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Court Conduct Handbook
 Gender Equality in the Courts

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Massachusetts
 Supreme Judicial Court

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Committee for Gender Equality

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Acknowledgements

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COMMITTEE FOR GENDER EQUALITY

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COURT CONDUCT HANDBOOK

The Massachusetts Judiciary, one of the oldest in the country, has a long tradition of excellence. In this system, judges and court employees deliver countless hours of public service despite the difficult and demanding conditions in which they work. In this context, the findings of the Gender Bias Study of the Massachusetts Court System were received with great concern.

The Study concluded that sexist language and behavior are still common in the courts and that many practices and procedures exist that may not appear motivated by bias, but nonetheless produce biased results. The Study noted that not all judges, court employees or attorneys are engaging in gender-biased behavior. Indeed, of those who do display biased conduct, many may do so unaware of its impact. Nevertheless, the problem must be firmly addressed and not underestimated if we are to preserve the integrity of our courts.

Following the guidelines in this handbook will be an important step in the effort to eliminate gender bias from the courts. But it is only one part of that effort. The Supreme Judicial Court has charged the Committee for Gender Equality with the task of devising methods to eliminate bias from a broad range of areas, including decision making and employment issues in the courts. If you would like to know more about this work, or if you would like the full report of the Gender Bias Study, please contact the Committee.

As we address the problem of gender bias, our attention is drawn to bias based on other factors such as race, ethnicity, disability, sexual orientation, age and economics. To this end, the Supreme Judicial Court appointed a Commission to Study Racial and Ethnic Bias. In the future, that Commission and others will address the important work of eliminating all forms of bias from the courts.

YOUR ROLE IN ELIMINATING GENDER BIAS

AS JUDGES: As the visible leadership of the courts, you play a key role in eliminating bias from the judicial system. The Code of Judicial Conduct calls on you to establish, maintain, and enforce, as well as observe high standards of conduct to preserve the integrity of the judiciary. Your treatment of people in the court, the decisions you make, and your intervention in the conduct of those around you are of utmost importance.

AS COURT EMPLOYEES: Members of the public often have their first and sometimes their only experience with the court system through a court employee. By conveying respect and providing assistance to all, you play an important role in eliminating bias in the administration of justice.

AS ATTORNEYS: As officers of the court, attorneys have an important role in maintaining the dignity and integrity of the court. Through your conduct, through your treatment of litigants and employees and through bar association efforts, you have a significant impact on the judicial system.

**STEREOTYPES HAVE NO PLACE IN THE
TREATMENT OF PEOPLE OR THE
HANDLING OF CASES IN THE COURT.**

LITIGANTS

The claims of women litigants are as legitimate as any other claims heard in court and must be treated accordingly. Guard against any tendency to label women litigants as more troublesome or emotional, or to regard cases typically brought by women litigants, such as child support enforcement, as less important than any other type of case. Similarly, jury instructions should promote bias free decisions.

VICTIMS

Courts must take special care to treat women victims, and all victims of crime, with respect and sensitivity to the trauma they have experienced. Victims of domestic violence and sexual assault must not be subjected to unjust scrutiny because of the nature of the act(s) perpetrated against them. Their testimony is no less credible because the alleged acts are sexual or occurred in a domestic context.

COURT EMPLOYEES

Court employees provide valuable service to everyone using the court and should be accorded respect and courtesy. It is incorrect to assume that an employee's ability to assist

you or that person's level of authority is related to whether she or he is female or male.

LAWYERS

Good attorneys, whether female or male, are zealous advocates. Do not expect women to be more passive in their advocacy or more tolerant of interruption or reprimands than men. Recognize and respond to women lawyers to the same extent and in the same manner that you recognize and respond to male lawyers.

WITNESSES

Judges and jurors sometimes assume that the opinions or statements of women are unimportant, irrational or unduly emotional. Credibility should be judged by the same standard for women and for men.

EXPERT WITNESSES

Expert witnesses must be judged on the basis of their qualifications and not their gender. Be sure that the test for competence imposed on female witnesses is the same as the test applied to their male counterparts.

