

Minnesota State Bar Association

**SELF-AUDIT FOR GENDER EQUITY
(SAGE)**

**SURVEY OF PUBLIC EMPLOYERS
1997 - 1999**

Women in the Legal Profession Committee

December 22, 2002

SAGE EXECUTIVE SUMMARY
Public Employers

Introduction and Overview

In 1997, the MSBA developed the SAGE (Self Audit for Gender Equity) Program upon the recommendation of the 1997 Women in the Legal Profession Task Force in order to study issues and to find ways to promote and aid gender equity in the legal profession in Minnesota. In 1999 and again in 2002, the MSBA's Women in the Legal Profession Committee reported the statistics for the private law firms generated from the surveys. The latest summary reported the first five years findings for the law firms for the period from 1996 to 2000.

The purpose of SAGE is to further the elimination of gender bias in the legal profession by providing information to legal employers about a number of demographic and cultural aspects of legal employment, ranging from hiring, retention and promotion to marketing, professional development, and life balance. The SAGE program has three elements: an annual objective survey of legal employers, an annual attitudinal survey of their lawyers, and a commitment to certain guiding principles. The MSBA intends to aid the efforts of individuals and legal employers by gathering and providing information provided by the surveys, as well as by developing further programs to aid the achievement of gender equity.

In addition to the survey of private firms, the Committee felt that it was important to seek similar information regarding the hiring, promotion, and retention of women lawyers from "public employers." The data received from the public legal employers responding covered the period from 1997 to 1999. As with the private employers, the public employers were asked to provide information about hiring practices, retention and promotion, involvement in governance, compensation, work life and culture, anti-discrimination and sexual harassment, and professional growth.

The objective surveys were developed by the MSBA Women in the Legal Profession Committee working with the University of Minnesota Center for Survey Research. Surveys were sent to 66 public legal employers which had volunteered to participate. The employers asked to participate included county attorneys, courts, city attorneys, public defenders, legal service organizations, and law schools. Questionnaires were completed and returned by 39 Minnesota public legal employers, for an overall response rate of 60%. As shown in Table 1, 39 public employers completed the survey. The employers were evenly divided among small, medium and large employers. A list of the participating employers is attached as an appendix.

Table 1: Size of Employer

Frequency	%	
13	(34)	1 - 10 lawyers
10	(26)	11 - 25 lawyers
12	(32)	26 - 65 lawyers
0	(-)	66 - 100 lawyers
3	(8)	More than 100 lawyers
1		BLANK

As might be expected, given law school graduation rates of between 40-50% for women during the 1990s, women appear to be entering employment with public employers at rates equal to or higher than the national average. In fact, the numbers reported for attorneys with less than five years of experience reflected 71% women and 29% men. The differential drops significantly for persons with more than five years of experience (46% women) or in supervisory positions (34% women).

On December 31, 2000, the 39 public employers studied employed 256 attorneys with less than five years experience, 559 non-supervisory attorneys with more than five years experience, 150 supervisory attorneys or division heads, 22 temporary attorneys, and 248 other attorneys.¹ Across all categories, 51% of the lawyers employed by these organizations were male and 49% were female. Women were more likely to be employed in non-supervisory positions; 53% of the non-supervisory attorneys were female and 34% of the supervisory attorneys were female.² These numbers differ dramatically from the private employers, where 44% of the associates were female, and 18% were equity partners.

Table 2: Composition of Reporting Employers

1997 - 1999		
Type of Position	# of Male Lawyers	# of Female Lawyers
Summer positions or clerks	185	187
	(50%)	(50%)
Attys w/less than 5 years experience	75	181
	(29%)	(71%)
Non-supervisory attys w/more than 5 yrs experience	301	258
	(54%)	(48%)
Supervisory attys/Dept. heads	99	51
	(66%)	(34%)
Temporary attys	13	9
	(59%)	(41%)
Other	142	106
	(57%)	(43%)

¹ The fact that non-traditional public employers such as law schools and courts were included in the group studied may account for the large number of attorneys falling into the “other” category.

² The “other” category was not calculated into these figures.

