

EXECUTIVE SUMMARY

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What It Takes to Build an Effective DEI Program

KEY POINTS

- Companies with successful diversity and inclusion commitments report financial returns up to 35% higher than national industry medians;
- Diverse management boosts corporate revenue by 19%;
- 70% of diverse companies are better positioned to capture new markets;
- Diverse teams are 87% better decision-makers than individuals; and
- 78% of workers believe that diversity and inclusion offers a competitive advantage.



Diversity, Equity & Inclusion (DEI) has been an agenda item in corporate boardrooms for some time, but it has attracted more urgency in the last two years, fueled by a wider call for social justice during the COVID-19 pandemic. There are a number of best practices that corporate executives should consider to build an effective compliance program and some emerging legislative issues that should be monitored to ensure your DEI program is in compliance with state regulations.

Growing Importance of DEI

Fortune [reported](#) that American companies are now spending \$8 billion annually on DEI initiatives. This financial commitment is likely to continue growing, as VentureBeat forecasts that 79% of American companies will increase their spending on DEI in 2022.

The most obvious driver of increased focus on DEI programs is the ability to improve social conditions and promote equality. But there is a growing body of evidence that these initiatives are also tied to an improved bottom line. According to research aggregated by the careers website [What To Become](#):

These corporate investments in DEI are also about Human Resources. Nearly one in three employees think their employer lacks a sufficient commitment to DEI, and there is a direct connection between those DEI concerns and an employee's intention to quit their job, [according to](#) a 2022 survey by Buck. The survey found that employees are more likely to leave an organization if they think diversity in cultures and backgrounds are not respected, their company is not committed to DEI, or their company does not provide diverse offerings for a diverse workforce.

In particular, younger workers are more likely than those of previous generations to want to work at a company where their personal convictions are in sync with their employer. One [survey](#) found that 48% of millennials and 49% of Gen Z respondents said they would not accept a job that didn't align with their stances on social and environmental issues, compared to 35% of Baby Boomers.

"Today, workers are looking for diversity, equity and inclusion to be a cultural imperative in the workplace," [said](#) Johnny C. Taylor, CEO of the Society for Human Resource Management. "They want to feel the tangible advantages of an inclusive work culture."

Moreover, *HR Dive* [reported](#) in June 2022 that employees are keeping the pressure on employers to deliver on DEI

commitments, leading some to set public goals and even release occasional status reports, so company executives “may want to ensure DEI efforts are well-received and find ways to ensure accountability.”

Best Practices for DEI Programs

DEI experts who participated in a State Net Capitol Journal webinar on DEI compliance advised that the first thing to do before getting started with a program is to pause and ask some important questions about your goals and expectations for your organization.

“I think there are two main questions to ask before you get started,” said [Trissi S. Gray](#), Senior Director of Healthcare Compliance at GI Alliance in Dallas. “First, what does DEI mean to your organization? There are some possible answers that are tangible and other answers that are more philosophical. The second question is, what are your objectives for the program? You may be looking to better recruit employees or you may have ambitions on being part of a social movement. These are very different goals and need to be discussed in advance.”

It is also important to think in longer terms than might be customary for most business initiatives.

“DEI is a journey, not a sprint,” said [Walette Stanford](#), Ethics Director/Ethics Officer at JEA Corp in Jacksonville, Fla. “You need to have clear objectives and you need to have management support to stick it out for the long run.”

Here are eight best practices for constructing an effective DEI program:

1. Assessment

Once everyone is on the same page and thinking about the long-term goals, a good place to get started is understanding where your organization’s DEI record is today — good, bad or ugly.

“DEI success begins with an assessment to understand where your organization may be today,” said [Kimya Johnson](#), Chief Diversity Equity & Inclusion Officer at Jackson Lewis P.C. in Philadelphia. “DEI is not ‘one size fits all’ so it’s important to truly get a handle on where your organization is and where it needs to go. I advise companies to set realistic expectations for your program and not to over-promise on how much you can accomplish within a specific time frame. If you have unrealistic expectations and fail to manage those expectations, you run the risk of trying to be all things to all people, which just won’t work.”

2. Metrics

The next step is to put in place specific metrics that will help you monitor progress along the way.

