

Race and Gender Discrimination and Implicit Bias in Mediation

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Road Map for Session

- Understanding implicit bias
- Acknowledging impact of race, gender and implicit bias on mediation
- Learning tools to manage bias in mediation



Explicit Bias

Conscious bias or prejudice.

Example: "Women who are mothers are not serious about their careers."

Implicit Bias

Positive or negative attitudes or stereotypes that affect our understanding, actions and decisions in an unconscious manner.

Example: Not promoting women with families or not inviting them to work on big projects.

Judges and Court Reporters





The Look, Procter & Gamble, <https://us.pg.com/talkaboutbias/>

Implicit Bias in the Workplace

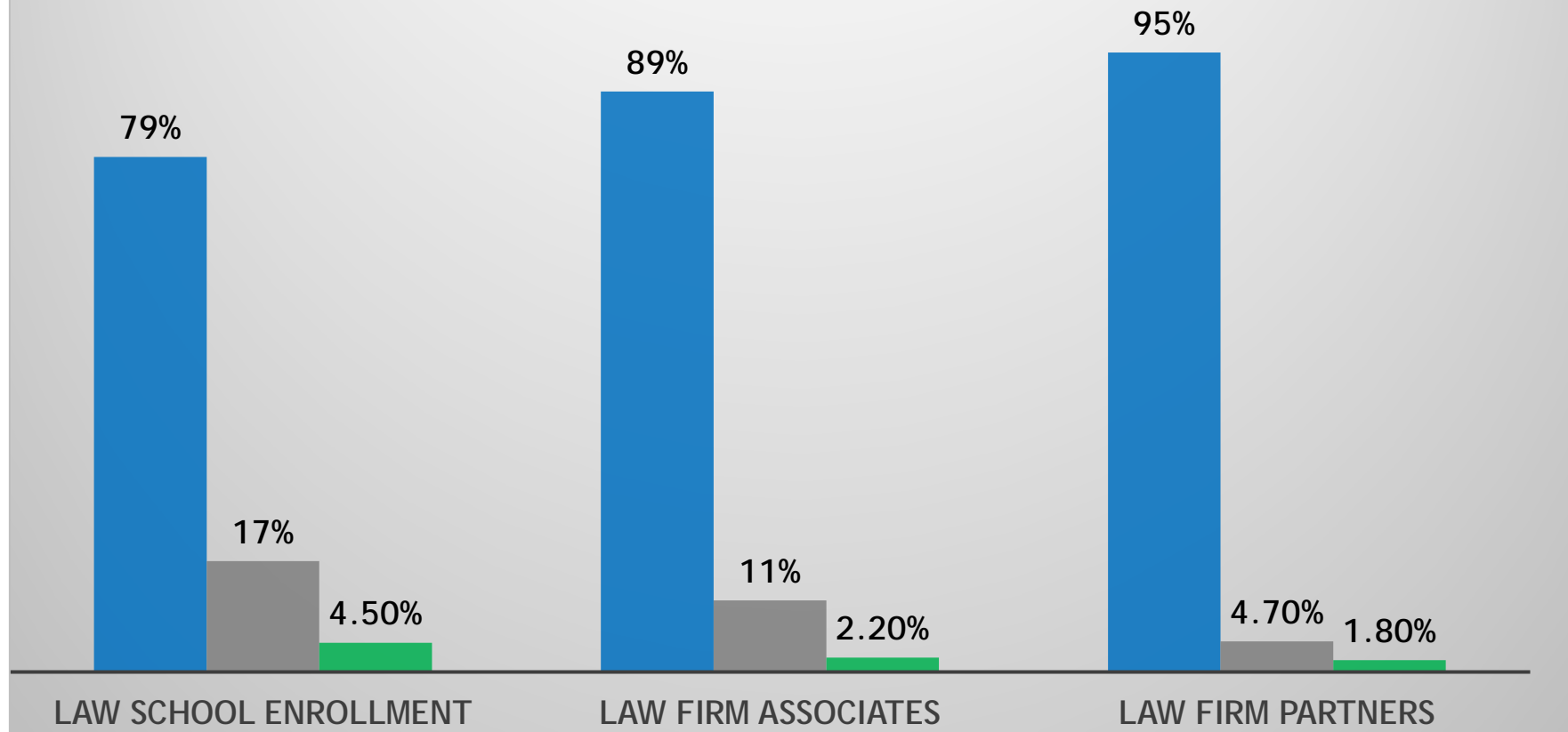
- Met Orchestra Blind Auditions
- Evaluation of Science Professor Applications
- Implicit Bias in the Legal Field