A. HIRING

1) Special Efforts to Hire Female Attorneys

Unlike the private employers, the public employers are less likely to make a special effort to recruit female attorneys; 64% reported making no special efforts. Women participated in all levels of recruiting and hiring with women playing a major role in the screening of applicants (53%) and in making recommendations about hiring new law school graduates. Female participation in the hiring of lateral attorneys and supervisory attorneys was similar, with 48% reporting that women lawyers are involved in screening of these candidates, and 57% reporting women are involved in making recommendations about hiring. 83% of the public employers reported that final hiring decisions were made by one person with that person being male 81% of the time. When final hiring decisions were made by a group, women participated in that group on almost an even basis (47% female, 53% male).

2) Offers

Data was requested regarding the numbers of offers made to males and females. See Table 3. The numbers show that in terms of hiring, women receive and accept more offers for non-supervisory employment by these employers, but receive and accept equal or fewer offers for supervisory positions. According to statistics from the ABA and National Association for Law Placement, the ratio of male to female law graduates at the present time is 1:1. For the participating employers, women are being offered non-supervisory positions at a rate significantly above that at which they are graduating from law school. Women supervisors, however, are being hired at the same rate or less often than males. Interestingly, the percentage of women receiving offers for supervisory positions dropped over the three years studied, from

even numbers to more men receiving offers. Men accepted the supervisory offers at a higher rate than women.

Table 3: Offers

	1997	1998	1999
Type of Position	Male:Female	Male:Female	Male:Female
Non-supervisory	1.0:1.5 (21:36)	1.0:1.7 (22:32)	1.0:1.6 (33:56)
Supervisory	1.0:1.0 (8:8)	1.0:1.0 (5:5)	1.6:1.0 (10:6)

Table 4: Male and Female Lawyers Accepting Offers

	1997	1998	1999
Type of Position	Male:Female	Male:Female	Male:Female
Non-supervisory	1.0:1.4 (41:59)	1.0:1.8 (35:65)	1.0:2.0 (33:67)
Supervisory	1.2:1.0 (5:4)	2.0:1.0 (2:0)	1.2:1.0 (10:8)

B. PROMOTION AND RETENTION

A number of articles and reports have indicated that women are not being promoted at a rate commensurate with men and that women are leaving the profession at a faster rate than men. The data shows that women with fewer than five years experience left their public legal employment at approximately the same rate as they were hired during the years surveyed, approximately 62%. Males with fewer than five years experience also left proportionately. Women with more than five years experience, whether in supervisory or non-supervisory roles, left at rates approximately equal to that of their male counterparts with the exception of the last year studied. In 1999, men left at a rate almost twice that of the women (62%:38%).

Table 5: Numbers of Lawyers Leaving Employment (both voluntarily and involuntarily)

	1997		1998		1999	
	Male	Female	Male	Female	Male	Female
Attys w/less than 5 years	24 (39%)	38 (61%)	27 (36%)	47 (64%)	30 (41%)	44 (59%)
Non-superv. W/more than 5 years	11 (46%)	13 (54%)	8 (50%)	8 (50%)	20 (62%)	12 (38%)
Supervisory/ Dept heads	3 (75%)	1 (25%)	4 (57%)	3 (43%)	1 (33%)	2 (67%)
Other	0 (-)	0 (-)	3 (60%)	2 (40%)	5 (83%)	1 (17%)

The public employers were surveyed about where attorneys were going when they left their employ. See Table 6. The results show that 64% of all men (where the information was available), supervisory and non-supervisory, go to private law firms. Women are also more likely to go to private law firms, with 58% going to private firms. There was a difference in the numbers of men and women leaving to take time for family responsibilities. No males were reported to have left for family reasons, while 6% of the women left for family reasons. (Results for the “other” category, which included “don’t know”, deceased or retired, and other type of employment are not included with these statistics.)

