ABA Policy on Issues Concerning Women/Gender Equality - Updated 2/16/17

Bias in the Judicial System

Support the enactment of authoritative measures, requiring studies of the existence, if any, of bias in the federal judicial system, including bias based on race, ethnicity, gender, age, sexual orientation and disability, and the extent to which bias may affect litigants, witnesses, attorneys and all those who work in the judicial branch; urge that such studies should include the development of remedial steps to address and eliminate any bias found to exist. 8/91

Convention on the Elimination of Discrimination Against Women

Urge ratification of the Convention, subject to: (1) a reservation to preserve federal-state divisions of authority; and (2) a declaration that the Convention's substantive provisions are not self-executing. 8/84

Support in principle the development of an optional protocol to the Women’s Convention providing for an individual right of petition as called for in the Platform for Action adopted at the Fourth World Conference on Women. 2/96

Denial of Insurance Benefits

Urge enactment of legislation to provide that no person or entity could deny insurance benefits solely on the basis of the applicant's status as a victim of domestic violence. 2/95

Discrimination Based on Sex

Urge law schools and law firms to refrain from discriminating against women. 8/72

Favor enactment of legislation to ensure that employers are prohibited from discriminating against applicants or employees on the basis of marital status. 2/74

Support legislation that prohibits discrimination in credit practices by creditors against individuals on the basis of sex or marital status. 2/74

Urge prompt, vigorous and effective implementation of Title IX of the Education Amendments Act of 1972, which promotes equal educational opportunity without regard to sex, to the full extent of the powers granted in the statute. 8/75

Oppose the provision of federal financial assistance for institutions which discriminate in any of their operations on the basis of sex, race, color, national origin, age or disability, support legislation which restores the principle of requiring non-discrimination throughout an institution receiving federal financial assistance. 2/86

Reaffirms policy adopted in 1975, urging the vigorous and effective enforcement of Title IX of the Education Amendments of 1972, to clarify that retaliation constitutes a form of discrimination prohibited by Title IX for which a private right of action exists to enforce the statute. 04A301
Discrimination in Compensation

Urges Congress to amend Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(e), and federal age and disability employment discrimination laws to ensure that in claims involving discrimination in compensation, the statute of limitations runs from each payment reflecting the claimed unlawful disparity. 07A302

Urges Congress to enact legislation that would provide more effective remedies, procedures and protections to those subjected to pay discrimination, including discrimination on the basis of gender, and would help overcome the barriers to the elimination of such pay discrimination that continue to exist. 10M107

Discrimination in the Court System

Support legislation to provide for the random selection of jurors and to prohibit discrimination in juror selection on account of race, color, religion, sex, national origin or economic status, in federal or state courts. 8/67

Urge judicial leaders to encourage and promote the full participation in the work forces of the court systems under their jurisdiction of all persons regardless of their race, sex, color, national origin, religion, age or handicap. Encourage adoption of merit-based personnel systems that encompass all facets of court personnel management, including recruitment, hiring, training, promotion and advancement; urge incorporation of affirmative action values in deciding whom to recommend and appoint to judicial positions. 90M106B

Encourage implementation of equal employment opportunity and affirmative action plans and programs in the courts. 2/90

Amends Principles 2(B) and 6(C) of the ABA Principles for Juries and Jury Trials to include marital status, gender identity and gender expression to the groups which should not be excluded from jury service, and to recommend that jurors be educated as to implicit bias and how to avoid such bias in the decision making process. 16A116

Discrimination in Housing

Support legislation to prohibit discrimination on the basis of sex in the sale or rental of housing or in granting mortgage credit. 8/74

Support legislation to prohibit discrimination on basis of race, color, creed, sex or national origin in the sale or rental of housing; supports legislation to strengthen the enforcement mechanisms of fair housing legislation and extend protection to the handicapped and families with children. 2/80; 8/87

Support legislation that prohibits discrimination in housing against victims of domestic violence; urge adoption and enforcement of regulations to combat such discrimination. (03M106B) 2/03
**Discrimination in the Judiciary**

Urge appointing authorities to ensure that there are no barriers to the selection of women and minorities as judges and for service on merit selection judicial nominating commissions. 86A120

