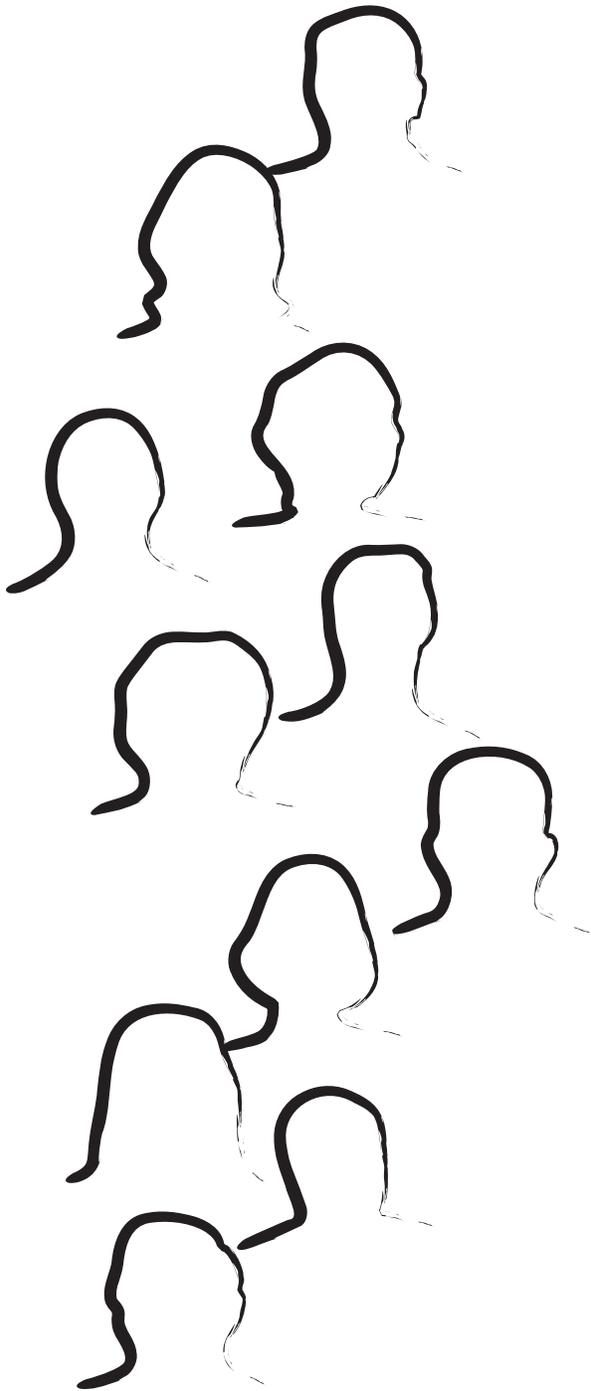


Gender Equality in the Courts



A Guide for All
New Mexico
State and
Federal Courts

Prepared by the
State Bar of New Mexico
Committee on Women and the Legal Profession
and the New Mexico Supreme Court

Foreword

This Handbook provides a guide for dealing with matters of gender equality in both the State and Federal Courts in New Mexico. These courts include:

United States District Court
United States Magistrate Court
United States Bankruptcy Court

New Mexico Supreme Court
New Mexico Court of Appeals
District Courts of New Mexico
New Mexico Probate Courts
Bernalillo County Metropolitan Court
New Mexico Magistrate Courts

In addition to the courts listed above, New Mexico has a number of tribal courts, each of which is based on the sovereignty of the Tribe or the Pueblo. These courts have their own rules and guidelines. Any concerns with these courts should be addressed to the Pueblo Governor or the Tribal President with jurisdiction over the court. A listing of these courts can be found in the *Bench & Bar Directory* published by the State Bar of New Mexico.





