



1



2

WELCOME

- ❖ Kristen E. Prinz, Founder and Managing Partner.
- ❖ We are a team of experienced litigators, practicing both business and employment law.
- ❖ We help businesses and professionals address the myriad of issues that arise in the course of business and employment relationships, including litigation and employment-related risk management.

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3

AGENDA

- I. The Ethical & Business Case for Diversity & Inclusion
- II. Creating an Inclusive Workplace Culture
- III. Diversity & Inclusion Policies
- IV. D&I: Beyond Policies
- V. Wrap-Up/Q &A

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4

I. The Ethical & Business Case for Diversity and Inclusion

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What is diversity in the workplace?

Generally, workplace diversity refers to differences in ethnicity, gender, sexual orientation, age, and ability. It's also about the unique experiences and background of each member of your team.

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Why is D&I important?

- ❖ Diversity and inclusion helps create a workplace where all employees feel accepted and valued.
- ❖ Valued employees are happier and stay longer with a company. As a result, companies with greater diversity in the workplace have lower turnover rates.
- ❖ According to Forbes, companies ranking high in gender diversity outperform their competition by 15 percent. And it gets even better for those who practice ethnic diversity — they do better than their competitors by 35 percent.

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Why is D&I important?

- ❖ According to the American Sociological Association, companies with the highest racial diversity bring in, on average, 15 times more sales revenue than those with lower levels of racial diversity.
- ❖ Harvard Business Review has explained that diversity unlocks innovation by creating an environment where “outside the box” ideas are heard.
- ❖ Diversity and inclusion boost employee engagement.

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8

II. Creating an Inclusive Workplace Culture

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9

What determines your company's culture?

- ❖ **Written policies:** employment handbook, vision/value statements, culture manual.
- ❖ **Unwritten codes of conduct/accepted behaviors.**
- ❖ **Grievance procedures:** Are they publicized? Are they adhered to? Are they perceived as fair?
- ❖ **Types of communication** (from management, among co-workers) **and tone.**
- ❖ **Whether employees feel supported.**
- ❖ **How a company handles difficult situations,** e.g., terminating an employee, promotion/demotion/reorganization, providing opportunity for growth, interpersonal conflicts.
- ❖ **Culture of secrecy:** mandatory arbitration, NDAs, non-disparagement agreements.

10

How can you create and reinforce a healthy company culture?

- ❖ **Enact clear policies, value/mission statements.**
- ❖ **Regularly discuss and update policies, value/mission statements.**
- ❖ **Consistency:** implement and apply policies at all times.
- ❖ **Values-guided action:** policies, actions should be guided by fairness, respect, and discretion.
- ❖ **Corrective action:** often where policies are ignored or misused.
- ❖ **Regularly conduct surveys:** anonymous climate surveys, 360 reviews of managers.
- ❖ **Train employees:** they must know and understand policies to apply them.
- ❖ **Encourage reporting:** have multiple methods for employees to make reports so you learn of issues immediately.

11

Culture detractors

- ❖ **No training on workplace policies and culture.**
- ❖ **Retaliation.**
 - Workers must fear retaliation for reporting misbehavior or there simply is a perception in the workplace that management is retaliatory.
- ❖ **HR is focused only on limiting corporate liability.**
 - How can HR be used to employees' advantage? How can it contribute positively to your culture?
- ❖ **No cultural buy-in from top leadership.**
 - Without buy-in and agreement from top levels, culture will not improve.
- ❖ **Lack of authenticity or leadership actions do not comply with culture/policy standards.**
 - Don't just talk the talk—walk the walk.

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12

Top tips for creating an inclusive workplace culture

- ❖ Apply the Socratic Method to team discussions
- ❖ Rotate meeting participants
- ❖ Define the policies that reflect your culture
- ❖ Use an employment handbook or culture manual
- ❖ Provide consistent workplace training
- ❖ Foster open communication

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III. Diversity & Inclusion Policies

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14

How can policies help?

Meaningful workplace policies can:

- ❖ Hold employees accountable.
- ❖ Address claims before they become lawsuits.
- ❖ Minimize ad hoc decision making.
- ❖ Demonstrate your organization's commitment to compliance.
- ❖ Create a positive workplace culture.

15

Top 5 D&I Policies

1. EEO/Anti-discrimination policy

- State a company commitment *not* to discriminate on the bases of race, sex, age, national origin, sexual orientation, disability, etc.
- Prohibit such behavior by anyone in your organization, from management to the shop floor.
- The policy should apply to all areas of employment, including, but not limited to, recruitment, hiring, training, promotion, compensation and benefits.
- Not having an EEO policy can create a negative inference during an EEOC investigation.

16

Top 5 D&I Policies

2. Anti-harassment policy

- Not all harassment is illegal, but both sexual harassment and harassment based on a protected class is unlawful.
- Harassment based on race, color, ancestry, religion, citizenship, sex, sexual orientation, familial status, marital status, national origin, age, veteran status, disability or medical condition (including pregnancy, childbirth or related medical conditions), or any other characteristic protected by federal, state or local law can give rise to a discrimination claim.
- An anti-harassment policy can go beyond the law to support a culture of respect.

17

Top 5 D&I Policies

3. Reporting requirement & procedures

- Make reporting misconduct mandatory and provide a clear process to follow for doing so (to a supervisor, HR, etc.).
- Reported incidents should be investigated, addressed and (hopefully) resolved prior to litigation.
- Reporting policies also help ensure that incidents are appropriately documented. Documentation can be the best defense in litigation.

18

Top 5 D&I Policies

4. Anti-retaliation guarantee

- Retaliation claims are on the rise and have a higher rate of success because most jurors believe that companies tend to be dishonest, irresponsible, and driven by greed.
- Ensure that no one will be retaliated against for making a good-faith report of misconduct and ensure discipline for those who retaliate against workers making good-faith reports.
- Train employees and supervisors to take reports seriously and take steps to avoid the appearance of retaliation.

Top 5 D&I Policies

5. Workplace investigations policy

- Clarify the process around investigations into complaints of discrimination, harassment, and retaliation.
- Investigate all reports and apply policies consistently regardless of how ridiculous the report appears.
- Make sure investigations are well documented.
- Be clear about what information can remain confidential in an investigation and what might not be.

IV. D&I: Beyond Policies

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21

D&I: Beyond Policies

- ❖ State your commitment to building a diverse and inclusive culture.
- ❖ Explicitly request a diverse range of referrals.
- ❖ Challenge your employees to think beyond the obvious.
- ❖ Invest in a structured interviewing process and training.
- ❖ Use a tool like Alex to catch gendered language in team communications.
- ❖ Create a channel for D&I in your company's communication tool.

22

D&I: Beyond Policies

- ❖ Have team members take an Implicit Association Test.
- ❖ Review company recognized holidays.
- ❖ Use games or tools to promote diversity conversations.
- ❖ Define ways for employees to contribute to initiatives.
- ❖ Review marketing images and language.
- ❖ Use employee policies to promote conversation.
- ❖ Have every employee take a test on working styles to help co-workers understand each other's work and communication styles.
- ❖ Host listening sessions.

23

Remember:

Diversity and Inclusion is all about

company **CULTURE!**

24



25



26

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