An Examination of the Implementation and Usage of Flexibility and Leave Policies in US Law Firms by Race, Gender, and Sexual Orientation
ABOUT THE ALLIANCE

The Diversity & Flexibility Alliance is a think tank dedicated to creating work environments centered on inclusion and innovative thought leadership. The Alliance provides practical solutions that increase organizational effectiveness and create high performance cultures through diversity and flexibility. More information about the Alliance can be found at www.dfalliance.com.
LETTER FROM THE CEO

On behalf of the Diversity & Flexibility Alliance, I am pleased to present the results of our third annual Law Firm Flexibility Benchmarking Survey. In furtherance of our mission to advance women and promote flexibility for all professionals, this survey initiative examines the availability and usage of flexibility in large law firms. Specifically, the survey looks at holistic flexibility, which includes both full-time and reduced hours flexible work options, reflecting the myriad reasons today’s diverse workforce wants and needs flexibility. For 2016, we were pleased to expand inquiry into flexibility for staff and parental leave details. This report is intended to provide multifaceted and comprehensive data about law firm flexibility programs.

This year’s survey results show that the availability of flexible work schedules continues to be commonplace in major law firms, including a larger share of firms with a formal flexibility policy for staff. Yet, the flexible work usage statistics in this report, while slightly stronger this year in the areas of reduced hours, telecommuting, and flexible start/end times, demonstrate that mainstreaming a culture of flexibility remains a work in process. While we hear from many organizations that their professionals can come and go as they please as long as they get the work done, the mark of a true culture of flexibility is alignment between the unspoken rules of the organization and its policies. With lawyers and staff working on formal flexible schedule making up only a fraction of the law firm workforce, we continue to see a need for firms to bridge the gap between policy and practice.

Progress is strongly linked to effective implementation of flexible work policies, and the Alliance continues to be actively engaged in providing organizations with solutions to address this issue. We present the annual Flex Advisor Workshop via webinar to teach talent development and other professionals the fundamentals of implementing successful flex programs. The workshop follows the Alliance’s Flex Success™ Framework, which is a five-step process for answering the “why, what, how, who, and when” of flexibility programs, starting with a strong business case that is tailored to the organization and its people’s needs. The Alliance has also published a series of blogs and member-exclusive Action Steps with practical guidance on how to de-stigmatize, de-parent, and de-gender flexibility programs and adjacent leave policies, including topics such as true-up, gender-neutral leave, and implementation essentials.

We remain committed to doing research and developing solutions to expand holistic flexibility in the workplace. Many thanks to the firms, including our members, who participated in this survey, and we invite more firms to join us in this effort in the future. For more information about how your organization can be involved with the Alliance, please contact me at manar@dfalliance.com.

Warmest regards,

Manar Morales
President & CEO
EXECUTIVE SUMMARY

Consistent with its focus on bridging the gap between policy and practice, the Alliance embarked on the Law Firm Flexibility Benchmarking Survey research initiative to uncover trends and best practices and to spark increased support among legal employers for flexibility for all their lawyers and staff. The survey is designed to address the market gap in holistic data about flexibility in law firms and to examine usage by gender, race, and sexual orientation. This year’s annual survey asked participant firms to provide data on:

1. The types of flexibility policies offered;
2. How well these policies are utilized;
3. The availability of flexible work for staff;
4. Parental leave policies for attorneys and staff;
5. Whether and how working flexibly affects promotion, compensation, and leadership opportunities; and
6. How management of the flexibility program is spread throughout the firm.

As a baseline, the survey also collects data on the overall attorney population in the U.S. offices of participating firms by demographic categories including level/position, gender, race, and sexual orientation. Highlights of the key findings from the survey are listed below with detailed data results constituting the remainder of this report.

- **Virtually all firms continue to have formal flexibility policies on the books.** Consistent with the results from the 2014 and 2015 surveys, nearly all survey participants – 26 of 28 participating firms – have a formal flexibility policy that includes at least one type of reduced hours or full-time flexible work arrangement. Consistent with the Alliance’s guidance to formalize policies for consistent application, uniform expectations, and internal/external transparency, the policy needed to be written to qualify as a formal policy for the purposes of this survey.