Supreme Court of New Mexico

CHAMBERS OF
RICHARD C. BOSSON
CHIEF JUSTICE

P.O. BOX 848
Santa Fe, New Mexico
87504-0848

(505) 827-4892
FAX (505) 827-4837

DATE: August 1, 2005

TO: All Judges
All Court Employees
All Members of the State Bar

FROM: Richard C. Bosson
Chief Justice

In 1994 the State Bar of New Mexico Committee on Women and the Legal Profession with the support of the New Mexico Supreme Court published a Handbook on Gender Equality in the Courts, which has been widely circulated within the Courts and among the Bar in New Mexico. The Handbook was revised in October 2000, and a second revision is now being published. Although great strides have been made in achieving equality for women in society and in our profession, much remains to be done.

The revised Handbook has republished the letter of April 12, 1994, from Chief Justice Seth D. Montgomery and the statement of September 2000 by this Court, the Chief Judge of the Court of Appeals, the Chief Judges of each of the district courts, the Chief Judge of the Metropolitan Court, the President of the District Judges Association and the President of the Magistrate and Metro Judges Association. Their comments are of equal importance today.

This Court continues today in its "unwavering commitment to the equal treatment of all citizens," as Chief Justice Montgomery spoke over eleven years ago. Therefore, we urge all members of the judiciary, their staff and the members of the Bar to review and heed the advice of the Handbook so that we can achieve the goal of true equality in our administration of justice.

Sincerely,

Richard C. Bosson



CHIEF JUSTICE
SETH D. MONTGOMERY
JUSTICES
RICHARD E. RANSOM
JOSEPH F. BACA
GENE E. FRANCHINI
STANLEY F. FROST

Supreme Court of New Mexico

P.O. BOX 848
Santa Fe, New Mexico
87504-0848

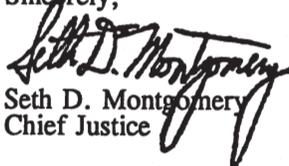
KATHLEEN JO GIBSON
CHIEF CLERK
(505) 827-4860
FAX (505) 827-4837

DATE: April 12, 1994
TO: All Judges
All Court Employees
All Members of the Bar
FROM: Seth D. Montgomery
Chief Justice

The New Mexico Supreme Court is greatly concerned over manifestations of gender bias in the court environment within the State of New Mexico. The Court endorses wholeheartedly the work of the Task Force on Women and the Legal Profession. The Court is unanimous in its desire to implement appropriately the recommendations of the Standing Committee on Women and the Legal Profession.

This Handbook has been created in response to the findings and recommendations made by the Task Force on Women and the Legal Profession. This Court has an unwavering commitment to the equal treatment of all citizens and takes great pride in working with the Standing Committee on Women and the Legal Profession on this joint project. All who are involved in the judicial system should follow the guidelines in this Handbook. We hope that the Handbook will serve as a guide to creation of a bias-free environment in which all participants can function without fear of reprisal.

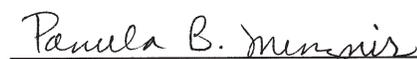
Sincerely,

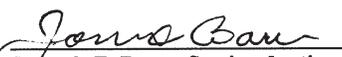

Seth D. Montgomery
Chief Justice



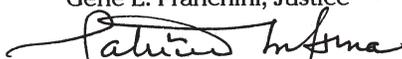
September 2000

Chief Justice Montgomery's letter of April 12, 1994, reproduced on page 3, eloquently expressed the "unwavering commitment [of the Supreme Court] to the equal treatment of all citizens" and the importance of following the guidelines contained in this Handbook for all who are involved in the justice system. Six years have passed since the first edition of this Handbook was printed and distributed, and everything in his letter remains true. We, the members of the Chief Judges Council, are pleased to be a part of the reprinting and redistribution of the Handbook and to express our personal commitment to the goals and ideals herein.


