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SURVEYING GENDER BIAS AT ONE MIDWESTERN LAW SCHOOL

LISA A. WILSON* & DAVID H. TAYLOR**

“[I]f we accept the idea that the law is aimed at correcting inequities, shouldn’t it follow that lawyers and therefore the law schools should be the ones most adept at recognizing and correcting those inequities?”¹

INTRODUCTION

The graduating class of 1997 entered Northern Illinois University College of Law (hereinafter “College of Law” or “NIUCOL”) with 51% women.² That figure steadily dropped over the next three years.³ The graduating class of 2000 entered the College of Law with just 33% women.⁴ This was especially alarming to the College of Law because one of the administration’s missions has been to provide access to the legal profession for persons belonging to groups traditionally under-represented in the profession. The decline was viewed as a possible step backward in what had previously been viewed as a very successful effort to recruit higher levels of women students.

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1. Cynthia L. Hill, *Sexual Bias in the Law School Classroom: One Student’s Perspective*, 38 J. LEGAL EDUC. 603, 608 (1988).

2. Memorandum to Dean and College of Law Faculty from Judith L. Malen, Director of Admissions and Financial Aid, Northern Illinois University College of Law (discussing statistics of entering class) (copy on file with the NIUCOL admissions office).

3. *Id.*

4. The graduating class of 2001, which just began its first semester of law school in the fall of 1998, entered with 47% women. The graduating class of 2003 began its first semester of law school with 51% women. Whether the increase in the number of registered women is in part because of the increased efforts to recruit female students is not yet known.

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Some members of the faculty began looking for new ways to encourage more women to apply to, and attend, NIUCOL. For instance, some female students were asked during informal discussions for their input on how to make NIUCOL a more inviting place for other female students. Also, a small group of students and a faculty member, including the authors, began to meet regularly to address this concern. One suggestion, which was eventually implemented, was to informally question female students about the classroom atmosphere.⁵

Anecdotal evidence regarding the “chilly” atmosphere which female students face at NIUCOL led to the design of a questionnaire which could be distributed to every registered law student at the College of Law. This questionnaire was created to measure whether statistical data would support or refute the anecdotal stories of hostility and harassment uncovered in the informal interviews.

I. LITERATURE REVIEW

While the literature is replete with anecdotal stories about women being sexually harassed, demeaned, and intimidated by their classmates and professors in law school, there has been relatively little statistical analysis done on the subject.⁶ The statistical analyses that have been done tend to support women’s stories about harassing behavior in the classroom.⁷

In the last several years, there has been recognition of the sexual harassment that elementary and secondary school girls face at the hands of their male classmates.⁸ Such harassment is most often met with a “boys will be boys” attitude which, in turn, tends to encourage further harassment and hostile behavior in high schools, universities, workplaces, and even in the home.⁹ Likewise, as researchers have noted, there is “probably a strong correlation between the existence of gender bias in American courts and gender bias in law school

5. The authors wish to acknowledge the support of Dean LeRoy Pernell throughout the process of conducting the survey and analyzing the results. Dean Pernell had no hesitation about examining the environment for women at the College of Law. He consistently approached this project with a sincere desire to analyze the NIUCOL environment and plan whatever corrective action, if any, was warranted by the results of the survey.

6. See generally Taunya Lovell Banks, *Gender Bias in the Classroom*, 38 J. LEGAL EDUC. 137, 138-39 (1988).

7. See, e.g., *id.* at 140-45; Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools*, 44 J. LEGAL EDUC. 311, 313-31 (1994).

8. See generally Helena K. Dolan, *The Fourth R – Respect: Combating Peer Sexual Harassment in the Public Schools*, 63 FORDHAM L. REV. 215 (1994).

9. See *id.* at 216, 224.

classrooms.”¹⁰

A. *Sexual Bias in the Courtrooms*

By 1990, as many as thirty-three task forces had researched gender bias in the courts.¹¹ Several of those reports indicated a belief that “some of the unfair treatment of women found in the courts might be traced to the law school experience.”¹² In her article entitled “Women in the Law,” Patricia M. Wald, Chief Judge of the United States Court of Appeals for the D.C. Circuit, notes that recent studies concerning the treatment of women in the legal system uniformly reveal that gender biases still pervade the courtroom.¹³ Besides listing specific instances of gender hostility and harassment in the courtroom, Wald writes that “only 9 of 87 nominees to the federal circuit courts and 22 of 280 nominees to the district courts have been women”¹⁴

Loraine Dusky, an award-winning journalist, extensively discusses gender bias in the courtroom in her book entitled, *Still Unequal*.¹⁵ The book is likely the most comprehensive report of anecdotal evidence of gender hostility in United States law schools. Dusky states,

[T]he law is what the judge says it is. And how he or she interprets it depends to a large degree on inherent inclinations as well as on the complex experience that makes up a life. . . . And that is the real heart of the matter about why sex discrimination in the law school and in the profession matters so much: it sets the stage for women’s less than equal status in the courts.¹⁶

The 1995 annual report of the New York State Commission on Judicial Conduct, which summarizes the Commission’s work since 1983, indicates that judges have been removed from the bench for making racial and ethnic comments, but none have similarly been removed for sexist insults.¹⁷ When judges use comparably offensive language about women, such conduct is generally met with a mere

10. Banks, *supra* note 6, at 138.

11. See Krauskopf, *supra* note 7, at 311.

12. *Id.*

13. See Patricia M. Wald, *Women in the Law*, TRIAL, Nov. 1988, at 80.

14. *Id.*

15. See generally LORAIN DUSKY, STILL UNEQUAL 266-302 (1996).

16. *Id.* at 266.

