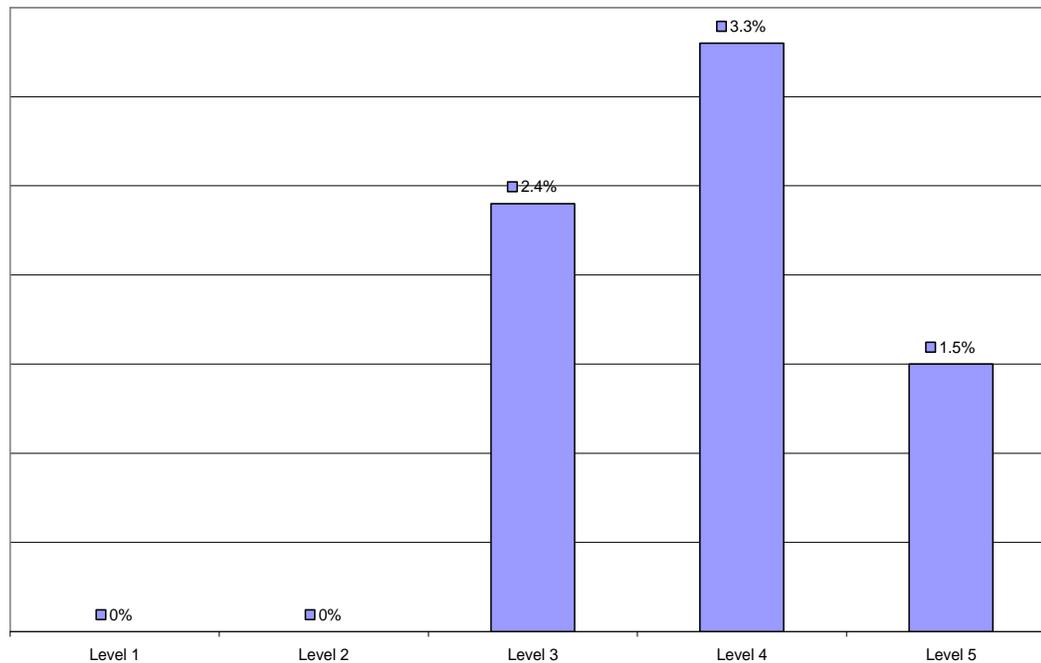
In the Survey, Level 1 leaders were asked if they felt there was a fair representation at the top management levels and 54.8 percent said no. These figures at Level 1 help to explain that result. Level 1 is the level expected to experience turnover by retirement over the next 10 to 15 years. It is very important for these legal services organizations to know who is already on board for possible future leadership positions. A more thorough examination of the demographics of Levels 2 through 5 will help guide legal aid groups interested in changing the pool of candidates eligible to apply for a Level 1 position.

Level 1 Representation 2005-2007

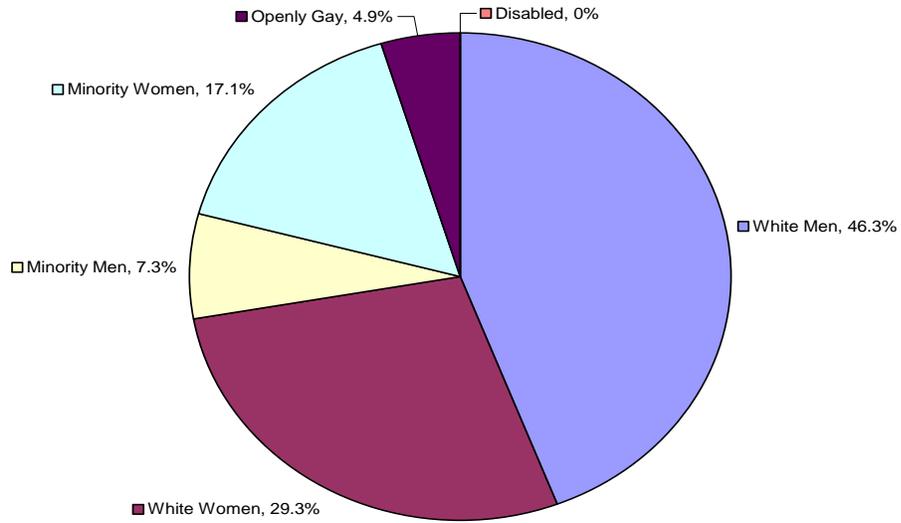


White men did not experience any voluntary attrition at Level 1 for interim year 2006. They also did not experience any voluntary attrition at Level 2 for the same period.

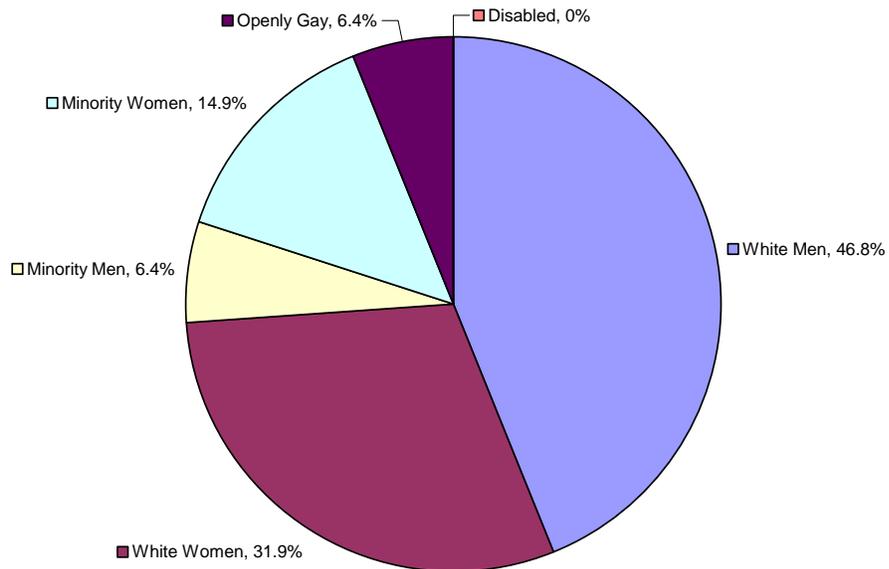
Voluntary Attrition Rates for White Men by Levels - 2006



Level 1 Representation 2005



Level 1 Representation 2007



One of the reasons the number of White men at Level 2 did not change was the absence of any voluntary attrition among this cohort during the interim year, 2006.

Level 2 is an interesting level because it is the one that very often leads to professional advancement. As an example, Eric Holder's stint as Deputy Attorney General during the Clinton Administration is one of the main reasons that his qualification to become the first black US Attorney General for the incoming Obama Administration has never been challenged. Serving in a deputy spot with competence and distinction renders the person holding that spot as eligible to take the next step.

The next chart is troubling because it shows that of the five levels, minority representation is lowest at Level 2. This means that the pipeline has not been primed to bring a greater number of eligible and qualified candidates for promotion into the talent pool. Moreover, as the two charts that follow show, the numbers for Disabled and Openly Gay attorneys reflect a decline at Level 2 from 2005 to 2007. The White women cohort is the only group that is doing well at Level 2 in terms of numbers, which means they will be eligible to make the next step forward in terms of future promotions. Minority women were able to increase their numbers at Level 2 only slightly from 7.1 to 9.5; conversely Minority men are electing to leave rather than try to move up to the Deputy position as their numbers dropped from 6.0 to 3.8 percent at Level 2.

A clear majority of the groups that participated in the Survey indicated a strong dedication to the concept of diversity with 34 of the 42 groups answering Question 3 of the Survey. That desire for a diverse workforce was further evidenced by the answer to Question 4 as the number of groups, 25 of 42, that have adopted formal affirmative action or diversity programs was close to 60 percent. But that left another 40 percent of the groups without any formal plan and over half of the groups failed to respond to Question 4(A) as to whether or not they planned to create a plan within the next 3 to 6 months.

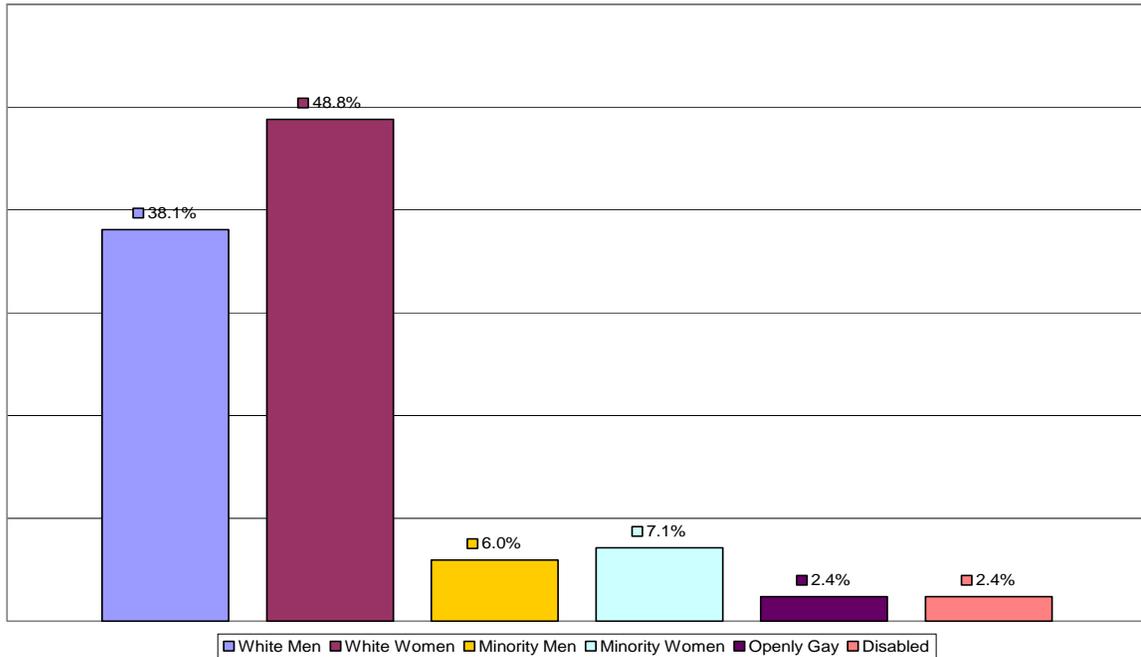
In response to Question 5, just over one-third of the programs, at 35.7 percent, had an institutionalized policy through which an internal group or responsible individual was prepared to address diversity issues. The remaining two-thirds of the programs either had no formal policy or had no response for this question.

The demographic breakdown of the program employees at Levels 2 and 3 indicate that some form of intervention is needed if the overall rate of diverse attorneys at the leadership level is expected to show any improvement. Almost half of the groups, 45.2%, indicated in response to Question 6 that the lack of diversity at the leadership ranks has become an issue of concern while a majority of the programs do not yet view this as a problem. Of the 19 providers that have identified the lack of minority representation at the upper levels as an issue, 13 specified the type of programs they have implemented to date. The two most popular approaches, utilized by 6 providers respectively, were diversity training and leadership development training.

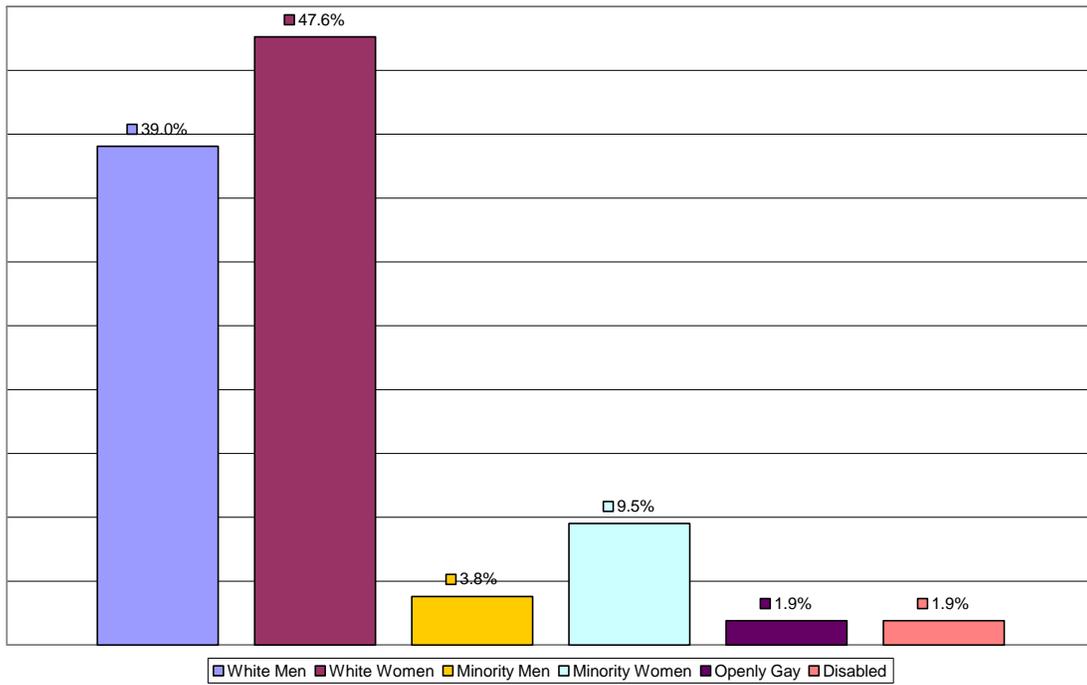
In taking a closer look at how the providers assessed their affirmative action/diversity programs, it is clear that any positive impact has been minimal at best as reflected in answers to Question 5(A). Of the 33 groups that ranked the overall effectiveness of any of their diversity policies, most of the providers rated them as just average, with only 1 provider rating their recruitment policy as extremely effective. 4 providers found their hiring programs extremely effective, another 4 programs assessed

their training policies as extremely effective, 3 providers had greatly effective retention policies and 2 gave the highest marks for their promotion policies. Of the five levels, it is Level 5 – non attorney managers -- that has the most parity between Whites and Minorities, 66.2 vs. 33.8 percent, respectively.

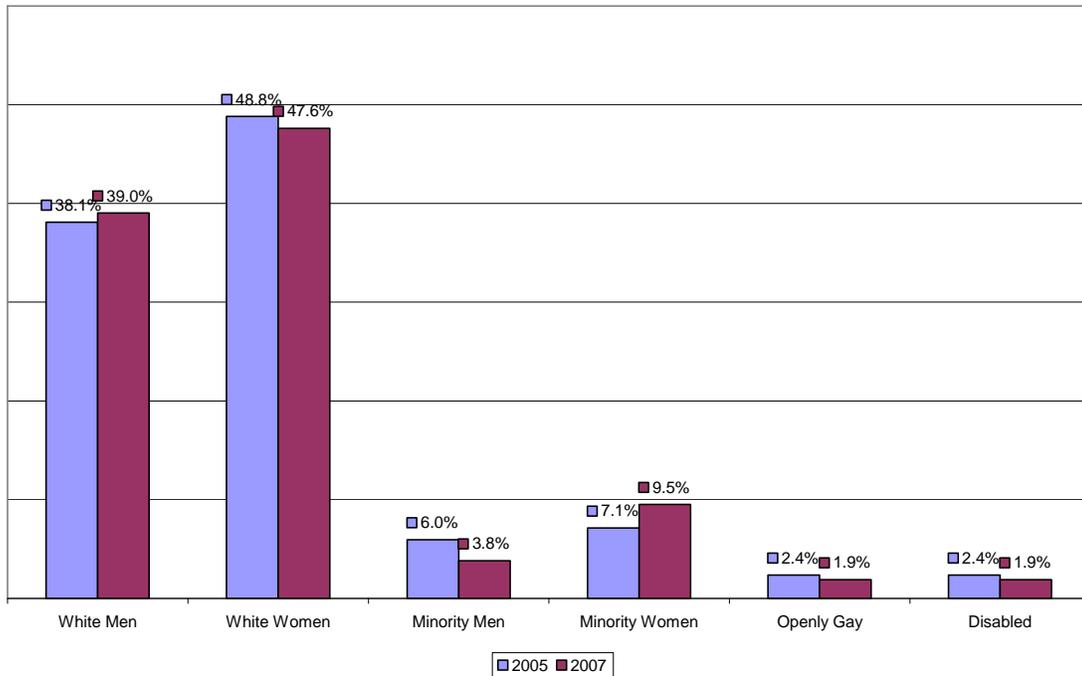
Level 2 Representation - 2005



Level 2 Representation - 2007



Level 2 Representation 2005-2007

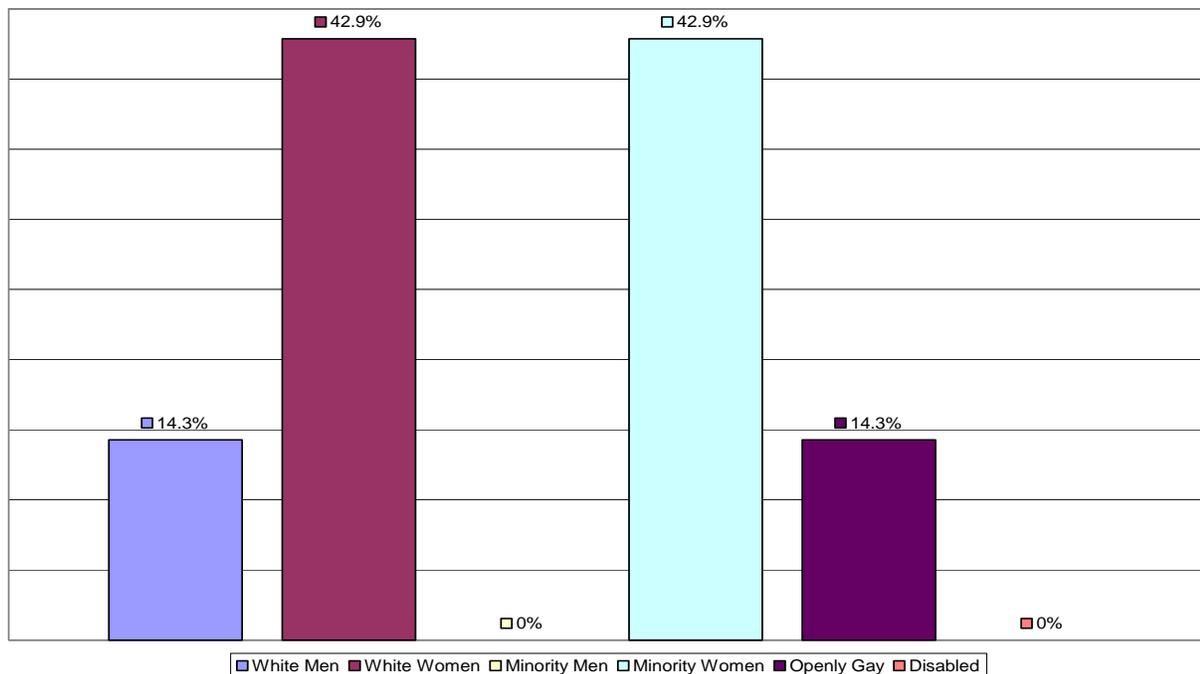


The voluntary attrition rates along with the hiring rates for the interim year 2006 provide a more complete picture. Approximately 9.5 percent of the attorney workforce left voluntarily in 2006. White women represented 4.8 percent of those who departed and Minority women had a 3.6 percent departure rate. Minority men and Openly Gay attorneys left at the same rate of 1.2 percent. White men and Disabled attorneys at Level 2 did not leave the participating groups through voluntary attrition in 2006.

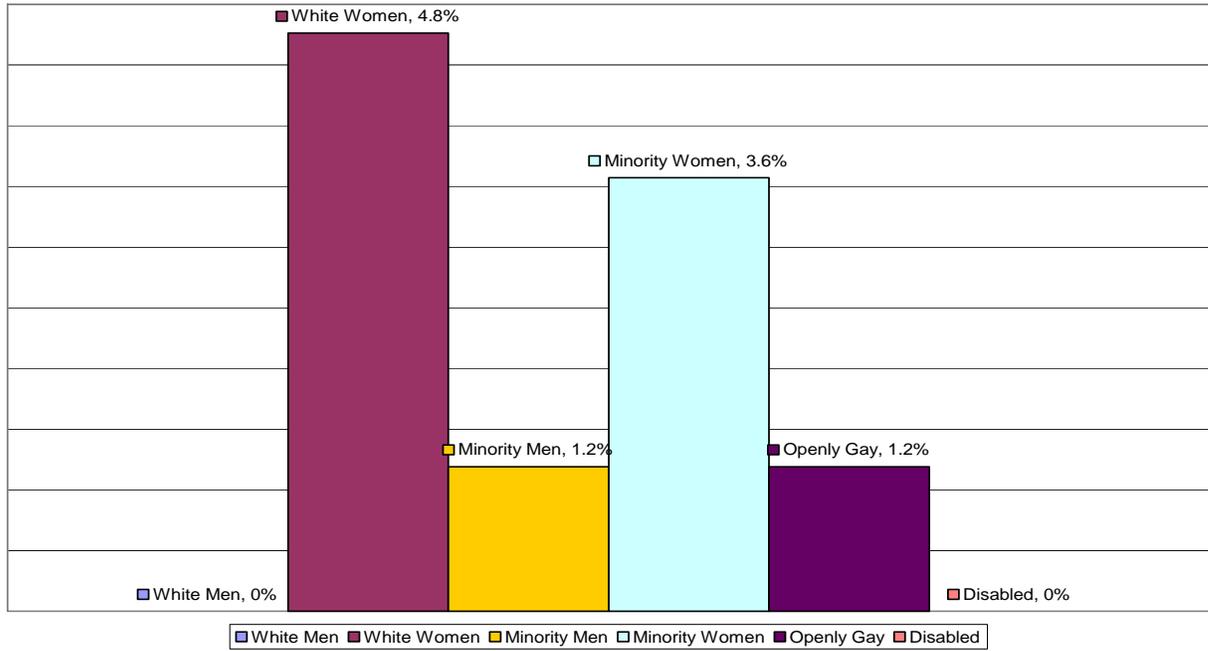
Legal services offices are clearly hiring women at Level 2. In 2006, Minority women were hired at the rate of 42.9 percent, the same rate as that of White women. White males and Openly Gay attorneys were hired for Level 2 positions at the same rate of 14.3. However, no Minority men or Disabled attorneys were hired by the participating groups in 2006. Yet between 2005 and 2007, the very low number of Openly Gay and Disabled attorneys at Level 2 decreased further from 2.4 percent to 1.9 percent.

The two groups that did not increase their numbers through the hiring process were Disabled attorneys and Minority men. Clearly, the programs are doing a very good job of hiring and retaining White women at leadership positions. They are doing as well with Minority women with respect to hiring, but not as well on promotion and retention. White men and Openly Gay attorneys are being hired at the same rate, while Minority men and Disabled attorneys were not hired in 2006. The decrease in the number of Disabled attorneys is not attributable to voluntary attrition since none were reported.

Level 2 Hiring - 2006

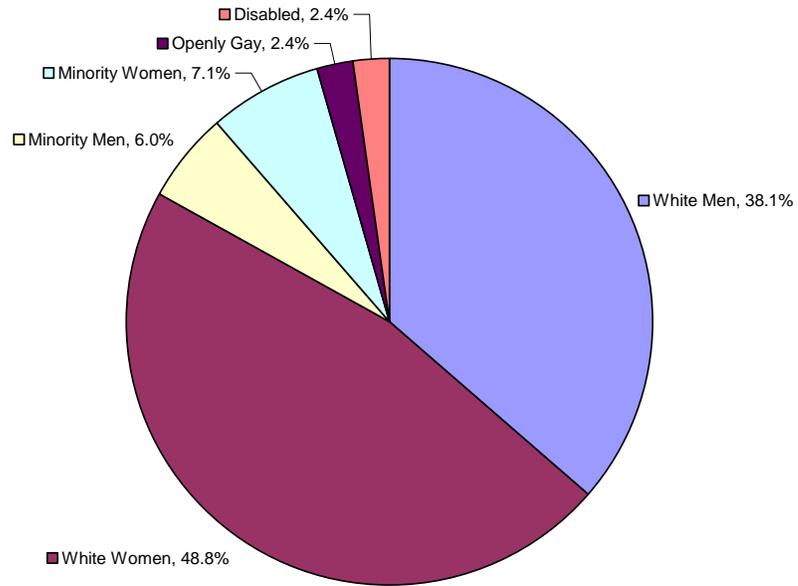


Level 2 Voluntary Attrition - 2006
Total 9.5%

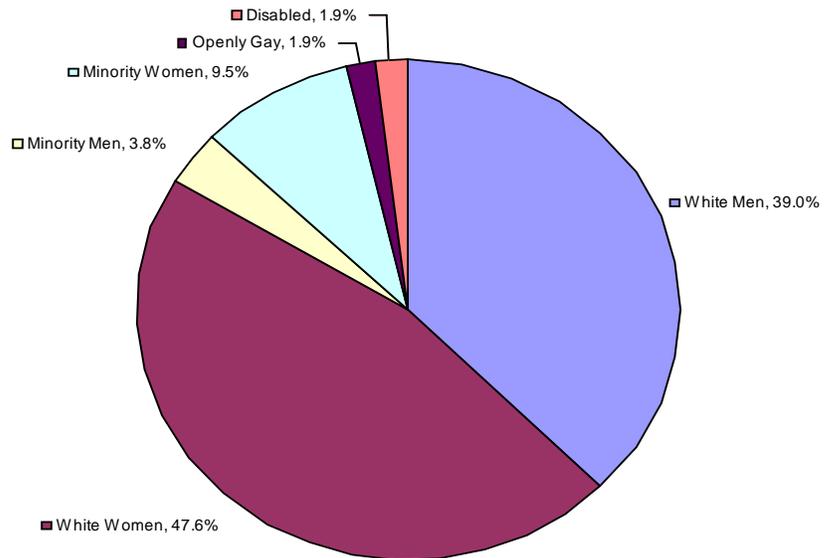


The overwhelming majority of groups believe that minority and non-minority employees have the same opportunities for advancement to leadership position at their programs, according to answers to Question 7. Yet in response to Question6(C), a majority of programs, 54.8 % do not believe that their workforce reflects a fair representation of minorities at the upper management/leadership levels.

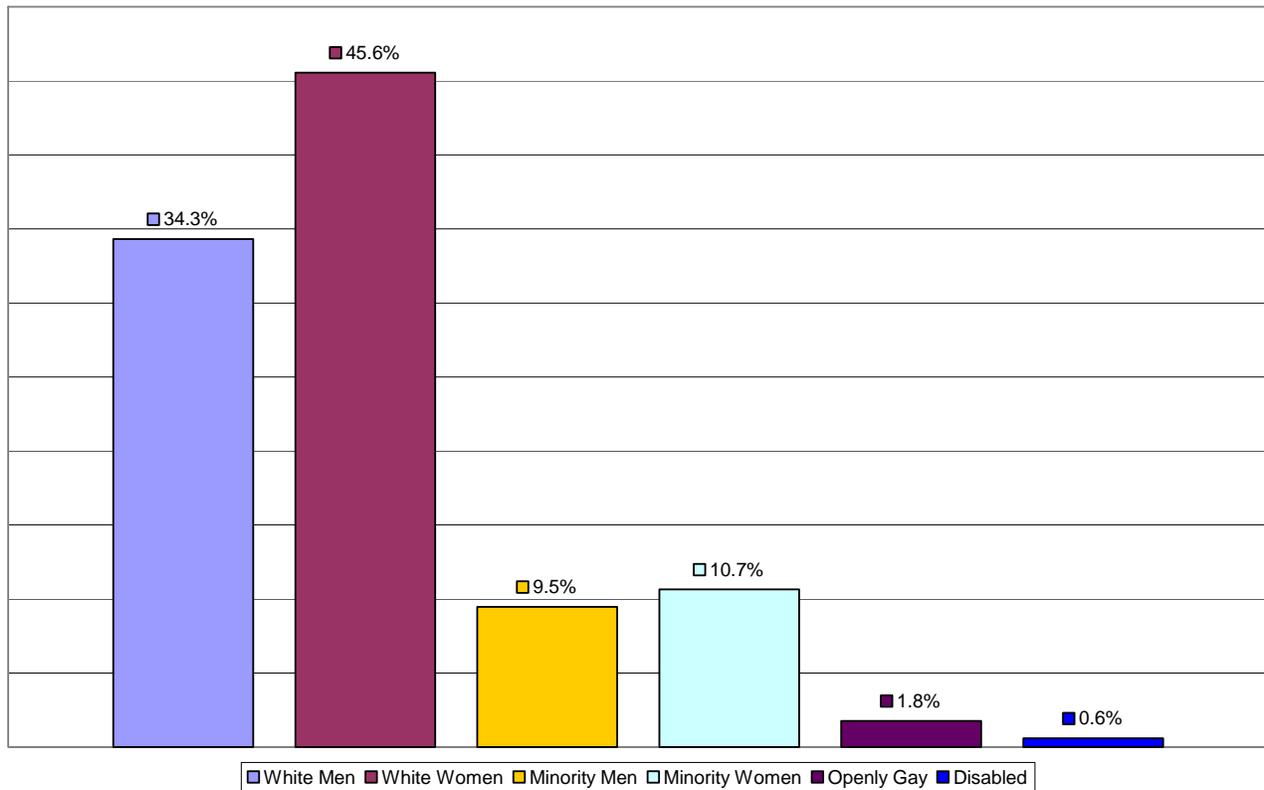
Level 2 Representation - 2005



Level 2 Representation 2007



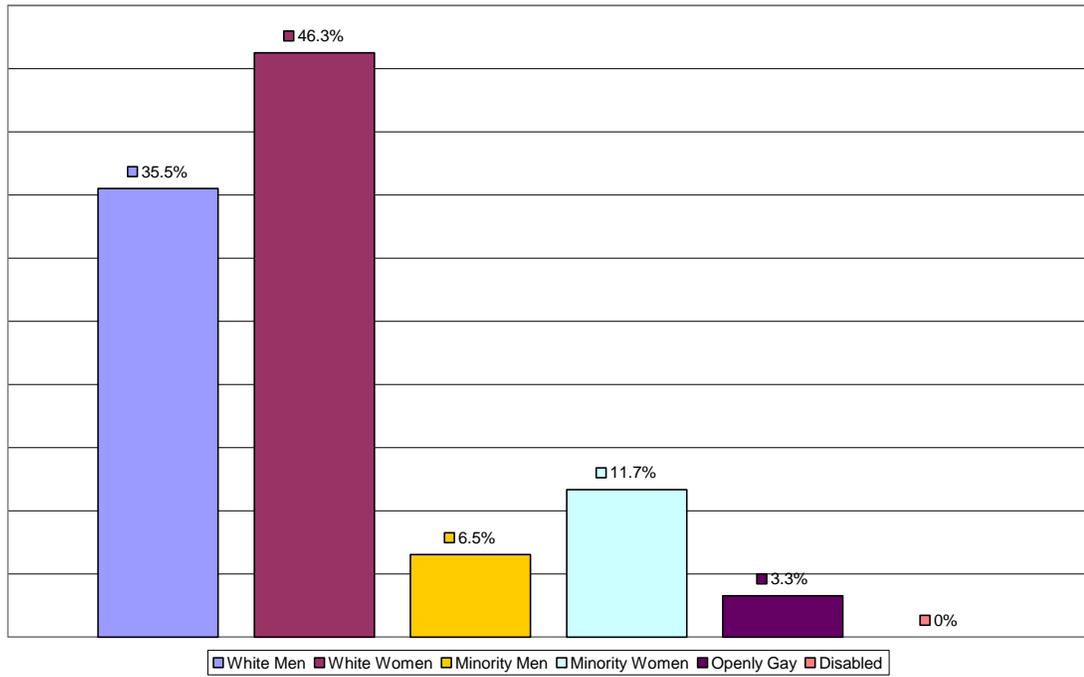
Level 3 Representation - 2005



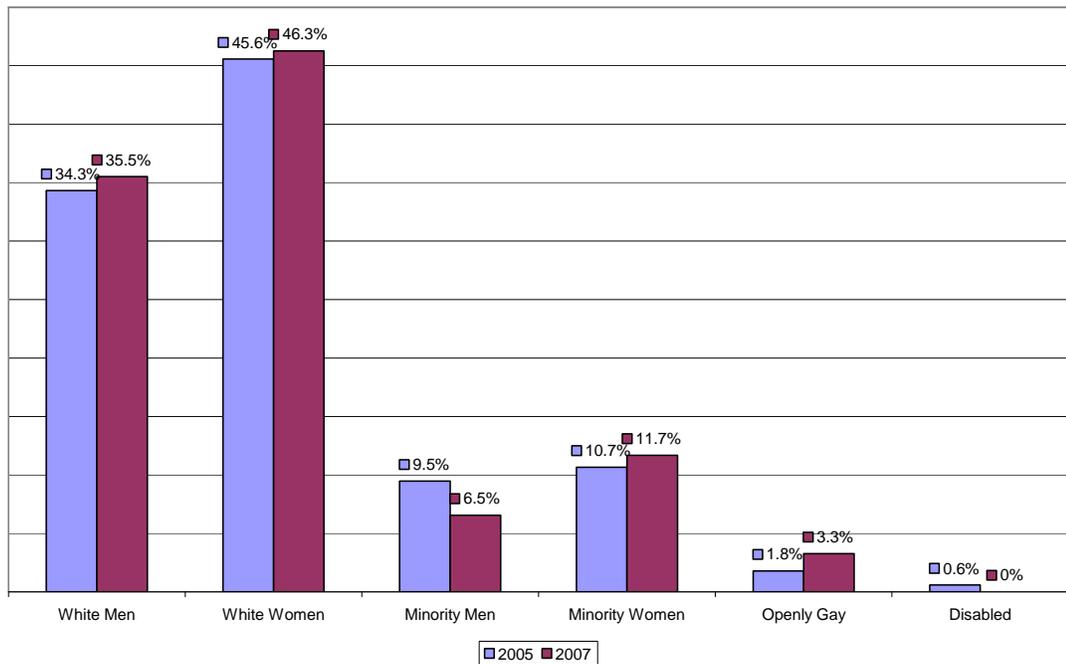
At Level 3, White women once again dominate in terms of overall representation numbers at 45.6 percent. White men are represented at just over one-third of the line attorneys with supervisory duties at 34.3 percent. Minority women and men are about the same proportion at 10.7 percent and 9.5 percent, respectively. Openly gay attorneys at this level are only represented at the rate of 1.8 percent while Disabled attorneys are less than one percent of the total number of Level 3 attorneys.

