

Accelerating Gender Diversity on Boards: Reviewing Legislative Action

A new article by Perkins Coie authors discusses the state legislation, social dynamics, and organizations that have increased gender diversity on public company boards.

For the past generation, mainstream public companies in America have slowly increased the gender and racial diversity of their boards of directors to better reflect the faces of the American consumer and the shareholder base. Diversity on the boards of larger U.S. public companies has been a sign of success in the effort to show inclusion in corporate leadership: in 2019, almost half of the open board spots at S&P 500 companies went to women, and all S&P 500 companies had at least one female director.

And by 2019, women made up about 26% of S&P 500 corporate directors, up from just 16% of directors in 2009. While the largest U.S. public companies have dramatically increased their board diversity, the pace of change for many smaller companies has lagged by comparison. As of the fourth quarter of 2019, the percentage of women on Russell 3000 boards was at 21.5%, with 7.7% of Russell 3000 companies having no female directors.

Eight states have now taken legislative action seeking to increase the speed of board diversification. State legislatures have taken three approaches: statutes mandating gender diversity on corporate boards; laws mandating disclosure of board diversity; and resolutions advising corporations to increase diversity on their boards. Years ahead of these state legislative efforts, private players have successfully used other means to increase the number of diverse directors. For example, institutional investors and proxy advisory firms are increasingly adopting voting policies encouraging board diversity.

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