



Mansfield Rule Certification

Many of you will be aware that Roetzel started the journey with Mansfield Rule in 2021. Since then, the firm has been proud to obtain annual certification each consecutive year by maintaining compliance with the set standards. We are currently working towards the 2024-2025 certification cycle.

As a bonus, firms who are certified are invited to attend one of the Mansfield Client Forums, where newly promoted Shareholders have the opportunity to build relationships with influential in-house lawyers from 150+ legal departments. Legal departments that attend the Client Forums vary by industry and have included 3M, Ford Motor Company, McDonald's, Microsoft, Netflix, Google, Pfizer, Starbucks, US Bank, and Verizon.

So, what is the Mansfield Rule?

Football fans may be familiar with the Rooney Rule, which is a NFL policy requiring any team with a head coach vacancy to interview at least one ethnic-minority or woman candidate for the role. The Mansfield Rule, named after Arabella Mansfield, the first woman to become an attorney in the US, is similarly designed to ensure all talent at participating law firms has a fair and equal opportunity to advance into leadership.

The annual certification process is a science-backed and data driven solution designed to help boost inclusivity, access and diversity. These inclusive practices include broadening talent pools and establishing the tracking and measuring of more than a dozen leadership-related talent practices and activities. There are monthly knowledge-sharing calls among all participants and numerous data-collection and reporting milestones. And it adjusts every year to drive even greater change.

What the Mansfield Rule is Not:

There is no intent in the design or parameters to exclude any talent from consideration for opportunities. The focus is on inclusivity, consistent with the principles of equal employment opportunity. Mansfield does not create a zero-sum game – it is intended to expand the pie, not limit it or shrink opportunities for anyone. Mansfield does not ever require an organization to violate the law in any way. Proper implementation of these efforts never requires a set aside, a quota, or the use of any criteria other than the selection and promotion of the highest qualified talent for an opportunity.

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Q&A with Elizabeth Murch, Senior Counsel, Litigation and Insurance Defense at the Central Ohio Transit Authority

Q: Please share your experience, background, and scope of responsibilities as Senior Counsel for the Central Ohio Transit Authority (COTA).



Elizabeth Murch

A: I began my career at the Attorney General of Ohio in the Employment Law Litigation Section, worked as in house counsel and general counsel for state agencies, and served as an executive director of a nonprofit association prior to my role as Senior Legal Counsel of Litigation and Insurance Defense at COTA.

In my current role, I manage and direct COTA's \$15 million dollar self-insurance fund, the RMIS system, the entire claims process including supervision of attorneys and claims adjusters, serve as counsel on tort litigation, and supervise collections litigation. I also am an in-house resource for process improvements based on my experience and breadth of practice at COTA.

Q: How does COTA engage with and support the communities it serves through charitable and philanthropic efforts, or other community-based programs?

A: COTA's support across the communities we serve is incredibly expansive and focuses on providing access to opportunity in our region. COTA proudly invests in local organizations through sponsorship and by providing passes at no cost. Since 2021, for example, COTA has given more than \$210,000 back to the community and provided more than 10,000 day passes to customers in need. At the same time, COTA's Income Assistance Program offers half-price fares to eligible customers who receive income assistance from county or state program. In 2023, more than 120,000 trips were taken using Income Assistance.

COTA employees also have a deep sense of service to our communities, and through our Employee Resource Groups (ERGs), each year they have several opportunities to contribute to causes that improve the lives of area residents.

Q: How are the principles of inclusion, equity, and belonging incorporated into COTA's values and culture?

A: Equity, Diversity, and Inclusion (EDI) is a foundational principle that guides COTA among all staff, from the leadership team to our customer-facing employees. When we named Monica Jones as our first Chief Equity Officer in 2021, that really solidified from a cultural perspective how seriously COTA takes EDI and how much we continue to focus on moving every life forward.

We have also established five Employee Resource Groups specifically around the EDI space, and these groups not only focus on empowering COTA team members and giving them a strong sense of belonging, but they also do work in and directly support our underserved communities.

