

ADR Diversity Checklist Agenda for General Counsel and Outside Lawyers

By Linda Gerstel

- oDefine "Objectives and Key Results" (OKR¹) to be achieved with realistic timelines.
- oLAMSTAIH² Work with Outside Counsel to set annual goals for some of the suggested measures (Awareness, Account, Ask and Appoint) to increase ADR Diversity

Awareness:

- oTrack, sign and circulate ADR diversity pledges (www.arbitrationpledge.com);
- oADR Diversity and Inclusion Pledge; (www.adrdiversity.org); and
- oCirculate ABA Resolution 105 (<https://www.americanbar.org>).
- oRaise the ADR Diversity Pledge at industry meetings and internal meetings;
- oGather and update regularly data, lists and resources on diverse arbitration neutrals;

Account:

- oEstablish ADR Diversity Committee composed of executive committee member; D&I leader, arbitration practice/litigation practice group leaders; and diverse attorneys and General Counsel/clients with arbitration clauses in most contracts,
- oEstablish liaison between Committee members and ADR providers, organizations promoting ADR Diversity, court mediation panels;
- oEstablish/maintain database of diverse neutrals to form basis of future recommendations;
- oEnsure that ADR Diversity guidelines are incorporated in handbooks and procedures;
- oRequire lawyers to attend at least two [2] elimination of bias/ADR events each year;
- oTrack hosting/attendance of lawyers at elimination of bias/ADR events/meet and greets;
- oTrack opportunities offered to diverse candidates to co-author ADR articles;
- oTrack number of diverse attorneys afforded ADR shadowing opportunities;
- oTrack cases (by type and damages) where neutrals are appointed and note the following:
 - whether ADR provider list was diverse and if so, what percentage was diverse;
 - whether after strike/rank procedures a diverse neutral was selected.

Ask:

- oADR providers for lists of diverse neutrals and opportunities to meet diverse neutrals;
- oCorporate/real estate departments to include the JAMS diversity rider in agreements;
- oneutrals that you are familiar with for recommendations of diverse neutrals;
- oCity/State Bar Association to hire a Diversity and Inclusion Manager to help track progress and benchmarks of Pledge signatories for public reporting.

Appoint:

- oIntroduce the use of diverse neutrals by first appointing them to cases with lower thresholds of dollars at stake
- oA mediator and suggest opportunities for a diverse neutral to co-mediate.

Endnotes

1. OKR, "Measure What Matters: How Google, Bono, and the Gates Foundation Rock the World with OKRs" Doerr, J.
2. LAMSTAIH - Look At More Stuff, Think About It Harder, "Look at More: A Proven Approach to Innovation, Growth, and Change". Stefanovich, A.