



2011 Diversity Benchmarking Study:

A Report to Signatory Law Firms

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EXECUTIVE SUMMARY

The 2011 diversity results paint a picture of stagnation for women and minority attorneys. At the micro-level there are improvements to be celebrated, most small, interspersed with signs of slippage. Minority attorneys have reclaimed *some* ground lost during the recession and women continue to improve their representation at the partner level while simultaneously declining among the associate ranks. While new hires across levels are more diverse than attorneys at signatory firms, elevated turnover for women and minorities continues to erode the gains. We were encouraged to find that firms with a critical mass of women on their management committees – defined as three or more – reported better results for women attorneys at every level.

Highlights of the 2011 diversity benchmark report are outlined below.

Signatory firms struggle to meet diversity goals first set in 2003. Signatory firms articulated four primary goals, all targeted to retain gender and racial/ethnic diversity as attorneys progressed from one level to the next, but the 2011 data demonstrates erosion at multiple levels in the pipeline of legal talent. For example, the 2011 new hire class for signatory firms was less diverse by gender than 2011 law school graduates (43.1% versus 47.1%). The diversity profile of new hire classes has been declining in recent years across signatory firms, peaking at 47.3% for women in 2006 and at 28.4% for minority attorneys in 2008. Despite efforts to retain the diversity of senior associates among new partner promotes, women attorneys declined from 44.4% to 33.0% and minority attorneys from 18.7% of senior associates to 16.8% of those elected to firm partnerships in 2011.

2011 benchmark results are mixed for diverse attorneys. Minority associates gained some but not all of the ground lost from 2009 to 2010. Across all minority attorneys representation rose from 16.6% to 17.2% in 2011 after declining from the high of 18.1% in March of 2009. Similarly, minority associates rose to 24.0% in 2011 after declining from 25.0% to 23.5% in the most recent reporting periods. The percentage of women partners continued to grow, rising to a high of 18.3% since the NYC Bar began tracking diversity data - after dipping from 17.8% to 17.5% between the 2009 and 2010 results - while continuing to decline among associates. The representation of openly gay attorneys continues to increase among signatory firms rising to its height at 3.6% in the latest results.

Women saw gains at the very top while minority attorneys declined. Across the full universe of signatory firms, women attorneys registered gains across several leadership roles rising from 17.5% to 18.3% of partners, 17.1% to 17.7% of management committee members and 15.4% to 17.3% of practice group heads. While minority attorneys rose at the partnership level, they witnessed declines in the 2011 results both among practice group heads and at the management committee level.

Women and minority attorneys lack critical mass among key leadership bodies. With a median size of nine management committee members at signatory firms, the median number of women was one and minority attorneys zero amongst this key leadership group. Yet the 2011 data underscored the importance of critical mass; more women on the management committee were associated with greater diversity by gender at nearly every level. For example, firms with no women management committee

Signatory Firms Still Working on Meeting Diversity Goals

In 2003, more than 100 New York City firms signed the New York City Bar’s Statement of Diversity Principles committing to work toward several goals focused on improving the diversity of the pipeline from the entry level all the way through to firm leadership. Based on the 2011 data, signatory firms are collectively struggling to meet these goals and to retain the diversity in the pipeline of legal talent. A review of the goals highlights erosion by gender and/or race at multiple junctures.

Goal #1: Within 3 years, to hire entry-level associates classes that substantially reflect the diversity of graduating law students. In 2011 women represented 47.1% and minorities 23.8% of law school graduates nationally.¹ Among the new associate class of attorneys hired by signatory firms in 2011, 43.1% were female and 25.6% were minority attorneys. Women lagged while minority attorneys represented a greater percentage of 2011 new associate hires.

