
2022 NAWL REPORT

BEHIND THE NUMBERS

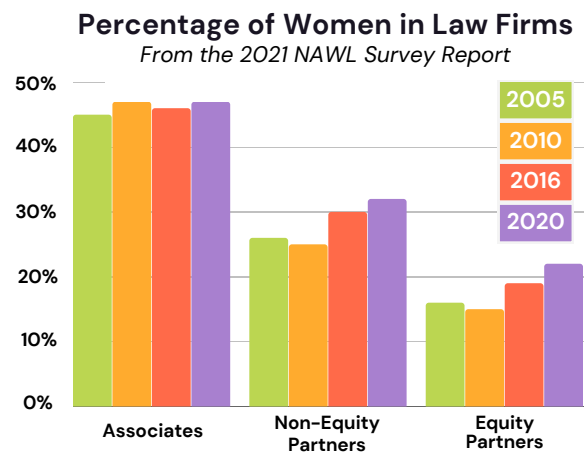
Feedback from Stakeholders



National Association of Women Lawyers
Empowering Women in the Legal Profession Since 1899

ABOUT THE REPORT

The National Association of Women Lawyers ("NAWL") has collected data on the state of women in large law firms for over 15 years, culminating with the 2021 Survey Report on the Promotion and Retention of Women in Law Firms ("2021 Survey Report"). NAWL's research, as shown in the chart at the right, demonstrates the steady and significant attrition of women from law firms over time relative to the number entering as associates, despite slight increases in the percentage of women in law firms at the associate and partnership levels from 2005-2020.¹ Change, while positive, remains incremental despite increased investments by law firms to grow the representation of women and diverse attorneys (including people of color, LGBTQIA+ individuals, and people with disabilities) in the legal profession.²



NAWL highlighted in the 2021 Survey Report that while **"law firms say they want to tackle the problem of attrition of women and attorneys from diverse backgrounds...the data suggests the legal profession has not fully committed to the actions necessary to address the persistent loss of talent and experience from the legal profession."**³ To address and better understand the lack of progress, this year, NAWL changed tack from its traditional annual survey to host a "Listening Tour" aimed at understanding the lived experiences of the legal professionals behind the NAWL data and identifying obstacles as well as opportunities to advance DEI within the legal profession.

LISTENING TOUR DETAILS

Fifty-one Legal Professionals participated in the Listening Tour and were assigned by role into three discussion cohorts:



DEI Professionals



In-House Attorneys



Law Firm Attorneys

This report is divided into three sections. Each section focuses on testimonies that are representative of the compelling stories heard from the discussion cohorts. NAWL identified key findings for each cohort:

Diversity, Equity, and Inclusion ("DEI") professionals reported on needing everyone in the firm to take up the DEI cause to realize meaningful change. This includes non-diverse attorneys and those in law firm leadership.

In-house attorneys reported on challenges their legal departments face in their efforts to advance DEI, both within their own organization and with their outside counsel.

Law firm attorneys reported that there are opportunities for law firms to change structurally and to meaningfully interrupt biased decision-making on crucial law firm practices.

DEI PROFESSIONALS

“[You need] to be a change agent, you must be a risk taker, and you must look outside of the status quo, and you must advocate for the helpless. You must be a fiduciary. You must be a psychologist. You must speak truth to power to do [DEI] well.” – DEI Professional

As a result of the events of 2020 including the murder of George Floyd, the #BlackLivesMatter protests, and the onset of the COVID-19 pandemic, many organizations within the legal profession demonstrated an increased interest in racial equity and took the opportunity to reevaluate their efforts to advance DEI.⁴ Participants of the Listening Tour witnessed this vis-à-vis an increase in law firms hiring chief diversity officers (“CDOs”) and building their DEI professional teams. Ostensibly, this was a meaningful advancement for DEI in law firms, however, we heard from DEI professionals that the impact has been limited and they would like to engage in more impactful work to lead to meaningful change within law firms.

DEI professionals explained that a major barrier is law firms’ continued reliance on performative DEI practices, policies, and processes. One DEI professional offered:

“There is a culture of what I call box-checking or performative actions that make it look like we’re running around doing a lot of things, but not much is actually happening on needle moving.” – DEI Professional

The 2021 NAWL Survey Report found that while there was increased attention and investment in DEI in 2020, much of what firms focused on was responding to external events (things going on in the world) rather than taking an inward-facing look at how the issues raised by racial and social justice movements implicate the legal profession.