Table 6: Destination for Male & Female Lawyers leaving employment during 1999

Type of Position	Corporate or Business Law		Gov’t/Public		A private Law Firm		Taking time for Family respons		Other (don’t Know, ret’d)	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Attys w/less than 5 years	0 (-)	1 (100%)	4 (31%)	9 (69%)	23 (48%)	25 (52%)	0 (-)	2 (100%)	19 (41%)	27 (59%)
Non-superv. w/more than 5 years	0 (-)	0 (-)	11 (65%)	6 (35%)	4 (67%)	2 (33%)	0 (-)	0 (-)	4 (57%)	3 (43%)
Supervisory/ Dept heads	0 (-)	0 (-)	0 (-)	1 (100%)	0 (-)	2 (100%)	0 (-)	0 (-)	2 (100%)	0 (-)
Other	0 (-)	0 (-)	0 (-)	1 (100%)	0 (-)	0 (-)	0 (-)	1 (100%)	2 (67%)	1 (33%)

C. INVOLVEMENT IN GOVERNANCE

One area of concern as reported in the 1998 Report of Private Law Firms was the level of women representation in governance. In the study of public employers, the numbers reflect that, with the exception of the diversity committee, men outnumber women in representation on committees. For example, men significantly outnumber women on the compensation committee (75%:25%)³, promotion (73%:27%), executive/management (66%:34%), long range planning (62%:38%), new attorney (62%:38%), and technology (62%:38%). The split on the diversity committee was 58% women and 42% men.

D. COMPENSATION

Several studies have found discrepancies between male and female lawyers in the area of compensation. Assuming that there would be considerably less discretion regarding decisions with respect to compensation among public employers, SAGE inquired into how compensation decisions are made at the organizations. With respect to supervisory positions, compensation was predominantly set by legislative or board decision (43% supervisory, 63% division head/lead attorneys). With non-supervisory positions, the decisions are made by a mix of means. See Table 5 below. Approximately 27% of the employers reported these decisions being made by legislative or board decision, 7.5% report a lock-step seniority system, 30% report that compensation is set by collective bargaining only, 17% report that collective bargaining sets the range, but that the actual decision is based on other factors as well, 12% report supervisors make the decision, and 6% report that compensation is determined by a mix of seniority and supervisor decision.

³ Given that the public employers only reported 4 lawyers on compensation committees, this number may not be statistically significant.

Table 7: How Compensation Decisions are Made

Type of Position	Comp set By Legis/ Bd. Dec. Only	ActualComp. Set by Seniority (Lock-step)	Comp. Set by Collect. Barg'g	Comp range Set by Coll Barg'g/other Factors cons'd	Actual Comp. Set by Superv.	ActualComp. Set by Seniority & Superv.	Blank
Attys w/less than 5 years	10 (29%)	2 (6%)	10 (29%)	6 (18%)	4 (12%)	2 (6%)	5
Non-superv. w/more than 5 years	8 (25%)	3 (9%)	10 (31%)	5 (16%)	4 (12%)	2 (6%)	7
Supervisory/ Dept heads	12 (43%)	2 (7%)	1 (4%)	3 (11%)	6 (21%)	4 (14%)	11
Other	19 (63%)	2 (7%)	1 (3%)	3 (10%)	4 (13%)	1 (3%)	9

SAGE surveyed differences in monetary compensation between male and female attorneys by examining the gender makeup of the top quartile of earners and bottom quartile of earners at each employer. Ideally, the results would reflect compensation similar to the gender ratio of attorneys in each category.

From 1997-1999, the average distribution of male and female attorneys with less than five years experience in the public employers surveyed was 29% male and 71% female. Yet, in regard to compensation at the highest quartile for these attorneys, these males were disproportionately more likely to be in the top quartile of earners (44%). The bottom quartile was more reflective of the actual percentages of males and females in these positions. Male attorneys made up 32% of the bottom quartile and females made up 68%. See Table 8.

In the category of non-supervisory attorneys with more than five years of experience, the overall population was more evenly split with 54% being male, and 46% being female. Again, males were more likely to fall into the top quartile of earners in this group, with 65% of the top earners being men, and 35% being women. At the bottom quartile of earners, however, the

numbers again more accurately reflect the attorney population in this category with 50% men and 50% women falling into this category.

Only in the supervisory category did the compensation closely match the percentages of women and men in these positions in both the top and bottom quartiles. Women made up 34% of the supervisory attorneys and division heads in the public employers surveyed. They also made up 36% of the top quartile earners, and 33% of the bottom quartile earners.

