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**RESOURCES:**

*Sampson and Tindell’s Texas Family Code Annotated*, August, 2001 Edition

*State Bar of Texas*, [www.texasbar.com](http://www.texasbar.com)

*State Bar of Texas Juvenile Law Section Report*

*Texas Center for Legal Ethics and Professionalism*, 512.463.0477; [www.txethics.org](http://www.txethics.org)

*Texas Disciplinary Rules of Professional Conduct* (Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app. (Vernon Supp. 1995)(State Bar Rules art X [section]9))

*Texas Family Code*, Title 3: Juvenile Justice Code

*Texas Juvenile Probation Commission, Texas Juvenile Law, 5th Edition*, Robert O. Dawson, September, 2000

*Texas Juvenile Probation Commission, Texas Juvenile Law, 5th Edition, Statutory Supplement*, Robert O. Dawson, September, 2002

**I.A.E.F.C.B.\***

\* If all else fails, call Bob

ethic: the discipline dealing with what is good and bad and with moral duty and obligation; a set of moral principals or values, the principle conduct governing an individual or group.

*Merriam Webster  
New Collegiate Dictionary*

## **OATH OF ATTORNEY**

State Bar Act, Sec. 82.037

- a. Each person admitted to practice law shall, before receiving a license, take an oath that the person will:
  1. support the constitutions of the United States and this state;
  2. honestly demean himself in the practice of law; and
  3. discharge the attorney's duty to his client to the best of the attorney's ability.
- b. The oath shall be endorsed on the license, subscribed by the person taking the oath, and attested by the officer administering the oath.

“Each lawyer’s own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards.... The desire for the respect and confidence of the members of the profession and of the society which it serves provides the lawyer the incentive to attain the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.”

*Tx Disp R Prof Conduct  
Preamble 9*

# **Texas Disciplinary Rules of Professional Conduct**

(Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app. (Vernon Supp. 1995)(State Bar Rules art X [section]9))

## **Preamble**

- A Lawyer's Responsibilities
- Scope
- Terminology

## **A Lawyer's Responsibilities**

1. A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.
2. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's affairs and reporting about them to the client or to others.
3. In all professional functions, a lawyer should zealously pursue clients' interests within the bounds of the law. In doing so, a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Texas Disciplinary Rules of Professional Conduct or other law.
4. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold the legal process.
5. As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.
6. A lawyer should render public interest legal service. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences

in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees is a moral obligation of each lawyer as well as the profession generally. A lawyer may discharge this basic responsibility by providing public interest legal services without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation, the administration of justice, and by financial support for organizations that provide legal services to persons of limited means.

7. In the nature of law practice, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from apparent conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyers own interests. The Texas Disciplinary Rules of Professional Conduct prescribe terms for resolving such tensions. They do so by stating minimum standards of conduct below which no lawyer can fall without being subject to disciplinary action. Within the framework of these Rules many difficult issues of professional discretion can arise. The Rules and their Comments constitute a body of principles upon which the lawyer can rely for guidance in resolving such issues through the exercise of sensitive professional and moral judgment. In applying these rules, lawyers may find interpretive guidance in the principles developed in the Comments.
8. The legal profession has a responsibility to assure that its regulation is undertaken in the public interest rather than in furtherance of parochial or self-interested concerns of the bar, and to insist that every lawyer both comply with its minimum disciplinary standards and aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.
9. Each lawyer's own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards prescribed by these rules. The desire for the respect and confidence of the members of the profession and of the society which it serves provides the lawyer the incentive to attain the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

# THE TEXAS LAWYER'S CREED

## A Mandate for Professionalism

*Promulgated by The Supreme Court of Texas and the Court of Criminal Appeals November 7, 1989*

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

### I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

### II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

### III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.
7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.
8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.
9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.
10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.
11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.
12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
14. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.
16. I will refrain from excessive and abusive discovery.
17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.
18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

#### **IV. LAWYER AND JUDGE**

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, witnesses, the Court, and members of the Court staff with courtesy and civility and will not manifest by words or conduct bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation.
4. I will be punctual.
5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

#### **Order of the Supreme Court of Texas and the Court of Criminal Appeals**

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics, instead of being part of the solution, have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "**The Texas Lawyer's Creed -- A Mandate for Professionalism**" described above.