This is the level where at mid-career, attorneys decide to try to move up in terms of promotions or decide to leave for better opportunities or benefits. Only 11.2 percent of the agencies have any type of plan or strategy to encourage attorneys who are debating whether or not to leave to stay; most of the agencies had no response to Question 8(B). The programs/firms had more to say about barriers to developing new leaders from different and diverse backgrounds. In response to Question 6(A), a majority of the programs/firms listed salary, or its limitations, as a major barrier (30 of 37 programs). Just over 50 percent listed lack of benefits as a barrier (20 of 37 programs) and same number listed lack of role models as a barrier.

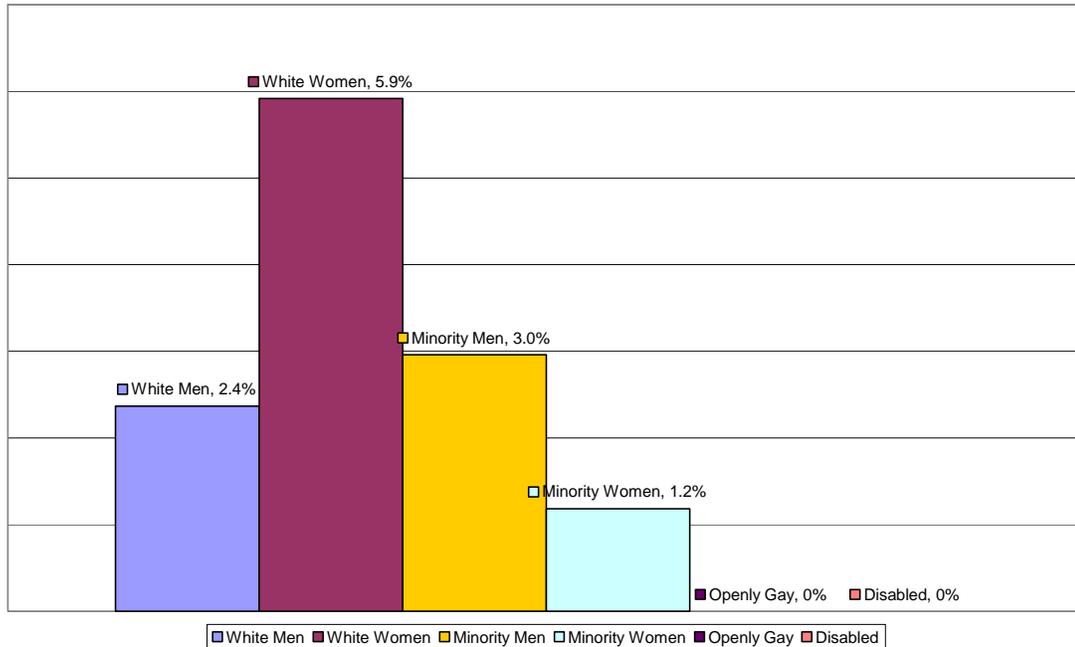
Level 3 Representation - 2007



Level 3 Representation 2005-2007



Level 3 Voluntary Attrition - 2006
Total 12.1%



For 2006, 12.1 percent of the Level 3 attorneys left through voluntary attrition. White women left had the highest rate of 5.9 percent, followed by Minority men at 3.0 %, White men at 2.4 % and Minority women at 1.2 %. In response to Question 8, some 69 % described their turnover as low with the remaining 28.6 % of the groups noting their turnover as moderate. What is more interesting is that in response to Question 8(A) just over 80 percent of the agencies stated that the turnover rate was the same for all employees. Since the agencies/firms range from very small to offices with hundreds of attorneys, these differences between the cohorts we are tracking may be revealing in terms of future trends.

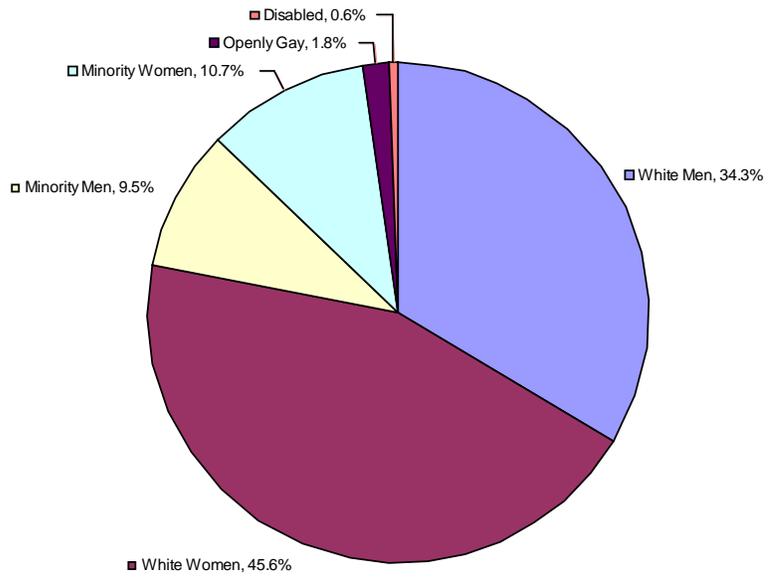
In terms of hiring, once again White women outdistanced all other groups



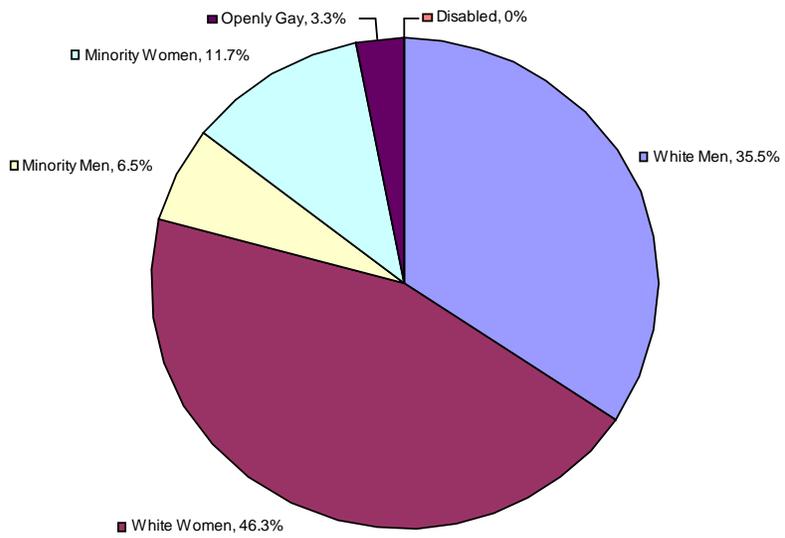
Professional development is extremely important to attorneys at Level 3. According to responses to Question 10, of the 36 agencies/firms that responded, 72.4 percent offered professional development conferences, 61.2 percent offered substantive law programs and 50 percent offered leadership development seminars. Less than a quarter of the agencies offered mentoring programs and exactly 25 percent reimbursed for advanced professional classes.

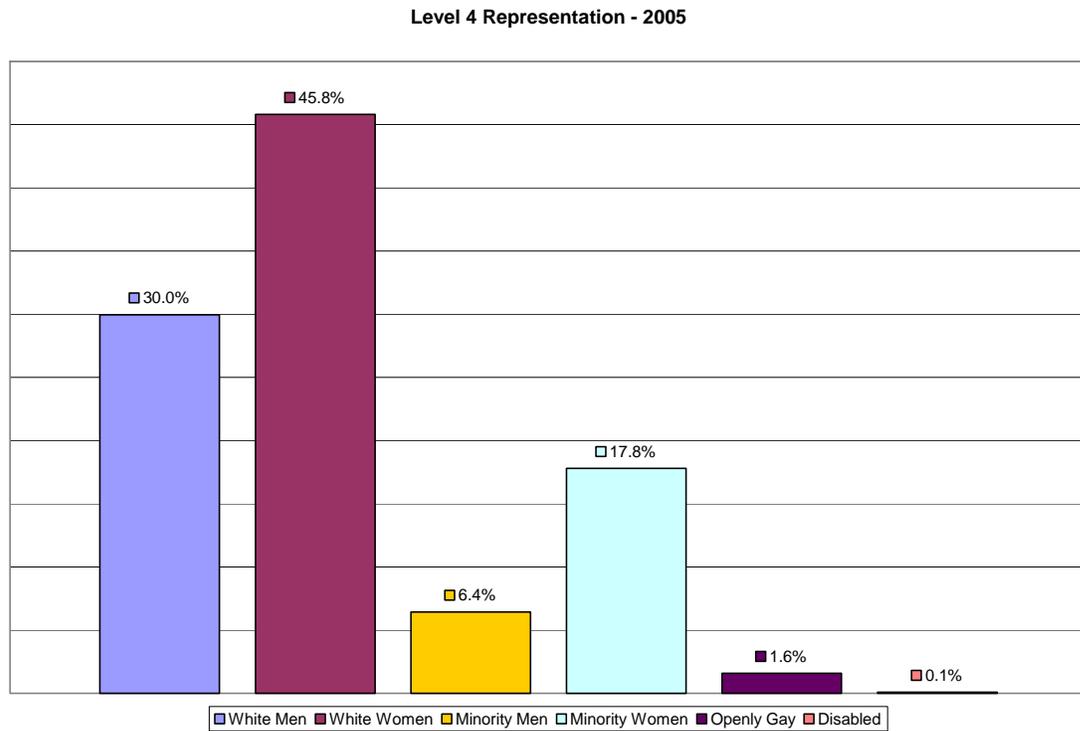
These results suggest an emphasis on professional development but much less focus on mentoring and leadership development seminars that have shown success in diversifying legal institutions.

Level 3 Representation 2005



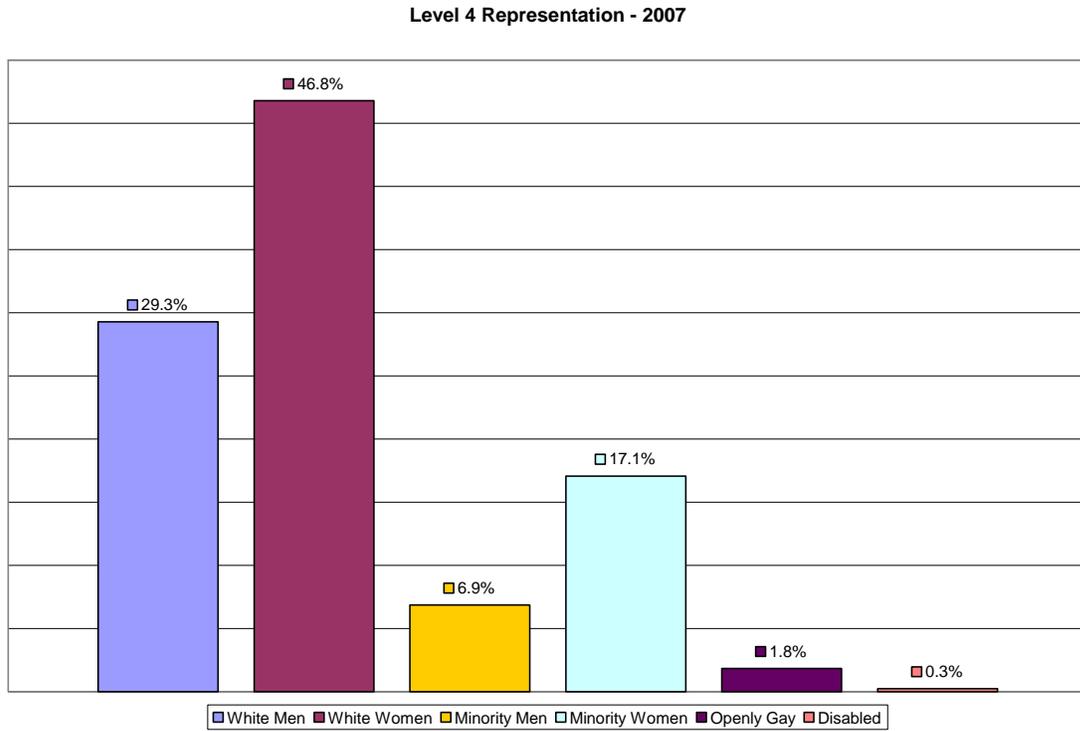
Level 3 Representation - 2007





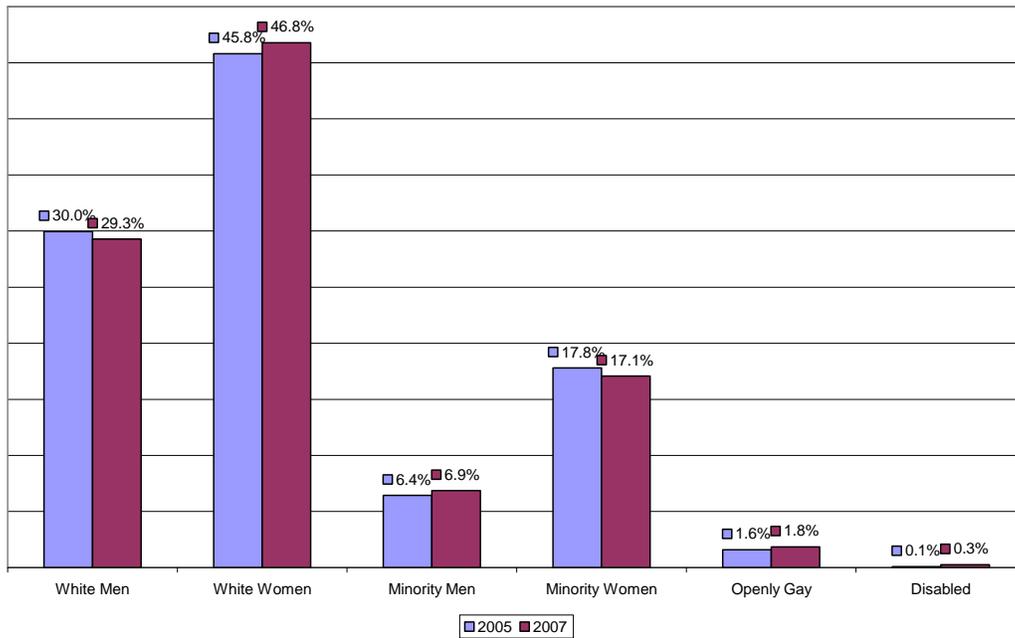
The same type of pattern repeats at Level 4 with White women as the largest group followed by White men. However, this level does reflect a higher number of Minority women. Any new diversity plan should focus on why the Level 4 Minority women are leaving rather than staying.

The low rates for Minority men and Openly Gay attorneys continue at this level. Once again Disabled attorneys are invisible.

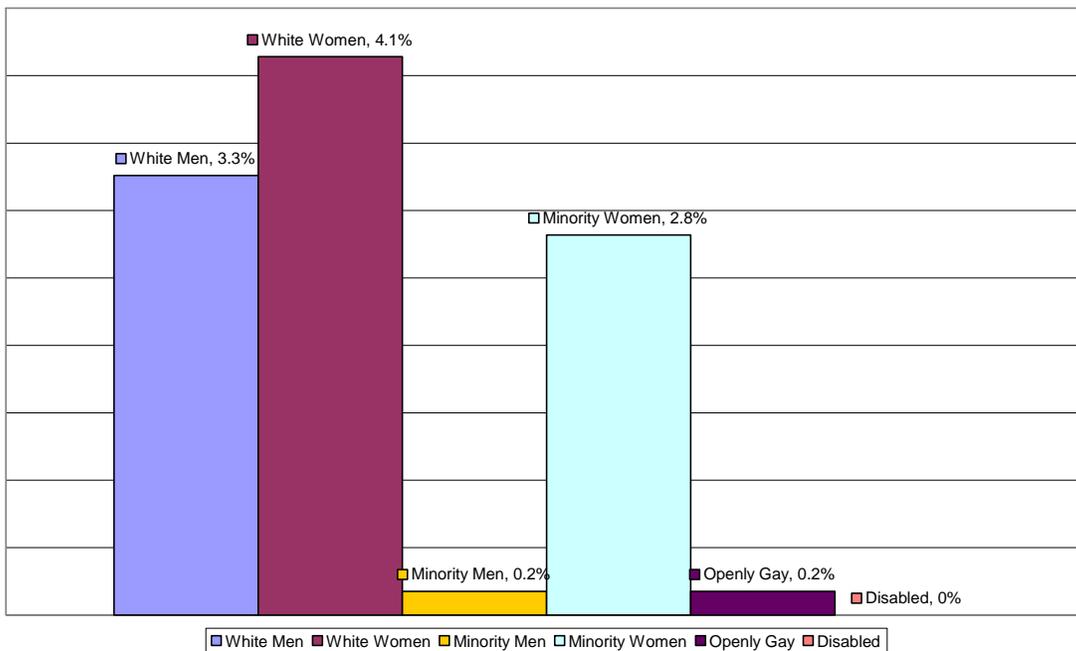


By 2007, White men at Level 4 have lost about a point while Minority men at 6.9 percent gained about one-half of a point. Minority women lost about one-half of a point while Openly Gay attorneys and Disabled attorneys increased their numbers by .2 percent.

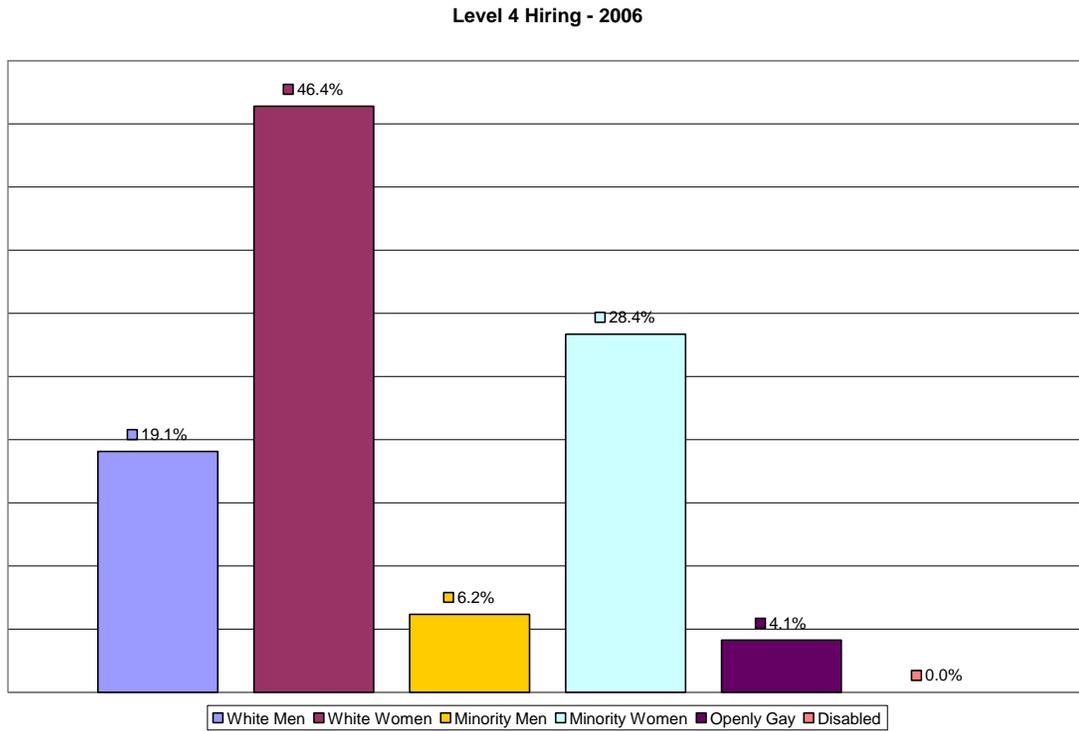
Level 4 Representation 2005-2007



Level 4 Voluntary Attrition - 2006
Total 10.4%

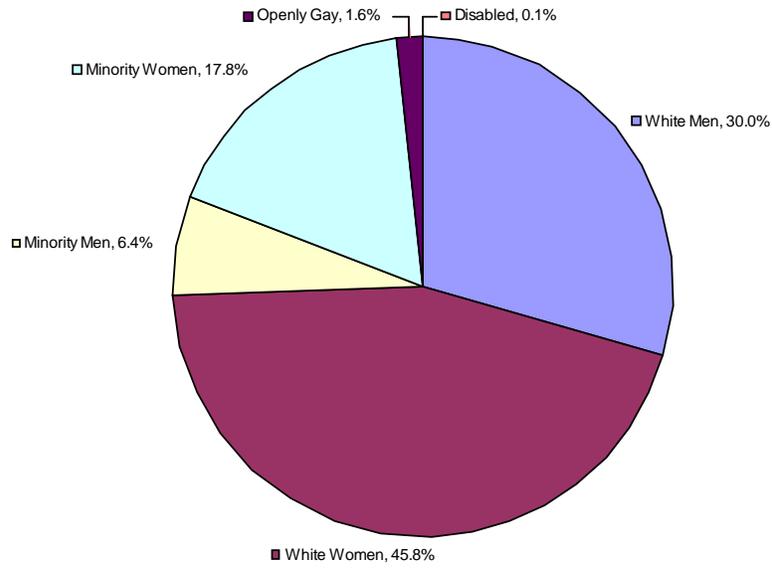


At Level 4, the numbers of White women, White men and Minority women leaving show some parity while Minority men and Openly Gay attorney attrition levels are identical at .2 percent.

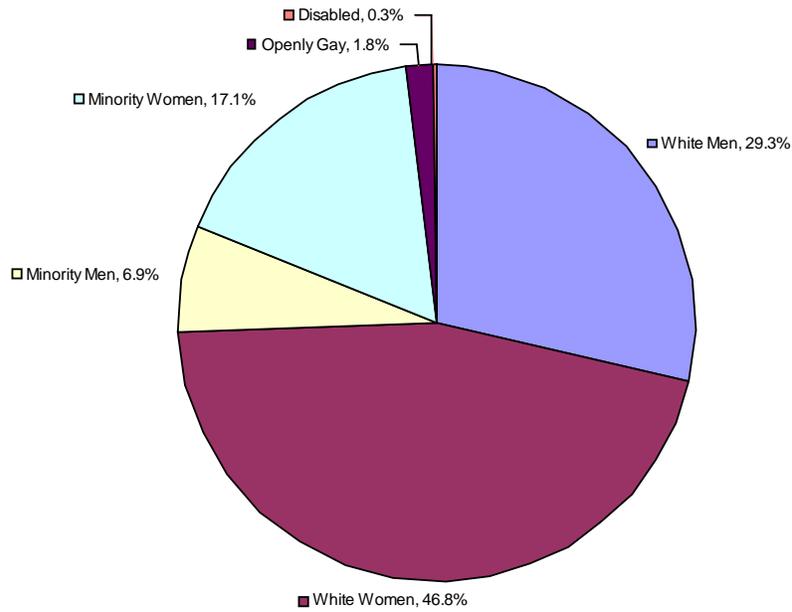


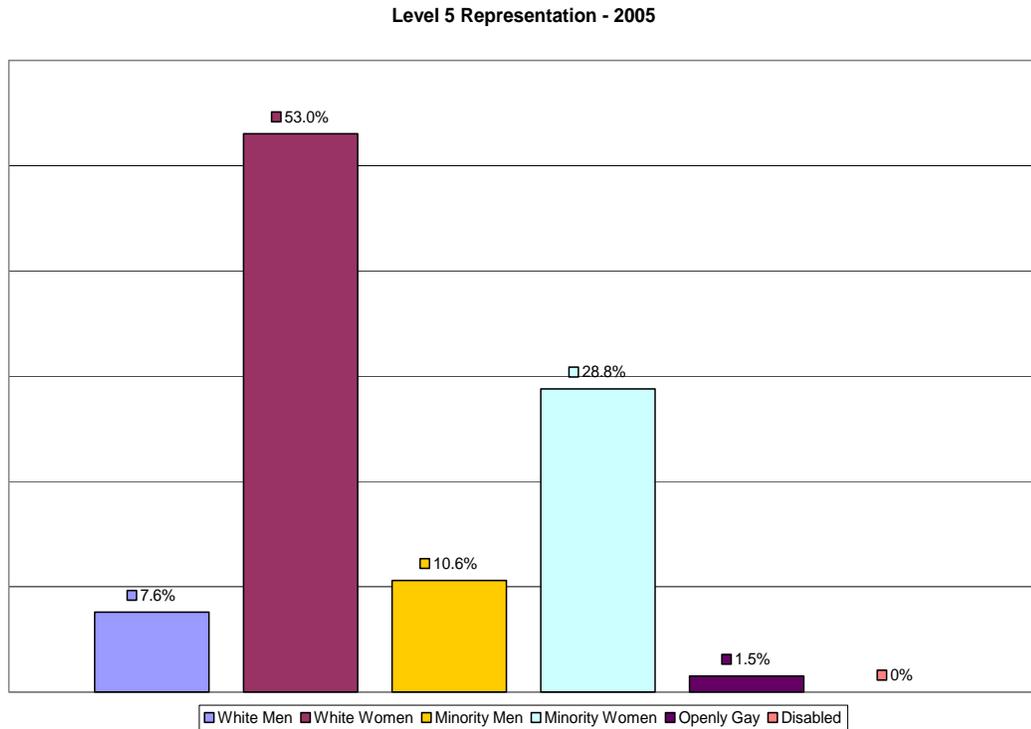
At Level 4, women continue to dominate the hiring process. Openly Gay attorneys showed some numbers here at 4.1 percent. If the agencies want to focus on pipeline issues, their Level 4 hiring practices would be a useful place to start.

Level 4 Representation - 2005



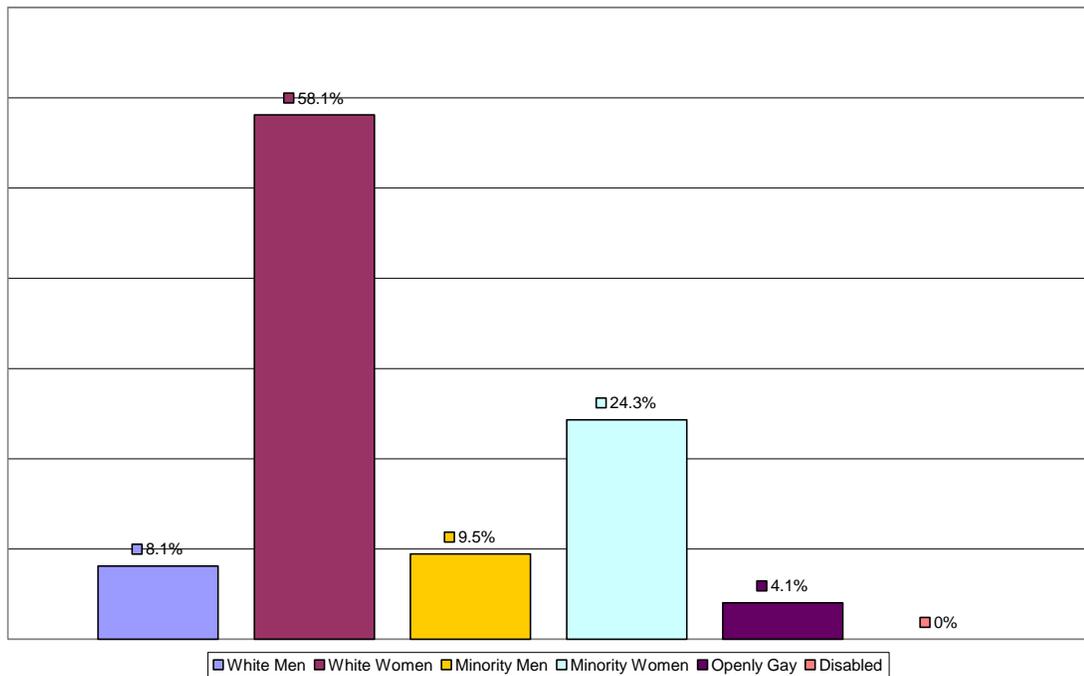
Level 4 Representation - 2007



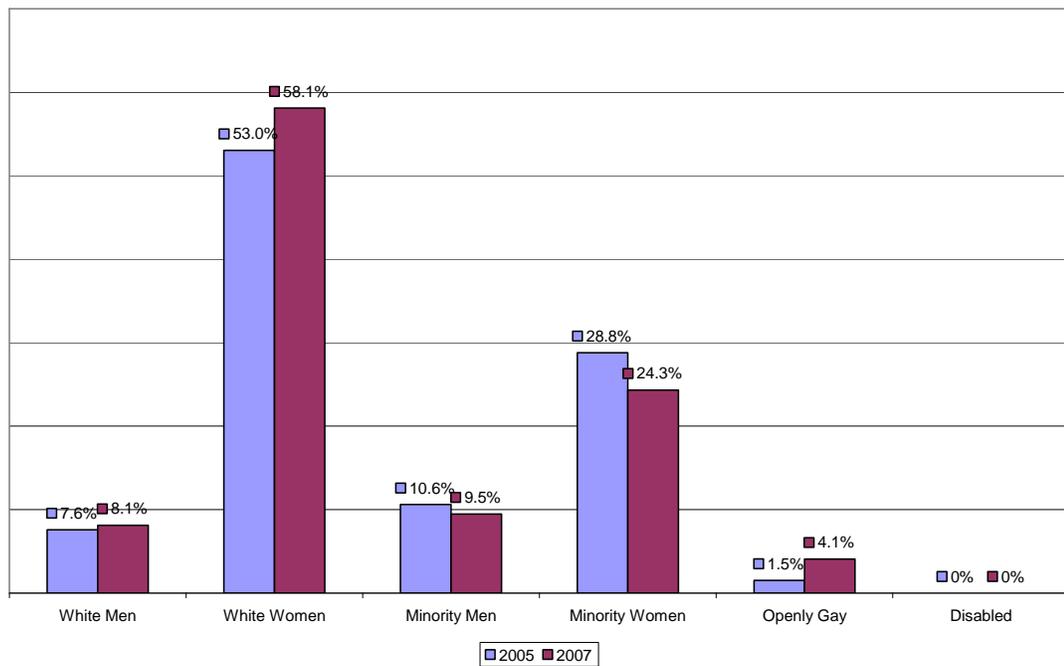


Legal services programs, in an effort to bring some diversity to the staff, have made an effort to diversity those serving in non-attorney Level 5 positions. Accordingly, White men are at their lowest numbers while Minority men are at their highest. Women, White and Minority combined, are over-represented with little representation for gays or the disabled. A question for future surveys of minority legal aid attorneys is whether this strategy of higher minority representation at Level 5 reassures minority attorneys about the internal diversity of the overall staff or whether it confirms that significant minority representation is only present in the non-attorney management ranks.

