

PepsiCo's Organizational Imperative

*Diversity and inclusion
is both celebrated and
rewarded throughout
the company*



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Tony West, general counsel of PepsiCo, is a relentless champion of diversity. He can explain the business case, but he also introduces surprising metaphors that reference agriculture and running. What's most important is that he's found many ways to support his efforts through action. And it helps that his company has a long and storied history of commitment in this area. The interview has been edited for style and length.

You've been a champion on inclusion and diversity throughout your career. Why is advancing diversity in the legal profession so important to you?

Tony West: It's very important in our society for the law to have credibility and integrity, particularly in communities that perhaps don't see the law as being on their side most of the time. It's important for the law to have legitimacy, whether you're rich or you're poor, regardless of your race or religion or gender or sexual orientation. If the law is going to be that, then its practitioners have to reflect that diversity.

I also think it's important to look for opportunities to ensure that you're getting the best advice, you're getting the best talent, you're getting the best

Tony West is executive vice president of government affairs, general counsel and corporate secretary of PepsiCo, a global food and beverage leader. West assumed this role in November 2014 and is responsible for the company's worldwide legal, compliance and ethics, government affairs and public policy functions. Prior to joining PepsiCo, West served as the Associate Attorney General of the United States, the U.S. Department of Justice's third-ranking official.

judgment and decision-making, which means that you have to take opportunities to ensure that you're getting a diverse array of viewpoints around any table at which you're making decisions.

What are you most proud of when thinking about your company's diversity and inclusion initiatives?

West: It's really an organizational imperative for us at PepsiCo. It's something which is celebrated and rewarded. If you think about our code of conduct and the values that it contains, diversity is really at the heart of how we do business, and how we treat one another. That's the difference between having rules and values. Those are the values of the company and I'm very proud of that. I'm proud to work for a company that has that.

I'm also proud of the rich history that we have at PepsiCo when it comes to diversity. In the 1940's we broke the color line by having the first African-American sales force of any major American company. In fact, that sales force was instrumental in going to the South and getting our products exposed to historically black colleges and universities. In the 1950s we were the first major company to have a woman on our board. In the early 1960s we were the first major company to have an African-American vice president sitting in its management ranks. In fact, his name was Harvey C. Russell. We now have an award, which is named for him, to celebrate efforts by employees throughout the company to advance diversity in various ways.

We have a rich history that demonstrates a commitment to diversity, and we have a current commitment that we continue to pursue. When you look

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at our ranks, a quarter of our senior executives are women, 42 percent are people of color. In the United States, 34 percent of our executives are women. In the legal department since I started in 2014, I've hired or promoted 16 people, nine of whom have been women, five of those have been women of color. We try to really make sure we're practicing the values that we preach.

There's always room for improvement. I never want to say that we've reached the pinnacle. There's always more work to do, but I'm proud of the track record that we've established and the road that we continue to travel.

What kinds of programs or policies have you introduced at PepsiCo?

West: Well, I mentioned some of the efforts that I've made in terms of my own hiring. When I think about this, I have 17 members of my global leadership team, 10 of them are women. As I am able to make hiring and promotion decisions, it's very deliberate that I'm thinking through how do we continually bring the best and brightest talent to the table by ensuring that we are including diverse individuals in those considerations.

My predecessor was very committed to this issue as well, and he had started a program where every year he would bring a handful of law firms to PepsiCo that are making efforts to diversify, and he would celebrate them with a lunch, which would usually include meeting with the CEO. That was a great way of highlighting the efforts that law firms were making.

We've taken that effort and we've tried to buttress it by putting together an outside counsel diversity survey, which has an algorithm and a methodology and a scoring system by which we actually score law firms on a variety of questions. These not only ask how many associates they have that are diverse, but it asks questions about how many diverse partners were made last year. How many of them are equity versus non-equity? Who were the relationship partners and what kinds of matters are they working on and are they diverse? We ask about not just racial and ethnic and gender diversity, we also ask about sexual orientation. If you want to do work for PepsiCo, you have to fill out one of these surveys.

Then every year we will bring the top scoring firms all together to PepsiCo to our campus for a day. We have different buckets based on the firms' sizes, so that we're comparing apples to apples. Then we will score them, and those firms will have a median, which will obviously shake out. Those firms above the median will become our preferred list of firms for the following year. We bring those firms to Purchase [New York] for a day, not only to celebrate them, to give them lunch and great PepsiCo products, but we'll also use it as a day to facilitate conversations amongst the firms about the practices they are using that seem to be working to diversify their own firms. We want to use it as a day where people can actually swap knowledge, compare notes, figure out what's working, what's not working, and come up with different strategies on how they can better diversify the ranks of their law firms.

The commitment I make to those firms is that we will spend the lion's share of our outside legal spend with those preferred firms for the next year. And that's what we do, because I think it's very important for us to also recognize not just by bringing them to Purchase once a year, but also by showing them through the outside counsel spend, which is considerable every year, that we are endorsing those efforts to diversify the legal profession. We've now codified that in a policy that I've issued to the entire legal organization – our outside counsel selection policy – which can also be found on PepsiCo's website.

