

## THE STATUS OF WOMEN IN THE PROFESSION

### REPRESENTATION

**Gender Recommendation VIII-1: The Governor should continue to appoint more women to the bench.**

#### **Summary of condition prompting 1989 recommendation:**

The under-representation of women as judges undermined confidence in, and the effectiveness of, the justice system.

#### **Research Methodology in 1997:**

Governor's Questionnaire

Information from State Court Administrative Office

#### **Status of the implementation of the recommendation in 1997:**

Since 1991, the Governor has appointed two majority woman, four majority males, one Arab-American male, and one African-American male to the Court of Appeals. Three majority females, two African-American females, twenty-nine majority males, and two African-American males have been appointed to the circuit and Recorder's courts in that time period. Three majority females, one African-American female and ten majority males have been appointed to probate courts since 1991. Five majority females, three African-American females, three African-American males, and thirty-four majority males have been appointed to district courts in that period. The number of women and minorities serving in all courts has increased since 1989, except in circuit courts, where the numbers have decreased.

The Task Force recognizes that in many parts of the state, there is not a substantial ethnic minority pool of candidates available from which to fill vacancies. Qualified women, however, are practitioners throughout the state. The Governor's office, in its response to the questionnaire, stated that where the vacancy occurs and when, is more of a predictor of who applies and how many applicants there are in the total pool.

Further, the State Bar of Michigan has a Judicial Qualifications Committee (JQC) which does screen and rate candidates whose names are submitted by the Governor to the JQC. Such screening makes it clear that to a large measure, the State Bar of Michigan does participate in the selection process through its rating of candidates presented for screening by the Governor. The Governor has stated his commitment to this process. This partnership can be extended to develop a joint recruitment approach so that the pool of qualified applicants for judicial vacancies becomes more diverse.

## THE STATUS OF WOMEN IN THE PROFESSION

### REPRESENTATION

#### **Recommended Action:**

This recommendation has been partially implemented. Further implementation requires:

- The Governor should continue to appoint more women to the bench.
- Consideration should be given to wider publication of the notice of vacancies, and extending the period of time within which to apply, in order to insure that a wider pool of candidates is developed.
- To the extent that the Governor's office itself does identify candidates for consideration to fill vacancies, the Governor should extend affirmative outreach to qualified minorities and women.
- As a matter of policy and in consultation with the Governor's office, the State Bar of Michigan appoints members to the Judicial Qualifications Committee taking into account the political party affiliations of the members. Each year, one co-chair is to be a Republican and one is to be a Democrat. By the same token, the State Bar of Michigan should insure diversity in other respects on the Judicial Qualifications Committee, given the important role it has in screening and rating what, hopefully, will be a diverse pool of candidates.

**REPRESENTATION**

**Gender Recommendation VIII-2: Courts should appoint more female referees, magistrates and quasi-judicial personnel in numbers sufficient to represent the demographics of the population they serve.**

**Summary of condition prompting 1989 recommendation:**

The under-representation of women as referees, magistrates, and quasi-judicial personnel undermined confidence in, and the effectiveness of, the justice system.

**Research Methodology in 1997:**

Questionnaire to the Governor

Information obtained from the State Court Administrative Office

**Status of the implementation of the recommendation in 1997:**

The State Court Administrative Office maintains statistics of magistrates and referees as part of a larger classification which includes other court personnel, including lawyers, probation officers, systems analysts, police, and fire captains. Because of the method by which the State Court Administrative Office collects this data, it is not possible to determine whether improvement in this area has occurred.

**Recommended Action:**

It is unclear whether this recommendation has been implemented. The State Court Administrative Office should collect data from the courts specifically as to the employment of magistrates, referees, and other quasi-judicial personnel by race, ethnicity, and gender. In the event that this data collection shows that females are under-represented in these positions, courts should appoint more females to serve as magistrates, referees, and in quasi-judicial positions in numbers sufficient to represent the demographics of the population they serve.

## THE STATUS OF WOMEN IN THE PROFESSION

### REPRESENTATION

**Gender Recommendation VIII-3: Appointing authorities should increase the representation and influence of women in the offices of the Attorney General, prosecutors and public administrators.**

#### **Summary of condition prompting 1989 recommendation:**

The under-representation of women as public servants in the justice system, as assistant attorney generals, prosecutors, and public administrators, undermined confidence in, and the effectiveness of, the justice system.

