

MINNESOTA STATE BAR ASSOCIATION

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

SURVEY OF PRIVATE LAW FIRMS

1995-1997

Women in the Legal Profession Committee

**MSBA WOMEN IN THE LEGAL PROFESSION
COMMITTEE 1998 - 1999**

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INTRODUCTION & OVERVIEW

The number of women practicing law in Minnesota has increased substantially over the last 20 years. Numerous studies nationally and by the Minnesota State Bar Association (MSBA) have found that women lawyers have documented concerns about gender equity and how women are faring in the profession. The MSBA developed the SAGE (Self Audit for Gender Equity) program upon the recommendation of the 1997 Women in the Legal Profession Task Force. The Task Force had been established, not only to study the issues (as had already been done by the American Bar Association, the MSBA, and the Hennepin County Bar Association), but also to find ways to promote and aid gender equity in the legal profession in Minnesota.

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 garnered from the surveys, as well as by developing further programs to aid the achievement of gender equity.

The information obtained during the first year of the SAGE program will establish a baseline from which progress of women in the profession can be measured over time. During the first year of the SAGE program, information was obtained from 31 private law firms covering over 2000 attorneys; participation was evenly divided among small, medium, and large law firms. Data was collected for the calendar years 1995, 1996, and 1997. (Future years will include surveys of public sector legal employers and corporate legal departments.) This summary describes the general results of the first objective survey of private law firms.

The law firm survey was developed by the MSBA Women in the Legal Profession Committee working with the Minnesota Center for Survey Research. Questionnaires were sent to 34 Minnesota law firms which had volunteered to participate and had more than ten attorneys. Law firms responded to questions about hiring practices, retention and promotion, involvement in governance, compensation, work life and firm culture, anti-discrimination and sexual harassment, and professional growth. In addition, law firms were given the opportunity to share information about the experiences of women in the legal profession at their firm.

Questionnaires were completed and returned by 31 Minnesota law firms. The responding firms included 10 firms having between 11 and 25 attorneys (small firms), 10 firms having between 26 and 58 attorneys (medium firms), and 11 firms having more than 100 attorneys (large firms). These 31 firms reported information about 2,233 attorneys: 1,642 male attorneys and 591 female attorneys. The overall response rate by firms was 91%. A list of the participating firms is attached as an appendix.

The number of women entering the profession has increased dramatically since the 1970's. Of those firms reporting detailed information (approximately half of all firms that completed the survey), 43% of the men were licensed before 1980, while only 9% of the women were

licensed before 1980. The group of women lawyers is young; over half (58%) of the women practicing law at these Minnesota firms entered the profession in the 1990s. In contrast, approximately one quarter (26%) of the men were licensed in the 1990s (see Table 1).

Table 1: Decade Licensed by Gender

| Decade | Male Lawyers | Female Lawyers | Row Total |
|---------------------|---------------------|-----------------------|------------------|
| Prior to 1980 | 570 43% | 43 9% | 613 34% |
| 1980s | 420 32% | 159 33% | 579 32% |
| 1990s | 342 26% | 277 58% | 619 34% |
| Column Total | 1332 74% | 479 26% | 1811 100% |

(Note: The results in Table 1 are based on the information provided by those law firms that answered a particular question on the survey. Since not all of the firms answered this question, the numbers in this Table will not be identical to the total numbers reported elsewhere.)

On December 31, 1997, the 31 SAGE firms employed 782 associates, 1,151 equity partners, 87 non-equity partners, 106 contract or staff attorneys, 91 of counsel, and 18 lawyers in other positions. Across all categories, 74% of the lawyers employed by these firms were male and 26% were female. However, women were much more likely to be employed as associates than to be equity partners. While 42% of the associates were female, only 16% of equity partners were female (See Table 2).

