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# Successful Lawyering in a Diverse Society

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Developed by the Florida Supreme Court's Commission on Professionalism

**SUPREME COURT COMMISSION ON PROFESSIONALISM  
DIVERSITY SUBCOMMITTEE**

**Presents**

**Successful Lawyering in a Diverse Society**

**FACILITATOR TRAINING\***

**PART II**

**February 6, 2000  
Tampa, Florida**

**AGENDA**

- |                        |  |
|------------------------|--|
| 9:00 a.m.-9:30 a.m.    | Registration, coffee                           |
| 9:30 a.m.-10:00 a.m.   | Review of materials and workshop activities    |
| 10:00 a.m.- 10:30 a.m. | Facilitator Tips                               |
| 10:30 a.m. - 12:00     | Group work                                     |
| 12:00 - 1:00 p.m.      | Lunch (on your own)                            |
| 1:00 p.m. - 3:00 p.m.  | Critique of small and large group facilitating |
| 3:00 p.m. - 4:00 p.m.  | Review, evaluation, next steps, closing        |

\*Facilitated by Wilhelmina Tribble  
Lowe Tribble & Associates, Inc.

**SUPREME COURT COMMISSION ON PROFESSIONALISM  
DIVERSITY SUBCOMMITTEE**

**Presents**

**Successful Lawyering in a Diverse Society**

**TRAIN THE TRAINER\***

**DECEMBER 7, 2000**

**Renaissance Hotel**

**Orlando, Florida**

**AGENDA**

- |                       |                                      |
|-----------------------|--------------------------------------|
| 9:30 a.m.-10:00 a.m.  | Registration, coffee                 |
| 10:00 a.m.-12:00 a.m. | Presentation of Diversity Curriculum |
| 12:00 p.m.- 1:00 p.m. | Lunch (on your own)                  |
| 1:00 p.m.-3:00 p.m.   | Training Session                     |

**\*Facilitated by Ms. Wilhelmina Tribble  
Lowe Tribble & Associates, Inc.**

*6/21  
6/20 Masters  
in Professionalism- Fla. Bar*

*3/9 - All Bar on Diversity here*

*2/20 - conference call*

*2/1 bar news has graph on p. 14*

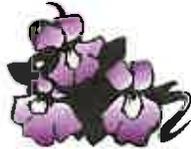
*Facilitator -*

*decide exercises  
ask Wilhelmina to  
e-mail you blanks*

# VALUING

## Pathway to Valuing Diversity

"It's important to me and I pay attention to it."



Appreciation  
Adoption

"This difference can  
enrich my life."



Acceptance  
Respect

"I accept the difference. I have no  
desire to change it"

Understanding

"Oh, I get it, I understand why people  
do and think different."

Awareness

Where are you now?  
Where do you want to be?  
What are you going to do to get there?

Ethnocentricity

"My way is the only right way."  
Focus on self at the expense of others

## Successful Lawyering in a Diverse Society

### RUN TIME

Time	Activity	Outline Page	Tab/ Page
2 mins	Introduction	5	---
2 mins	A. Ground Rules	5	Tab A T 1
1 mins	B. Objectives	6	Tab B T 2
15-30 mins	C. Heritage Introductions	6	Tab C T 3
10 min	D. Definition of Diversity	7	Tab D T 5
4 mins	E. Pathway to Diversity	7	Tab E T 7
10 mins	F. Feeling Different	8	Tab F T 8
10 mins	G. Exploring Personal Beliefs	9	Appendix III A 3
30-60 mins	H. Reflections	9	Tab G T 9
35 mins	I. Search Committee	11	Tab H T 10
10 mins	J. Why Are We Doing This? /Discussion	12	---
15 mins	K. Definition Exercise	12	---
15 mins	L. Empowerment: Ethics VS Professionalism	13	---
10 mins	M. What I have Always Wanted To Ask...	14	---
5 mins	N. Closing - What's Next?	15	---
	O. Quotes	16	---

# Diversity Training for the Judiciary Training Day ~ August 24, 2012 Diversity and Cultural Awareness for the Courts

## Course Objectives

	Not At All	Somewhat	Extremely		
How well were the objectives addressed?	1	2	3	4	5
1. Define diversity and its various dimensions.	1	2	3	4	5
2. Describe the opportunities and challenges of diversity as they affect the operation of the courts.	1	2	3	4	5
3. Develop and enhance skills in valuing diversity.	1	2	3	4	5
4. Explore how "isms" can compromise quality workplace relationships, which in turn, robs the court of quality service to the citizens of Florida.	1	2	3	4	5
5. Identify strategies and techniques for communicating effectively with others who are different from you.	1	2	3	4	5

# Diversity Training for the Judiciary Training Day

## Diversity and Cultural Awareness for the Courts

**Hon. Claudia Rickert Isom**

*How would you rate this Instructor's:*

("1" Indicates lowest and "5" Indicates highest rating)

	N/A	1	2	3	4	5
1. Knowledge of this subject matter?	<input type="checkbox"/>					
2. Organization of this presentation?	<input type="checkbox"/>					
3. Choice of issues to be discussed?	<input type="checkbox"/>					
4. Manner and style of presentation?	<input type="checkbox"/>					
5. Ability to respond well to questions?	<input type="checkbox"/>					
6. Quality of written materials (if any)?	<input type="checkbox"/>					
7. Quality of visual aids (if any)?	<input type="checkbox"/>					
8. Sensitivity to diversity issues (i.e., gender, race, ethnicity, disability, sexual orientation, age)?	<input type="checkbox"/>					
9. To the extent diversity issues arose, were they adequately addressed?	<input type="checkbox"/>					
10. This instructor's greatest strengths seem to be:	<input type="checkbox"/>					

11. This instructor might improve his/her presentation by:

12. Comments:

# Diversity Training for the Judiciary Training Day

## Diversity and Cultural Awareness for the Courts

**Lawrence Kranert**

*How would you rate this Instructor's:  
highest rating)*

("1" Indicates lowest and "5" Indicates

	N/A	1	2	3	4	5
1. Knowledge of this subject matter?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
2. Organization of this presentation?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
3. Choice of issues to be discussed?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
4. Manner and style of presentation?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
5. Ability to respond well to questions?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
6. Quality of written materials (if any)?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
7. Quality of visual aids (if any)?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
8. Sensitivity to diversity issues (i.e., gender, race, ethnicity, disability, sexual orientation, age)?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
9. To the extent diversity issues arose, were they adequately addressed?	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
10. This instructor's greatest strengths seem to be:	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]

11. This instructor might improve his/her presentation by:

12. Comments:

**Successful Lawyering in a Diverse Society**

**OBJECTIVES**

To develop a greater awareness of “valuing diversity”  
in the legal profession

To better understand the perception of “privilege”  
and its effect on inclusion and relationships

To examine the financial impact of diversity on  
the legal profession

\*\*\*\*\*

## Racism in America in its subtlest forms

**DEAR ABBY:** You printed a letter from "Disillusioned American," who interceded when he saw a man in his 60s chastise a young couple for speaking a foreign language outside a Kmart. You called it an example of xenophobia.

I do not share either the opinion of "Disillusioned" or you regarding people who refuse to learn English or at least speak it in public. There are two Spanish-language TV networks in this country. Tell me another country that allows foreign language channels to operate, contributing to the fragmentation of that country.

LAWRENCE IN AVON PARK, FLA.

**DEAR LAWRENCE:** Cable Network News (CNN) is an English-language network that is broadcast in more than 210 countries and territories in English. (In fact, someone recently told me she had seen me on "Larry King Live" while she was in Beijing -- obviously not a nation that uses English as its primary language.)

**DEAR ABBY:** I am proud of being not only American, but a Chinese American. I was raised bilingually and biculturally. Other than my Asian features, most people would be hard-pressed to find anything "un-American" about me.

However, occasional racist remarks are still thrown at me for no other reason than my appearance. Fortunately, that type of bigotry is fading, but comments and actions like that man experienced at Kmart are common and should be stopped. White Americans should be sensitive about any treatment of nonwhite Americans as different.

For example, I am frequently asked where I am from. When I answer "Pittsburgh" (where I was born and raised), the response I often get is, "No, where are you REALLY from?" as if I couldn't be from America. I know people are curious about my heritage, but Caucasians (even ones with accents) are not treated thus, so why are those of us with Asian features, but nonaccented English, treated this way? -- PROUD CHINESE AMERICAN

**DEAR PROUD CHINESE AMERICAN:** Don't be so quick to assume that Caucasians with accents are not also asked where they are from. In this country, anyone with an accent is considered "exotic" - and as such, inspires curiosity. When people are curious, they ask questions. I know I'm right, because I have been guilty of it.

**DEAR ABBY:** I came to this country 20 years ago and attended college in the Midwest. I have also been accosted by such "patriots" on campus, in restaurants, and wherever I happened to be having a conversation in my language. My appearance does not give people any clue that I am not a "red-blooded American." I speak perfect, unaccented English, in addition to other languages, and I know there are many people like me.

Because I choose to speak another language does not mean I don't know English. I find it fascinating that Americans, when in other countries, expect people to accommodate their language needs, but do not afford the same courtesy to people who come to this country. -- THERESA B., HOUSTON

**DEAR THERESA:** Interesting point. And it's a good reason why American students should learn at least one foreign language. Our world is shrinking, and it doesn't revolve around us.