PEOPLE FROM DIVERSE COMMUNITIES

Everyone entering the court must be given equal treatment regardless of gender, racial or ethnic background, disability, sexual orientation, age or ability to speak English. Be careful not to make assumptions about people's roles in the courts based on these factors.

BEHAVIOR IN THE COURTHOUSE MUST BE FREE FROM BIAS IN ANY FORM. FAIR AND EQUAL TREATMENT MUST BE ACCORDED ALL COURTROOM PARTICIPANTS, FEMALE AND MALE.

1. ADDRESS INDIVIDUAL WOMEN AND MEN BY LAST NAMES AND APPROPRIATE TITLES.

- counselor or attorney
- Mr./Ms. (unless Miss or Mrs. are requested)
- Dr. or Officer or Representative/
Senator

The Gender Bias Study found that women are sometimes addressed informally while their male counterparts are addressed in a formal or professional manner. To avoid differential treatment or even the appearance of differential treatment, address both women and men in the same formal or professional manner. In private conversation or social settings, first names and other informal address may convey a friendly or casual attitude; in the public setting where courthouse business takes place they suggest a lack of respect.

2. ADDRESS MIXED GROUPS OF WOMEN AND MEN WITH GENDER NEUTRAL OR GENDER INCLUSIVE TERMS.

- colleagues
- members of the jury
- members of the bar
- counselors
- ladies and gentlemen

Referring to a mixed group as “brothers” or “gentlemen” indicates that women are not legitimate members of the community who must be taken seriously. Conversation that creates an exclusively masculine atmosphere must be avoided so that everyone is included in the justice system. Even if a group is primarily male and only one or two women are present, language used should be inclusive of everyone present.

3. TERMS OF ENDEARMENT AND DIMINUTIVE TERMS DO NOT BELONG IN COURTHOUSE INTERACTIONS.

- honey, sweetie, dear
- little lady, pretty girl, young lady (in reference to adult women)

Terms of endearment and diminutive terms imply that women have lower status or less power. These terms can demean or offend women even if the speaker does not intend to do so.

4. AVOID COMMENTS ON PHYSICAL APPEARANCE.

- body parts
- hair style
- dress style
- pregnancy

Comments on physical appearance are demeaning and put people at a disadvantage by drawing attention to their gender rather than the reason for their presence in the court. Comments appropriate in a social setting often are inappropriate in a professional setting. For example, complimenting a female attorney on her appearance or drawing attention to her pregnancy while she is conducting business may undermine the way others perceive her.

5. JOKES AND REMARKS WITH A SEXUAL CONTENT, OR JOKES AND REMARKS THAT PLAY ON SEXUAL STEREOTYPES, ARE OUT OF PLACE IN THE COURTHOUSE SETTING.

Everyone in the courthouse must protect the dignity and integrity of the court and show respect for every other person. Sexual, racial, and ethnic jokes and remarks have no place in the courthouse or in the administration of justice.