*In Chambers, this 7th day of November, 1989.*



# GUIDELINES FOR GENDER-NEUTRAL COURTROOM PROCEDURES

## Miscellaneous Docket No. 96-9276

- Introduction
- Recognizing Gender Bias
- How Gender Bias is Manifested in the Courtroom
- Some Suggested Ways To Avoid Gender Bias
- Responsibility for Eliminating Gender Bias in the Courtroom

## In the Supreme Court of Texas

In 1991, the Supreme Court of Texas entered an order creating a task force to study gender bias in the Texas legal system. In 1994, the Gender Bias Task Force issued its Final Report containing specific recommendations to address gender bias in the Texas legal system. In response to these recommendations, the Supreme Court of Texas issued an order in 1995 creating the Gender Bias Reform Implementation Committee. The committee has recommended that a handbook be authorized as a guideline for judges, attorneys, and court personnel. The Supreme Court of Texas has provided comments to the committee, and the court now seeks comments from the bench and bar before the handbook is finalized and distributed. Accordingly, the Supreme Court of Texas hereby directs that the handbook prepared by the Gender Bias Reform Implementation Committee be published in the Texas Bar Journal. Comments should be directed to the Court's Executive Assistant William Willis, P.O. Box 12248, Austin 78711, within 30 days of publication. In Chambers this the 16th day of December, 1996. Guidelines for Gender-Neutral Courtroom Procedures By The Gender Bias Reform Implementation Committee Guidelines for Gender-Neutral Courtroom Procedures for Judges, Attorneys, and Court Personnel prepared by The Gender Bias Reform Implementation Committee based on findings and recommendations of The Gender Bias Task Force of the Supreme Court of Texas Dedication To the Supreme Court of Texas and the Texas Court of Criminal Appeals whose recognition of the need for guidelines to provide for equal access to the halls of justice without regard to gender or race, this guidebook is gratefully dedicated.

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## Introduction

### Do You See Yourself Here? Have you ever:

- Told an off-color joke in chambers?
- Remarked to a female attorney how her family commitments might interfere with her responsibilities to the court or her client?
- Hesitated to award a father primary child custody or given a smaller support order if the paying spouse is the mother primarily because of their gender?
- Called a female lawyer "dear," "honey," "sweetie," "sweetheart," "darling"? How about "young lady," "missy," "little lady," "Miss America"?
- Expressed surprise that a woman would appear in court late in her pregnancy?
- Called a woman by her first name but addressed a man as "Mister so-and-so"?
- Referred to a female criminal defendant as a "bimbo"?
- Treated a female criminal defendant with more leniency just because she is a female?
- Made remarks about a woman's physical appearance, attractiveness, or unattractiveness, either to her face or behind her back? Allowed your court staff to do this? ...**Does "nice legs" ring a bell?**

## **You're Saying "Not Me" Right?**

### **Well, Consider This:**

The facade of the United States Supreme Court Building concisely expresses the mission of the nations' courts:

### **Equal Justice Under Law.**

*This abiding rule is graphically portrayed by the figure of Themis - blind justice holding scales in balance.*

The Gender Bias Task Force, created by the Supreme Court of Texas, discovered after a two-and-one-half year study, that many Texas women and men experience discriminatory or inequitable treatment in the Texas judicial system simply because of their sex.

Much of the gender bias documented by the Task Force occurs in the courtroom -- in exchanges among judges, attorneys, litigants, court personnel, and witnesses.

### **For example, the task force made the following findings:**

- Gender stereotypes and gender-biased treatment toward litigants and counsel of both sexes have a negative impact on the litigation process and may affect case outcome. ¶ Nine out of 10 female law professionals responding to a State Bar survey reported being the target of at least one incident of gender discrimination in the courtroom during the preceding three years.
- Women litigants often experience hostile, demeaning, or condescending treatment from attorneys and sometimes from judges.
- Judges rarely reprimand counsel or court personnel whose behavior or comments exhibit gender bias.
- Discriminatory treatment of attorneys affects their credibility and may have serious consequences on their ability to advocate effectively for clients.

*Gender bias can be subtle and unintentional. This guide is designed to help judges, attorneys, and court personnel identify gender bias in our courts. Sometimes we need to be reminded that elimination of gender bias will promote "equal justice under law."*

### **Recognizing Gender Bias**

A striking finding of the task force was the significant gap between the perceptions of men and women concerning the extent of gender bias. Although a majority of male attorneys and judges surveyed by the task force believed that bias against women does exist, most felt that it exists in only a few areas and involved a few individuals. In contrast, more than half of the women respondents indicated that bias against female litigants not only exists, but that it is widespread. Most women also said gender bias is subtle and hard to detect rather than readily apparent.