*Dear Abby is written by Jeanne Phillips. Write to Dear Abby, Universal Press Syndicate P.O. Box 69440, Los Angeles, CA 90069.*

**Successful Lawyering in a Diverse Society**

**TAB G**

**REFLECTIONS OF BAR/SOCIETY**

*Objective:* Complete the grid below. Which groups, in the Florida's legal profession, are more privileged than others. Which groups are less or underprivileged? Write in the characteristics where applicable. Discuss with your tablemates.

	Race	Gender	Age	Education	Sexual Orientation	Ethnicity	Physical Characteristics
<b>Privileged (FL Bar)</b>	_____	_____	_____	_____	_____	_____	_____
<b>(Society)</b>	_____	_____	_____	_____	_____	_____	_____
<b>Under-privileged (FL Bar)</b>	_____	_____	_____	_____	_____	_____	_____
<b>(Society)</b>	_____	_____	_____	_____	_____	_____	_____

**What does this all mean?**

Handout  
 This exercise is based on a similar exercise from the  
 NCCJ Building an Inclusive Community program

Midyear Meeting 2010

## Race & Gender of Judges Make Enormous Differences in Rulings, Studies Find

Posted Feb 6, 2010 6:20 PM CST

By [Edward A. Adams](#)



Pat K. Chew.

Jensen Larson Photography

A judge's race or gender makes for a dramatic difference in the outcome of cases they hear—at least for cases in which race and gender allegedly play a role in the conduct of the parties, according to two recent studies.

The results were the focus of a program about "Diversity on the Bench: Is the 'Wise Latina' a Myth?," sponsored by the ABA Judicial Division at the ABA Midyear Meeting in Orlando on Saturday afternoon.

In federal racial harassment cases, [one study](#) (PDF) found that plaintiffs lost just 54 percent of the time when the judge handling the case was an African-American. Yet plaintiffs lost 81 percent of the time when the judge was Hispanic, 79 percent when the judge was white, and 67 percent of the time when the judge was Asian American.

The comprehensive study, by professors from the University of Pittsburgh School of Law and Carnegie Mellon University's Tepper School of Business, examined a random assortment of 40 percent of all reported racial harassment cases from six federal circuits between 1981 and 2003.

A [second study](#) (PDF), looked at 556 federal appellate cases involving allegations of sexual harassment or sex discrimination in violation of Title VII of the Civil Rights Act of 1964. The finding: plaintiffs were at least twice as likely to win if a female judge was on the appellate panel.

University of Pittsburgh School of Law Professor Pat K. Chew, who co-authored the racial harassment study, said she found "the rule of law is intact" in the cases she reviewed. Judges—no matter which side they ruled for—took the same procedural steps to reach their decisions, she said.

But judges of different races took different approaches "on how to interpret the facts of the cases," she said.

Pressed on whether the rule of law could actually be considered intact when outcomes varied so much depending on the race of the judge, she replied: "It's always made a difference who the judge was. We've long known, for instance, that a judge's political affiliation makes a difference."

Judge Carol E. Jackson of U.S. District Court for the Eastern District of Missouri said she was heartened that diversity has crept into the federal court system, where today 20 percent of judges are women and 15 percent are members of minority groups.

"It's important that different voices are being heard," she said.

The program took its title from a [much-debated comment made years ago](#) by U.S. Supreme Court Justice Sonia Sotomayor: "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life."

The participants never answered the question of whether a Latina judge reaches better conclusions, but at least in some cases, it appears likely that she would reach a different conclusion from a white male jurist hearing the same evidence.

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# **DIVERSITY HOUR**

## **FACILITATORS:**

**HON. CLAUDIA RICKERT ISOM  
BARBARA TWINE THOMAS, ESQ.**

**GROUP: FOWLER, WHITE, SUMMER ASSOCIATES**

**JULY 31, 2002  
4:00 - 5:00 P.M.**

### Schedule of Presentation:

Introduction:

BTT

CRI

CRI: The Ground Rules

BTT: THE BAR RULE

“Stereotypes, Food for Thought”

OBJECTIVES

ANNOUNCE OUR NEXT EXERCISE . . .

BTT & CRI: Heritage Exercise in small groups

SHARE IN SMALL GROUPS, THEN REGROUP

CRI: WHAT DID YOU LEARN? WHAT WERE YOUR OBSERVATIONS?

WHY DID WE DO THIS? HOW MANY MADE A CONNECTION

WITH SOMEONE ELSE'S INTRODUCTION?

Closing, much like this yarn (see exercise)

CRI: National Search Committee Exercise

BTT: A-7 THROW OUT THE TRUE AND FALSE QUESTIONS TO THINK  
ABOUT THEN

CLOSING, PAGE 15 OF OUTLINE

CRI: Choose Your Own Adventure/No Man is An Island

Judge Foster's Lunch/First Generation of Lawyers to Quit Counting Firsts

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# Successful Lawyering in a Diverse Society

## TWO-HOUR CORE COMPONENT

### CONTENT OUTLINE

#### INTRODUCTION

(Write your intro here)

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#### A. GROUND RULES

(Tab A)

- *Distribute ground rules or post them. Go over quickly but concentrate on number 7, "Ouch." Demonstrate how it is used. They can have fun with it or it can be very serious, facilitator sets the tone.*

- *Notes:*

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## WHAT ARE THE RULES?

The Florida Bar Rules state:

### Rule 4-8.4 Misconduct

A lawyer shall not:

(d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

Florida Statutes state:

### 760.07 Remedies for unlawful discrimination and

### 760.10 Unlawful employment practices.

#### EXPLORING BELIEFS AND STEREOTYPES

*White men have always been managers...and should continue to be.*

*Quarterbacks should always white because teams will be responsive to their leadership.*

*Women do not have the temperament to be supervisors.*

*Women are best in supportive, nurturing roles.*

*Asians will not be confrontational in ways that are required in a competitive work environment.*

*Latinos have difficulty communicating and should not be placed in a position to represent the organization.*

*Black women are difficult employees because they have chips on their shoulders.*

*Gays are too effeminate to be good lawyers.*

*Female clients and staff won't feel comfortable with lesbian lawyers.*

These beliefs are never written down but are powerful determinants of behavior. They arise not from rational origins, but from emotions. They are destructive at the individual level, but become especially harmful when institutionalized as the norm in policies and practices.

**Successful Lawyering in a Diverse Society**

**OBJECTIVES**

To develop a greater awareness of “diversity” as it relates  
to the legal profession

To better understand one’s perception of  
“inclusion” and “privilege”

To examine the financial impact of diversity on  
the legal profession

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**Successful Lawyering in a Diverse Society**

**SEARCH COMMITTEE**

(Small & Large Group Exercise)

**Materials:**

- Handout rating sheet for each person
- Easel paper (One sheet for each group)
- 2 color markers for each group
- 10 dots per person (use two colors, one for each part of the exercise)

**DIRECTIONS**

**Part I**

**Step 1.**

Give each group the handout (one for each person), an easel sheet and two markers. The handout reads:

Your committee is responsible for conducting a national search to select the Bar Association (or Law Firm) to receive the National Diversity Leadership Award.

As you lay out your plan, what would be the admired elements you would have on your scorecard?

Rank them.

**Step 2.**

Each group agrees on the elements, rank and weight. Records the information on the easel paper.

**Step 3.**

Debrief in large group. Have each group report.

- List the elements from all the groups on a master flip share sheet. (Leave space between each line)

- Give each person 5 dots (of one color). Tell them to go up to the flip chart and put their dots next to the elements they feel are most important. They can spend their dots as they wish. (All on one element or spread out among other elements.)
- Add the number of dots next to each element.
- Rewrite the list using just the top 5 elements (add new weights, if appropriate).

## Part II

### Step 4.

Rate their organization.

Ask the group to individually rate their Bar Organization (or firm) against the five final elements.

**Scale: 1 - 5 (5 being the highest)**

#### To rate:

- Give the other color dots to the participants (5 dots each). Tell them to give each element a score, from 1-5 (5 being the highest).
- Place the score on the dot and place the dot on the master sheet.
- Ask for volunteers to add up the scores

*(While they are adding, discuss the reasons for the ratings.)*

#### Ask:

Does diversity, as you have defined it with your list of words and list of admired elements, have a financial impact on this organization?

Can you put a \$\$\$\$\$\$ on it?

#### Note:

Worksheet Handout on next page

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## Successful Lawyering in a Diverse Society

### SEARCH COMMITTEE WORKSHEET

"You are on a committee responsible for conducting a national search to select the Bar Association, Law Firm or Law Organization that will receive the National Leadership Award. As you lay out your plan, what are the admired elements you would have on your scorecard?"

