

Elimination Of Bias

1. WHAT LAWYERS MUST DO

ABA Model Rules of Professional Conduct

Rule 8.4: Misconduct

Maintaining The Integrity Of The Profession

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
- (g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the

practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

CA Rule of Professional Conduct 2-400

(B) In the management or operation of a law practice, a member shall not unlawfully discriminate or knowingly permit unlawful discrimination on the basis of race, national origin, sex, sexual orientation, religion, age or disability in:

1. hiring, promoting, discharging, or otherwise determining the conditions of employment of any person; or
2. accepting or terminating representation of any client.

California Code of Judicial Ethics

Canon 3: A Judge Shall Perform The Duties Of Judicial Office Impartially, Competently, And Diligently

C. Administrative Responsibilities:

1. A judge shall diligently discharge the judge's administrative responsibilities impartially, on the basis of merit, without bias or prejudice, free of conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary. A judge shall not, in the performance of administrative duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias

or prejudice, including but not limited to bias or prejudice based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment...

3. A judge shall require staff and court personnel under the judge's direction and control to observe appropriate standards of conduct and to refrain from manifesting bias or prejudice based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation in the performance of their official duties."

Courses required by AB 1825 (mandatory sexual harassment awareness and prevention training for personnel managers) are approved by the ABA for elimination of bias credit.

California Department of Fair Employment and Housing mandates that employers have duty to take reasonable steps to prevent and correct discriminator and harassing conduct and to create a workplace free of harassment. We have provided the 2017 brochure produced by the DFEH.



Honorable Roy O. Chernus of the Marin Superior Court has been with the Court since 2006. Previously, Judge Chernus was Executive Director for Legal Aid of Marin. He has

been the recipient of numerous awards including: YMCA of San Francisco Volunteer of the Year, for his work with Marin Youth Court; Martin Luther King, Jr. Humanitarian Award, and Lawyer of the Year recognition by the MCBA.

2. WHAT LAWYERS CAN DO!

Consider:

1. "Like Me" syndrome—with whom do you feel comfortable/safe?
2. Stereotypes—efficient or biased?
3. Ignorance of laws—some don't know sexual harassment is illegal.
4. Laziness—thinking this is up to the minority population—not seeing the importance of "allies."
5. Outright prejudice—that too can be worked on!

Take Actions:

1. Establish Policies & Practices in Firms
2. Education—Know the Law
3. Mentoring of Diverse Lawyers
4. Publicity—State Non-Discrimination Position
5. Honest Self-Examination—Look at How You Might Be Biased

"The legal system can force open doors, and, sometimes, even knock down walls. But it cannot build bridges. That job belongs to you and me."

Justice Thurgood Marshall



Barbara Monty JD, is a trial attorney with Monty White LLP and a mediator with Resolution Remedies. Barbara has mediated and arbitrated a wide variety of disputes for over 30 years.

She has been recognized for her pioneering work in preventing elder abuse and has mediated disputes for the Human Rights Commission. Barbara and Eileen are writing a book to help lawyers and mediators to use forgiveness in their work

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