Pamela B. Minzner, Chief Justice

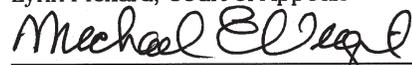

Joseph F. Baca, Senior Justice


Gene E. Franchini, Justice

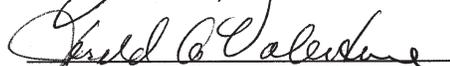

Patricio M. Serna, Justice


Petra Jimenez Maes, Justice


Lynn Pickard, Court of Appeals

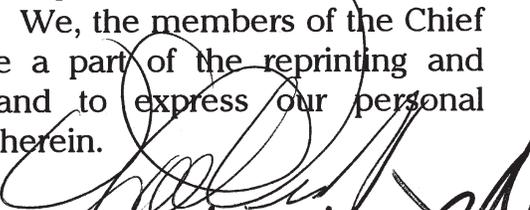

Michael E. Vigil, First District

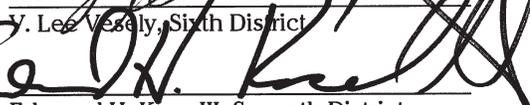

W. John Brennan, Second District

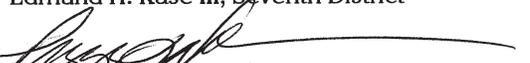

Jerald A. Valentine, Third District


Jay G. Harris, Fourth District


Jay W. Forbes, Fifth District

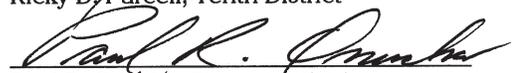

V. Lee Vesely, Sixth District

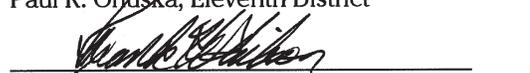

Edmund H. Kase III, Seventh District


Peggy J. Nelson, Eighth District


Robert Brack, Ninth District


Ricky D. Purcell, Tenth District


Paul R. Onduska, Eleventh District


Frank K. Wilson, Twelfth District


William A. Sanchez, Thirteenth District


Kevin Fitzwater, Metropolitan Court


Karen L. Parsons, President, District Judges Association


Robert B. Corn, President, Magistrate and Metro Judges Association

Introduction

In our system of government, it is imperative that all persons have confidence in the fairness and neutrality of our judicial process. If participants in the judicial system, whether they be litigants, attorneys or the public at large, sense that one group is more credible, more powerful and more effective in the judicial arena than another group, then a system premised on the concept of equal rights and equal access to justice for all, is weakened.

~ **Excerpt from the Final Report
of the Task Force on Women
and the Legal Profession**
November 2, 1990

In 1987, the State Bar of New Mexico established the Task Force on Women and the Legal Profession and requested that the Task Force examine the needs of women lawyers, their acceptance by the Bench and Bar in general, and the degree to which the State Bar has addressed those needs. The Final Report, issued November 2, 1990, documented gender bias not only directed toward women lawyers, but also affecting female litigants, witnesses, and court employees.

Since publication of the Final Report in 1990, there has been a concerted effort to address gender bias, including the New Mexico Supreme Court's adoption of a Statement Concerning Gender Bias in the Courtroom in 1992; the State Bar of New Mexico's passage of the Invidious Discrimination Rule in 1993, and the issuance in 1994 and the republication in 2000 of the Handbook on Gender Equality in the Courts. This most recent republication of the Handbook in 2005 affirms the commitment of all the New Mexico Courts to equal treatment of all people involved in the judicial system and recognizes a continuing need to create a bias-free environment.





What is Gender Bias?

Bias is an attitude, prejudice or point of view that colors judgments. Gender bias is bias based on sexual stereotypes and culturally defined gender roles. Whether intentional or unintentional, gender bias must be eliminated if we are to ensure the principles of fairness, equity and equality which have been the hallmark of New Mexico's judicial system.

Common cultural assumptions, and hence biases, about women are that women and their work are less valuable than men and their work; that most women are and should be economically dependent upon men; and that behavior different from the traditional model of women is unnatural. A common bias about men is that they are less capable of caring for small children than women.

Because gender bias is based on longstanding, often unarticulated cultural assumptions, it has been difficult to eradicate. Common forms of speech, for example, the use of the word "he" or "him" in general reference to both men and women, have tended to make women invisible and to reinforce social patterns of male superiority.