As the centerpiece of COTA's strategic plan, EDI also drives all of our transit service development initiatives and interactions with the community. By 2050, the Columbus regional population is projected to exceed 3 million. LinkUS is Central Ohio's comprehensive transportation initiative to help address growth, affordability, and opportunity gaps in our community. Through the LinkUS initiative, COTA will provide

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The Roetzel & Andress, LPA DEI Taskforce

An internal Diversity, Equity, and Inclusion taskforce (the “DEI taskforce”) has been created to market and provide legal counsel in structuring existing or to-be-created policies and programs in a manner that withstands legal scrutiny as a result of the Harvard College decision issued on June 29, 2023 by the United States Supreme Court. A copy of the taskforce’s initial communication to selected current and prospective clients appears below.



DEI Taskforce: Heather Renée Adams, Karen Adinolfi, Barry Freeman, and E. Mark Young

For those businesses, political subdivisions, and non-profit entities who have policies and programs to address issues of diversity, equity, and inclusion (DEI) in their workplace, there is sure to be uncertainty and trepidation following the United States Supreme Court’s 2023 ruling in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, et al.*, which held that the use of race in the college admissions process violates the Equal Protection Clause of the Fourteenth Amendment. While the *Harvard College* decision applies only to college admissions, in the aftermath of the decision, similar groups have undertaken similar challenges to employment practices, mostly in the private section.

These include:

- *American Alliance for Equal Rights v. Perkins Coie*
 - Filed in Texas
 - Challenged DEI fellowships for first- and second-year law students, alleging that they illegally excluded students who do not identify as students of color, members of the LGBTQ community or people with disabilities.
 - In response to lawsuit, the firm changed the fellowship criteria.
- *American Alliance for Equal Rights v. Morrison Foerster*
 - Filed in Florida
 - Challenged the Keith Wetmore Fellowship for Excellence, Diversity and Inclusion, alleging that it bans certain applicants based on their race, ethnicity, and sexual orientation.
 - In response to lawsuit, firm changed criteria of the fellowship.
- *American Alliance for Equal Rights v. Fearless Fund*
 - Filed in Georgia
 - Fearless Fund provides venture capital to women of color.
 - America First Legal Foundation’s Threats
 - Target – Pride Month merchandise
 - Kellogg’s – challenged stated parity goal and leadership program for women, chef program for employees of color, and Pride symbols on cereal boxes
 - Has asked the U.S. Equal Employment Opportunity Commission (EEOC) to investigate
 - “infused with woke ideologies”
 - Filed EEOC charge against Mars/M&M – diversity efforts
 - Filed EEOC charge against Anheuser Busch – Dylan Mulvaney campaign
 - Filed EEOC charge against BlackRock Capital for its BlackRock Founders Scholarship
- Letter from Republican Attorneys General
 - Sent to CEOs of Fortune 100 companies.
 - Urged them to reassess their stated diversity goals.
 - Threatened that their diversity efforts could come under scrutiny if laws that govern corporate equity are reviewed.
- The Buckeye Institute
 - In March 2024, The Buckeye Institute sent letters to various bar associations and law firms throughout Ohio challenging the use and/or sponsorship of minority clerkship programs.
 - The Buckeye Institute also sent public records requests to Ohio’s public laws schools demanding information on any race-based preferences, priority, scholarships, internships, externships, fellowships, or other job opportunities offered, sponsored, advertised, or supported by the schools, a likely precursor to litigation.

Understandably, news of these efforts has rattled the private and public sectors, whether it is concern over DEI efforts in the workplace or marketing initiatives. However, it is important to remember that the United States Supreme Court has not addressed this issue outside of the college admissions area. Indeed, the EEOC has taken the position that the *Harvard College* decision should not deter employers from broadening applicant pools and establishing programs and policies that promote equal opportunity in the workplace. (*EEOC Official Flags ‘Overblown’ Takes on Admissions Ruling*, Law360, March 20, 2024).

