



WOMEN IN BUSINESS LAW INITIATIVE  
Roundtable Series | September 20, 2019 | Addressing Development and Retention

**Gender Parity in U.S. Law Firms: Recommendations**

*Prepared by:* Delia Violante, Director at the Berkeley Law Women in Business Law Initiative  
Rose Ors, Fellow at the Berkeley Law Executive Education

Woman walks into a bar and asks for gender equality.  
“Coming right up!” says the bartender, and disappears.  
He returns, 208 years later.  
“Sorry,” he tells the woman, “I had to go down to the cellar and change the global paradigm.”  
— Part of campaign [Equality Can't Wait](#)

## INTRODUCTION

Last month, The Women in Business Law Initiative Roundtable Series hosted its third event, “Addressing Development and Retention.” Rachel Zuraw, Berkeley Law lecturer, moderated the panel which included Michelle Fang, Chief Legal Officer at Turo, Sonali Jindal, Partner at Kirkland & Ellis, and Beth George, Partner at Wilson Sonsini Goodrich & Rosati. They discussed both the barriers and the opportunities for women in law firms and shared how they navigated each. Their stories and advice added to a deeply important conversation about what law firms, in-house counsel and others in the legal industry can do to remedy the systemic problem of gender inequality.

At Berkeley Law, diversity and inclusion are core values. Therefore, helping to create a level playing field for all its graduates is of paramount importance to us as a school and as a community. According to American Bar Association (ABA) 2019 report, [Profile of the Professions](#), nearly half of law school graduates—including women—join U.S. law firms. In light of the historical and present challenges faced by women in law firms, the Women in Business Law Initiative believes special attention needs to be paid to change the challenges into opportunities. Hence, this memorandum was prepared to offer law firms a number of recommendations whose aim is to move the needle not only on gender equity, but also to foster a culture of real opportunity for all lawyers.

Part I presents both the case for gender equity in the workforce and its current state of affairs. Part II presents an overview of the state of gender parity in law firms. Part III presents nine recommendations aimed at helping law firms move closer to reaching gender parity. Part IV argues that law firms need a culture shift to signal their unequivocal commitment to change.

## I. THE CASE FOR GENDER EQUITY

*“The reason I made women's issues central to American foreign policy, was not because I was a feminist, but because we know that societies are more stable if women are politically and economically empowered.”—Madeleine Albright*

The case for making the advancement of women in the workforce a strategic business imperative has been established.

- Companies in the top quartile for gender equity on their executive teams were 15 percent more likely to experience above-average profitability than companies in the fourth quartile. [McKinsey & Lean In 2018](#)
- For profitable companies, a move from 0 percent to 30 percent female leaders is associated with a 15 percent increase in net revenue margin. [Peterson Institute for International Economics 2016](#)

Yet, gender inequality's long history continues. Despite decades of corporate efforts to reduce the gender gap, no significant progress has been made.

- The [World Economic Forum](#) projects that globally we are 202 years away from gender equality. In the U.S. we are 208 years away.
- Women are underrepresented at every level in corporate America, and women of color are the most underrepresented group of all, lagging behind white men, men of color, and white women. Only about one in five senior leaders is a woman, and one in twenty-five is a woman of color. [McKinsey & Lean In 2018](#)
- The [Pew Research Center](#) estimates that in 2018, women in the U.S. earned 85 percent of what men earned. Based on this estimate, it would take an extra 39 days of work for women to earn what men did in 2018.

As Melinda Gates<sup>1</sup> so succinctly and pointedly noted in her recent article for the [Harvard Business Review](#), “[Women] still aren’t earning as much, rising as high, or having an equal voice in decision-making.” The same dilemma is true for women in U.S. law firms.

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<sup>1</sup> Melinda Gates recently [announced](#) that she is pledging \$1 billion to fund efforts to end gender inequality.

## II. THE LAW FIRM GENDER PROBLEM

*“Not a law firm in the entire city of New York bid for my employment as a lawyer when I earned my degree.”—Ruth Bader Ginsburg*

Although today women in law practice are far better off than when Supreme Court Justice Ruth Bader Ginsburg began her illustrious legal career, much work still needs to be done. The gender equity challenge facing law firms is sobering—this in spite of an ever-increasing effort by law firms to remedy it and a growing chorus of general counsels demanding it.<sup>2</sup> It has been shown that although women enter the legal profession in equal numbers to men, they make up just 23 percent of partners and 19 percent of equity partners. By age 40, women make up only 40 percent of lawyers in their age group at law firms and women over 50 make up only 27 percent. The problem is so pronounced that the American Bar Association has undertaken an [initiative](#) to increase the number of women who pursue successful long-term legal careers.

