



# A Practical Guide to Diversity & Inclusion in the Legal Profession Version 3.0

## Hiring & Retention Guide

Intellectual Property Owners  
Association

Diversity & Inclusion Committee

January 2023

# Master Level

Advanced Considerations in Addressing Issues of Diversity & Inclusion

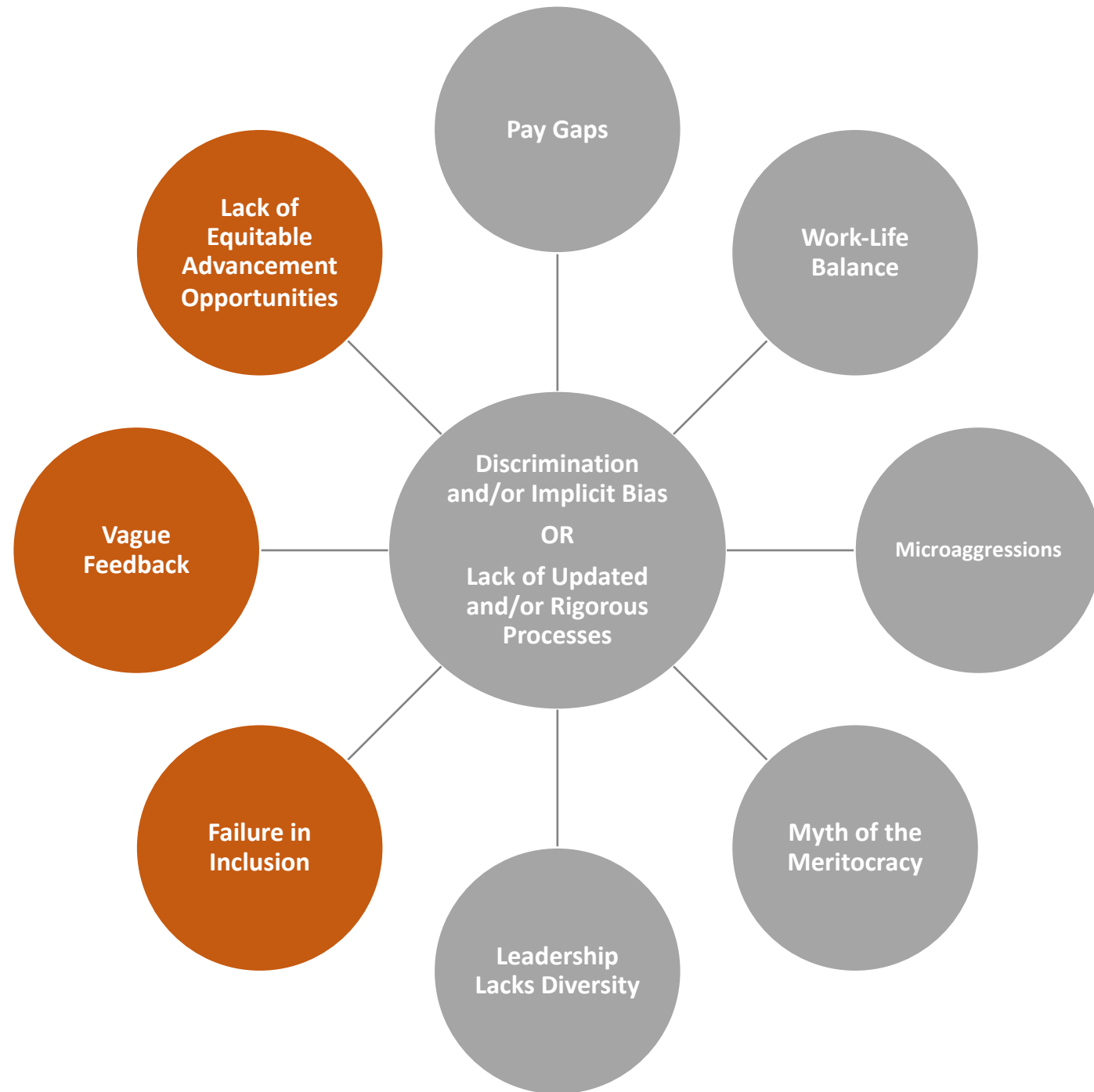
# HIRING & RETENTION

Improve diversity by improving hiring  
and  
improve retention by improving inclusion

**HIRING diverse  
lawyers / legal  
professionals is  
difficult for the  
main reasons  
shown here.**



**RETENTION  
of diverse  
lawyers /  
legal  
professionals  
is difficult for  
the main  
reasons  
shown here.**



# Solving for Problems with Hiring and Retaining Diverse Employees

For Hiring, address the issues in Slide 4. Details on these Hiring issues in Slide 4 can be found in the Background slides 8-33.