Table 2: 1997 Composition of Reporting Firms

| Type of Position | Male Lawyers | Female Lawyers | Row Total |
|---------------------------------------|---------------------|-----------------------|------------------|
| Associate | 457 58%* | 325 42% | 782 100% |
| Equity Partner/Shareholder | 967 84% | 184 16% | 1151 100% |
| Non-Equity Partner/Shareholder | 76 89% | 9 11% | 87 100% |
| Contract or Staff Attorney | 56 53% | 50 47% | 106 100% |
| Of Counsel | 77 85% | 14 15% | 91 100% |
| Other | 9 50% | 9 50% | 18 100% |
| All Attorneys | 1642 74% | 591 26% | 2,233 |

*the percentage of all lawyers in that position.

The remainder of this summary confines itself to reporting the results for associates and equity partners and shareholders. The decision to limit this summary to the results obtained for associates and partners was due to: 1) the fact that these titles are commonly employed at most firms; and 2) the absolute number of individuals in these positions (these two categories represented about 87% of the attorneys) provides the opportunity to determine whether any differences observed were statistically significant.

A. HIRING

1) Special Efforts to Hire Female Attorneys

About half (53%) of the firms reported making a special effort to recruit female lawyers, and large firms were more likely to make that effort than medium and small firms. These efforts included having women lawyers involved in as many recruiting functions as possible and participation in organizations such as Minnesota Women Lawyers.

2) Offers

Data was requested from the firms for the calendar years 1995, 1996, and 1997 in order to obtain information regarding the number of offers to males and females for associate and partner positions (see Table 3).

If there was no gender bias in the hiring of law school graduates, the male to female ratio of associate offers should reflect the M:F ratio of law school graduates. According to statistics from the ABA and the National Association for Law Placement, the ratio of male to female law school graduates is approaching 1:1. (For the class of 1998, women made up about 45% of law school graduates, men 55%.) For the participating firms, women are being offered positions as associates at roughly the same rate they are graduating from law school. Males and females were equally likely to receive associate offers in 1995 (M:F ratio of 1:1); males were only slightly more likely to receive offers in 1996 and 1997 (M:F ratios of 1.5:1 and 1.3:1). There appears to be no gender bias in the offers made to associates.

In contrast, female partners are not being hired from outside the firm at the same rate as male partners. Males were two to four times more likely than females to receive offers to become partners. In 1995 the M:F ratio was 3.5:1, in 1996 it was 4.5:1, and in 1997 it was 2.3:1. This data does indicate possible gender bias in the offers made to partners. It is also possible that women choose to go into other employment settings and remove themselves from the pool of potential hires. Moreover, as will be more fully discussed in the section on "Promotion" below, it appears that the ratio of male to female partners will become closer to parity as more women attorneys become eligible for partnership.

Table 3: Offers

| Type of Position | M:F 1995 | M:F 1996 | M:F 1997 |
|------------------|-----------------------|---------------------|----------------------|
| Associate | 1.0:1.0 (106:103)* | 1.5:1.0 (146:97) | 1.3:1.0 (166:128) |
| Partner | 3.5:1.0 (21:6) | 4.5:1.0 (36:8) | 2.3:1.0 (21:9) |

*actual numbers are shown in parentheses

3) Associate Offers

Overall, women are being offered positions as associates at the participating law firms at roughly the same rate they are graduating from law school; this holds true for all size firms for all three years; although there are slight variations from year to year, the current practice is clearly one of proportional hiring (see Table 3A).

Table 3A: Associate Hiring – Offers

| Size of Firm | M:F 1995 | M:F 1996 | M:F 1997 |
|---------------------|--------------------|---------------------|----------------------|
| Small Firms | 0.9:1.0 (9:10)* | 1.5:1.0 (6:4) | 0.3:1.0 (2:6) |
| Medium Firms | 0.9:1.0 (17:18) | 0.9:1.0 (24:28) | 1.6:1.0 (27:17) |
| Large Firms | 1.1:1.0 (80:75) | 1.8:1.0 (116:65) | 1.3:1.0 (137:105) |

* actual numbers are shown in parentheses

4) Participation of Female Attorneys in Hiring

Firms were asked to provide information regarding the type and level of participation of female attorneys in the hiring process. The results show that female attorneys are involved in all stages of hiring, including recruiting, screening, interviewing and providing recommendations to hire. In all firms that provided an answer except one, the final decision to hire is made by a group. When considering firms as a whole, these groups have a higher percentage of females (23%) than the percentage of female partners (16%). Females in small firms have lesser involvement in such groups than they do at medium and large firms (small firms reported 12% female participation, medium 24%, and large 32%).

