

The National Task Force on Lawyer Well-Being, The National Report, and The Kansas Task Force



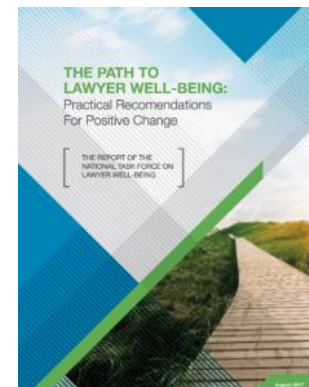
Often described as a “collation of entities committed to catalyzing a movement to improve well-being in the legal profession,” this group’s focus has become educating members of the profession about lawyer

well-being and providing recommendations to that promote positive change within the profession. The entities involved include:

- ABA Commission on Lawyer Assistance Programs
- The National Organization of Bar Counsel
- Association of Professional Responsibility Lawyers
- ABA Standing Committee on Professionalism
- ABA Center for Professional Responsibility
- ABA Young Lawyers Division
- ABA Law Practice Division Attorney Wellbeing Committee
- Association of Professional Responsibility Lawyers
- National Conference of Chief Justices
- National Conference of Bar Examiners

This dynamic collation was first formed in 2016. The mission of the National Task Force on Lawyer Well-Being is to catalyze a movement to improve health and well-being in the legal profession. The National Task Force kicked off its mission with the 2017 Report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*. The Report triggered concern and activity across the profession.

The Report offers a holistic approach and definition to lawyer well-being and defines lawyer well-being as a continual process of seeking to thrive in each dimension of one’s life: Emotional, Occupational, Intellectual, Spiritual, Physical, and Social. The Task Force’s definition of well-being is not defined solely as an absence of dysfunction; nor is it limited to feeling “happy.” Full well-being is multi-dimensional and requires things like connection, belonging, continual growth, and aligning our lives with our values. It requires that we take care of all aspects of our lives.



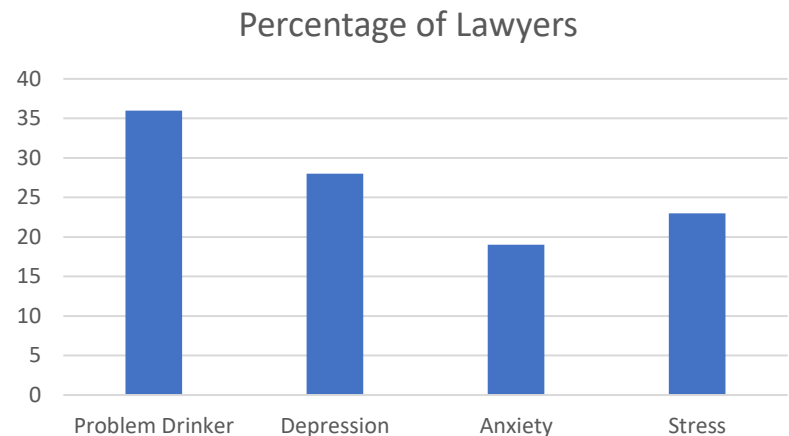
This report’s recommendations focus on five central themes: (1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in our profession, (2) eliminating the stigma associated with help-seeking behaviors, (3) emphasizing that well-being is an indispensable part of a lawyer’s duty of competence, (4) educating lawyers, judges, and law students on lawyer well-being issues, and (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.

The Report also emphasizes that well-being is a team sport, by identifying the stakeholders and the role each play in the process of improving lawyer well-being. The stakeholders: (1) judges, (2) regulators, (3)

Lawyer Well-Being: The Statistics

The American Bar Association (ABA) Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation 2016 Study - [The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys](#)

- Nearly 13,000 currently practicing lawyers participated.
 - It found that between 21% and 36 % qualify as problem drinkers, and that approximately 28 % struggled with some level of depression, 19 % are struggling with anxiety, and 23% suffer from stress.
 - Notably, the Study found that younger lawyers in the first ten years of practice and those working in private firms experience the highest rates of problem drinking and depression.
 - A total of 2901 participants (22.6%) reported that they have felt their use of alcohol or other substances was problematic at some point in their lives; of those that felt their use has been a problem, 27.6% reported problematic use manifested before law school, 14.2% during law school, 43.7% within 15 years of completing law school, and 14.6% more than 15 years after completing law school.
 - Men reported significantly higher levels of depression, while women had higher levels of anxiety and stress.
 - In terms of career prevalence, 61% reported concerns with anxiety at some point in their career and 46% reported concerns with depression.
 - With respect to seeking treatment for substance abuse, the 2 most common barriers reported were not wanting others to find out they needed help and concerns regarding privacy or confidentiality.



[Survey of Law Student Well-Being](#) (2014). The study was administered with a grant from the ABA Enterprise Fund, sponsored by the ABA Commission on Lawyer Assistance Programs, Law Student Division, Solo, Small Firm and General Practice Division, Young Lawyers Division and Commission on Disability Rights, as well as with support from the Dave Nee Foundation.

- 15 law schools and over 3,300 law students participated in the Survey of Law Student Well-Being.
 - It found that 17% experienced some level of depression, 14% experienced severe anxiety, 23% had mild or moderate anxiety, and 6% reported serious suicidal thoughts in the past year.
 - As to alcohol use, 43% reported binge drinking at least once in the prior two weeks and nearly one-quarter (22%) reported binge-drinking two or more times during that period.

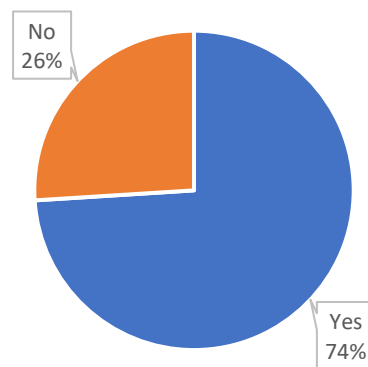
One-quarter fell into the category of being at risk for alcoholism for which further screening was recommended.