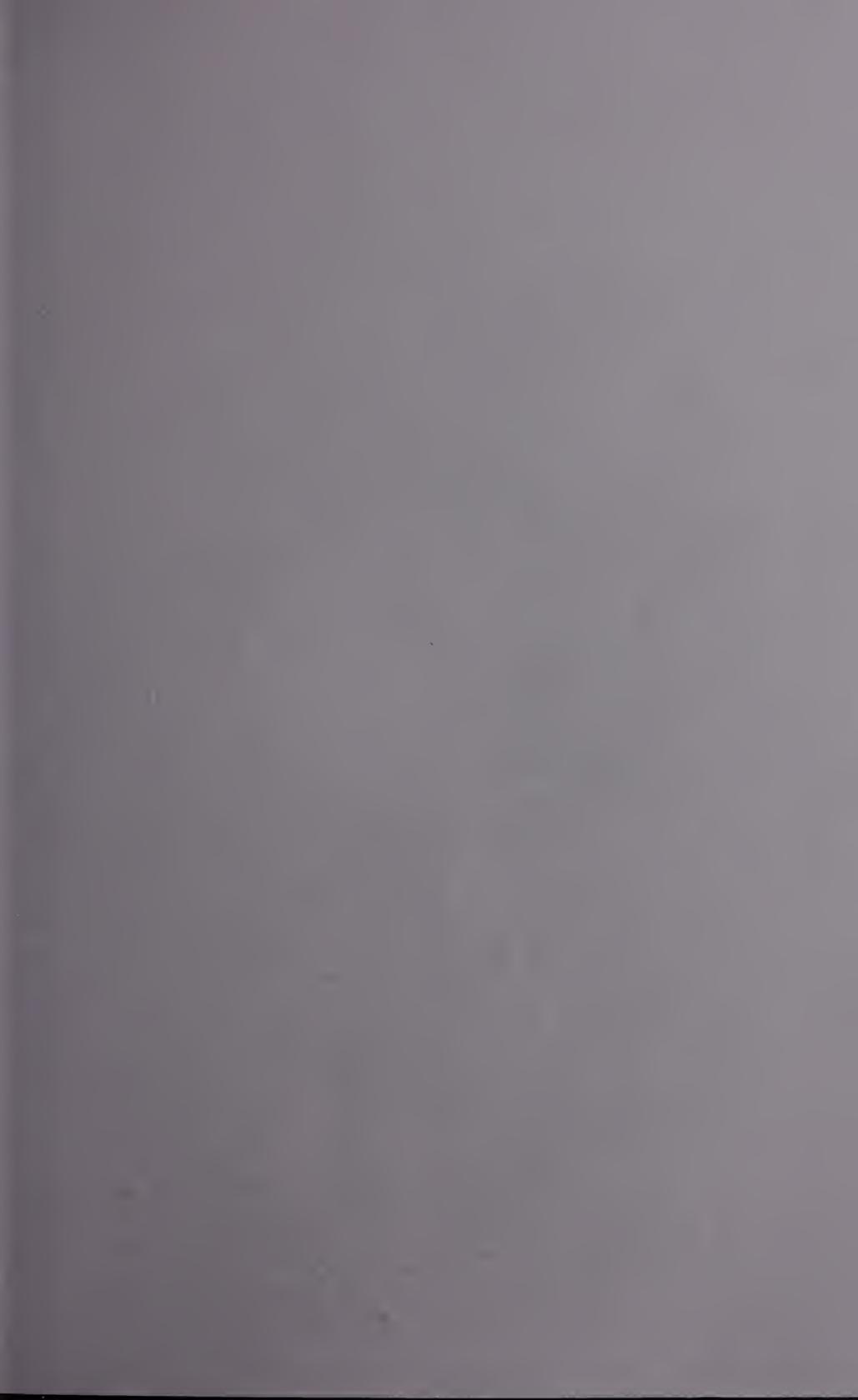
6. COMMENTS, GESTURES AND TOUCHING THAT CAN OFFEND OTHERS OR MAKE THEM UNCOMFORTABLE HAVE NO PLACE IN THE COURTHOUSE.

Because touching people may offend them, it should be avoided. They may not feel free to interrupt or complain, especially when the person doing the touching is in a position of authority, such as a supervisor touching an employee or a court employee touching a litigant, witness, juror, or attorney.

Sexually suggestive comments, gestures and touching, as well as sexual advances, humiliate and intimidate people, and undermine the dignity of the court. Such acts can also constitute sexual harassment which is prohibited by law and subject to sanctions pursuant to court policy.

7. TREAT WOMEN AND MEN WITH EQUAL DIGNITY, MINDFUL OF THEIR PROFESSIONAL ACCOMPLISHMENTS.

The Gender Bias Study found that women lawyers are asked if they are attorneys three times more often than men are asked. Do not inquire of a woman regarding her professional status when you would not ask the same question of a man. To avoid this, use a question that applies to everyone such as, "Will all attorneys please identify themselves to the court?" When addressing a man and a woman, always use consistent forms of address such as "Attorney X" and "Attorney Y." Do not call the man "Attorney X" and the woman "Ms. Y."



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