[Discrimination](#) and/or [Implicit Bias](#) OR [Lack of Updated and/or Rigorous Processes](#)

- [Archaic Hiring Practices](#)
- [Pay Gaps](#)
- [Work-Life Balance](#)
- [Microaggressions](#)
- [Myth of the Meritocracy](#)
- [Leadership Lacks Diversity](#)

For Retention, address the issues in Slide 5. Details on these Retention issues in Slide 5 can be found in the Background slides 8-13 and 17-39.

[Discrimination](#) and/or [Implicit Bias](#) OR [Lack of Updated and/or Rigorous Processes](#)

- [Pay Gaps](#)
- [Work-Life Balance](#)
- [Microaggressions](#)
- [Myth of the Meritocracy](#)
- [Leadership Lacks Diversity](#)
- [Failure in Inclusion](#)
- [Vague Feedback](#)
- [Lack of Equitable Advancement Opportunities](#)

# Hiring and Retention – DOs & DONTs

## DOs

- Slow down decision-making to avoid biased-based decisions.
- Review old processes and create new processes or update old processes by adding [“circuit-breakers”](#).
- Offer transparent and standardized compensation for all candidates / employees.
- Offer flexibility in work schedules without any punitive measures.
- Take effort to get to know people and provide clear & constructive feedback rather than base any comments or opinions based on appearances or stereotypes.
- Ensure all levels of leadership in the organization are diverse.
- Ensure equitable and transparent criteria for project assignments, advancement, and recognition (financial / non-financial).

## DONTs

- Stop interviewing different candidates using different / ad hoc hiring criteria.
- Stop asking for current or previous salary – this is a way to keep underpaid women and minorities at lower/inequitable pay.
- Stop with the underhanded compliments – “you don’t have an accent!”
- Don’t Discriminate! It is illegal.
- Don’t base hiring decisions on biases – e.g., don’t hire for “fit”.
- Don’t use performance reviews as an opportunity to flex power muscles and attack individuals.
- Don’t offer generic statements about personality traits during a performance review.



Discrimination



# Employment Discrimination

Don't Discriminate! It is ILLEGAL!

Overview: [Overview Of Employment Litigation \(justice.gov\)](#)

Statutes: [Laws Enforced By The Employment Litigation Section \(justice.gov\)](#)

Partners: [Partners of the Employment Section \(justice.gov\)](#)

Types of Discrimination: [Types Of Employment Discrimination \(justice.gov\)](#)

Cases: [Employment Litigation Section Cases \(justice.gov\)](#)

# Implicit Bias

# What is Implicit Bias?


We are ALL biased.

Any decisions we make, must be slowed down, deliberate, and based in facts that don't change for different people.

See Implicit Bias White Paper:  
<https://ipo.org/wp-content/uploads/2017/11/Implicit-Bias-White-Paper-2.pdf>

Additional references:  
<https://www.simplypsychology.org/implicit-bias.html>

<https://www.americanbar.org/news/abnews/publications/youraba/2017/july-2017/the-first-step-to-eliminating-implicit-bias--admit-you-have-it/>



Lack of Updated and/or  
Rigorous Processes

# Solutions to Lack of Updated and/or Rigorous Processes

Change leadership to include change agents and thought leaders

Review old processes

Create processes or update processes by adding “circuit-breakers”

Review any decision-making steps without any processes in place

# Archaic Hiring Practices

# WHAT are Archaic Hiring Practices?

Job Descriptions containing non-inclusive and/or offensive language – e.g., “proven salesmen,” “outgoing and dynamic,” “top 10% only,” etc.

Non-diverse interviewers

Relying on Contrast Bias – comparing candidates to one another rather than comparing against the hiring criteria

Relying on Confirmation Bias – hiring for “fit” or candidates to add to organizational homogeneity

Relying on only one interviewer to make hiring decisions

Interviewing different candidates using different / ad hoc hiring criteria – e.g., asking one candidate to complete a skills assessment and not asking another candidate to do the same

# SOLUTIONS to Archaic Hiring Practices Adopt & Be Accountable to Clear & Consistent Hiring Practices

Insist on having a diverse pool of candidates

- Prepare an inclusive job description to attract diverse candidates
- Expand recruiting network if necessary
- Make this diverse pool requirement known to outside recruiter or internal HR partner
- Ideally, interview more than one diverse candidate for each open position

Each hiring manager/interviewer should participate in implicit bias training

Consider using AI or blinding the names of the applicants to screen resumes and short-list candidates

Include underrepresented minorities in the interview team and take steps to ensure that all voices of the interview team are heard and considered

Compare candidates against the hiring criteria not against one another

Stop hiring for “fit” – i.e., avoid affinity bias – hiring those who look and/or think like you

Stop relying on only one interviewer to make hiring decisions

Stop interviewing different candidates using different / ad hoc hiring criteria



# Pay Gaps

# What are Pay Gaps?

Law Firms: Compensation for partners who are women is 44% lower than for men, according to 2020 data: \$784,000 versus \$1,130,000. Compensation for partners of color is 20% lower than their White counterparts: \$869,000 versus \$1,046,000.