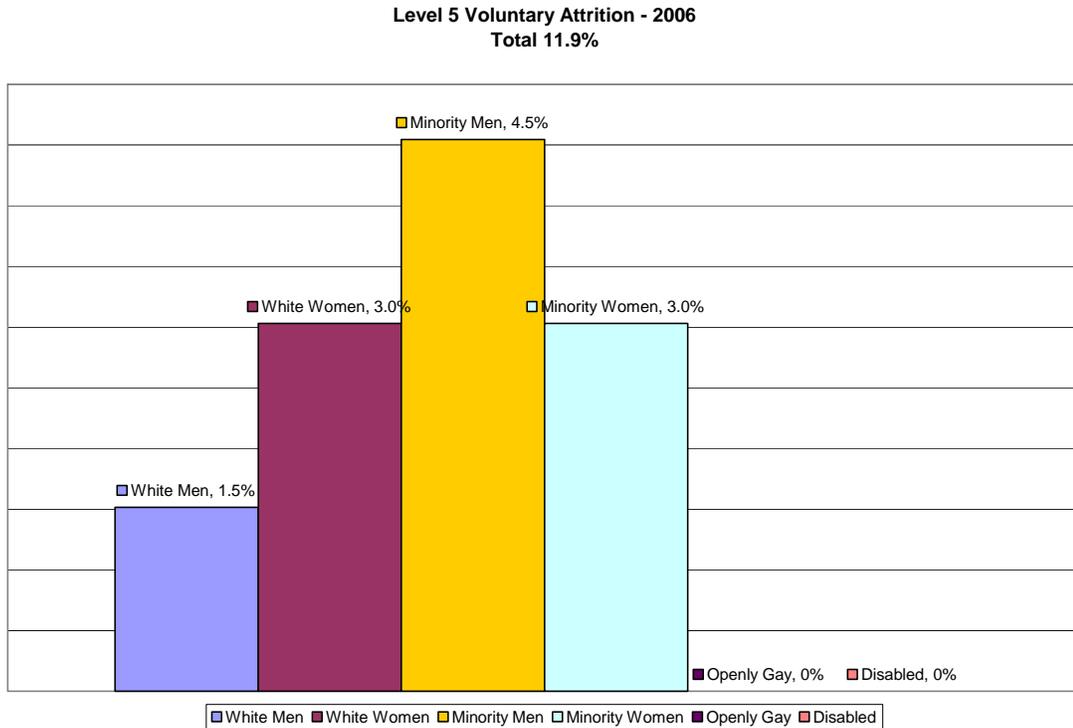
Level 5 Representation - 2007



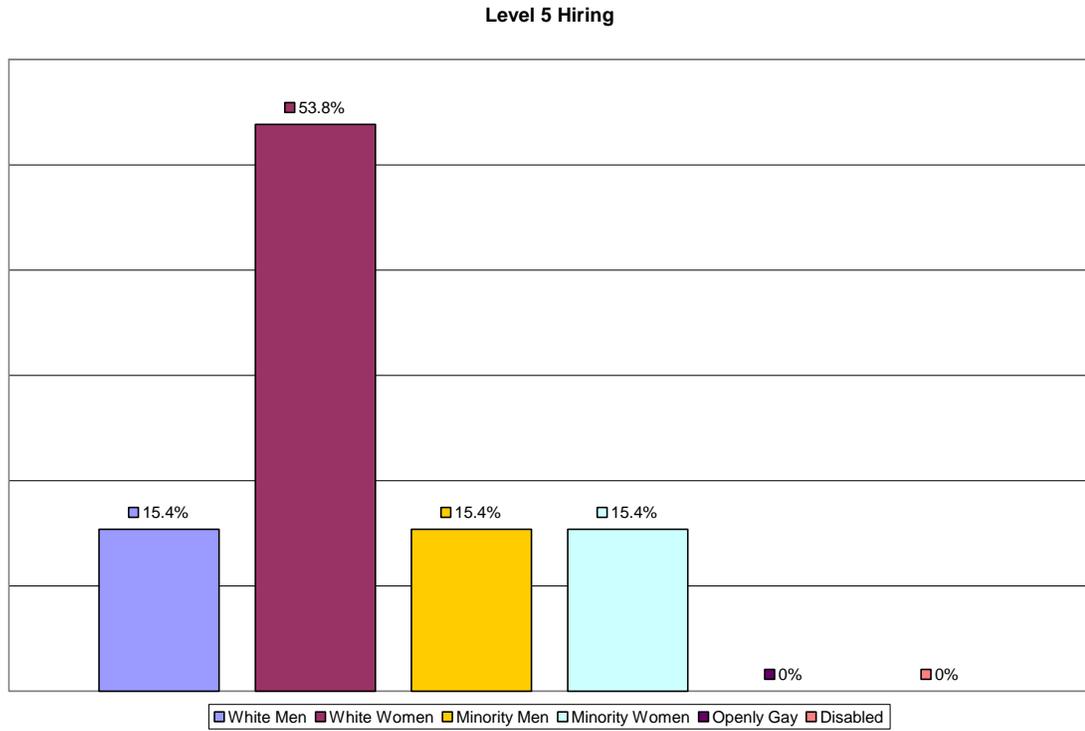
Level 5 Representation 2005-2007



Another troubling trend from Levels 4 and 5 is that when Minority males increase their numbers slightly, Minority women seem to be the group that loses numbers.

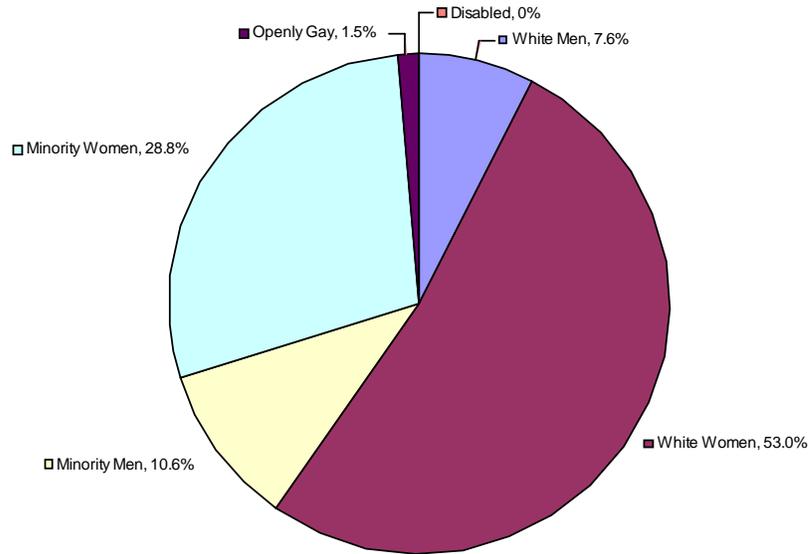


For the first time, Minority men lead a category, in this case voluntary attrition. Because they are leaving at the entry level, it is difficult to offer professional seminars as an inducement for them to remain. Instead, agencies and firms have to figure what they are doing so well with White women in terms of inclusiveness and cultural comfort and conversely, what are they doing so wrong with respect to Minority men, Openly Gay and Disabled attorneys.

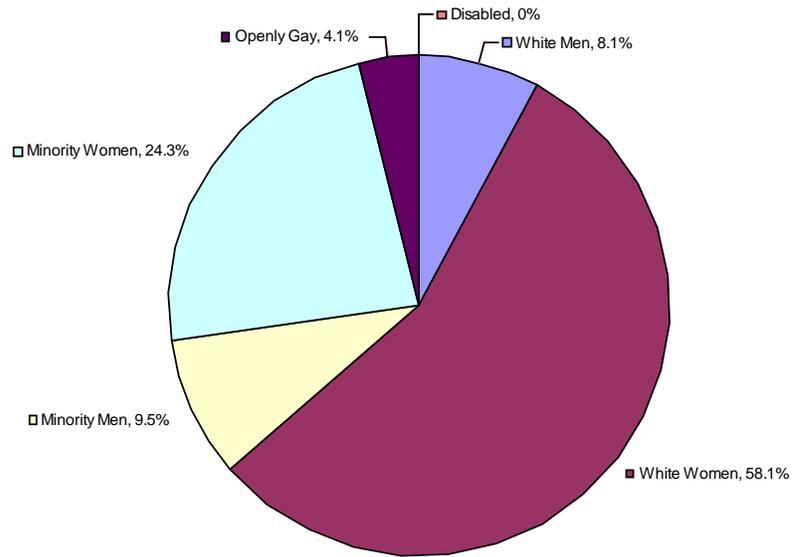


This chart is interesting for the parity in hiring between White men, Minority men and Minority women. White women have dominated in each of the five levels in terms of hiring. That helps to explain the representation numbers at Level 2.

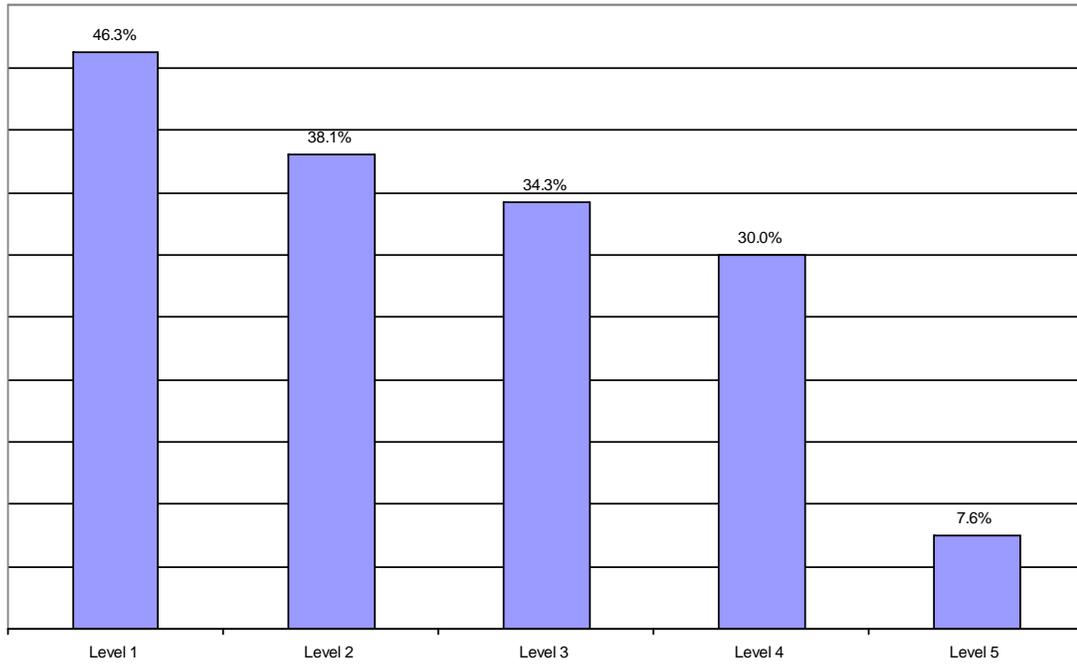
Level 5 Representation - 2005



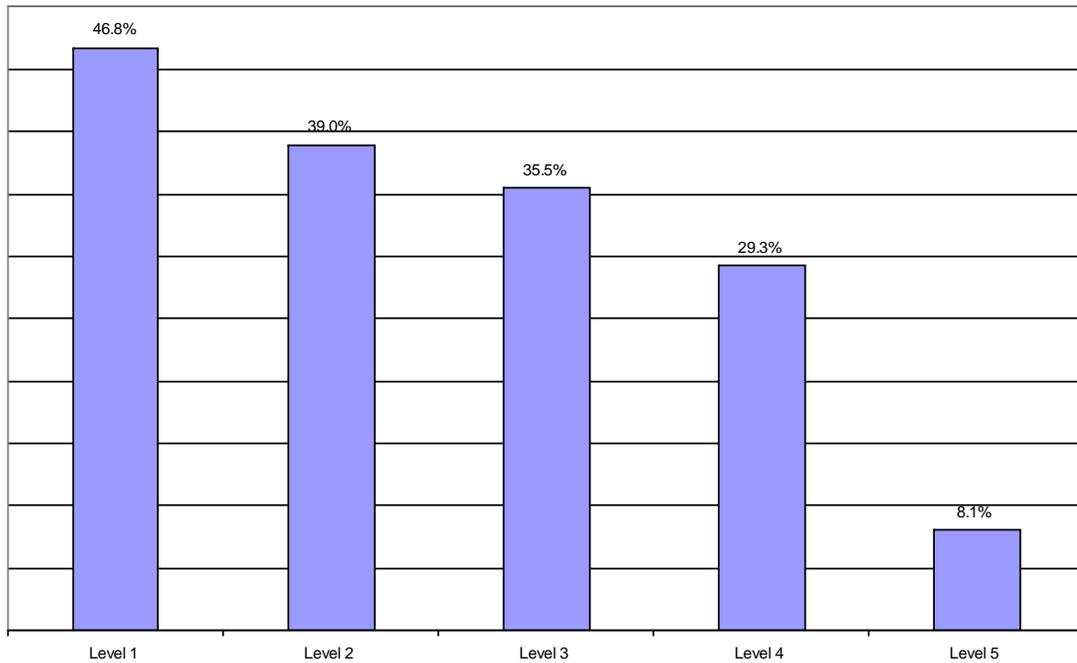
Level 5 Representation - 2007



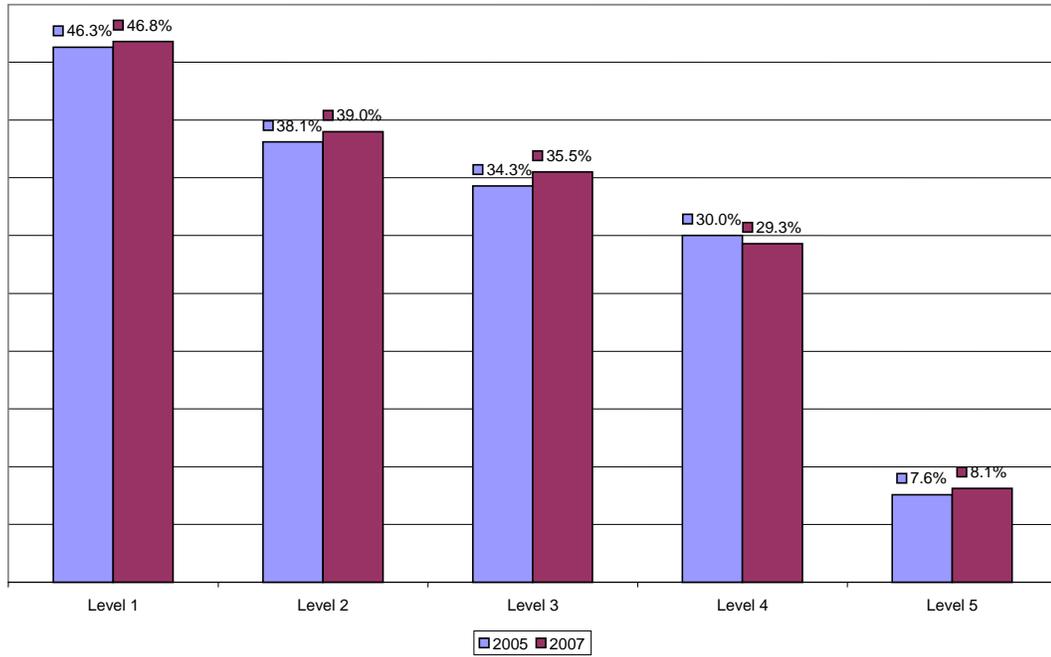
Representation Rates for White Men by Levels - 2005



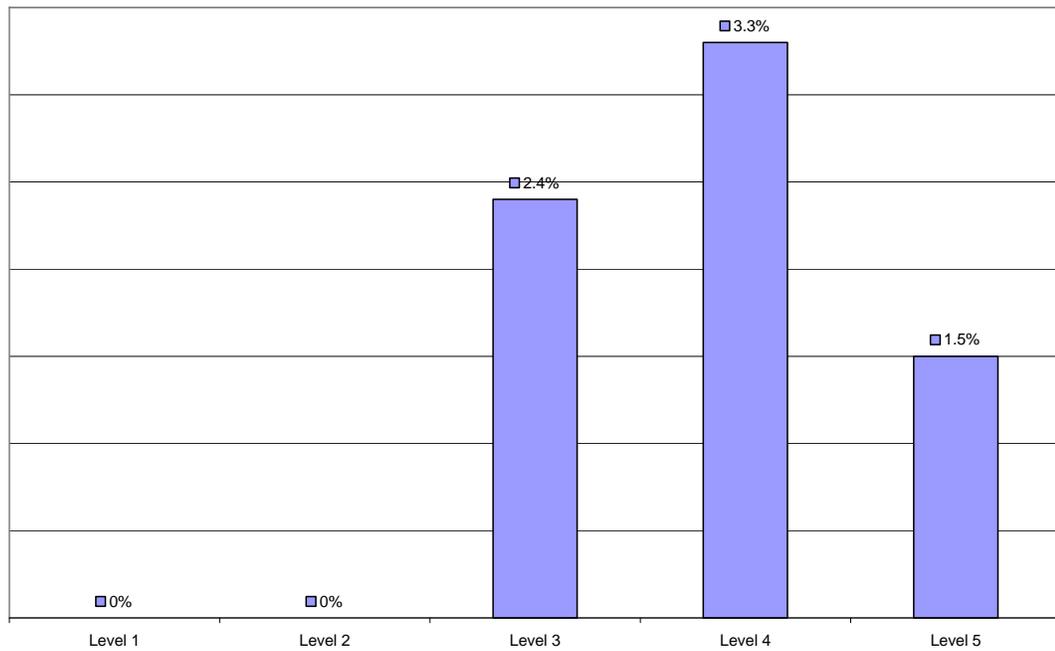
Representation Rates for White Men by Levels - 2007



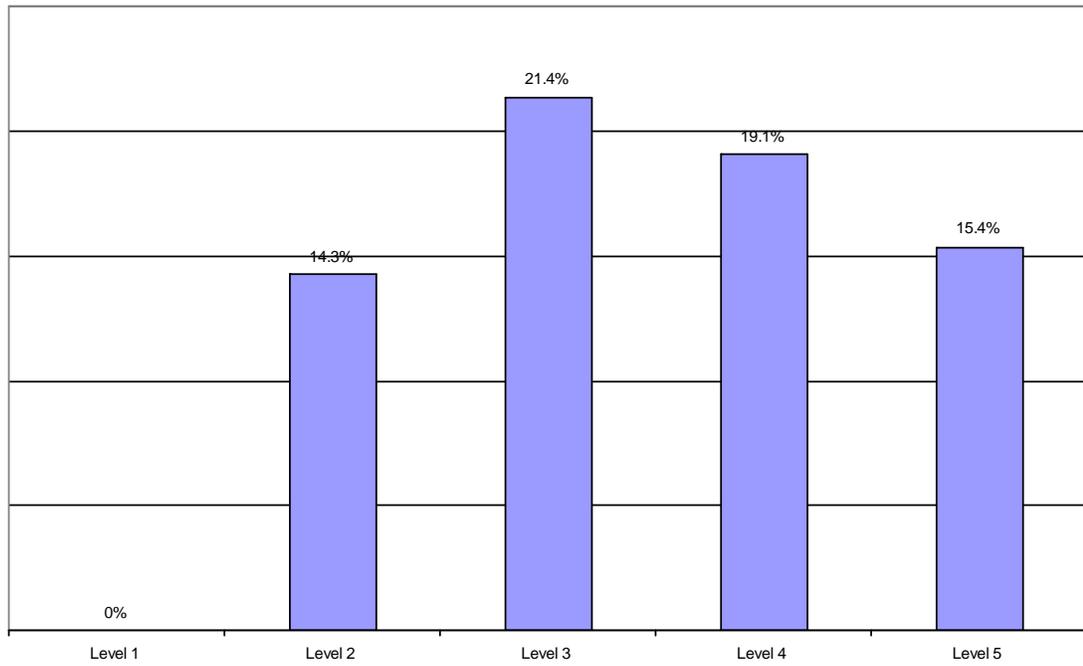
Representation Rates for White Men by Levels 2005-2007



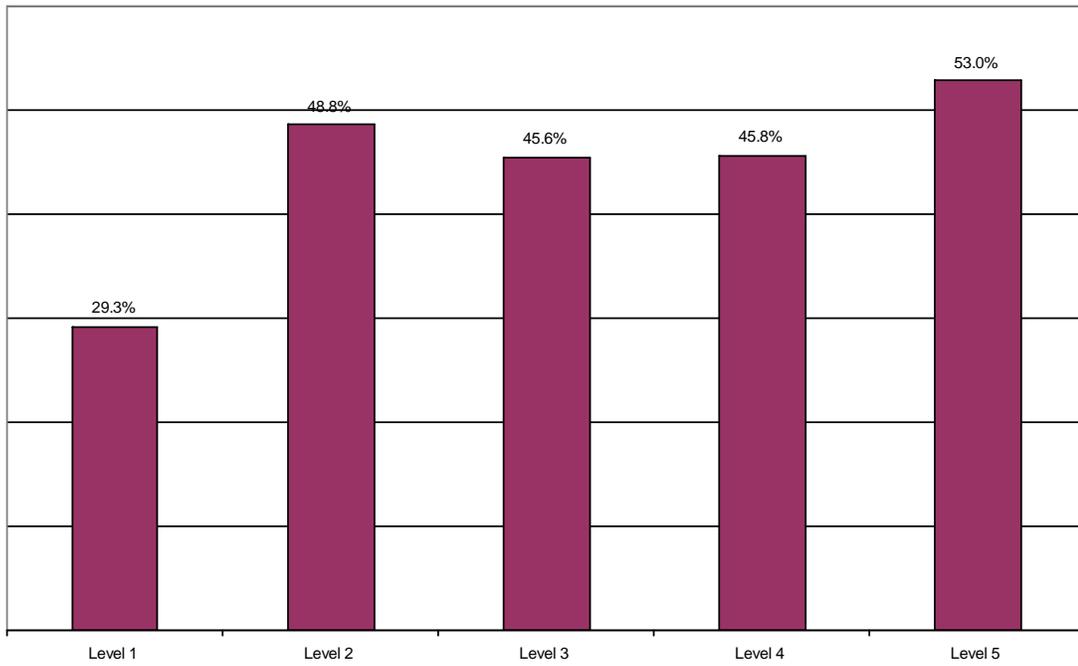
Voluntary Attrition Rates for White Men by Levels - 2006



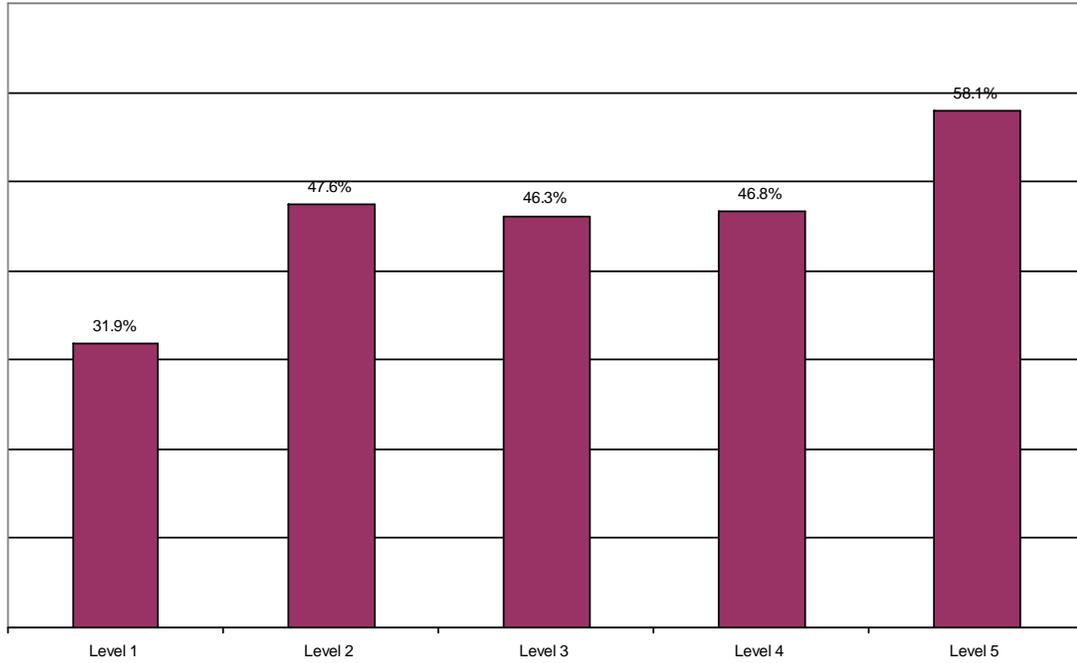
Hiring Rates for White Men by Levels - 2006



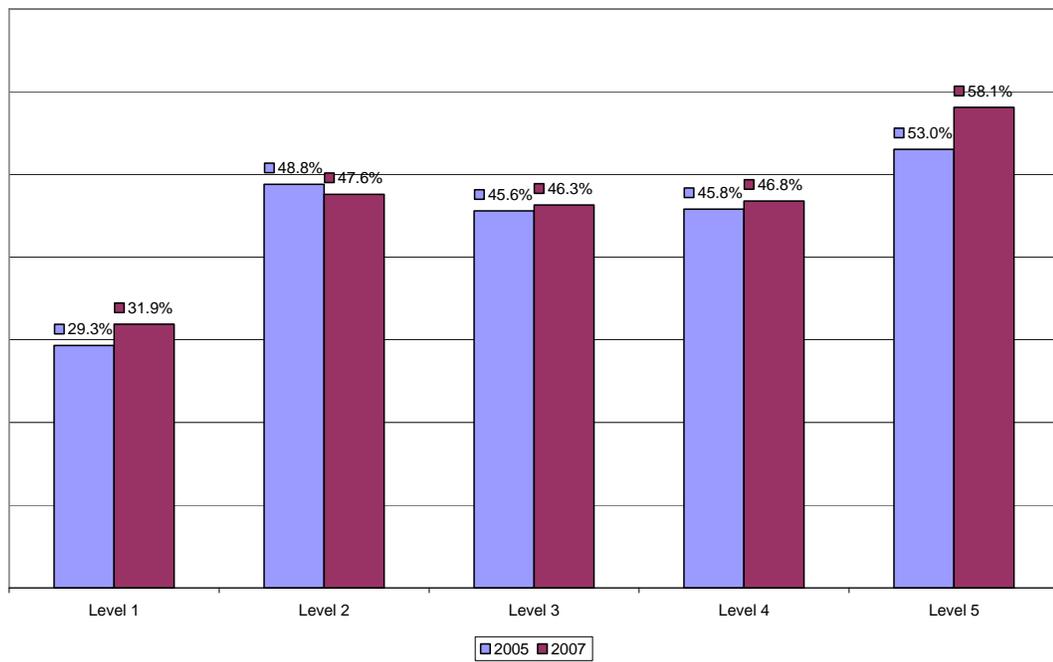
Representation Rates for White Women by Levels - 2005



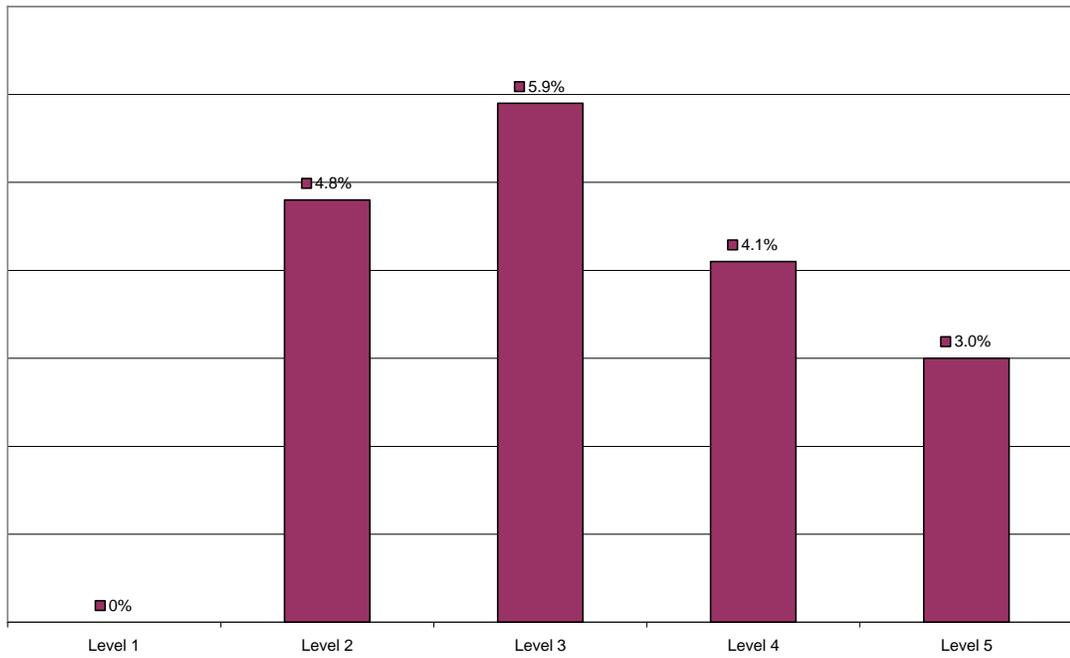
Representation Rates for White Women by Levels- 2007