B. PROMOTION AND RETENTION

A number of articles and reports have indicated that women are not being promoted to partnership at a rate commensurate with men and that women are leaving the profession at a faster rate than men. While only 16% of the equity partners in the participating firms are women, over the last three years women have been promoted to partnership at least at the same rate as men, if not at a slightly higher rate. As the increasing numbers of female associates reach the end of their partnership track (currently 7-8 years in many firms), one would expect that the ratio of male/female partners will reach parity.

1) Criteria for Partnership

The SAGE questionnaire asked firms about their criteria/standards for promotion to partnership. Twenty five of the firms (80%) have specific criteria for promotion to partnership, and 87% of those firms believe that all lawyers in the firm know the criteria. Only 72% of those firms, however, reported that they have reduced those criteria to writing.

2) Promotion

Of critical importance to gender equity in law firms is whether women being hired as associates are being made partner at a rate comparable to men. To address this question, firms provided data on the number of males and females who were eligible for and offered partnership for the years 1995-1997. Between 1995 and 1997, females generally fared as well as, or better than, men with regard to the percent eligible for partnership who were then made partner (see Table 4).

Table 4: Making Partner

| | M:F 1995 | M:F 1996 | M:F 1997 |
|---------------|---------------------|--------------------|--------------------|
| Male | 0.7:1.0 (40:58)* | 0.7:1.0 (53:73) | 0.9:1.0 (48:51) |
| Female | 0.8:1.0 (25:31) | 0.8:1.0 (20:25) | 1.0:1.0 (26:27) |

*actual numbers are shown in parentheses

3) Mobility

Once a woman is made partner, can she move to another firm as easily as a man? The SAGE survey found that for the years 1995 to 1997, the ability of women partners to move to another firm became more difficult. In 1995 the M:F ratio was 1.6:1.0, in 1996 the ratio was 5.5:1.0, and in 1997 the ratio grew to 18:1 (Table 4A).

Table 4.A: Lateral Mobility

| Type of Position | M:F 1995 | M:F 1996 | M:F 1997 |
|-------------------|---------------------|--------------------|--------------------|
| Lateral Associate | 1.0:1.0 (33:31)* | 1.6:1.0 (65:41) | 1.1:1.0 (56:51) |
| Lateral Partner | 1.6:1.0 (5:3) | 5.5:1.0 (22:4) | 18:1.0 (18:1) |

*actual numbers are shown in parentheses

4) Retention

Firms were asked to provide information on the number of men and women leaving – voluntarily and involuntarily – specified positions between 1995 and 1997. When the overall numbers are reviewed, female attorneys in general are leaving firms at a rate almost twice that of male attorneys. For 1997, 8% of male attorneys left compared to 14 % of female attorneys (see Table 5).

Male associates left their firms at a slightly higher rate than female associates. In 1997, 21% of male associates left compared to 17% percent of female associates. A similar comparison for partners indicates that the percent of male partners leaving in 1997 was 2%, while the percent of female partners leaving was 7%. Thus, although retention for partners overall is very high, female partners are leaving firms at a higher rate than male partners.