Although there is little gender inequity across associate levels, the gap widens significantly as women’s seniority grows. The result is that the absence of women in the upper echelon of law firms continues.

In 2017, McKinsey conducted a “deep dive” on the state of women lawyers in U.S. law firms. The survey, [Women in Law Firms](#) found that although many law firms are serious about the issue of gender equality, their efforts have not significantly moved the needle:

- Only 19 percent of equity partners are women
- Women are 29 percent less likely to reach the first level of partnership than are men
- Women of color account for 16 percent of attorneys at the entry level but only 3 percent of equity partners and 4 percent of managing partners

Similarly, The National Association of Women Lawyer’s 2018 survey, [Retention and Promotion of Women in Law Firms](#) found that white women represent 89 percent of female equity partners and 18 percent of equity partners overall. In the aggregate,

women of color (Black, Asian, Latinx) represented only about 11 percent of female equity partners, and about 2 percent of all equity partners.

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<sup>2</sup> See Move the Needle Fund: <https://www.law.com/corp counsel/2019/09/20/general-counsel-announce-diversity-lab-move-the-needle-fund-in-letter/>; *Strategies and Tactics For In-House Legal Departments to Improve Outside Counsel Diversity*: <https://www.diversitylab.com/wp-content/uploads/2019/05/Legal-Department-Outside-Counsel-Diversity-Strategies-Tactics-Collaborations.pdf>

### III. RECOMMENDATIONS

*“What is the quality of your intent?” —Thurgood Marshall*

These recommendations are designed to democratize institutional policies, programs, and norms so they offer talent an equal playing field. How? By attempting to reduce unconscious bias in the decisions that have been shown to have significant impact in the (1) retention of women lawyers; (2) promotion of women associates to partner; and (3) the appointment of women partners to positions of authority and influence within their firms.

**1. Gender Targets.** Consider adopting The Mansfield Rule 3.0.<sup>3</sup> The Rule requires a firm to have at least 30 percent diverse lawyers in candidate pools for senior level hiring and promotion including: (1) promotion to equity partner; (2) lateral partner and mid-level hiring; (3) office and practice group heads; and (4) and appointments to Executive Committee, Board of Directors and Compensation Committee. It also encourages firms to use diverse teams in formal client pitch teams and in written responses to client RFPs.

- **Why:** Law firms should ensure that all women lawyers are given equal opportunities to be promoted to leadership positions and to be included in significant client facing opportunities. Moreover, [research](#) shows that women on the fast track are more likely to work and stay at organizations that have set diversity targets.

**2. Parental Leave.** Offer the same leave policy for paternity and maternity.

- **Why:** A gender-neutral policy may end/reduce the bias between hiring or promoting a man or a woman based on parental leave concerns. A much more difficult, but crucial effort for law firms, is to make these options cultural norms.<sup>4</sup>

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<sup>3</sup> Named after Arabella Mansfield, the first woman admitted to the practice of law in the U.S. The rule follows the NFL’s Rooney Rule requiring every NFL team to interview at least one minority candidate for head coach vacancies. In the years following its implementation, the number of minorities hired to fill head-coach roles doubled. The rule is now in its third iteration and includes 30 percent women, lawyers of color, LGBTQ+ lawyers, and lawyers with disabilities. To date, 102 law firms have signed on to pilot Rule 3.0.

<sup>4</sup> For example, attorneys worry about the consequences of participating in part-time programs: 75 percent of women and 74 percent of men in law firms believe that participating in a part-time or reduced-schedule program will have a negative impact on their careers. [McKinsey](#)

**3. Agile Work Practices.** Offer work options that support agility as to where, when and how work gets done. Firms should employ technologies that allow lawyers to perform their job from almost any location, and at any time, seamlessly.

- **Why:** Agile work practices have become mainstream. They allow work to be done in a manner that meets client expectations and supports personal and family life for both men and women. Career advancement should be focused on skills, capabilities and results, with less emphasis on time clocked in a law firm's office.