- **Reduced hours schedules are the most commonly offered type of flexibility.** All 26 firms that reported having a formal flexibility policy provide a reduced hours program. Seventeen firms offer flexible start/end times, and fifteen offer telecommuting and annualized hours, respectively. Three firms offer job-sharing, which represents an increase of two firms compared to the 2015 survey results and a return to the figure reported in the 2014 survey. (See Figure A)
• **Reduced hours schedules are the most popular type of flexible work used.** Nearly nine percent (8.8 percent) of lawyers at participant firms with reduced hours policies have a reduced hours schedule. This represents an increase over the results from the last two surveys where reduced hours lawyers represented 8.3 percent of all lawyers at firms with such policies. Telecommuting and flexible start/end time usage has increased from 3.6 percent and 1.5 percent, respectively, in 2015. (See Figure A)

• **Women constitute the largest share of reduced hours lawyers yet continue to be underrepresented overall.** To understand the proportionality of flex lawyers, the survey asked about the overall attorney population in the U.S. offices of participating firms. While the percentage of women dropped overall (36.5 percent to 35.9 percent) as well as among reduced hours lawyers (68 percent to 66.3 percent) as compared to the 2015 survey results, women continue to be disproportionately represented among those working reduced hours. (See Figure B)

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As noted in the methodology, the sample (n value) varies throughout the report because it reflects the number of firms responding with data to the relevant survey item.
Figure B. Representation of Women, Attorneys of Color, and LGBT Attorneys in Participant Firms – All Attorneys and Reduced Hours Attorneys

- **Lawyers of Color and LGBT Lawyers remain underrepresented among reduced hours lawyers.** While still underrepresented among reduced hours lawyers, the share of lawyers of color increased overall (15.5 percent to 16.5 percent) and among reduced hours lawyers (11.5 percent to 13.0 percent) as compared to the 2015 survey results. Likewise, LGBT lawyers remain underrepresented among reduced hours lawyers, but their share among attorneys overall increased from 2.1 to 2.5 percent, as did their share among reduced hours lawyers (.7 percent to 1.1 percent). (See Figure B)

- **Flexible schedules remain more common among non-partnership track attorneys.** Based upon median figures among participant firms with formal flexibility policies where usage was provided, over 30 percent of *Of Counsel* and nearly 20 percent of *staff attorneys* are working a flexible schedule. By contrast, just over one percent of equity partners and five percent of associates have a flexible schedule in participating firms. These results track last year’s survey results and may signal that while participants have flex policies in place, many are not being used due to concern for the perceived threat to career advancement to partner or key leadership roles. (See Figure C)
• **A large share (23 of 28) of participant firms offer gender-neutral parental leave for attorneys.** Yet, most firms (87 percent) with gender-neutral parental leave include a primary and secondary caregiver designation in the policy and tier the amount of leave accordingly. The Alliance recommends that firms remove the caregiver designation for the primary reasons that it: 1) reinforces gendered breadwinning/caregiving roles; 2) represents an antiquated view of how families handle caregiving responsibilities; and 3) is administratively burdensome.

• **Organizational investments to support flexibility vary.** Having a flexibility policy is just the first step; to make a flexibility program successful, organizations must invest in a variety of administrative and educational resources, including some of the following explored in the survey. The share of firms with a flex program advisor to help manage the flexibility program increased just over eight percentage points (56 percent to 64.2 percent) from last year’s survey results. Just over seventy-one percent of firms also offer educational programming to help flex lawyers be successful on their schedules, but less than half (42.9 percent) offer such programs to help supervisors successfully support flex attorneys. Only 12 survey participant firms report having a true-up policy to compensate reduced hours lawyers for hours worked in excess of their agreed-upon schedule, representing less than half of the firms with a reduced hours policy.

• **Leadership and Partner Promotions.** Fourteen participant firms promoted at least one lawyer working a reduced hours schedule to partner in 2015, representing double the number of firms with this distinction in last year’s survey results. Reduced hours schedules are also represented among firm leadership in 12 participant firms, including three firm chairs or managing partners, 11 department chairs or practice group leaders, and 4 office heads.
METHODOLOGY

The survey was distributed to all Alliance member firms, as well as non-member American Lawyer (“Am Law”) 200 firms and other major U.S. law firms, in July 2016. **The effective date of collected data was December 31, 2015, unless otherwise noted, and the total number of responding firms was 28, covering over 18,000 lawyers in the U.S. alone.** Results are summarized through tables, figures, and natural language in corresponding order to the survey questions. A question may not be represented if the data was not statistically reliable. Given that not all firms responded to each question, figures representing the number of firms (i.e., the sample size applicable in the particular calculation) appear either in a parenthetical next to the descriptive text or in the accompanying graphic.

While nearly two-thirds (18 of 28) of the respondent firms are in the Am Law 100, multiple characteristics of the survey data are presented when there are meaningful differences due to the range in size and other characteristics of the participants. Accordingly, for some items, summary statistics may include percentages, as well as means, medians, and minimum/maximum values. Due to rounding and other factors (e.g., incomplete demographic information for reported lawyers), frequencies of responses may not total 100 percent.
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Alliance Members: To access the full *2016 Flexibility Benchmarking Report*, please visit the Research section of the [Member Resource Center](#).

Diversity & Flexibility Alliance 2016 Flexibility Benchmarking Report