Goal #2: Within 5 years, to retain the diversity of the entering associate classes as they progressed through the associate ranks. The proportion by both gender and race/ethnicity of new hire classes has been trending downward, peaking for women in 2006 at 47.3% and for minorities in 2008 at 28.4%. The table below illustrates the diversity profile of new associate hires upon first entering signatory firms in comparison to their representation by class year in the 2011 results. The good news is that newer classes have retained more of the diversity from the original class than those from the mid 2000’s. In fact the representation of women attorneys for the new-hire class of 2009 rose through time from 44.5% to 45.5% in the most recent results.

	New Hire Class of 2005	Class of 2005 in 2011	New Hire Class of 2006	Class of 2006 in 2011	New Hire Class of 2008	Class of 2008 in 2011	New Hire Class of 2009	Class of 2009 in 2011	New Hire Class of 2011
Women	45.6%	42.2%	47.3%	45.7%	44.1%	44.0%	44.5%	45.5%	43.1%
Minorities	25.4%	17.5%	28.3%	21.3%	28.4%	25.1%	27.1%	26.2%	25.6%

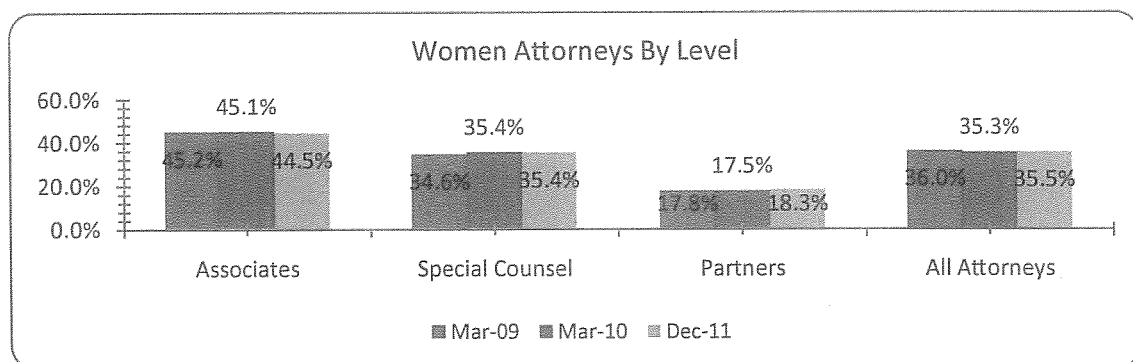
Goal #3: Within 10 years, to reflect the diversity of senior associates among those promoted to senior counsel and partner roles. While not yet having reached the 10 year mark since the NYC Bar began tracking diversity benchmark data, the 2011 results highlight a clear decline in diversity from the senior associate to senior counsel and partnership levels. Women attorneys represented 44.4% of senior associates as of the end of 2010, 35.4% of special counsel attorneys and 33.0% of new partner promotes as of December 2011. Minority attorneys accounting for 18.7% of senior associates across signatory firms in 2010 comprised just 16.8% of new partner promotes and 10.2% of special counsel attorneys.

¹ Class of 2011 National Summary Report, Tables prepared by NALP, July 2012.

The National Association of Law Placement (NALP) similarly found that the 2010 decline for minority attorneys, the first since they began tracking diversity data, had been reversed in the 2011 results.² At the associate level, after declining from 19.67% in 2009 to 19.53% in 2010, minority attorneys represented 19.90% of associates in the 2011 benchmark data.³

