



Genie Harrison

GENIE HARRISON LAW FIRM

Inclusion and equity in the legal environment

YOU – YES, YOU – HAVE OBLIGATIONS

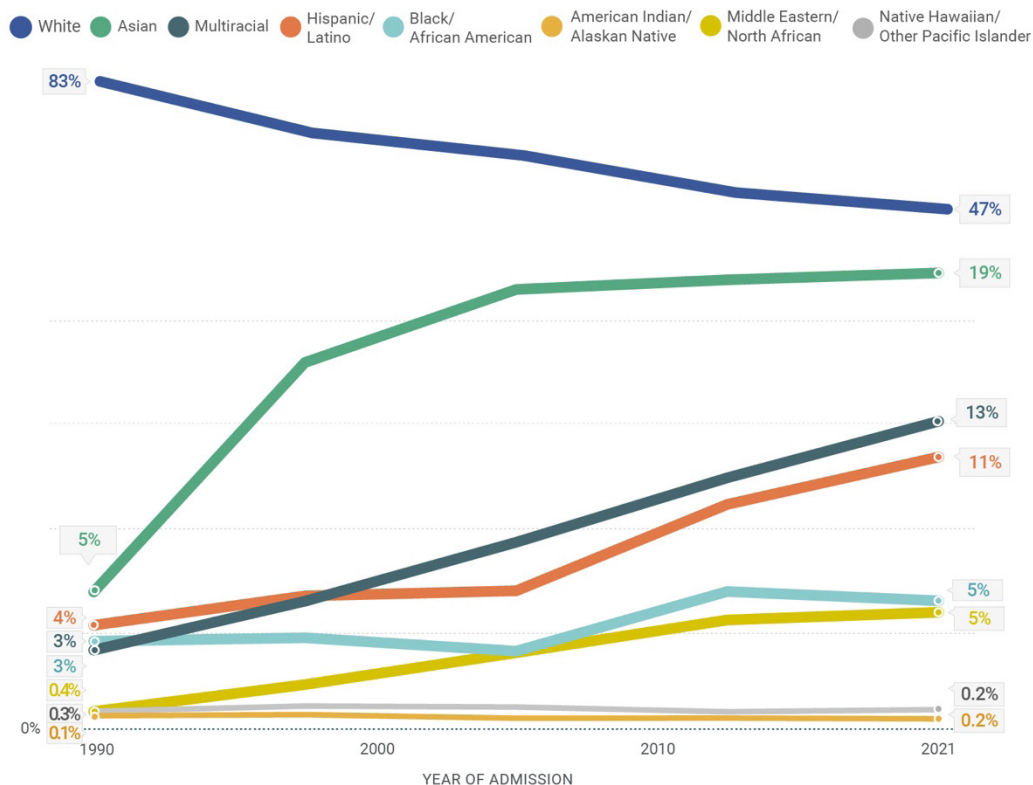
How and why did the use of the word “inclusion” become a flashpoint or a call to arms? Inclusion is defined by Oxford Languages simply as “the action or state of including or of being included within a group or structure.” Within the legal profession, inclusion is an imperative, grounded in legal advocacy that supports equity, as embodied in the California Rules of Professional Conduct, Fair Employment and Housing Act, and Civil Code.

Within our law firms, in court, and in our cases, we have obligations to comply with and promote rules and laws that have, at their core, the inclusion imperative.

More importantly, inclusion and equity are not just legal obligations; they are good for business, keeping clients and employees from having meritorious claims.