- As to drug use, 25% reported to using marijuana in the last 12 months, 6% to cocaine usage, 4% to Ecstasy, 1% to LSD.
- Overall, 14% of respondents reported having used prescription drugs without a prescription in the prior twelve months. The most commonly reported stimulants used without a prescription were: Adderall (79%), followed by Adderall XR (39%), with Ritalin a distant third (12%) and Concerta fourth (6%).
- The most common reported reasons for using prescription stimulants without a prescription were: 1) to concentrate better while studying (67%); 2) to increase alertness to study longer (64%); 3) to enhance my academic performance (49%); 4) to increase my alertness to work longer (46%); 5) to concentrate better while working (45%)
- Even though many respondents indicate that they would benefit from help for substance use issues or for mental health concerns, significant majorities of those most in need of help are unlikely to seek help. The most common reported concern was delayed bar admission.

American Lawyer Magazine [Mental Health and Substance Abuse Survey](#) (2019)

- 3,800 currently practicing lawyers participated.
 - The Survey found that 31.2% feel they are depressed, 64% feel they have anxiety, 10.1% feel they have an alcohol problem and 2.8% feel they have a drug problem.
 - Nearly three-quarters of all respondents, 74%, said yes when asked “Do you think the profession has had a negative effect on your mental health over time?”
 - Asked how they deal with stress, 44.4% said they drink alcohol and nearly 4% said they use illegal drugs or abuse prescription drugs.
 - More than one in six respondents—17.9%—said they have contemplated suicide during their professional legal career. That rate is troubling when compare to the national average of 4.3% of adults in the U.S. thought about suicide in 2017.
 - Only 36% of respondents said they use all their vacation time. The others, asked why they do not, most commonly answered that they “can’t disconnect” and that “client demands” keep them from doing so, or that they “don’t want to have work pile up.” Even when they do take vacation, 72.5% said they cannot disconnect from work during that time.

Do you think the profession has had a negative effect on your mental health overtime?



- Asked if they feel they could take extended leave to address mental health or substance abuse issues, 35% said yes. Of the 65% who said no, 78% said it would hurt their career trajectory, 77% said they fear what the firm would think, and 36% said they fear what clients would think. Respondents could give multiple reasons, and 56% said there's simply too much work to take an extended leave.

ABA CoLAP [National Judicial Stress and Resilience Survey](#) (2019)

- 1034 judges participated in voluntary survey. Preliminary report included:
 - Specific depression symptoms were reported: fatigue & low energy after several cases (38.8%); not having initiative to do what I used to (22.9%); preoccupation with negative thoughts (20%); feel that work is no longer meaningful (17.8%); can't wait for days work to end (16.7%); depressed mood (15.3%); feel I have nothing to look forward to (12.6%); response to pleas of urgency increasingly numb (11.2%); care little about outcomes of trials (6.9%); thoughts of self-injury or suicide (2.2%)
 - Specific anxiety symptoms reported: Increased health concerns (27.6); Feelings of apprehension or anxiety (23%); Intrusive thoughts of traumatic images of people or evidence (19%); Find it difficult to ask a respected colleague for a critique of my work (13.3%); Difficulty breathing, excessively rapid breathing (7.4%); Worried I might panic and lose control (4.6%)
 - Thoughts of Self Injury or Suicide - 2.2% in the last 12 months
 - The AUDIT (Alcohol Use Disorders Identification Test) is a widely used self-report screening scale for assessing level of alcohol use. 1026 respondents completed the Audit. 929 or 90.5% were rated in the "lower risk" range, while 97 or 9.5% scored in what is considered a higher range. More specifically, for the higher risk range, 81 (7.9%) were at "increasing risk", 11 (1.1%) were at "higher risk", and 5 (.5%) were rated at "possible dependence."

legal employers, (4) law schools, (5) bar associations, (6) lawyers' professional liability carriers, and (7) lawyer assistance programs.



The Report of the National Task Force on Lawyer Well Being was released at the ABA Commission on Lawyer Assistance Programs national conference

held in Kansas City, MO in October 2017. Shortly thereafter, Greg Goheen (then-acting KBA President), Anne McDonald (then-acting KALAP Executive Director) and Hon. Penny Moylan (then-acting Deputy Disciplinary Administrator), were each undertaking efforts to raise awareness, in Kansas, of the National Task Force Report on Lawyer Well-Being. The three joined efforts and requested authorization from the Kansas Supreme Court to form a state-wide Task Force to implement the recommendations from the National Report. Chief Justice Nuss sanctioned the formation of a State Task Force and requested Justice Eric Rosen to serve as the Supreme Court's liaison to the Task Force. Consequently, an Executive Committee was officially formed and began the process of recruiting members from each Stakeholder group identified within the National Report

The Court issued a News Release in February 2019, announcing the formation of the Kansas Task Force:

<https://www.kscourts.org/Newsroom/News-Releases/News/2019-News-Releases/February-2019/Task-force-to-focus-on-lawyer-well-being>. The mission of the state-wide Task Force is to engage in a long-term effort to enhance the culture of the legal profession by prioritizing lawyer well-being.

The first state-wide meeting was held on Jan. 17, 2019, in the Fatzer Courtroom of the Office of Judicial Administration, with Justice Rosen presiding. Chief Justice Lawton Nuss also attended a portion of the meeting and greeted the group of more than fifty lawyers and law students from all over the state.

The Kansas Task Force continues to meet quarterly to collaborate and discuss each stakeholder's efforts to implement its recommendations. At the July 2019 meeting, a new stakeholder group – women and minorities – was formed in Kansas. The stakeholder groups continue to recruit members who are interested and dedicated to the issue of lawyer well-being.