“This isn’t the time to be vague about your business goals with a new corporate program,” said [Keilon Forest](#), Policy Director

at the Association of Corporate Counsel Foundation in Washington, D.C. “It’s important to set specific milestones and targets for DEI so you can measure your actual progress and evaluate how effective your initiatives have been in this area.”

3. Budget

If DEI is truly a priority in your organization, then it is necessary to secure the resources you will need to make the program a success.

“Where your treasure lies, there your heart lies also,” said Forest. “You need to establish a budget that is sufficient for funding your overall DEI program and then you can align that budget with the individual initiatives that will help you achieve your organization’s DEI goals and objectives.

4. Champions

One of the best practices that DEI experts say is common across all industries, regions and company sizes is that there must be full-throated management support of the program if it has a chance of success.

“DEI requires champions on the executive team in order to be taken seriously throughout your organization,” said Johnson. “This sends a clear message to your workforce that we’re serious about this commitment and will allocate the resources needed to get it done.”

This may also require a healthy dose of humility from the management team.

“Leaders have to be vulnerable to engage in an open conversation about diversity in order to get anywhere,” said Gray. “It’s critical to be humble and honest about where the organization is if you want to advance.”

5. Hiring

Most DEI programs involve a component of recruiting diverse candidates to join the organization. This is important and requires serious focus, but there are also creative ways to improve diversity in hiring.

“Look for groups of people who are often overlooked by our traditional ideas of applying DEI to hiring strategies,” said Forest. “For example, you might think about how to attract women who left the workforce for a period of time and are now struggling to find an on-ramp back into their careers.”

6. Salary Transparency

Another best practice is to consider becoming more transparent about salary ranges for various positions throughout the organization.

“Many organizations have discovered that sharing salary information improves trust by being more transparent with employees,” said Stanford. “In addition, this can help eliminate some unconscious bias that may have crept into the organization with salary disparities.”

7. Privacy

The experts note that a major risk management component of the program involves determining what personal data you collect, how you store it and to whom it is made accessible.

“We need to ask people how they self-identify in very personal terms in order to accurately monitor DEI efforts,” said Johnson. “But we also need to build in appropriate safeguards and policies to protect personal information and ensure data privacy. This may require new systems, new disclosures and new approaches.”

“Be very intentional about what personal data you want to collect,” advised Gray. “You also want to work closely with your Legal and Compliance Departments to make sure that you are collecting that data properly and storing it appropriately so it is protected.”

8. Evaluation

The final step is to track and assess performance of the DEI program against those goals you established at the outset.

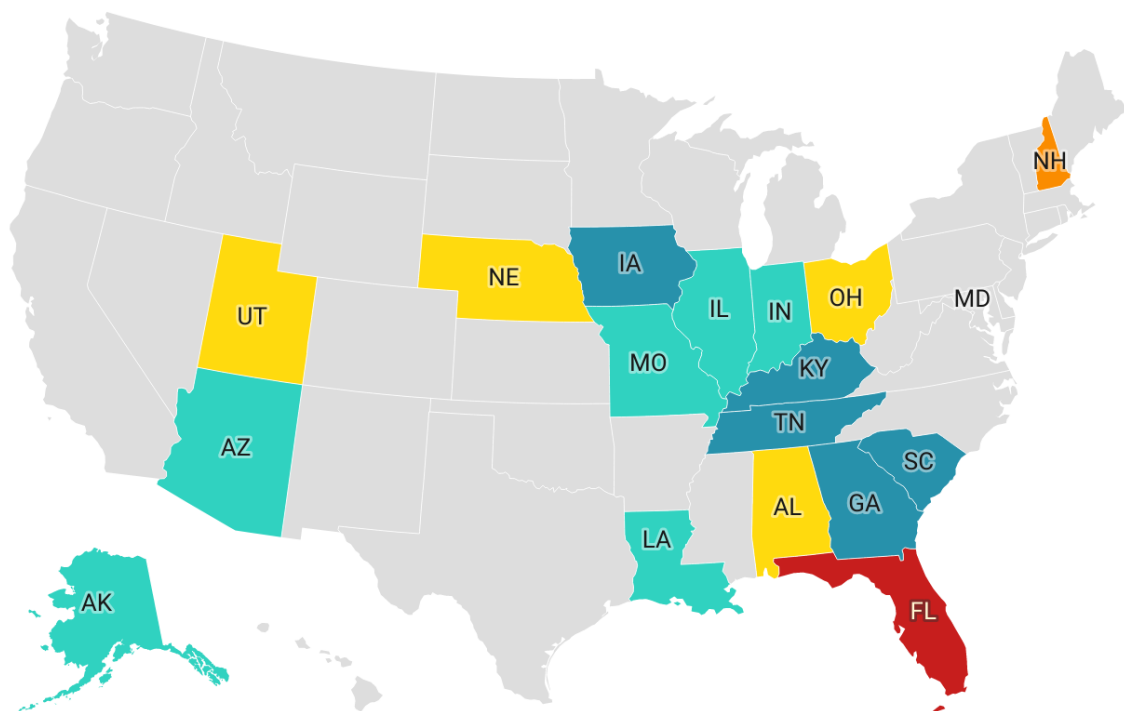
“There are two key elements to this process,” said Forest. “First, you need to put the right DEI benchmarks in place and measure how you are doing against those program metrics. Second, you need to keep a close eye on your retention metrics for real-time feedback on how the program is being perceived within your organization. People stay where they’re happy so this is an important element to monitor.”

