Executive Summary

An Examination of the Implementation and Usage of Flexibility and Leave Policies in US Law Firms by Race, Gender, and Sexual Orientation

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ABOUT THE ALLIANCE

The Diversity & Flexibility Alliance is a think tank dedicated to creating work environments centered on inclusion and innovative thought leadership. The Alliance provides practical solutions that increase organizational effectiveness and create high performance cultures that advance diversity and flexibility to attract and retain top talent. More information about the Alliance can be found at dfalliance.com.
LETTER FROM THE CEO

On behalf of the Diversity & Flexibility Alliance, I am pleased to present the results of our fourth annual Law Firm Flexibility Benchmarking Survey. In furtherance of our mission to advance inclusive workplaces and promote flexibility for all professionals, this survey initiative examines the availability and usage of holistic flexibility and parental leave policies in large law firms for both attorneys and staff. This report is intended to provide multifaceted and comprehensive data about law firm flexibility and parental leave programs.

This year’s survey results revealed several noteworthy findings, including:

- **Despite the compelling business case for doing so, there has been little forward progress on closing the gap between the level of flexibility and leave policies offered to staff as compared to attorneys.** While the vast majority of firms offer formal flexibility policies and paid gender-neutral leave policies to their attorneys, the survey showed a significant disparity in the number of firms offering formal flexibility and paid gender-neutral leave policies to their staff. Given the integral role staff serves at all law firms, we recommend that firms consider making such policies more widely available to staff in order to promote higher satisfaction and retention rates and advance inclusion of all employees.

- **There is an ever-pressing need to foster a stronger culture of flexibility at law firms in order to promote better usage of flexibility and parental leave policies.** With lawyers and staff working on formal flexible schedules making up only a fraction of the workforce, and considering a large over-representation of non-partnership track attorneys utilize formal flexibility policies as compared to partnership track attorneys, we continue to see the need for firms to bridge the gap between policy and practice. In order to foster a true cultural acceptance of flexibility, we encourage more firms to: 1) survey all members of their workforce regarding internal perceptions around flexibility; 2) offer educational programming to all stakeholders (attorneys, staff, and supervisors) supporting flexible work to mitigate flexibility bias; and 3) enhance monitoring to measure improvements and the need for adjustments.

Progress is strongly linked to effective implementation of comprehensive and inclusive flexible work and parental leave policies, as well as an organizational culture to support them. As these policies are critical talent retention tools, a number of high-profile corporations have expanded their parental leave and flexible work programs by making them available to more employees and broadening their scope. We encourage law firms to look at ways these high-profile companies – some of which are competitors for top legal talent – have enhanced their policies. The Alliance continues to be actively
engaged in providing organizations with solutions to address these issues and will be conducting further in-depth research in the areas of holistic flexibility and parental leave policies in the upcoming year. The full version of this report has specific guidance on implementing comprehensive and inclusive parental leave and flexible work programs through a number of the Alliance’s Action Steps (which are member-exclusive, monthly briefs that highlight implementation guidance on pertinent topics related to diversity and flexibility).

We remain committed to researching and developing solutions to expand holistic flexibility in the workplace. Many thanks to the firms, including our members, who participated in this survey, and we invite more firms to join us in this effort in the future. Join the Alliance today by contacting me at manar@dfalliance.com, in order to determine innovative solutions to further foster flexibility at your organization.

Warmest regards,

Manar Morales
President & CEO
EXECUTIVE SUMMARY

Consistent with its focus on bridging the gap between policy and practice, the Alliance embarked on the Law Firm Flexibility Benchmarking Survey research initiative to uncover trends and best practices and to spark increased support among legal employers for flexibility for all their lawyers and staff. The survey is designed to address the market gap with data on holistic flexibility in law firms by examining its usage by gender, race, and sexual orientation. The 2017 annual survey asked participant firms to provide data on:

1. The types of flexibility policies offered;
2. How well reduced hours, telecommuting, and job sharing policies are utilized;
3. The availability of flexible work for staff;
4. Parental leave policies for attorneys and staff;
5. Whether and how working flexibly affects promotion, compensation, and leadership opportunities; and
6. How firms provide support and education for flexible work throughout their workforce.

Highlights of the key findings from the survey are listed below with detailed data results constituting the remainder of this report.

• **Virtually all firms continue to have formal flexibility policies on the books.** Consistent with the results from the 2014, 2015, and 2016 surveys, nearly all participating firms in this year’s respondents have a formal flexibility policy that includes at least one type of reduced hours or full-time flexible work arrangement. While the overall number of survey participants is lower, the share of firms with a formal flexibility policy in this year’s survey – 94.4 percent – is the largest share in the four years this survey has been conducted. In keeping with the Alliance’s guidance to formalize policies for consistent application, uniform expectations, and internal/external transparency, the policy needed to be written to qualify as a formal policy for the purposes of this survey.