Table 5: Departures 1997

| Type of Position | No. Male Lawyers | % Males Leaving* | No. Female Lawyers | % Females Leaving** |
|------------------|------------------|------------------|--------------------|---------------------|
| Associate | 94/457 | 21% | 56/325 | 17% |
| Equity Partner | 20/967 | 2% | 12/184 | 7% |
| All Attorneys | 125/1642 | 8% | 80/591 | 14% |

*percentage of all males in that position

**percentage of all females in that position

C. INVOLVEMENT IN GOVERNANCE

Information on women lawyers' involvement in governance at their law firms was also gathered. The responses demonstrate that women are most often involved with personnel matters, while men are more often on committees dealing with compensation and management. Committees on which men were in the largest majority included: compensation committee (86%); executive/management committee (85%); partnership selection committee (84%); technology committee (79%); and business development/marketing committee (76%) (see Table 6). Women were most highly represented on the diversity committee (46%) and associates committee (38%). For the committees on which men represented the majority, the gender representation was similar to that of partners (84% of partners were men while 16% were women) rather than to the firm as a whole.

Table 6: Committee Representation

| Committee Type | Male Lawyers | Female Lawyers |
|---------------------------------------|---------------------|-----------------------|
| Compensation | 136 86% | 23 14% |
| Executive/Management | 144 85% | 26 15% |
| Partnership Selection | 92 84% | 17 16% |
| Technology | 67 79% | 18 21% |
| Business Development/Marketing | 102 76% | 32 24% |
| Diversity Committee | 32 54% | 27 46% |
| Associates Committee | 68 62% | 42 38% |

D. COMPENSATION

Several past studies have found a discrepancy between male and female lawyers in the area of compensation. In order to obtain information about Minnesota firms, two sets of questions about compensation were developed. First, the survey asked for aggregate information comparing men and women in the highest and lowest quartiles of compensation. The second series of detailed questions inquired about individual lawyers' gender, type of position, employment status, areas of practice, year first licensed, compensation, and hourly billable rate. About half of the participating firms provided this more detailed information.

1) Aggregate Compensation Information

With regard to compensation, the firms were asked to list how many of their male and female attorneys were in the highest quartile and the lowest quartile for monetary compensation (see Tables 7A-B).

Table 7A: Percent of Full-Time Associates in Highest & Lowest Quartiles for Compensation in 1997

| | Top 25% | Bottom 25% |
|--------------------------|----------------|-------------------|
| Male Associates | 89 20% | 90 20% |
| Female Associates | 51 16% | 68 22% |

Table 7B: Percent of Full-Time Partners in Highest & Lowest Quartiles for Compensation in 1997

| | Top 25% | Bottom 25% |
|------------------------|----------------|-------------------|
| Male Partners | 241 25% | 152 16% |
| Female Partners | 10 6% | 62 35% |

Male attorneys, both associates and partners, are more likely to be in the highest quartile for compensation relative to their representation in these positions. This difference is most striking for partners, where 25% of male partners and only 6% of female partners are in the highest quartile for compensation. Male attorneys are also significantly underrepresented in the lowest quartile for compensation.

2) Detailed Compensation Information

When the more detailed information is analyzed, and both year first licensed and partnership/associate status are controlled, there is no statistical difference in compensation that is attributable to gender. The difference between the aggregate and detailed results could mean that either the firms who did not report more detailed information are not paying women comparably, or that seniority plays a much larger role in compensation (even for

associates) than might have been expected based on other studies. This analysis is only suggestive because it is based on a small number of lawyers (234 partners and 182 associates) for whom detailed compensation information was provided.

3) Factors in Compensation Decisions

In order to assess compensation issues, firms were asked about the factors used to make those decisions. The firms reported that for both partners and associates, the most common factor used is income to the firm, either from billable hours or business generation.

The factors used to make compensation decisions for associates were most commonly: 1) billable hours, 2) results of performance evaluations, 3) client feedback, and 4) business generation. For partners, the most common factors were: 1) business generation, 2) billable hours, and 3) firm administration/committee involvement. Many firms also took into consideration other factors, such as professional contributions (e.g., teaching CLEs, publishing), pro bono work, community/charity service, and seniority.