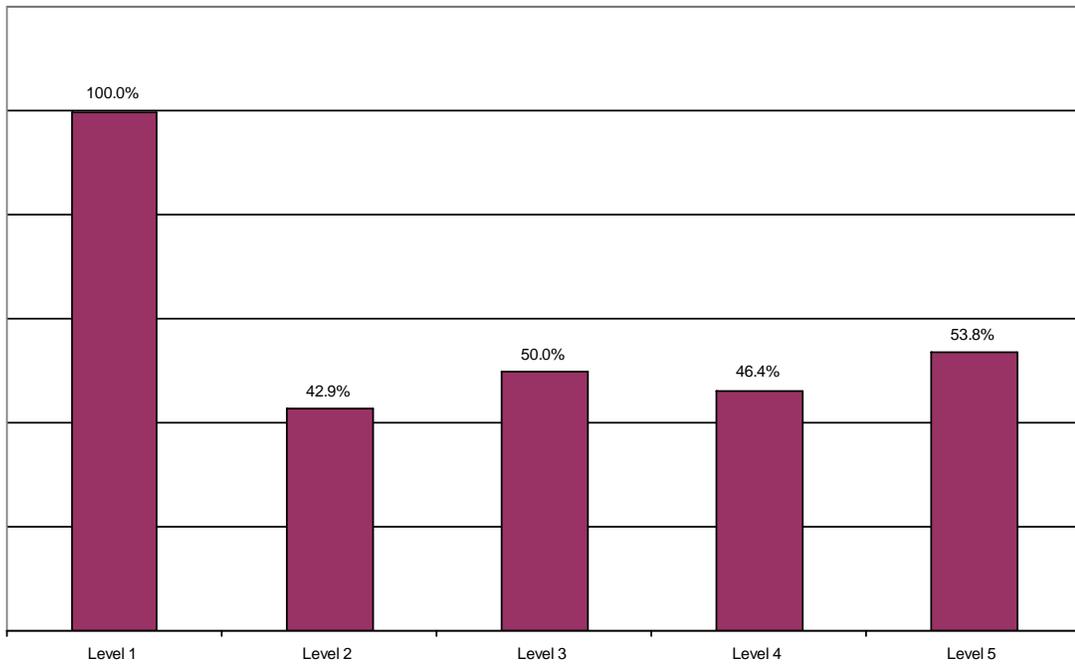
Representation Rates for White Women by Levels 2005-2007



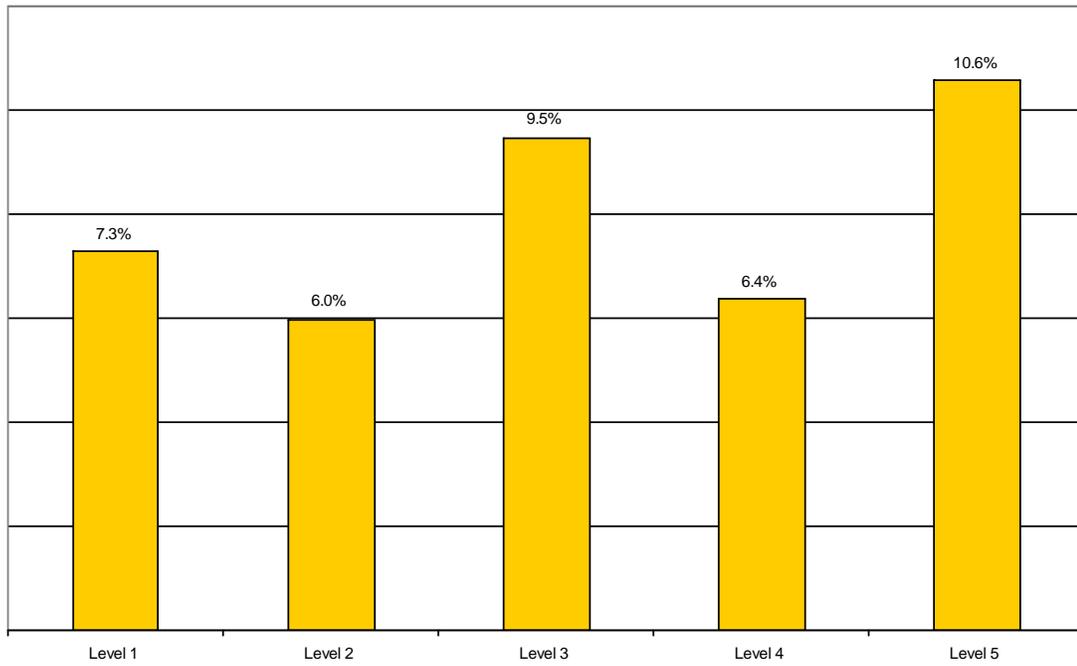
Voluntary Attrition Rates for White Women by Levels - 2006



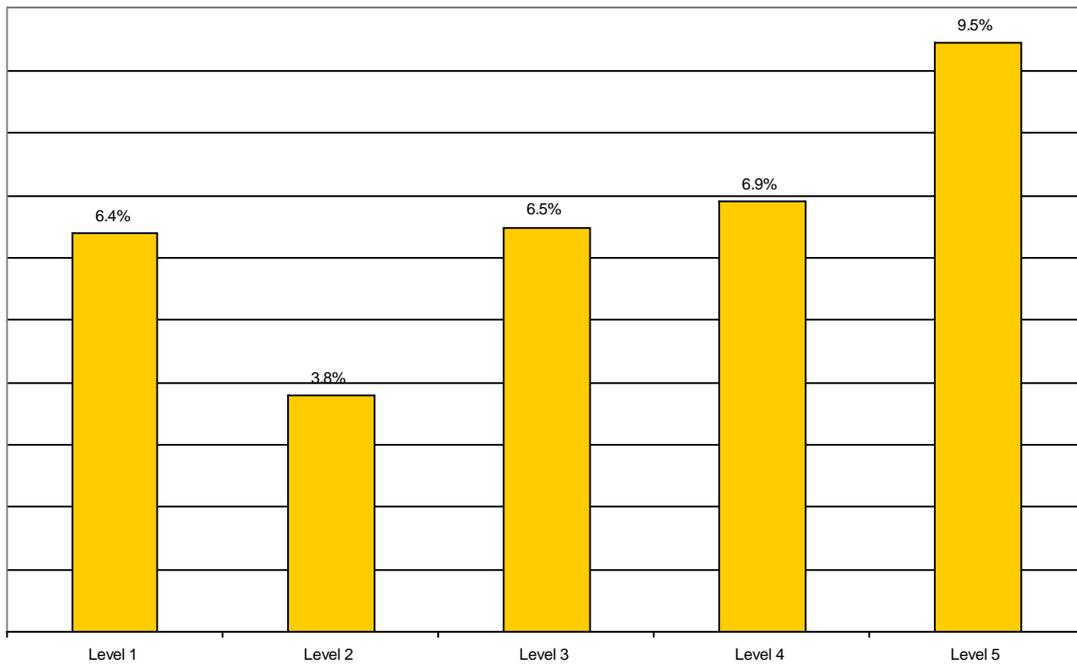
Hiring Rates for White Women by Levels - 2006



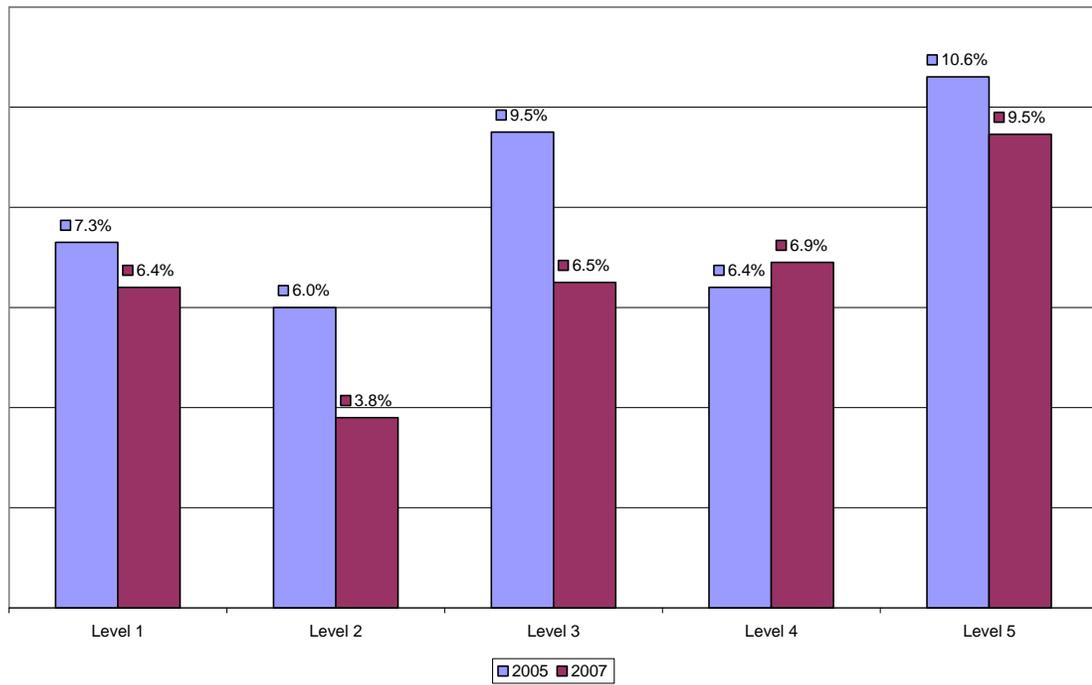
Representation Rates for Minority Men by Levels - 2005



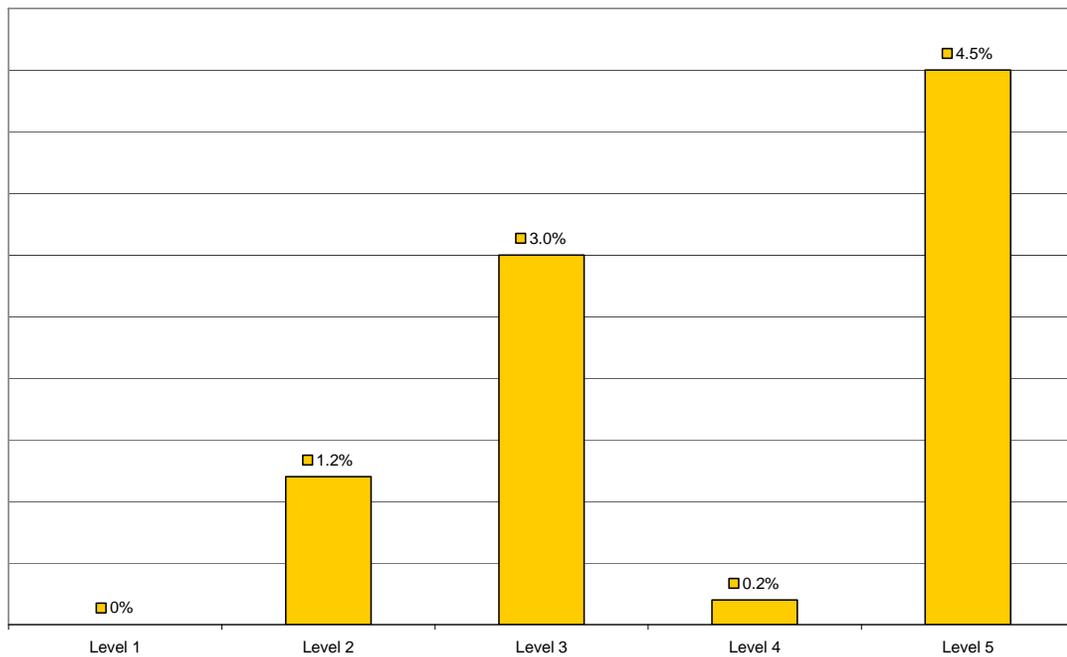
Representation Rates for Minority Men by Levels - 2007



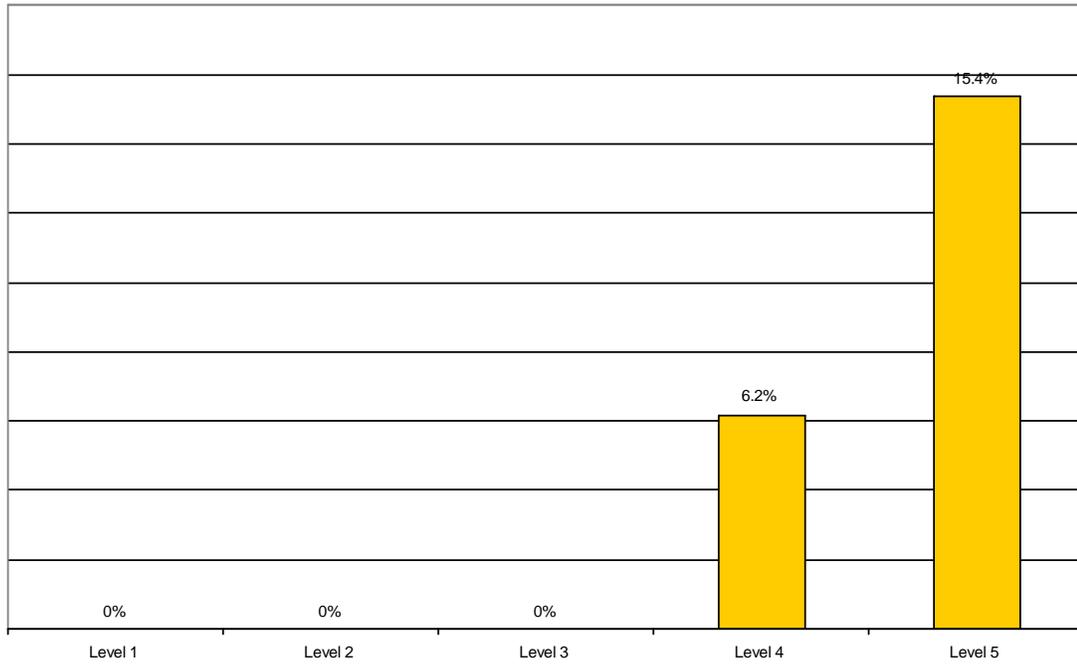
Representation Rates for Minority Men by Levels 2005-2007



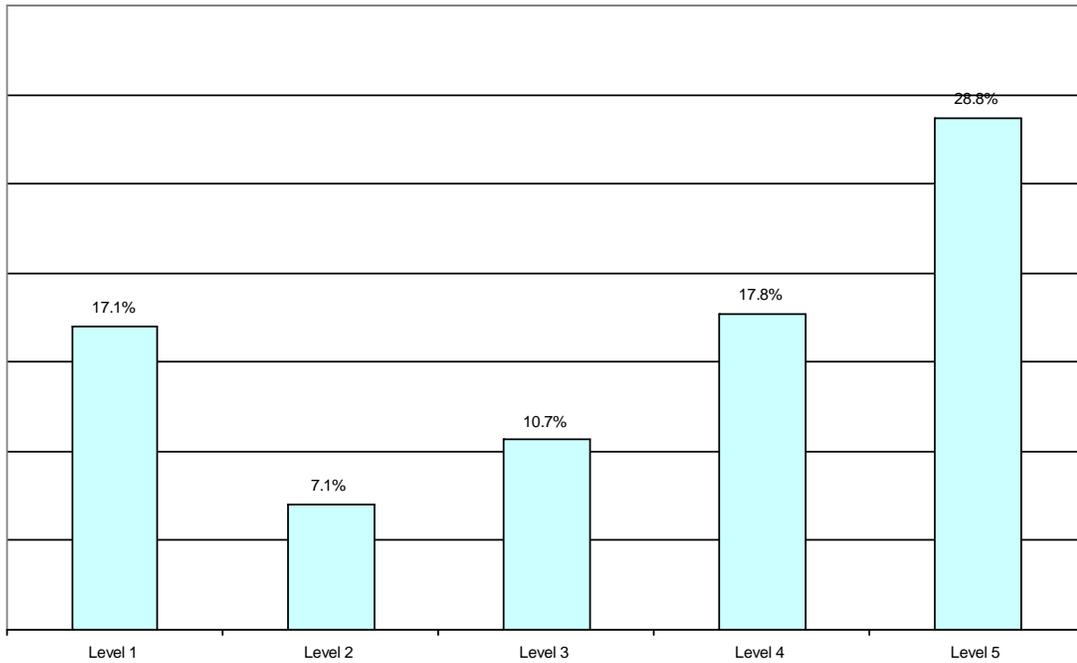
Voluntary Attrition Rates for Minority Men by Levels - 2006



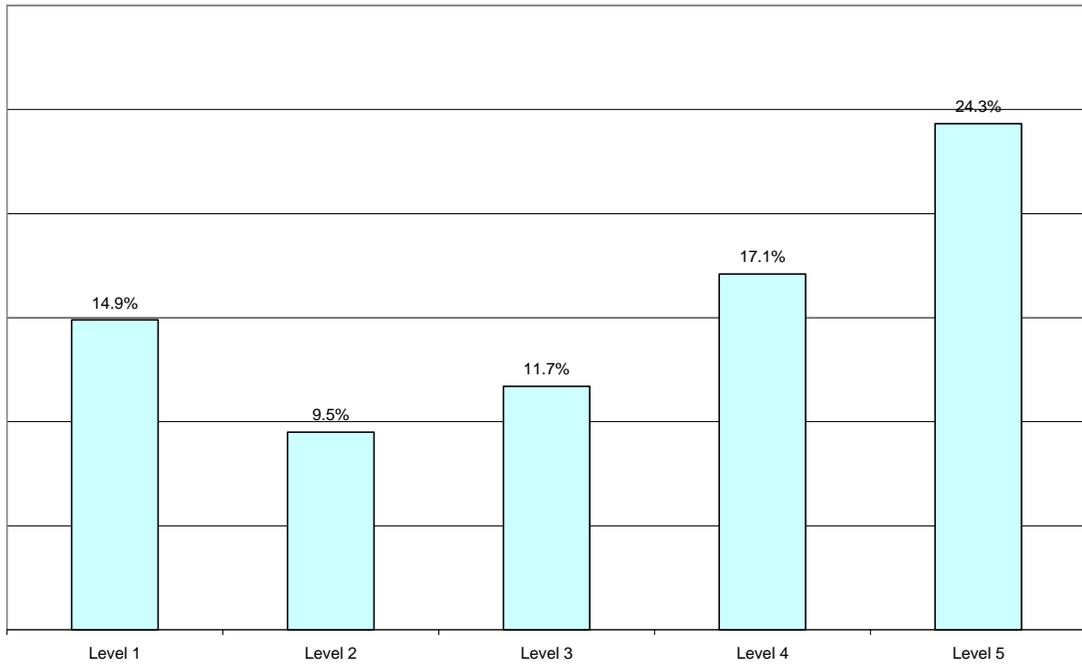
Hiring Rates for Minority Men by Levels - 2006



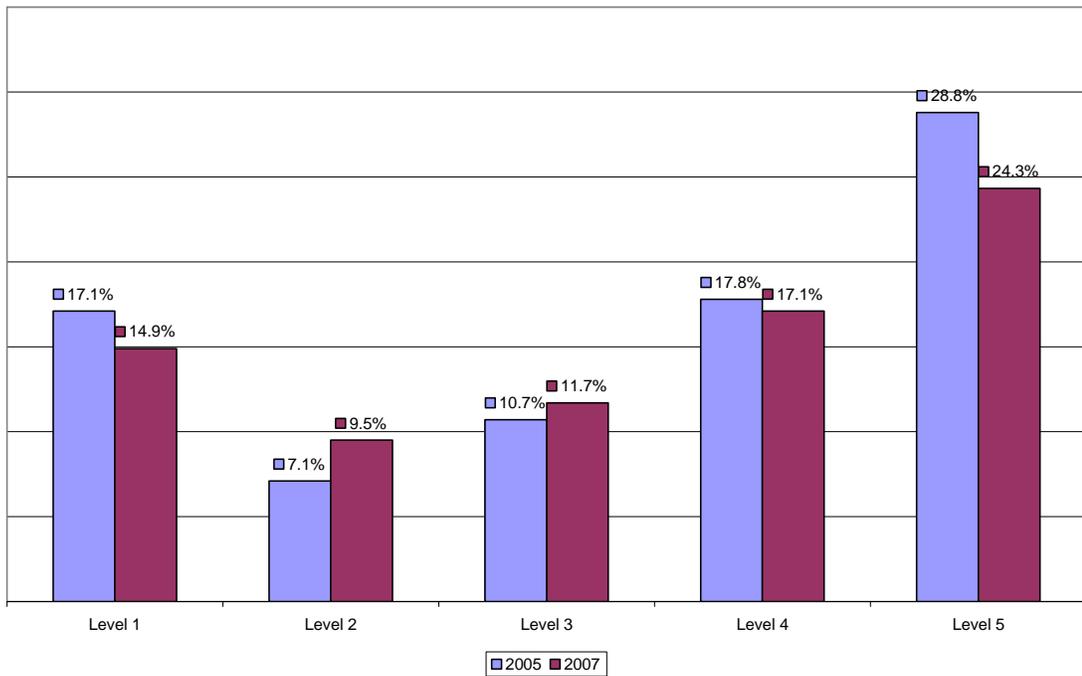
Representation Rates for Minority Women by Levels- 2005



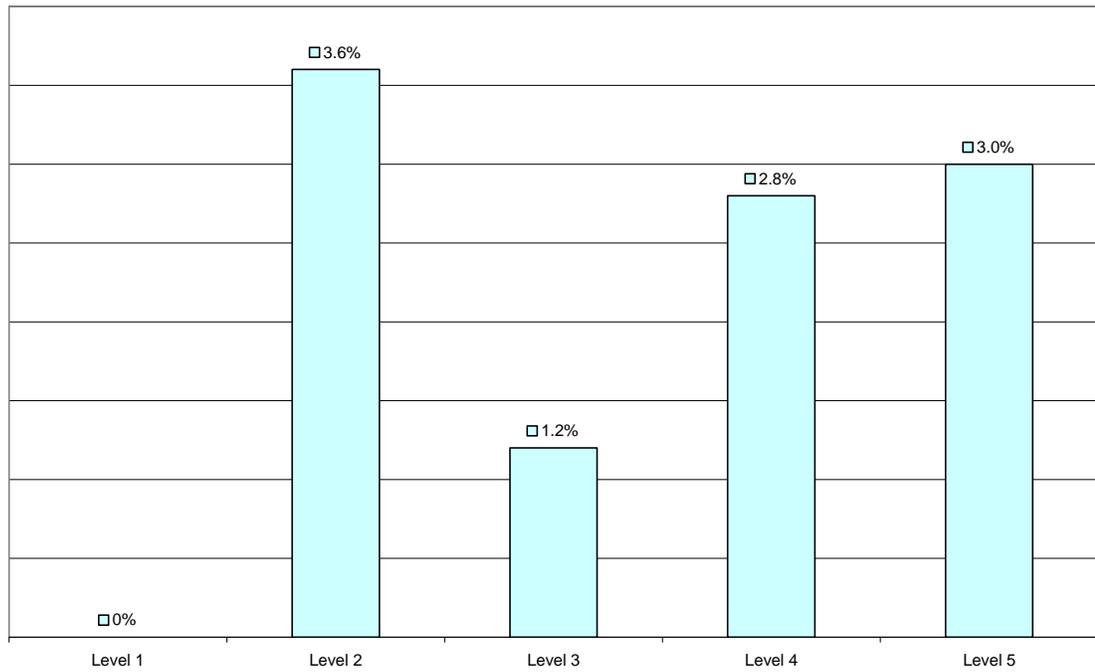
Representation Rates for Minority Women by Levels- 2007



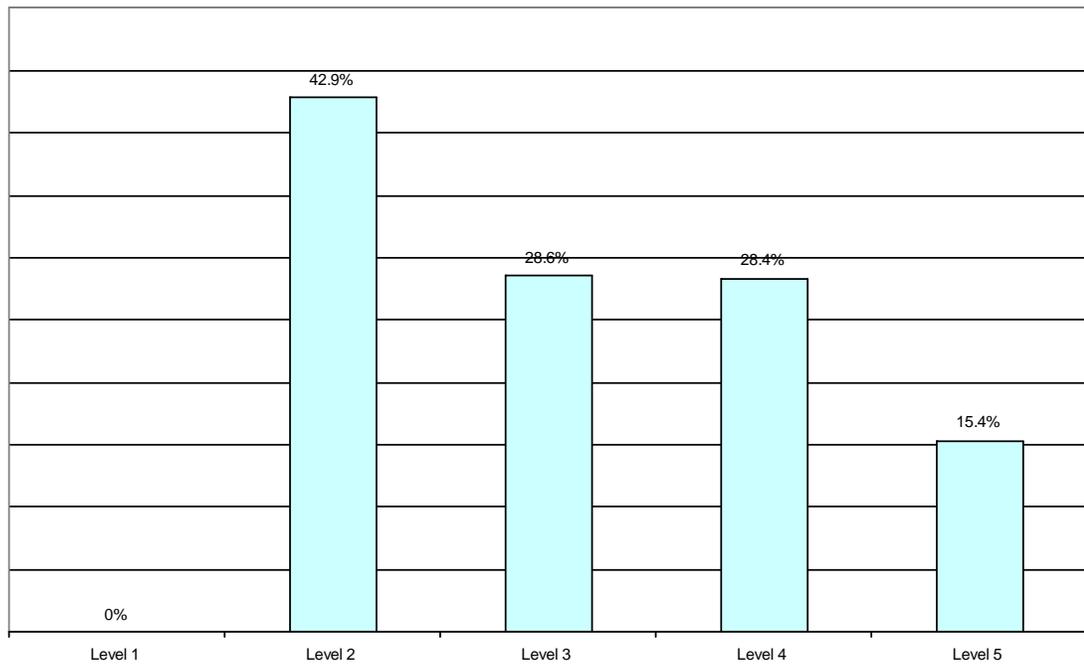
Representation Rates for Minority Women by Levels 2005-2007



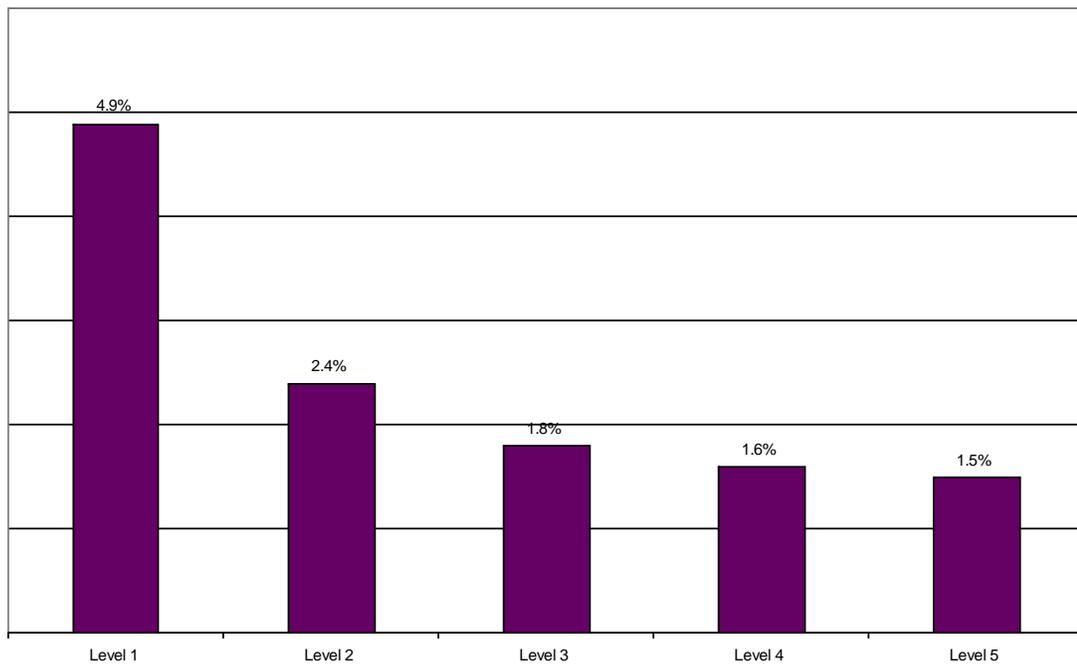
Voluntary Attrition Rates for Minority Women by Levels - 2006



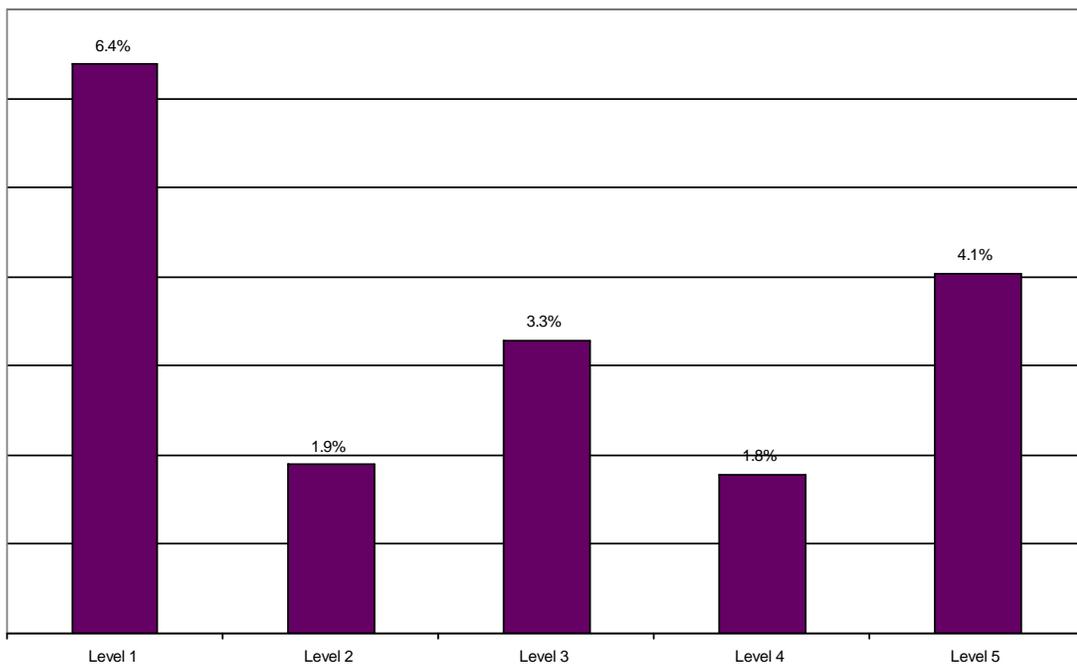
Hiring Rates for Minority Women by Levels - 2006



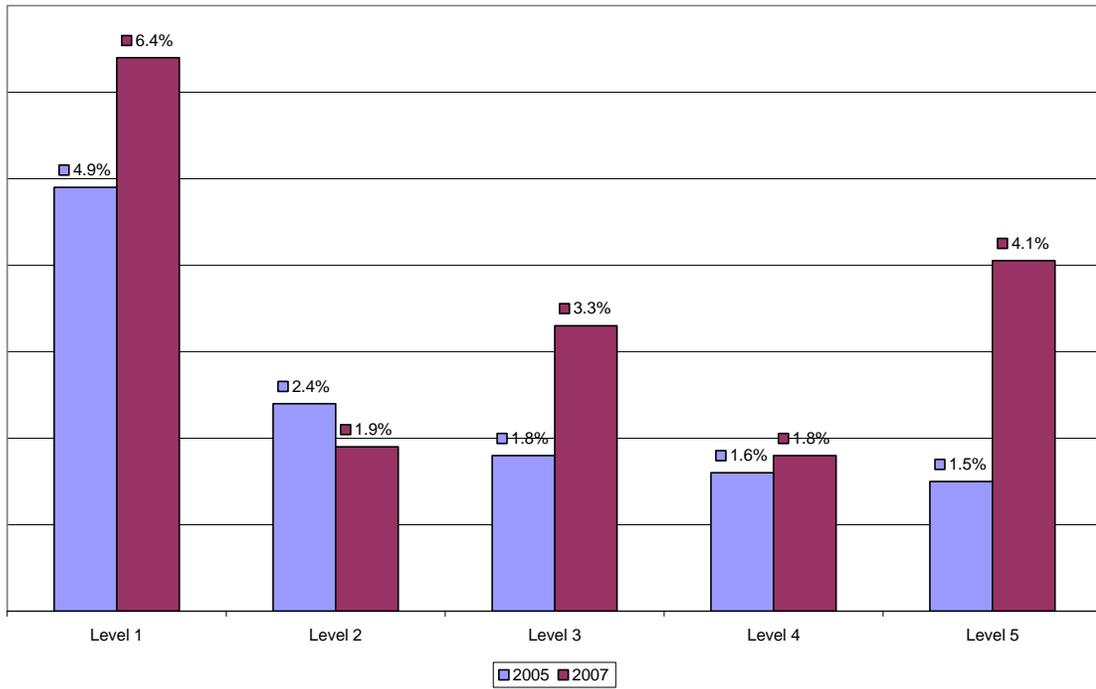
Representation Rates for Openly Gay Staff by Levels - 2005