Women Attorneys Register Mixed Results

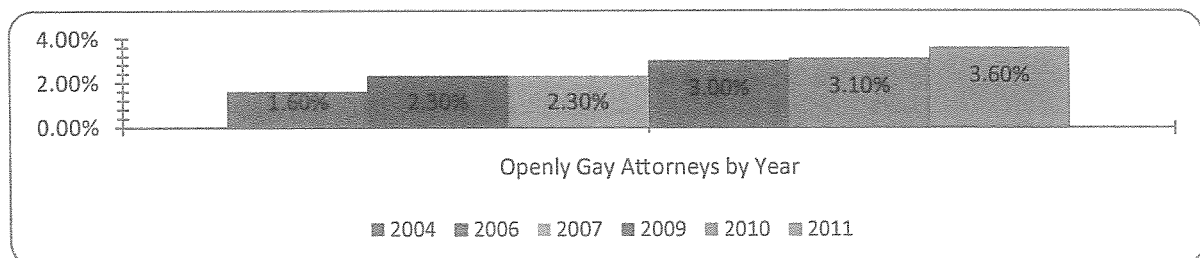
The headlines for women attorneys at signatory firms are simultaneously hopeful and discouraging. Women attorneys lost ground at the associate level but saw gains at the partner level, reaching a new high of 18.3% in the 2011 results. Among all attorneys women increased incrementally regaining some of the ground lost from 2009 to 2010.



In other diversity benchmark reporting, NALP reported women attorneys declined overall and at the associate level but saw increases at the partner level.⁴ The National Association of Women Lawyers (NAWL) reported declines in women associates for the first time since they began tracking benchmark data.⁵

Gay Attorneys Continue Upward Trend

Gay attorneys continued their gradual ongoing trend of increased representation through time. Openly gay attorneys represented 3.6% of all attorneys across signatory firms in 2011, rising from 3.1% in 2010 and from 1.6% in 2004, the first year in which the NYC Bar began tracking diversity data. By level openly gay associates at 4.1% outpaced openly gay partners (2.5%).



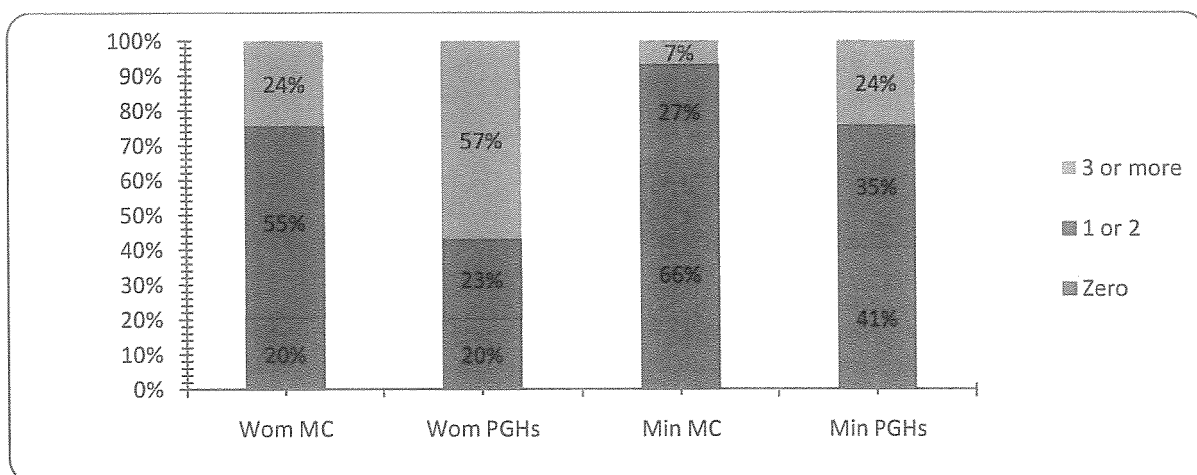
² NALP Bulletin, January 2011, www.nalp.org/jan2011wom_min.

³ NALP Bulletin, January 2012, www.nalp.org/women_minorities_jan2012.

⁴ NALP Bulletin, November 2011, www.nalp.org/2011_law_firm_diversity.

⁵ The National Association of Women Lawyers and THE NAWL Foundation, Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms, October 2011.