17. See *id.* at 270.

admonition.¹⁸ The annual report indicates that in only one case did a judge receive a public censure and that was for stating publicly that a woman in a pending rape trial “ended up enjoying herself.”¹⁹

The Ninth Circuit Gender Bias Task Force surveyed more than 3,400 lawyers in 1991, including approximately 900 women, and found many instances of sexual bias. These included suggestive comments about female counsels’ appearance during proceedings.²⁰ Perceptions about gender bias in the courtroom were the same between men and women under forty years of age, and men and women over forty years of age.²¹ The task force concluded that the “data provide little basis for believing that the differences found in the Task Force surveys will diminish naturally with the passage of time,”²² strongly suggesting, therefore, that affirmative steps must be taken to quell the sexual biases found in American courtrooms.

According to Dusky, by 1996 forty-one states had appointed task forces to gather data on gender bias in the courtroom. The task forces similarly found instances of gender bias, including commonly used demeaning terms of fake endearment, as in oft repeated “little girl”; outright hostility on the part of the judge to any motions the woman attorney brings; condescending questions; pointing out rules of law to women only to embarrass them, when it is obvious they know the law; obvious favoritism and familiarity with the male attorney²³

In response to a Washington study, 71% of the more than 700 female attorneys surveyed reported that they “had observed demeaning remarks directed at women or [had] been the target themselves”²⁴ Similarly, 47% of the more than 750 male attorneys surveyed reported that they had seen other lawyers act condescendingly towards women.²⁵ Over half the females and 20% of the males who responded to a state survey in Colorado reported “hearing remarks or jokes demeaning to women, use of first names or terms of endearment for female but not male attorneys, and comments about female attorneys’ personal appearance as part of the

18. *Id.*

19. *Id.*

20. *See* DUSKY, *supra* note 15, at 274.

21. *Id.*

22. *Id.*

23. *Id.* at 276.

24. *Id.*

25. *See* DUSKY, *supra* note 15, at 276.

courtroom interaction.”²⁶

The survey distributed to NIUCOL law students was not designed to measure gender bias beyond the law school classroom, and readers must be careful not to draw conclusions about biases in the courtroom from this particular study. However the message derived from prior research is clear: “law schools shape the next generation of lawyers and judges.”²⁷ For this reason, it is incumbent upon law school administrations to take an active stance in combating sexual bias in the classroom as one step towards eradicating sexual bias in the courtroom.

B. Sexual Bias in the Classroom

Dusky interviewed around seventy women law students between the years of 1993 and 1995 from eight randomly selected law schools around the country.²⁸ Only three women in the study reported that they experienced no discrimination at all.²⁹ The rest of the women in the study reported being called on in class much less often than their male counterparts and feeling that their comments were dismissed as unimportant.³⁰ Many students noted that a woman with a feminist perspective is labeled a “man-hating lesbian” or a “feminazi dyke,” and a woman who is assertive is labeled a “bitch.”³¹

Dusky notes that harassment is usually less blatant than it used to be. For instance, rather than directly harassing women students through inappropriate touching and/or propositions for sexual favors, a professor may make consistent and unnecessary sexual references.³² One student from Berkeley Law School discussed a torts professor who consistently used sexually disparaging hypotheticals in his class. The student stated, “If you can imagine hypothetical after hypothetical being framed in these terms, it becomes offensive and demeaning.”³³ Students at Harvard indicated a dislike for Professor Alan Dershowitz’s criminal law class because he spent an inordinate amount of time discussing rape and because he would often express a concern “about how many women cry rape when it is not rape.”³⁴

26. *Id.*

27. Krauskopf, *supra* note 7, at 311.

28. *See* DUSKY, *supra* note 15, at 22.

29. *See id.*

30. *See id.* at 23, 26-27, 33-37.

31. *Id.* at 38.

32. *See id.* at 45.

33. *See* DUSKY, *supra* note 15, at 45.

34. *Id.* at 46. Incidentally, one study from Portland, Oregon puts the figure for false

While a few lewd or inappropriate comments and hypotheticals may not fall under the legal definition of sexual harassment,

a pattern of raunchy asides, the constant use of hypothetical cases with sexual overtones, frequent jokes with sexual references, tolerance of vaguely obscene or sexually charged comments from students, or words like “bitch” and “slut” heard whispered in the background do add up to a pervasive atmosphere that makes the classroom a hostile place for women. It puts women at a disadvantage that men can barely comprehend.³⁵

Gwen McNamee, Co-Chair of the Gender Bias-Free Jurisprudence Subcommittee of the Chicago Bar Association’s (“CBA”) Alliance for Women, wrote a short article discussing the findings of the CBA’s recent report on gender bias in law schools.³⁶ The article indicated that women law students are generally not called on to speak in class and that when they are, their ideas are ignored or belittled.³⁷ “[M]ale professors denigrate and devalue women’s abilities” by, among other things, “making derogatory statements about women and allowing anti-women sentiments to go unchallenged.”³⁸

The CBA report also indicated that many professors “use sexual terms and examples in class which grossly mischaracterize sexual violence against women; fail to use competent women in their hypotheticals; and use hypotheticals to denigrate and embarrass women students.”³⁹ Similarly, male students were reported to “dominate class discussion, make negative and demeaning comments when women speak and call women derogatory names when they raise feminist issues in class.”⁴⁰

In recent years a few studies have been done using questionnaires, the results of which were statistically analyzed. These studies attempt to discover levels and types of gender hostility in law schools and the result of such hostility on women students. Two such studies are reported by Taunya Lovell Banks and Joan M. Krauskopf.⁴¹ Banks

reports of rape at two percent, which is less than the number of false reports for stolen vehicles. *Id.* at 383.