Table 8: Male and Female Lawyers in Top and Bottom Quartiles for Compensation

Type of Position	Top Quartile Earners		Bottom Quartile Earners	
	Male	Female	Male	Female
Attys w/less than 5 years	4 (44%)	5 (56%)	9 (32%)	19 (68%)
Non-superv. w/more than 5 years	54 (65%)	29 (35%)	14 (50%)	14 (50%)
Supervisory/ Dept heads	30 (64%)	17 (36%)	4 (66%)	2 (33%)
Other	15 (58%)	11 (42%)	0 (-)	0 (-)

Public employers also were asked about the criteria used in making compensation decisions. Overall, the public employers reported that the factors taken into consideration did not vary significantly based upon years of experience. The criteria most frequently cited were: client/board feedback, communication skills, efficiency of legal work, quality of legal work, trial skills, and results of performance evaluations. Decisions with respect to compensation for those individuals in supervisory positions appear influenced by similar criteria, although the importance of the legal skills (efficiency, quality, and trial skills) were cited less often, while supervisory experience and organization administration and committee involvement were more important for these individuals than for those in non-supervisory positions.

E. WORK LIFE AND CULTURE

As noted in the 1998 Report, it has been reported that female attorneys have more difficulty competing with male peers due to family and time pressures. The SAGE survey assessed the impact of family issues on lawyers by obtaining information about the policies and practices in place concerning family issues. Employers were asked to answer questions dealing with parental leave, sabbaticals, alternative work schedules, child care and other job-related benefits and services.

Over the period of time surveyed, 94% of the public employers reported having a written parental leave policy. Almost all of those policies provide for parental leave for adoption. Approximately two thirds of the employers allow for paid leave for some, if not all, lawyers (51% all; 11% some). Female attorneys exercise their right to parental leave more often, though the men have used it as well. See Table 9.

Table 9: Lawyers taking Parental Leave

Type of Position	Calendar Year 1997		Calendar Year 1998		Calendar Year 1999	
	Male	Female	Male	Female	Male	Female
Attys w/less than 5 years	3 (30%)	7 (70%)	2 (18%)	9 (82%)	0 (-)	5 (100%)
Non-superv. w/more than 5 years	3 (17%)	15 (83%)	7 (39%)	11 (61%)	4 (27%)	11 (73%)
Supervisory/ Dept heads	0 (-)	0 (-)	1 (33%)	2 (67%)	0 (-)	3 (100%)
Other	0 (-)	0 (-)	0 (-)	2 (100%)	0 (-)	1 (100%)

Only 7 public employers (21%) reported that they do not allow alternative work schedules. In 1999, it appears that quite a few individuals from public employers were taking advantage of various alternative work schedules, with men often outnumbering women in these

categories. Public employers reported that they had employees doing part time work (35%), job-sharing (15%), using flexible hours (38%) and some level of telecommuting (9%).

Over the time period surveyed, the numbers of both men and women taking advantage of alternative work schedules increased, especially among non-supervisory attorneys with five or more years of experience. See Table 10. Interestingly, among attorneys in the supervisory or division head/lead attorney categories, the numbers of male lawyers making use of alternative work schedules outnumbered the number of women using such schedules. Among the attorneys with less than five years of experience, however, women using alternative work schedules outnumber the number of men using such schedules almost 3 to 1, with the numbers becoming more even as they gain more experience (approximately 45% men to 55% women). The employers reported that the majority of the lawyers choosing to use alternative work schedules did so for family reasons (79%).

Table 10: Lawyers Making Use of Alternative Work Schedules 1997-1999

Type of Position	Calendar Year 1997		Calendar Year 1998		Calendar Year 1999	
	Male	Female	Male	Female	Male	Female
Summer/Temporary	0 (-)	1 (100%)	1 (100%)	0 (-)	7 (44%)	9 (56%)
Attys w/less than 5 years	1 (25%)	3 (75%)	2 (29%)	5 (71%)	5 (28%)	13 (72%)
Non-superv. w/more than 5 years	28 (47%)	31 (53%)	30 (48%)	33 (52%)	76 (43%)	99 (57%)
Supervisory/ Dept heads	32 (63%)	19 (27%)	34 (63%)	20 (27%)	35 (62%)	21 (28%)
Other	3 (75%)	1 (25%)	3 (75%)	1 (25%)	28 (57%)	21 (43%)

