

## Bias-free Behavior in the Courts

*“Nothing is more basic than courtesy. The court system exists to serve those who come to it voluntarily, as well as those who are involuntarily summoned. There must be a welcoming attitude on the part of all court personnel, including judges. The chief judge and the other judges of each court must take personal responsibility for setting a tone and attitude of courtesy and helpfulness toward all who come to the court.”*

*— Excerpt from the final report of the Citizen’s Commission to Improve Michigan Courts*

No matter what role one has in the judicial process — judge, court employee, litigant, witness, juror or attorney — everyone has a right to be treated with dignity and respect.

The Michigan Supreme Court is committed to equal treatment for men and women of every race, religion and economic class. The Supreme Court directed in Administrative Order 1990-3, “that judges, employees of the judicial system, attorneys and other court officers commit themselves to the elimination of racial, ethnic and gender discrimination in the Michigan judicial system.” Michigan’s One Court of Justice, will neither condone nor tolerate discriminatory treatment in our justice system.

The Michigan Supreme Court is committed to eliminating all forms of bias from the courts and assuring the fair and equal application of the rule of law for all persons in the Michigan court system. In addition, the Supreme Court has urged all courts as well as all entities which interact with the courts, such as the State Bar of Michigan, to review and continually emphasize bias-free behavior. Fairness and equality must be the rule — not the exception — in Michigan courts. Strong, decisive steps shall be taken to ensure that justice is dispensed in a non-biased environment and manner.

## History

*“A fundamental principle of our constitutional government is that discriminatory treatment on the basis of race, gender, economic class, religion, or physical condition cannot and will not be tolerated. Bias damages a court in its fundamental role as dispenser of justice.”*

With these words, the Michigan Supreme Court Citizens’ Commission to Improve Michigan Courts in 1986 called for the creation of a task force on gender issues in the courts and a task force on racial/ethnic issues in the courts. In its year-long examination of the Michigan courts, the Citizens’ Commission found a significant and disturbing perception among Michigan citizens: over one-third believed that the Michigan court system discriminated against individuals on the basis of gender, race or ethnic origin.

On September 15, 1987, the Justices of the Michigan Supreme Court issued Administrative Order No. 1987-6 establishing the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. The Supreme Court directed the Task Forces to “examine the courts and to recommend revisions in rules, procedures and administration of the courts to assure equal treatment for men and women, free from race or gender bias.” Each task force was comprised of 19 individuals, chosen from various geographic areas throughout the state. The task force members were judges, court administrators, attorneys, and private citizens.

The final reports of the Task Forces were issued in December, 1989. The Task Forces identified many areas where gender, race and ethnicity could influence conduct, procedures, and in some instances, case outcome.

The Task Force on Gender Issues in the Courts defined gender bias as:

*“. . . the tendency to think about and behave toward others primarily on the basis of their sex. It is reflected in attitudes and behavior toward women and men which are based on stereotypical beliefs about the ‘true nature’, ‘proper role’ and other ‘attributes’ of the gender.”*

The Task Force on Racial/Ethnic Issues in the Courts concurred with the American Bar Association that:

*“The lack of equal opportunity for minority participation in business, corporate, and professional affairs, is a grave societal problem that will not be solved by legislation and judicial decrees alone. Full and equal opportunities for racial and ethnic minorities will exist only after an informed society rejects discrimination and racism, not only because they may be unlawful, but also because they violate the moral and human values upon which our Nation was founded.”*

*— Excerpt from the ABA Task Force on Minorities in the Legal Profession Report with Recommendations, January 1986*

## **Suggestions for Bias-Free Behavior**

### **Do these things:**

Treat all individuals with courtesy.

Address women and men with gender neutral terms.

Recognize gender/racial/ethnic stereotypes and remove these biases from the workplace.

Address all individuals by last name and appropriate titles in the public setting.

Make sure that all communications, both written and verbal, are gender neutral.

Discuss biased behavior with individuals who may be unaware of its impact, and ensure that such behavior will not be tolerated in the court.