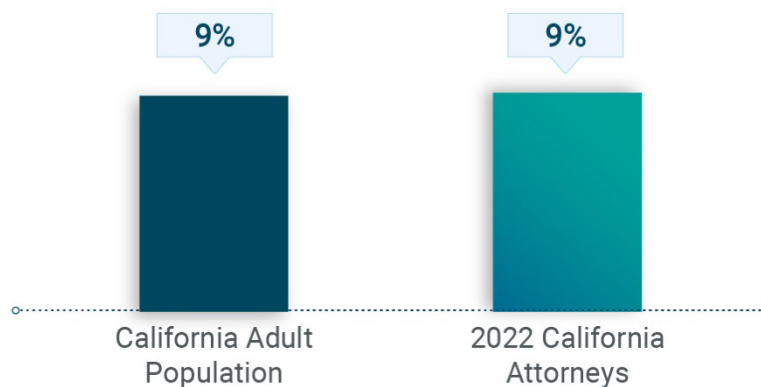
If one has paid any attention to the legal profession, one would realize that its composition is changing. Though I am loath to quote the State Bar for anything positive, I must give credit where it is due. The State Bar’s “Diversity, Equity and Inclusion Plan: 2023-2024 Biennial Report to the Legislature” presents compelling statistics regarding the diversification in race and ethnicity amongst Bar membership:

**Racial/Ethnic Composition of Attorneys by Year
Admitted to the State Bar of California: 1990 - 2021**



The Bar's adult population who identify as LGBTQIA+ mirrors that in the state:

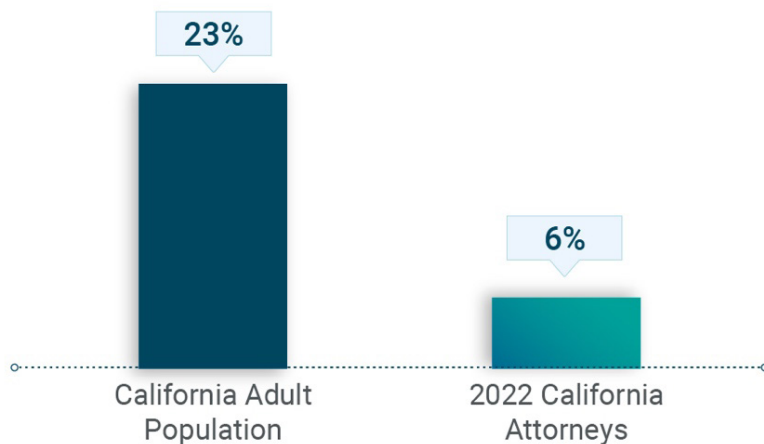
Sexual Orientation/Identity: LGBTQIA+ California's Adult Population Compared with California's 2022 Attorneys Population



Source: 2022 Diversity Report Card |  The State Bar of California

The Bar's reported population of people with disabilities is much lower than the state's adult

People with Disabilities: California's Adult Population Compared with California's 2022 Attorneys Population



Source: 2022 Diversity Report Card |  The State Bar of California

Attorney Demographic Data for the Years 2019 Through 2022

	2019	2020	2021	2022
White	68.2%	67.4%	67.1%	66.4%
Hispanic/Latino	6.7%	6.6%	6.2%	6.0%
Asian	12.0%	12.5%	13.4%	13.5%
Black/African American	3.6%	3.6%	3.5%	3.4%
American Indian/Alaska Native	0.2%	0.2%	0.2%	0.2%
Native Hawaiian/Other Pacific Islander	0.4%	0.5%	0.4%	0.3%
Middle Eastern/North African	2.0%	2.2%	2.4%	2.5%
Multiracial	6.9%	6.9%	6.9%	7.6%
Attorneys of Color	31.8%	32.6%	32.9%	33.6%
White	68.2%	67.4%	67.1%	66.4%
Men	55.6%	55.2%	55.1%	55.4%
Women	43.5%	44.0%	44.0%	43.5%
Nonbinary	0.9%	0.8%	0.9%	1.1%
White Men	40.5%	39.7%	39.5%	39.7%
White Women	27.4%	27.4%	27.2%	26.4%
White Nonbinary	0.3%	0.4%	0.4%	0.4%
Men of Color	15.2%	15.1%	15.2%	15.5%
Women of Color	16.4%	17.1%	17.4%	17.6%
Nonbinary Attorneys of Color	0.2%	0.3%	0.3%	0.3%
LGBTQIA+	7.3%	7.4%	7.6%	8.9%
Heterosexual	92.7%	92.6%	92.4%	91.1%
Transgender	n/a	n/a	0.34%	0.26%
Cisgender	n/a	n/a	99.7%	99.7%
Attorneys with Disability(s)	4.8%	5.1%	5.4%	5.7%
Attorneys without Disability(s)	95.2%	94.9%	94.6%	94.3%
Veteran	n/a	3.2%	5.5%	5.3%
Not a Veteran	n/a	96.8%	94.5%	94.7%