To learn more about the State Task Force visit: <https://kslawyerwellbeing.com/>

To learn more about the National Task Force visit: <https://lawyerwellbeing.net/>

ENABLING LAWYER WELL-BEING THROUGH DIVERSITY & INCLUSION

By Anne Brafford | www.aspire.legal

To all of the law firms and other organizations that are taking much-needed steps to improve well-being in the legal profession: Good job! So far, most have focused on teaching strategies to toughen up or boost lawyers' individual skills—like mindfulness and physical activity. These are a great place for organizations to start. But this individual-level focus doesn't fully embrace the complexity of well-being, including the role of systemic and organizational issues. Lawyers are most likely to be able to fulfill their potential—to be and feel their best—when their workplace cultures support that purpose.

One chronic, systemic problem that has not yet received enough attention as a well-being obstacle is the lack of diversity and inclusion, which uniquely impacts the well-being of women and diverse lawyers. It's not news that the legal profession has a diversity problem. The headline of a 2015 [article in the Washington Post](#) written by Prof. Deborah Rhode leveled a harsh criticism: "Law is the least diverse profession in the nation. And lawyers aren't doing enough to change that."

The lack of diversity and inclusion for all lawyers has numerous negative consequences for the profession—including creating significant obstacles for women and diverse lawyers to be their best at work.

Defining Workplace Well-Being: Optimal Functioning

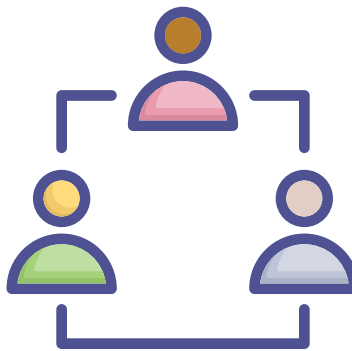
Our goal for workplace well-being initiatives should be **optimal functioning**, which includes:

- Psychological health (e.g., positive emotions, vitality, energy, absence of mental illness)
- Interpersonal and intrapersonal growth;
- Positive attitudes toward others, our jobs, and our work organizations (e.g., job satisfaction, organizational commitment, engagement);

- Effective work behaviors (e.g., performance, proactivity, collaboration).

All of these aspects of work interact in ways that help or harm lawyers' ability to be their best. Science offers many reasons that women and diverse lawyers may experience greater obstacles to optimal functioning. Some are discussed next.

Obstacles For Fulfilling The Powerful Need for Connection & Belonging



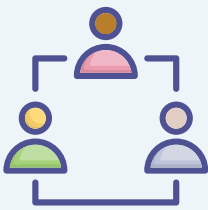
A mountain of studies has found that [feeling cared for](#) and a [sense of belonging](#) in groups that matter to us are basic human needs. Science shows that these needs must be fulfilled for peak functioning and psychological and physical health.

In the legal profession where many workplace cultures reflect the values and behavior patterns of their white male leaders, women and diverse lawyers may struggle to develop a sense of fit and belonging compared to their white male colleagues.

One reason for this is the well-established phenomenon of [homophily](#). This describes a pervasive tendency to be most attracted to other people whom we perceive to be like ourselves—with attributes like gender and race being especially salient.

This ingroup favoritism is thought to be a more fundamental motive than dislike of outgroup members. Research has found it to be a more reliable and powerful contributor to disparate treatment. The homophily preference affects, among other things, allocation of resources, attitudes, and friendships.

The result is that women and diverse lawyers may experience an interpersonally "chilly" climate at work that makes them feel unwelcome and depletes their sense of belonging.



Inclusion: A Dual Need For Belonging & Distinctiveness

The vital sense of belonging is one part of the broader inclusion need. [Inclusion has two parts](#) that encompass people's desire both to belong and to be distinct and autonomous. Inclusion flows from "optimal distinctiveness"—of feeling supported and valued for one's unique attributes while also feeling like a valued member of the group.

The experience of inclusion is a big [well-being factor for everyone](#), and we'll all be distressed when deprived of it. But women and diverse lawyers are much more likely to feel like outsiders in organizations where top leaders (who [shape workplace culture](#)) are [mostly white men](#).

Corrosive Effects Of Lack Of Inclusion

Our basic need for inclusion make us all highly sensitive to signs of our social value. Our brains vigilantly scan for cues about whether others value and respect us. You can think of everyone as having a powerful internal antenna that lights up as red (rejection!) or green (acceptance!) with every encounter with others. Too many red lights are corrosive to optimal functioning:

● Lack of Belonging

[Employees' perceptions](#) that they don't belong—i.e., that they're not accepted, respected, or supported—are related to depressive symptoms, alcohol and drug use, and suicidal thinking.

● Masked Authenticity

Women and diverse lawyers may feel more pressure to alter or mute their unique values or perspectives to fit into a firm's dominant culture. This [masking process can cause psychological distress](#), including depressive symptoms, emotional exhaustion, and anxiety.

Encouraging self-expression enables authenticity and also work engagement—which, in turn, is strongly related to performance. Work engagement is a positive, fulfilling state of work-related well-being in which we

feel energized, involved, and dedicated. Engagement is tied to many positive outcomes like performance, organizational commitment, retention, and well-being.

Work engagement flows, in part, from [conditions that enable people to express themselves through their work](#)—to draw more fully on their own actions, thoughts, and emotions and display their real selves. On the flipside, disengagement involves a self-withdrawal and results in performance that may be seen as automatic or robotic, burned out, or apathetic. Disengaged workers become emotionally detached, cognitively unvigilant, and physically uninvolved.



What this suggests is that firm [cultures that make women](#) and diverse lawyers worry about being themselves and investing themselves fully may foster disengagement—with potential negative effects for their performance, retention, and psychological health.

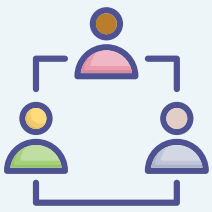
● Perceived Discrimination

Not surprisingly, perceptions of discrimination against us and others damages optimal functioning—causing [harmful effects](#) like depression, anxiety, substance use, suicidal thinking, and psychological distress.

● The Power of Expectations

Workplaces that thwart women and diverse lawyers' need for inclusion can trigger thoughts and behaviors that not only harm psychological health but that also impair performance (which, in turn, can harm psychological well-being). Multiple social psychology theories (e.g., [relational efficacy beliefs model](#), [expectations states theory](#), [social identity threat](#), the [Pygmalion](#) effect) all describe ways that other people's beliefs about us powerfully impact our performance and well-being.