Provide all individuals equal treatment regardless of gender, racial or ethnic background, age, physical limitations, sexual orientation, social class or ability to speak English.

Recognize that all matters heard by the court are important.

### **Do not do these things:**

Assume that a person’s status or level of authority is related to their gender/race/ethnicity.

Use terms of endearment in public settings.

Make assumptions about individuals or their role in the court based on stereotypes or without knowledge.

Subject victims of crime to unjust scrutiny because of the nature of the act(s) perpetrated against them, their gender, race, ethnicity, or social class.

Subject individuals to comments, gestures, touching or other actions that can offend them or make them feel uncomfortable.

## **Rights\* and Responsibilities of Judges**

### **As a Judge, you have the right to:**

Be treated with respect and courtesy.

Expect that court proceedings will begin on time and proceed in an orderly manner.

Expect that attorneys and parties to an action will be prepared to proceed at the time of a hearing.

Expect that the courts orders will be followed by all affected parties.

Expect non-biased treatment from court employees, litigants and attorneys.

Object to gender or racially biased statements or remarks made by litigants, attorneys or court employees.

**As a Judge, you have the responsibility to:**

Display leadership in setting a non-biased tone and demeanor for your 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 racial and gender bias in your own decision-making and court interactions.

**Rights\* and Responsibilities of Court Employees**

**As a Court Employee, you have the right to:**

Be treated with respect and courtesy.

Be provided with written personnel policies that prohibit discriminatory treatment and promote fairness.

Be provided with a written job description.

Expect non-biased treatment from judges, litigants and attorneys.

**As a Court Employee, you have the responsibility to:**

Treat judges, litigants, attorneys and other court users with fairness, respect and courtesy.

Monitor your behavior and attitudes to avoid discrimination due to a person's race, ethnic, religious affiliation or gender.

**Rights\* and Responsibilities of Citizens Using the Court**

**As a Citizen Using the Court, you have the right to:**

Be treated with fairness, respect and courtesy.

Expect court proceedings to begin on time and proceed in an orderly manner.

Expect non-biased treatment from the judges, court employees and attorneys.

Object to gender or racially biased statements or remarks made by judges, court employees or attorneys.

Expect that the judge and the attorneys in a case are prepared to hear/try your case.

Consult with an attorney regarding a legal proceeding.

Ask questions of your attorney before or after your scheduled court appearance. If you are representing yourself, you may ask the court for clarification on an action or procedure.

Request that the court provide an interpreter if you are unable to communicate in English or are hearing impaired.

**As a Citizen Using the Court you have the responsibility to:**

Treat the judge, court employees and attorneys with fairness, respect and courtesy.

Monitor your own behavior, attitudes and comments to ensure that you do not display bias due to race, ethnic or religious affiliation or gender.

**Rights\* and Responsibilities of Attorneys  
Representing Litigants in Court**

**As an Attorney Representing a Litigant in the Court System, you have the right to:**

Be treated with fairness, courtesy and respect by judges, court personnel, litigants and other attorneys.

Expect that court proceedings will begin on time and proceed in an orderly manner.

Expect that the judge will hold hearings and issue opinions in a timely manner.

Expect non-biased treatment from judges and litigants.

Object to gender or racially biased statements or remarks made by judges, litigants or court employees.

**As an Attorney Representing a Litigant in the Court System, you have the responsibility to:**

Treat the judge, court employees, litigants and other attorneys with fairness, respect and courtesy.

Be prepared to try a case when it is scheduled and to represent your client to the best of your abilities.

Monitor your own behavior, comments and attitude to ensure that you do not display bias due to race, ethnic or religious affiliation or gender.

\*The word “right” as used in this informational material refers to ethical or moral correctness and should not be construed to mean a legal right which has been established by Constitution, legislative action or a court of law.

**For Your Information**

The Final Reports of the Michigan Supreme Court Task Force on Gender Issues in the Courts and the Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts have been provided to all Michigan depository libraries.

Additional copies are available at a cost of \$7 each from:

Department of Management and Budget  
Office Services Division  
Publication Section  
7461 Crowser Dr.  
Lansing, MI 48913