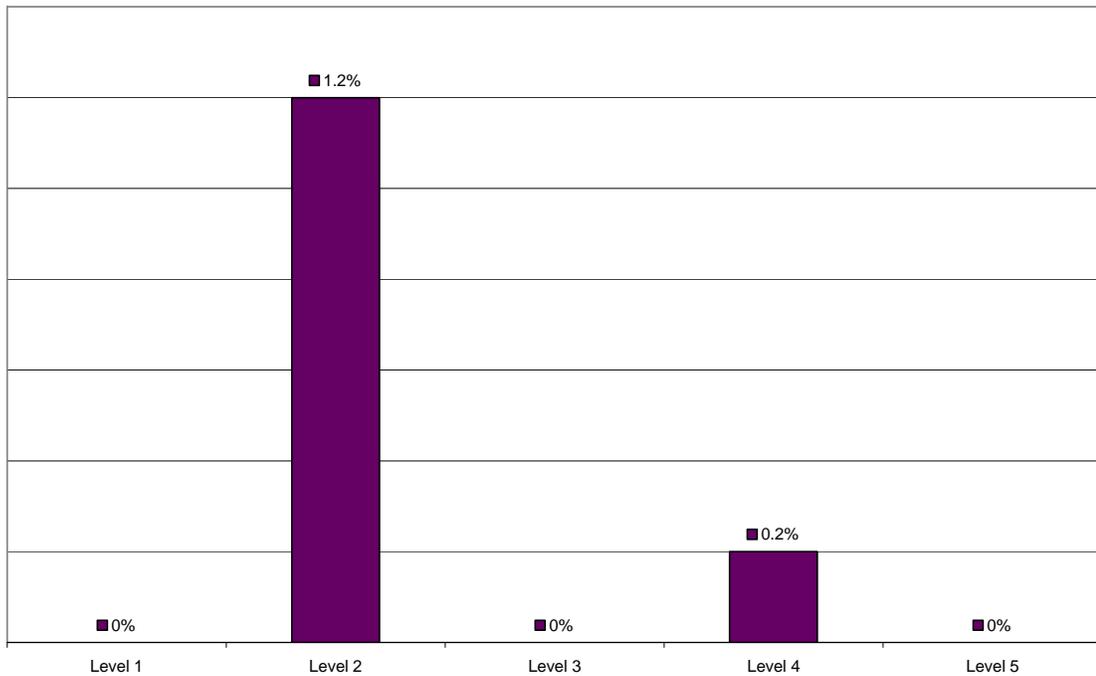
Representation Rates for Openly Gay Staff by Levels - 2007



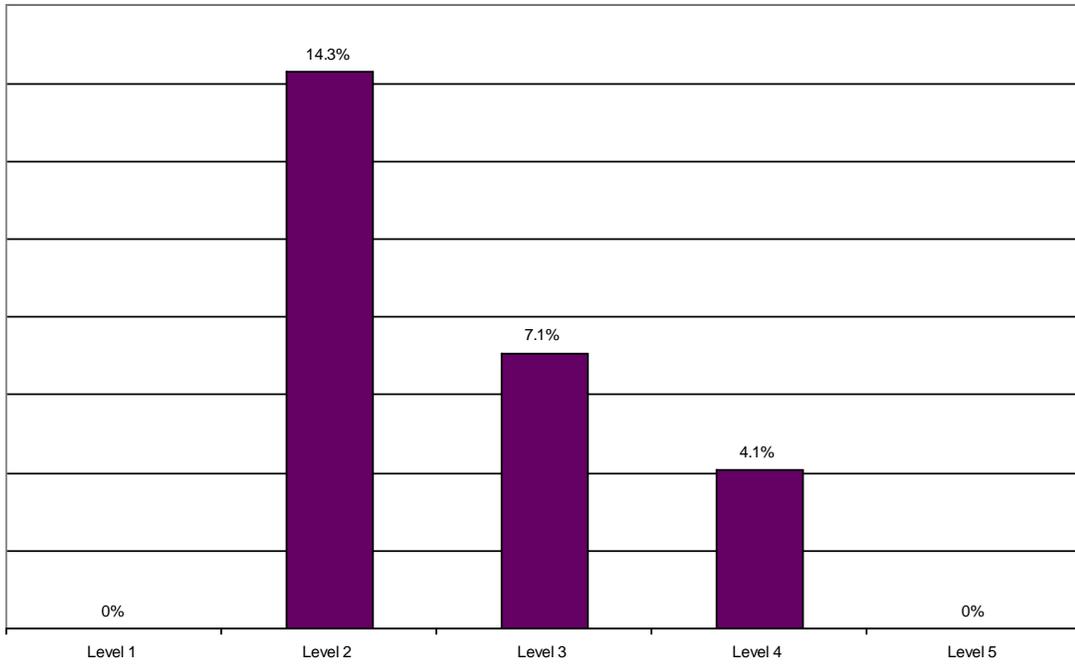
Representation Rates for Openly Gay Staff by Levels 2005-2007



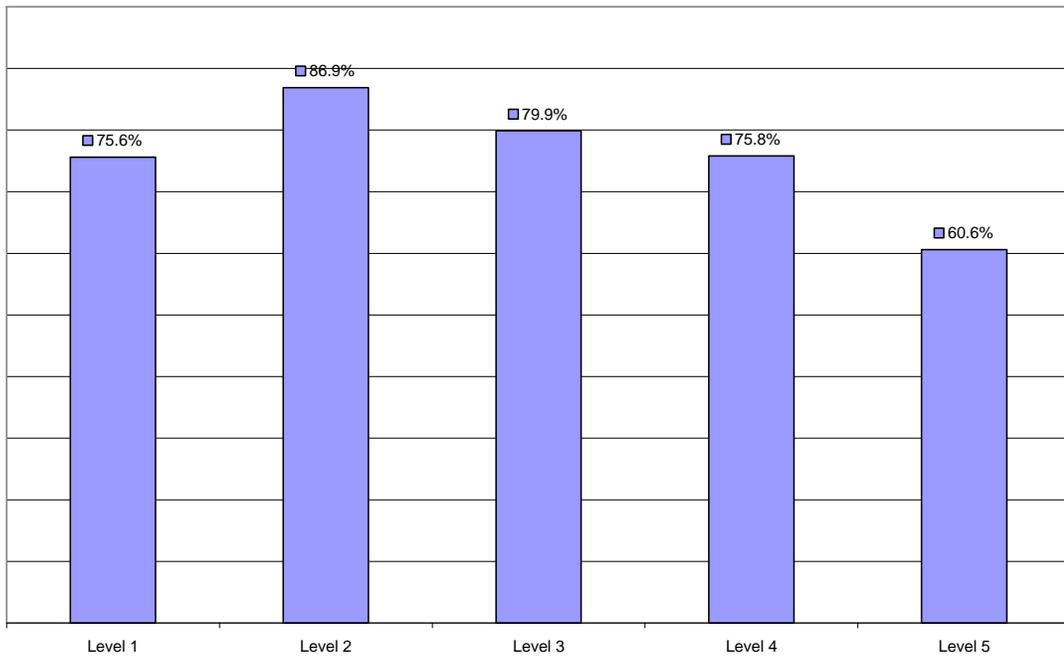
Voluntary Attrition Rates for Openly Gay Staff by Levels - 2006



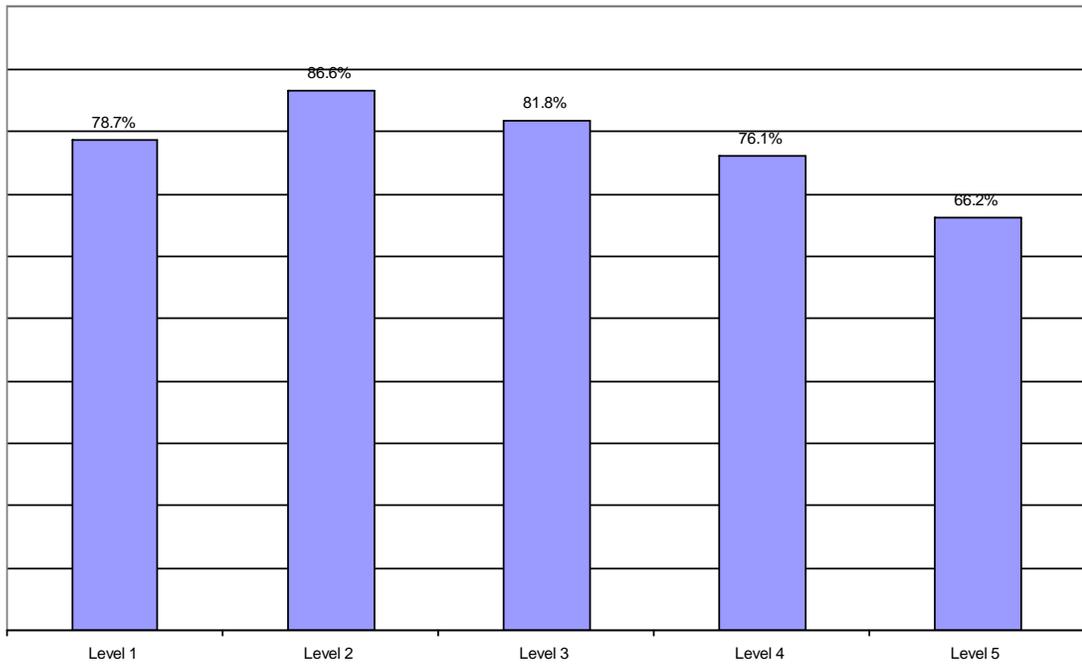
Hiring Rates for Openly Gay Staff by Levels - 2006



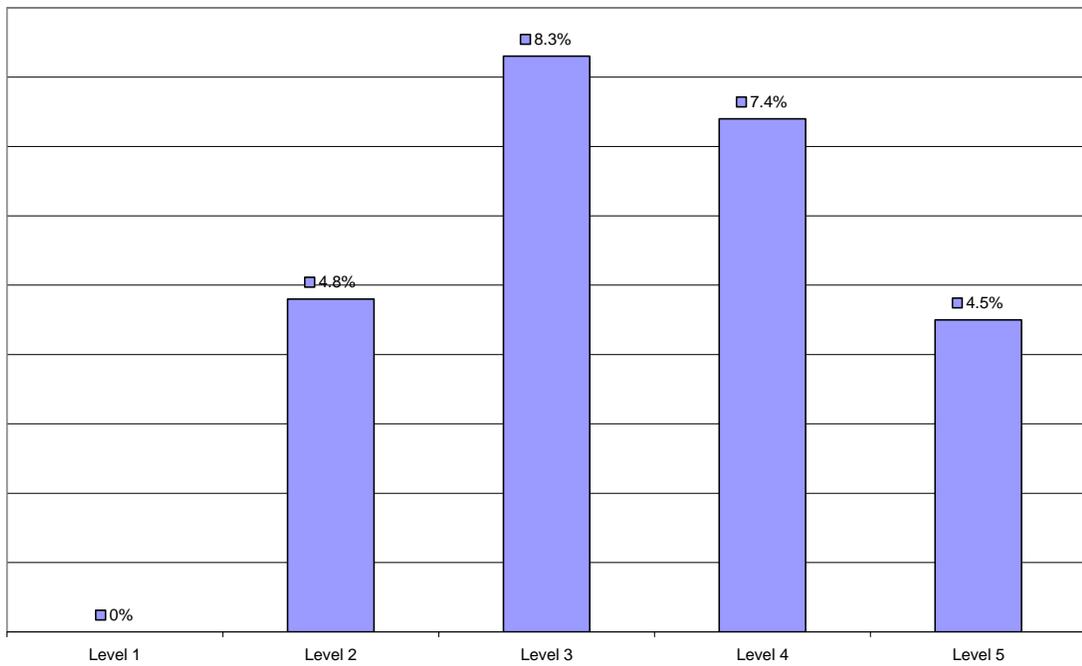
Representation Rates for Whites by Levels - 2005



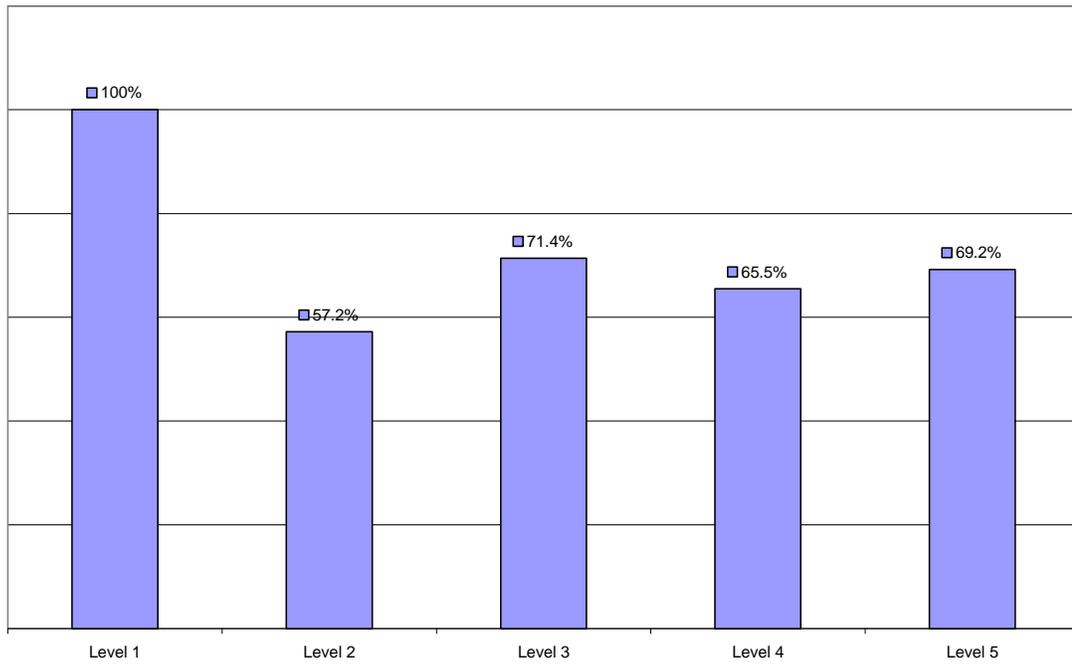
Representation Rates for Whites by Level - 2007



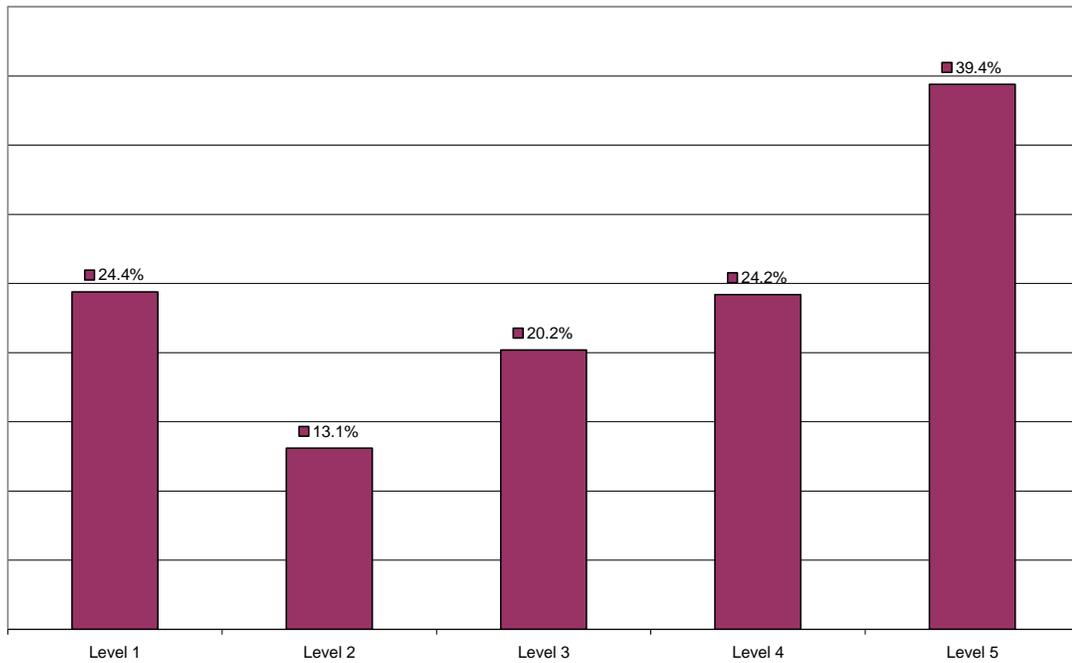
Voluntary Attrition Rates for Whites by Level - 2006



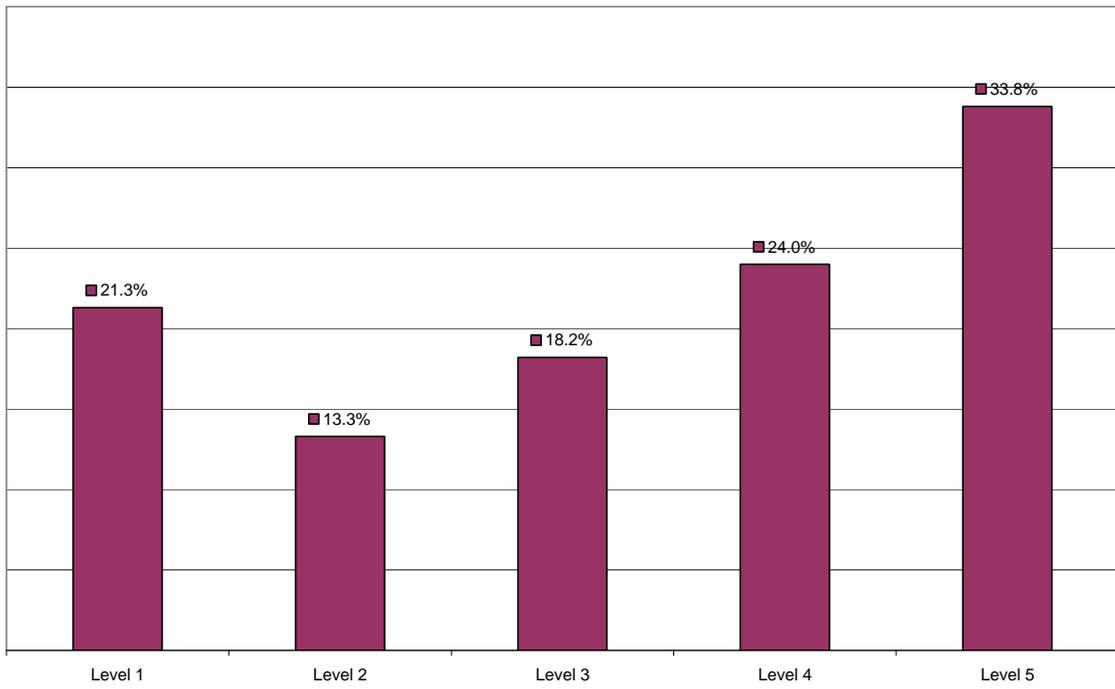
Hiring Rates for Whites by Level - 2006



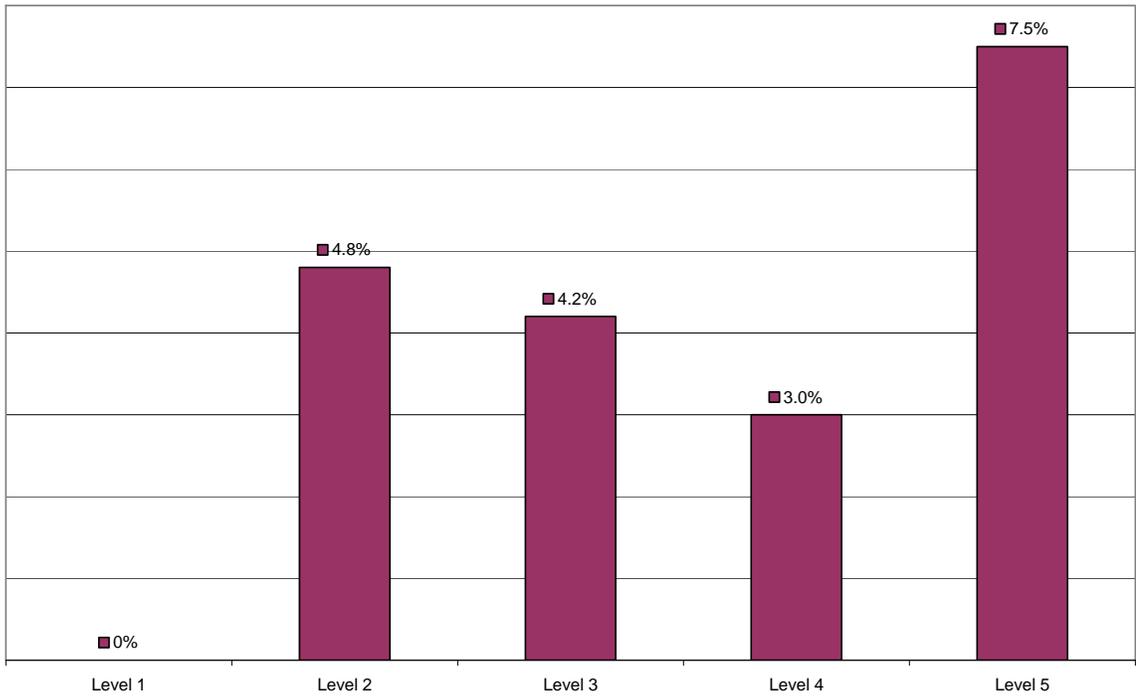
Representation Rates for Minorities by Level - 2005



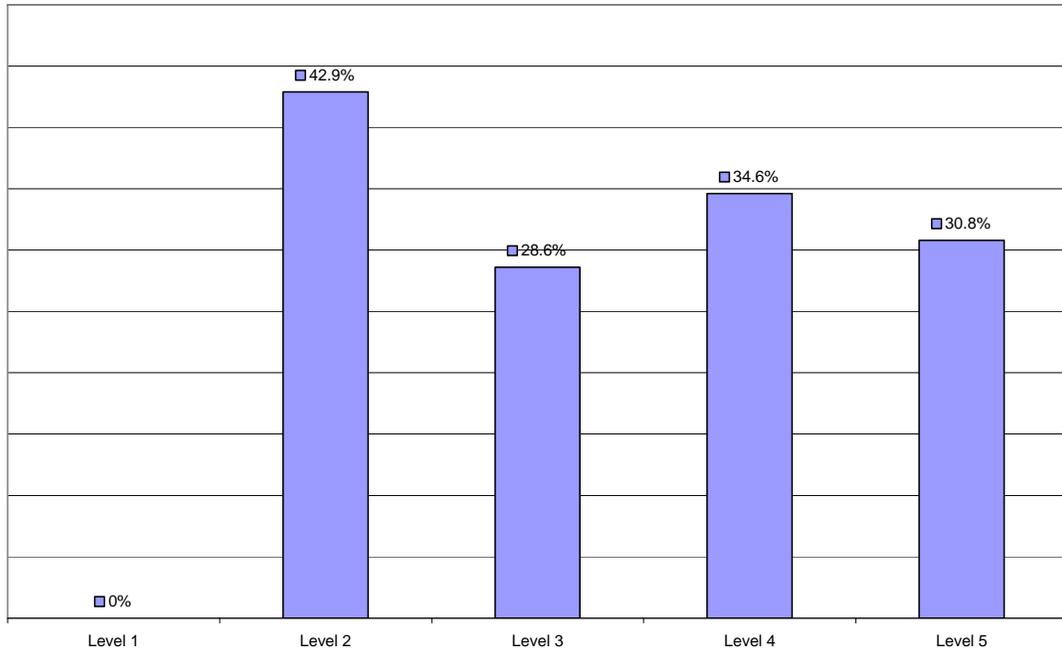
Representation Rates for Minorities by Level - 2007



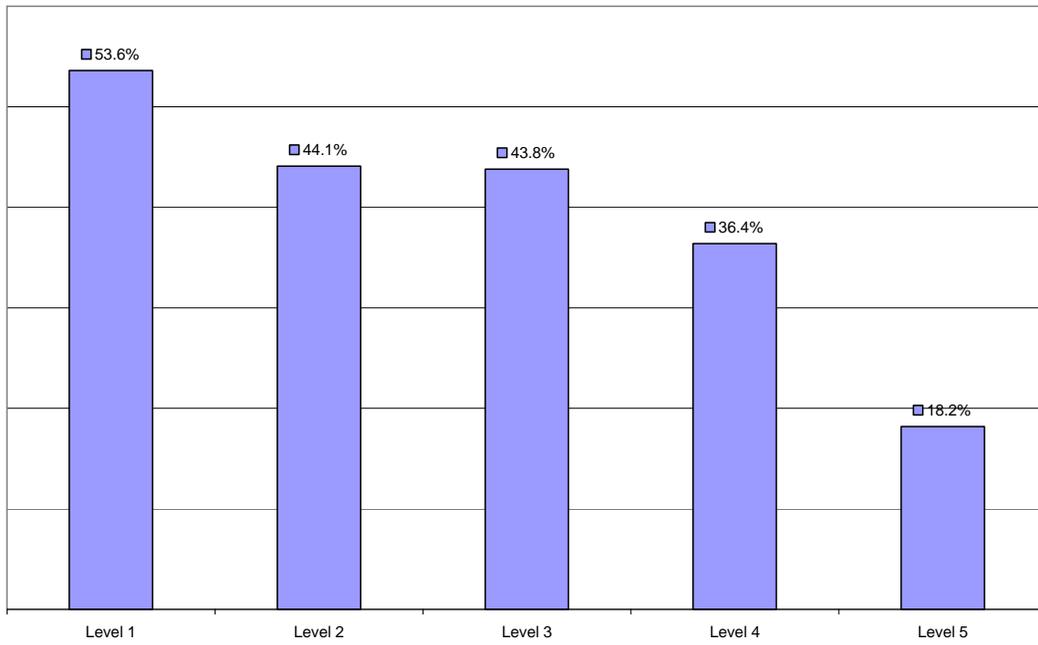
Voluntary Attrition Rates for Minorities by Level - 2006



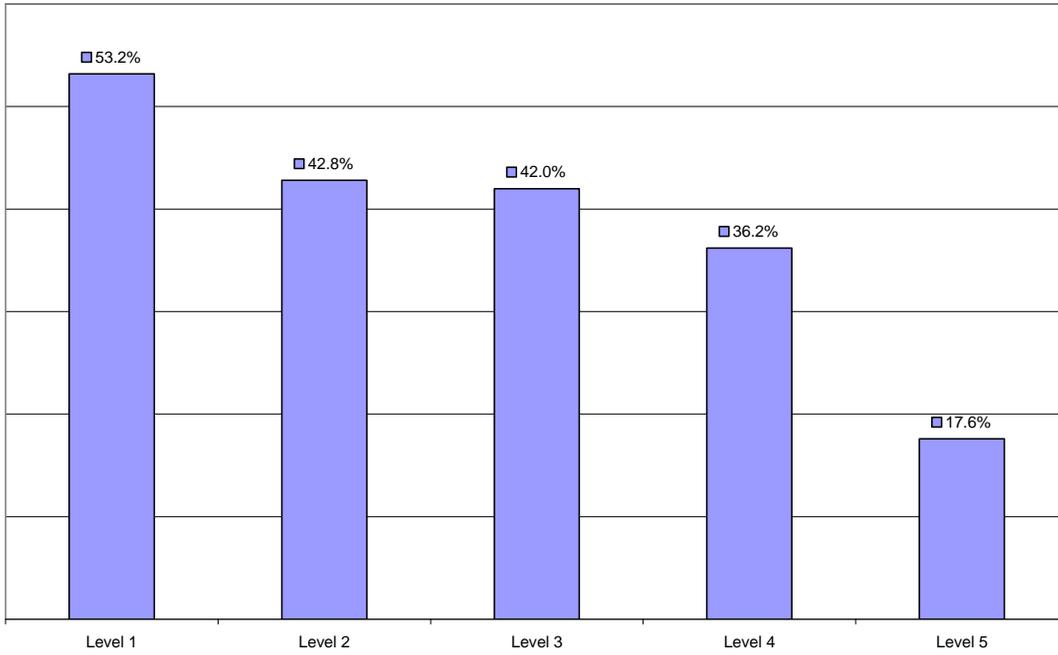
Hiring Rates for Minorities by Level - 2006



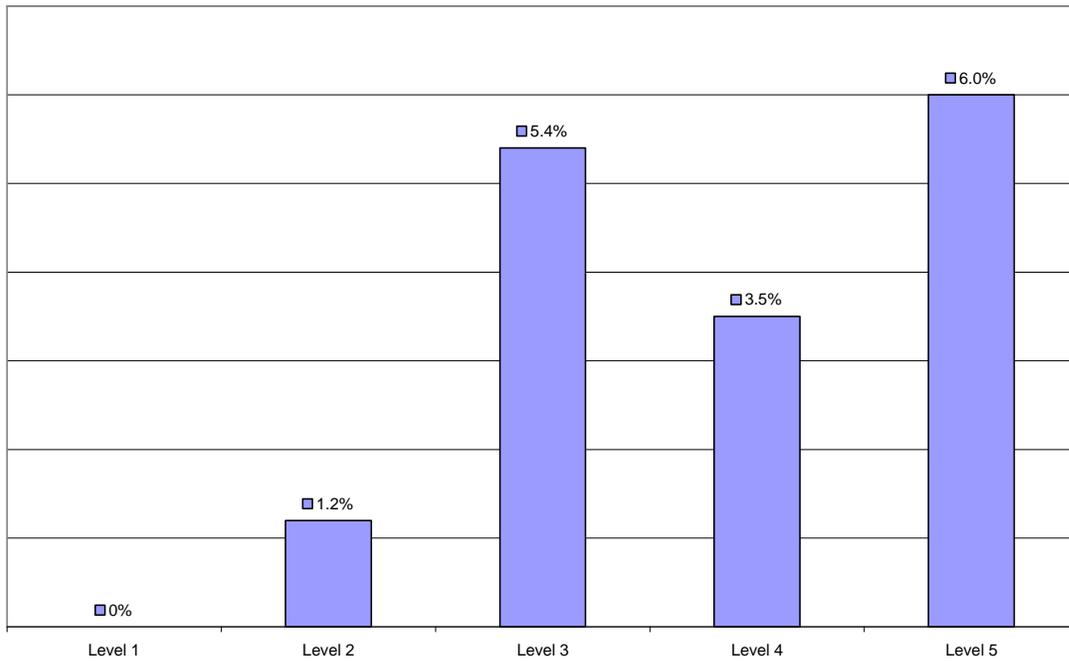
Representation Rates for Men by Level - 2005



