

BEST PRACTICES FOR GENDER EQUITY

PREAMBLE

Bar Associations, scholars and commentators have recently issued reports on the challenges faced by women in the legal profession. Studies have confirmed that deep discontent is causing substantial numbers of women to leave their jobs, particularly in private law firms.¹ This national phenomenon is reflected in Connecticut as well.

In response to these developments, the Connecticut Bar Association appointed the Women Future's Task Force, and charged it with the responsibility for developing best practices for the hiring, training, retention and advancement of women attorneys. As a result, the Task Force developed the Best Practices outlined below. The Best Practices include Pledge and Award programs, which are an important aspect of the Task Force's response.

The following "Best Practices" program is not an end in itself. It is instead a process intended to raise the consciousness of Connecticut employers about the challenges facing women lawyers and to provide assistance and incentives for employers in overcoming those challenges.

The program consists of four components: 1) an explanation of Best Practices for the hiring, training, retention and advancement of women attorneys; 2) the Pledge to be made by employers to make substantial progress in implementing the Best Practices; 3) a program to gauge the success of pledge employers and to provide them with assistance, if requested; and 4) an Award program that provides recognition to those employers who have made substantial progress in implementing the Best Practices.

Achieving all of the goals of the Best Practices is aspirational. The capacity of an employer to implement them will often be affected by the size of the employer and the nature of its practice. Achievement of the goals will be tailored and scaled based upon the size of the employer entity. We recognize that public employers are bound by the rules of civil service and that private employers must be responsive to the particular practice needs of their clients. We

¹ See, for example, the Report of the MIT Workplace Center, "Women Lawyers and Obstacles to Leadership" (2007); the Report of the Committee on Women in the Profession of the New York City Bar (2006); American Bar Association Commission on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms* (2005); 2005 Self-Audit for Gender and Minority Equity, *A Research Study of Minnesota Law Firms, Non-Firm Employers and Individual Lawyers*, Task Force on Diversity in the Profession of the Minnesota State Bar Association (Sept. 2006); American Bar Association Commission on Opportunities for Women in the Profession, *The Unfinished Agenda: Women and the Legal Profession* (2001); Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession. 64 Fordham L. Rev. 29 (1995).

also recognize that issues of governance, compensation and retention in private firms are rarely decided solely by management fiat. We are also convinced, however, that true equality of opportunity will be reflected in overt results, which can be recognized and rewarded.

Although the charge of this Task Force focuses on issues of gender equity, we recognize that people of color and members of the gay, lesbian, bisexual and transgender community also face challenges within the legal profession. Those challenges may be similar to those identified here or of even greater severity where issues of gender intersect with those of race and ethnicity or sexual orientation. In particular, the challenges faced by women of color in the legal profession have been well-documented in the areas of hiring, training, mentoring and advancement. Accordingly, we expressly recognize the need for Best Practices, self-audits and professional recognition in all efforts directed toward the enhancement of full and equal opportunities for all members of our profession.

BEST PRACTICES

I. EQUAL ACCESS ISSUES

It is a Best Practice of employers in the legal profession to:

- a. Provide women with access to employment that provides opportunities and a work environment that is consistent with these Best Practices.
- b. Provide women with real opportunities for equal access to clients and equal opportunities for challenging work assignments using approaches such as merit succession and practice plans reviewed and adopted by the legal employer's management;
- c. Provide women commensurate training, financial support, recognition and compensation for developing sustainable and growing practices and establishing community reputations;

- d. Create inclusive environments in the workplace and in the lawyers' informal gatherings and social events;
- e. Create opportunities for all junior lawyers to have access to more senior lawyers for training, evaluation, networking, and mentoring purposes;
- f. Provide women internal and external access to and the use of leadership training;
- g. Recognize women's participation in community and social activities, including service on committees and boards, at the same level as for men, as a value to legal employers;
- h. Periodically review scheduled meetings or events, including marketing events, to ensure that all lawyers have the opportunity to participate in meetings and activities.

Task Force Comments:

Providing support for networking with other lawyers aids women where there is not a critical mass of women lawyers.

Legal employers should provide and routinely monitor equal access to work and clients for all lawyers in all practice areas, including establishing succession plans for equal access to clients of retiring attorneys.

Legal employers should provide opportunity and support for all types of marketing and networking activities including those non-traditional

activities such as theater, arts, and family activities, as well as the more traditional opportunities such as golf and sporting events.

Marketing, community involvement, education, speaking, and networking opportunities specifically targeting women lawyers, clients, and potential clients should be encouraged and supported financially. Women should be included in all traditional marketing efforts as well.

II. WORKDAY ISSUES

It is a Best Practice of employers in the legal profession to:

- a. Offer equitable and viable alternative work schedules that demonstrate flexibility, including but not limited to reduced hours;
- b. Provide adequate technology support staff and other resources to maximize lawyers' productivity and to support their needs consistent with their work schedules;
- c. Adopt and implement formal and informal mentoring programs;
- d. Adopt and enforce anti-discrimination and anti-harassment policies, address gender inequity, discrimination and sexual harassment²;
- e. Adopt and implement policies and procedures to investigate and enforce complaints of gender inequity, discrimination, or harassment;

² Consistent with the Connecticut Fair Employment Practices Act, C.G.S. Sec. 46a-60 et. seq. and the Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e. et. Seq. as amended by 42 U.S.C. Sec. 1981a. Poor practices in the workplace adversely affect the morale of attorneys.

- f. Obtain, analyze and communicate to all lawyers data about gender equity within their organization;
- g. Support gender equity at all management levels through action and words and communicate the support to the entire organization.