Bias based on race, ethnicity, language, disability, age, economics and sexual orientation also exists, and has no place in the courtroom environment or within the judicial system. While this handbook is designed to address gender bias, many of the guidelines in this handbook translate freely to other biases.

Examples of Gender Bias:

1. A tendency by some judges to treat female lawyers with greater deference and courtesy than male lawyers. Male lawyers tend to see this behavior as favoritism toward their female counterparts. Female lawyers often find this behavior condescending and paternalistic.
2. Lack of sensitivity in the types of questions asked of victims of domestic abuse or sexual violence. Questions to a battered spouse about what she did to provoke a beating, or why she returned to the home, reflect biased assumptions. When impaneling jurors, judges should be sensitive to the types of questions about the juror's work, so that the nature of that work is not demeaned. Work within the home is no less important than work outside the home.
3. When judges look less alert and attentive, fail to take notes, or assume a bored expression when a woman speaks, they convey in a powerful way the message that women's presentations are less important than those of men.
4. Some judges may be hesitant to respond assertively to gender-biased misconduct that occurs in their presence. If male attorneys engage in blatant or subtle forms of gender bias toward female attorneys or witnesses, it is important that the judge intervene to stop such behavior. Behavior or statements which are demeaning to women must be excluded from the courtroom. A firm reminder from the judge

at the first instance of inappropriate behavior will tend to stop it, without major disruption to the proceedings or embarrassment to the woman.

Everyone Has A Role in Eliminating Gender Bias:

Do:

- ❖ Treat all individuals with courtesy and equal respect.
- ❖ Address women and men with gender neutral terms, such as “counselor” or “ladies and gentlemen.”
- ❖ Recognize gender and other stereotypes, such as race, ethnicity and sexual orientation, and remove those biases from the courtroom.
- ❖ Address all individuals by last name and appropriate titles in the public setting, such as “Mr.” and “Ms.,” unless “Miss” or “Mrs.” is requested.
- ❖ Make sure that all communications, both written and verbal, are gender neutral.
- ❖ Discuss biased actions with individuals who may be unaware of their behavior and its impact, and stress that such behavior will not be tolerated.
- ❖ Provide all individuals equal treatment regardless of gender, racial or ethnic background, age, physical limitation, sexual orientation, social class or ability to speak English.
- ❖ Recognize that all matters heard by the court are important.
- ❖ Understand that the impact of biased behavior is more important than the intent of the speaker/actor.

Don't:

- ❖ Use terms of endearment toward women, such as honey, dear, little woman or little lady.
- ❖ Make assumptions about individuals or their role in court based on stereotypes.
- ❖ Subject victims of crime to unjust scrutiny because of the nature of the act(s) perpetrated against them, their gender, race, ethnicity, sexual orientation, or social class.
- ❖ Subject individuals to comments, gestures, touching or other actions that can offend them or make them feel uncomfortable.



- ❖ Make sexual jokes or remarks that play on sexual stereotypes in a courtroom setting.
- ❖ Comment on the physical appearance or attire of others.
- ❖ Use a position of power or authority to gain influence, favoritism or to solicit inappropriate conduct.

Rights and Responsibilities:

JUDGES are the visible leadership of the judicial system and play a key role in eliminating bias. A firm warning from the judge at the first instance will set the standard of conduct and stop biased behavior. The Code of Judicial Conduct calls on judges to establish, maintain, observe and enforce high standards of conduct to preserve the integrity of the judiciary.

JUDGES HAVE THE RIGHT TO:

- ❖ Be treated with respect and courtesy.
- ❖ Expect non-biased treatment from court employees, litigants and attorneys.
- ❖ Object to gender or racially biased statements or remarks made by litigants, attorneys, court employees, and all others who participate in court proceedings.

JUDGES HAVE THE RESPONSIBILITY TO:

- ❖ Display leadership in setting a non-biased tone and demeanor for the courtroom and judicial operations.
- ❖ Take necessary steps to correct discriminatory attitudes or comments to ensure a bias-free court environment.
- ❖ Treat litigants, attorneys and court employees with fairness and courtesy.
- ❖ Avoid gender, racial, and other bias in all court interactions.