E. WORK LIFE AND FIRM CULTURE

It has been reported that female attorneys have more difficulty competing with male peers because of family and time pressures. One of the first steps in assessing the impact of family issues on women lawyers was to obtain information about what policies and practices are in place concerning family issues. Firms were asked to answer questions dealing with parental leave, sabbaticals, alternative work schedules, child care, and other job-related benefits and services.

For parental leave, 23 of the firms (74%) reported having paid parental leave policies of some sort. Parental leave policies are more common as firm size increases (70% of small and medium firms and 82% of large firms). These parental leaves vary from four weeks to twelve weeks for the firms that provided specific answers to this question (13 firms). In 1997, 45 out of 591 female attorneys (8%), and 30 out of 1642 male attorneys (2%) took parental leave.

Twenty-one (68%) of the firms said they have policies permitting alternative work schedules for any attorney, such as part-time work, job sharing, flexible hours, or telecommuting. In 13 of the firms, the policy is reduced to writing. The percentage of small and medium firms reporting alternative work schedules was 50% and 60% respectively; 100% of large firms report written policies permitting alternative work schedules for any attorney.

In 1997, 296 lawyers were making use of various types of alternative work schedules. The most common reason for these schedules was to take time for family responsibilities. Benefit packages for attorneys working reduced time vary between firms that reported fewer benefits for those working reduced time (11 of the firms) and those that provide the same benefits (12 of the firms). Four of the firms said they offer other arrangements, such as a pro rata share of benefits for attorneys working less than full time, and four did not respond to this question.

Female associates and partners were twice as likely as male associates and partners to have made use of some kind of alternative work schedule (see Table 8).

Table 8: Lawyers Making Use of Alternative Work Schedules in 1997

| | |
|-------------------|-----------------|
| Male Associates | 59/457 (13%) |
| Female Associates | 75/325 (23%) |
| Male Partners | 82/967 (8%) |
| Female Partners | 34/184 (18%) |

While all of the firms reported offering a pretax deduction for child care expenses, only two firms said they offer reimbursement for child care expenses, and none offer subsidized child care, on site child care, or evening child care. Eight of the firms provide sick child care, and

six offer emergency child care. Other benefits include safety escorts (13 firms), weekend parking (19 firms), evening parking (18 firms), taxi service (13 firms), reimbursement for health care expenses (14 firms), and pre-tax deduction for health care expenses (30 firms).

F. ANTI-DISCRIMINATION AND SEXUAL HARASSMENT

The firms were asked 1) if they have a written anti-discrimination policy covering gender discrimination, 2) if they provide any anti-discrimination training covering gender discrimination, 3) whether the training is mandatory, and 4) how often the training is conducted. Eighty-one percent of the firms reported that they have a written anti-discrimination policy. Surprisingly, almost 50% of the firms said they have no anti-discrimination training that includes gender discrimination.

Half of the firms that do not provide anti-discrimination training are small firms. For firms that do provide anti-discrimination training, the training is conducted infrequently; most firms reported that the period between training is 3-5 years or more. However, in about 80% of the firms that provide training, that training is mandatory.

The firms were also asked whether they provide any training focused on sexual harassment issues. Ninety-seven percent of the firms reported that they have a written sexual harassment policy, but 42% of the firms said they have no training focused on sexual harassment issues. Sexual harassment training is also very likely to be mandatory but is not conducted any more frequently than anti-discrimination training. Again, small firms were most likely to have no sexual harassment training.

The firms reported that anti-discrimination training is less likely to be conducted in small firms (20%) and medium firms (50%) than in large firms (82%). Sexual harassment training is conducted in only a few small firms (10%), but is common in medium (70%) and large firms (91%).

G. PROFESSIONAL GROWTH

Because of the large influx of women into the profession in the 1990's, the SAGE survey asked for information about day to day work issues and long term professional growth concerns in order to set a baseline to track future progress.

1) Work Distribution and Mentoring Programs

With respect to formalized criteria or a system to distribute work to lawyers, only half of the firms reported a formalized system to distribute work. Nearly all (90%) of the firms have mentoring programs, and about half of those programs are formal in nature.