**Discrimination in the Legal Profession**

Oppose bias and discrimination based on race and gender that prevent multicultural women from gaining full and equal participation in the legal profession, and actively support efforts to eradicate such bias and discrimination. 2/95

**Discriminatory Hiring Practices**

Strongly condemn all forms of discriminatory hiring practices within the legal profession, whether on the basis of sex, religion, race or national origin. 2/72

**Diversity on Corporate Boards**

Urge public companies to diversify their boards and to include board composition in public disclosure materials. 2/16

**Domestic Violence**

Condemn the manifestation by lawyers or judges by words or conduct of acts which would either constitute domestic violence or approval, in the course of their professional activities, of the use of domestic violence, stalking, or sexual assault under the laws of their jurisdictions. Urge judges and lawyers to adopt workplace protocols, guidelines, and policies to assist employees who are victims of domestic violence and to protect the safety of employees who may come in contact with batterers during the course of business. Encourage affirmative steps to educate judges and lawyers about the nature and effects of domestic violence. 8/96

Approves the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, promulgated in 2000 and amended in 2002, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act, as promulgated in 2000, addresses the interstate enforcement of protection orders arising in a domestic-violence or family-violence context. In 2002, the Act was substantively amended to also cover orders arising under an issuing state’s anti-stalking laws. The Act as amended is designed to make implementation of the “full faith and credit“ mandates of these orders more feasible. 03M113E

Urges federal, state, local, territorial and tribal governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad and urging Congress to enact and fund the International Violence Against Women Act of 2007 or similar legislation. 08A109.
Adopts the Model Workplace Policy on Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking. Encourages all public and private employers — including governments, law schools and the legal profession — to enact formal policies on the workplace responses to domestic violence, dating violence, sexual violence and/or stalking which address prevention and remedies, provide assistance to employees who experience violence, and which hold accountable employees who perpetrate violence. 112A

Condemns forced marriage as a fundamental human rights violation and a form of family violence and of violence against women. Urges governments to amend existing laws or enact new laws to prevent forced marriages in the United States or involving U.S. citizens or residents and to protect and support individuals threatened by forced marriage. Urges governments to collaborate with legal, social services and advocacy organizations to develop victim-centered legal remedies and to promote training for judges, prosecutors, law enforcement, child protection authorities, victim-witness advocates and attorneys. 112B

Recognizes freedom from domestic, dating and sexual violence and stalking and all other forms of gender-based violence as a fundamental human right and urges governments to recognize, enact and adopt resolutions affirming the right of all women, men and children to live free from domestic, dating and sexual violence and stalking. 15A109C

**Education Free From Gender-Based Violence**

Urges the federal government to adopt legislation and appropriate full funding to support the U.S. Department of Education Office for Civil Rights, in support of its efforts to enforce Title IX of the Education Amendments of 1972 and other activities designed to promote access to education free from gender-based violence. 15A109A

**Employment of Women in the Criminal Justice System**

Urge strengthened recruitment and training programs to assure increased employment of women throughout the criminal justice system. 8/76

**Equal Rights Amendment**

Support ratification of the proposed Twenty-seventh Amendment to the Constitution. 72M56; 74A135

**Family and Medical Leave**

Support legislation establishing minimum requirements for reasonable, unpaid, job-protected family and medical leave for employees, for organizations which have more than a reasonable threshold number of employees. Support legislation mandating a study of means for providing salary replacement during all or part of such leave and the establishment of federal minimum requirements for unpaid leave pending the outcome of the study. 88M111
Gender-Based Persecution

Urge that gender-based persecution be recognized as a ground for asylum under the Immigration and Nationality Act and support federal legislative or administrative action to ensure, in interpretations or applications of criteria for asylum under the Immigration and Nationality Act, that (1) the term, "social group" includes women who have been persecuted or have a well-founded fear of persecution on account of their gender; and (2) the term, "persecution" encompasses domestic violence, sexual abuse, rape, infanticide, genital mutilation, forced marriage, slavery, and forced abortion. 01M110

Gender Identity

Urge the federal, state, local and territorial governments to enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression in employment, housing and public accommodations. (06A122B) 8/06

Immigration Detention Standards

Adopts the ABA Civil Immigration Detention Standards, dated August 2012. The Standards include protections for pregnant immigrant women. 8/12