Listening Tour participants agreed that current DEI practices often do not effectively incentivize law firms to foster an inclusive work environment. Often, law firm leadership is not held accountable for effective DEI practices. One CDO participant explained:

“People don’t change just based on attending a one-hour [DEI] training. They just don’t. If they did, we wouldn’t be having this problem. So there needs to be a from-the-top-down [approach]. Unless it is mandated from the top that says, ‘This is what we are going to do as executive leadership and so we are going to do it first and then you’re going to do it and rinse, repeat, rinse, repeat again, and again, and again until we start to see significant cultural change.’” – Chief Diversity Officer

DEI professionals shared that they often appear in the rooms where decisions are made, however, they are still limited in their ability to provide input. One DEI professional described her role as:

“Sometimes tangential. Like consultants, only if there is a problem” – DEI Professional

DEI professionals went on to share their perspective that the areas where they are empowered to act have little to no impact within their firms. As an example, participants shared that instead of focusing time and resources to develop and implement effective DEI strategies, they are overwhelmed with data collection and reporting that is often **“exhausting, redundant, [and] time-consuming.”**

“Personally, I will fill out the surveys 'til my last day on earth, but when it is a survey just gathering data and you do not see any impact from it – that’s when it’s hard.” – DEI Professional

Additionally, DEI professionals shared that they are not immune to the effect of institutional bias and discrimination:

“The very people who are struggling to get ahead are also the ones who have this responsibility of fixing the system themselves. The heads of the resource groups are all diverse and they’re the ones who are dealing with unconscious bias, racism, sexism, and homophobia, but they also have to be the ones to fix the workplace. As the DEI Manager and as a black woman, it’s kind of like being in a car accident, but you’re the one expected to treat your own wounds. We need everybody to be on board, not just those who identify as diverse. It takes everybody to change this structure.”– DEI Manager

One CDO offered their own struggles to lead within their firm:

“I get sent a lot of ‘housekeeping’ admin stuff that keeps me from doing my real job. And I notice that that is how white supremacy and patriarchy operate, which is, ‘We are going to divert you onto this other task and not actually let you get to what you are supposed to be doing.’ And that, I mean, if I could just tell you the feedback that I receive about my job has nothing to do with DEI. I’m not alone on this either.” – Chief Diversity Officer

To change this prevailing reality, one DEI professional asked:

“How do we empower the vast majority of non-diverse [people] and people in power to really take up this cause?” – DEI Professional

DEI professionals agreed that they need to be empowered to do more than box-checking or performative actions; there needs to be a top-down approach where executive leadership sets the example and is held accountable until they see significant cultural change; and everyone needs to be on board, not just those who identify as diverse.

IN-HOUSE ATTORNEYS

The in-house attorney cohort discussions offered insight into the issues in-house legal departments face in their efforts to advance DEI. Participants discussed opportunities for and a shared interest in advancing DEI in their departments, as well as with their outside counsel law firms. One in-house participant shared their thoughts on the change they hope to see in law firms:

“The old model is not working. And let’s just hope that it implodes and that there’s this new, fresh thinking on how law firms can be structured.”— In-House Attorney

Though much of the discussion focused on law firms' struggles to advance DEI, in-house participants discussed their own hurdles to advancing DEI within their legal departments. One in-house participant shared her frustration:

“I work [in the financial industry, which] historically hasn't been very diverse. I think it's changing, but you can still see pushback from people who have been in the industry for a long time that still have an old-fashioned mindset about diversity.” – In-House Attorney

The resistance from those that **“still have an old-fashioned mindset about diversity”** ultimately limits in-house legal departments' impact on advancing DEI within their own departments and, consequently, for their outside counsel and law firms as well.

Many in-house attorney participants also shared the sentiment that they lack the time and resources to review and act on the data provided effectively, and as a result, are unable to promote and advance DEI with their outside counsel and law firms as effectively as they would prefer. One in-house participant shared:

“I’m just finding that focusing on diversity and making sure our law firms are meeting expectations on diversity is very time-consuming.” – General Counsel

One in-house participant shared her experience with performative signaling of DEI efforts while eliding real change:

“And then the GC of the client calls the relationship partner to say, 'Hey, just want you to know all of that diversity stuff is in there. Don't worry about it. Just say something. It's really not going to impact your ability to get the work.' And they're one of the most prominent companies out there talking about diversity and 'holding people accountable.' But then they're calling the relationship partner to say, 'This isn't really that important' so most of them who say that they care, don't care if you give them the same crappy numbers year after year, and you'll still continue to get the work.” – In-House Attorney

Often, participants reported not being able to use DEI data provided by their outside counsel law firms effectively, or explicitly ignoring it in some instances, or, for smaller in-house departments, not knowing what to look for and therefore defaulting to more performative DEI practices when selecting or managing outside counsel. Participants shared that their legal departments are often not fully taking advantage of opportunities to meaningfully advance DEI within their outside counsel firms.