Organizational cultures dominated by white men can (often unintentionally and non-consciously) communi-



cate lower expectations for [women](#) and diverse lawyers. When significant others (e.g., supervising lawyers, mentors, etc.) communicate high expectations for us, this can boost our confidence and effectiveness and can promote coping efforts and perseverance. On the other hand, a long line of studies has found that significant others' low expectations for us (often communicated non-verbally and unconsciously) can infect our own beliefs about ourselves and devastate performance and well-being.

● Perceived Unfairness

Women and diverse lawyers also may perceive more frequent unfair treatment, which can damage their sense of belonging and beliefs that they're respected and valued. Perceived unfairness is strongly related to depressive symptoms and other mental and physical health conditions. The negative impact is [even stronger for women](#) who tend to be more oriented toward social cues (which means they tend to detect more instances of unfairness) and have a [greater psychological stress response](#) to perceived unfairness.

● Patronizing Feedback

[Research has found](#) that women are more likely than men to receive patronizing feedback that is less challenging, less tied to business outcomes, and less critical of performance. The ABA's 2018 [Bias Interrupter Report](#) noted that lawyers of color experience this same problem—with over 40 percent of men of color and 35 percent of women of color reporting that they do not receive constructive feedback. The ABA report described a common phenomenon in which lawyers of color receive glowing performance reviews that fail to identify any specific need for improvement but then are passed over for promotion.

Enabling Optimal Functioning For Women & Diverse Lawyers

Enabling optimal functioning for all lawyers will be challenging and will not happen overnight. It will require the transformation of organizational cultures (which were built by white men for white men) to be

more welcoming to lawyers who do not fit the dominant prototype.

During the transformation, women and diverse lawyers are likely to continue to experience greater threats to all dimensions of their optimal functioning, including their sense of inclusion, psychological well-being, job attitudes, and performance. Research offers some guidance on how to get started on this important mission of building truly inclusive work cultures.

“One cannot lead a life that is truly excellent without feeling that one belongs to something greater and more permanent than oneself.”

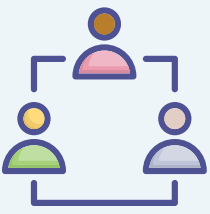
- Mihaly Csikszentmihalyi

Organizational Strategies For Firms

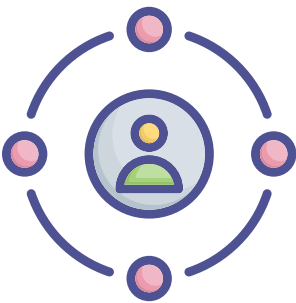
A team sport. That's what lawyer well-being is. Individual lawyers can't do it on their own. Firm policies, practices, norms, and cultures have a big influence on lawyers' optimal functioning. Below are some ideas for organizational strategies that promote optimal functioning for women and diverse lawyers—and, frankly, all lawyers.

● Leadership Development

Legal employers' senior members (e.g., law firm partners, general counsels, etc.) are primarily responsible for shaping organizational culture and other members' work experience. So, perhaps the best place to start is to launch a leader development program aimed at developing supervising lawyers' leadership effectiveness, including their knowledge and skill at fostering an inclusive work climate for all lawyers.



Lawyers in [direct supervisory roles are well-positioned](#) to positively influence their team members' feelings of inclusion by showing appreciation of every members' unique talents; communicating high expectations; and enhancing their sense of belongingness to the team, practice group, firm, and profession. When leaders treat each team member as a valued contributor to the group from whom much is expected, others are likely to do so as well, raising each team member's overall sense of group inclusion. Multiple studies have linked effective leadership (as defined by leadership theories like [leader-member exchange](#) (LMX), [servant leadership](#), and [authentic leadership](#)) to the experience of inclusion.



[The core](#) of all effective leadership is high-quality, individualized relationships with team members. So it makes sense for leader development programs to start by focusing on supervising lawyers' relationship-development skills.

Direct supervisors and other leaders also contribute to developing an organization's overall diversity climate. This encompasses employee perceptions that the organization maintains fair employment practices, respects their unique characteristics, and provides opportunities for development and promotion. A positive diversity climate is associated with a greater experience of inclusion and positive work attitudes. Note, though, that [leaders can be poor judges of their own inclusive behaviors](#). Feedback (such as through 360-degree surveys) may be helpful to raise self-awareness.

The benefits of effective leadership do not flow only to women and diverse lawyers. Direct supervisors are key drivers of their team members' job attitudes, effectiveness, and retention—driving up to 70 percent of their work experience. Effective leadership is associated with better mental health and job attitudes—including, for example, less psychological distress, lower suicidal thinking, lower burnout symptoms, better physical health, and higher job satisfaction. Leader-

ship development is a potent way to foster all lawyers' optimal functioning within organizations.

● Anchoring Relationships With Mentors

Fostering high-quality relationships with mentors is another way to support optimal functioning for women and diverse lawyers. [Such relationships](#) can buffer employees from the negative effects of perceived discrimination and other upsetting events in the workplace.

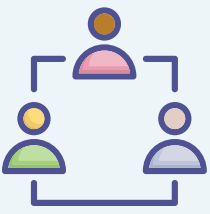
But the mere presence of mentors isn't enough. What's needed are high-quality "anchoring relationships" with mentors engaging in "holding behaviors" that help mentees process anxiety-producing events, including:

- Encouraging mentees to feel that they're available and offer a safe space for mentees to share fears and concerns,
- Listening, understanding, respecting, and validating mentees' feelings about upsetting events, and
- Helping mentees make sense of the events and to understand the bigger picture.

Generally, employees reporting discriminatory workplaces have lower organizational commitment and greater physical health symptoms, insomnia, and absenteeism. But these negative effects are lessened by high-quality anchoring relationships with formal or informal mentors who provided holding behaviors. Organizations can train prospective mentors in skills that can support holding behaviors, such as perspective taking, active listening, and empathic communication.