**Directions:** List the elements you feel should be considered.

Elements	Must Have = 5 Nice to have = 4, 3, 2, or 1

### **True or False**

1. Change can only occur when problems are acknowledged. (True)
2. Diversity is a global issue. (True)
3. Removing barriers to the advancement of women does not require much planning or effort. (False - Removing barriers requires as much strategic planning and patient, determined effort as does any other business problem)
4. The best resources for resolving problems are books and similar written materials. (False - people are the best resource for resolving problems)
5. Change is often painful, but also exciting and empowering. (True)

## **So What Do We Do?**

APPENDIX IV

**SOME DEMOGRAPHICS**

	<b>2000 Florida Population</b>	<b>2000 The Florida Bar 67,047</b>	<b>1992 The Florida Bar</b>
<b>African Americans</b>	15.4% 2,333million	2% 1,220	2% (1992)
<b>Asians and Native Americans</b>	2.2% 341,724	Other 1%	Other 1%
<b>Hispanics</b>	15.4% 2,3334 million	6% 3,662	3% (1992)
<b>Non-Hispanic Whites</b>	67% 10.2 million	91% 55,552	94%
<b>Women</b>	-	27% 16,482	10% (1984)
<b>Men</b>	-	73% 44,564	90% (1984)

Source: 2000 Census; The Florida Bar

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# Successful Lawyering in a Diverse Society

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Developed by  
Lowe Tribble & Associates, Inc., Orlando, Florida  
For  
Florida Supreme Court Commission on Professionalism



The Florida Bar's Center for Professionalism would like to thank the following people for their time, dedication and commitment to this project.

Wilhelmina Tribble, Orlando, Florida  
Diane VanNess, Miami, Florida  
Larry Smith, Orlando, Florida  
Elaine James, West Palm Beach, Florida  
Terri Anderson, Tallahassee, Florida

## *Successful Lawyering in a Diverse Society*

### **FACILITATOR GUIDE**

**Program Purpose:** Create an awareness of the importance of diversity and the financial impact it can have on an organization.

**Target Population:** Members of Law Firms and Bar Associations

**Program Length:** 2 – 4 hours. Includes ten segments that can be used separately

**Number of participants:** 8 – 30

**Methodology:** The key for success is making the participants feel comfortable and included. The program combines personal introspection with small and large group discussions. The small group discussions allow the more introverted participants to be heard in a safe environment. Large group discussions give each person the opportunity to hear what others are thinking. It is intended that these one to four hour programs are part of a series. This particular segment is an introductory segment. Lengthy case studies and videos are not being used.

**Physical set up:** Round or rectangular tables work best. Participants work in small groups.

**Materials:**

- ↳ Flip chart with easel paper. If you only have easel paper, you'll need a wall to put paper sheets on. An alternative could be using an overhead and blank overhead transparencies.
- ↳ Handouts
- ↳ Markers (Two colors for each small group)
- ↳ Masking Tape
- ↳ Post-its
- ↳ Sticker dots. Two colors... Enough for each participant to have 5 of one color and 5 of another color.
- ↳ One ball of yarn for each group of up to 15. (Over 15, 2 balls of yarn)

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## Successful Lawyering in a Diverse Society

### TWO-HOUR CORE COMPONENT

#### CONTENT OUTLINE

##### INTRODUCTION

(Write your intro here)

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##### A. GROUND RULES

(Tab A)

- *Distribute ground rules or post them. Go over quickly but concentrate on number 7, "Ouch." Demonstrate how it is used. They can have fun with it or it can be very serious, facilitator sets the tone.*

- *Notes:*

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**B. AGENDA/OBJECTIVES**

**(Tab B)**

1. *Awareness” as it relates to the legal profession*
  2. *“Inclusion” and “privilege”*
  3. *Financial impact on the legal profession*
- 
- 
- 
- 

**C. HERITAGE**  
**INTRODUCTION**

**(Tab C)**

***(Large Group Opening Exercise)***

1. *Follow suggestions in Tab C.*
2. *Explain how the introductions will go.*
3. *Begin the introductions by introducing yourself.*
4. *After introductions are complete, debrief the exercise by asking:*

“What were your observations?”

“Why did we do this? “

“What did you learn?”

“How many made a connection with

someone else's' introduction?"

**D. DEFINITION OF DIVERSITY**

**(TAB D)**

***(Large Group Exercise)***

1. *Using a flip chart or blank overhead sheet, ask the group:*

"What words come to mind when you hear diversity?"

2. *Write responses on flip chart or overhead transparency.*

3. *Ask group to draw an iceberg on scratch paper.*

4. *Explain iceberg - (See Tab D)*

5. *To close exercise ask:*

"In the context of this organization, what is diversity?"

6. *Write response on flip chart paper. Post it.*

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**E. PATHWAY TO DIVERSITY**

**(TAB E)**

1. *Distribute Tab F (Path to Diversity)*

2. *Explain the pathway*

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**F. FEELING DIFFERENT**

**(Tab F)**

***Large Group Exercise***

1. *Begin by asking entire group to:*

“Go back in time to the place where you said you grew up. (Pause)

Now, think of a time when you felt different?”

“What was the situation and how did you feel?”

2. *Turn to a partner and share the story. (Optional)*

a. *After they have had a chance to share their stories, (Allow 3 minutes)*

3. *Ask:*

“What is a single word that identifies the feeling.”

4. *List words on flip chart/overhead sheet. Say/ask:*

“Looking at this list, what can you say about these feelings?”

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**G. EXPLORING PERSONAL BELIEFS**

II  
**(APPENDIX II)**  
*Individual Exercise*

1. *Pass out self-audit checklist and allow 3 minutes to complete.*
2. *Encourage participants to be blatantly honest... no one will see it but them.*

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**H. REFLECTIONS**

**(TAB G)**  
*Large or Individual Group Exercise*

1. *Setup: If the group is larger than 10, break into smaller groups.*
2. *Distribute copies of TAB G. You have the option to select the topics across the top of TAB G...*
3. *Before they start working, say:*
  - a. "This is an exercise about privilege. So that we are working from the same definition...."

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b. What is Privilege? ( *Here are some words*)

*Freedom*

*License*

*Opportunity*

*Benefit*

*Concession*

*Right*

*Advantage*

c. *Flip chart the responses. Decide on a definition. (Can be just individual words)*

4. *Use definition as a lead into the exercise.*
5. *Give participants 15- 30 minutes to complete the exercise. (You can make this exercise as long or short as you have time for.)*
6. *Debrief the exercise in large group format. Ask each group for their responses and discuss any differences and/or similarities.*
  - a. "Who is privileged (in the first category)?"
  - b. "What does that privilege look like?"
  - c. "Who is underprivileged in the each category?"
  - d. "What does "underprivileged" look like?"
  - e. "Are we privileged at all times, or does it change?"
  - f. "What responsibilities do the privileged have to others?"

7. *Continue through the categories. Conclude the exercise by asking:*

- a. What were the learnings?
  
  
- b. What is the significance of this exercise to this audience?"

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**I. SEARCH COMMITTEE**

**(TAB H)**

***Small Group Exercise***

1. *See Tab H for facilitator instructions*
2. *Pass out the handout (Tab H-2)*
3. *Give each group an easel sheet and two markers.*
4. *The handout reads:*

"You are a committee to do a national search to select the Bar Association (or Law Firm) that will receive the National Diversity Leadership 2000 award. As you lay out your plan, what are the admired elements you would have on your scorecard?"

"What would be the weighting?"

## **J. OPEN DISCUSSION**

### ***Large Group Exercise***

**1. *Discuss the following issues:***

- a. **"How is the world around you changing?"**  
**(Use statistics and demographic information in Appendix pg. A-3 to A-16)**
- b. **"How are the changes affecting your law firm?"** **(internally – externally)**
- c. **"What makes the issue of diversity important to this organization?"**

*(To heighten awareness and explore our beliefs. World is rapidly changing. Must adapt and make plans for the future.)*

## **K. DEFINITION EXERCISE**

### ***Small/Large Group Exercise***

- 1. *Back to the definition developed earlier - based on words listed earlier and your own experience, create a diversity definition statement for this organization.***

2. Give group flip chart paper. (They should already have markers) Allow about 10 minutes.

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## L. ETHICS vs PROFESSIONALISM

### Small/Large Group Exercise (Optional)

1. Discuss the following with the full group:
  - o “What’s the difference between rules and right thing to do; ethics v. professionalism?”
    - The distinction between ethics versus professionalism is equivalent to the floor versus the ceiling:
      - Ethics are the rules; the minimum standards required to keep your bar card clean.
      - Professionalism means going beyond the rules; seeking justice first, not victory
    - Discuss this in the context of diversity...

**"An ethical person often chooses to do more than the law requires and less than the law allows - there is a big difference between what you have a right to do and what is right to do."**

*- Derived from Justice Potter Stewart by Michael Josephson*

**M. QUESTIONS**

**I WANT TO ASK**

**Large Group Exercise  
(Optional)**

1. Say:  
"Many times we want to ask a question relating to diversity (cultures etc.) but hesitate asking because of a number of reasons. Use the post-its on the table and write the question now. If you would prefer to ask it verbally.....that's fine."
  
2. *Pick up the post-its and with whatever time you have, begin facilitating responses to the questions.*

*Notes:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **N. CLOSING**

- *End with the following:*
  - *Put post-its on each table for the attendees to write their responses to the following:*
    - What are you more aware of now than when you arrived?
  
    - What part of the workshop would make you want to do something in regard to diversity?
  