Corporate Legal Departments: The gender pay differential in-house is far smaller: \$351,000 for men versus \$340,000 for women. This \$10,000 differential explodes to \$50,000 in the gender pay gap of general counsel, however: \$550,000 for men versus \$502,000 for women.

# SOLUTIONS to Pay Gaps



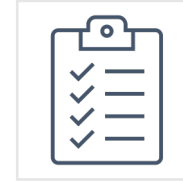
## **Standardize**

compensation



## **Be**

objective



## **Audit**

all compensation on a  
periodic basis



## **Assure**

candidates and current  
employees that the  
organization stands against  
pay gaps and has systems  
in place for this



Work-Life Balance

# STRATEGIES to Offer Work-Life Balance to Candidates & Employees

**Offer flexibility in work schedules without any punitive measures.**

**Offer clear guidelines on video / non-video calls and don't expect ALL calls to be video calls.**

**Encourage taking breaks.**

**Communicate effectively with all employees – remote or not.**

**Be empathetic of others life needs to work effectively.**

**Set the example - put leaders in place that have worked flexibly or are working flexibly.**

# Microaggressions

# Examples of Microaggressions

“You don’t look like a patent attorney?!”

“You have a baby face for someone with so much experience.”

“You don’t have an accent!”

Repeatedly and knowingly going over a Black, Indigenous, and Person of Color (BIPOC)’s head to ask his/her supervisor/manager for help.

cc’ing the partner-in-charge or manager on emails to confirm legal advice or to “report” BIPOC lawyers / legal professionals.

# SOLUTIONS to Microaggressions

Be	Mindful of your words and actions
Stop	with the underhanded “compliments”
Take	effort to get to know people rather than base any comments or opinions based on appearances or stereotypes



# Myth of the Meritocracy

# What is the Myth of the Meritocracy?

“Most, if not all, organizations in society claim to be merit-based, where hiring and advancement are allegedly determined by skills, experience, and achievement. However, reality and decades of data prove otherwise.”

Source: Page 1 of [The Myth of the meritocracy in law firms and corporate legal departments \(ipo.org\)](https://www.ipo.org/publications/the-myth-of-the-meritocracy-in-law-firms-and-corporate-legal-departments).

# Hiring with Circuit-Breakers



# Conduct Structured In-Person or Virtual Interviews

Structured interviews minimize bias by allowing interviewers to focus on work competencies rather than on what they have in common with the person being interviewed.



Structured interviews use standardized questions

Ask the same questions to all of the candidates in the same order.