**4. Work Assignments & Client Teams.**<sup>5</sup> Adopt a formal process for work assignments and formation of client teams to ensure that the firm develops legal talent in a uniform manner. The process should ensure that all attorneys receive varied and high-quality assignments, as well as access to key client-facing opportunities.

- **Why:** The traditional system of partners choosing whomever they want to work on their projects perpetuates the [sameness](#) bias. Changing the system would give lawyers opportunities to develop expertise and to work with colleagues at all levels of influence.

**5. Feedback.** Institute quarterly or per-project performance conversations so attorneys receive feedback on their recent work with specific details of what they did well and what needs improvement.

- **Why:** Annual reviews are generally far removed from actual performance. Periodic conversations around performance are far better for providing clarity about what is expected. It allows for quick corrections and timely coaching and training.

**6. Compensation and Succession.**<sup>6</sup> Change the compensation system from the traditional "origination" model, to one that recognizes the contributions of partners for

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<sup>5</sup> A 2019 report, [You Can't Change What You Can't See](#), by the American Bar Association and the Minority Corporate Counsel Association, found that 80 percent of white men, but only 63 percent of white women, 59 percent of men of color, and 53 percent of women of color report that they had equal opportunities for high-quality assignments; [In What Works: Gender Equality by Design](#), Iris Bohnet, a behavioral economist at the Harvard Kennedy School, argues that allocating work more intentionally and fairly will better position talent for promotions.

<sup>6</sup> Findings indicated that in 2017 male partners significantly outpaced female partners in originations. Male partners average originations of \$2,788,000 compared to \$1,589,000 for female partners. Male partners' average hourly billing rates were also higher than their female counterparts at \$736 compared to \$650. The findings showed that originations and billing rates together were responsible for nearly 75% of the overall variation in compensation. The report concluded that "While the data doesn't suggest

their work with important clients and on important matters. Similarly, adopt a formal client succession process.

- **Why:** Lawyers who work on a client matter may not have “originated” the client relationship, but their contribution to the client and the success of the matter should be recognized and rewarded. Similarly, deciding who inherits the client relationship from a retiring partner should be based on objective criteria and client input more than the retiring partner’s desire or opinion.

**7. Sponsors.** Institute a formal sponsorship program. It has been shown that sponsors can fast-track a career in a significant way. It has also been shown that women are less likely than men, particularly white men, to have access to sponsors.

- **Why?** Sponsors use their organizational capital, in public and behind closed doors, to advocate for the advancement of an individual by helping to provide them with high-visibility projects, committee appointments, and other promotions.

**8. Business Development Coaching.** Institute a formal coaching program to help lawyers practice the habits and skills necessary to become effective rainmakers. Coaching is the most effective method of forming these habits because its focus is to build incremental skills that are practiced and improved over time. You may know the rules of the game, but without practice you won’t win the game.

- **Why:** A key criteria to elevation to equity partner is building one’s book of business and maintaining client relationships.

**9. Measure & Report.** Collect and publish periodic gender equity scorecards on recruiting, retention and promotion as well as the composition of client teams. Firms should hold their leadership—executive team, practice group leaders and key client leads—accountable for equality of access to high-quality assignments, feedback, training, and client- and business-development opportunities.

- **Why:** Any strategic business goal is monitored and measured. Reporting

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a conscious bias against women, it does suggest that the predominant compensation model in BigLaw...heavily rewards partners for their originations and hourly rates [and] may fail to recognize other contributions...and may be putting women at a disadvantage.” Surveys from 2010-2017.

increases transparency and trust, as well as demonstrates commitment and conviction. Given the positive business impact of gender equity, it should be given the same prominence as other key performance indicators.

## **VI. CULTURE—THE SECRET SAUCE**

*“Values-based business behavior is no longer simply an interesting option - it's crucial to your survival. Once you understand your mission and values, you have a strong basis for evaluating your practices and aligning them accordingly.” —Ken Blanchard*

To move the needle on gender parity, law firm leadership need to make it a core value of the firms they lead. This means that the goal of gender parity must inform and reflect the policies, programs, and norms—all cultural signposts—of these firms. This will require most law firms to culture-shift. That is, to not think of the changes recommended here as solving “women’s issues” but rather as a values-driven and business-smart way to support talent for the benefit of the firm, its people, and its clients. This is a journey for everyone and will necessitate honest and sometimes uncomfortable conversations. But in today’s war for talent and client loyalty, failure to do so will leave many in a competitive disadvantage they can ill afford.