#### **Research Methodology in 1997:**

Attorney General Questionnaire

Prosecuting Attorney Questionnaires

Questionnaire to Prosecuting Attorneys Association of Michigan

Questionnaire to Prosecuting Attorneys Coordinating Council

Information from the State Court Administrative Office

#### **Status of the implementation of the recommendation in 1997:**

Neither the Prosecuting Attorneys Association of Michigan nor the Prosecuting Attorneys Coordinating Council maintain statistics on the gender of assistant prosecutors. Information provided by the Attorney General's Office shows that there has been some progress toward the realization of the goals set forward in 1989. At that time thirty-one percent (31%) of non-supervisory Attorney Generals were women. Current statistics show that figure has increased to thirty-two percent (32%). The number of supervising Attorney Generals has increased from thirteen percent (13%) in 1989 to twenty-two percent (22%) in 1997.

#### **Recommended Action:**

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- The Attorney General and prosecutors should continue to increase the number of women in their offices. Women should have increased opportunities for career advancement and upward mobility to positions of influence in the Office of the Attorney General, in prosecutor's offices, and as public administrators.
- Prosecuting attorneys should be required to maintain statistics regarding race, ethnicity, and gender, and report them to the Prosecuting Attorneys Association of Michigan on an annual basis.

**PROFESSIONAL ASSOCIATIONS**

**Gender Recommendation VIII-4: The Supreme Court should adopt a mechanism to increase the number of female appointees to the Board of Commissioners or otherwise ensure adequate representation.**

**Summary of condition prompting 1989 recommendation:**

Women were under-represented on the State Bar Board of Commissioners, and the limited appointive process utilized by the Michigan Supreme Court failed to address the imbalance.

**Research Methodology in 1997:**

State Bar of Michigan Questionnaire

Michigan Supreme Court Questionnaire

**Status of the implementation of the recommendation in 1997:**

While the Supreme Court does not have a formal policy for appointment of women and race/ethnic minorities to the Board, the Court has a long standing history of promoting diversity such that the majority of the race/ethnic minorities that have served on the Board have been by appointment of the Court. The appointive process has not formally changed however, and the number of appointed female at large commissioners has not increased since 1993.

**Recommended Action:**

This recommendation has not been formally implemented, but has been substantially implemented in practice. The 1989 Task Force recommendation should be implemented as written.

## THE STATUS OF WOMEN IN THE PROFESSION

### PROFESSIONAL ASSOCIATIONS

**Gender Recommendation VIII-5: The Supreme Court's policy prohibiting reappointment of its appointees to the Board of Commissioners should be revised to permit appointments for at least two terms, thereby enabling appointees to run for election for State Bar office, including the presidency.**

#### **Summary of condition prompting 1989 recommendation:**

Women were under-represented on the State Bar Board of Commissioners, and the limited appointive process utilized by the Michigan Supreme Court failed to address the imbalance.

#### **Research Methodology in 1997:**

State Bar of Michigan Questionnaire

#### **Status of the implementation of the recommendation in 1997:**

While the Supreme Court does not have a formal policy for appointment of women and race/ethnic minorities to the Board, the Court has a long standing history of promoting diversity such that the majority of the race/ethnic minorities that have served on the Board have been by appointment of the Court. The appointive process has not changed, and the number of appointed female at large commissioners has not increased over the past four years.

#### **Recommended Action:**

This recommendation has not been formally implemented, but has been substantially implemented in practice. The 1989 Task Force recommendation should be implemented as written.

**PROFESSIONAL ASSOCIATIONS**

**Gender Recommendation VIII-6: The Local Bar Liaison Committee, the "On The Road" publication, the Presidents-Elect Conference and other communications mechanisms of the State Bar should be used to raise the consciousness of local bar associations to the need for establishing an hospitable atmosphere for new women members.**

**Summary of condition prompting 1989 recommendation:**

Local bar associations did not consistently provide a hospitable atmosphere for women members.