35. *Id.* at 45.

36. See Gwen McNamee, *Alliance For Women Battles Law School Gender Bias*, 9 CHICAGO BAR ASS’N RECORD, No. 4, May 1995, at 38.

37. *See id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. See Banks, *supra* note 6, at 138; see also Krauskopf, *supra* note 7, at 311.

surveyed students from five law schools and received 756 responses.⁴² Krauskopf was Chair of the Gender Issues in Law Schools Committee, which surveyed students and faculty from the nine Ohio law schools.⁴³

Banks' survey revealed that women volunteered less in class and that students believed the gender of the professor made a difference in the frequency with which they were called upon in class.⁴⁴ Seventy-one percent of female students and 55% of male students indicated that female professors encourage student participation more.⁴⁵ Forty-seven percent of students surveyed indicated that one or more of their professors used offensive humor.⁴⁶ For instance, several students at one school reported that a professor made the comment that "one cannot get a good maid or secretary anymore because all the women are in law school."⁴⁷

Krauskopf reports similarly disheartening results. For instance, she notes that one-third of all females reported having experienced sexual discrimination while fewer women than men reported that they participate in class.⁴⁸ A much higher percentage of women than men also indicated that they felt intelligent and articulate before law school, but not so after law school: 41% compared to just 16.5%, respectively.⁴⁹ The Gender Issues in Law School Committee concluded that "differences in perception and in treatment based on gender impede the educational and professional progress of women in such numbers that legal educators should act to minimize the differences and their negative effects."⁵⁰

Wald notes that it is not just female law students who suffer from an aggressive and hostile reception by their male counterparts. Women associate law professors likewise experience the "chilly" atmosphere.⁵¹ Wald writes that "[p]roblems of 'authority' arise frequently in the classroom" and that "students challenge openly the legitimacy and credentials of women minority teachers." Wald also writes that while the number of harassing incidents has risen, the

42. See Banks, *supra* note 6, at 140.

43. See Krauskopf, *supra* note 7, at 311-12.

44. See Banks, *supra* note 6, at 141, 143.

45. *Id.* at 143.

46. *Id.* at 144.

47. *Id.* at 144.

48. See Krauskopf, *supra* note 7, at 313-14 (noting that women feel less confident than men in terms of class participation).

49. See *id.* at 328.

50. *Id.* at 312.

51. Wald, *supra* note 13, at 77.

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faculty and administration in law schools have tended to condone such conduct through silence or distancing.⁵²

II. METHODOLOGY

Creating a survey that would accurately measure the types and levels of gender hostility in the law school classroom was a long process of drafts and redrafts. As indicated above, prior to creating the survey, a number of female students were informally interviewed about their experiences as women at NIUCOL. When these women were asked generally if they thought NIUCOL was a hostile place for women, they tentatively responded in the negative.⁵³ Yet, when asked specific questions regarding gender hostility, their answers changed. For instance, when asked whether they were aware if any professors used hypotheticals in which women were portrayed in sexually demeaning situations, the women responded in the affirmative.⁵⁴ When asked whether any male students made offensive comments during discussions on sensitive topics such as rape or domestic violence, the women again responded in the affirmative and related specific comments that had been made.⁵⁵ For example, one woman noted that a male student in her class refers to women in the casebooks and women in the classroom as “hookers.” Another noted that a group of males made comments during discussions on rape such as, “she deserved it.”⁵⁶

Such apparent disparity is not uncommon. Several authors have noted that some females have become so desensitized to the bias and stereotypical sexual attitudes in our culture that, though they are aware of an underlying tension, they do not recognize or label gender discrimination or harassment as such when it occurs.⁵⁷ Another explanation of this disparity could be that any harassment or discrimination experienced by women students was no different than that which is experienced throughout society generally. Therefore,

52. *Id.*

53. Responses were derived from informal interviews with female law students at Northern Illinois University College of Law in March of 1998. Their names are withheld for confidentiality purposes.

54. *Id.*

55. *Id.*

56. *Id.*

57. See Cathy Codrea, *Law School Bias*, TRIAL, Aug. 1992, at 28 (reporting that she herself did not notice discrimination in her law school as she had been inured to it after experiencing it so often when working for two national trucking companies; she wasn't aware how discrimination pervaded legal education until she discussed gender hostility in law schools with other women); see also MARY BRAY PIPHER, PH.D., REVIVING OPHELIA: SAVING THE SELVES OF ADOLESCENT GIRLS 41 (1994).

NIUCOL would appear to be no more hostile than other situations encountered by women students on a daily basis. In order to determine whether gender hostility and harassment exists at NIUCOL, and simultaneously avoid a misleading finding that women are simply desensitized to such hostility, Section C of the questionnaire, discussed in more detail below, was designed to ask students direct and pointed questions about harassing behavior that prior research indicates exists in law school classrooms.