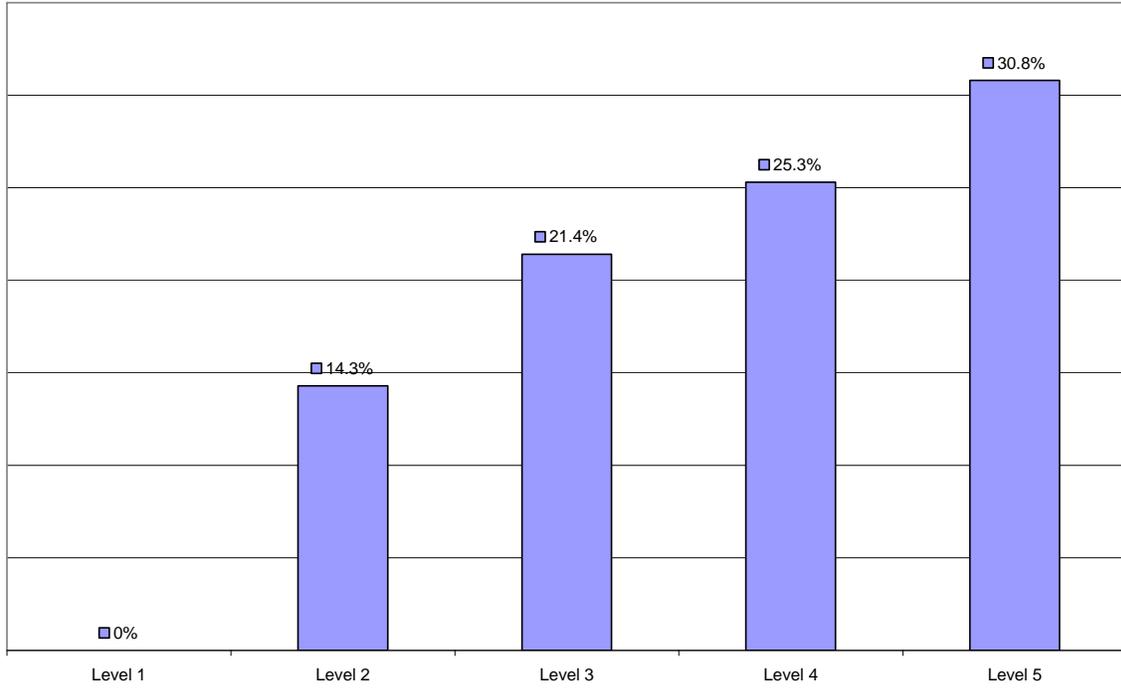
Representation Rates for Men by Level - 2007



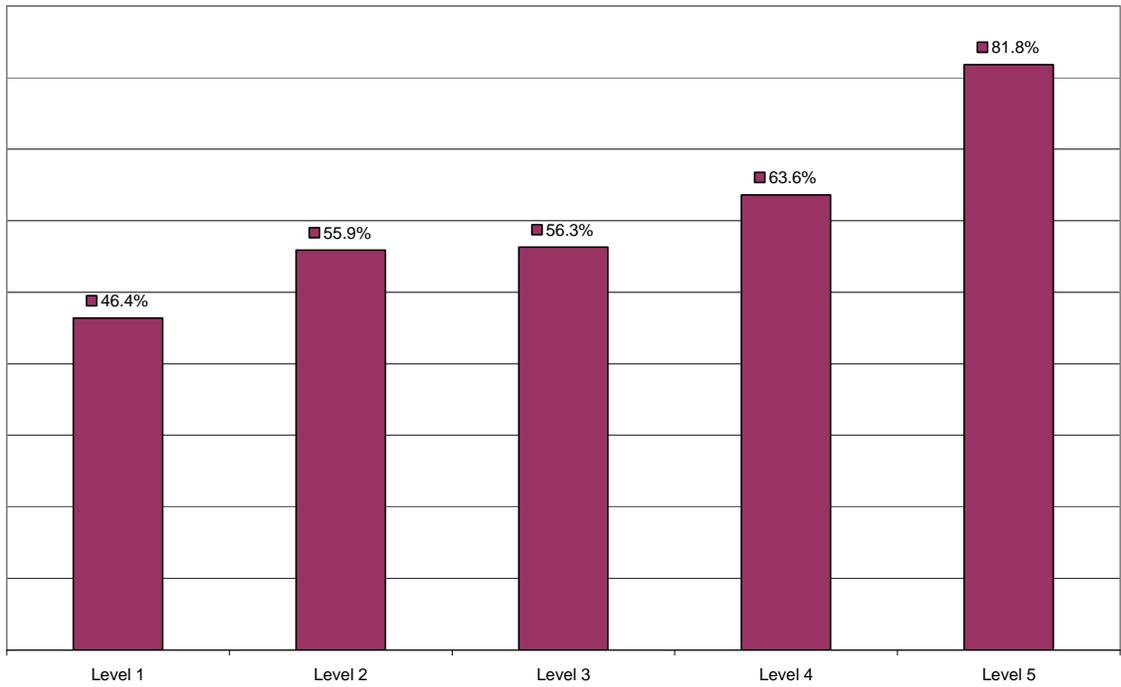
Voluntary Attrition Rates for Men by Level - 2006



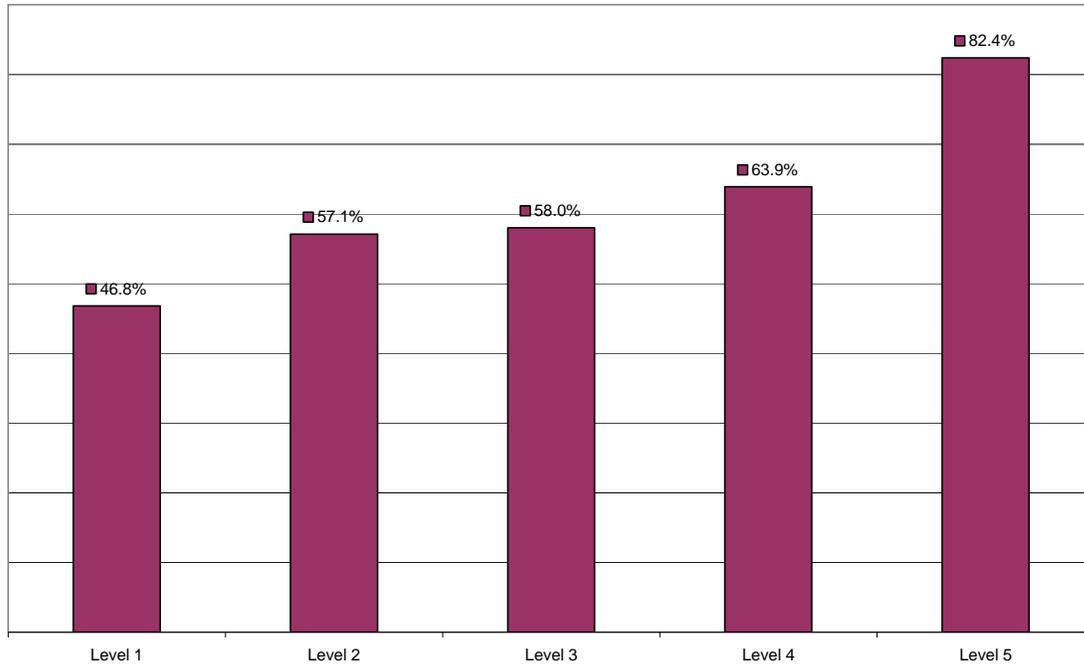
Hiring Rates for Men by Level - 2006



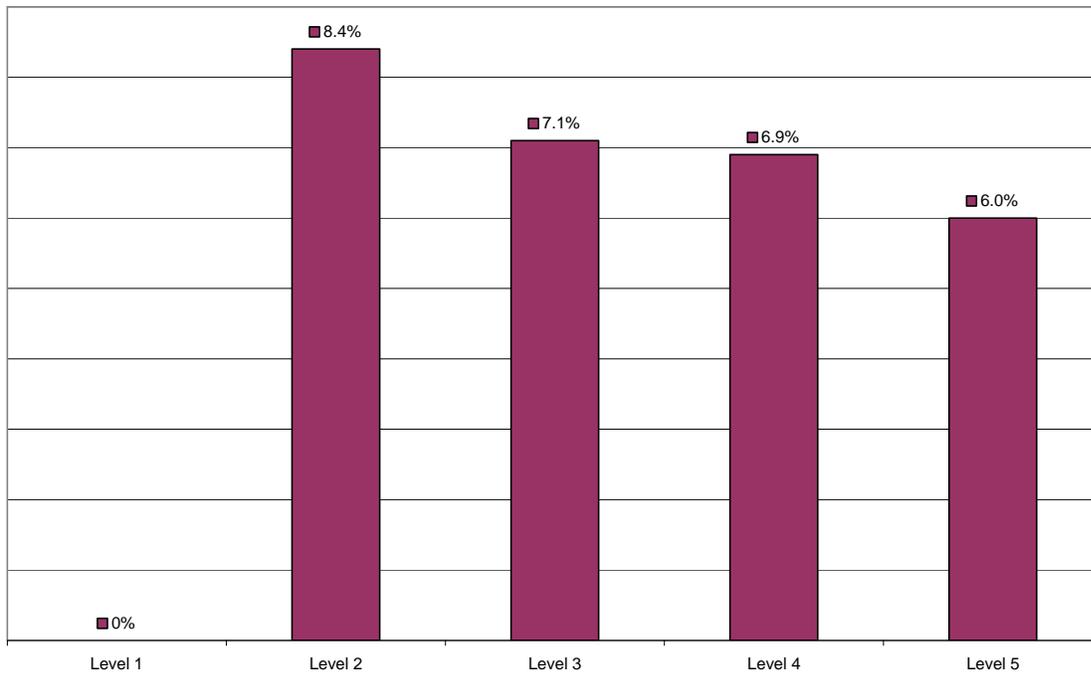
Representation Rates for Women by Level - 2005



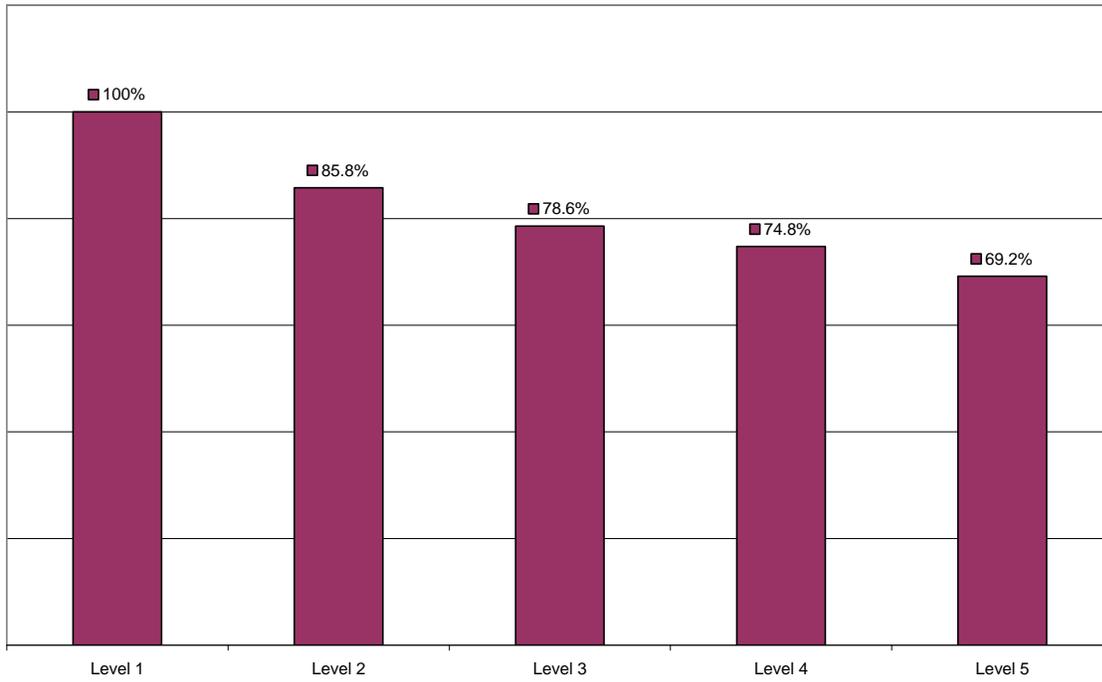
Representation Rates for Women by Level - 2007



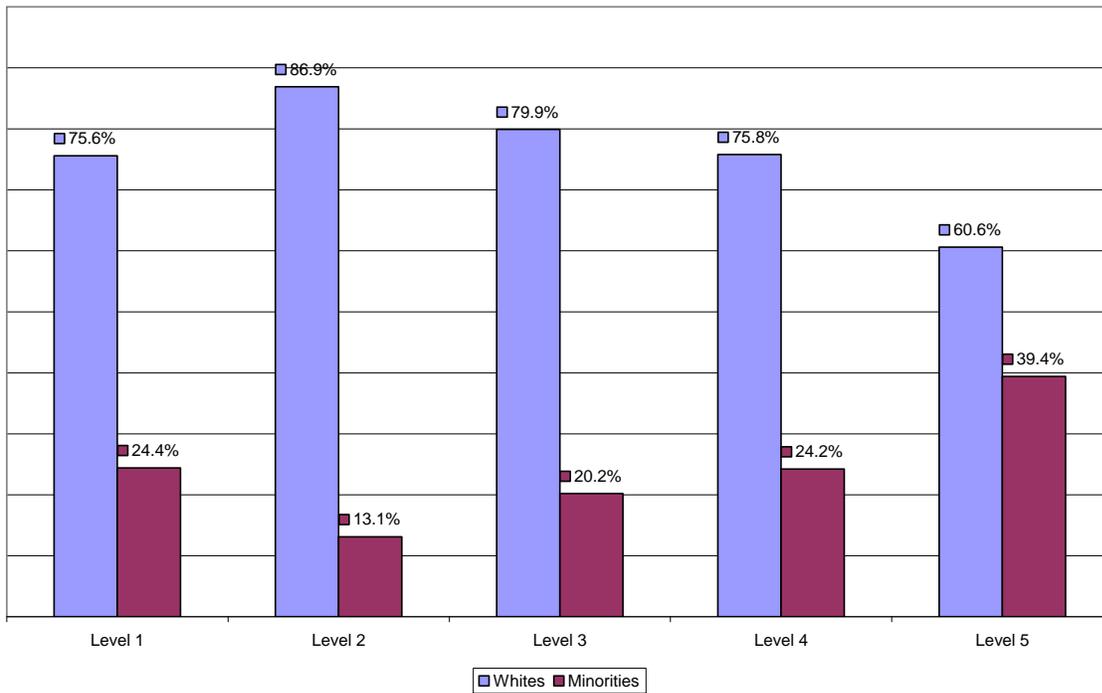
Voluntary Attrition Rates for Women by Level - 2006



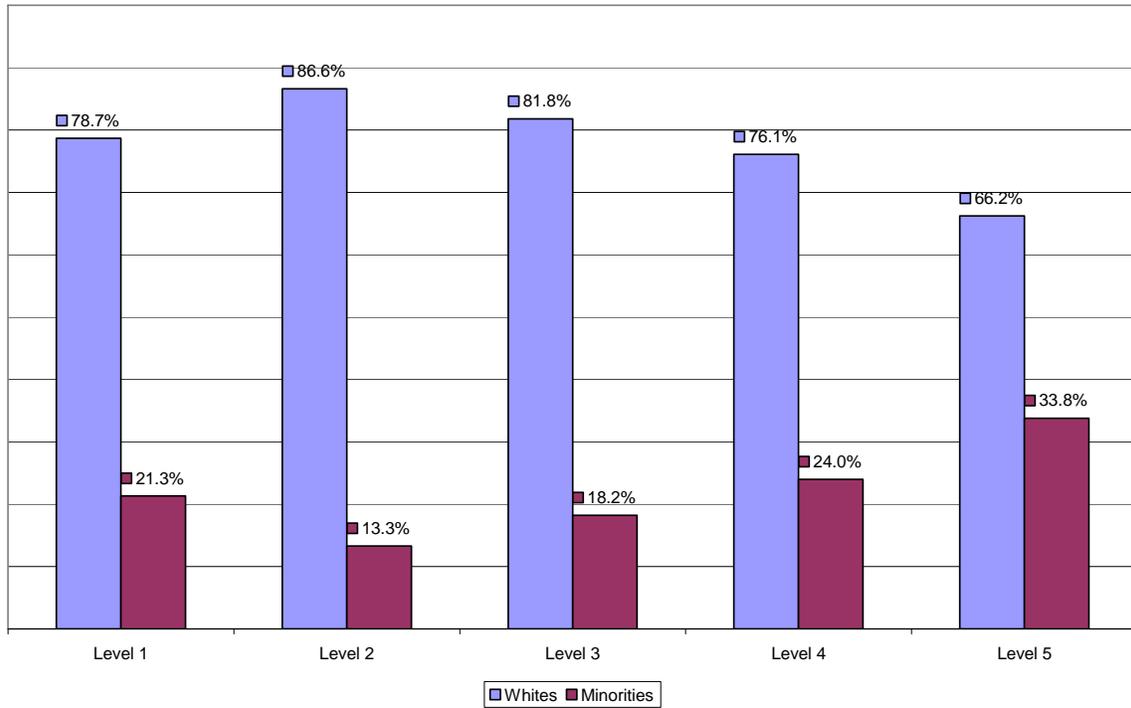
Hiring Rates for Women by Level - 2006



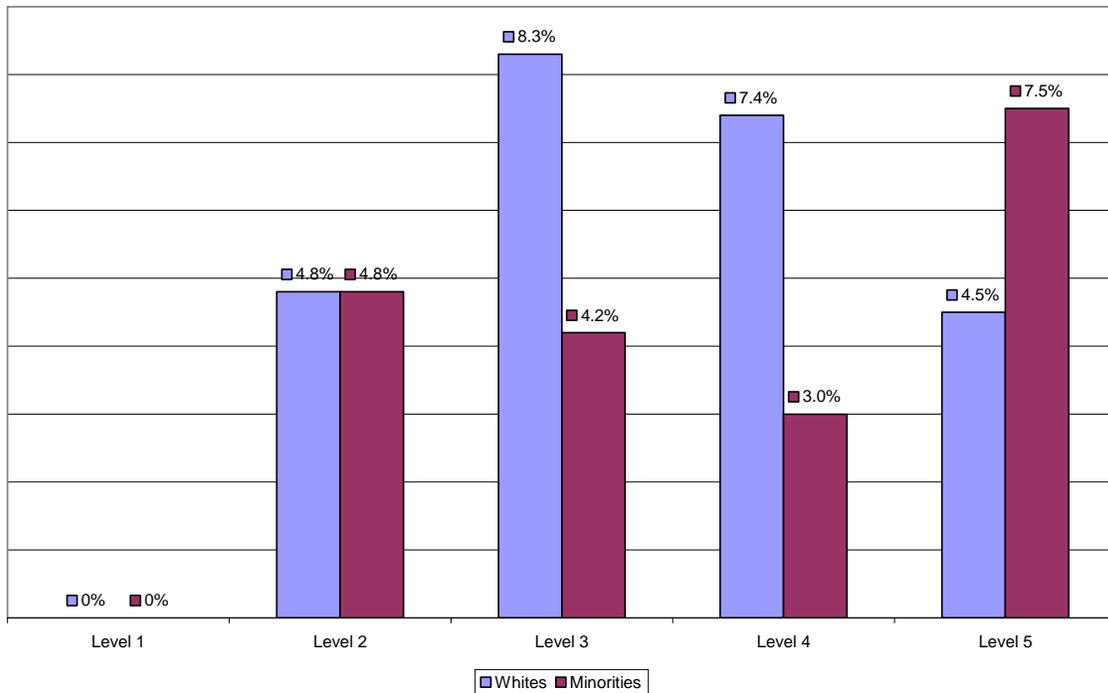
Representation Rates by Race/Ethnicity and Level - 2005



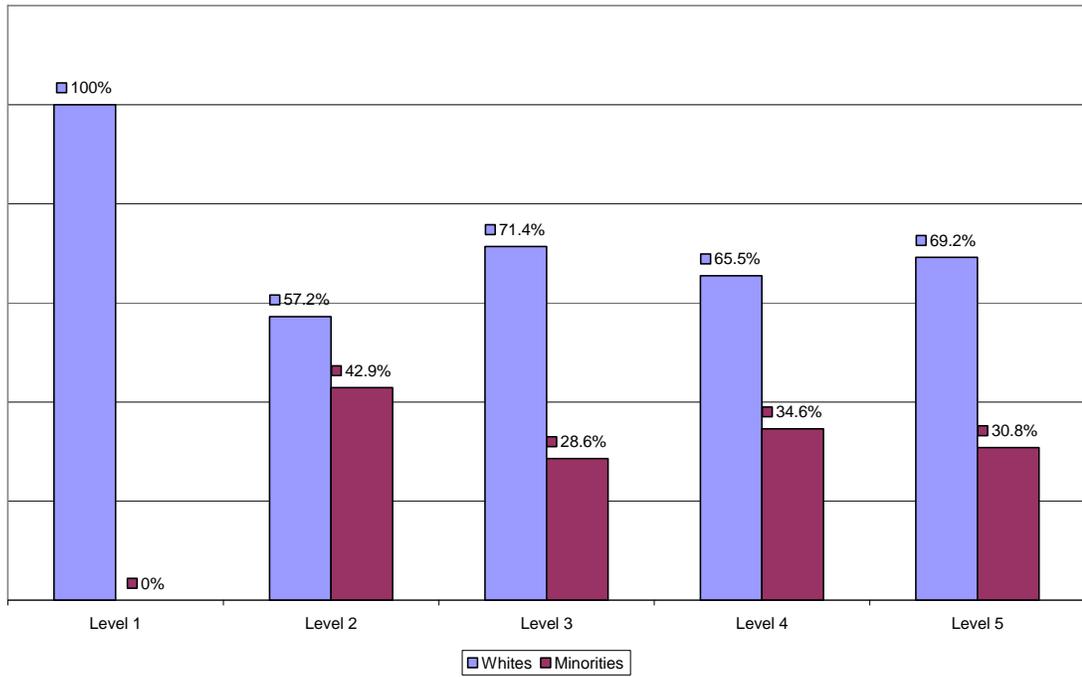
Representation Rates by Race/Ethnicity and Level - 2007



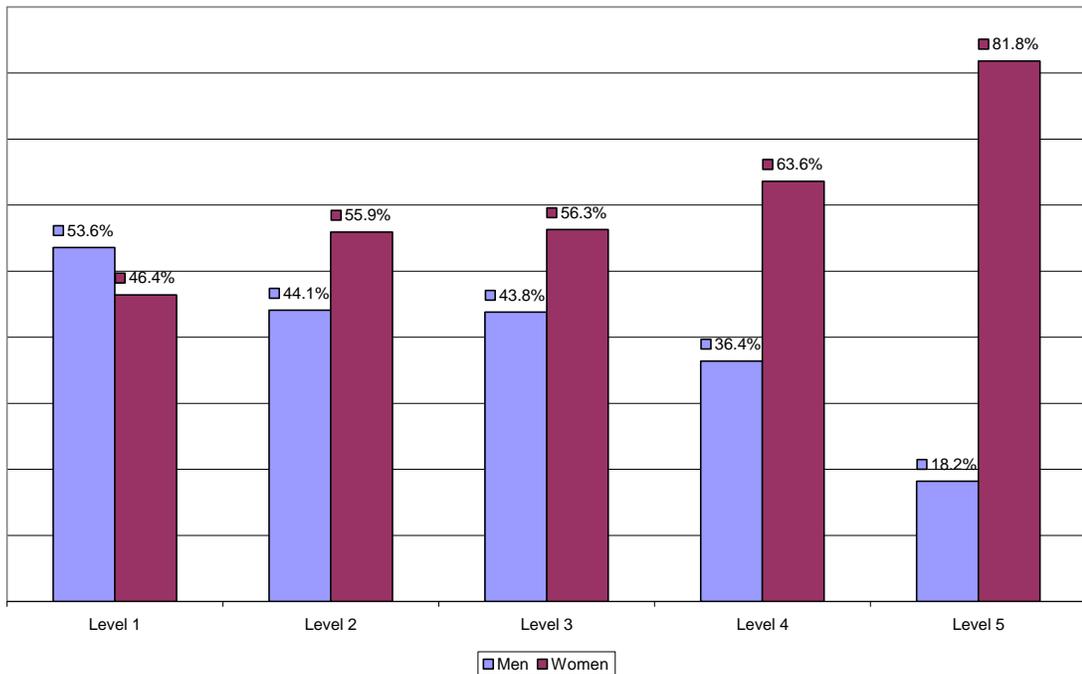
Voluntary Attrition Rates by Race/Ethnicity and Level - 2006



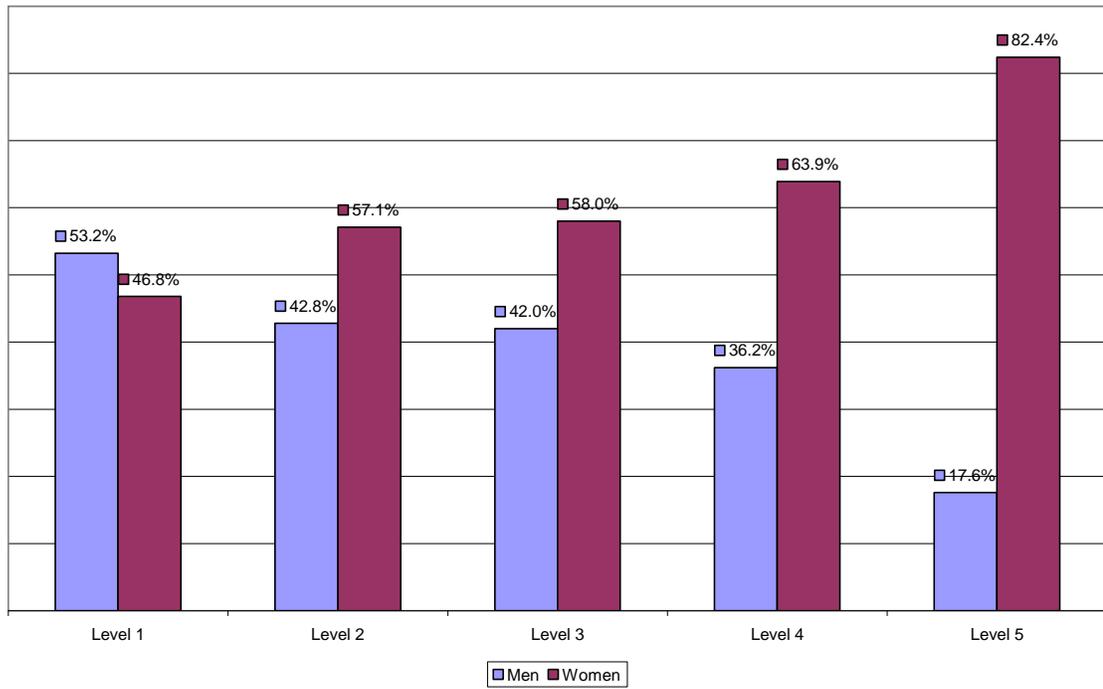
Hiring Rates by Race/Ethnicity and Level - 2006



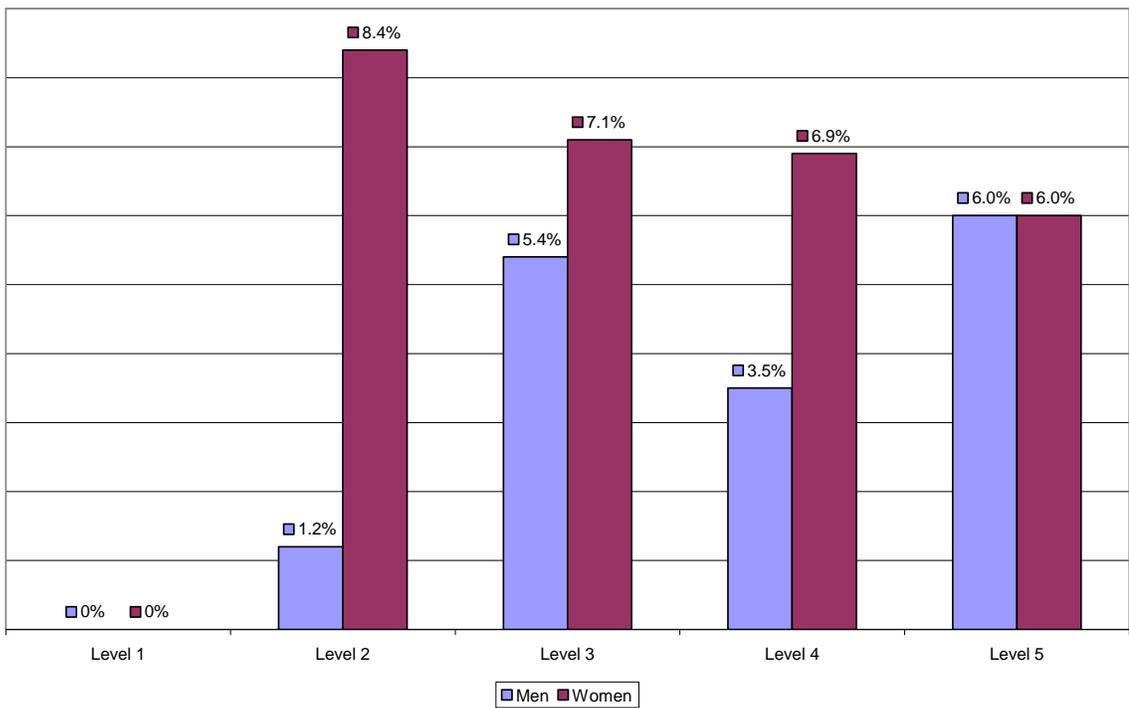
Representation Rates by Gender and Level - 2005



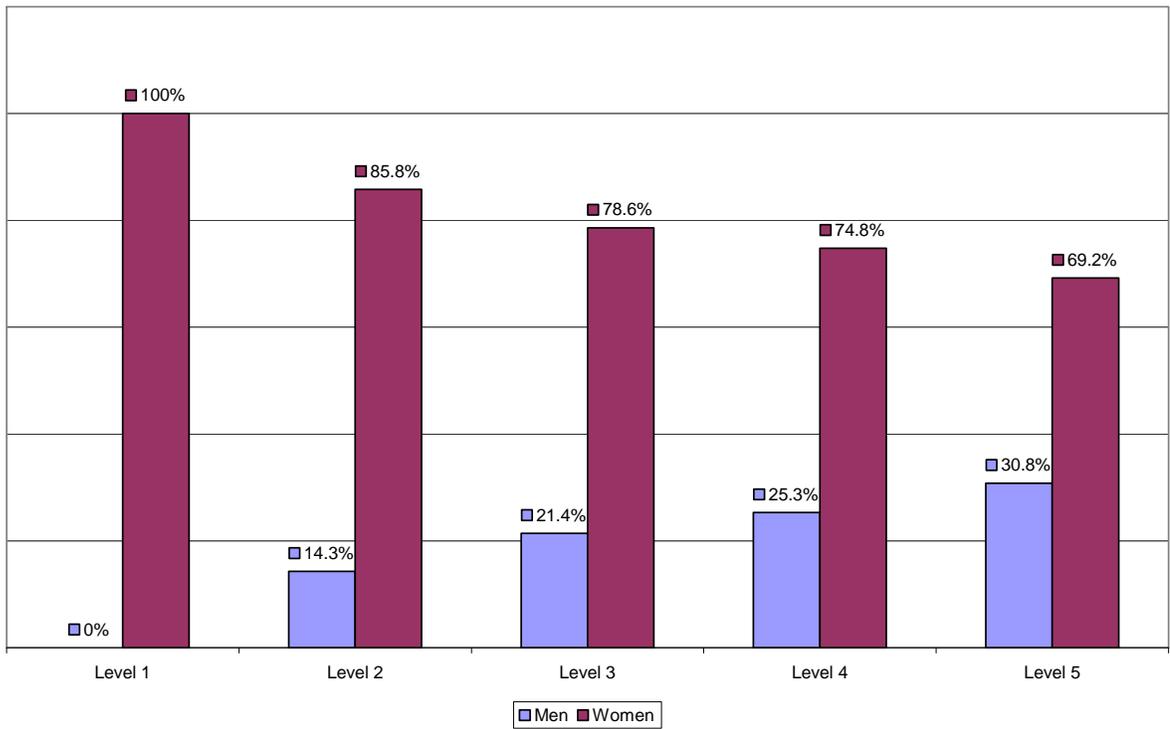
Representation Rates by Gender and Level - 2007



Voluntary Attrition Rates by Gender and Level - 2006



Hiring Rates by Gender and Level - 2006



Hiring Rates by Race/Ethnicity and Gender - 2006					
	Level 1	Level 2	Level 3	Level 4	Level 5
White Men	0%	14.3%	21.4%	19.1%	15.4%
White Women	100.0%	42.9%	50.0%	46.4%	53.8%
Minority Men	0%	0%	0%	6.2%	15.4%
Minority Women	0%	42.9%	28.6%	28.4%	15.4%

Representation Rates by Race/Ethnicity and Gender - 2007					
	Level 1	Level 2	Level 3	Level 4	Level 5
White Men	50.0%	39.0%	35.5%	29.3%	8.1%
White Women	30.6%	47.6%	46.3%	46.8%	58.1%
Minority Men	8.1%	3.8%	6.5%	6.9%	9.5%
Minority Women	11.3%	9.5%	11.7%	17.1%	24.3%

Representation Rates by Race/Ethnicity and Gender - 2005					
	Level 1	Level 2	Level 3	Level 4	Level 5
White Men	46.3%	38.1%	34.3%	30.0%	7.6%
White Women	29.3%	48.8%	45.6%	45.8%	53.0%
Minority Men	7.3%	6.0%	9.5%	6.4%	10.6%
Minority Women	17.1%	7.1%	10.7%	17.8%	28.8%

Voluntary Attrition Rates By Race/Ethnicity and Gender - 2006					
	Level 1	Level 2	Level 3	Level 4	Level 5
White Men	0%	0%	2.4%	3.3%	1.5%
White Women	0%	4.8%	5.9%	4.1%	3.0%
Minority Men	0%	1.2%	3.0%	0.2%	4.5%
Minority Women	0%	3.6%	1.2%	2.8%	3.0%

VI. Discussion, Recommendations and Conclusions

Discussion

In the 21st Century, our understanding of the meaning of diversity and its implementation in various settings continues to evolve. The expansion and development of the civil rights movement serves as a guidepost in contemplating the complexity of diversity strategies in the year 2009 and beyond. Diversity can encompass not only traditional affirmative action programs that focus on racial, ethnic and language barriers to advancement but also gender- and transgender-based initiatives. Additional efforts will be needed to reach and recruit attorneys with disabilities and those having different cultural and religious viewpoints. The needs, expectations and anxieties of White attorneys who will experience the reality of a nation with no clear racial majority will also require attention.