**Research Methodology in 1997:**

Questionnaire to local and special purpose bar associations

Questionnaire to State Bar of Michigan

Questionnaire to State Bar of Michigan Sections

**Status of the implementation of the recommendation in 1997:**

The State Bar of Michigan is continuing efforts to implement this recommendation through speakers at the annual Presidents Elect Conference and in *Michigan Bar Journal* articles. The "On the Road" publication revealed no articles relating to race, ethnic, or gender bias in 1996 or 1997. The efforts of the State Bar of Michigan are apparently unpublicized with local bar associations, as most local bar associations were unaware that State Bar resources were available to address race, ethnic, or gender issues.

**Recommended Action:**

This recommendation has been partially implemented. Further implementation requires:

- The State Bar of Michigan must take a leadership position in encouraging the participation of women in local bar associations and in promoting diversity.
- The Local Bar Liaison Committee and the "On The Road" publication and other communications mechanisms of the State Bar should be used to raise the consciousness of local bar associations to the need for establishing an hospitable atmosphere for new women members.
- The State Bar of Michigan should continue to address these issues at the Presidents-Elect Conference, and should publicize its efforts and resources for local bar associations.

## THE STATUS OF WOMEN IN THE PROFESSION

### PROFESSIONAL ASSOCIATIONS

**Gender Recommendation VIII-7: The leadership of the State Bar should continue efforts to eliminate bias in the profession and should encourage local bar associations to make such efforts an important priority.**

#### **Summary of condition prompting 1989 recommendation:**

Women were under-represented on the Board of Commissioners, State Bar Section leadership, and in local and special purpose bar association leadership.

#### **Research Methodology in 1997:**

Questionnaire to State Bar of Michigan

Questionnaire to local and special purpose bar associations

Questionnaire to State Bar Sections

#### **Status of the implementation of the recommendation in 1997:**

The State Bar produced a videotape, "Respect," and addresses these issues at the annual Presidents-Elect Conference and in Michigan *Bar Journal* articles.

#### **Recommended Action:**

This recommendation has been partially implemented. Continued implementation of the recommendation is required. In addition, the State Bar of Michigan Task Force recommends:

- The State Bar of Michigan should commit itself to actively publicizing its resources with local and special purpose bar associations, by promoting the State Bar of Michigan video "Respect" and developing new resources for training and education, and to create leadership training and mentoring programs for women.
- The State Bar of Michigan should maintain records of bar association leadership by gender to ascertain whether progress is being made.



**PROFESSIONAL ASSOCIATIONS**

**Gender Recommendation VIII-8: State Bar sections must increase their efforts to recruit women members and must aggressively pursue policies designed to increase the number of women serving on the section councils and as section officers.**

**Summary of condition prompting 1989 recommendation:**

Women were under-represented in State Bar section leadership.

**Research Methodology in 1997:**

Questionnaires to State Bar Sections

**Status of the implementation of the recommendation in 1997:**

Approximately one third of the State Bar Sections responded to the questionnaire, and the State Bar provided information as to the non-reporting sections. From those responses, it appears that women are fairly represented in section leadership in most sections.

**Recommended Action:**

This recommendation has been substantially implemented. Continued implementation of the recommendation is required. In addition, the State Bar of Michigan Task Force recommends:

- The State Bar should require Sections to report the gender, race, and ethnicity of persons in positions of section leadership to the State Bar, and appropriate sanctions should be developed for sections which do not do so.
- Those State Bar of Michigan Sections which have non-diverse section leadership should appoint women to leadership positions.
- The State Bar should establish goals for new sections and allocate resources for leadership training for women and minorities to achieve section leadership.

## THE STATUS OF WOMEN IN THE PROFESSION

### EMPLOYMENT

**Gender Recommendation VIII-9:** The State Bar should establish model employment policies for the profession which contain gender-neutral standards for recruitment and interviewing and for mentoring and prescribe exit interviews which include gender-related concerns. It should provide educational programs concerning these policies.

#### **Summary of condition prompting 1989 recommendation:**

The following work policies were not consistently recognized as legitimate alternatives to traditional work arrangements for both men and women attorneys: part time employment, flexible work schedules, non traditional promotional tracks, parental and family leave and flexible child care arrangements.