Section A of the questionnaire asked for respondents' biographical information, including gender. Additionally, male and female students were given questionnaires with one question reversed so that it would be possible to know, by looking at the survey, whether it had been distributed to a male or female. The question was reversed in the event a respondent inadvertently neglected to indicate his or her gender or in the event that a respondent attempted to skew the results by answering the survey as if he or she were of the other gender.⁵⁸

Section B of the survey was derived in part from other researchers' studies.⁵⁹ It was designed to measure students' attitudes overall about their law school experience without focusing on gender issues. Based upon findings by researchers that women are silenced in the classroom, report lower levels of confidence, and volunteer less and ask fewer questions than their male counterparts,⁶⁰ this section also included questions concerning how students feel about their own law school abilities, how often students interact with professors, and how often students participate in class.

Section C, noted above, was created in a Likert scale format⁶¹ so that respondents could agree or disagree with statements concerning gender hostility. Question number thirty-three was thrown out because it presumed that students had confronted gender inappropriate behavior when some students indicated that they, in fact, had not. Thus, the total number of questions reported on in

58. A questionnaire was, in fact, received that was distributed to a male but was marked as if completed by a female. Besides this inaccuracy, the survey was uncharacteristically positive in its portrayal of NIUCOL when compared to the other surveys received from female students.

59. See Banks, *supra* note 6; see also Krauskopf, *supra* note 7.

60. See, e.g., Jennifer L. Rosato, *The Socratic Method and Women Law Students: Humanize, Don't Feminize*, 7 S. CAL. REV. L. & WOMEN'S STUD. 37, 46-47 (1997).

61. The Likert scale technique offers a set of attitude statements. Respondents are asked to answer the questions by expressing agreement or disagreement. The degree of agreement selected by respondents is given a numerical value from one to five. Based upon this five-point scale, a numerical value can be calculated. See Center for Social Research Methods, Cornell University, *Likert Scaling* (last modified June 29, 2000) <<http://trochim.human.cornell.edu/kb/scallik.htm>>.

this section is thirty-three; twenty-nine of which were designed to measure whether respondents had experienced or witnessed incidents of gender hostility or harassment while at NIUCOL. The remaining four questions dealt with whether respondents would feel comfortable talking to a professor about gender inappropriate comments made by students or professors, and whether students felt they could speak freely on their professor evaluations.

In an attempt to avoid a questionnaire that would be offensive to the male student body, the questions in this section were worded to be gender neutral. For instance, the question, *"There is at least one or more male students in my class who have consistently made insensitive remarks about women when topics such as rape and domestic violence were being discussed"* was changed to read, *"There is at least one or more students in my class who have consistently made insensitive remarks about women when topics such as rape and domestic violence were being discussed."* Similarly, of the twenty-nine questions created to measure whether respondents experienced or witnessed gender hostility at NIUCOL, almost half were worded to represent a positive attitude towards NIUCOL. For instance, one question reads, *"Generally, students in this law school are very respectful of gender issues."*

Section D of the questionnaire was created to learn whether respondents had ever felt the need to file a complaint over an incident of sexual harassment or gender hostility, whether they had done so, and whether they were ultimately satisfied with the results of that complaint.

Finally, Section E of the questionnaire was an open-ended question, allowing respondents to describe acts or comments by professors or fellow students which respondents witnessed or experienced while in law school that made them uncomfortable for gender-based reasons. Additionally, several male students used this last section to indicate their disappointment that the survey dealt only with gender biases and did not include sections on such topics as race and sexual orientation. Each of these areas is deserving of attention and the addition of questions of this nature was considered. It was decided, however, that the addition of too many diverse topics would be increasingly difficult and could lead to confusing and inaccurate results. Still, the recommendations on how to make our law schools more inviting and comfortable for women are equally applicable to race and sexual orientation.

The questionnaire was distributed to the entire student body at NIUCOL Law School by placing the surveys in the students' mailboxes. A one-sentence cover memo from LeRoy Pernell, Dean of

NIUCOL, was attached to the questionnaire. The intention was that the survey not be associated with any identifiable persons or organizations that might be perceived as having a pre-determined agenda. A copy of the questionnaire is attached as an appendix to this report.

III. RESULTS

A. *Section C Results: Whether Women Report Higher Levels of Gender Hostility and Harassment than Men*

The questionnaire was distributed to all 284 students enrolled at NIUCOL in the spring semester of 1998. There were 78 responses to the questionnaire, yielding a response rate of 27.5%. Fifty-six percent of respondents were female and 44% of respondents were male. It is recognized that critics may attempt to discount the results of this survey based upon the low response rate. The uniformity of women's responses in the open-ended section of the questionnaire concerning hostility towards women by both students and professors alike, however, provides enough evidence that there is some presence of gender hostility at NIUCOL. The results of the open-ended section are discussed in more detail below.

All possible answers to each question on the survey were given a numeric score. That score was then entered into a computer database created in SPSS, a data analysis program. Questions reviewed in this section of the report were then analyzed not only by comparing percentages between male and female answers but also by using a T-Test⁶² of means to determine whether female students' answers to reported questions varied from male students' answers to such a degree that the variance was statistically significant. In other words, the T-Test of means was used to determine whether female students at NIUCOL report statistically higher levels of gender hostility and harassment than male students report. A parenthetical appears after reported answers found to be statistically significant indicating the level of confidence as follows: (significant at the .05 level) or (significant at the .01 level).⁶³

62. The T-Test procedure is a computation used to test for a statistically significant difference in means, or averages, between two groups. See generally Taubman Center for Public Policy, *T-Test* (last modified Mar. 20, 1997) <http://www.brown.edu/Departments/Taubman_Center/SPSS/ttest.html>.