### **What, then, is gender bias?**

*Gender bias may be defined as the predisposition or tendency to behave toward people mainly on the basis of stereotypes about their sex.*

Gender bias may include the following:

### **Stereotyped thinking that leads to disparate treatment in the courtroom.**

- Fathers denied custody because judges do not believe men can or should be primary caretakers.
- Mothers denied custody because they work outside the home.
- Male criminal defendants given stiffer sentences than female criminal defendants for the same crime.
- Women attorneys considered "too tough" for behavior praised as zealous advocacy when exhibited by male attorneys.
- Women seated at counsel table presumed to be legal assistants or secretaries rather than attorneys.
- Female court personnel assumed to have no authority or ability to handle matters presented to them.

### **Devaluation of women and women's work.**

- Undervaluing the work women perform as homemakers and care givers for children and the elderly in civil damage suits and property division upon divorce.
- Credibility accorded litigants, witnesses, and lawyers solely on the basis of their sex.
- Tolerating terms of endearment or less than respectful forms of address toward female counsel, witnesses, or court personnel which convey that women attorneys, litigants, witnesses, and court personnel have a lower status than their male counterparts.

### **Placing a burden on one sex that is not placed on the other.**

- Holding women attorneys to different standards than their male counterparts; assuming competence on the part of male attorneys but expecting female attorneys to prove their ability.
- Expecting more credentials or greater qualifications before qualifying women as expert witnesses than those expected for men in the same profession.

### **How Gender Bias is Manifested in the Courtroom**

**As To Litigants:** The Task Force found that women litigants often experience hostile, demeaning, or condescending treatment in the courtroom, and that male litigants are negatively affected by gender stereotypes both in the family law system and in the criminal justice system. Gender-biased behavior may include:

- Calling female litigants by first names while addressing male litigants by title (Mr., Dr., Professor).
- Making condescending references to women's roles, such as referring to the litigant as "just a housewife."
- Expressing surprise upon hearing that a father is seeking custody of his child.

*In a gender-neutral court, the claims of men and women litigants are considered equally legitimate and are treated accordingly. A gender-neutral court strives to free the litigation process from predetermined assumptions regarding the relative roles and attributes of men and women.*

**As To Domestic Violence and Sexual Assault Victims:** The task force learned that domestic violence and sexual assault cases present special gender fairness problems. Gender-biased behavior may include:

- Viewing domestic violence and sexual assault as less serious than other criminal acts.
- Minimizing victims' experiences, such as assuming that acquaintance rape is less traumatic than "stranger rape."
- Questioning the credibility of female crime victims in ways that the credibility of male crime victims is not questioned.
- Blaming victims for causing the abuse or assault.

*In a gender-neutral court, special care is taken to treat 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) perpetuated against them. Their testimony is no less credible because the alleged acts are sexual or occurred in a domestic context.*

**As To Court Personnel:** Gender bias in the treatment of court personnel may include:

- Assuming that a female clerk is subordinate to a male clerk.
- Addressing female court personnel by terms of endearment or diminutives.

*In a gender-neutral court, court personnel are viewed as providing valuable service to everyone using the court and are accorded respect and courtesy. It is unfair to assume that employees' authority or ability to assist is related to their gender.*

**As To Lawyers:** The task force heard of numerous incidents in which women attorneys were treated with rudeness, condescension, or contempt. Treating male and female attorneys differently solely because of gender is not only unfair to them it can undermine their credibility and may seriously impact their ability to be an effective advocate for clients. This disparate treatment undermines the justice system's goal of providing equal justice for all. Treatment that can sabotage the goal of fairness includes:

- Referring to female attorneys by diminutives (honey, sweetie, little lady, etc.) or first names while addressing male attorneys as Mr. [last name].
- Looking to male attorneys to provide information to the court and ignoring female attorneys.
- Failing to recognize and respond to women lawyers to the same extent and in the same manner that male lawyers are responded to and recognized.

*In a gender-neutral court, the judge does not engage in this behavior or tolerate this behavior from attorneys or court personnel. Good attorneys, regardless of gender, are seen as competent advocates. Women attorneys in a gender-neutral court are not expected to be more passive in their advocacy or more tolerant of interruption or reprimands than men.*

**As To Witnesses:** The task force found that male and female witnesses often experienced disparate treatment. Imagine being haled into court for the sole reason that you have information important to a case, and then being treated in a hostile, demeaning, or condescending manner! Such behavior may include:

- Treating women in such a way as to indicate that their opinions or statements are unimportant, irrational, or unduly emotional.
- Referring to female witnesses by first names, terms of endearment, or diminutives.