#### **Research Methodology in 1997:**

Questionnaire to State Bar of Michigan

#### **Status of the implementation of the recommendation in 1997:**

This recommendation has not been implemented.

#### **Recommended Action:**

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written.

**EMPLOYMENT**

**Gender Recommendation VIII-10: The State Bar should participate in and support the adoption of gender-neutral standards for recruitment and interviewing at Michigan law schools.**

**Summary of condition prompting 1989 recommendation:**

The 1989 Task Force concluded that during the recruitment process, female law students and female candidates for employment may be asked illegal interview questions related to family responsibility, husband's attitudes, future family plans, and the applicant's appearance and gender.

**Research Methodology in 1997:**

Questionnaires to Law School Deans

Questionnaires to Law School Professors

Focus Group conducted by Task Force

Green, Saul, "Access to the Academy: The Absence of Minority Faculty at Michigan's Law Schools", *Michigan Bar Journal*, March, 1994

**Status of the implementation of the recommendation in 1997:**

Two Michigan law schools indicate that nondiscrimination policies for recruitment and interviewing exist at their schools. The other schools did not respond.

**Recommended Action:**

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- Although the State Bar has no direct control over Michigan law schools, the State Bar should participate in and support the adoption of gender-neutral standards for recruitment and interviewing at Michigan law schools.

## THE STATUS OF WOMEN IN THE PROFESSION

### EMPLOYMENT

**Gender Recommendation VIII-11:** The State Bar should establish model employment policies in the areas of part-time employment, flexible work schedules, non-traditional promotional tracks, parental and family leave and flexible child care arrangements and sponsor the development of informational material and provide educational programs concerning these issues.

#### **Summary of condition prompting 1989 recommendation:**

These work policies were not consistently recognized as legitimate alternatives to traditional work arrangements.

#### **Research Methodology in 1997:**

Questionnaire to State Bar of Michigan

#### **Status of the implementation of the recommendation in 1997:**

This recommendation has been implemented insofar as the employment policies have been established.

#### **Recommended Action:**

This recommendation has been fully implemented. In addition, the State Bar of Michigan Task Force recommends:

- The State Bar should review and refine these policies as the need arises, and should sponsor the development of informational material and provide educational programs concerning these issues.
- The State Bar should develop an Honor Roll of attorneys and firms that adopt the policies.

**EMPLOYMENT**

**Gender Recommendation VIII-12: The State Bar should investigate establishing a program for women attorneys similar to the Michigan Minority Demonstration Project in order to give women attorneys the opportunity for increased exposure to clients and to business opportunities, as well as other programs which address the economic concerns of women attorneys.**

**Summary of condition prompting 1989 recommendation:**

Women lawyers are economically disadvantaged in comparison with their male colleagues and under-represented in some areas of practice.

**Research Methodology in 1997:**

Questionnaire to State Bar of Michigan

**Status of the implementation of the recommendation in 1997:**

The State Bar indicates that this recommendation is "in progress."

**Recommended Action:**

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written. In addition, the State Bar of Michigan Task Force recommends:

- By April 30, 1998, the State Bar should report on its investigation of this program.
- By December 31, 1998, the State Bar should establish a program for women attorneys similar to the Michigan Minority Demonstration Project. Such a program would give women attorneys the opportunity for increased exposure to clients and to business opportunities, as well as other programs which address the economic concerns of women attorneys.

## THE STATUS OF WOMEN IN THE PROFESSION

### EMPLOYMENT

**Gender Recommendation VIII-13: The State Bar should conduct a survey every three years of Michigan law firms regarding: the gender composition of their attorneys by partnership categories/staff/associate status and by number of years in practice; mentoring policies and practices; and attorney net income by gender, years in practice, practice classification, size of firm, office location and other relevant variables. It should publish the results of the survey in the Michigan Bar Journal.**

#### **Summary of condition prompting 1989 recommendation:**

Women practicing in law firms may have experienced difficulties related to lack of upward mobility into positions of authority (i.e., partnership), greater difficulty in establishing positive mentor relationships, increased rate of attrition and lack of access to the same economic benefits as their male colleagues.