2) Performance Evaluations

All of the firms reported conducting some form of periodic performance evaluation; 74% reported that these evaluations are conducted annually. Twenty-nine percent of the firms periodically evaluate the performance of partners, while 97% of the firms periodically evaluate associates. Eighty-seven percent of the firms said they have written evaluation criteria for these evaluations and 90% of the firms reported having a standard performance evaluation form for lawyers.

3) Marketing and Business Development Opportunities

Anecdotally, women have reported problems in business generation and development because firms have supported traditionally male events, such as sporting events, golf, etc., where many women have felt uncomfortable. The SAGE survey asked questions about the types of events supported by firms in order to assess progress in providing opportunities for "non-traditional" marketing. In general, firms reported that they are attempting to support non-traditional marketing efforts by women and men.

Firms generally pay for the following: bar association events, charitable events, community events, golf events, meals, theatre tickets, music events, and tickets to sporting events. Eleven of the firms acknowledged having a process in place for non-traditional marketing; seven of these were large firms.

CONCLUSION

The results from the first year of the SAGE program allow us to identify where progress has been made and where work still needs to be done in Minnesota in the area of gender equity. The data drawn from this first survey also establishes a baseline of information against which the state's law firms and individual lawyers can measure change in the years to come.

In general, the statistics bear out anecdotal and statistical information from other studies indicating that the great majority of partners in private firms are men, that male attorneys are more highly compensated than women, that experienced women lawyers leave their firms at a higher rate than men, and that women are not part of many firms' management committees.

Change is occurring, however. Women associates are being hired at roughly the same rate as men and are beginning to be promoted to partner at the same rate as men. There is some indication that compensation disparities may be decreasing. Finally, firms are addressing gender discrimination and sexual harassment, and firms of all sizes are providing alternative work schedules.

As the women who entered the profession in the 1990's gain seniority, the progress towards gender equity will continue to be measured by the SAGE program. The information provided by SAGE will aid firms in their goal of attaining gender equity.

APPENDIX

LIST OF FIRMS PARTICIPATING IN SAGE IN 1998

Arthur Chapman Kettering Smetak & Pikala
Minneapolis MN

Briggs and Morgan
St Paul MN

Collins Buckley Sauntry & Haugh
St Paul MN

Cosgrove Flynn & Gaskins
Minneapolis MN

Cousineau McGuire & Anderson
Minneapolis MN

Doherty Rumble & Butler PA
St. Paul MN

Dorsey & Whitney
Minneapolis MN

Dunlap & Seeger
Rochester MN

Faegre & Benson
Minneapolis MN

Fredrickson & Byron
Minneapolis MN

Gray Plant Mooty Mooty & Bennett
Minneapolis MN

Greene Espel
Minneapolis MN

Halleland Lewis Nilan Sipkins & Johnson
Minneapolis MN

Hansen Dordell Bradt Odlaug & Bradt
St Paul MN

Hinshaw & Culbertson
Minneapolis MN

Jardine Logan & O'Brien
St Paul MN

Lapp Laurie Libra Abramson & Thomson
Minneapolis MN

Leonard Street and Deinard
Minneapolis MN

LeVander Gillen & Miller
South St Paul MN

Lindquist & Vennum
Minneapolis MN

Lommen Nelson Cole & Stageberg
Minneapolis MN

Maslon Edelman Borman & Brand
Minneapolis MN

Maun & Simon
St Paul MN

Meshbesh & Spence
Minneapolis MN

Messerli & Kramer
Minneapolis MN

Oppenheimer Wolff & Donnelly
Minneapolis MN

Quinlivan Sherwood Spellacy
St Cloud MN

Ratwick Roszak & Maloney PA
Minneapolis MN

Rider Bennett Egan & Arundel
Minneapolis MN

Robins Kaplan Miller & Ciresi
Minneapolis MN

Schwegman Lundberg Woessner & Kluth
Minneapolis MN