Even still, throughout the Listening Tour, in-house, law firm attorneys, and DEI professionals continually reported that clients can positively influence DEI efforts within law firms. One in-house participant shared:

“What I see happening right now is that my in-house partners are taking steps to help make that difference saying, ‘I want this person to get credit...I want to make sure this person gets this and that,’ but we’re still all working through this prism of old-school thinking. So there has to be a shake-up about how law firms place value on the skills that are being brought by different groups.” – In-House Attorney

Participants acknowledged the power and success of networks of support and collaboration across in-house legal departments and law firms, in some cases working directly with law firm CDOs and DEI professionals.

In-house attorney participants also identified workplace mobility and specifically the movement of diverse talent from law firms to in-house legal departments as a source of impact. One In-House Attorney shared:

“My old law firm is brilliant because the people who left, who were diverse, they decided, ‘Hey, do you want to be on our advisory committee for diversity?’ So they pulled all of us in, had us continue to help basically replace ourselves, to foster the associates who came behind us, and made sure they were taken care of. And so through that, I’ve mentored lots of lawyers in my old law firm.” – In-House Attorney

In sum, in-house attorneys reported the following obstacles in their efforts to advance DEI: lack of time, lack of resources, lack of support from leadership, and often ineffective use of diversity data provided by outside counsel firms. Despite these obstacles, participants expressed an avid interest in advancing DEI with outside counsel and the potential of these efforts to increase representation for underrepresented groups, including women. In-house attorneys also reported that supporting the efforts of law firm CDOs and DEI professionals can foster a network of support and collaboration between their legal departments, law firms, and the broader legal profession.

LAW FIRM ATTORNEYS

The law firm attorney discussions offered qualitative input that mirrors 15 years of quantitative NAWL data – firms are struggling to retain women and diverse attorneys despite increased interest and investment in DEI. One senior law firm attorney shared:

“In my experience, diverse candidates aren't provided the same opportunities. They aren't given opportunities to get in front of clients. They aren't given opportunities to work with high-powered, highly compensated partners on high-level deals or litigation. And they leave because they find other opportunities so trying to recruit, retain and promote diverse candidates continues to be an ongoing issue.” – Senior Law Firm Attorney

Another law firm attorney participant offered her thoughts on how law firms need to change:

“I think culturally people are shifting and we have to get to a place where we can allow people to be successful in different and new emerging ways and that would help with respect to DEI efforts.” – Law Firm Attorney

In the Listening Tour, law firm attorney participants were prompted to discuss the law firm policies, processes, and procedures that, based on NAWL research, are hindering the progress of women and diverse attorneys in law firms: compensation, performance evaluation and promotion, and succession planning.