In addition to metrics, it is also important to solicit and evaluate employee feedback.

“It’s especially critical to collect feedback from departing employees as they tend to be more honest and open about their experiences at your organization,” said Gray. “This feedback will help you assess how you’re doing.”

'Divisive Concepts' Legislation

■ Considered legislation prohibiting anti-discrimination instruction in public schools ■ Considered legislation prohibiting anti-discrimination training at government agencies ■ Enacted legislation prohibiting anti-discrimination instruction in public schools ■ Enacted legislation prohibiting anti-discrimination instruction in public sector ■ Enacted legislation prohibiting anti-discrimination instruction or training in public and private sectors



Source: State Net • Created with Datawrapper

Emerging Legislative Developments to Monitor

Even as corporate executives invest in the development of their DEI programs, compliance professionals need to be aware of recent legislative developments at the state level that could have an impact on the way these programs are implemented.

The most notable occurred in Florida, where the legislature passed the [Parental Rights in Education](#) law — which critics labeled the “Don’t Say Gay” bill — that bans classroom instruction about sexual orientation or gender identity in the state. This legislation also contains language prohibiting anti-discrimination training in the private sector that causes people to feel uncomfortable.

“We have worked closely with our corporate legal department to revisit all of our DEI instructional materials and make sure that we are in compliance with the new law,” said Stanford.

Elsewhere, New Hampshire [passed](#) a state budget that bans the teaching of “divisive concepts” related to race and gender by public schools, state agencies and contractors. That term was subsequently removed from the language attached to the official budget, but “many of its themes are repackaged into several lines . . . of the 220-page bill,” reports the *Portsmouth Herald*.

“One of the central problems with this bill is its ambiguity in what constitutes a banned so-called ‘divisive’ concept,” [said](#) Gilles

Bissonnette, legal director of the American Civil Liberties Union of New Hampshire. “One part of the bill aims to permit ‘workplace sensitivity training’ while other portions of the bill ban speech aimed at addressing ‘unconscious racism’ in the workplace.”

At least 17 states have considered bans on anti-discrimination instruction or training in public schools, government agencies or the private sector in the 2021-2022 biennium, according to State Net’s legislative tracking system. Seven of those states have enacted such measures.

Key takeaway: Corporate executives need to prioritize the development of effective DEI programs to engage with key stakeholders, including the recruitment and retention of employees. Compliance professionals need to monitor emerging legislation at the state level that could have a significant impact on how they implement those DEI initiatives.

Learn more about how [State Net](#) monitors legislative activity in all 50 states to keep you updated on individual bills as they progress through committee as well as new laws that are enacted in each jurisdiction.

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Much of the information in this article is based on research conducted by State Net and W. Mark Crain, William E. Simon Professor of Political Economy at Lafayette College, and a leading authority on quantitative analysis of government activity.

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