  - *Have participants write it on post-its and put the post-its on the flip chart on way out.*

*Notes:*

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*If you need any help, call:*

*Wilhelmina Tribble*

*407-299-0469 (o)*

*407-299-9374 (f)*

*LTA2001@aol.com*

Quotes

*"How wonderful it is that we can start doing good at this very moment."*

- Anne Frank

*"Never doubt that a small group of thoughtful citizens can change the world. Indeed, it is the only thing that ever has."*

- Margaret Mead

*"People can be divided into two classes: those who go ahead and do something, and those who sit still and inquire, why wasn't it done the other way?"*

- Justice Oliver Wendell Holmes

*"You must be the change you wish to see in the world."*

- Mahatma Gandhi



# T A B S

A. Ground Rules

B. Objectives

C. Heritage Introductions

D. Definition of Diversity

E. Pathway to Diversity

F. Feeling Different

G. Reflections Worksheet

H. The Search Committee

**Successful Lawyering in a Diverse Society****GROUND RULES**

1. ***Listen*** as if there is truth in what the other person is saying. There are no absolute right or wrong answers.
2. ***Participate*** as much as you can. "Pass" if you need to.
3. ***Include everyone*** in the discussions.
4. ***Ask questions*** of yourself and others.
5. Practice ***active listening*** - Listen to understand what someone else is saying from their perspective.
6. Keep ***confidentiality*** - continue to talk about the topic, but not about what individuals say.
7. Use ***"Ouch"***- to let someone know that something that was said either bothers you or needs further explanation. (Explanations are given only if the other person feels comfortable doing so.)

*"Justice or Just Us: Using Film to Examine Perceptions of Fairness in a World of Cultural Differences"*

June 3, 2009

8:30-4:00

**OBJECTIVES**

1. Recognize the differences among cultures in their communities - their practices, lifestyles and beliefs.
2. Analyze the impact of language, terminology, bias and stereotyping on court proceedings and the perception of fairness.
3. Recognize their own biases and develop strategies to prevent those biases from affecting the fairness of the judge's decision-making.

*Importance of this objective to us as judges.*

**Facilitators:**

Judge Sandy Karlan, 11<sup>th</sup> Judicial Circuit  
Wilhelmina L. Tribble, President, Lowe Tribble & Associates, Inc.  
Johnita Due, Assist. General Counsel, CNN

## Successful Lawyering in a Diverse Society

### HERTIAGE INTRODUCTIONS

#### Directions:

*Number of participants:* 20 or less. (For more than 20, see below)



*Set up:* Seated where they are.

*Materials:* A ball of yarn

#### Introductions:

*Facilitator explains that even though they may know each other well, they are going to introduce themselves but using a bit of different information.*

**1. Say:** “We want to know, in less than two minutes, just three things:”

“**First** – What is your name? Who gave it to you and does it have any family significance?”

“**Second** – What city did you grow up in?” (They will automatically tell you where they were born, if it is different)

“**Third** – Tell us about your great grandparents. Where were they from...where did they live? (They will automatically include their grandparents)

**2. Model it:** *With the ball of yarn in your hand, the facilitator should go first. When you are finished, yarn (holding on to your end) tell them that you are now going to toss the to yarn someone else. Tell the person you are going to toss it to, that it is coming to him/her. Toss the yarn. Have them stand for introductions.(Be conscious of wheelchair participants.)*

*(It begins to form a web)*

**3. Debrief.** *At the end, everyone holds up the piece of yarn they are holding and observe the web. Lower the arms and ask the following questions:*

“What were your observations?”

“What was the significance of this exercise? “

“What did you learn?”

**4. Closing.** Say something like, "Much like this yarn, our lives, form a web, connected in sometimes unknown ways with people we didn't even know."

**Groups over 20.**

*Divide the group in half. If there is room, have them take their chairs and form two circles. Continue as above. If there is not room for chairs.....have them stand and form two circles. Either works well.*



**Successful Lawyering in a Diverse Society**

**DEFINITION OF DIVERSITY**



**(Large Group Exercise)**

1. Ask:

“What words come to mind when you hear diversity?”

2. Using a flip chart or blank overhead sheet, list their responses.

3. Ask group to draw an iceberg on scratch paper and be sure to include the waterline.

4. Draw an iceberg and waterline on flipchart or blank overhead. Tell group that you are going to use the iceberg as an analogy for people-diversity.

5. Ask:

“What do we know about icebergs?”

*(The largest portion is under the waterline...7/8ths)*

“Diversity has Primary Dimensions and Secondary Dimensions. Primary dimensions are what you can see. They go above the waterline. Place them on the iceberg, above the waterline.”

*(Examples are physical appearance, clothes.... things that go near the waterline are things that are a little more difficult to discern like language, race, etc.)*

“Secondary dimensions of diversity are more cultural. They are not seen. You have to get to know the person to find these out.”

*( Examples are values, religion, likes, dislikes, concept of self, beauty, cleanliness, ideals etc. There is so much more below the waterline, yet we form immediate judgments regarding each other on what’s above the water line.*

**3. Then ask:**

**"In the context of this organization, what is diversity?"**

**Optional:**

**If time permits, you can look at the iceberg as an Organizational Iceberg analogy. "What goes on inside the organization that would go above the waterline and below the waterline."**

**Above the waterline: The formal part of the organization (written & stated)**

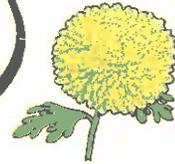
**Below the waterline: The informal Organization Dynamics (unwritten & unspoken-formally)**

**How do you weave diversity into this?**

Pathway to  
Valuing  
Diversity



# Valuing



"This difference can enrich my life."

Appreciation

~~Valuing~~

Adoption  
or  
Adopting



Acceptance  
Respect

"It's okay to be different. I don't want to change it"

Understanding

"Oh, I get it, I understand why people do and think differently about things."

Awareness

Ethnocentricity

"My way is the only right way." Focus is on self at the expense of others

Where are you now?  
Where do you want to be?  
What are you going to do to get there?

**REFLECTIONS OF BAR/SOCIETY**

*Objective:* Complete the grid below. Which groups, in the Florida's legal profession, are more privileged than others. Which groups are less or underprivileged? Write in the characteristics where applicable. Discuss with your tablemates.

	Race	Gender	Age	Education	Sexual Orientation	Ethnicity	Physical Characteristics
Privileged (FL Bar)	_____	_____	_____	_____	_____	_____	_____
(Society)	_____	_____	_____	_____	_____	_____	_____
Under-privileged (FL Bar)	_____	_____	_____	_____	_____	_____	_____
(Society)	_____	_____	_____	_____	_____	_____	_____

**What does this all mean?**

**Successful Lawyering in a Diverse Society**

**SEARCH COMMITTEE**

(Small & Large Group Exercise)

**Materials:**

- Handout rating sheet for each person
- Easel paper (One sheet for each group)
- 2 color markers for each group
- 10 dots per person (use two colors, one for each part of the exercise)

**DIRECTIONS**

**Part I**

**Step 1.**

Give each group the handout (one for each person), an easel sheet and two markers. The handout reads:

Your committee is responsible for conducting a national search to select the Bar Association (or Law Firm) to receive the National Diversity Leadership Award.

As you lay out your plan, what would be the admired elements you would have on your scorecard?

Rank them.

**Step 2.**

Each group agrees on the elements, rank and weight. Records the information on the easel paper.

**Step 3.**

Debrief in large group. Have each group report.

- List the elements from all the groups on a master flip share sheet. (Leave space between each line)

- Give each person 5 dots (of one color). Tell them to go up to the flip chart and put their dots next to the elements they feel are most important. They can spend their dots as they wish. (All on one element or spread out among other elements.)
- Add the number of dots next to each element.
- Rewrite the list using just the top 5 elements (add new weights, if appropriate).

## Part II

### Step 4.

Rate their organization.

Ask the group to individually rate their Bar Organization (or firm) against the five final elements.

**Scale: 1 - 5 (5 being the highest)**

**To rate:**

- Give the other color dots to the participants (5 dots each). Tell them to give each element a score, from 1-5 (5 being the highest).
- Place the score on the dot and place the dot on the master sheet.
- Ask for volunteers to add up the scores

*(While they are adding, discuss the reasons for the ratings.)*

**Ask:**

Does diversity, as you have defined it with your list of words and list of admired elements, have a financial impact on this organization?

Can you put a \$\$\$\$\$\$ on it?

**Note:**

Worksheet Handout on next page

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## Successful Lawyering in a Diverse Society

### SEARCH COMMITTEE WORKSHEET

“You are on a committee responsible for conducting a national search to select the Bar Association, Law Firm or Law Organization that will receive the National Leadership Award. As you lay out your plan, what are the admired elements you would have on your scorecard?”

**Directions:** List the elements you feel should be considered.

| Elements | Must Have = 5<br>Nice to have = 4, 3, 2, or 1 |
|----------|-----------------------------------------------|
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |
|          |                                               |

# **THE APPENDIX**



# **THE APPENDIX**

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## Appendix I

### **The Parable of Ups and Downs**

What makes an up an up and a down a down is that an up can do more to a down than a down can do to an up. That's what keeps an up up and a down down. The ups tend to talk to each other and study the downs, asking the downs about what's up, or what's coming down for that matter.

The downs spend a lot of time taking the ups out to lunch, to dinner, to explain their downness. The ups listen attentively, often in amazement about the experiences of being a down. They contrast one down's experiences and at times don't worry too much about what the downs are up to because the down never get together. If they did, the ups would have to shape up.

After a while, the downs weary of talking to the ups. They tire of explaining and justifying their downness. They think, "If I have to explain my downness one more time, I'll throw up." And so they form a process which they call "networking and support groups." This act makes the ups nervous. Three ups together make a board meeting; three downs, a pre-revolutionary activity.

Some ups hire downs, dress them up, send them down to see what the downs are up to. We sometimes call this "personnel and affirmative action." This creates a serious problem for the down who is dressed up with no sure place to go. That down doesn't know whether he or she is up or down. That's why downs in the middle often burn out.