The legal services community can provide much needed leadership to show both how the benefits of a more diverse workforce may be recognized and enjoyed while the challenges caused by new leadership models may be managed and resolved. By seizing the timing of two significant demographic changes—the aging of Baby Boomer workers and the increasing racial and ethnic diversity of the American population—legal services providers can fill the expected leadership vacuum with new, dynamic leadership from a more diverse cadre of leaders.⁷⁶ As the Legal Aid Society of New York states on its website, “quality representation requires a diverse staff.” In order to nurture and retain that diverse staff, however, legal services offices in New York and around the nation have to begin implementing programs in the near term to prepare for the impact of these expected demographic trends.

Comprehensive, Long-term Strategies Will Be Required to Meet the Challenge of Increasing Diversity within Legal Services Programs

A simple solution to the problem of greater internal staff diversity would be the mere increase in the number of attorneys of color who are in the pipeline for management positions. And clearly, priming that pipeline to engage more attorneys of color in the process is one important piece of the puzzle. But if the overall number of minority attorneys continues to decline, and those who do have successful law school records are concerned that they cannot afford to work for a legal aid office for financial and career development reasons, then the pipeline strategy, without more, will fail to produce a broader pool of potential attorneys open to working for civil legal assistance agencies.

Outreach and recruitment efforts at the law school level by legal services programs should continue but they should be supplemented by outreach efforts at the high school and college levels as well. If minority students are failing to consider higher education due to costs and preparedness, then the number of potential law students of color will continue to decline. Those secondary and college outreach efforts should aim to inspire high school seniors and college freshmen to consider that serving the poor through a public interest law career allows them to become agents of social change. The Association of Corporate Counsel lists Model Programs that focus on pipeline initiatives geared to the high school level and beyond.⁷⁷ Some of the more recognized programs include Street Law, DuPont Diversity Pipeline Projects, College Bound,

and New York's Legal Outreach.⁷⁸ Additional mentoring and law school retention programs for minority law students include Practicing Attorneys for Law Students (PALS), various ABA programs and new initiatives such as the CUNY Law School's Center for Diversity in the Legal Profession.⁷⁹

Some of the few bright spots that can promote the value of working on behalf of nonprofit organizations are the new federal loan forgiveness programs. Beginning in 2008, students who have received federal loans have 2 options that can make a public interest career more attractive. Under the College Cost Reduction and Access Act (CCRAA), low income students can have their loan repayments adjusted based on family income. In addition, graduates who commit to working for the government and for nonprofit groups with formal Section 501(c)(3) status can have their loans substantially reduced or forgiven if they work for the government or tax-exempt nonprofit groups for 10 years time.⁸⁰

CCRAA is Public Law No. 110-84 (2007) that has been codified in various sections 20 U.S.C. (2007). More significantly, in August of this year, Congress further provided that "civil legal aid attorneys, public defenders and prosecutors could also participate in these loan forgiveness programs without the 10 year requirement: public defenders and prosecutors who work for at least three years would be eligible to receive up to \$60,000 in a new programs to be administered by the Justice Department while civil legal aid attorneys could receive up to \$40,000 in loan forgiveness in a new program that will be run by the U.S. Department of Education. One expectation of the program is that it would help reduce the high turnover rate among young legal aid attorneys leading to better trained and more experienced staff. Funds have been authorized for appropriation through 2013.⁸¹

But loan forgiveness alone cannot make up the gross disparity in income levels between public and private lawyers. Private law firms will continue to have the resources to hire promising attorneys of color despite the economic downturn. Before the current economic crisis it is difficult to see from whence the money for higher legal aid attorney salaries would come. That problem has now worsened as large states like New York and California prepare to face serious budget cuts that undoubtedly will negatively affect legal services resources.

While the salary issue is one that affects all legal aid attorneys, recent experience suggests a series of leadership tactics that can help retain attorneys from diverse background once they have been successfully recruited. A number of major corporations that have been sued for racial, ethnic, and gender bias have settled those lawsuits through the acceptance of comprehensive consent decrees. An analysis of proactive strategies that have emerged from those consent decrees should help guide legal services programs as they begin to fashion or re-tool affirmative action/diversity initiatives.

It appears that once a defendant corporation accepts the desirability of creating a truly diverse workplace and makes specific people responsible and accountable for delivering on those diversity goals, a successful consent decree can be achieved according to Professor Nancy Levit of the University of Missouri-Kansas City School of Law:

Apart from consent decrees, companies that have undertaken aggressive diversity efforts with clear accountability have yielded impressive results. As one example, in 2000, General Electric appointed Deborah Elam as vice president and chief diversity officer and implemented strategies for creating employee networks, establishing formal mentoring arrangements, recruiting at colleges with high percentages of minority students, and holding frequent planning meetings regarding diversity efforts.⁸³ The percentages of women and minorities among General Electric officers rose from twenty-two percent in 2000, to thirty-four percent in 2005, while the percentages of women and minority senior executives rose from twenty-nine percent to forty percent during the same time frame.

These results are not just the isolated experiences of a single company that created an executive-level diversity officer. Though more than three-quarters of the Fortune 1000 companies had some form of diversity program by 2001, those companies that made managers responsible for achieving diversity goals ranked highest in terms of results: "[o]f the top 50 best companies for minorities, 38 tied managers' bonuses to diversity goals." The cumulative evidence from class action settlements and other corporate experiences in efforts to promote a diverse workforce is that diversity training may not yield results, but oversight and accountability do.⁸²

As Professor Levit further explains in "Megacases, Diversity, and the Elusive Goal of Workplace Reform," 49 *Boston College Law Journal*, 367-429 (2008) ("Megacases"):⁸³

Although a myriad of factors affect diversity (organizational structure, the legal environment, diversity in the internal and external labor pools that feed jobs, and composition of the top management, among other factors), the findings are striking because of literature that has developed about stereotyping and bias. Numerous studies have found that cognitive biases and ingroup and outgroup stereotyping occur unthinkingly. For years, the thought among corporate managers has been that using diversity training to create awareness of these unconscious [*421] biases would help eradicate them and lead to equality and fairness in the workplace. What the Kalev study [discussed below] found was that this assumption of education as a cure made "a leap of faith between causes and remedies," and that altering structures of responsibility is instead the best way to accomplish organizational change with respect to diversity.⁸⁴

According to Prof. Levit, the sociologists assessed those strategies as follows:

Structures establishing responsibility (affirmative action plans, diversity committees, and diversity staff positions) are followed by significant increases in managerial diversity. Programs that target managerial stereotyping through education and feedback (diversity training and diversity evaluations) are not followed [*422] by increases in diversity. Programs that address social isolation among women and minorities (networking and mentoring programs) are followed by modest changes.⁸⁵

A somewhat surprising finding was that diversity training, especially those of the 1-day workshop or 2-hour video variety, had a negligible effect on the admission of women and minorities to the ranks of corporate management and in some cases had created more racial tension through backlash against the training. The researchers discovered that "[p]ractices that target managerial bias through feedback (diversity evaluations) and education (diversity training) show virtually no effect in the aggregate."⁸⁶ Moreover, they found that

These biases can be viewed as "irresistible stereotypes," or biases so deeply ingrained that they simply can't be taught away in a one-day workshop." Indeed, some research shows that diversity

training programs can, paradoxically, activate bias, create backlash, and have "a negative effect on the promotion of minorities." If employees perceive corporate policies as unfairly creating opportunities for only some employees--say, minorities and women--they are unlikely to comply with those policies and rules.⁸⁷

Training and sensitivity programs fared the worst, according to the Kavel Best Practices study, because of the faulty assumption that education magically can cure the impact of stereotypes and unconscious racism in the workplace. Instead more focus should be addressed to changing institutional structures and accountability to make effective change regarding diversity initiatives.⁸⁸

This analysis should not be used as a rationale for moving away from education as one of the tools to address the principle of anti-discrimination. There is a danger that if legal services providers and law firms focus primarily on a numbers game ("our work force should look more like our clientele") or on the economic value of diversity ("diversity is good for business in a global marketplace"), such attitudes can obscure the broader moral and ethical justifications for affirmative action/diversity policies. Education clearly has a role in continuing to make the case for eradicating the effects of past discriminatory practices and encouraging new creative approaches to diversifying the legal services profession. Materials in support of this argument may be found in the numerous *amicus* briefs submitted on behalf of the University of Michigan in Grutter v. Bollinger, 539 U.S. 306 (2003).

Recommendations

Diversity as Formal Management Goal

Based upon extensive research on increasing or enhancing diversity within the legal profession, it is clear that there are a number of strategies New York legal services programs and public interest law firms can adopt that could improve the internal diversity of their respective staffs. Taking the analyses by Levit and Kavel along with best practices from various legal sectors, there are a number of recommendations that legal services programs and public interest law firms may wish to consider if they are to broaden their internal diversity to all levels of management.

1. Institutionalize the diversity agenda as part of the overall management agenda for each program and office. Diversity should be supported from the top senior management in visible, concrete ways. Internal structures that establish responsibility lead to significant increases in managerial diversity.
2. Make the goal of increasing diversity a part of the strategic plan for each program and provide visible rewards for meeting those goals. Accountability and oversight are two ways to convince the entire workforce that diversity has become an integral goal of the organization.
3. Diversity should be defined more inclusively and broadly than traditional racial and ethnic terms and should include an appreciation for a range of meaningful differences.

4. Adopting a culture of inclusion that focuses more on mentorship and a formal retention policy and less on one-day diversity sensitivity sessions could help improve internal diversity. Programs that focus on addressing racial, social or cultural isolation through networking or mentorship have a modest impact on increasing management diversity.
5. Diversity training, without accountability or formal structures, will rarely result in increasing managerial diversity.
6. Education, in the form of leadership development programs, can provide an additional avenue to convince people of color and other diverse groups that the program is serious about diversifying its management structures.
7. Loan forgiveness programs can help address the salary gap between legal services and corporate law but the current economic downturn threatens to further exacerbate the salary differential.
8. Legal services programs and public interest law firms should consider engaging in outreach at the high school and college levels to offset the drop in entrance rates among minority groups.

We recognize that there are significant differences between the resources and experiences of corporate law firms and those of legal services programs and some public interest law firms. However, assuming that the competition over competent minority, gay and disabled attorneys will continue then it becomes imperative that legal aid management takes into account strategies that are being used by other segments of the legal sector. At a minimum, leadership development in the Legal Services community regarding diversity needs to shift from generalized declarations of support for diversity to more proactive institutional and structural changes of accountability and responsibility in order to achieve reasonable diversity goals.

Leadership Development Training and Education Programs

Research has shown that gearing diversity initiatives solely around outreach and enhancing the pipeline are not enough to increase diversity at all levels of an organization.

One way New York legal services organizations can improve their internal diversity is through the intervention of leadership development programs. The first program would be designed to enhance the leadership skills of those attorneys currently in Levels 3 and 4 so that they could be qualified to be hired for Level 2 positions. The second program would be designed for those in Levels 1 and 2 so that they could change the internal organization to encourage minorities and those from diverse backgrounds to remain within the organization.

Baruch College has experience in designing executive level programs that enhance the skill level of those executives who successfully complete the program. In conjunction with the CUNY Law School, Baruch College could develop a curriculum that will focus on both sides of the leadership development issue: courses that will enhance the skills of attorneys at Levels 3 and 4 so that they will be eligible to be considered for new openings at Level 2 as well as courses for

current managers that will show them how to retain and develop the talent at entry level and mid-level.

Social Change Commitment and Future Legal Services Leaders

We cannot develop a new crop of diverse leaders in the legal services community without first bringing more people of color into the profession and into public interest work. In the comments section of the Survey, one of the providers proposed that some attention be given to ways to encourage students who enter law school with a commitment to social change and justice to maintain that commitment despite the real barrier of student debt and the countervailing pressures to pursue a “traditional” legal career. We have noted recent efforts to address student debt issues for graduates desirous of pursuing public interest law careers or working for the government. Research here and abroad suggests that there are steps that law schools can take that would promote a greater acceptance of public interest legal jobs by graduating law students.

This provider also wanted to know why racially and ethnically diverse law students and those from low-income and working class do not practice public interest law or have public interest careers and why those groups continue to be underrepresented in law school. As noted previously, there are many reasons why minority and poor students may elect not to engage in public interest law careers. A recent survey of black Harvard Law School [“HLS”] students’ attitudes towards public interest careers conducted by Jenee Desmond-Harris, a Harvard Law graduate who had a vague but undefined interest in public interest law and ended up working for a corporate law firm, highlights the role that law schools should play in nurturing the commitment to social justice work:⁸⁹

In retrospect, I count myself among the black law students who assumed that my interest in pursuing a social change agenda would be cultivated and directed at HLS, but lacked the focus and motivation to ensure that this would happen. I regret that I did not actively seek out a community supportive of social change work, especially as experiences in my last year of law school have convinced me of the value of supportive networks for the maintenance of public interest commitment. ...

Ideally ... more black students should be admitted with the frame of mind described above [willing to work on behalf of needy people in the short run rather than waiting on systemic change], rather than relying, like I did, on HLS to direct them to use their legal training for social good. According to these goals, HLS should admit fewer students like myself (who are social change-oriented but without solid plans for their careers) and more like the black students I interviewed who have remained committed to social change work since their admission to HLS.

This study and previous research suggest that changes at the admissions level could increase the percentage of black HLS graduates who pursue social change careers. To accomplish the institutional goal of admitting students who have an authentic and durable interest in social change work, admissions officers could scrutinize applications for a history of commitment to social change or public interest (however the institution defines these things) and a demonstrated commitment to working for the public good - rather than just an expressed interest in doing so. Perhaps HLS could consider favoring applicants who have not assimilated as well as others to previous environments, but have successfully charted their own paths. This indicates the ability to maintain a commitment to social change in a law school environment that is not as supportive of this agenda as it is of others. It would also be effective for admissions officers to place value on

factors such as personal experience with discrimination and injustice (like that of the student I interviewed in this study whose uncle is in prison), which could predict the strength and permanency of a social change commitment.

Alternatively (or in addition to changes in admission), HLS should implement pedagogical changes to nurture, rather than stifle, the interest in social change among black students who arrive less than completely dedicated to it. This could be accomplished through the exposure of students to real-life efforts to use the law for social change through mandatory clinical work, and the encouragement of normative arguments that allow discussion of race, class, and other social context. Students should be encouraged to explore what is possible through the law in addition to what is not possible, so that any interest in social change they bring to law school is nurtured rather than neglected.

Excerpted from 4 *Hastings Race & Poverty L.J.* 335, 389-391 (Spring 2007).

Law practitioners in England and other areas confronting increased diversity caused by immigration are also grappling with the challenge of diversifying legal aid offices. A 2004 survey by the Law Society found that student debt was a major barrier to barristers electing to practice for legal aid:

The results revealed some startling concerns. The survey showed that 60% of law students and 50% of trainees felt that "all things being equal" they would pursue a career in legal aid. However, as things are not equal, only 21% of students and 8% of trainees were expecting to do so. These numbers are insufficient (i) to maintain a healthy legal aid profession, and (ii) to ensure reasonable access to publicly funded legal advice.

Legal aid should be a social welfare service to rank alongside education and health. Unless there is a properly funded legal aid service to give encouragement to the next generation of legal aid lawyers, the most needy members of our society will be left without any means of redress against the state or the ability to ensure and enforce their rights to proper health, education, housing and social inclusion.⁹⁰

Other commentators have raised concerns that the high cost of qualifying for the bar along with an eight-year freeze on legal aid salaries is threatening to undermine diversity efforts among barristers.⁹¹ Thus many of the challenges facing legal aid and legal services programs who seek to diversify their leadership are structural and cultural in nature.

Unlike some of the European nations that also developed a legal aid model, the United States is expected to continue adding to its diversity through immigration and the birthrates of recent immigrants. Immigration and its consequences will continue to be an important public policy issue, especially when a large part of the recent change in America's racial composition can be attributed to immigration. The issue of immigration reform, a policy a majority of Americans say they favor, was considered so toxic that none of the major political candidates discussed it during the 2008 national elections or made their proposed solutions for the need to balance a fair immigration policy with national security and labor concerns a part of their stump speeches.

Given the current funding structure of legal services for the poor and the partisan divide that continues to loom large on cultural issues, it is doubtful that the idealism and advocacy of the attorneys who were inspired to join legal aid in the 1960's and 1970's can be rejuvenated in the

same manner with current law students and graduates. However, legal services programs and public interest law firms can take affirmative steps to cultivate and nourish new and diverse leadership who can continue to turn social, economic and racial justice into public policies.

VI. References

Journal Articles:

Elizabeth Chambliss, Organizational Determinants of Law Firm Integration, 46 Am. U.L. Rev. 669 (February 1997)

Judy Scales-Trent, Equal Rights Advocates: Addressing the Legal Issues of Women of Color, 13 Berkeley Women's L.J. 34 (1998)

Scott L. Cummings, The Politics of Pro Bono, 5 UCLA L. Rev. 1 (October 4, 2004)

Judith S. Kaye & Anne C. Reddy, ESSAY: THE PROGRESS OF WOMEN LAWYERS AT BIG FIRMS: STEADIED OR SIMPLY STUDIED?, 76 Fordham L. Rev. 1941 (March, 2008)

Reports:

1. Documenting the Justice Gap in America
The Current Unmet Civil Legal Needs of Low-Income Americans:

http://www.nlada.org/Civil/Civil_LSC/LSC_Justice_Gap_Report_Overview

2. LSC Performance Criteria:

<http://www.lsc.gov/pdfs/LSCPerformanceCriteria.pdf>

3. Action Plan for PAI:

<http://www.lsc.gov/pdfs/LSC2007ActionPlanForPAI.pdf>

4. LSC leadership mentoring pilot program:

http://www.lsc.gov/program/pdf_doc/MentoringProgramDescription.pdf

<http://www.lsc.gov/pdfs/mentoringpresentation.pdf>

5. LSC pilot loan repayment assistance program

http://www.lsc.gov/about/factsheet_lrap.php

6. 2008 Public Sector and Public Interest Attorney Salary Report

http://abajournal.com/files/NALP_Press_Release.pdf

General Resources:

LEGAL AID, PRO BONO, AND LAW RESOURCES, United States and Canada

http://intraspec.ca/law_resources.php#LegalAid

Pro Bono Net

The need for legal services among the poor is overwhelming. According to an American Bar Association study, at least 40% of low and moderate-income households experience a legal problem each year. Yet studies show that the collective civil legal aid effort is meeting only about 20% of the legal needs of low-income people.

<http://www.probono.net/>

Law School Consortium Project, 2005 Recipient of the ABA Brown Award for Legal Access

http://www.nlada.org/Training/Train_Civil/Equal_Justice/2005_Materials/121_2005_Dhillon_Handout1

References by Category in Background and Literature Review

A. Legal Services & NY Bar Association Diversity Initiatives & Studies

1. National Association for Law Placement (NALP). (March 3, 2006). Diversity Best Practices Guide.
2. New York City Bar Association. (2006). Law Firm Diversity Benchmarking Report. 2006 Report to Signatories of the Statement of Diversity Principles. Retrieved September 14, 2008, from <http://www.abcny.org/Diversity/FirmBenchmarking06.pdf>
3. PRNewswire. (2008, July 10). Majority of American Workers Agree: More Diverse Workforce Equals More Successful. Retrieved October 8, 2008, from <http://www.reuters.com/article/pressRelease/idUS125818+10-Jul-2008+PRN20080710>
4. Holvino, E., Ferdman B. M., Merrill-Sands, D. (2004). Creating and Sustaining Diversity and Inclusion in Organizations: Strategies and Approaches. In M.S. Stockdale, F.J. Crosby, The psychology and management of workplace diversity. Retrieved October 5, 2008, from <http://bernardoferdman.org/Articles/Holvino%20Ferdman%20and%20Merrill-Sands%202004.pdf>
5. Woods, M.D., Flournoy, C.D. (2003) Leading in a Diverse Society: Incorporating Diversity Awareness into Leadership Development. Retrieved November 4, 2008,

from

http://findarticles.com/p/articles/mi_qa4062/is_200312/ai_n9302289?tag=content;coll

6. Mor Barak., M.E. (1999) Diversity in the Workforce. Beyond Affirmative Action: Toward a Model of Diversity and Organizational Inclusion. *Administration in Social Work*, 23 (3/4), 47-68. doi: 10.1300/J147v23n03_04
7. National Legal Aid & Defender Association. History of Civil Legal Aid. Retrieved September 11, 2008, from http://www.nlada.org/About/About_HistoryCivil
8. Smith, R.H. (1919). Justice and the Poor. Retrieved September 19, 2008, from books.google.com
9. New York State Bar Association. Committee on Minorities in the Profession. (2007). Miles to Go in New York: Measuring Racial and Ethnic Diversity Among New York Lawyers. Retrieved October 8, 2008, from http://www.nysba.org/AM/Template.cfm?Section=Committee_on_Minorities_in_the_Profession_Home&Template=/CM/ContentDisplay.cfm&ContentID=12709
10. American Bar Association Commission on Racial and Ethnic Diversity in the Profession. (2004). Miles to Go: Progress of Minorities in the Legal Profession. Chambliss, S.
11. Saute, R. , 2004-05-27 "Unionization, Professionalism, and Zealous Advocacy: New York Legal Aid Society in the 1960s" *Paper presented at the annual meeting of the The Law and Society Association, Renaissance Hotel, Chicago, Illinois* <Not Available>. Retrieved September 9, 2008, from http://www.allacademic.com/meta/p117210_index.html
12. Duran, P. (2007). Breaking the Silence: Invisible Minorities in the Legal Profession. Association for Law Placement (NALP). Retrieved September 14, 2008, from http://www.mnbar.org/committees/DiversityTaskForce/NALPJune07_Duran.pdf
13. Hurry, B. (2005). From the President – Hope in Moments of Change. Retrieved October 2, 2008, from http://www.nalp.org/assets/library_2/359_1205president.pdf (Article accessible to members only; also available in the NALP Bulletin, December 2005)
14. National Association for Law Placement (NALP). (2005). Reception Highlights Growth of Diversity Initiatives in Corporate America. Retrieved November 4, 2008, from http://www.nalp.org/assets/library_2/177_0605divrecept.pdf (Article accessible to members only; also available in the NALP Bulletin, June 2005.)

B. Leadership Development & Diversity

1. Moline, M. (2008). The 50 Most Influential Minority Lawyers in America. The National Law Journal. Retrieved September 7, 2008, from <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202421621086>
2. Legal Services Corporation. (2005). LSC Leadership Mentoring Pilot Program Description. Retrieved October 6, 2008, from http://www.lsc.gov/program/pdf_doc/MentoringProgramDescription.pdf
3. Soni, V. (2000). A Twenty-First-Century Reception for Diversity in the Public Sector: A Case Study. Public Administration Review, 60 (5), 395-408. Retrieved October 3, 2008, from JSTOR Database.
4. Mor Barak., M.E. (1999) Diversity in the Workforce. Beyond Affirmative Action: Toward a Model of Diversity and Organizational Inclusion. Administration in Social Work, 23 (3/4), 47-68. doi: 10.1300/J147v23n03_04
5. National Association for Law Placement (NALP). (2008). NALP Launches Diversity Pipeline Initiative. Retrieved September 14, 2008, from <http://www.kirkland.com/siteFiles/News/D66ADB4D9F04CD24AD5433FF3E999357.pdf>
6. Rhode, D.L. (2008). Public Interest Law: The Movement at Midlife. Stanford Law Review, 60(6), 2027-2086. Retrieved October 3, 2008, from <http://lawreview.stanford.edu/content/vol60/issue6/Rhode.pdf>
7. Sant, J. (2008, April 14.) Unleash Legal Aid. New York Times. Retrieved from http://www.nytimes.com/2008/04/14/opinion/14sant.html?_r=1&scp=1&sq=unleash%20legal%20aid&st=cse
8. Weiss, D.C. (2007). Top Students Hold Law Firm Trump Cards. ABA Journal – Law News Now. Retrieved October 15, 2008, from http://www.abajournal.com/weekly/top_students_hold_law_firm_trump_cards
9. Liptak, A. (2007). In Students' Eyes, Look-Alike Lawyers Don't Make the Grade. New York Times. Retrieved from <http://www.nytimes.com/2007/10/29/us/29bar.html>
10. Rossi, M. (2007). What Law Firms Are Doing to Address the Pipeline Crisis: Three Pipeline Initiatives. Retrieved September 14, 2008, from

http://www.nalp.org/assets/library_2/542_0807pipeline.pdf (Article accessible to members only; also available in the NALP Bulletin, August 2007.)

11. Morgan, R. (2006) [Legal Aid Lawyers: the Next Generation](#). Retrieved October 2, 2008, from <http://www.lawcareers.net/Information/Features/Detail.aspx?r=1257>
12. Abel, R.L. (2002) Choosing, Nurturing, Training and Placing Public Interest Law Students. *Fordham Law Review*, 70(5).
<http://law.fordham.edu/publications/articles/500flspub11460.pdf>
13. Abraham, D. (2004). The Critical Need to Diversify the Pipeline into the Practice of Law. Retrieved September 21, 2008, from
<http://www.lfoa.org/diversity/Diane%20Abraham's%20Article.html>
14. Marriott, M. (1991). Aid for Law Graduates Who Want to Aid the Poor. *New York Times*. Retrieved from
<http://query.nytimes.com/gst/fullpage.html?res=9D0CE7D91039F930A25751C1A967958260>
15. Lagusch, A. (2003). How a City Bar Association and Area Firms Collaborated to Increase the Number of Minority Attorneys in Their City. Retrieved November 7, 2008 from http://www.nalp.org/assets/library_2/200_0203divers.pdf (Article accessible to members only; also available in the NALP Bulletin, February 2003)
16. National Association for Law Placement (NALP). Diversity Initiatives. Retrieved September 22, 2008, from <http://www.nalp.org/diversity>
17. American Bar Association. Diversity Summit. Retrieved September 14, 2008, from <http://www.abanet.org/leadership/diversitysummit.html>
18. Mondics, C. (2007). Bar's New Chancellor Aims at Tax, Diversity. *The Philadelphia Inquirer*. Retrieved November 2, 2008 from Lexis-Nexis Academic Database.
19. Hutcheson, N. (2007). Next Bar Leader Already at Work. *St. Petersburg Times*. Retrieved November 2, 2008 from Lexis-Nexis Academic Database.
20. Rothstein, J., Yoon, A.H. (2008). Affirmative Action in Law School Admissions: What do Racial Preferences Do? National Bureau of Economic Research (NBER).
21. Sander, R.H. (2004). A Systemic Analysis of Affirmative Action in American Law Schools. *Stanford Law Review* 57 (2). Retrieved from Lexis-Nexis Academic Database.

22. Chan, L.K. (2007). NAPALSA: Affirmative Action and Diversity in Law School Admissions. Retrieved September 12, 2008 from <http://www.law.louisville.edu/node/1118>

C. Minority Attorneys, Demographics and Attitudes

1. LSC News. (2008). Congress Approves Higher Education Bill with Legal Aid Loan Repayment Provision. Bill Awaits Final Approval from President. Retrieved September 23, 2008 from http://www.lsc.gov/press/updates_2008_detail_t220_r20.php
2. Hocking, S. Minority Law Journal Diversity Scorecard Survey Shows Slow but Steady Minority Hiring Gains at US's. Retrieved October 28, 2008 from <http://practicesource.com/australian-asian-legal-eye/minority-law-journal-diversity-scorecard-survey-shows-slow-but-steady-minority-hiring-gains-at-uss.html>
3. NCBP Task Force on Diversity – Survey Results. (2007)
4. Hansen, S. (2006). ABA Study Shows Minority Female Lawyers Being Excluded and Harassed. Retrieved October 28, 2008, from <http://www.law.com/jsp/article.jsp?id=1163066717588>
5. NPR.org. (2006). Minority Attorneys Reveal Worst of the Workplace. Retrieved October 30, 2008. <http://www.npr.org/templates/story/story.php?storyId=5613883>
6. Pringle, J., Scowcroft, J. (1996). Managing Diversity: Meaning and Practice in New Zealand Organizations. *Asia Pacific Journal of Human Resources*. 34(28). DOI: 10.1177/103841119603400205 Retrieved September 12, 2008, from <http://apj.sagepub.com/cgi/reprint/34/2/28>
7. Kossek, E.E., Zonia, S.C. (1993) Assessing Diversity Climate: A Field Study of Reactions to Employer Efforts to Promote Diversity. *Journal of Organizational Behavior*, 14, 61-81. Retrieved October 24, 2008, from Wiley Interscience Database.
8. Law School Admission Council. Opportunities in Law for Minority Men and Women. Retrieved September 18, 2008, from <http://www.lsat.org/SpecialInterests/minorities-in-legal-education-opp-in-law.asp>
9. Law School Admission Council. Statistics on Minority Enrollment. Retrieved September 18, 2008, from <http://www.lsat.org/SpecialInterests/minorities-in-legal-education-min-enroll.asp>
10. Raymond, N. Failing Grade. The Education Department Raps the ABA's New Diversity Standards for Law Schools. Retrieved September 11, 2008, from <http://www.law.com/jsp/mlj/PubArticleMLJ.jsp?id=900005495546&hubtype=Survey>
11. Sarjeant, K.J. Working to Encourage Public Interest Careers with Legal Services Corporations Programs: The LSC Quality Initiative. Retrieved September 10, 2008, from <http://www.law.duke.edu/news/story?id=1429&u=31>

D. Corporate Law Firm Diversity Initiatives & Studies

1. Martin, M. (2008). Law Firms create New Models for Diversity. Retrieved July 31, 2008, from <http://www.law.com/jsp/law/careercenter/lawArticleCareerCenter.jsp?id=1202423389860>
2. Skadden, Arps, Slate, Meagher & Flom LLP Affiliates. Key Diversity Initiatives. Retrieved September 18, 2008, from <http://www.skadden.com/Index.cfm?contentID=181>
3. Minority Corporate Counsel Association. (2007)MCCA's 2007 Survey of Fortune 500 Minority General Counsel. Retrieved September 11, 2008, from <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=1581>
4. Hansen, S. (2006). ABA Study Shows Minority Female Lawyers Being Excluded and Harassed. Retrieved October 28, 2008, from <http://www.law.com/jsp/article.jsp?id=1163066717588>
5. Nicholas, A. (2006). The Insidecounsel/Dickstein Shapiro LLP Diversity Survey. Retrieved February 12, 2008, from <http://www.dicksteinshapiro.com/files/upload/diversitysurvey.pdf>
6. Pauling, G.L. II, Harris, K.K. (2005). Diversity – Law Firms. Paradigm Shifts: Changes in the Structure and Diversity of Corporate Law Firms. The Metropolitan Corporate Counsel. Retrieved September 9, 2008, from <http://www.metrocorpcounsel.com/pdf/2005/April/47.pdf>
7. Laudicina, E.V. (1993). Diversity and Productivity: Lessons from the Corporate Sector. *Public Productivity & Management Review*, 16(4), 457-463. Retrieved September 28, 2008 from Jstor Database.