Compensation



Performance Evaluation
& Promotion



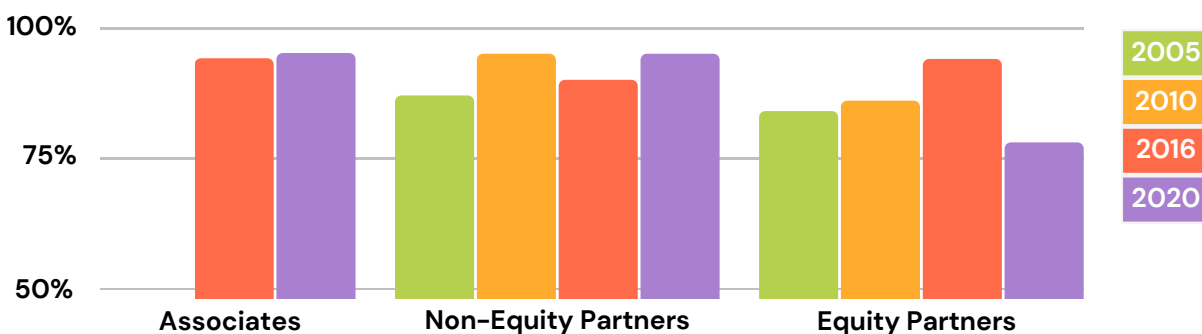
Succession Planning

COMPENSATION

Over the last 15 years, NAWL data has captured the persistence of gender gaps in compensation at all stages of an attorney's career in a law firm. Even at the entry-level, women are paid less than men, and these gaps often grow as attorneys advance to partnership, with the largest gendered compensation gap existing at the equity partnership level. The 2021 NAWL Survey Report highlighted a 2% – 5% ⁵ gender pay gap, increasing with the seniority of the attorney.

**The Gender Pay Gap – Women's Compensation
as a Percentage of Men's Compensation**

From the 2021 NAWL Survey Report



To close the gendered compensation gap, participants advocated for the eradication of the billable hour (which has been implemented within a few large law firms).⁶ Additionally, participants overwhelmingly expressed frustration with an opaque compensation process.

One law firm attorney shared her perspective on "closed" compensation systems:

"Closed systems create this secretness where you're not supposed to ask, and you're not supposed to advocate for yourself, and you should just be grateful, and if you're quiet and wait your turn, someone will notice you. It always confused me why the talk of money, in general, is so secretive. I am a fan of the open system. It allows people to be happier, to understand how they're being evaluated, to decide for themselves whether they want to stay there and whether they want to do what it takes to make more money there because you understand what it will take...and like I said, in general, makes a happier place because people are not confused, and people then can clearly say, yes, I am fairly compensated because I know what my compensation is based on." – Law Firm Attorney

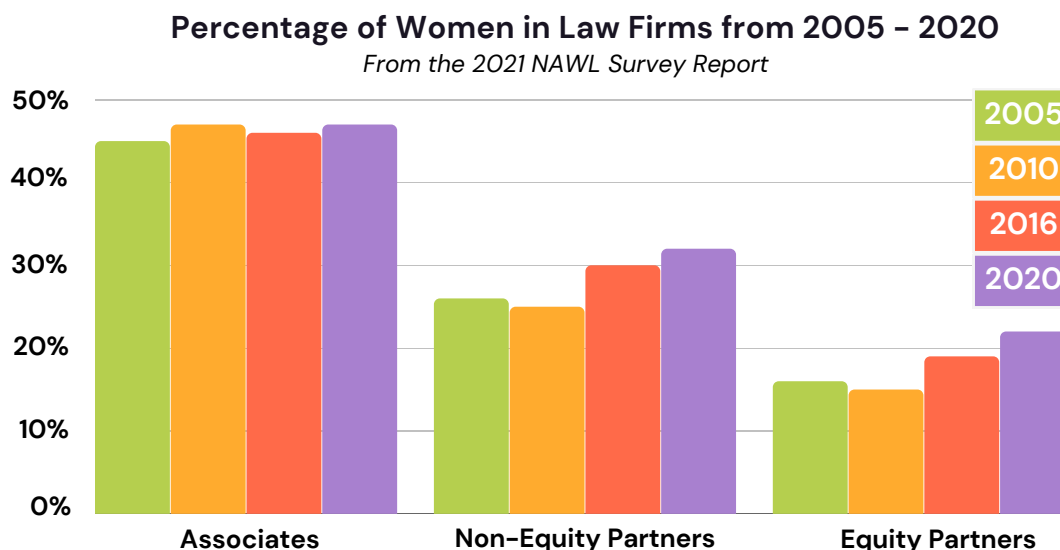
Participants reported that input from DEI professionals is not often used or used effectively by those making compensation decisions. One law firm attorney emphasized that compensation is an area of opportunity largely untapped for holding law firm leadership, and other attorneys within the firm, accountable for the, or lack of, advancement of DEI:

"The compensation committee would meet with various practice group leaders and department chairs, and DEI always had a session with those department chairs to give input about individual equity members and identify who of those members are engaged in creating opportunities, succession planning, and building diverse teams. If there's no accountability and that isn't tied to what we're incentivizing with money, then it's, it's difficult to, to truly change behavior." – Law Firm Attorney

In each area of examination discussed during the Listening Tour, participants cited a lack of transparency as one of the largest contributors to biased decision-making within law firms.