Task Force Comments:

Adequate technology includes remote access to firm data base, computers and programs and appropriate remote legal research access, voice mail, and paralegal or clerical support.

In addition to offering reduced hours and flexible work schedules, employers should work to create an environment in which lawyers feel comfortable using those schedules.

Management's support of gender equity should carry with it the expectation that all members of the organization will be committed to gender equity within the organization.

III. GOVERNANCE

It is a Best Practice of employers in the legal profession to:

- a. Ensure meaningful representation and participation of women in all levels of management.
- b. Gather and internally disseminate statistical information regarding gender representation in hiring, retention and governance. Gather and review promotion and compensation decisions regarding women in the firm by the appropriate committee.

- c. Charge a person and/or a committee with promoting diversity, including gender equity.

Task Force Comments:

The Task Force is not suggesting that there should be quotas in management based upon gender. Whether or not women are proportionately represented in the governance of the employer, however, is one reflection of the employer's success in achieving gender equity.

Data should be kept and regularly reviewed regarding all aspects of the process of hiring, promotion, retention, compensation and governance. The employer should also cooperate with the efforts to generate statistics for the Connecticut Survey of Women in the Legal Profession.

The Task Force is mindful that this Best Practice provision is the most directory practice of those included in that it charges the employer with achieving a certain result. While the Task Force is sensitive to the competing pressures on employers, without this provision these Best Practices cannot be achieved. Without women involved in a meaningful way and in meaningful 'numbers' in decision making, the work environment will not successfully evolve to a friendly place for women attorneys. This, of course, will adversely affect hiring and retention for the employer.

IV. EVALUATION AND PROMOTION ISSUES

It is a Best Practice of employers in the legal profession to:

- a. Apply uniform standards for advancement of men and women within the organization;
- b. Recognize and reward lawyers for mentoring and encouraging the advancement of women within the firm;
- c. Review lawyers' treatment of others and address inappropriate behaviors;
- d. Recognize women informally and/or through formal recognition programs for their achievements in all areas of legal practice, including recruiting, marketing and mentoring;
- e. Establish an evaluation process that is transparent and applied equitably for men and women.
- f. Establish a process that provides attainment of these Best Practices and identification of support that would be helpful to achieving all of the goals.

Task Force Comments:

Employers should have both male and female employees available to receive and review complaints. Complaints should be handled discreetly, and complaining parties shall not (and may not, as a matter of law) be subject to retaliation. Senior management should be responsible for addressing behavior that reflects conscious or unconscious stereotypes and creates or fosters a perception of gender bias. Such behavior may include language, excluding

someone from an event or type of work, lack of civility and other inappropriate behavior, or failing to provide adequate alternative marketing opportunities.

Being valued was cited as an important reason why women said they stayed with firms and not being valued was a reason why they left. For public employers, recognition is especially critical as merit compensation is not usually available.

Time spent in mentoring has value to an employer. Mentoring like marketing is an investment in the future of the law firm. Mentoring programs include internal and external leadership programs.

Established time frames, practice goals and practice planning enable both lawyers and their employers to fairly evaluate progress. They also aid in training and promote equality in opportunities to progress toward promotion.

V. RETENTION

It is a Best Practice of employers in the legal profession to:

- a. Conduct exit interviews of all departing lawyers to determine the reasons for their departure;
- b. Address gender inequity in retention rates for attorneys at all levels.

Task Force Comments:

Exit interviews should include an inquiry into the reasons for leaving and promote discussions about all aspects of firm management and culture. Employers should use the information learned in exit interviews to improve retention. The literature on the economics of law firms is replete with

documentation of the high cost of losing attorneys, and, the corresponding importance of retention.³

VI. COMPENSATION ISSUES

It is a Best Practice of employers in the legal profession to:

- a. Establish non-discriminatory bases for compensation decisions within the organization;
- b. Promote the participation of women in compensation decisions;

Task Force Comments:

Legal employers should routinely analyze the compensation process and results to make sure that there is no gender bias in the decision-making process. Employers should assure transparency in the bases for compensation for women and men in the organization, which is a good governance practice in all cases.

THE PLEDGE

The Task Force asks that private firms, law departments, and employers of public lawyers pledge to promote these “Best Practices” in their places of employment and in other ways to promote the goal of achieving full participation of all lawyers in the legal profession.

³ WorkLife Law, UC Hastings College of Law, *Better on Balance? The Corporate Counsel WorkLife Law Report*, The Project for attorney Retention; Corporate Counsel Project (Dec. 2003).

MONITORING AND ASSISTANCE

The Task Force recommends that the standing committee of the Bar, Women in Law Committee monitor the progress of signatories to the Pledge, offer signatories assistance in realizing the goals of the Pledge, recognize adherence and responsiveness to the goals of the Pledge and develop other programs designed to achieve gender equity in the profession.

Biennially, the firm will file its written plan for pledge compliance with the Women in Law Committee. The plan will include a report of the firm's self-evaluation on progress made by the firm in pledge goal attainment to date.

Biennially the firm representative(s) will attend a program sponsored by the Women in Law Committee regarding the purposes and goals of the pledge and strategies for achieving goals.

Upon 'complaint' from an associate or request from the firm it will work collaboratively with the committee to address shortfalls in compliance with the pledge. This, of course, will occur in an entirely privileged environment such that all information shared will be unable to be introduced in any litigation, arbitration or administrative proceedings.

RECOGNITION: GENDER EQUITY AWARDS

The Task Force recommends that employers who demonstrate substantial progress in their implementation of these Best Practices be recognized with a

Gender Equity Award, as determined by the Women in Law Committee of the CBA.