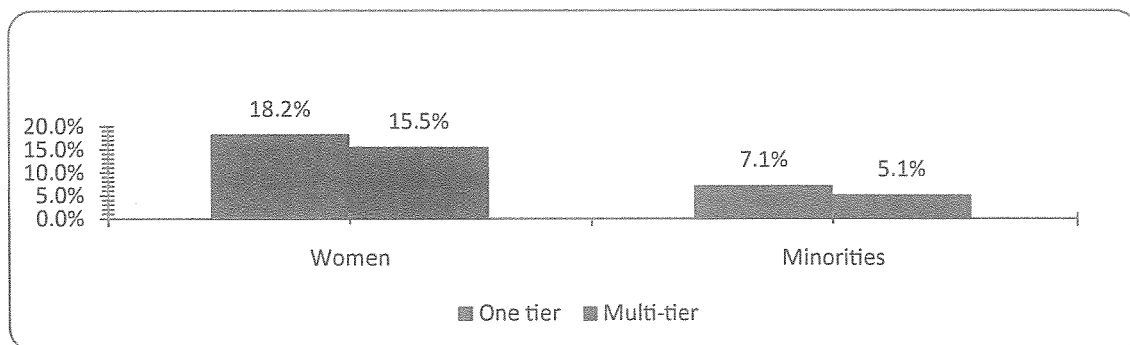
66% and 23% women management committee members.⁶ The dearth of minority representation among top leadership at signatory firms is dramatically portrayed below with two-thirds of firms lacking a single minority attorney on the management committee and over 40% with no minority practice group heads.



Despite the lack of women attorneys in top leadership roles across many firms, analysis of the leadership data uncovered some promising results. The New York City Bar found that having a critical mass of women on the management committee – defined as three or more in our analysis – was associated with higher representation of women at nearly all levels. (The New York City Bar was unable to conduct a similar analysis for representation of minority management committee members due to the very small number of firms with three or more minority attorneys represented among this leadership group.)

A substantial 24% of signatory firms reported a minimum of three women management committee members and among these firms women represented 41.8% of new partner promotes, 21.9% of partners (20% equity and 28.7% income), and 23.8% of management committee members. In contrast signatory firms with no women on the management committee - 20% - reported 30% women new partner promotes and 15.8% of women partners (22.7% income and 15.2% equity partners). It is important to note that this analysis does not measure causality – a very high burden of proof – but it does suggest that having women at the leadership table, not as tokens but reflecting the full diversity of women in the profession and across levels at signatory firms, likely helps to prioritize diversity over the long-term.

⁶ The National Association of Women Lawyers and THE NAWL Foundation, Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms, October 2011.



Other research organizations tracking diversity progress have also found women attorneys to be more favorably represented as equity partners among law firms with a single-tier partnership model. NAWL reported “The phenomena of two-tier and mixed-tier partnership structures continue to have a negative impact on women lawyers. In terms of both compensation and advancement to equity partnership, women lawyers appear to be most consistently successful in one-tier firms.” NAWL’s 2011 report explored the issue of fixed-income equity partners, those partners who contribute capital to their firms yet enjoy little of the upside potential of equity ownership, and found that women occupy the vast majority of these roles. Furthermore, they found the fixed-income equity partner role was not a stepping stone to full equity partnership with many of these women partners in the prime of their legal careers.⁷

NAFE and Flex-Time Lawyers indicated among the 50 best law firms for women, drawn from a universe of self-selected applicant firms, that women represented 21% of equity partners in one-tier firms and 17% in two-tier firms.⁸

New York Firms Favor One-Tier Partnership Model

NALP collected data on the representation of equity and non-equity partners for the first time in 2011 and based on the data (representing approximately half of the partners in their directory), NALP reported “given the fact that law firm partners are still overwhelmingly white and mostly male, these new findings do not paint a picture as gloomy as many feared.” They found while approximately two-thirds of male partners were equity partners, about one half of women and minority partners held equity status in their firms.⁹

The New York City Bar data showed even more positive results with narrower gaps between attorney groups; 83% of male partners in comparison to three-fourths of female and minority partners reported having equity in their firms.