Judicial Education Programs

Recommend that state and federal education programs for judges include a course devoted to fairness and the judiciary's role in ensuring a courtroom free of race and sex bias and an analysis of race and sex-biased stereotypes, myths, beliefs and biases that may affect judicial decision making. 8/86

Legal Remedies to Eliminate Discrimination

Endorse legal remedies and voluntary actions that take into account as a factor race, national origin, or gender to eliminate or prevent discrimination. 8/95

Military Spouse Attorneys

Urges state and territorial bar admission authorities to adopt rules, regulations and procedures that accommodate the unique needs of military spouse attorneys, who move frequently in support of the nation's defense. 12M108

Model Rules of Professional Conduct: Rule 8.4 - Lawyer Bias

Amend Rule 8.4 and Comment to add a black letter anti-discrimination and anti-harassment provision. 8/16

Protection of Women's Human Rights

Endorse international and domestic efforts to promote and protect women's human rights through the adoption and enforcement of legal provisions for equality and equal protection law; recommend that the United States Government and Nongovernmental
Organizations participating in the United Nation's Fourth World Conference on Women in Beijing, China, in 1995, actively support the inclusion in the Platform for Action of Effective measures to accelerate the removal of the remaining obstacles to the realization of women's basic rights. 11/94BOG2.7

**Rape**

Support for redefinition of rape in terms of persons, amendment of rules of evidence to protect the victims' privacy and other reform measures. 2/75

Urge governments to enact legislation and appropriate funds to eliminate the substantial backlog of rape kits collected from crime scenes and convicted offenders (11A109) 8/11

Supports amending the UCR definition of rape to ensure that all forms of non-consensual sexual penetration, regardless of gender, orifice penetrated, mode of penetration, or presence of force are included. 12M114

**Sex Discrimination in Employment**

Support federal and state legislation assuring that prohibitions against sex discrimination in employment will also prohibit employment discrimination because of pregnancy. 2/78

**Sex Discrimination in Public Accommodations**

Urge the amendment of the public accommodations section of the 1964 Civil Rights Act to prohibit sex discrimination in public accommodations, provided however that such amendment not require access by both sexes to the same facilities where legitimate privacy concerns are involved. 8/80

**Sexual Harassment**

Recognizes that sexual harassment is a serious problem in all types of workplace settings, including the legal profession, and constitutes a discriminatory and unprofessional practice that must not be tolerated in any work environment. Resolves to educate the profession about the scope and harm of sexual harassment in the workplace, and to call upon members of the legal profession to provide leadership and education in eradicating it. Recognizes that sexual harassment is not confined to interactions between co-workers in the workplace, but may also arise in the context of employee and non-employee. 2/92

**Sexual Harassment in the Military**

Recommend that Article 93, Uniform Code of Military Justice be amended to establish expressly as a criminal offense triable by court-martial sexual harassment of a military subordinate by a superior in a duty setting. Recommend that Article 93 be amended to be gender-neutral. 8/93
Sexual Violence as Weapon of War

Urge the U.N., U.S. and all nations to adopt measures imposing state responsibility for state sponsored sexual violence as a weapon of war, create a system of reparations to victims. 10/10

Social Security Benefits: Earning Sharing

Support efforts to correct inequities in the present distribution of Social Security benefits as they affect two wage earner couples, widows and widowers, divorced persons and single elderly men and women. 2/89

Supreme Court Review of Court of Military Appeals Decisions

Recommend that Article 93, Uniform Code of Military Justice (UCMJ) (10 USC 893) be amended to establish expressly sexual harassment of a military subordinate by a military superior in a duty setting as a criminal offense triable by court-martial, and to be gender-neutral. 8/93

Trafficking Victims

Urges federal, state, local, territorial and tribal governments to pass legislation, authorize funding that strengthens protection and assistance for victims of trafficking in persons, within the United States or abroad, as well as bolsters prevention efforts and encouraging bar associations to engage members of the legal profession in raising awareness of trafficking in persons in their communities and in providing pro bono legal services to victims of trafficking. 07A110C

Approves the Uniform Prevention of and Remedies for Human Trafficking Act, promulgated by the National Conference of Commissioners on Uniform State Laws. 8/2013