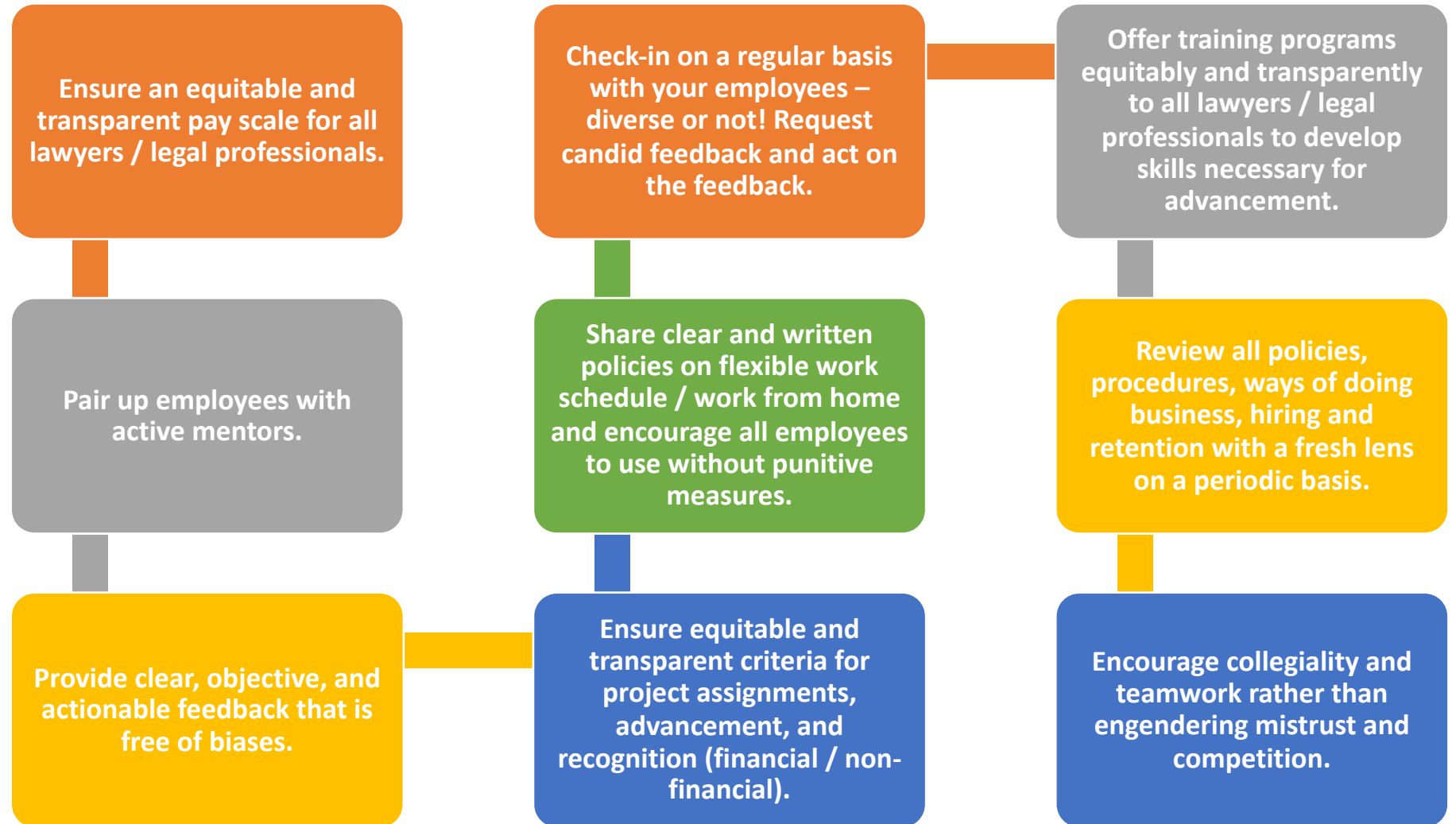
Questions should focus on skills and competencies required for the job AND listed in the job requisition.

Interviewers should rate responses to each question on a standardized numeric scale immediately after the interview to neutralize biases.

Compare candidates against the hiring criteria (i.e., skills and competencies) and not against one another.

# Retention with Circuit-Breakers

## Solutions to the Myth of the Meritocracy – Retention



# Myth of the Meritocracy Takeaway



“It is a moral and economic imperative to have diversity, equity, and inclusion thrive in our organizations. Many law firms and corporate legal departments continue to struggle with understanding and tackling the myth of the meritocracy. As discussed above, it is not possible to have a merit-based organization without deliberate ‘circuit-breakers’ in place when making hiring and retention decisions.”



# Leadership Lacks Diversity

# Leadership Lacks Diversity

Diverse employees  
will leave if they  
don't see diversity in  
the leadership ranks