It is important to note that partners at NYC firms are more likely to report equity status than across the U.S. While 81% of partners at signatory firms have equity, the comparable figure for NALP partners

⁷ The National Association of Women Lawyers and THE NAWL Foundation, Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms, October 2011.

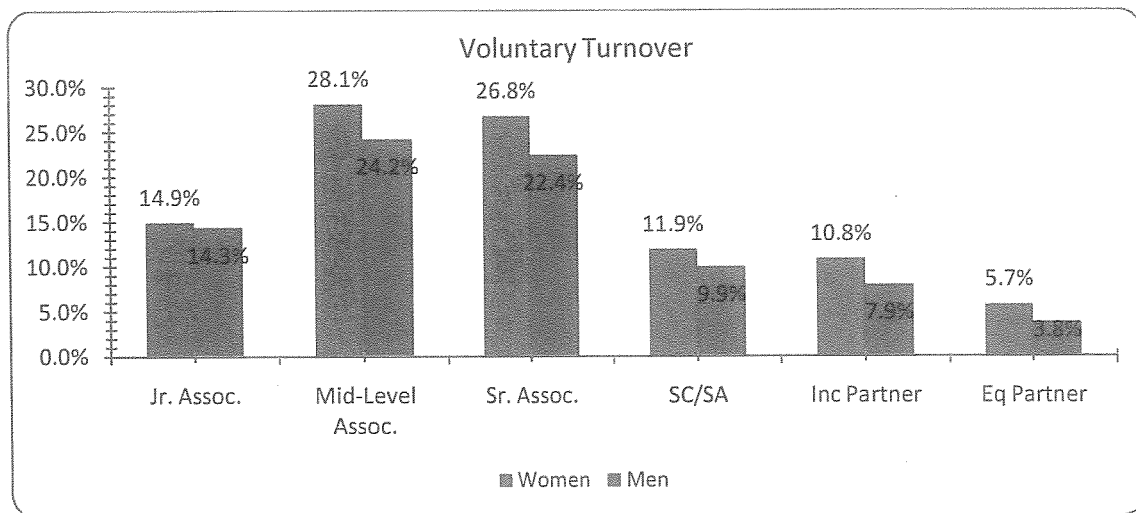
⁸ NAFE & Flex-Time Lawyers Best Law Firms for Women 2011.

⁹ NALP Bulletin, The Demographics of Equity, November 2011.

Overall Turnover Rises, Heightened Turnover of Diverse Attorneys Contributes to a ‘Leaky Faucet’

Voluntary turnover rates increased across signatory firms rising from 10.4% in 2009 to 14.7% in 2011 moving toward the higher turnover rates of the mid 2000’s. Elevated *voluntary* turnover rates may be a sign of improving economic health whereby attorneys perceive and have access to a wider array of employment options. Across levels turnover rates showed a familiar pattern rising from 14.6% of junior associates to a peak of 25.9% for mid-level associates, declining to 24.4% of senior-level associates and then dropping substantially to 10.6% of special counsel and 5% of partners at signatory firms.

A key challenge for signatory firms is the retention of diverse talent. Diverse attorneys leave firms at a higher rate, eroding some of the gains realized from proactive firm efforts to both hire and promote white and minority women, and men of color. Across every level ranging from junior associate all the way to equity partner, the attrition of women attorneys surpassed that of their male colleagues.