E. Diversity Studies, Non-legal Institutions & Organizations

1. Pringle, J., Scowcroft, J. (1996). Managing Diversity: Meaning and Practice in New Zealand Organizations. *Asia Pacific Journal of Human Resources*. 34(28). DOI: 10.1177/103841119603400205 Retrieved September 12, 2008, from <http://apj.sagepub.com/cgi/reprint/34/2/28>
2. University of Missouri-Kansas City. (2005). Diversity Survey Summary UMKC 2005. Retrieved February 12, 2008, from http://www.umkc.edu/chancellor/ode/documents/DiversityBrochure_4.pdf
3. Nelson, D. (2002). Diversity in Science Association: Norman, OK, 2002. *AWIS Magazine*, 31(2), 32-38. Retrieved October 10, 2008, from <http://cheminfo.ou.edu/~djn/diversity/Pubs/sp02AWIS/sp02magnelson.html>
4. University of Wisconsin-Stout. (2003). Diversity Survey. Retrieved February 10, 2008, from <http://www.uwstout.edu/bpa/ir/survey%20instruments/divsurv03.pdf>

F. Institutional Review Board (IRB) Approval

1. Rothstein, H.R., personal communication, April 7, 2008.
2. Rothstein, H.R., personal communication, March, 12, 2008.

3. Institutional Review Board (IRB). (2003). Application for Approval to Use Human Subjects in Research. City University of New York.

VII. Appendix

New York Leadership Project consists of:

Amy Christensen, Legal Assistance of Western New York
Tanya Douglas, Legal Services for New York City
Lynn Kelly, City Bar Justice Center
Leah Margulies, LawHelp/NY
Lillian Moy, Legal Aid Society of Northeastern NY
Marie Richardson, Legal Aid Society
Michael Rothenberg, New York Lawyers for the Public Interest

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Albany County Bar Association
Asian American Legal Defense and Education Fund
Catholic Charities Community Services
CDWBA Legal Project
Center for Disability Advocacy Rights (CeDAR), Inc.
Center for Family Representation
City Bar Justice Center
Disability Advocates, Inc
Empire Justice Center
Erie County Bar Association Volunteer Lawyers Project, Inc.
Farm Worker Legal Services of NY, Inc.
Frank H. Hiscock Legal Aid Society
inMotion, Inc.
Legal Action Center
Legal Aid Society of Mid- New York
Legal Aid Society of Northeastern NY
Legal Aid Society of Rochester, NY, Inc.
Legal Assistance of Western New York, Inc.
Legal Services for the Elderly, Disabled or Disadvantaged of WNY, Inc.
Legal Services NYC
Legal Services of Central New York, Inc.
Legal Services of the Hudson Valley
Lenox Hill Neighborhood House
Long Island Advocacy Center
Make the Road New York
MFY Legal Services, Inc.
Nassau/Suffolk Law Services Committee, Inc.
Neighborhood Legal Services, Inc.

New York Legal Assistance Group
 New York Lawyers for the Public Interest
 Northern Manhattan Improvement Corporation
 NYCLA
 Partnership for Children's Rights
 Pro Bono Partnership, Inc.
 Rural Law Center
 Sanctuary for Families
 The Door Legal Services Center
 The Legal Aid Bureau of Buffalo, Inc.
 The Legal Aid Society of New York City
 Volunteer Legal Services Project
 Western New York Law Center
 Workers' Rights Law Center of NY, Inc.

B. Survey Documents
Survey Letter and Consent

To: Executive Directors and Managing Attorneys
 From: New York Leadership Project (Tanya Douglas, Lynn M. Kelly, Leah Margulies, Lillian Mey, Marie Richardson, Michael Rothenberg), and Center on Equality, Pluralism and Policy (Sonia R. Jarvis)
 Date: March 19, 2008
 Re: Survey on Diversity and Leadership

Dear Friends:
 As you know, we have been working on a study of legal services staffing so that we might learn more about the demographics of our current and future leaders. Our hope is to use the study to leverage new funding to support leadership development. This project is being performed by the Center on Equality, Pluralism and Policy at Baruch College of the City University of New York. The Project is funded with a technical assistance grant from the IOLA Fund.

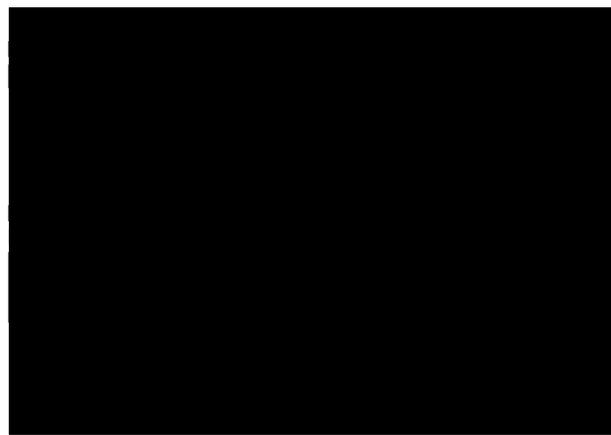
The survey below should be completed by you or your human resources person. It will ask you about all attorneys who work in the program, their race, their gender, their sexual orientation and whether they are a person with a disability. The survey will ask you to categorize each attorney on your staff as follows:

- Level 1 - Head of organization, e.g., Executive Director, CEO, President. This person should have the power to hire and fire and should report to a Board of Directors.
- Level 2 - Department heads or Bureau chiefs, e.g., litigation directors, deputy directors, general counsel, anyone who attends the meeting of senior management, including possibly the director of pro bono, depending upon your organization.
- Level 3 - Supervising attorneys, managing attorneys, associate general counsel, special project/lead heads or anyone else with supervisory responsibility (this could include the director of pro bono - you decide).
- Level 4 - Non-supervising attorneys (staff attorneys, senior staff attorney, anyone who is an attorney but not a supervisor).
- Level 5 - Other top management staff (director of development, COO, fiscal director, any non-attorney who attends management meetings).

As you will note, we have four distinct sections that we would like for you to complete. The first section requests information about your staff as of December 31, 2006. The second section asks for the profiles of the lawyers who you have hired during 2006. The third section asks about those who have left voluntarily during 2006 and the fourth section asks you to provide a snapshot of your staff demographics as of December 31, 2005.

The aggregated data will be shared with the New York City Bar Association which will keep it up to date in years to come. Please use your 2006 data to complete this survey (the 2007 survey).

Demographic Spreadsheet



Survey Questionnaire

Survey

The New York Leadership Project has partnered with the Center on Equality, Pluralism and Policy at Baruch College of the City University of New York to conduct a survey that will provide a demographic profile of legal services agencies and selected civil rights and public interest law firms at the leadership level. The Center, under the leadership of Professor Sonia R. Jarvis, Esq., has developed a survey that will be administered with the assistance of the Baruch College Survey Research Unit.

The Center's mission is to create a forum that supports the creation of public policies and programs that advance equality among diverse groups. To that end, the Center has undertaken this joint effort with the legal services groups that will result in a study that may lead to securing new funding for leadership development in agencies and firms that serve a diverse clientele.

The survey is being sponsored by the IOLA Fund and participation in the survey is strictly voluntary. The Baruch College Survey Research Unit will analyze the survey results and will ensure that the all individual responses will remain strictly confidential and that no results will be identifiable by individual agencies or firms.

Please note that the deadline to complete the survey is February 29, 2008, but we are capturing data from 2006. We appreciate your participation and sincerely thank you for assisting us with this survey.

1. Demographic profile of your organization: Please fill out the attached spreadsheet titled "2007 New York Leadership Project Questionnaire" (2 pages).
2. Demographic profile of your clients (estimate percentages):
American Indian/Alaskan: ___ Asian & Pacific Islander: ___ Black: ___
Hispanic: ___ Multi-Racial: ___ White: ___
3. How would you rate your agency/firm's dedication to diversity (1=not dedicated; 5=extremely dedicated): 1 ___ 2 ___ 3 ___ 4 ___ 5 ___
4. Has your agency/firm adopted a formal affirmative action and/or diversity program?
Yes ___ No ___ Don't Know ___
A. If not, do you have plans to create an affirmative action/diversity program in the near future (within 3-6 months)? Yes ___ No ___ Don't Know ___
B. If so, how would you describe the program (check all that apply)?
Recruitment/Outreach Program ___ Ethnic/Racial Sensitivity Program ___

Survey Data & Demographic Results

C. Institutional Review Board Certification: The Center on Equality, Pluralism and Policy received formal approval from Baruch College's Institutional Review Board to conduct the survey reported on in this study. The Institutional Review Board may be reached at <http://www.baruch.cuny.edu/irb/>.

Endnotes

¹ See Legal Services Corporation, "National Diversity in the Legal Services Community Action Agenda," April 2002, Abstract Number 030018, retrieved 11/30/08 from

http://www.lri.lsc.gov/diversity/plans_detail_T159_R3.asp

² *Id.*, at page 2.

³ Perry Wasserman, "LSC Up Close: Diversity, New Face of America Requires New Blood in Legal Services," 2002, Abstract Number 030019, at page 3-4, retrieved 11/30/08 from

http://www.lri.lsc.gov/pdf/03/030019_perryejm.pdf

⁴ Alan W. Houseman, "The Future of Civil Legal Aid in the United States," pages 1-17, at page 16 (Center for Law and Social Policy, 2005), retrieved from

http://www.clasp.org/publications/future_legal_aid.pdf.

⁵ Wasserman, *op cit.*, at pages 2-3.

⁶ Legal Services Corporation, "Fact Book 2007," at pp. 20-23 (June 2008) retrieved from

https://grants.lsc.gov/Easygrants_Web_LSC/Implementation/Modules/Login/Controls/PDFs/LSCFactBook2007sv.pdf or <http://www.lsc.gov/pdfs/factbook2007.pdf>

⁷ *Id.*, at page 29.

⁸ We had initially contemplated a web-based survey but since the number of potential participants was smaller than anticipated, we mailed copies of the survey documents to legal services offices and a smaller number of firms.

⁹ Nancy R. Lockwood, "Workplace Diversity: Leveraging the Power of Difference for Competitive Advantage," HR Magazine, June 2005.

¹⁰ See, generally, Findlaw, "Discrimination in Employment," (federal laws on workplace discrimination) <http://public.findlaw.com/civil-rights/employee-discrimination/>; Clifford &

Garde, "Discrimination & Harassment," (state and local laws on discrimination)

<http://employment.findlaw.com/employment/employment-employee-discrimination-harassment/>;

Wage Project, "State-by-State Anti-Discrimination Laws," (focuses on women's rights)

<http://www.wageproject.org/content/statelaw/index.php>; and

Nolo, "Employment Discrimination in Your State," (lists protected classes by state)

http://www.nolo.com/articleStateList.cfm/catID/DE34C24C-9CBE-42EF-917012F2F6758F92/statelist/Employment_Discrimination_in_Your_State/111/259/283/ART/.

¹¹ See the seminal work by Reginald Heber Smith, *Justice and the Poor* (1919). In 1876, the German Legal Aid Society was formed in New York City by Americans of German descent and German merchants willing to provide free legal aid to immigrants "of German birth" who were unable to pay for legal services. The Ethical Culture Society of Chicago later created the Bureau of Justice in 1888 to provide legal services to all poor persons and its income was derived from charitable contributions. By 1890, the German Legal Aid Society became known as the Legal Aid Society of New York when it enrolled lawyers from the New York Bar as members of the Society and expanded its charter beyond German immigrants "to render legal aid and assistance, gratuitously if necessary, to all who may appear worthy thereof and who, from poverty, are unable to procure it." Albert F. Bigelow, "Epitome of Legal Aid History in the United States, 1876-1925," *Annals of the American Academy of Political and Social Science*, Vol. 124, Legal Aid Work (Mar., 1926), pp. 20-26, at p. 20, retrieved from

<http://www.jstor.org/pss/1016238#journalInfo>. In 1911, the National Alliance of Legal Aid Societies was formed to promote legal aid throughout the nation; this alliance was the precursor

for the NLADA. See, West's Encyclopedia of American Law, on the history of legal aid in America, retrieved from <http://www.answers.com/topic/legal-aid>.

¹² Christian Nolan, "Legal Aid Agencies Facing Hard Times Ahead," The Connecticut Law Tribune (November 21, 2008) reprinted on law.com at <http://www.law.com/jsp/law/careercenter/CareerCenterArticleFriendly.jsp?id=1202426196602>.

¹³ In 1994, Congress severely restricted that kinds of cases, types of clients, and support operations federally funded legal services agencies could represent. See Alan W. Houseman & Linda W. Perle, "Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States," pages 1-71 (Center for Law and Social Policy, Revised January 2007), at page 45, retrieved from http://www.clasp.org/publications/legal_aid_history_2007.pdf.

¹⁴ National Legal Aid & Defender Association ("NLADA"), History of Civil Legal Aid, 2003. See also Robert Saute's research on the NY Legal Aid Society's work in the 1960s.

¹⁵ Language can often serve as a proxy for discrimination on the basis of national origin. Title VI of the Civil Rights Act of 1964 prohibits programs that receive federal funds from discriminating on the basis of national origin. See, e.g., *Lau v. Nichols*, 414 U.S. 563 (1974) (Title VI was violated for failure to provide special language instruction to Chinese students); and Paul M. Uyehara, "Opening Our Doors to Language Minority Clients," *Journal of Poverty Law and Policy* (March-April 2003), pages 544-557 (creation of a Language Access Project allowed the provision of legal aid to foreign language speakers who did not speak English or Spanish), retrieved from http://www.migrationinformation.org/integration/language_portal/files/opening%20our%20doors%20-%20uyehara.pdf

¹⁶ American Bar Association, Standing Committee on Legal Aid and Indigent Defendants, "Standards for Providers of Civil Legal Services to the Poor" (2006 Edition) at pages 162-171, retrieved from <http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2006.pdf>

¹⁷ NALP, The Association for Legal Career Professionals "Diversity Best Practices Guide," March 3, 2006, at page 2.

¹⁸ See American Bar Association's Diversity Center and resources listed at <http://www.abanet.org/minorities/diversity.html>

¹⁹ See, *infra*, notes 22-29.

²⁰ In *Grutter v. Bollinger*, 539 U.S. 306 (2003), Supreme Court held, 5-4, that the University of Michigan's law school admissions program was constitutional: "the law school's narrowly tailored use of race in admissions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body is not prohibited by the Equal Protection Clause, Title VI, or Section 1981." Conversely, in *Gratz v. Bollinger*, 539 U.S. 244(2003), again on a 5-4 vote, the Supreme Court held that Michigan's undergraduate admissions program was unconstitutional because it was "not narrowly tailored to achieve educational diversity."

²¹ Milana Rossi, "What Law Firms Are Doing to Address the Pipeline Crisis: Three Pipeline Initiatives," *NALP Bulletin* (August 2007); Gerald L. Pauling II and Karen K. Harris, "Paradigm Shifts: Changes in the Structure and Diversity of Corporate Law Firms," *Metropolitan Corporate Counsel* (April 2005) at p. 47, retrieved from <http://www.metrocorpocounsel.com/current.php?artType=view&artMonth=April&artYear=2005&EntryNo=2649>; Richard H. Sander, "A Systemic Analysis of Affirmative Action in American Law Schools," 57 *Stanford L.R.* 367 (November 2004) retrieved from <http://www.law.ucla.edu/sander/systemic/final/sanderfinal.pdf>.

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- ²² American Bar Association, retrieved 8/30/2008, <http://www.abanet.org/leadership/diversitysummit.html> .
- ²³ Information about the January 14, 2009 Diversity Summit may be found at <http://www.abanet.org/diversity/summit/home.html>. For the survey, see www.abanet.org/diversity/summit/survey.doc - 2009-01-12.
- ²⁴ Miles to Go, 2004, Executive Summary, page 1.
- ²⁵ Id.
- ²⁶ KC Daily Record Staff, “New ABA report gauges minority progress in the legal profession,” *St. Louis Daily Record & St. Louis Countian*, Feb. 17, 2005, reprinted at http://findarticles.com/p/articles/mi_qn4185/is_20050217/ai_n9774933.
- ²⁷ Id.
- ²⁸ See, New York State Bar Association Committee on Minorities in the Profession [http://www.nysba.org/AM/Template.cfm?Section=Committee on Minorities in the Profession Home](http://www.nysba.org/AM/Template.cfm?Section=Committee%20on%20Minorities%20in%20the%20Profession%20Home).
- ²⁹ Association of the Bar of the City of New York, Office of Diversity, “Diversity Benchmarking Study: A Report to Signatory Law Firms,” 2005, http://www.abcny.org/Diversity/Public_benchmarking_report.pdf .
- ³⁰ Id., Executive Summary, at page 1.
- ³¹ New York City Bar Association, “Law Firm Diversity Benchmarking Report: 2006 Report to the Signatories of the Statement of Diversity Principles,” Executive Summary, at pages 4-7, <http://www.abcny.org/Diversity/FirmBenchmarking06.pdf>
- ³² Id.
- ³³ New York State Bar Association, Committee on Minorities in the Profession, “Committee Report and Recommendations” (August 2005), at page 5, retrieved from <http://www.nysba.org/Content/NavigationMenu36/CommitteeonMinoritiesintheProfessionHome/ReportoftheCommitteeonMinoritiesintheProfession.doc>
- ³⁴ Miles to Go 2004, Executive Summary, Finding No. 3
- ³⁵ Report of the New York State Bar Association Committee on Minorities in the Profession, “Miles to Go in New York: Measuring Racial and Ethnic Diversity Among New York Lawyers,” Albany, NY (September 2007), at page 21, retrieved from [http://www.nysba.org/AM/Template.cfm?Section=Committee on Minorities in the Profession Home&Template=/CM/ContentDisplay.cfm&ContentID=12709](http://www.nysba.org/AM/Template.cfm?Section=Committee%20on%20Minorities%20in%20the%20Profession%20Home&Template=/CM/ContentDisplay.cfm&ContentID=12709).
- ³⁶ Id., at pages 12-13, Tables 10-12
- ³⁷ Michael Moline, “The 50 Most Influential Minority Lawyers in America, National Law Journal (May 26, 2008), at p.1, retrieved 9/07/08 from <http://www.law.com/jsp/article.jsp?id=1202421819593>
- ³⁸ Michalle Mor Barak, “Beyond Affirmative Action: Toward a Model of Diversity and Organizational Inclusion,” *Administration in Social Work*, 23 (2000), at p.63.
- ³⁹ Evora A. Thomas, and Patricia M. Hanrahan, “Diversity is a State of Being--And it Requires Board Support,” Special Feature: Fostering Race-Conscious Advocacy, *Management Information Exchange Journal* pages 41, 50-51. (July 25, 2001)
- ⁴⁰ Adele Nicholas, “The Diversity Survey,” pp. 55-64 (October 2006), The Inside Counsel/Dickstein Shapiro LLP, retrieved from <http://www.dicksteinshapiro.com/files/upload/diversitysurvey.pdf>.
- ⁴¹ Id., at page 55.

⁴² *Id.*, at page 56.

⁴³ *Id.*, at page 60.

⁴⁴ Vidu Soni, "A Twenty-First Century Reception for Diversity in the Public Sector: A Case Study," *Public Administration Review*, Vol. 60, No. 5, pp. 395-408 (Sept.-Oct. 2000), at p. 403-404.

⁴⁵ See *generally*, Evangelina Holvino, et.al, "Creating and Sustaining Diversity and Inclusion in Organizations: Strategies and Approaches," in M. Stockdale and F. Crosby, (Eds.) *The Psychology and Management of Workplace Diversity*, Chapter 12, pp. 245-276 (2004), at p. 271.

⁴⁶ Nicholas, *op cit.* note 31, at page 63.

⁴⁷ *Id.*, at page 62.

⁴⁸ NALP, *op cit.* note 12, at page 7

⁴⁹ Law School Admissions Council (LSAC) maintains the statistics on minority enrollment, see <http://www.lsac.org/SpecialInterests/minorities-in-legal-education-min-enroll.asp>;

⁵⁰ See, Steve Nofar, Resources for Minority Law School Applicants, LegalNut.com Legal Forums/Prelaw, citing LSAC's website for minority applicants at

http://www.legalnut.com/Articles/Pre-Law/Resources_for_Minority_Law_School_Applicants/

⁵¹ Diane Abraham, "The Critical Need to Diversify the Pipeline into the Practice of Law," (2004) Lawyers for One America website, retrieved from

<http://www.lfoa.org/diversity/Diane%20Abraham's%20Article.html> .

⁵² *Id.*, in Law Schools and Students of Color section.

⁵³ *Id.*; see also, Carl G. Cooper, "Increasing Pipeline Opportunities in the Legal Profession for Minorities," *The Metropolitan Corporate Counsel* (March 2007), retrieved August 18, 2008 from <http://www.metrocorpocounsel.com/pdf/2007/March/49.pdf> .

⁵⁴ Catalyst, Quick Takes, "Women in the Law in the U.S.," retrieved from Catalyst website <http://www.catalyst.org/publication/246/women-in-law-in-the-us> .

⁵⁵ Susan Hansen, "ABA Study Shows Minority Female Lawyers Being Excluded and Harassed," (November 10, 2006), retrieved from Law.com at

<http://www.law.com/jsp/article.jsp?id=1163066717588> . See generally, Deborah I. Rhode, "The Unfinished Agenda: Women in the Legal Profession," (April 2001) for the ABA Commission on Women in the Profession, retrieved at

<http://www.abanet.org/ftp/pub/women/unfinishedagenda.pdf> ; and Catalyst Research Report,

"Women in Law: Making the Case" Executive Summary (January 2001) retrieved from

<http://womenlaw.stanford.edu/law.inside.fixed.pdf> with full report available at

<http://www.catalyst.org/publication/91/women-in-law-making-the-case>

⁵⁶ Ari Shapiro, "Why So Few Minority Women Stay at Law Firms" August 3, 2006, *All Things Considered*, NPR.org, retrieved from

<http://www.npr.org/templates/story/story.php?storyId=5613964>.

⁵⁷ Susan Hansen, "Diversity's Bottom Line: Why African American Midlevels Worry More Than Other Associates About a Softening Economy," 16 *Minority Law Journal Student Edition* (Spring 2008)

⁵⁸ *Id.*, at page 28.

⁵⁹ NALP *Bulletin*, "Although Most Firms Collect GLBT Lawyer Information, Overall Numbers Remain Low," (December 2007) retrieved from

<http://www.nalp.org/2007decglbtlawyerinformation> .

⁶⁰ Phil Duran, “Breaking the Silence: Invisible Minorities in the Legal Profession” (NALP *Bulletin*, June 2007), at pp. 14-16, retrieved from http://www2.mnbar.org/committees/DiversityTaskForce/NALPJune07_Duran.pdf; see also, New York City Bar Association, “2006 Diversity Benchmarking Study: A Report to Signatory Corporate Law Departments,” (2006), at pp. 24-25, retrieved from <http://www.abcnyc.org/Diversity/CorporateBenchmarking06.pdf>

⁶¹ Duran, *op cit.*, note 47.

⁶² Society of American Law Teachers, “Affirmative Action/Diversity (2008): regarding the conflict between the ABA and the Bush Administration over Standard 212, retrieved from <http://www.saltlaw.org/affirmative-action-diversity> .

⁶³ *Compare* Emily Barker, “Diversity Scorecard 2008: Cleary, Wilson, Sonsini on Top,” the *Minority Law Journal*, (May 1, 2008) retrieved from <http://www.law.com/jsp/mlj/PubArticleMLJ.jsp?id=1202426451550&hubtype=Scorecard> with Sean Hocking, *Minority Law Journal Diversity Scorecard Survey Shows Slow but Steady Minority Hiring Gains*, retrieved 9/11/08 from <http://practicesource.com/australian-asian-legal-eye/minority-law-journal-diversity-scorecard-survey-shows-slow-but-steady-minority-hiring-gains-at-uss.html> .

⁶⁴ Adam Liptak, “In Students’ Eyes, Look-Alike Lawyers Don’t Make the Grade,” *New York Times*, October 29, 2007, retrieved from NY Times website <http://www.nytimes.com/2007/10/29/us/29bar.html> ; Debra Cassens Weiss, “top Students Hold Law Firm Trump Cards,” *ABA Journal – Law News Now*, October 29, 2007, retrieved from ABA website at http://abajournal.com/news/top_students_hold_law_firm_trump_cards/

⁶⁵ NCBP Task Force on Diversity, *Survey Results, State and Local Bars with Presidents of Color* (January 2007)

⁶⁶ For a list of resources concerning women and the law see, Deborah L. Rhode, ABA Commission on Women in the Profession: *Balanced Lives: Changing the Culture of Legal Practice* (10/22/2001), retrieved from <http://womenlaw.stanford.edu/model.policies.html>

⁶⁷ See, e.g., Eleanor V. Laudicina, “Diversity and Productivity: Lessons from the Corporate Sector,” *Public Productivity & Management Review*, Vol. XVI, No. 4, Summer, pp. 457-463, at p. 458 (Jossey-Bass Publishers 1993)

⁶⁸ *Id.*, at p.458.

⁶⁹ *Id.*, at p.459.

⁷⁰ *Id.* See also NALP, “Diversity Best Practices Guide,”(2006), *op. cit* Note 12, pp. 4-7.

⁷¹ *Id.*

⁷² See, e.g., Karen Asner, “Best Practices in Implementing Law Firm Diversity Programs,” *Special to Law.com* (April 18, 2007), retrieved from <http://www.law.com/jsp/llf/PubArticleLLF.jsp?id=1176800662165> and Diane Nowak-Waring, APR and Veta T. Richardson, “Creating Pathways to Diversity: A Study of Law Department Best Practices,” Report for the Minority Corporate Counsel Association (February 22, 2007), retrieved from <http://www.mcca.com/index.cfm?fuseaction=page.viewPage&PageID=590&varuniqueuserid=90009735373>

⁷³ *Minority Law Journal*, “Diversity Scorecard 2008,” retrieved on August 22, 2008 from <http://www.law.com/jsp/mlj/PubArticleMLJ.jsp?id=1202426451550&hubtype=Scorecard>

⁷⁴ Press Release, “Majority of American Workers Agree: More Diverse Workforce Equals More Successful Organization: Adecco USA Survey Finds Age #1 Form of Discrimination at the Office,” (July 10, 2008), retrieved on September 4, 2008 from

<http://www.reuters.com/article/pressRelease/idUS125818+10-Jul-2008+PRN20080710>

Copies of the Adecco Diversity 2008 may be obtained from anthony.guerrieri@adecon.com.

⁷⁵ Id., at page 1.

⁷⁶ ABA Standard 5.2 urges legal aid agencies to maximize available resources by reevaluating “its case acceptance policies periodically, taking into consideration changes in its priorities, its staffing, its financial resources, its other legal work, the restrictions imposed by its funders, as well as changes in the law, public policies and socioeconomic conditions that impact client communities.”

⁷⁷ The Association of Corporate Counsel listing of model programs, retrieved from

<http://www2.acc.com/diversity/pipeline/manual/model.html>.

⁷⁸ Michael Bobelian, “Fixing the Holes: The pipeline that delivers minority students to law school is leaking. Can law firms help plug the gaps?” *Minority Law Journal*, Fall 2006, see <http://www.legaloutreach.org/userfiles/file/MinorityLawJournalArticle.pdf>

⁷⁹ See generally, the 24 year-old non-profit Practicing Attorneys for Law Students assists minorities entering the legal profession through mentoring and career guidance programs services for minority law students attending the 13 law schools in the New York City area.

<http://palsprogram.org/mentoring>

The ABA Young Lawyers’ Section lists numerous mentoring and scholarship programs, retrieved from <http://www.abanet.org/yld/summits/diversityresources.shtml>. CUNY’s Center for Diversity in the Legal Profession, the first academic center of its kind, may be found at

<http://www.law.cuny.edu/clinics/JusticeInitiatives/CDLP.html>.

⁸⁰ See, Philipp G. Shrag, “Federal Student Loan Repayment Assistance for Public Interest Lawyers and Other Employees of Governments and Nonprofit Organizations,” 36 *Hofstra Law Review* 27-68 (2007).

⁸¹ Shrag, op cit. at page 58; Marsha Coyle, “Loan Forgiveness Program Becomes Law: Legal Aid Attorneys, State and Local Prosecutors, and Public Defenders Benefit,” *The National Law Journal* (August 15, 2008), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202423802625> (web-only, last accessed November 15, 2008).

⁸² Nancy Levit, “Megacases, Diversity, and the Elusive Goal of Workplace Reform,” 49 *Boston College Law Journal*, 367-429 (2008), at pp. 423-424, footnotes omitted, retrieved from Lexis/Nexis at

[http://www.lexisnexis.com.remote.baruch.cuny.edu/us/lacademic/a...wser.do?ipcounter=1&cookieState=0&rand=0.9251727138066675&bhcp=.](http://www.lexisnexis.com.remote.baruch.cuny.edu/us/lacademic/a...wser.do?ipcounter=1&cookieState=0&rand=0.9251727138066675&bhcp=)

⁸³ Id. The full article may also be found at

http://bc.edu/schools/law/lawreviews/bclawreview/meta-elements/pdf/49_2/02_levit.pdf.

⁸⁴ Id, at pages 420-421, footnotes omitted.

⁸⁵ Id., at pages 421-22.

⁸⁶ Id., at note 375, citing Alexandra Kalev, Erin Kelly, and Frank Dobbin, “Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies,” 71 *AM. SOC. REV.* 589, 611 (2006) (Kavel Best Practices Study may be retrieved from

http://www.empoweringleadership.org/Resources/Best_Practices_or_Best_Guesses.pdf).

⁸⁷ Id., at 421, footnotes omitted.

⁸⁸ Id., at 421. note 374 citing Kavel Best Practices Study, at p.591.

⁸⁹ Jenee Desmond-Harris, “Public Interest Drift Revisited: Tracing the Sources of Social Change Commitment Among Black Harvard Law Students,” 4 Hastings Race & Poverty Law Journal 335-393 (Spring 2007) retrieved from Lexis/Nexis on 4/18/2008.

⁹⁰ Roy Morgan, “Legal Aid Lawyers: The Next Generation,” (1/17/06) retrieved from LawCareers.Net, <http://www.lawcareers.net/Information/Features/Detail.aspx?r=1257>

⁹¹ Michael Millar, “High Debt Levels Hit Push for Diversity at the Bar,” (7/19/05), Personneltoday.com, retrieved from <http://www.personneltoday.com/articles/2005/07/19/30858/high-debt-levels-hit-push-for-diversity-at-the-bar.html>