63. A confidence level of .05 means that a researcher can be 95% confident that the two groups surveyed, here male and female, do not come from the same population. In lay terms, we can be 95% confident that if the questionnaire was distributed a second time, males and females would not report similar levels of hostility but would again report varied levels to a

To begin, 30% of females—as opposed to only 3% of males—disagreed with the statement, “*The NIU College of Law is a comfortable environment for women in the classroom*” (significant at the .01 level). Also, 43% of females and 18% of males reported that there is more gender hostility at NIUCOL than at other universities they have attended (significant at the .01 level).

Consistent with research from other law schools, a large number of NIUCOL students agreed that students are making gender-offensive remarks in the classroom. Fifty-five percent of females and 24% of males agreed with the statement, “*During class, students have made gender insensitive remarks intended for the class to hear*” (significant at the .01 level). Sixty-six percent of females and 50% of males also agreed with the statement, “*During class, students have made gender insensitive remarks not intended for the class to hear, but intended for a few students near them to hear*” (significant at the .05 level). Finally, 50% of females and 23% of males agreed that one or more students have consistently made insensitive remarks about women when discussing topics such as rape and domestic violence (significant at the .01 level).

Many students also agreed that professors tolerate and do not address such offensive comments by students. For instance, 46% of females and 12% of males agreed that they have taken at least one course with a professor who tolerated students’ offensive humor (significant at the .01 level) (*see* Table 1). Eighty-seven percent of males, as opposed to just 32% of females, either indicated that they had no professor who tolerated offensive humor or left the question blank. Thirty-nine percent of females, and 13% of males, indicated that they have had *one* professor who tolerated offensive humor. The remaining 29% of females indicated that they had *two or more* professors who tolerated offensive humor (27 respondents gave no answer). Moreover, 56% of females and 63% of males disagreed with the statement, “*I have taken a course with a professor(s) who made it known that inappropriate gender insensitive comments by students would not be tolerated.*” As discussed previously, students from other law schools have indicated similarly that their professors tolerate offensive comments.⁶⁴

statistically significant degree. A confidence level of .01 means that a researcher can be 99% confident that the two groups surveyed do not come from the same population.

64. *See supra* text accompanying note 38.

TABLE 1
TAKEN COURSE WITH PROFESSOR WHO TOLERATED
GENDER OFFENSIVE HUMOR BY STUDENTS

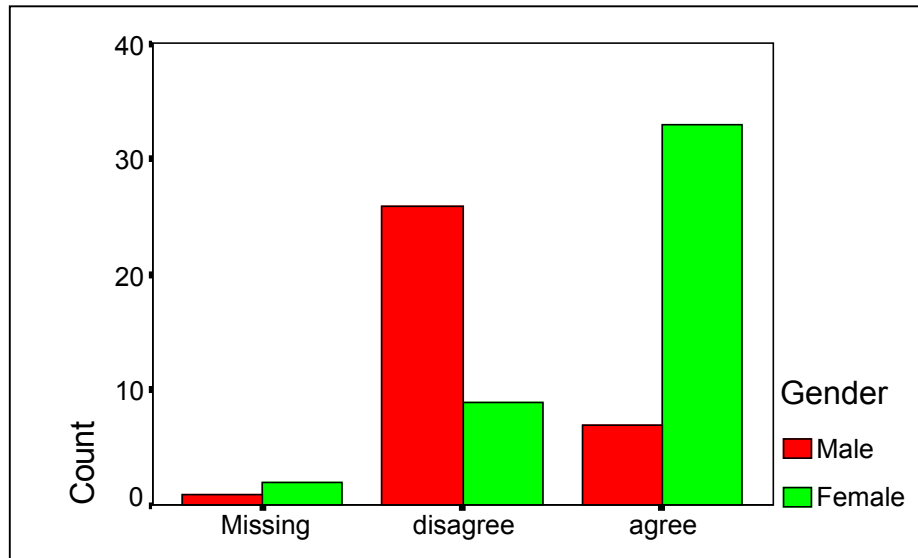
	Disagree	Agree
Male	88%	12%
Female	54%	46%

Many students also agreed that their professors engage in gender-hostile behavior. Forty-three percent of females reported that they have taken a course with a professor who devalues the abilities of women by treating them according to stereotypes. No males agreed with that statement (significant at the .01 level). However, 55% of females and 30% of males agreed with the statement, "*I have taken a course with a professor(s) who uses hypothetical scenarios that portray women in sexually provocative situations*" (significant at the .01 level). Thirty-nine percent of females, in contrast with 9% of males, agreed that they have taken a course with a professor who used offensive humor concerning gender (significant at the .01 level).

Consistent with prior studies,⁶⁵ female students at NIUCOL report that female professors are not given the same respect as male professors. Seventy-nine percent of females, as opposed to 21% of males, agreed that female professors must prove their competence to students more than male professors (significant at the .01 level) (*see* Chart 1). Similarly, 67% of females, as opposed to 15% of males, agreed with the statement, "*Students at this law school challenge female professors more aggressively than they do male professors*" (significant at the .01 level).