#### **Research Methodology in 1997:**

Questionnaire to State Bar of Michigan

#### **Status of the implementation of the recommendation in 1997:**

This survey has been implemented however, there is some indication that the methodology for the survey could be improved by utilizing a true random sample with a representational response rate. The State Bar has plans to institute these changes.

#### **Recommended Action:**

This recommendation has been fully implemented. In addition, the State Bar of Michigan Task Force recommends:

- The State Bar should continue to conduct a survey every three years of Michigan law firms regarding: the gender composition of their attorneys by partnership categories/staff/associate status and by number of years in practice; mentoring policies and practices; and attorney net income by gender, years in practice, practice classification, size of firm, office location and other relevant variables.
- The State Bar should publish the results of the survey in the Michigan Bar Journal.
- The State Bar should improve the survey methodology.

**LAW SCHOOLS**

**Gender Recommendation VIII-14: Law school textbooks, course materials and classroom presentations should be reviewed and altered where necessary to eliminate overt and subtle gender bias.**

**Summary of condition prompting 1989 recommendation:**

The respect afforded to women as faculty and students was negatively affected by bias in law school textbooks, course materials, and classroom presentations.

**Research Methodology in 1997:**

Questionnaires to Law School Deans

Questionnaires to Law School Professors

Information provided by the State Court Administrative Office

**Status of the implementation of the recommendation in 1997:**

Eighteen percent of the professors responding to the questionnaire were aware of complaints at their school regarding gender bias in law school textbooks, course materials, and classroom presentations. Only nine percent of the professors reported that their school had policies or procedures to address gender bias. No professor was aware of any school which had adopted such a policy.

**Recommended Action:**

This recommendation has not been implemented. The 1989 Task Force recommendation should be implemented as written.

## THE STATUS OF WOMEN IN THE PROFESSION

### LAW SCHOOLS

**Gender Recommendation VIII-15: Law school faculty and administrative policies should reflect a commitment to train attorneys who will be sensitive to and aware of manifestations of gender discrimination and its effects.**

#### **Summary of condition prompting 1989 recommendation:**

Women were less respected, both by faculty and students, based on the lack of knowledge of women's issues. Women were under-represented on law school faculties and as tenured law school professors.

#### **Research Methodology in 1997:**

Questionnaires to Law School Deans

Questionnaires to Law School Professors

Information provided by the State Court Administrative Office

#### **Status of the implementation of the recommendation in 1997:**

Sixty percent of the professors who responded to the questionnaires stated that their school had no faculty or administrative policies to ensure that students were sensitive to and aware of manifestations of gender bias and its effects. Sixty-two percent reported that their school had no policy to ensure that students are sensitive to and aware of manifestations of sexual harassment and its effects. Fifty-five percent of the faculty were aware of allegations of sexual harassment by faculty, administrators, or students at their school.

#### **Recommended Action:**

This recommendation has been partially implemented. The 1989 Task Force recommendation should be implemented as written.



**LAW SCHOOLS**

**Gender Recommendation VIII-16: Professors should be taught the need for and use of gender issues discussions in substantive law courses. All professional ethics classes should cover gender discrimination as it affects law practice, treatment of fellow professionals and treatment of court users.**

**Summary of condition prompting 1989 recommendation:**

Women were accorded less respect by faculty and students because of the lack of knowledge of women's issues.

**Research Methodology in 1997:**

Questionnaires to Law School Deans

Questionnaires to Law School Professors

Information provided by the State Court Administrative Office

**Status of the implementation of the recommendation in 1997:**

Sixty-seven percent of the professors reported that their schools had courses on gender bias, and twenty-seven percent of them were aware of allegations of gender bias by faculty, the administration, or students at their school. Fifty five percent were aware of allegations of sexual harassment by faculty, the administration, or students at their school.

**Recommended Action:**

This recommendation has been partially implemented. Further implementation requires:

- The State Bar or Institute for Continuing Legal Education should offer courses to all professors regarding the need for and use of gender issue discussions in substantive law courses.
- All professional ethics classes should cover gender discrimination as it affects law practice, treatment of fellow professionals, treatment of court users, and sexual harassment.