● Strengths & Best Self Activities

An important part of the experience of inclusion is feeling that our group values us as individuals and invites us to contribute our distinct strengths and attributes. Engaging in [strengths-related activities](#) is one way to foster a sense of inclusion on this basis. Especially as part of career milestones (e.g., onboarding for new lawyers, promotions, or other transitions) or [new team formation](#), consider incorporating activities that focus on individual lawyer's strengths, values, and interests rather than focusing solely on organizational policies



and expectations (which tend to communicate only the importance of conformance). Such personally tailored activities can impact performance, engagement, job satisfaction, burnout, and more.

The goal of these activities is to encourage and welcome lawyers to express their unique perspectives and strengths from the start of their new roles or projects and to frame their work as an opportunity to do and be their best. Examples of such activities include those focused on identifying and using strengths in new ways at work and reflecting on how we can create more opportunities to be our [“best selves”](#) in our new roles:

- Coordinate a team strengths-finding activity in which all team members take a strengths assessment to identify their strengths and create plans for using their strengths in new ways. The ABA Well-Being Toolkit For Lawyers and Legal Employers includes a helpful worksheet titled [“Use Your Strengths”](#) that uses the well-researched [VIA strengths](#) assessment.



- Ask lawyers to answer questions designed to uncover when they [feel like their best selves](#) at work and how to support that occurring more often. Ask “What leads to your best performance and happiest times

at work?” For more junior lawyers, this activity can be expanded by asking supervising lawyers to share positive attributes and strengths that they’ve observed in the junior lawyers.

- Ask lawyers to write about three specific times when they were at their best and share it with others in the group.

Such personalized activities can help lawyers frame their jobs as giving them a chance to use their strengths and to integrate their own purpose and motivation into their jobs.

Gender-Tailored Values Alignment

Another strategy to enhance lawyers’ sense that their work aligns with who they really are is by ensuring that a spectrum of values is represented in the work culture—not only profitability, for example. A chief reason that people are attracted to and stay at organizations is because they perceive a good fit between their own values and traits and those of their employers.

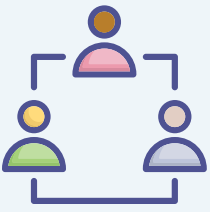
Notably, many studies (including of lawyers) have found significant gender differences in work values. For example, cross-national surveys have found that, generally, women place more emphasis than men on caring for others, fairness, working for the welfare of others, teamwork, and equality. Research also reflects that, on average, women prefer collaborative work that helps other people and, more than men, cite opportunities for growth, stimulation, and development as reasons they pursue their careers.

A growing body of evidence from [STEM fields](#) and [political office](#) suggests that women are more attracted to communal work climates, defined as those focused on helping others and providing positive interactions with colleagues, clients, and other people. Such climates are significantly more attractive to women than climates that lack this framing or, alternatively, that are characterized by competition, aggressiveness, and self-aggrandizement.

The above suggests that firms may be able to achieve a greater sense of fit for a greater number of lawyers by emphasizing a broad set of values, including opportunities for growth and achievement, client care and other forms of helping, and commitment to fairness. To be truly effective at creating a sense of long-term fit, firms should be ready to walk the talk of this broader value system. Research has found that leaders’ hypocrisy about firm values can decimate followers’ commitment and motivation and leave performance-damaging cynicism in their place.

Hijack The Homophily Preference

As noted above, the human tendency to be attracted to people whom we perceive as similar to us can



harm women and diverse lawyers' sense of belonging and integration into the firm. Powerful mentors and sponsors tend to be white men who will naturally be attracted to similar people.

But perceived similarity is not limited to demographics like gender and race. So, firms should consider coordinating activities that [enhance perceived similarity](#) on other bases. Research has found that we like people who are similar to us in a broad range of ways—e.g., traits, opinions, background, interests, lifestyle, dress, age, religion, and politics. The science showing that even small similarities can produce a positive response confirms that, even if we don't look just like influential people with whom we'd like to build relationships, there are a variety of ways we can use the similarity strategy.

Additionally, coordinating joint projects that include powerful senior lawyers and women or diverse lawyers also can enhance bonding. Research shows that we like people with whom we're involved in joint efforts toward common goals. Firms can take advantage of this research by, for example, proactively identifying opportunities for women and diverse lawyers to work on meaningful billable and non-billable projects with senior lawyers with whom they might not otherwise connect.

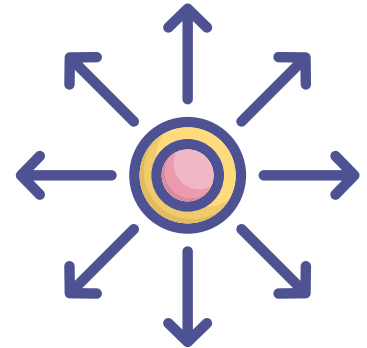
● Host Speed Mentoring Events

As part of your mentor/sponsor program, consider organizing internal "[speed networking](#)" or "[speed mentoring](#)" events to enable connections among people who do not frequently interact—and who may be less likely to do so due to the homophily preference.

Speed mentoring events often are structured to permit 15-minute meetings with several potential mentors, provide a list of topics to facilitate discussion, and host a networking event at the end. Mentees could be paired with a list of potential mentors, for example, on the basis of their mutual interest in particular topics. Mentors could be recruited for the event based on a goal to maximize diversity of seniority, practice experience, and geography. Interested clients might also be considered as potential mentors.

● Create A Mental Lens Of Belonging

Firms should start building a sense of inclusion as soon as new lawyers arrive. Experiences during the onboarding process significantly shape the lens through which new lawyers will subsequently screen information about the firm and its people.