65. *See* Banks, *supra* note 6, at 138.

CHART 1
 FEMALE PROFESSORS MUST PROVE THEIR COMPETENCE
 TO STUDENTS MORE THAN MALE PROFESSORS



The variance in the responses between men and women is not inconsistent with prior research. Indeed, one author noted that in talking to recent law school graduates she found that the men did not believe their schools were gender biased, while all women she spoke to discussed at least one incident of gender discrimination.⁶⁶ It is quite possible that many male students and professors are simply unaware of what kinds of statements and behaviors female students find offensive.

B. Section B Results: Whether Women Report Less Satisfaction, a Loss of Confidence, and Lower Levels of Classroom Participation

Researchers have consistently reported that higher numbers of female students than male students are left feeling isolated and inarticulate by their law school experience.⁶⁷ They similarly report lower levels of participation.⁶⁸ For that reason, Section B of the survey was designed to measure whether women students at NIUCOL are less satisfied with their law school experience and whether they

66. See Codrea, *supra* note 57.

67. See *supra* text accompanying note 49.

68. See *supra* text accompanying notes 37 and 44.

report lower levels of participation.

Women students at NIUCOL indicated feelings of competency nearly equal to their male counterparts. For instance, when asked to respond to the statement, "*I feel that I am a competent person, at least as much as others,*" 39% of females and 44% of males marked "always true" and 47% of both females and males marked "often true." Similarly, 88% of females and 91% of males disagreed with the statement, "*I lose my confidence whenever I am in class.*" Both females and males generally agreed that when they speak in class, they believe their peers respect what they have to say: 88% and 91%, respectively.

However, women did indicate less satisfaction with their lives since entering law school. Sixty-two percent of males indicated that they were "delighted" or "pleased" with their life since entering law school, as opposed to just 39% of women. Likewise, 23% of females, as opposed to just 9% of males, have seriously considered dropping out of law school. A larger number of females also indicated that they feel pressure to set aside their values in order to think like a lawyer: 23% of females as opposed to 9% of males. Finally, fewer females overall feel confident that their talents are respected in law school (*see* Table 2).

TABLE 2
I FEEL CONFIDENT THAT MY TALENTS
ARE RESPECTED IN LAW SCHOOL

	Strongly Agree	Agree	Disagree	Strongly Disagree
Male	23%	59%	18%	
Female	7%	64%	27%	2%

As noted in the literature review section, female students surveyed at other law schools suggested that they lose their voices in the classroom and that male students dominate discussions.⁶⁹ Researchers have indicated a belief that women are silent because they believe their views carry no weight and because they believe "women are largely ignored or invisible in the law school classroom."⁷⁰

69. *See supra* text accompanying notes 37, 40, and 44.

70. Banks, *supra* note 6, at 139.

Women students at NIUCOL likewise indicated less participation in the classroom than their male counterparts. For example, 50% of males, compared to just 16% of females, report that they ask questions in class once a week or more. The largest grouping of females, 42%, indicated that they ask questions in class about once every four weeks. Only 15% of males fell into this same category. Fifty-eight percent of males—yet only 33% of females—indicated that they volunteer answers in class once a week or more. Fifteen percent of males indicated that they ask professors questions after class once a week or more. No females fell into this category. Finally, 27% of males, and just 7% of females, indicated that they ask professors questions after class about once every two weeks.

C. Section D Results: Whether Respondents Filed a Complaint Concerning Sexual Harassment or Gender Hostility and the Results of that Complaint

Students were asked in Section D whether they were ever a witness to, or a part of, some circumstance concerning sexual harassment or gender hostility that they believed might warrant filing a complaint and, if so, whether they actually filed a complaint.

Forty-three percent of females, as opposed to just 9% of males, indicated that they were a witness to, or a part of, some circumstance that they believed warranted filing a complaint with the administration (*see* Chart 2). Just 11% of those females indicated that they did, in fact, file a complaint. None of the females who filed a complaint were satisfied with the results of that complaint. Most respondents either did not feel that appropriate action was taken or were simply not informed of what action was taken. Of those females who chose not to file a complaint, the most commonly cited reason was that they feared negative repercussions, such as being labeled a “troublemaker” or being ostracized.

Finally, 23% of females indicated that they had discussed the issue of harassment or gender hostility with a faculty member. Of those women, 30% indicated that they were not happy with the results of that discussion. Again, the most commonly cited reason for dissatisfaction was a belief that appropriate action was not taken.

In light of reported levels of discomfort in discussing harassing behavior with the administration, it is not surprising that such a small number of females actually chose to take action against such behavior, either in the form of a complaint or by discussing the incident with a professor. Fifty percent of females, as opposed to only 15% of males, said that they would not be comfortable speaking to a professor about gender-inappropriate comments made by a student.