• **Reduced hours schedules are the most commonly offered type of flexibility, and most participant firms offer holistic flexibility.** All participating firms that have a formal flexibility policy provide a reduced hours program. In addition, 64.7 percent of these firms offer telecommuting, and 11.8 percent of these firms offer job-sharing. Among the firms with a formal flexibility policy, 64.7 percent reported they offer both reduced hours and full-time forms of flexibility (which the Alliance defines as “holistic flexibility”). (See Figure A)
Reduced hours schedules remain the most popular type of flexible work used for the third year in a row. Lawyers with a reduced hours schedule make up 7.7 percent of lawyers at participant firms with reduced hours policies that reported usage. Reduced hours usage has covered a relatively narrow range in this survey’s four-year history, from 7.7 percent in this year’s survey results to a high of 8.8 percent in the 2016 survey results. Telecommuting usage increased more than a percentage point from 3.7 in the 2016 survey to 4.9 percent in this year’s survey, which is the high mark since the Alliance emphasized its definition of formal flexible work as flexible schedules taken pursuant to a written policy. For the fourth year running, participating firms with job sharing policies did not report anyone using the policy. (See Figure A)

Reduced hours schedules are more common among non-partnership track attorneys. Among participant firms with a formal reduced hours policy where usage was provided, 23.5 percent of all Of Counsel and 22.6 percent of all staff attorneys have a formal reduced hours schedule. By contrast, just over three percent of equity partners and 7.4 percent of associates have a reduced hours schedule in those same firms. These results reflect similar patterns in past survey results and may signal that while participant firms have flex policies in place, many are not being used due to concern for the perceived threat to career advancement to partner or key leadership roles. (See Figure B)

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2 As noted in the methodology, the sample (n value) varies throughout the report because it reflects the number of firms responding with data to the relevant survey item.

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• **Nearly all participant firms offer gender-neutral leave for attorneys, but just over half offer on-ramping and even fewer true-up.** Of the participating firms, 88.9 percent offer gender-neutral leave for attorneys, but only 12.5 percent of them had followed the best practice of removing caregiver designations by the effective date of the survey. A majority (56 percent) of participating firms have an on-ramping (gradual return to work from leave) policy, which is just over a percentage point lower than the 2016 survey result where 57.1 percent had such a policy. Yet, a larger share of firms (90 percent in this year’s survey vs. 81.3 percent in the 2016 survey) make on-ramping automatic but voluntary, consistent with Alliance guidance. In addition, 20 percent of firms with an on-ramping program report they provide full pay for the on-ramping period. As for compensating reduced hours lawyers for hours worked in excess of their agreed-upon schedule (“true-up”), a slightly larger share of participants (44.4 percent in this year’s survey vs. 42.8 percent in the 2016 survey) do so as a matter of policy.

• **Organizational investments to support flexibility vary.** Having a flexibility policy is just the first step; to make a flexibility program successful, organizations must invest in a variety of administrative and educational resources, including some of the following explored in the survey. In terms of human resources to manage and/or champion the flexibility program, half of the participating firms report the presence of a flex program manager, flex program advisor, and/or flex program ambassador. Most participating firms (61.2 percent) offer targeted educational programming to help flex lawyers, flex staff, and/or supervisors of flex professionals be successful in their respective positions.

• **Leadership and Partner Promotions.** Participant firms reported that two firm-wide chairs or managing partners, eight department chairs or practice group leaders, and two office heads had a reduced hours schedule at the time of the survey. Fewer than half of participant firms promoted at least one lawyer working a reduced hours schedule to partner in 2016, but 37.5 percent of those firms promoted two or more reduced hours lawyers to partner.
METHODOLOGY

The survey was distributed to all Alliance member firms, non-member *American Lawyer (“Am Law”) 200 firms*, and other major U.S. law firms, in July 2017. **The effective date of collected data was December 31, 2016, unless otherwise noted, and the total number of responding firms was 18, covering over 12,000 lawyers in the U.S. alone.** Results are summarized through tables, figures, and natural language in corresponding order to the survey questions. A question may not be represented if the data was not statistically reliable. Given that not all firms responded to each question, figures representing the number of firms (i.e., the sample size applicable in the particular calculation) appear either in a parenthetical next to the descriptive text or in the accompanying graphic.

While 61.1 percent (11 of 18) of the respondent firms are in the *Am Law 100*, multiple characteristics of the survey data are presented when there are meaningful differences due to the range in size and characteristics of the participant firms. For some items, summary statistics may include percentages as well as means, medians, and minimum/maximum values. Due to rounding and other factors (e.g., incomplete demographic information for reported lawyers), frequencies of responses may not total 100 percent.
We wish to extend our thanks to the Alliance team members who contributed to the production of this report: Sejal Shah, Manager, Leadership Initiatives and Denise Robinson, former Director of Research, for principal drafting and data interpretation; Eliza Musallam, Director of Member Outreach, for report design; and Jane Caldeira, Manager of Communications, for copy editing.

Special thanks to our Strategic Sponsor, Walmart, whose generous support helps fund our annual survey and other research initiatives.
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