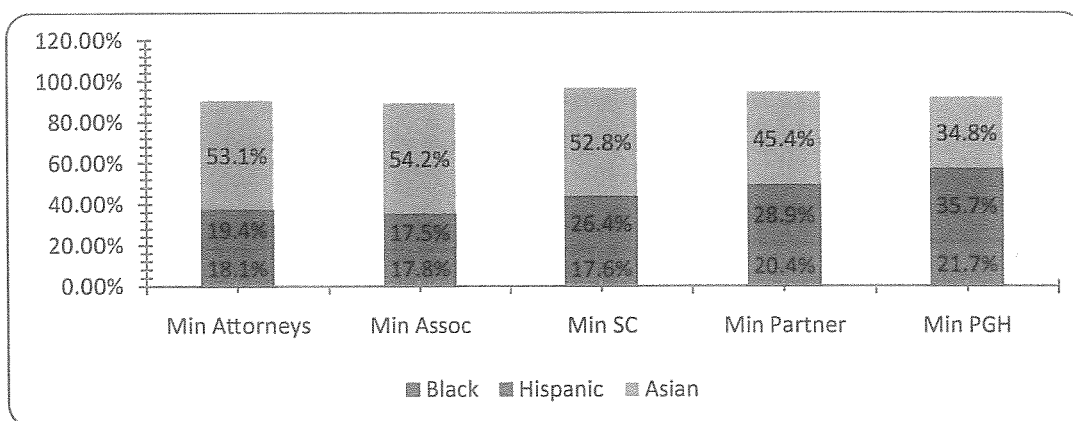


McKinsey’s 2012 report *Unlocking the full potential of women at work* documents the continuing loss of women professionals across several industries. The researchers describe a “fat” funnel in which women enter in high numbers but drop off substantially in the early to mid-career stages. This model characterizes the experience of law firms. McKinsey found a similar desire for women and men early and mid-career professionals to advance to the next level (69% women and 74% men) yet a much larger divide by gender regarding aspirations for reaching top management (18% women and 36% men). McKinsey researchers identify a focus on mid-career women as providing the greatest opportunity for change reporting, “Companies can build on women’s short-term aspirations to motivate and help them grow into directors and VPs. Each step builds confidence to take the next.”¹³

The 2011 NYC Bar turnover numbers illustrate the difficulty signatory firms confront – the leaky pipeline – as they seek to retain diversity as attorneys move through the ranks. McKinsey emphasized hands-on

¹³ 2012 Special report produced exclusively for The Wall Street Journal Executive Task Force for Women in the Economy, April 30, 2012. McKinsey & Company. *Unlocking the full potential of women at work* by Joanna Barsh and Lareina Yee.

Asian attorneys represent the majority of minority attorneys accounting for 53.1% of minority attorneys and 54.2% of minority associates. A curious ongoing trend is the decline for Asian attorneys – vis-à-vis Black and Hispanic attorneys - as they rise to leadership positions at signatory firms declining from over half of minority associates to 45.4% of partners and 34.8% of practice group heads.



Use of Part-Time Flexibility Declining

The NYC Bar began tracking flexibility usage in 2004, collecting information about the use of full-time flexibility – such as telecommuting and flexible starting and stopping times – as well as reduced-hour alternatives. Through time there has been a clear increase in the availability of flexibility from a policy standpoint, yet firms particularly struggle with measuring flexibility on a full-time basis. NAFE and Flex-Time Lawyers indicated in the *Best Law Firms for Women 2011* that fewer than half of the firms had written full-time flexibility policies.¹⁵ Understandably, it is far easier to capture part-time work because of the implications for compensation. The NYC Bar has found that the reported use of full-time flexibility across signatory firms is bifurcated. In the great majority of cases, firms report minimal use of full-time flexibility while in a handful of cases, firms report large numbers of full-time flexibility users, indicating attorneys have broad discretion to flex their hours on a day-to-day basis. Given the pattern of responses, our focus in this report will be on part-time flexibility at signatory firms.

Reduced-hour flexibility at signatory firms is on the decline, peaking at 4.7% in the 2010 results and falling to 4.2% in the latest reporting. Twelve percent of signatory firms have no attorneys working on a reduced schedule while more than 40% have no men working part-time. In addition to declining overall, the usage of part-time flexibility went down for both women and men and at every level.