F. ANTI-DISCRIMINATION AND SEXUAL HARASSMENT

Employers were asked about anti-discrimination and anti-sexual harassment policies and training, and evaluation of lawyers on their attitudes toward diversity/gender bias. Of the public employers responding to the questionnaire, 97% have adopted policies that cover gender discrimination and sexual harassment. The majority of these policies were adopted more than five years ago. Most employers also reported having instituted training for anti-discrimination and anti-sexual harassment which is open to all employees. The training is mandatory in the majority of the organizations.

All employers reported having procedures and practices in place for receiving gender discrimination and sexual harassment complaints. The methods used predominantly involved having a designated person available to receive complaints, be they male, female, affirmative action officer, supervisor or division head.

Public employers also are frequently evaluating a lawyer's attitudes toward diversity/gender bias. 36% reported routinely evaluating attitudes at the time of hire, and 23% also routinely evaluate attitudes during periodic performance evaluations. When problems arise, 58% of the employers indicated that they evaluate a lawyer employee's attitudes about these issues.

G. PROFESSIONAL GROWTH (LEGAL SKILLS)

The SAGE survey asked for information about day to day work issues and long term professional growth concerns. This was done in order to set a baseline for tracking future progress. With respect to formalized criteria for distribution of work, 63% of the public employers reported having such a system for all attorneys.

Fewer public employers had formal or informal mentoring programs than private law firms. Only 3% of the public employers reported having formal programs, while 66% had informal programs. Of those with programs, 84% reported that any lawyer, regardless of position, who wanted or needed mentoring, received a mentor.

The majority of the public employers perform performance evaluations. Only 8% reported no periodic performance evaluations. Of those with regular evaluations, 74% reported conducting them for all attorneys, with a few conducting them only for newer or non-supervisory attorneys. Of those organizations reporting some form of performance evaluation, 91% are being performed on an annual basis.

CONCLUSION

The results from the public employers survey of the SAGE program show promise for women in the legal profession. Overall, the employment numbers for women are positive with more women being employed by public employers than their male counterparts. These numbers even out, however, the longer the women are out of law school. Another positive trend to be gleaned from the public employers survey is that women are not leaving their public legal employment at disproportionate rates; rather both men and women leave at approximately the same rates and for similar opportunities. Also, alternative work schedules are frequently offered by public legal employers and are being used equally by women and men.

More progress can be made, however. According to the survey, men outnumber women on committees particularly those committees involving important decision-making (e.g.: compensation, promotion, management). Compensation is still an area where progress can be made as men are more likely to be higher earners in their first years out of school than women. Overall, the public employers survey presents encouraging data regarding the hiring, retention, and promotion of women.

APPENDIX A

SAGE PARTICIPANTS: PUBLIC EMPLOYERS

Anoka County Attorneys Office	Anoka County Public Defenders Office
Carver County Attorneys Office	Central Minnesota Legal Services
City of Bloomington	City of Rochester
City of St. Cloud	Dakota County Attorneys Office
Eighth Judicial District	Federal Public Defenders Office - Mpls Office
Fifth Judicial District	Fourth Judicial District
Hamline University School of Law	Hennepin County Attorneys Office
Internal Revenue Service - St. Paul Office	Lawyers Professional Responsibility Office
Minnesota Supreme Court	Minnesota Tax Court
Office of Administrative Hearings	Olmstead County Attorneys Office
Public Defenders Office - Third Judicial District	Public Defenders Office - Fifth District
Public Defenders Office - Sixth District	Public Defenders Office - Seventh District
Public Defenders Office - Eighth District	Ramsey County Attorneys Office
Ramsey County Public Defenders Office	Scott County Attorneys Office
Second Judicial District	Seventh Judicial District
Sherburne County Attorneys Office	Stearns County Attorneys Office
United States Court of Appeals - Eighth Circuit	United States Department of Justice - Office of US Trustee - Mpls Office
United States District Court for the District of MN	William Mitchell College of Law
Workers Compensation Court of Appeals	Wright County Attorneys Office