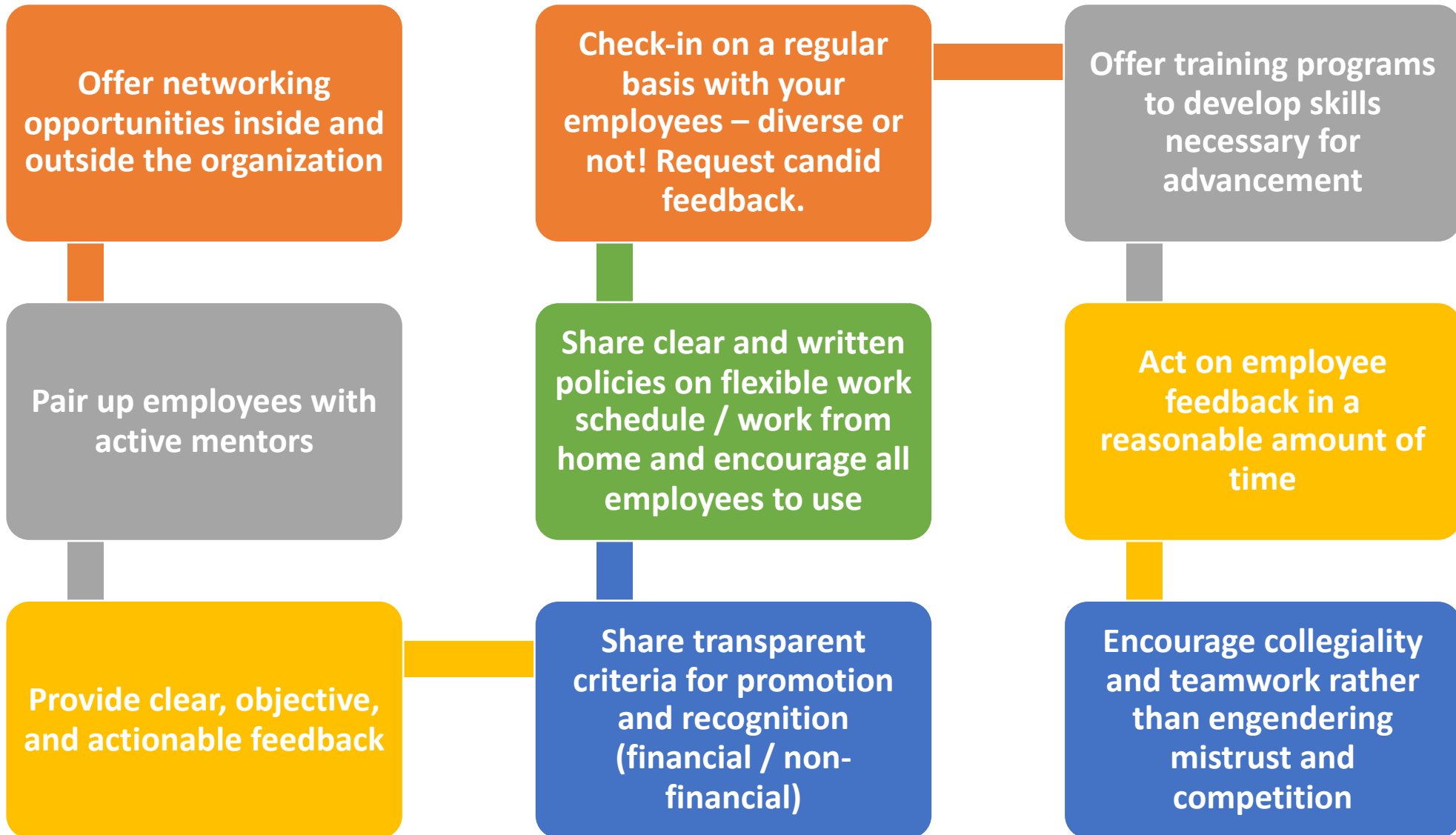


# Solutions to Leadership Lacks Diversity



# Failure in Inclusion

# Solutions to Failure in Inclusion






Vague Feedback

# Solutions to Vague Feedback

DO provide	DO reduce	DO make	DO NOT make	DO NOT offer
<p>“action oriented” feedback</p> <ul style="list-style-type: none"><li>• Performance reviewer should systematically tie all feedback to business goals and/or outcomes while providing specific examples of projects or tasks.</li></ul>	<p>biases in reviews through defined expectations and goals for each position, use of performance checklists, etc.</p> <ul style="list-style-type: none"><li>• consider periodic bias training for all employees involved in performance review.</li></ul>	<p>performance reviews about forward-looking advice (i.e., how can the employee do better in the future – e.g., use data in future presentations) rather than focusing on backward-looking criticisms (e.g., you did not provide data during last month’s presentation).</p>	<p>performance reviews as an opportunity to flex power muscles and attack individuals.</p>	<p>generic statements about personality traits during a performance review.</p>



Lack of Equitable  
Advancement  
Opportunities

# Solutions to Lack of Equitable Advancement Opportunities

Provide clear, objective, and actionable feedback

Share transparent criteria for promotion and recognition (financial / non-financial)

Share clear and written policies on flexible work schedule / work from home and encourage all employees to use

Check-in on a regular basis with your employees – diverse or not! Request candid feedback.

Offer training programs to develop skills necessary for advancement

Act on employee feedback in a reasonable amount of time

Encourage collegiality and teamwork rather than engendering mistrust and competition

# Hiring Diverse Law Firms – Resource Guide

[National Association of Minority & Women  
Owned Law Firms \(NAMWOLF\)](#)

Additional resources coming soon



A close-up, artistic photograph of dark brown, roasted coffee beans. The beans are scattered across the frame, with some in sharp focus in the foreground and others blurred in the background, creating a sense of depth. The lighting is soft, highlighting the texture and sheen of the beans.

# ACKNOWLEDGEMENTS

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