Sometimes what the ups do to smarten up is ask the downs to come into the program one at a time to explain their downness. The ups call this "human relations training." Of course, the ups never have to explain their upness, that's why they're ups rather than downs.

There's good news and bad news in this parable. The good news is, we're all both ups and downs. The bad news is that when we're up, it often makes us stupid. We call that "dumb-upness." It's not because ups are not smart. It's that ups don't have to pay attention to downs the way downs have to pay attention to ups.

Downs always have to figure out what ups are up to. The only time ups worry about downs is when downs get uppity, at which time they're put down by the ups. The ups' perception is that downs are overly sensitive; they have an attitude problem. It is never understood that ups are *underly* sensitive and have an attitude problem.

*Dr. Robert Terry is author of For Whites Only, Eerdmans Publishing Co., 1970*

# Your Diversity Awareness

Valuing Differences Begins with you

## NOTES

### The Valuing Diversity Index

*Are you aware of your own biases?* If change begins with you and you want to help others, you must first distinguish your own biases, prejudices and specific differences.

Complete the following index as honestly as you can. This will **NOT** be shared with anyone.

- | Yes                      | No                       |                                                                                                   |
|--------------------------|--------------------------|---------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. When someone has obvious differences of opinion, do you automatically discount him or her?     |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Do you seek advice and ideas from one particular group and not another?                        |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. Do you wonder why the issue of Diversity is such a big deal?                                   |
| <input type="checkbox"/> | <input type="checkbox"/> | 4. Do you prefer to work with people who are a lot like you?                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | 5. Do you sometimes have difficulty, tolerating people who are of a different sexual orientation? |
| <input type="checkbox"/> | <input type="checkbox"/> | 6. Do you find yourself assuming that a person from another culture fits their stereotype?        |
| <input type="checkbox"/> | <input type="checkbox"/> | 7. Is it difficult to take direction from someone who is younger than you?                        |
| <input type="checkbox"/> | <input type="checkbox"/> | 8. Do you take offense to someone trying to tell you what to do if you don't respect him or her?  |
| <input type="checkbox"/> | <input type="checkbox"/> | 9. Are you ever annoyed at the changing diversity in the workplace?                               |
| <input type="checkbox"/> | <input type="checkbox"/> | 10. Do you believe that people with differences should have no special accommodations?            |

# How to Understand and Recognize Intolerance and Bias

The terms "Intolerance" and "Bias" seem to pop up more and more in politics and culture. So what do we need to know about intolerance and bias?

## Steps

1. Understand that there is not a single person in the world who is truly tolerant or unbiased in all things.
2. All people have limits to what they will tolerate.
3. Nor is intolerance necessarily wrong or unethical, as many assume. For instance, would you tolerate someone stealing your belongings? Would you tolerate someone coming into your home and killing your pets?
4. The value of tolerance and intolerance depends on the context. Sometimes intolerance is an acceptable way to act, while sometimes it is not.
5. Make a list of the top 5 things that you are most passionate about. Recognize that to one extent or another, your views on those 5 things are intolerant and filled with bias.
  - a. Look at those 5 things again. Say to yourself, "I have an inaccurate and incomplete picture of every single one of these things"
  - b. Look at that list again and understand that most likely your views on at least 3 of those 5 things are not only inaccurate, but seriously flawed.
  - c. Choose one of the top 5 things you are passionate about and read an article or a book from an author that holds a position on the issue that is different than yours.
  - d. Find someone who believes something different than you on the issue and ask them to explain their view. Listen. Hold your judgement. Reflect on how your view differs and is similar to the other person's view.
6. Understand that just because someone is intolerant or biased does not mean that they are wrong or that the view that they hold is incorrect.
7. Be willing to accept that **you** may be wrong even if political correctness or social "norms" say otherwise.

## APPENDIX III

### Successful Lawyering in a Diverse Society

#### (Lecture Material)

#### WHY DIVERSITY?

- The buying power of the minority population equals \$1.24 trillion dollars.
- There are more than three million minority-owned businesses and growing.
- Sales generated by minority-owned businesses amount to more than \$700 billion.
- There are more than 9.1 million women-owned businesses and growing, accounting for more than one third of all U.S. companies.
- Annual sales generated by women-owned businesses generate annual sales in excess of \$3.6 trillion dollars.
- In the workplace, 44% are women and 23% are minority.

#### Did you know that...

Top reasons stated for having a diverse workforce include:

#1 - Resources

#2 - Profits

.....

#7 - It's the right thing to do

- In the next six years, white male representation in the U.S. labor force will decline from 53.4% to 44.3%; African-American female representation will grow from 4.6% to 6.2%.
- 77% of Asian-American women and 78% of Latinos are bilingual.
- According to a Newsweek survey, more than 84% of Americans oppose employment discrimination on the basis of sexual orientation.

- 17.7% of women ages 65 to 69 are still working.
- One in 10 people has a severe disability. 26% of those people are employed. They make \$.58 for every dollar make by a person without a disability.

### **IN THE LEGAL PROFESSION**

- Experiencing bias, harassment or discrimination makes a lawyer about three times more likely and support staff four times more likely to leave their firm.
- The turnover costs for associates is about one and a half times the annual salary plus benefits.
- Using average turnover rates, a 300 member law firm would be looking at a seven-figure fiscal impact.

### **WHAT ARE THE DEMOGRAPHICS?**

#### **Racial and Ethnic Composition of the United States**

| <b>1990</b> |                  | <b>2010</b> |
|-------------|------------------|-------------|
| 75.6%       | White            | 68.0%       |
| 9.0%        | Latino           | 13.8%       |
| 2.8%        | Asian American   | 4.8%        |
| 11.8%       | African American | 12.6%       |
| 0.7%        | Native American  | 0.8%        |

Source: US Census Bureau

## THE CODE OF JUDICIAL CONDUCT

### Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

C. A judge should not hold membership in an organization that practices invidious discrimination on the basis of race, sex, religion, or national origin. Membership in a fraternal, sororal, religious, or ethnic heritage organization shall not be deemed to be a violation of this provision.

This Canon is not intended to prohibit membership in religious and ethnic clubs, such as Knights of Columbus, Masons, B'nai B'rith, and Sons of Italy; civic organizations, such as Rotary, Kiwanis, and The Junior League; young people's organizations, such as Boy Scouts, Girl Scouts, Boy's Clubs, and Girl's Clubs; and charitable organizations, such as United Way and Red Cross.

Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies; or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.

### Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

#### A. Judicial Duties in General.

The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the specific standards set forth in the following sections apply.

#### B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(3) A judge shall require order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit staff, court officials, and others subject to the judge's direction and control to do so. This section does not preclude the consideration of race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors when they are issues in the proceeding.

(6) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words, gestures, or other conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel, or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status, or other similar factors are issues in the proceeding.

## WHAT ARE THE RULES?

The Florida Bar Rules state:

### Rule 4-8.4 Misconduct

A lawyer shall not:

(d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

Florida Statutes state:

### 760.07 Remedies for unlawful discrimination and

### 760.10 Unlawful employment practices.

#### EXPLORING BELIEFS AND STEREOTYPES

*White men have always been managers...and should continue to be.*

*Quarterbacks should always white because teams will be responsive to their leadership.*

*Women do not have the temperament to be supervisors.*

*Women are best in supportive, nurturing roles.*

*Asians will not be confrontational in ways that are required in a competitive work environment.*

*Latinos have difficulty communicating and should not be placed in a position to represent the organization.*

*Black women are difficult employees because they have chips on their shoulders.*

*Gays are too effeminate to be good lawyers.*

*Female clients and staff won't feel comfortable with lesbian lawyers.*

These beliefs are never written down but are powerful determinants of behavior. They arise not from rational origins, but from emotions. They are destructive at the individual level, but become especially harmful when institutionalized as the norm in policies and practices.

### **True or False**

1. Change can only occur when problems are acknowledged. (True)
2. Diversity is a global issue. (True)
3. Removing barriers to the advancement of women does not require much planning or effort. (False - Removing barriers requires as much strategic planning and patient, determined effort as does any other business problem)
4. The best resources for resolving problems are books and similar written materials. (False - people are the best resource for resolving problems)
5. Change is often painful, but also exciting and empowering. (True)

## **So What Do We Do?**

APPENDIX IV

SOME DEMOGRAPHICS

|                                        | <b>2000<br/>Florida<br/>Population</b> | <b>2000<br/>The Florida<br/>Bar<br/>67,047</b> | <b>1992<br/>The Florida<br/>Bar</b> |
|----------------------------------------|----------------------------------------|------------------------------------------------|-------------------------------------|
| <b>African Americans</b>               | 15.4%<br>2,333million                  | 2%<br>1,220                                    | 2% (1992)                           |
| <b>Asians and Native<br/>Americans</b> | 2.2%<br>341,724                        | Other 1%                                       | Other 1%                            |
| <b>Hispanics</b>                       | 15.4%<br>2,3334 million                | 6%<br>3,662                                    | 3% (1992)                           |
| <b>Non-Hispanic Whites</b>             | 67%<br>10.2 million                    | 91%<br>55,552                                  | 94%                                 |
| <b>Women</b>                           | -                                      | 27%<br>16,482                                  | 10% (1984)                          |
| <b>Men</b>                             | -                                      | 73%<br>44,564                                  | 90% (1984)                          |

Source: 2000 Census; The Florida Bar

## **SIX REASONS FOR VALUING DIVERSITY**

---

The idea of valuing diversity transcends law, moral or social responsibility. Besides being the right thing to do, it makes "good business sense" for any organization... private, public, profit or nonprofit. Here are five reasons below:

- 1. Demographics.** We have no choice. The demographic predictions regarding workforce 2000 are here. In this decade, 92% of the labor growth will be minorities, women, and immigrants. In the next century, Blacks, Asians, and Hispanics will out number whites in the United States. Organizations have a choice: they can try to compete using only a portion of their human resources, or they can face the inevitable challenge and learn to manage a culturally diverse work force.