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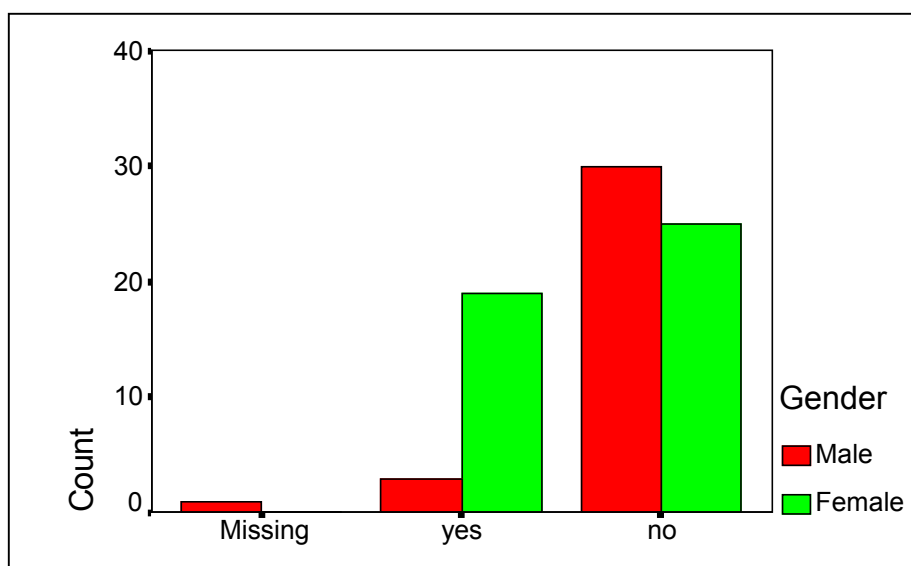
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Moreover, 57% of females, compared to 19% of males, said that they would not be comfortable telling a professor that the professor did not handle a gender-inappropriate comment by a student in a responsible way. Finally, 68% of females reported that they would not feel comfortable talking to a professor about a gender inappropriate comment made by the professor. Only 22% of males agreed.

CHART 2

WITNESS TO, OR PART OF, CIRCUMSTANCE CONCERNING SEXUAL HARASSMENT OR GENDER HOSTILITY WHICH RESPONDENT BELIEVED WARRANTED FILING A COMPLAINT WITH THE ADMINISTRATION



D. Section E Results: Open-Ended Question Allowing Respondents to Discuss Incidents of Harassment or Hostility They Witnessed or Experienced

This section was designed to allow respondents to freely comment on situations they either witnessed or experienced which made them uncomfortable for gender-based reasons. Of the females who responded to the questionnaire, half used the open-ended section to write comments. Twenty-three percent of those females who wrote comments in response to the open-ended question used the last section to indicate a belief that NIUCOL is not hostile to women or that “inappropriate” remarks are made but are not offensive to them personally. The remaining 77% related specific instances of a variety of sexually harassing and hostile behavior by students and professors.

Of those females who reported gender-hostile behavior, 24%

reported that both professors and male students have stereotyped women as mothers or wives or have indicated a belief that women attend law school only to find a husband. Eighteen percent of women said that male students have made inappropriate comments about women's clothing. A surprising 47% of women indicated that they had personally been "hit on," inappropriately touched, or harassed in a sexual manner or context by a male student or professor. Twelve percent of women indicated that male students have made offensive comments about female faculty members or have been uncharacteristically disrespectful to female faculty members.

Thirty-five percent of women reported that they have heard male students make comments condoning violence towards women or expressing misogynist sentiments. Many of these women indicated that male students have suggested that the women in the rape cases in casebooks "deserved" to be raped. Several women also indicated that professors hear such comments but do not address them. Eighteen percent of women noted that their criminal law professor spent an inordinate amount of time on the topic of rape as compared to other crimes, or engaged in an unnecessary repetition of the facts in rape cases. Twenty-four percent of women indicated that professors used hypotheticals in which women were portrayed in sexually demeaning situations, were portrayed as "whores," or were portrayed in stereotypical female roles.

Of the males who responded to the questionnaire, 56% used this last section to write comments.⁷¹ Ten percent of men reported that they had observed instances of hostile or harassing behavior towards women or knew women who said they were the victims of harassing behavior. The remaining 90% of men wrote comments that were not nearly so uniform as the women's comments, but instead dealt with a variety of concerns from many different perspectives.

Of those comments, 17% of men commented on their belief that NIUCOL was a comfortable place for women. Another 17% indicated that gender-related comments are made but are misconstrued as offensive or inappropriate by overly sensitive women. Eleven percent of men indicated that the survey did not measure the quality of life for all students because it dealt almost exclusively with the issue of harassment against women. Twenty-two percent of men

71. One student turned in only the last page with comments on it. While this makes it impossible to determine the gender of the student, the comments made were typical of those made by male students and atypical of those made by female students. Rather than discount these comments altogether, we have reported the results as if the student were a male.

indicated that derogatory or stereotypical comments about males are made in the classroom and are tolerated by professors. Eleven percent of men commented on their belief that the survey should not have been focused solely on bias against women.

Eleven percent of men indicated that the survey was a waste of time and that the administration should not have supported its distribution. Another 17% of men stated that the survey itself was gender-biased, insulting, or offensive. No women similarly responded that the survey was gender-biased or offensive. Seventeen percent of men believe that hostile comments should be supported as free speech, 6% believe that classroom discussions are hurt by the censure of such comments, and 11% believe that the survey was overly "politically correct." Finally, 17% of men indicated dissatisfaction with NIUCOL's administration, which they seemed to view as impractical and incompetent.

IV. DISCUSSION OF RESULTS

Similar to the survey results derived from law schools around the country, women at NIUCOL reported experiencing higher levels of sexual harassment and hostility than men believed women experienced. A large number of women and some men indicated that both students and professors in the classroom make offensive and demeaning comments. Students also indicated that professors allow such comments to go unchallenged.