COURT EMPLOYEES are often the first and sometimes the only contact members of the public have with the court system. By conveying respect and providing assistance to all, court employees play an important role in eliminating bias in the administration of justice.

COURT EMPLOYEES HAVE THE RIGHT TO:

- ❖ Be treated with respect and courtesy.
- ❖ Be provided with written policies that prohibit discriminatory treatment and promote fairness.
- ❖ Object to gender-biased and other biased remarks.
- ❖ Expect non-biased treatment from judges, litigants, witnesses and attorneys.

COURT EMPLOYEES HAVE THE RESPONSIBILITY TO:

- ❖ Treat judges, litigants, witnesses, attorneys and other court users with fairness, respect and courtesy.
- ❖ Monitor their behavior and attitudes to avoid discrimination based on gender, race, ethnicity, etc.

ATTORNEYS are officers of the court and have an important role and obligation in maintaining the dignity and integrity of the court. Through their conduct, they have a significant impact on the legal system and the pursuit of justice.

ATTORNEYS IN THE COURT SYSTEM HAVE A RIGHT TO:

- ❖ Be treated with fairness, courtesy and respect by judges, court personnel, litigants and other attorneys.
- ❖ Expect non-biased treatment.
- ❖ Object to gender or racially biased statements or remarks made by judges, litigants, witnesses, other attorneys or court employees.

ATTORNEYS IN THE COURT SYSTEM HAVE A RESPONSIBILITY TO:

- ❖ Treat the judge, court employees, litigants and other attorneys with fairness, respect and courtesy.
- ❖ Monitor their own behavior, comments and attitudes to avoid bias of any kind.

ALL PARTICIPANTS IN THE JUDICIAL SYSTEM HAVE THE RIGHT TO BE TREATED WITH RESPECT AND COURTESY

- ❖ You have the right to receive equal treatment regardless of your gender, race, ethnicity, national origin, age, physical limitations, sexual orientation, social class, or ability to speak English.
- ❖ Women have the right to be addressed by their last name and the title “Ms.” unless they request “Miss” or “Mrs.”
- ❖ Victims of crime are not to be subjected to unjust scrutiny because of the nature of the act(s) committed, or their gender, national origin, race, ethnicity, sexual orientation, or social class.
- ❖ Women have the right not to be addressed by terms such as “honey” or “dear.”
- ❖ All persons have the right not to be subjected to comments, gestures, touching, or other actions that are offensive or make them feel uncomfortable.
- ❖ All persons have the right not to be subjected to assumptions about individuals or their roles in court based on stereotypes.





- ❖ All persons have the right not to be subjected to comments about their physical appearance.
- ❖ All persons have the right not to be subjected to jokes or remarks based on any stereotype.
- ❖ All persons have the right to object to gender-biased and other biased remarks made to them during court proceedings.

Complaints About the Legal System

United States District Court District of New Mexico

JUDGES:

Local Rule 83.12 for the United States District Court for the District of New Mexico provides a system for reporting inappropriate judicial behavior. A person may lodge a complaint against a judge in accordance with 28 U.S.C. § 327(c) by obtaining a complaint form from the Clerk of the Court and filing it with:

Circuit Executive
United States Court of Appeals for the 10th Circuit
Byron White U.S. Courthouse
1832 Stout Street
Denver, Colorado 80257

COURT STAFF:

If a person has a complaint about the conduct of a member of a judge's staff, she or he should submit a complaint in writing to the judge at the following address:

United States District Court
District of New Mexico
333 Lomas Blvd. NW Ste. 270
Albuquerque, NM 87102

If a person has a complaint about the conduct of a lawyer who serves as a clerk in federal court, complaints are covered by the Court's Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan for the United States District Court for the District of New Mexico and Related Policies and Procedures for Adverse Actions, Grievances and Sexual Harassment Complaints for the United States District Court, District of New Mexico. Pursuant to this policy a person with a complaint about the conduct of lawyer who serves as a clerk in federal court should submit a complaint in writing to the immediate supervisor of the clerk within 30 days of the alleged violation or within 30 days of the time the person becomes aware of the alleged violation.