- Addressing female expert witnesses as Miss/Mrs./Ms. rather than by an earned title, such as Doctor/Professor that denotes an area of expertise

*In a gender-neutral court, credibility of witnesses is judged by the same standard for women and for men. Treatment of female or male witnesses that suggests that they are not worthy of belief solely because of their gender thwarts the goal of gender fairness. In a gender-neutral court, expert witnesses are judged on the basis of their qualifications and not their gender. Sometimes attorneys will explain that referring to witnesses in ways that undermine their credibility is nothing more than trial tactics. Trial tactics based on or exploiting gender bias are not tolerated in a gender-neutral court.*

**As to People from Diverse Communities.** A court sensitive to "equal justice under law" treats everyone entering the court with dignity and respect, regardless of gender, racial or ethnic background, disability, sexual orientation, religion, age or ability to speak English.

*A gender-neutral court is careful not to make assumptions about people's roles in the courts based on any of these factors.*

Some Suggested Ways To Avoid Gender Bias

**1. Address all persons in the courtroom by last names and appropriate titles:**

- Counsel or attorney
- Mr./Ms. (unless Miss or Mrs. are requested)
- Dr. or Officer or Representative/Senator
- Jurors or Juror #1
- Presiding Juror

To avoid differential treatment or even the appearance of differential treatment, address both women and men in the same formal or professional manner. Always use a consistent form of address such as "Attorney X" and "Attorney Y." In private conversation or social settings, first names and other informal address may convey a friendly or casual attitude; in the public settings 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

Conversation that creates an exclusively masculine or feminine atmosphere should be avoided so that everyone is included in the justice system.

**3. Use gender neutral language in all court correspondence and jury instructions.**

Use "Dear Counsel" when not using the individual's name and where appropriate include reference to he/she, him/her. The plural (witnesses/they) is helpful.

**4. Avoid terms of endearment and diminutive terms in courthouse interaction, as such terms imply a lower status:**

- honey, sweetie, dear, doll, babe.
- little lady, pretty girl, young lady, lady lawyer (in reference to adult women).
- boy, son (in reference to adult men).

These terms can demean or offend even if the speaker does not intend to do so. Courtroom protocol requires the highest degree of professionalism and courtesy.

**5. Avoid comments on or references to physical appearance, such as:**

- body parts
- pregnancy
- dress style
- hair style

Comments on physical appearance can be seen as 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.

**6. Jokes and remarks with 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 are improper in the courthouse and in the administration of justice.

**7. Avoid comments, gestures, and touching that can offend others or make them uncomfortable.**

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, undermine the dignity of the court. Such acts may constitute sexual harassment which is prohibited by law and subject to sanction pursuant to court policy. Harassment to provoke an emotional response is inappropriate under all circumstances.

**8. Treat women and men with dignity, respect, and attentiveness, mindful of their professional accomplishments.**

The task force found that women lawyers are much more likely than men to be asked if they are attorneys. 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?**"

## Responsibility for Eliminating Gender Bias in the Courtroom

It is up to judges, attorneys, and court personnel to work together to eliminate gender bias and to promote fairness.

**As Judges:** Judges play a key role in eliminating bias from the judicial system. A judge can establish an environment that makes it clear that men and women are and will be considered equals in the eyes of the law. Judges are obligated under the Texas Code of Judicial Conduct to require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status against parties, witnesses, counsel, or others. This requirement does not preclude legitimate advocacy when any of these factors is an issue in the proceeding (see Canon 3B(7)). Judges are also obligated under the code to require staff, court officials, and others subject to the judge's direction and control to observe the standards that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties (see Canon 3C(2)). A judge's treatment of people in the court, the decisions the judge makes, and intervention in inappropriate conduct of attorneys and court personnel are of utmost importance.

**As Attorneys:** As officers of the court, attorneys have an important role in maintaining the dignity and integrity of the court. An attorney's treatment of litigants, witnesses, court personnel, and other attorneys has a significant impact on the judicial system. The Texas Disciplinary Rules of Professional Conduct specifically address "bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation" in connection with an adjudicatory proceeding (see Rule 5.08). In addition, the Texas Lawyer's Creed calls on all attorneys to "treat counsel, opposing parties, the court, and members of the court staff with courtesy and civility," and to not manifest by words or conduct bias or prejudice.

**As Court Personnel:** 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, court personnel play an important role in eliminating bias in the administration of justice.

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The Gender Bias Reform Implementation Committee has prepared this guide based on some of the findings and recommendations of the Gender Bias Task Force published in its final report in February 1994. The purpose is to provide guidance for the bench, bar, and court personnel. This guide does not set a legal standard of care or conduct, nor does it supplant the Texas Code of Judicial Conduct or the Texas Rules of Disciplinary Procedure. It is not a set of rules that lawyers may use and abuse to incite ancillary litigation or arguments over whether it has been observed. The Supreme Court of Texas and the Court of Criminal Appeals hereby authorize the guide as part of an educational program to promote fairness in the administration of justice in Texas.