The other thing we do is we try to invest in the pipeline for legal talent. Larry Thompson was my predecessor, and I named a fellowship that we created after him. It's a program where we seek out first year law students who are diverse to come and spend a summer with us learning what in-house counsel life is like, and working on business projects and getting the kind of exposure that frankly I never got when I was a first-year law student. This is the second year that we've completed the program. It's been very successful. We've gotten over 300 applications in the two years combined, and we usually cull it down to about four or five fellows. It's really been going very, very well. I think it is serving the intended purpose, which is not only getting young people from diverse backgrounds more excited about the law and perhaps even exposed to in-house, which is something they might not have been thinking about before, but I think it will also help us to continue to invest in this pipeline, which is so critical of diverse law students coming through law school and graduating and becoming part of the profession.

In 2016 you were a judge for the first Women in Law Hackathon, which was a Shark Tank-style pitch competition launched for the purposes of advancing women in the legal profession. Can you tell us about that event?

West: Stanford Law School pulled it together. It was a collaboration with the Diversity Lab and Bloomberg Law. In June of last year they pulled nine

teams together which had partners from big law firms throughout the valley, and really throughout Northern California, who were members of these teams. They pulled these partners together with some associates and some law students who were members of the team, and their charge was to generate innovative ideas aimed at increasing the advancement and the retention of

experienced female lawyers in law firms. It was supposed to be sort of like a Shark Tank-style presentation, so we had a number of judges from different areas of the law and I was one of the judges.

It was a lot of fun. It was like a cross between a bunch of skits, a game show and Moot Court. It had all of these elements to it. The thing I remember most, though, is one that might have gotten first place. It was this app. People had come up with this smart app that was designed to measure talent within a firm. It was a gender-neutral reporting and evaluating system that ensured that a firm's culture and their values were aligned with all of these decisions being made about compensation and promotion. I thought that was neat and innovative.

The other thing that really sticks out – which I recall was one of the crowd favorites – is what they call the Mansfield Rule. It's really a take on the Rooney Rule, which you're probably familiar with. The Rooney Rule is this idea that you have to consider African-Americans for National Football League coaching positions as one way of making sure that they were in the mix whenever those decisions were being made. The Mansfield Rule would require firms to sign up to interview and consider women lawyers for key leadership roles in their firms. Essentially they mandated that they would consider at least one woman candidate for every seven high-level positions in a law firm. This would include everything from managing partner to practice group leader.

The Diversity Lab announced this summer that it is partnering with a group of law firms that have signed up to commit themselves to practicing this policy. We have also agreed to help support that effort, and that's one that sticks out. But there were a number of really good ideas that came out of that Hackathon.

What advice do you have for hiring managers and general counsel who are just starting this diversity journey, or are considering it?

West: First, you have to identify exactly what it is you're trying to accomplish, and ensure that you have organizational values that align with those goals. It's difficult if you simply set a goal in the abstract that you want to be more diverse. I don't know if that works unless you start with the fact that you have values and a culture, which says that diversity is important. Just like fair play, just like doing business the right way, just like dealing honestly with your colleagues. Diversity has to be that kind of organizational value that's embedded in the DNA. Once you start from that, you can make certain goals and a plan that helps you get to a more diverse culture.

The other thing that is really important is accountability. When people know that part of what they're being graded on is the effort that they are making to create a more diverse work environment, they will respond to that.

Then the last thing I would say is you've got to be deliberate. Diversity doesn't just happen. One of the realities is that the legal profession is not that much more diverse than it was when I graduated from law school 25 years ago. There was a time when we thought you could do maybe like three or four big things and you put those in place and all of a sudden you would get diversity on the other end of that pipe. There's a problem with that. Like agriculture, it requires constant tending. There's a process and a cycle and you have to be deliberate in all of the decisions that you're making around recruitment, hiring, retention and promotion.

I will interject my personal experience being a past president of our local YWCA, whose mission is to eliminate racism and empower women. For me, in the end, you just have to be willing to make people uncomfortable.

West: It's true. You're absolutely right. It's funny. I think comfort is overrated. I'm a runner. Right now I'm a runner who is out of shape. Every time I go out and run, it's uncomfortable, it's painful. But I do know you have to embrace that discomfort, because at the end of the day, I'm going to be a stronger runner and I'm going to be able to run this race that I'm training for. I hopefully will be able to get a good time, and I'll be better on the other side of this than I was when I started.

I feel the same way about diversity, and I feel the same way about these conversations about race and culture and society that the country has a hard time grappling with right now. We've always had a hard time grappling with it, but it's OK to be uncomfortable for a while, until we get to the other side of this and can say, "Hey, you know what? This is a necessary journey for us to go through." That's where growth comes from.