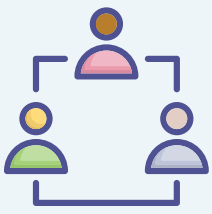


A [belongingness study](#) conducted on a college campus provides an illustration. As part of

the study, participants read a report finding that most students (no matter their ethnicity or gender) worried about whether they belonged during their first year of college but grew more confident in their belongingness over time. To help ensure that they really internalized the message, students also were asked to write essays describing how their experiences were similar to the report and to prepare a speech based on their essays.

What happened is remarkable. Over the subsequent three-year period, African American students who participated in the exercise had higher GPAs and better health relative to control groups who had not participated in the exercise. The minority achievement gap was cut in half. Why was this simple exercise effective? The researchers found that it had re-shaped how African American students interpreted every-day adversities. They were less likely to construe daily hardships as a symbol of their lack of belonging.

The onboarding period is a particularly fitting time for activities that, as in the college study, can positively shape how new lawyers interpret their surroundings and information about the firm. Notably, this study has been replicated in other contexts, including, for example, [women college students](#) in male-dominated engineering programs and first-generation college students. On the other hand, they tend not to benefit people in the dominant group who do not frequently experience threats to their sense of belonging.



○ Constructive Feedback Training

As noted above, women and diverse lawyers tend to receive patronizing feedback that can harm their performance, promotability, and sense of being valued. Therefore, inclusion initiatives should target the quality of feedback that women and diverse lawyers receive about their performance and advancement potential. Possibilities include training all supervisors on having difficult conversations, managing conflict, and coaching skills to aid their confidence and effectiveness at delivering candid feedback in constructive ways to everyone, including women and diverse lawyers.

Skill-building interventions on effectively receiving feedback also should be considered. Such training is likely to be helpful for everyone but may be especially beneficial for women given their greater tendency to internalize negative feedback, negatively interpret ambiguous feedback, and attend closely to feedback about interpersonal processes.



○ Actively Manage Interpersonal Conflict

Interpersonal conflict [has been called](#) “one of the largest reducible organizational costs and the single most important workplace stressor for organizations to address.” It’s highly related to psychological distress and [can significantly damage](#) employees’ sense of belonging. Interpersonal work conflict has been defined to include:

- Feeling treated unfairly,
- Disagreements over work,
- Feeling disrespected or underappreciated
- Being treated with hostility or rudely

- Being yelled at, and
- Feeling blamed or criticized unfairly.

Taking steps to enable people to constructively handle conflict and minimize uncivil behaviors will not only benefit women and diverse lawyers but the optimal functioning of all lawyers.

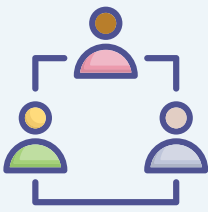
○ Consider Anti-Bias Training

Training programs that educate participants about the process and effects of bias, stereotyping, and second-generation gender bias should be considered. Such interventions appear to be effective at [raising awareness](#), which can help people reflect on how to redesign processes so they more effectively counter biases. Because [evidence is lacking](#) that current training methods are effective at actually reducing biased behavior, it should be viewed as only one element of a larger anti-bias bundle of strategies.

Such training is most effective when it’s presented in a [non-threatening, non-accusatory way](#) to avoid [triggering social identity threat for the dominant group](#)—white men. Research shows that white men may feel threatened if they perceive that women and diverse lawyers are receiving preferential treatment. [Experimental research](#) has found that, when exposed to messages about a company’s pro-diversity values, white men expressed more concern about being treated fairly, exhibited greater cardiovascular threat, and made worse impressions during mock interviews relative to white men who were exposed to neutral company messages.

[Research also reflects](#) that, when white men perceive such threats, they are more likely to espouse zero-sum beliefs about the outgroup (i.e., outgroup gains are perceived as losses for the ingroup), take efforts to protect their own status, and decrease the outgroups’ ability to compete.

For example, an influx of women and proposals to increase their representation in the partnership and other leadership roles may be interpreted as limiting opportunities for men and as a threat to their self-esteem, masculine identity, and organizational culture to



which they're accustomed.

Such scenarios can trigger the well-established [threat-rigidity response](#), which describes a common phenomenon in which threat can produce a cascade of effects, such as stress, anxiety, cognitive and behavioral rigidity, ingroup cohesiveness in the face of outgroup competition, pressure for uniformity, restriction of information and consideration of novel ideas in decision-making, stereotyping, and other forms of reduced cognitive complexity.

Specifically as to women and diverse lawyers' efforts to advance, [the consequences of the threat-rigidity response](#) can include an adherence to old behaviors and patterns, narrowed views of alternatives, greater reliance on stereotypes, less effort to create an inclusive culture, decreased willingness to modify established policy, unwillingness to emphasize developmental efforts, and an absence of support for new policies that are perceived as a preference for one group (e.g., family friendly policies). Accordingly, to be effective, inclusion initiatives should be carefully framed to minimize the dominant group's social identity threat.

● Ensure Real And Perceived Fairness

In law firms, the assignment, business development opportunity, promotion, and compensation systems are primary sources of perceived bias and unfairness. Research offers a number of recommendations for improving in this area.

For example, firms should focus on:

- De-biasing advancement-related processes by holding decision-makers accountable for making and explaining fair decisions,
- Articulating criteria and standards to guide decisions,
- Increasing transparency,
- Implementing structured processes,
- Allowing plenty of time to make decisions free from distractions, and
- Make high-quality information available about per-

formance and potential.

- Carefully scrutinize performance criteria and evaluations to ensure that they're not themselves based on stereotypes and unfair bias.

Policies and practices relating to advancement and compensation [should be designed](#) to strengthen women and diverse lawyers' perceptions of fairness while avoiding white men's perceptions that women and diverse lawyers are benefiting from an unfair preference. Procedures and criteria should be explicit and publicized and, to the extent possible, policies should provide for equal access to benefits (e.g., family-friendly policies for all, not only women). Further, processes should adhere to [organizational justice principles](#) relating to distributive, procedural, and interactional justice.