	2010	2011
Women	10.8%	9.9%
Men	1.4%	1.1%
Associates	4.3%	3.9%
Special counsel	16.3%	13.8%
Partners	2.0%	1.7%
All attorneys	4.7%	4.2%

¹⁵ NAFE & Flex-Time Lawyers Best Law Firms for Women 2011.
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male equity partners were ramping down professionally on their way toward retirement, women were more likely to use flexibility in order to manage caretaking responsibilities. Part-time partners (most billing between 1,200 and 1,600 hours annually) were characterized as encountering less stigma than associates. This differential use of flexibility by gender is highly instructive. There is a long-term precedent at many firms of senior partners cutting back (as they phase into retirement) yet the terminology and acceptance seemingly share little in common with the modern version of part-time work used primarily by women and special counsel attorneys as a means to manage work-life demands. Can the example of partners, mostly male, working on reduced schedules as they phase toward retirement be leveraged in some way to normalize part-time work as a viable alternative for a multitude of circumstances?

Comparison of flexibility usage among NYC Bar signatory firms with other sources of legal diversity benchmark data indicates mixed results. Among the *Best Law Firms for Women 2011* the average reduced-hour usage rate was 10%. “Best firms” are chosen from a universe of law firms nationally that voluntarily report on multiple pieces of information relating to the development and advancement of women attorneys.

NALP reported in their 2011 results that 6.2% of attorneys at firms nationally worked on part-time schedules with wide geographic discrepancies; New York City firms were well below the national average. As illustrated below, signatory firms outperformed the New York City firms tracked in the NALP results among associates yet lagged in the usage of flexibility at the partner level.

	NYC Bar	NALP National	NALP NYC
Women Associates	8.3%	10.0%	7.0%
Men Associates	0.5%	1.0%	0.5%
Women Partners	5.4%	11.8%	6.5%
Men Partners	0.8%	1.5%	0.9%
All Associates	3.9%	5.1%	3.4%
All Partners	1.7%	3.5%	1.9%

Appendix: Comparative Diversity Benchmark Data

	Women	Men	Minority	Gay	Women PT	Men PT	Attorneys PT
Associates – NYC Bar 2011	44.5%	55.5%	24.0%	4.1%	8.3%	0.5%	3.9%
NALP 2011 - National Data	45.4%		19.9%	2.4%	10.0%	1.0%	5.1%
NALP 2011 – NYC Data	44.7%		24.0%		7.0%	0.5%	3.4%
NAFE/ FLEX 2011 – “50 Best Firms” (national)	47%	53%					
NAWL 2011 – 200 largest firms (national)	47% 1 st /2 nd yrs 44% 7 th yrs						
Partner – NYC Bar 2011 (Non-Equity/ Equity)	18.3% (24.5%/16.9%)	81.7% (75.5%/83.1%)	6.6% (8.5%/6.1%)	2.5% (2.8%/2.4%)	5.4% (5.3%/5.5%)	0.8% (2.2%/0.6%)	1.7% (3.0%/1.4%)
NALP 2011 - National Data	19.5%		6.6%	1.4%	11.8%	1.5%	3.5%
NALP 2011 – NYC Data	17.3%		6.7%		6.5%	0.9%	1.9%
NAFE/ FLEX 2011 – “50 Best Firms” (national)	28% non-eq/ 19% eq	72% non-eq/ 81% eq					
NAWL 2011 – 200 largest firms (national)	25% non-eq/ 15% eq						

	Minority	Minority Women	Black	Hispanic	Asian
Associates – NYC Bar 2011	24.0%	13.3%	4.2%	4.1%	12.8%
NALP 2011 - National Data	19.9%	11.0%	4.3%	3.8%	9.7%
NALP 2011 – NYC Data	24.0%	13.4%	4.4%	4.4%	13.0%
Partner – NYC Bar 2011	6.6%	2.3%	1.3%	1.9%	3.0%
NALP 2011 - National Data	6.6%	2.0%	1.7%	1.9%	2.4%
NALP 2011 – NYC Data	6.7%	2.3%	1.3%	1.9%	3.2%