The demographics pose another set of challenges; and that is, how well the diverse workforce works together. Different people (cultures) have misinformation and perceptions about each other. The diverse workforce has to be provided the information and skills to work and communicate well with one another.

- 2. Competition For Talent.** The labor pool in the USA is shrinking. There are four to five million fewer entry-level workers than in the 1980s. To get good people, organizations have to put aside old definitions of "fit" and employ people of different color and cultures. However, recruitment will not suffice; organizations have to compete to retain and motivate women and minorities, and they have to include them in decision making and share power with them.

- 3. Makes Good Business sense.** Let's look at the numbers:

- The buying power of the minority population equals \$1.24 trillion dollars.
- There are more than 3 million minority-owned businesses and growing.
- These businesses are in need of legal services.
- Sales generated by minority-owned businesses amount to more than \$700 billion.
- There are more than 9.1 million women-owned businesses and growing, accounting for more than one third of all U.S. companies.
- Annual sales generated by women-owned businesses generate annual sales in excess of \$3.6 trillion dollars.
- Nationally, in the workplace, 44% are women and 23% are minority.

4. **Productivity.** In the organizations that values diversity, employees are likely to be less averse to taking risks, playing to win rather than not-to-lose, that is, *approaching success rather than avoiding challenges because of fear of failure*. They are more able to express creativity, innovation, and leadership. In this environment, just the *perception* of opportunities improves loyalty and performance, reduces absenteeism, turnover, poor job performance, EEO/sexual harassment charges, and labor/staff unrest that costs employers billions each year
  
5. **Changing Environment.** In our shifting, complex, fast changing environment, imposing one-way standards, is no longer acceptable or productive. New ideas and solutions are needed, and the way to get those is by welcoming new perspectives and methods brought by diversity. A variety of perspectives encourage creativity and problem solving.
  
6. **Good Management.** A good manager gets things done *through* other people. Hence, an individual's career advancement depends on effectively working with other people, including those who are different. The individual can manage more effectively if s/he understands differences in values, perspectives and cultures as well as simple differences of opinion.

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## **LEGAL EMPLOYERS: SELF-AUDIT CHECKLIST**

### **ARE WOMEN AND MINORITIES WELCOME?**

- Do you know whether or not women and minorities feel welcome in your organization?
- How many women and minorities work in your organization? What percentage of lawyers hired are women and minorities?
- What percentage of partners or senior lawyers are women or minorities?
- What percentage of women and minorities have declined offers of employment? Do you know why?
- What percentage of women and minorities have left your organization? Do you know why? How does that rate compare with the departure of white men? Do you welcome women and minorities as clients?

### **AREAS OF PRACTICE**

- Is everyone given equal opportunities to work in all areas of practice?
- Are there areas of practice in which there are no women or minorities? Do you know why?
- Are there areas of practice in which the number or percentage of women or minorities is high? Do you know why?

### **ADMINISTRATION**

- Are women and minorities involved in the management of your organization? If not, do you know why?
- Do women and minorities serve on administrative committees? If not, do you know why?

### **PERCEPTIONS AND STEREOTYPES**

- Do managers or senior attorneys speak or write about women and minorities lawyers in your organization as a group, rather than as individuals? On what issues?

## APPENDIX VI

- Do supervising attorneys complain about difficulties in supervising women and minorities because they "over-react" or react emotionally to criticism? Have you examined that complaint? Is it valid?
- If your organization is engaged in litigation, are women perceived as effective litigators?
- Do you have clients who are reluctant to work with women lawyers? What is your response?
- Do managers or senior attorneys believe that women in your organization are less committed, to their job) after they have children or because of their family obligations? Have you examined that belief? Is it valid?
- Do managers or senior attorneys in your organization talk and think about child care, part-time work, parenting leave, or sexual harassment as women's issues?
- Are more attractive women lawyers more likely to be successful in your organization?

### COMPENSATION, EVALUATION, AND ADVANCEMENT

- Do your organization's policies take the form of "unwritten rules"?
- Do you have written or otherwise well-defined policies on vacation, billing expectations, leave, etc.?
- Have you done a male/female salary survey?
- If women are lagging behind, have you asked why?
- Is each person individually evaluated on a regular basis? Is the evaluation shared with the attorney? Can you articulate reasons for individual salary decisions?
- Do you know if an individual attorney is not living up to your expectations and, if you do, do you address the problem directly?
- Do women tend to be criticized in their evaluation for lack, of aggression, inability to deal with criticism, or personal appearance?

### CLIENT DEVELOPMENT

- Are men and women given similar opportunities to market their services and develop client relationships?
- Are men and women given equal credit for the results of their client development efforts?

## APPENDIX VI

- Have you discussed and developed client contact options or opportunities beyond sporting events?
- Do you equally support (by paying dues or giving "credit" for time spent) activities oriented toward male and female participation?

### PARENTAL AND FAMILY OBLIGATIONS

- Does your organization have a written or otherwise well-defined parental leave policy in addition to a physical disability leave policy?
- Is that policy equally accessible (not just available) to men and women?
- What is your firm's attitude toward a man who takes more than one week of parental leave?
- Does your parental leave policy allow for absence from work for more than three months?
- Does your parental leave policy make clear the impact of the leave on salary review, review for partnership, and other "success" indicators?
- Does your parental leave policy allow part-time employment or other alternative employment arrangements?
- How does your parental leave policy compare to the treatment of leave taken for other purposes such as recovery from a heart attack, alcohol treatment, or pursuit of an avocation?
- Does your firm have a policy for assistance in child care?
- Are there primary parents among those who make and review policy in this area?

### MENTORING

- Are formal and informal mentoring available to both men and women?
- How are mentors selected?
- Are mentors evaluated?
- Is there a procedure for changing mentors?
- Are mentors required to report on their contacts with mentees?

## APPENDIX VI

### SOCIAL CULTURE

- Are women invited to participate in your organization's informal activities?
- Is a female associate or junior attorney as likely to be invited to lunch and other informal gatherings as a male associate or junior attorney?
- Are invitations declined by women? Do you know why?
- Are men and women equally invited to participate in social events and discussions? Are social events held at places where women may be uncomfortable, or focused only on activities that women may not feel comfortable participating in?
- Are men and women equally encouraged to take a leadership role in the organization, the profession, and the community?

### SEXUAL HARASSMENT AND RELATED GENDER DISCRIMINATION

- Does your organization have a written policy for reporting overt sexual bias? Sexual harassment?
- Are complaints taken seriously and met with timely and appropriate action?
- Does your organization react with an official response when overt sexual bias or harassment is experienced by an attorney outside the office, i.e., in the courtroom, from clients, or from other attorneys?
- Who is prepared to assist an attorney faced with unwelcome sexual attention from a client or a coworker?
- Are subtle forms of hostility toward women (sexual jokes, unwelcome comments on physical appearance or female physical attributes) allowed to occur, whether in the presence of women or not? Do managers or senior attorneys participate in such behavior?

### PHYSICAL SAFETY

- Have you assessed your organization's security system and after hours security arrangements? Have women been asked if they feel physically safe at all times?
- Do you provide an escort service for women who park their cars in ramps or other potentially dangerous locations?

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## Gay and Lesbian Lawyers in the Workplace

### Questions and Themes

**What is the appropriate response when a person discloses his or her sexual orientation to you?**

**"Don't ask, don't tell."** Many employers assume that by not mentioning sexual orientation, they are protecting their employees' privacy. More often than not, however, this creates an environment in which heterosexuality is the assumed norm and being identified as lesbian or gay is considered a liability. Furthermore, the general environment may communicate the message: "You better not tell or it will be a problem." This approach fails to take into account the high cost that the lesbian or gay individuals may be paying for keeping such an important part of themselves hidden.

**"Personal business should be kept personal."**

The personal lives of heterosexual members of the firm are constantly discussed and given institutional support. Similar efforts can be made to support the personal needs of lesbian and gay employees.

**Hiding the fact that you are gay can be very stressful and ultimately interfere with work and productivity.** Many lesbians and gay men can successfully hide their sexual orientation, but the effort exacts a very large toll. Bringing a date of the opposite sex, wearing a wedding ring, vague references to non-work related social activity all help keep one's "cover." Gay men and lesbians also report that they are often thought of as hostile, uninvolved, or standoffish in their dealings with co-workers as a result of their efforts to hide their sexual orientation. This, in turn, is reflected negatively in evaluations with comments that someone is not a 'team player.' Ultimately, the effort to conceal one's true self from one's workplace takes a tremendous amount of energy and can negatively impact one's work. |

***"If you come out and are a gay man, it means you have AIDS."*** Although over 200,000 people have died of AIDS in the United States, not all gay men have AIDS or are HIV -positive; conversely, not all people who have AIDS or who are HIV -positive are gay men. It may be important to conduct some additional training about AIDS to eliminate stereotypes and behaviors that make it difficult for an HIV -infected person to be comfortable in the workplace.