Kansas City Law School / Large Law Firm

2019 Demographic Data

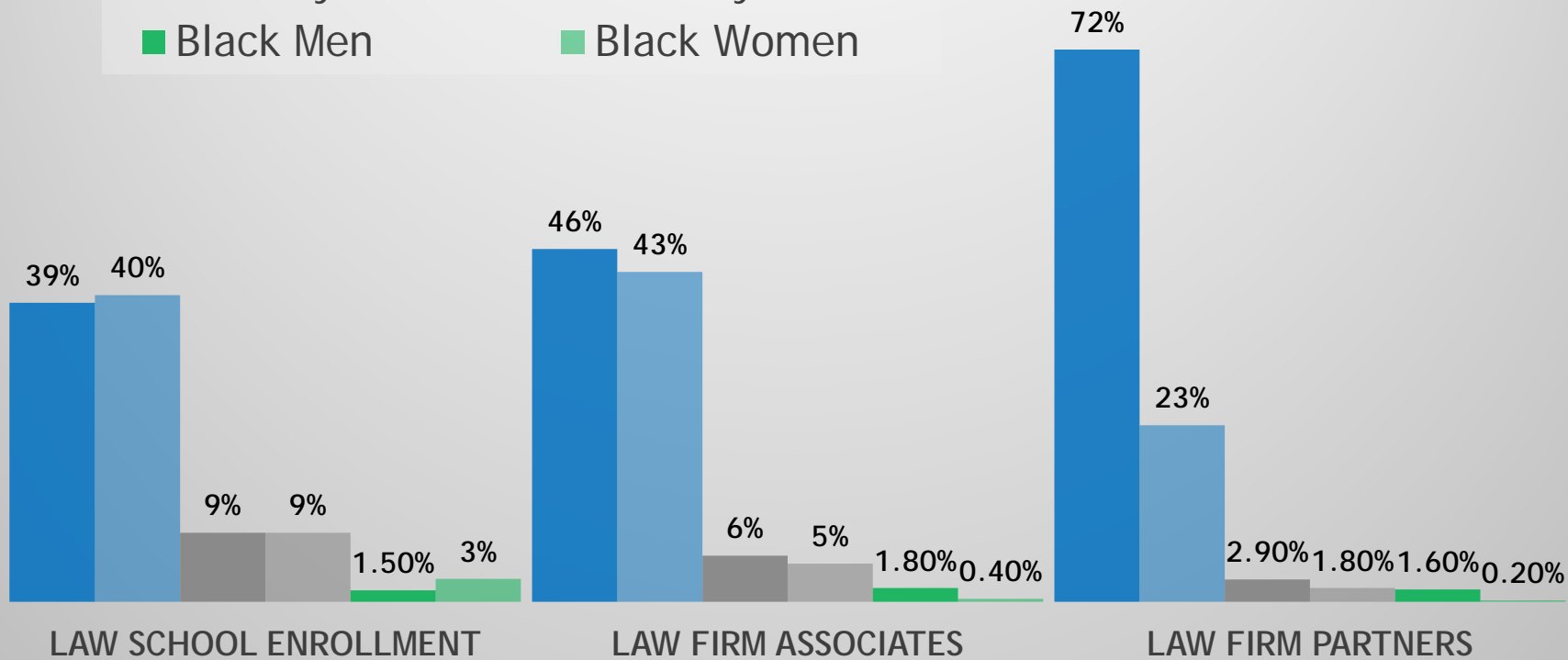
■ White ■ Minority ■ Black



Sources: 2019 ABA and NALB statistical reports

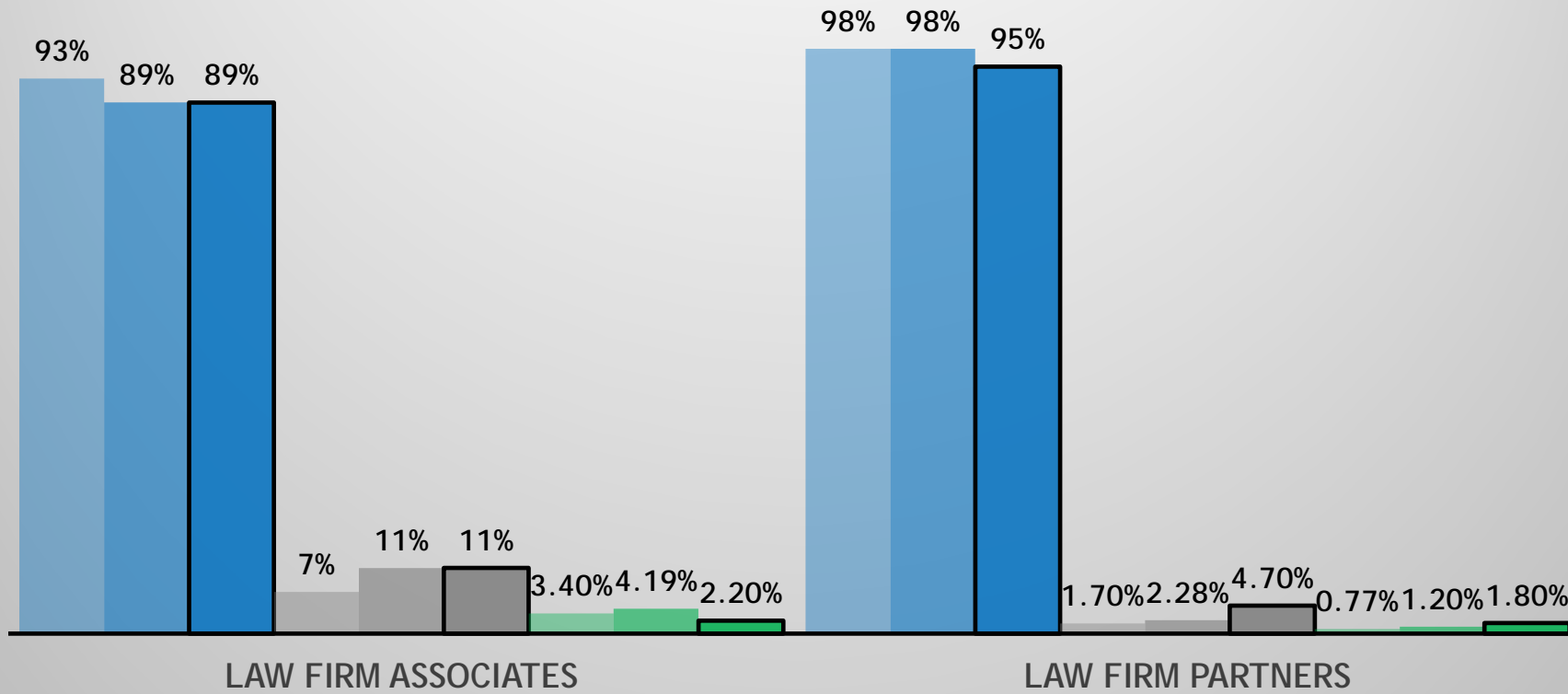
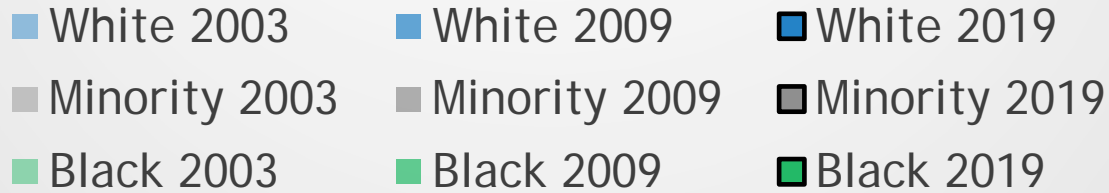
Kansas City Law School and Large Law Firm 2019 Demographic Data

- White Men
- White Women
- Minority Men
- Minority Women
- Black Men
- Black Women



Sources: 2019 ABA and NALB statistical reports

Kansas City Large Law Firm Demographic Data Over Time



Sources: 2019 ABA and NALB statistical reports

Acknowledging that Race and Gender Impact Negotiation

	White Male	White Female	Black Male	Black Female
Average Dealer Profit Based on Initial Offers by Dealer	\$818	\$829	\$1,534	\$2,169
Average Dealer Profit Based on Final Offers by Dealer	\$362	\$504	\$783	\$1,237

Source: Ayres I. *Fair driving: gender and race discrimination in retail car negotiations*. Harvard L. Rev. 1991 Feb.; 104(4):817.

Big, Tough Questions

- Given our many differences as people, is it possible to truly manage differences to make sure that the mediation process is fair to the participants?
- Can we empower the participants in such a way that their past experiences are not a barrier to meaningful mediation?
- How do we activate “mediation vision”?