Violence Against Women Act and Similar Legislation

Support efforts to implement the “full faith and credit” mandate of the Violence Against Women Act of 1994 which directs states and territories to enforce civil and criminal protection orders issued by foreign states, territorial and tribal courts as if the orders had been issued by the enforcing court; urge full funding of efforts to implement the full faith and credit mandate including (1) development of interstate and intrastate computer registries of protection orders; (2) training to educate community members who come in contact with victims and perpetrators of domestic violence about the mandate and the enforceability of protection orders issued by foreign states; and (3) development of protocols which would remove barriers to the enforcement of foreign protection orders and would prioritize victim safety. 8/96

Urges federal, state, local, territorial and tribal governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad and urging Congress to enact and
fund the International Violence Against Women Act of 2007 or similar legislation. 08A109.

Urges Congress to reauthorize and fully fund the Violence Against Women Act and similar legislation that promotes access to justice and safety for victims of domestic violence, dating violence, sexual assault, and stalking within the United States. 10M115

Urges Congress to strengthen tribal jurisdiction to address crimes of gender-based violence on tribal lands that are committed by non-Indian perpetrators who have specific ties to the tribe, while ensuring that the following due process rights are provided: (1) rights of defendants at least equivalent to the rights set forth in §234(c) of the Tribal Law and Order Act, Public Law 111-211 or (2) current federal habeas corpus review, (3) and tribal court sentencing limitations. Further, urges Congress to strengthen tribal jurisdiction to address crimes of gender-based violence committed on tribal lands in the reauthorization of the Violence Against Women Act. 12A301

**Voting Rights Act**

Supports the reauthorization of the Voting Rights Act of 1965 as amended through 1992. 05A108

**Women's Health**

**Abortion**

Support legislation on the federal and state level to finance abortion services for indigent women. 8/78

Opposes state or federal legislation which restricts the right of a woman to choose to terminate a pregnancy (1) before fetal viability; or (2) thereafter, if such termination is necessary to protect the life or health of the woman; supports state and federal legislation which protects the right of a woman to choose to terminate a pregnancy (1) before fetal viability; or (2) thereafter, if such termination is necessary to protect the life or health of the woman. 8/92

**Children and Pregnant Women**

Support legislation to ensure comprehensive health care for children and pre-natal care for pregnant women. 8/97

Support legislation which ensures the right of patients of federally funded family planning clinics to receive full counseling and referrals on all medical options relating to pregnancy, and the right of health care professionals in such facilities to advise their patients in accordance with their best medical judgment and professional ethics. 91A10H
Required Use of Contraceptives

Oppose legislation of judicial action that requires a woman to use any method of contraception or sterilization, or to otherwise refrain from bearing children, as a penalty for any conduct or as a condition of probation or parole. Oppose legislation, or rule or regulation, that (1) requires a woman to use any method of contraception or sterilization, or to otherwise refrain from bearing children, in order to be eligible for the receipt or continuation of public benefits; or (2) offers financial incentives or otherwise conditions the level of public benefits received upon a woman’s use of a method of contraception or sterilization or her agreement to refrain from child bearing. For purposes of this recommendation, reimbursement for medical expenses or other actual costs associated with the purchase or use of a method of contraception or sterilization does not constitute a financial incentive. 8/93

Legal Services for Breast Cancer Patients

Resolve that the ABA should partner with the public health community and bar associations to improve access to legal services for breast cancer patients. Urge Congress and governments to provide adequate funding for basic research and clinical trials to find a cure for breast cancer and other women’s health conditions in that the present level of spending is not adequate. 00A112

Women in the Legal Profession

Recognize that persistence of overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities and rewards of the legal profession; affirm the fundamental principle that there is no place in the profession for barriers that prevent the full integration and equal participation of women in all aspects of the legal profession; and call upon members of the legal profession to eliminate such barriers. 88A121

Require lawyers to complete programs related to the promotion of racial and ethnic diversity in the profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the profession. (04M110) 2/04

Women in Prison: Needs Assessment

Urge development and implementation of gender responsive needs assessments for women prisoners: utilize information to link them with needed services and avoid over classification of women as security risks. (11A105C) 8/11