The *Harvard College* decision itself offers ways for employers to continue to offer specific DEI programs and benefits without running afoul of the law. Specifically, the Court indicated approval of the use of essays by all applicants by which they could demonstrate their social or economic disadvantage, which essays may, but would not be required to, contain a discussion of how an applicant’s race or ethnicity has affected the

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Mansfield Mid-Size Certification Requirements:

Women lawyers, underrepresented racial and ethnic lawyers, lawyers with disabilities, and LGBTQ+ lawyers are the demographic categories covered as part of Mansfield. Mansfield asks that 30% of the talent pools considered for leadership opportunities be made up of these historically underrepresented lawyers. Some of the categories are:

- Lateral equity & non-equity partner hiring
- Equity partner promotions
- Election or appointment of governance positions
- Participation in formal pitch meetings

From your Diversity & Inclusion Committee

Christina Kuta, Chair
Paul Jackson
Bob Humphrey

E. Mark Young
Lori Moore
Stephanie Olivera Mittica

Heather Renée Adams
Kelly Nizzer Bates

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faster and more reliable public transportation, safe and expanded bike and pedestrian paths, and walkable communities with more affordable access to work, home, and entertainment. To learn more about LinkUS visit <https://linkuscolumbus.com/>.

Q: How does the legal department at COTA contribute to the organization's overall vision for diversity, inclusion, and belonging?

A: COTA's legal team is devoted to COTA's vision to move every life forward and actively works to ensure that equity, diversity, and inclusion is at the forefront of our everyday work. Most of the legal team is actively engaged in COTA's Employee Resource Groups and in leadership positions within those organizations. The Legal team has actively sought out diverse interns through the Columbus Bar Association Minority Clerkship Program. In addition, some members of our legal team hold leadership positions within the Conference of Minority Transportation Officials Columbus.

Part of COTA's Legal Division includes an innovative team of Strategic Response Specialists who function as change agents within our community to increase safety and security while serving vulnerable populations and proactively addressing issues including unhoused people, substance misuse, and mental health issues. When creating this new unit, we were very strategic and deliberate in hiring highly skilled individuals with diverse backgrounds who bring unique perspectives and experiences to this dynamic work.

Q: What have you found to be the best practices for evaluating and measuring progress in these areas?

A: Data and analytics are a centerpiece for measuring COTA's impact across the community and within the organization. For example, we know the Strategic Response Specialist Team is so crucial to our community, responding to 2,052 requests for outreach and support in 2023.

COTA's EDI efforts continue to impact all levels of the organization: 60% of our employees and nearly 25% of our managers/supervisors are Black, a 118% increase since 2020. Meanwhile, COTA leadership and director teams are 68% diverse, and more than 60% of leadership and 50% of directors are women.

And of course, we also follow the law. The FTA's Title VI, for example, requires that COTA conduct an equity analysis for any change we make to scheduling or fares and how that impacts disadvantaged groups. Additionally, we are incredibly deliberate in obtaining public input on these changes, hosting 12 public meetings each year to garner feedback.

Q: How can vendors, external partners, and outside legal counsel support and assist COTA with its goals for diversity, inclusion, and belonging?

A: I believe the best partnership to achieve these goals begins through COTA case staffing. Though we have a main contact at our partner firms, I am always active in seeking new faces and exploring opportunities for diversity in case management. COTA has a wide range of cases that we recognize can be well suited to less experienced attorneys. I enjoy being a part of mentoring attorneys and knowing I helped participate in their career success, and a wonderful measure of success is when attorneys are presented for partner after working with COTA.

To foster a diverse and inclusive marketplace for all community businesses, COTA also adheres to the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) regulations, 49 CFR Part 26. COTA uses the term DBE to encompass all companies that are EDGE, MBE, WBE, and DBE certified. In 2023, COTA exceeded our DBE goals, reporting 19.1% participation on federally assisted projects.

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applicant's life. So long as the use of the essays is not simply a consideration of race in disguise, such method would comport with the *Harvard College* decision. There are numerous categories of social and economic advantage that can be used in such essays that do not implicate race or any other protected classification.

No matter your efforts, however, you may find yourself on the receiving end of a challenge, whether it is to a DEI program, recruiting methods, or DBE/MBE/WBE programs. There are multiple courses of action you can take both before your programs are subject to challenge or after you have been targeted. Roetzel can help you evaluate those courses of action and choose the one that best fits your goals of establishing an equal opportunity workplace.

Contact any member of the taskforce – Heather Renée Adams, Karen Adinolfi, Barry Freeman, or Mark Young – for assistance with existing or prospective clients that can benefit from these advisory and counseling services.