

gender-based inappropriate conduct, and gender-based harassment and discrimination are occurring in Nebraska's legal communities and workplaces, with less than eight percent (8%) stating they believed such conduct was not occurring.

4. Nearly seventy percent (70%) of respondents to the Survey had personally experienced or witnessed conduct that demonstrated inappropriate behavior, harassment and/or discrimination on the basis of gender or other forms of gender bias.

5. Over one-third (1/3) of respondents to the Survey did not believe they had adequate reporting mechanisms in their places of employment or within the practice of law to report gender-based harassment, discrimination and/or biased behavior.

6. Over one-quarter (1/4) of respondents to the Survey believe that even if they reported the misconduct, their workplace and/or the legal community would not effectively respond to a report of gender-based harassment, discrimination and/or biased behavior.

7. The comment section of the Survey further contained consistent and numerous allegations of gender-based inappropriate conduct, bias and discrimination in the legal profession including: physical assaults, inappropriate touching, and grabbing; sexual invitations from attorneys (including supervising attorneys) in the workplace and/or while making hiring decisions; and wide-ranging and inappropriate comments on female lawyers' physical appearance;

8. Ensuring the high standards of conduct and integrity among the members of the Nebraska Bar is fundamental to the purpose of the NSBA.

9. The NSBA proposes that the Rule § 3-508.4 be amended to more specifically prohibit conduct constituting 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 connection with a lawyer's professional activities.

10. The NSBA's amendments are set forth in the attached Exhibit "B."

11. The NSBA's amendments are modeled after the Minnesota Rules of Professional Conduct (see proposed Sections I and J) and were developed in consultation with the Nebraska Counsel for Discipline.

12. The American Bar Association has amended its Rules of Professional Conduct to prohibit conduct that a 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 (see proposed Section H).

13. On information and belief, twelve (12) other states have amended or are seeking to amend their Rules of Professional Conduct to include the conduct prohibited by the NSBA's amendments to Rule § 3-508.4. (See Exhibit C for research conducted for the Women in the Law Section by a law student).

14. Amending Rule § 3-508.4 is necessary to maintain the high standards of conduct and integrity among the members of the Nebraska Bar.

WHEREFORE, THE UNDERSIGNED, ON BEHALF OF THE NEBRASKA STATE BAR ASSOCIATION, REQUESTS THE SUPREME COURT OF THE STATE OF NEBRASKA TO APPROVE AND ADOPT THE PROPOSED REVISION TO THE NEBRASKA RULES OF PROFESSIONAL CONDUCT AS SET FORTH HEREIN.

Respectfully submitted,

NEBRASKA STATE BAR ASSOCIATION,
Petitioner



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