Source: 2022 Diversity Report Card |  The State Bar of California

There are more women and minorities in the profession; we all need to be aware of lawyers' obligations toward them. Lawyers who have chosen to ignore the rules and laws have created many millions of dollars in justice obtained, for my clients alone. I cannot imagine how many more millions of dollars in justice have been obtained on behalf of victims of law-firm harassment, discrimination, and retaliation across the state and over time.

California Rules of Professional Conduct, rule 8.4.1, sets a standard applicable to all lawyers that should not be remarkable but, unfortunately, is. Rule 8.4.1 prohibits lawyers from harassing or discriminating against

clients and potential clients on the basis of a protected characteristic and prohibits unlawful retaliation against clients. (Cal. Rules Prof. Cond., rule 8.4.1.(a).) As a sexual-harassment lawyer, I can share that I have been contacted many times by potential clients about alleged sexual harassment by their lawyers. I have seen explicit photos and texts from lawyers to clients and been told terrible stories of exploitation. Such conduct is a violation of an attorney's ethical obligations and, were the State Bar a functional agency, should result in disciplinary action. Rule 8.4.1 also regulates law firm operations. It states that "[i]n relation to a law firm's operations, a lawyer shall not" on the basis of any protected characteristic, unlawfully discriminate, harass, or retaliate against persons, or knowingly permit unlawful discrimination or harassment. (Cal. Rules Prof. Cond., rule 8.4.1.(b).) Subsection (c)(2) defines "knowingly permit" strikingly. It states that "knowingly permit" means "... fail to advocate corrective action where the lawyer knows of a discriminatory policy or practice that results in the unlawful discrimination or harassment" prohibited by paragraph (b). Comment [1] to the rule provides that, "[i]n relation to a law firm's operations, this rule imposes on all law firm lawyers the responsibility to advocate corrective action to address known harassing or discriminatory conduct by the firm ... [l]aw firm management and supervisory lawyers retain their separate responsibility under" Rules of Professional

Conduct rule 5.1 (Responsibilities of Managerial and Supervisory Lawyers) and 5.3 (Responsibilities Regarding Nonlawyer Assistants).

As an employment lawyer, I have represented many lawyers and staff who have been harassed, discriminated, and retaliated against at work based on protected characteristics and protected conduct under the law. Women lawyers are routinely paid markedly less than their male counterparts. Minority women are paid even less. Women who have children still are treated in law-firm environments as being on "mommy track." Women who have their own serious health conditions or take care of family members who have such conditions are viewed as less capable. Young women lawyers and staff are sexually harassed even within plaintiff firms where one might think such events couldn't possibly occur. Women vendors are propositioned, told that if they capitulate to specific sex acts, they will be given specific levels of business. I know that all these things occur as I am one of the receivers of the stories, and one of the lawyers who represents the victims of these unlawful acts.

Lawyers who engage in such conduct potentially violate (1) the Fair Employment and Housing Act (Gov. Code, § 12940 et seq.), which prohibits protected characteristic based harassment and discrimination, and related retaliation, in employment, (2) Civil Code section 51.9 (sexual harassment in business relationships and services), and (3) California's Rules of Professional Conduct, rule 8.4.1, among others. They cost themselves money, time, goodwill, and standing in the community.

Though many lawyers who engage in unlawful and unethical conduct retain their Bar licenses, it is my hope that through those brave souls who stand up against the bad conduct, together we will bend the line of violative occurrences into a steeper decline. ♦

Genie Harrison is the principal of the Genie Harrison Law Firm, where she focuses on plaintiff's employment, civil rights and wage and hour matters. She been named by the Daily Journal as one of the Top 100 and Top 75 Women Litigators in California.