PERFORMANCE EVALUATION & PROMOTION

The 2021 Survey Report demonstrated that at each stage of promotion in a law firm, women, people of color, LGBTQIA+ people, and people with disabilities were less and less represented. While women have been nearly 50% of law firm associates for years, the representation of women among equity partners was only 22% in 2021.⁷



Decades of research on professional women in many fields have shown consistently the myriad ways that bias affects both performance evaluations and promotion decisions.⁸ For example, gendered biases are more likely to appear in subjective evaluation processes without well-defined criteria,⁹ and the Listening Tour participants reported that this is common in law firm performance evaluations.

NAWL data shows that law firms do not consistently report using practices known to meaningfully interrupt bias.¹⁰ Although most firms say they set clear and specific criteria, anecdotal data suggests that law firm attorneys continue to find the process of promotion to partner particularly opaque, and throughout the Listening Tour, law firm attorneys reported that the criteria firms use seem more subjective than necessary. One law firm attorney shared:

“The process [of promotion] is not very transparent because we're pretty good about saying here's what you need to be doing to be on track, to become partner. But then when it comes to who is promoted over other people, it's not clear – and maybe it's clear to the people that are in the room making the decision – but it doesn't seem clear to the rest of the firm and therefore not really clear to the associates, what exactly they need to do to get promoted to partner.” – Law Firm Attorney

Law firm attorneys reported that firms often turn to credit-sharing as an equity measure designed to empower diverse talent. However, research has shown, and participants in the Listening Tour reported, that women and diverse attorneys often receive less credit for the work they do with teams.¹¹

Further, there is often a discriminatory penalty for sharing origination credit that works against women and diverse attorneys.¹² One law firm attorney shared:

"I just had a great meeting and something was sent over and a male reached out to me and said, you know, many years ago I did something for this client completely unrelated so I'd like to split the origination. And I was so caught off guard by it because it seemed preposterous to me, it [the client relationship] was a direct relationship that we had built over time." – Law Firm Partner

SUCCESSION PLANNING

NAWL has collected data on succession planning for client relationships in recent years, but the information available to the legal profession at large about succession planning remains limited. NAWL research suggests that law firms often lack formal succession plans. In 2020, we asked firms whether they had formal written succession plans, and only 39% of firms reported that they did.¹³ This data is consistent with what we heard during the Listening Tour, with one law firm attorney sharing that:

"The problem is that truly there's no process. It's haphazard and that's where the unfairness lies. If someone were planning, and if there was a process, it would be fairer." – Law Firm Attorney

One law firm attorney shared how a lack of a succession plan perpetuates biased decision-making:

"[Succession planning] has been largely left up to the departing partner who shockingly tends to give the work to those who look like them. So that perpetuates the problem. And we are trying as a firm to do a better job, but I don't even know where you start with that. Currently, we're starting five years before the expected retirement. I personally don't think that's early enough. You need to start far earlier to ensure that the team that services the client is in fact a diverse team." – Law Firm Attorney

This input is consistent with NAWL's quantitative research in the 2021 Survey Report, which shows that law firms have not maximized opportunities to keep bias out of decisions regarding compensation, performance evaluation, promotion, and succession planning. This cohort's feedback demonstrates that this lack of progress can negatively impact the development and experience of attorneys in law firms.

CONCLUSION

This report aimed to highlight the lived experiences of the legal professionals behind NAWL data. The stories of DEI professionals, in-house attorneys, and law firm attorneys from the Listening Tour tell us that despite significant obstacles, there is significant untapped potential to more meaningfully advance women and other traditionally underrepresented groups in law firms and in the profession more broadly.

NAWL remains dedicated and steadfast in our commitment to advocating and advancing DEI within the legal profession where every member of the legal profession is welcomed, respected, and has a seat at the table.

To learn more about NAWL's DEI initiatives, please visit us at nawl.org.