EMPLOYEE OF THE UNITED STATES MARSHAL’S OFFICE:

If a person has a complaint about an employee of the United States Marshal’s Office, he or she should submit a complaint in writing to:

United States Marshal
United States Marshal Service
United States District Court, District of New Mexico
333 Lomas Blvd. NW Ste. 180
Albuquerque, NM 87102

CLERK OF COURT, CHIEF UNITED STATES PROBATION OFFICER, CHIEF UNITED STATES PRETRIAL SERVICES OR UNITED STATES MARSHAL:

If a person has a complaint about the Clerk of the Court, the Chief United States Probation Officer, the Chief United States Pretrial Services Officer, or the United States Marshal, he or she should submit a complaint in writing to:

Chief Judge
United States District Court, District of New Mexico
333 Lomas Blvd. NW, Ste. 270
Albuquerque, NM 87102

EMPLOYEE OF CLERK’S OFFICE:

If a person has a complaint about an employee of the Clerk’s Office, she or he should submit a written complaint, in an envelope marked confidential, to:

Clerk of the Court
United States District Court, District of New Mexico
333 Lomas Blvd. NW, Ste. 270
Albuquerque, NM 87102

EMPLOYEE OF THE UNITED STATES PRETRIAL SERVICES OFFICE:

If a person has complaint about an employee of the United States Pretrial Office, he or she should submit a complaint in writing to:

Chief United States Pretrial Services Officer
United States District Court, District of New Mexico
333 Lomas Blvd. NW, Ste. 120
Albuquerque, NM 87102

EMPLOYEE OF THE UNITED STATES PROBATION OFFICE:

If a person has a complaint about an employee of the United States Probation Office, he or she should submit a complaint in writing to:

Chief United States Probation Officer
United States District Court, District of New Mexico
333 Lomas Blvd. NW, Ste. 170
Albuquerque, NM 87102





State Courts

JUDGES:

The Judicial Code of Conduct provides standards for appropriate judicial behavior and how to avoid inappropriate judicial behavior. If a person has a complaint about the conduct of a judge, she or he should contact:

Judicial Standards Commission
2539 Wyoming NE, Suite A
Albuquerque, NM 87112
505-841-9438

SPECIAL DOMESTIC VIOLENCE COMMISSIONERS, HEARING OFFICERS, SPECIAL MASTERS:

A complaint about the conduct of a Special Domestic Violence Commissioner, a Hearing Officer, or a Special Master should be addressed to the Chief Judge of the Judicial District served by the Commissioner, Hearing Officer or Special Master.

COMPLAINTS ABOUT ATTORNEYS:

The Rules of Professional Conduct provide standards for appropriate attorney behavior and how to prevent inappropriate attorney behavior. A complaint regarding the conduct of an attorney should be addressed to:

Disciplinary Board
PO Box 1809
Albuquerque, NM 87103-1809
505-842-5781

COMPLAINTS RELATING TO NEW MEXICO STATE COURTS POLICIES AND PROCEDURES:

Complaints about policies and procedures employed by a court regarding bias should be addressed to the local court administrator or supervisor, or the Administrative Office of the Courts, at the following address:

Administrative Office of the Courts
Supreme Court Building
Santa Fe, NM 87504
505-827-4800

The Administrative Office of the Courts has adopted a sexual harassment policy that applies to all New Mexico courts. Any complaints regarding sexual harassment should be referred to the Administrative Office of the Courts.

EMPLOYEES:

Complaints regarding the conduct of a court employee should be addressed to the local court administrator or supervisor, or:

Administrative Office of the Courts
Supreme Court Building
Santa Fe, NM 87504
505-827-4800

State Bar of New Mexico

PO Box 92860

Albuquerque, NM 87199

(505) 797-6000

www.nmbar.org

Revised 2005

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