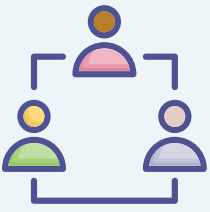
● Shed So-Called Identity-Blind Approaches

A common way that organizations can damage women and diverse lawyers' sense of inclusion is by adopting so-called gender blind or race blind practices as a way to carry out non-discrimination and diversity initiatives. Although identity-conscious diversity programs generally are unpopular, identity-blind approaches negatively impact marginalized groups for multiple reasons.

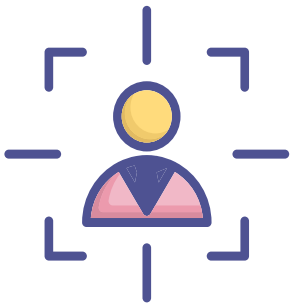
First, identity-blind approaches don't work. Research has found that, when people are led to believe that they are identity-blind or objective, they are more likely to behave in biased ways.

Second, identity-blind approaches deny a fundamental attribute of people's identity (race, gender), making it more likely that they'll attribute bias to majority colleagues, and damage their sense of belonging, motivation, and job attitudes.

The inevitable conclusion is that inclusive workplaces



are not identity blind; they [must consider individual differences](#), needs, and perceptions and focus on creating structures, systems, and processes that make people feel valued and treated equitably.



But identity-conscious approaches (that expressly take gender, race, etc. into account) can feel threatening to white men, preventing their full participation and possibly provoking backlash. The most effective option to promote inclusion for women and diverse lawyers while avoiding social

identity threat to white men may be a [hybrid approach](#). This would include white men alongside marginalized groups (e.g., in photos, committees, etc.), emphasize organizational identification and belonging for all groups, and recognize and value individual identity rather than advocating for identity-blindness.

Certain identity-conscious initiatives will remain desirable and useful (e.g., affinity groups) but should not stand alone. They should be embedded in a [larger program of multiple, aligned initiatives](#). It also will be important to design and frame initiatives as aligned with the strategic vision of organizational success rather than as affirmative action for women and diverse lawyers. This may alleviate anxieties of people who have benefited from the current system and who likely will resist changes framed as “diversity initiatives.”

Individual Strategies For Women & Diverse Lawyers

Framing lawyer well-being as a team sport means that individual lawyers also are responsible for taking steps to bolster their ability to thrive in less than ideal circumstances. This can include strategies for boosting individual resilience and carving out one’s own sense of inclusion.

● Resilience: Curtail The Impact of Doubts And Other Negative Thoughts.

While all lawyers can experience self-doubt and worry about fitting in, negative thoughts can be especially

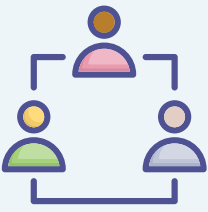
prevalent for women and diverse lawyers. To help us maintain our resilience, we can develop skills for more effectively managing our thoughts and emotions and aligning our behavior with our values and goals.

For example, cognitive behavioral therapy (CBT) and Acceptance and Commitment Therapy (ACT) offer tools like cognitive reframing and psychological flexibility that enable us to monitor our thoughts in the face of adversity so that our automatic, negative thinking patterns don’t take over. Instead, we can develop the capacity to notice our continual flow of negative self-talk and emotions and either accept and let them go or dispute and reframe the situation using a more realistic and optimistic perspective. The ability to separate ourselves from our thoughts and choose behaviors that align with our values (rather than being carried away by emotions) is a core resilience skill—and developing resilience can help women and diverse lawyers thrive in less than ideal circumstances.

I have a free, [1-hour video](#) and related [worksheet](#) available that teaches skills to curb the impact of negative self-talk and emotions. Many books also are available that can guide the development of these essential skills (individually or in groups). A few options founded on ACT include:

- [The Confidence Gap: A Guide for Overcoming Fear and Self-Doubt](#),
- [Positive Intelligence: Why Only 20% of Teams and Individuals Achieve Their True Potential And How You Can Achieve Yours](#),
- [Get Out of Your Mind and into Your Life](#),
- [The Mindfulness & Acceptance Workbook for Stress Reduction](#)
- Also recommended is CBT-based [Learned Optimism](#), which is a classic positive psychology book that has been life-changing for many.

[Mindfulness meditation](#) complements these approaches by training us to notice thoughts and feelings without getting embroiled in them. The ABA Well-Being Toolkit includes a worksheet created by lawyer and meditation teacher Jon Krop titled [Practice Mindfulness to Boost Well-Being & Performance](#).



● Resilience: Boost Positive Emotions

To achieve optimal performance, women and diverse lawyers will want to pair efforts to reduce the impact of negative self-talk and emotions with strategies to actively bolster positive emotions. A [large body of research](#) has found that positive emotions are es-

essential for physical and mental health, reducing stress, building resilience, and fostering work engagement.



People who feel and display more positive emotions also are more [successful and influential](#) and more [easily develop high-quality relationships](#). They can more ef-

fectively [develop positive identities](#), carve out a sense of belonging, and achieve their desired career path. To get started on positive emotion-boosting strategies, I have a free, [1-hour video](#) and related [worksheet](#) on Boosting Positive Emotions.

● Unmasking Our Authentic Selves

As noted above, [suppressing one's identity](#) is psychologically depleting and contributes to burnout and depression. While organizations should take responsibility for encouraging the acceptance of difference, women and diverse lawyers also should consider ways to carve out a greater experience of inclusion for themselves. How we show up and express our full selves at work is a key part of inclusion. [Inclusion starts with](#) knowing, accepting, and expressing one's whole self. This gives others an opportunity to accept the real us—and to themselves feel safer to be more of their authentic selves.

We should be careful, though, not to permit a rigid adherence to who we are *now* become a trap. Inclusion is not only about expressing one's unique self but also about growing and cultivating a sense of belonging. Although the word “authenticity” often is used in inclusion literature, it [sometimes has been misunderstood](#). Showing up as one's authentic self at work does not mean that we say whatever is on our mind (respectfully, or not), that we allow our worst (though authentic) attributes to reign, that we flout all

organizational norms, or that we refuse to do anything that we dislike or that makes us a little uncomfortable because it's “not us.” We're likely to be happiest not by being inflexible but by working toward growth and belonging while aligning our behaviors with our closely-held beliefs and values.