**If other lesbians and gay men are denied partnership, isn't it reasonable to assume that it is because of their sexual orientation?** The best way for employers to be sure that such assumptions do not color these decisions is to take affirmative steps to create a truly open and diverse environment where lesbian and gay members of the firm are respected and treated equally with all other employees.

### **Other Questions and Themes:**

Is there a generation gap in your office that makes the issue of sexual orientation a difficult one for the older partners? What, if anything can be done about that?

Is there someone in your workplace who has the ear of such senior people and is sympathetic to helping create a more open environment? Have those people been enlisted in the effort to create a dialogue?

What efforts, if any, has top management made to actively encourage lesbian and gay men to fully participate in firm activities?

### **Additional themes**

**"If you mention your sexual orientation, you are talking about sex."** This association makes many people feel uncomfortable with any reference to one's sexual orientation. It should be stressed, however, that what in fact is being revealed is not about sex, but about whom this person is. There is very little difference between a heterosexual attorney talking about her vacation with her husband and a lesbian attorney having the same discussion referencing her same-sex partner. While the sexual orientation of the individuals differentiates the discussions, there is no mention of sex.

**"We don't want gay business anyway."** There is a fear among some employers that if their lesbian and gay employees are too successful in bringing in business, they will taint the firm by becoming known as a 'gay' firm. This fear is unfounded. In the tightening legal economy of the new century, business is business. Firms should be more concerned about their attorneys' diversity since many corporations are now seeking outside counsel with significant numbers of minority group members.

**"If you talk about or help a lesbian or gay man, the question often is !! Are you one, too?"** This attitude prevents people who may be inclined to support their lesbian and gay friends from talking about such issues: to say anything positive may lead to a suspicious glance, or a subtle, hostile comment. This perpetuates the negative stigma associated with being gay or lesbian and undercuts visible support for issues of importance to the gay and lesbian community.

### **Other themes include:**

**Fear of client reprisal.** This is a common theme that is echoed by gay and lesbian associates who are discouraged from revealing their sexual orientation to clients. In almost every instance, this turned out to be an unfounded fear on the part of the employer. Many clients were supportive of the associate upon learning that they had a same-sex partner. In other instances, it was irrelevant to the client. Theresa Stewart sums up the bottom line, a partner interviewed for a video, who stated, "If I have the judgment for you to make me a partner, then I certainly have the judgment to make the personal decisions about when to be openly gay with a client. "

**Quality of service.** The success of many of the people, demonstrate the point that one can be both lesbian and gay, and still be a good lawyer.

## APPENDIX VII

**Domestic partnership benefits will be too expensive.** Less than three percent of all lesbian and gay male employees use domestic partner benefits when they are offered. As many people note, however, a domestic partnership benefit package insures equity in employee benefits and enables lesbian and gay employees to feel that they are part of the same team as their heterosexual colleagues.

## LEGAL REFERENCE MATERIAL

### I. Sexual Stereotyping

The use of stereotypical assumptions about men and/or women in employment decisions is a form of gender discrimination prohibited by law. Recent case law has addressed the issue in the context of professional organizations, frequently regarding promotion decisions.

#### A. The Use of Sexual Stereotypes

1. In 1989, the Supreme Court ruled that discrimination on the basis of sex stereotyping violates Title VII. Price Waterhouse v. Hopkins, 490 U.S. 228 (1989). Hopkins, a senior manager at an accounting firm, was denied consideration for partnership because she was not deemed "feminine" enough by the partners who were evaluating her. The evaluation committee solicited evaluations from the entire partnership. Among the subjective evaluations were comments describing Hopkins as "macho," and "overcompensating for being a woman," and suggesting that she take "a course in charm school" and "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled and wear jewelry." Id at 235. The U.S. Supreme Court held that the consideration of these comments in the evaluation process was impermissible sex discrimination:

An employer who objects to aggressiveness in women but whose positions require this trait places women in an intolerable and impermissible Catch 22: out of a job if they behave aggressively and out of a job if they do not. Title VII lifts women out of this bind.

Id at 251.

The district court on remand awarded Hopkins admission to partnership, backpay in the amount of \$371,000.00 and attorney's fees. Hopkins v. Price Waterhouse, 737 F. Supp. 1202 (D.D.C.), 920 F.2d 967 (D.C. Cir.990).

2. Ezold v. Wolf, Block, Schorr and Solis-Cohen, 751 F. Supp. 1175 (E.D. Pa. 1990), rev'd 983 F.2d 509 (3d Cir. 1992): At the District Court level, the court held that a law firm denied a female associate partnership while it granted partnership to a number of less qualified male associates. In reaching the conclusion that the firm had discriminated, the district court considered that the firm had criticized the female associate for being: "too involved with women's

issues in the .Firm," 751 F. Supp. at 1192; and "very demanding' " and insufficiently "nonassertive and acquiescent to the predominantly male partnership." Id at 1189.

The Court of Appeals, however disagreed and held that the District Court had erred by substituting its judgment for that of the firm's evaluation committee. The proper analysis should not have been whether in the court's view the lack of legal analytical ability was critical to success as a partner. Rather, the court should have analyzed whether male associates who were granted partnership had been similarly criticized.

3. Bruno v. City of Crown Point, 950 F.2d 355 (7th Cir. 1991), cert. denied, 120 S. Ct. 2992 ( 1992): During a job interview for the position of paramedic on an ambulance, the employer asked the sole female applicant questions relating to child care, her spouse's feelings about her seeking the job and her spouses's job, which the employer did not ask male applicants. The Court of Appeals stated: "While family questions are important, an interviewer should not single out women and focus on them as if they were the only sex concerned about how family responsibilities may affect the demands of the job." 950 F .2d at 362.

4. Drinkwater v. Union Carbide Corn., 904 F.2d 853 (3d Cir. 1990): In attempting to establish a sexual harassment claim based on a hostile environment, a female market research employee alleged that her employer made impermissible demands upon her concerning her makeup, eyeshadow and clothing. Although finding that there was insufficient evidence to sustain the claim, the Court of Appeals stated that:

Undue preoccupation with what female employees look like is not Permissible under anti-discrimination laws if the same kind of attention is not paid to male employees. Traditional ideas about what a woman should look like are not legitimate criteria for evaluating women in the workplace.

Id. at 862-63.

5. Vincent v. Hillard-Lyons., 1991 U.S. App. LEXIS 29376 (6th Cir. 1991): An employer terminated a female trader after she became engaged to the son of one of its competitors because the employer was concerned that the female employee would divulge proprietary information. The female employee alleged that although a number of rationale traders were married to women who worked at competitors none of them were terminated because the employer believed that women were more likely than men to engage in "pillow-talk."

In upholding the decision in favor of the employer, the Court of Appeals acknowledged that existence of the stereotype, but held that the employee had presented no directed evidence that the employer had relied on the stereotype in reaching its decision to terminate her.

## B. Sexual Stereotyping and Sexual Orientation

1. Although sexual orientation was not an issue in the *Price Waterhouse*, gay plaintiffs who can show similar gender stereotyping may also have a cause of action. Note, *Sexual Orientation and Title VII*, 91 Colum. L. Rev. 1158,1180 (1991) (hereinafter *Sexual Orientation*).
2. A few courts have rejected arguments that discrimination against homosexual male employees because they are "effeminate" violates Title VII. See e.g., *Smith v. Liberty Mutual Ins. Co.*, 569 F.2d 325 (5th Cir. 1978); *DeSantis v. Pacific Tel. & Tel. Co.*, 608 F.2d 327 (9th Cir. 1979).
3. Employers can claim in their defense that the employee was treated differently because of sexual orientation (which is currently permissible under Title VII) and not on the basis of gender stereotyping.\*\*
  - a. The Sixth Circuit rejected on two grounds a *Price Waterhouse* claim by a homosexual employee whose co-workers harassed him by describing the sexual acts they presumed that he performed. *Dillon v. Frank*, 1992 U.S. App. LEXIS 766, 58 Empl. Prac. Dec. (CCH) '41332 (6th Cir. 1992).
 

First, the court held that the co-workers would have objected to the sex acts regardless of whether a woman or man had performed them, so no gender discrimination was involved.

Second, the court said that whereas in *Price Waterhouse* the plaintiff was placed in a "Catch-22" situation because the "male" traits such as aggressiveness for which she was penalized were also traits she needed to be promoted, Dillon's supposed activities or characteristics were irrelevant in the workplace and thus did not place him in such a Catch-22. *Dillon*, 1992 U.S. App. LEXIS 766, at \*28-29.
4. A claim of gender stereotyping may be the only potential claim available to gay men and lesbians under Title VII. In fact, some commentators have suggested that gay people are discriminated against because they do not conform to an expectation of gender roles, and thus all discrimination on the basis of sexual orientation is actually impermissible gender stereotyping. See, e.g., *Sexual Orientation, supra* at 1183;

\*Contains updated excerpts from *Avoiding and Defending against claims of gender and sexual orientation discrimination in the workplace* originally presented by Proskauer Rose Goetz & Mendelsohn on October 6, 1993 at its annual Law and the Workplace seminar and is reprinted here with permission

Developments -Sexual Orientation and the Law, 102 Harv. L. : Rev. 1508, 1580-1581 (1989) (hereinafter Sexual Orientation and the Law).