Endnotes

1. We present NAWL data in roughly five-year increments, but we substitute 2016 data for 2015 because NAWL did not collect 2015 data due to a pause in the annual survey that year.
2. See e.g., a study by Legal Talent Advisors found that in 2020, 42.5% of respondents said their firms' DEI efforts expanded and 30% of respondents said their firm's DEI budgets increased. Only 2.5% of respondents said their firms' DEI budgets decreased in 2020. Effect of COVID on Diversity, Equity & Inclusion (D.E.I.) Efforts by Sharon Meit Abrahams (2021), available at https://issuu.com/nawl1899/docs/wlj_105_3-4_36_/s/13033506; In another report by NALP, they found that 70% of firms reported that their DEI team's scope and responsibilities had increased since March 2020 and that the team's visibility and clout among firm leadership had also increased. 86% of firms also reported implementing new anti-racism initiatives, and 73% reported developing new racial and social justice programs. How Law Firms Shifted Their Professional Development, DEI, and Anti-Racist Initiatives During Covid-19: Top Takeaways from the NALP Foundation's 2020 Law Firm Study by David Schnurman (2021), available at <https://abovethelaw.com/lawline-cle/2021/04/19/how-law-firms-shifted-their-professional-developmentdei-and-anti-racist-initiatives-during-covid-19-top-takeaways-from-the-nalp-foundations-2020-law-firm-study/>.
3. 2021 NAWL Survey Report, available at <https://www.nawl.org/p/cm/ld/fid=2019>.
4. How Law Firms Reacted to Racial Injustice and the COVID-19 Pandemic by Debra Cassens Weiss (2021), available at <https://www.abajournal.com/news/article/how-law-firms-reacted-to-racial-injustice-and-covid-19-pandemic>.
5. See *supra* note 3.
6. The Most Prominent Law Firms Without Billable Hours (2020), available at <https://cloutlegal.com/blog/law-firms-without-billable-hours/>.
7. See *supra* note 3.
8. Women and the "Vision Thing" by Cynthia Owens (2009), available at <https://knowledge.insead.edu/leadership-organisations/women-and-the-vision-thing-2190>.
9. A Meta-Analysis of Gender Group Differences for Measures of Job Performance in Field Studies by Philip Roth, Kristen Purvis, & Philip Bobko (2010), available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.905.6474&rep=rep1&type=pdf>.
10. See *supra* note 25.
11. Proof That Women Get Less Credit for Teamwork by Nicole Torres (2016), available at <https://hbr.org/2016/02/proof-that-women-get-less-credit-for-teamwork>; full research paper available here: http://scholar.harvard.edu/files/sarsons/files/gender_groupwork.pdf?m=1449178759.
12. *Id.*
13. 2020 NAWL Survey Report, available at <https://www.nawl.org/p/cm/ld/fid=2019>.

SURVEY METHODOLOGY IN BRIEF

The 2022 NAWL Listening Tour consisted of a series of nine question-based discussions taking place across three weeks between August 15 and September 1, 2022. The conversations were anonymized, with no information related to participant demographics collected. Three conversations were hosted for each of the three cohorts. These cohorts were: (1) law firm attorneys, (2) in-house attorneys, and (3) diversity, equity, and inclusion (DEI) professionals. In total, 84 individuals registered for the Listening Tour, with 25 law firm attorneys, 29 in-house counsel, and 30 DEI professionals registered. There were 51 total active participants contributing by speaking or typing in a shared chat box, with 16 law firm attorneys, 16 in-house counsel, and 19 DEI professionals participating actively. The small discussion groups ranged in size from four to eight active participants.

RESEARCHER & AUTHOR

Siobhan Mukerji Barco is a historian and legal scholar who studies the history of women in the legal profession. Her research related to diversity in the legal profession across United States history has been funded by the American Historical Association's Littleton-Griswold Grant. She holds a JD from the University of North Carolina School of Law and an MA with distinction from Princeton University. She is currently a University Fellow and Ph.D. Candidate in History at Princeton University.



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Isabell Retamoza is the NAWL Publications Manager. Isabell is responsible for the publication, marketing, and archive of the *Women Lawyers Journal*, the NAWL Survey, the work of the NAWL Advocacy Committee, and the NAWLTalks podcast. She received her B.A. in Literature and Feminist Studies from the University of California, Santa Cruz.

ABOUT NAWL

The mission of the National Association of Women Lawyers is to provide leadership, a collective voice, and essential resources to advance women in the legal profession and advocate for the equality of women under the law. Since 1899, NAWL has been empowering women in the legal profession, cultivating a diverse membership dedicated to equality, mutual support, and collective success.

Thank you to the

LISTENING TOUR PARTICIPANTS

Thank you to the legal professionals that participated in the 2022 NAWL Listening Tour! The experiences shared by participants throughout the listening tour gave NAWL the necessary insight to better understand underlying causes for stalled progress on the advancement of women and DEI in the legal profession and deepen our understanding of 15 years of NAWL data to inspire and support meaningful systemic change in the legal profession.

Thank you to the

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