Notably, [some research](#) has found that women can harm their advancement due to a greater tendency than men to refuse to “try on” new ways of being and doing due to a more rigid adherence to “authenticity”—a rigidity that likely is fueled by a dearth of female leaders that model a range of possible selves with which younger women can experiment.

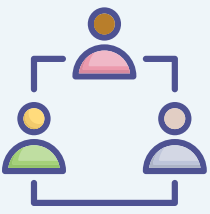
*“No one is you and
that is your power.”
-Dave Grohl, Foo Fighters*

The first step toward being authentic is seeking to understand and accept ourselves—the full complex mess. Full acceptance does not mean that we're satisfied with all aspects of ourselves or that we become rigidly attached to who we are now. It does mean that we need to become clearer about who we actually are, the full person we want to become, and how to express more of that in alignment with our values.

Famed psychologist Carl Rogers, said, “the curious paradox is that when I accept myself just as I am, then I can change.” Being authentic also requires that we continually clarify our values and goals so that we can choose to act in [self-congruent ways](#) even in the face of obstacles.

● Hunt For Similarities

As noted above, [finding similarities with others](#) aids social bonding. Women and diverse lawyers might consider actively researching for similarities with senior lawyers with whom they're interested in bonding and highlighting that similarity to deepen the bond.



● Build High-Quality Relationships—Including With Supervisors

Positive relationships are essential for our well-being and optimal functioning. Good work relationships can be a source of social support in times of stress, fun and positive emotions, advice, and engagement. Accordingly, we'll serve our well-being by not being so task-focused at work that we ignore opportunities to develop high-quality relationships.

Another benefit of good relationships is that they facilitate social influence. This, in turn, [provides a greater sense of control, reduced uncertainty \(which reduces job stress\) and support for our success](#) (which makes us happier). When people like us, they naturally want to help us.

As lawyers, we often work on projects with multiple colleagues, partners, and others. This affords many opportunities to build (or damage) social influence based on how you navigate those relationships.

Specifically as to our “bosses” (i.e., anyone who evaluates us and affects our rewards), one study found that, of all factors studied, building a relationship with one's boss had the biggest impact on performance ratings. Many more studies confirm that whether our boss likes us can have a big impact on how they rate our performance and promotability—an even bigger impact than “objective” indicators of performance.

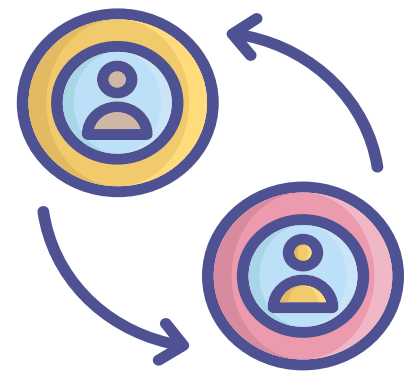
Since relationship-development with our bosses is so important (and may not develop as naturally for women and diverse lawyers), consider making it a top priority: spend time with them, get to know them, and work hard to develop a good relationship.

This is not a recommendation to disingenuously schmooze your bosses. In fact, insincere ingratiation attempts often will backfire and actually harm your reputation and performance ratings. No one likes a blatant brown-noser.

Instead, [make sincere efforts to build mutually beneficial relationships](#). It's also important to develop good

relationships with colleagues, clients—and, really, anyone in the office or firm as a whole who might support or help you. They all are potential friends and allies who may enable our career progress—or, conversely, damage our reputation.

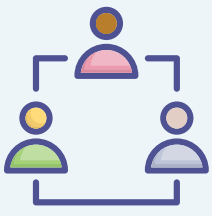
An [essential foundation](#) for high-quality work relationships is the reciprocity principle. Evolution has wired us all to reflexively want to repay others who have helped us. It is a pervasive and powerful law of sharing that fueled social progress across world cultures. Accordingly, to build high-quality relationships and fuel the reciprocity cycle, we should consider how to add value for our bosses and colleagues.



We also need to be sure to repay others who benefit us. The reciprocity rule is so hardwired into us that, if we fail to honor it, we'll wind up on a list of the disfavored and disliked. The [rule will continue to benefit us](#) only so long as we honor it ourselves with mutually-beneficial exchanges.

A [near limitless variety of things](#) or “currencies” can fuel the reciprocity reflex. At work, people value a host of tangible and non-tangible things—many of which we all can give, no matter what our position. It's important to figure out what our beneficiary (supervisor, colleagues, etc.) values or wants—which may differ than what we value or need.

A sampling of possible “currencies” that can fuel the reciprocity cycle includes, for example, help on a task, responsiveness, meaningful compliments, gratitude, small acts of kindness, etc. Like other influence strategies, though, relying on the reciprocity reflex can backfire if our bosses and other allies think that we're being manipulative. The goal here is not be exploitive but to develop high-quality, mutually-beneficial relationships over the long-term.



Conclusion

The above should leave little doubt that the line between inclusion and well-being initiatives is slim. The next stages of the lawyer well-being movement should include an acknowledgment of the complexity of well-being, including the important role of organizational cultures. Legal employers that care about promoting well-being and diversity in the legal profession should take seriously their responsibility for contributing to work environments in which all lawyers can thrive and perform their best.

About The Author

Anne Brafford, JD, MAPP, PhD Candidate.

Anne, a former law firm partner, consults with the legal profession about individual and organizational thriving (www.Aspire.legal). She is the author of an ABA-published book titled [Positive Professionals](#), is the Chair of the ABA Law Practice Division's Attorney Well-Being Committee, was the Editor in Chief and co-author of the National Task Force on Lawyer Well-Being's 2017 report, and is the founder of Lawyer Well-Being Week. She has earned a Master of Applied Positive Psychology from University of Pennsylvania and is nearing completion of a PhD in positive organizational psychology from Claremont Graduate University.