Although this argument has not been adopted in the Title VII context, courts and legislatures have considered it in other contexts. For I. example, the Minnesota sexual orientation anti-discrimination law: includes in its protected class definition anyone "having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness." 1993 Minn. Ch. Law 22 (1993).'

### II. Domestic Partnership Benefits

Most benefits available to the legal spouses of employees are not available to unmarried domestic partners of employees. Unmarried workers in long-term relationships, both opposite-sex and same sex relationships, are increasingly asserting that they are not being compensated equally to similarly situated married co-workers. Domestic partnership benefits raise many legal issues relating to discrimination based on marital status and sexual orientation, tax law treatment, and COBRA rights.

Federal, state and local laws do not expressly require an employer to provide domestic partnership benefits. Nevertheless, an increasing number of employers and law firms are offering domestic partnership benefits to their employees.

Advocates of domestic partnership rights focus on two arenas of change: (1) legal recognition of or registration for non-traditional relationships, and (2) the extension of employer-provided benefits to non-married domestic partners.

Generally, a "domestic partnership" refers to "two persons who reside together and who rely on each other for financial and emotional support." Robert L. Eblin, *Domestic Partnership Recognition in the Workplace: Equitable Employee Benefits for Gay Couples (and Others)*, 51 Ohio St. L.J. 1067, 1069 n.11 (1990). Through often included in the definition, a sexual relationship is not necessarily a requirement of domestic partnership.

# **FACILITATOR TIPS**

# **Facilitator Training**

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**OBJECTIVES  
FACILITATOR TRAINING**

At the completion of the facilitator training section, you will:

1. Understand your role as a facilitator
2. Be aware of your own strengths and weaknesses as a facilitator
3. Understand the design elements of program
4. Understand the different types of facilitating methods and the purposes of each
5. Know techniques of using visual aids effectively
6. Be able to recognize nonverbal language of participants
7. Know techniques of handling problem participants
8. Be able to set up and break down a meeting room

## **FACILITATOR'S ROLE AND RESPONSIBILITIES**

- 1. Create a good physical learning environment**
- 2. Establish an informal tone and an upbeat mood**
- 3. Set and maintain an appropriate pace**
- 4. Keep the program on schedule**
- 5. Make sure that participants understand what they are learning, why they are learning it, and what they are supposed to do**
- 6. Keep participants involved, interested and attentive**
- 7. Present inclusive activities**
- 8. Help participants make connections between the program and real work situations**
- 9. Help participants make and recognize progress**
- 10. Give participants a quality experience**

## PROBLEM PARTICIPANTS

While most participants are cooperative and easy to manage, there are certain personality types that create problems for the trainer and for other participants, if they are not handled properly. The following is a description of the more common problem personalities you are likely to encounter, and tips for handling each one.

### The Shy Participant

The shy participant hesitates to join in and is silent much of the time. This type of person is easy to overlook, because there is no disturbance to the class and the person doesn't do anything to call attention to himself or herself. Your goal is to draw the shy participant out and to ease him or her into a more active role. To achieve this goal:

- Call on the person by name
- Ask questions that are easy to answer. This includes questions that relate to everyday experiences, and those that provide an opportunity to comment on something another participant has said
- Socialize with the person at breaks

### The Clown

While some humor livens up a classroom, clowns tend to overdo it. This is distracting and time consuming. The clown is the opposite of the shy participant. The clown wants all the attention, and is rarely silent. Your challenge is to give the clown the attention s/he needs, while trying to divert the person's energies and contributions in a more positive direction. To accomplish this:

- Call on the person during discussions, to provide attention within the framework of the program
- Give positive feedback when the person makes a worthwhile contribution
- Ignore the humorous comments. If the problem continues, you might say something like, "I'm afraid I missed the point of your joke; could you give us your thoughts without the humor?"

The Hog:

The hog loves to talk and will monopolize class time if permitted to do so. Your goal is to keep this person from inhibiting the rest of the group. To achieve this goal:

- Don't call on the person
- Avoid looking at the person
- If the person talks without being called on, which she will probably do, wait for a pause and then ask another participant to comment
- Make a general comment about the need to hear from everyone

The Show-Off

The show-off wants the group's admiration and approval. This person may be a name-dropper or may grab every opportunity to talk about his or her experiences. If the constant bragging becomes a drain on class time, you can use the same techniques as you do for the hog. If the frequency is less, you can simply withhold positive feedback for these types of contributions and tolerate the annoyance.

The Devil's Advocate

The devil's advocate loves to argue. This type of person looks for opportunities to disagree, to take the opposite position from the trainer and other participants. While some disagreement is healthy, too much negativism is annoying and disruptive. The motivation for the behavior may be the need for attention, or it may be a protective device designed to reduce risk of failure in acquiring the knowledge and skills being presented. Your goal is to give the devil's advocate the attention *she* needs, and to achieve a positive atmosphere in which learning can occur.

To achieve this goal:

- Call on the person for questions which elicit factual information, rather than those which ask for opinions
- If and when the person makes a positive comment, give positive feedback
- Don't let yourself be drawn into an argument or a debate; listen to what the person says. At the end the discussion, you might say:
  - "I hear your position. You feel....."
  - "I ask you to put aside your views temporarily. Try doing it as the program (segment) suggests and see how you feel at the end of the program (segment)."
  - "We've spent as much time as we can afford on this point. Let's move ahead."
  - "We seem to be at an impasse. You have made your position quite clear and I thank you for that. Let's just agree to disagree, and move ahead."

*The Hostile Participant*

The hostile participant is similar to the devil's advocate in that she has a negative attitude. This person goes a step further and asks questions to create embarrassment or arouse anger. Your goal is to remain calm and diffuse the hostility. To achieve this goal:

- Don't take it personally
- Rephrase the question in milder, more objective terms
- Direct the question to the group, or to a supportive participant; for example: "Anyone want to respond to that?" "How do you feel about that, Helen?"

*The Space Cadet*

The space cadet makes interesting and thought-provoking comments, but they are often off the subject and sometimes bizarre. Your goal is to help the person relate to the subject at hand. To achieve this goal:

- Look for connections between what the person is saying and the subject being discussed
- Remind the person of the subject being discussed, and ask the person how the comment relates to it
- Remind the group of the subject being discussed, and ask someone to comment on it

## DESIGN ELEMENTS OF TRAINING PROGRAMS

### Definitions

Training programs have certain design elements that you, as a trainer, need to be aware of in order to provide effective facilitation.

- **Purpose:** a concise description of why a program is offered
- **Target Population:** the profile of the participants for whom a program is intended
- **Objectives:** the major learning results for participants; usually stated in terms of what participants will know or be able to do at the completion of a program
- **Content:** the major topic areas covered in a program
- **Sequence:** the order in which the major topic areas are presented
- **Program Length:** the overall length and the number of units or modules
- **Training Methods:** the techniques used to present and reinforce the content in away that creates and maintains interest
- **Implementation Considerations:** decisions about running the program, such as scheduling and group size/mix

### NONVERBAL COMMUNICATION

Both the trainer and participants send subtle, and sometimes not so subtle, messages through body language and other nonverbal clues.

#### Trainer

The trainer needs to be aware of his or her own body language, and to use it to support training efforts.

#### Administration Tips:

1. Adopt a natural pose of someone talking to a group of friends at a party
2. Use good posture; avoid slumped shoulders
3. Look physically and mentally alert
4. Establish eye contact with participants; make contact with each participant and spend about 5 seconds looking at that person. Looking too long at anyone individual can make the person uncomfortable; looking too quickly from participant to participant can make the trainer look nervous
5. Maintain eye contact with participants at least 60% of the time; less than 60% of the time can be interpreted as anxiety, shiftiness, dishonesty, insincerity or boredom
6. Use an appropriate voice volume for the size room; too soft gives an impression of timidity and uncertainty and makes it difficult for participants to understand you; too loud gives an impression of anger and aggressiveness
7. Pay attention to the rate of speech and to tone of voice. Too fast makes you appear nervous; too slow makes you seem uncertain. A tone of voice that indicates disinterest or sarcasm has a negative impact on participants
8. Use facial expressions to match the verbal message. Smile when appropriate. Don't frown or tense your jaws if you are not pleased
9. Use movement to change the mood. Staying too still can put the participants to sleep; moving around too much can be distracting
10. Use natural gestures; avoid nervous gestures such as wringing the hands, pulling at an ear, pulling at a strand of hair, drumming fingers

## Facilitator Training E

### Participants

The trainer needs to be attentive to nonverbal clues provided by participants. The following is a list of messages and the nonverbal clues communicated by participants:

- Interest - leaning towards person who is speaking, eye contact
- Deep thought - wrinkled eyebrows
- Frustration - quick movements, clenched fist, twisting pencil
- Approval or agreement - nodding the head, smiling
- Disapproval or disagreement - shaking the head, frowning
- Defensiveness - arms folded across the chest
- Superiority - pointing a finger at another person
- Lack of confidence - speaking too softly or too slowly
- Anger - speaking too loudly
- Nervousness - speaking too fast
- Delaying tactics - cleaning eyeglasses, shifting through papers
- Disinterest or boredom - lowering the head, looking away from the person who is speaking, or shifting positions
- Fatigue - rubbing neck, rubbing eyes, yawning, falling asleep
- Ready for a break - shuffling feet, squirming, sitting back, looking at a watch or clock