Many more women than men reported witnessing or experiencing hostile or harassing behavior that they believed warranted the filing of a complaint. Of the small number of women who chose to file a complaint, none were satisfied with the results. Many women also indicated being sexually harassed by students and professors.

Consistent with research done at other law schools, women also reported feeling somewhat less satisfied with their law school experience than men. Finally, women reported lower levels of participation than men reported.

Researchers from other law schools have indicated that women's silence in the classroom is a result of feeling isolated and alienated.⁷² It has been suggested that some of this alienation stems from women's perceptions, similar to those of racial minorities, that the law school classroom is hostile towards them.⁷³ It has also been suggested that these difficulties in the classroom, in all likelihood,

72. See, e.g., Banks, *supra* note 6, at 139; Rosato, *supra* note 60, at 47.

73. See Banks, *supra* note 6, at 138-39.

affect learning, teaching, and scholarly work.⁷⁴

A study by three professors from the University of Pennsylvania indicated that women tend not to rank in the top 10% of their first-year classes as frequently as men and that they do not earn honors in prestigious organizations like law reviews and moot court societies with the same frequency as men.⁷⁵ While the Pennsylvania study has been much criticized, a recent study by the Law School Admission Council, which compared ninety law schools, indicated some of the same disparities in academic performance between men and women law students.⁷⁶

Researchers have concluded that hostile and harassing behavior towards women law students so impedes their “educational and professional progress” that law school administrations must act to eradicate this kind of discrimination.⁷⁷ These same researchers have indicated a belief that the discrimination that female lawyers face in the courtroom stems in part from the law school experience.⁷⁸ It is imperative that law students and faculty are made aware of the ways in which gender hostility in the classroom adversely affects women law student’s academic careers and, quite possibly, their professional careers. For this reason, we have included some recommendations below designed to ameliorate some of the hostility that permeates law school classrooms.⁷⁹

V. RECOMMENDATIONS

It is important to stress that the results of this questionnaire are consistent with research done at other law schools. We are grateful that the administration of NIUCOL not only approved this study but also avidly supported it. We hope that it will provide valuable guidance and encouragement to law school administrators around

74. See Krauskopf, *supra* note 7, at 313 (indicating the likely negative effect on learning).

75. See Jane Balin et al., *Becoming Gentlemen: Women’s Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1, 3, 25-26 nn. 72-74 (1994).

76. See LINDA F. WIGHTMAN, *WOMEN IN LEGAL EDUCATION: A COMPARISON OF THE LAW SCHOOL PERFORMANCE AND LAW SCHOOL EXPERIENCES OF WOMEN AND MEN* 11-27 (1996) (supporting research indicating disparities in academic performance between men and women in law school).

77. Krauskopf, *supra* note 7, at 312.

78. See *id.* at 311.

79. A prior version of this report was distributed to the NIUCOL community in the spring of 1999. Since that time, steps have been taken to implement some of the recommendations contained herein. Therefore, the results reported reflect that situation at NIUCOL prior to such measures being taken. Nevertheless, further corrective measures are both warranted and under discussion. Where possible, the steps taken will be indicated. Of note is that there have been some corrective measures taken that for privacy concerns cannot be discussed herein, but that should have a significant positive impact on the environment for women at NIUCOL.

the country to implement their own studies on the presence and effects of gender hostility in the classroom. While the results of the NIUCOL questionnaire are typical of those conducted at other law schools, we are cognizant that not all of our suggested improvements will be applicable to other schools. Still, we have included them within this article with the hope that these suggestions will provide guidance where needed.

The findings of the questionnaire highlight the need to address two important aspects of combating sexual harassment and hostility in the classroom. First, programs should be implemented to prevent the harassing behaviors. Second, mechanisms need to be in place for addressing harassing behavior, should it occur.

A. Programs for the Prevention of Gender Harassment

First, as law schools typically set aside time for new student orientation, we suggest a training program be implemented during this time with mandatory attendance by students and recommended attendance by professors.⁸⁰ This program should focus not simply on what kinds of harassing comments and behaviors are illegal, but more importantly, on what kinds of comments and behaviors are considered offensive and disparaging to women. Such a program could serve to educate those students and professors who simply are not aware that their behavior may be construed as hostile. It may also serve to make students aware that their law school administration will not tolerate hostile and harassing behavior in the classroom. Finally, such a program may empower women to challenge harassing and hostile behavior by indicating that the law school administration supports its women law students.

Additionally, we suggest that law school faculty be required to attend a separate program designed to educate the staff about not only what kinds of comments and behaviors are considered disparaging to women but also how to respond constructively and constitutionally to students' offensive comments and behaviors. Professors must be charged with the responsibility of controlling their classrooms and creating a learning environment that is sensitive to women and thus, conducive to their learning.

We suggest that the issue of gender hostility be addressed

80. At the time of this study, the orientation process for incoming students at NIUCOL included a general discussion of professional responsibility, intended to include the directive that students should respect differences in the student body. Subsequently, Dean Pernell included a more specific address to new students on the topic of respecting differences and announced a "zero tolerance" policy for any type of status harassment.

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repeatedly at faculty meetings so that professors have the opportunity to discuss how they have handled disparaging comments in the classroom or can seek help from other faculty members on how to deal with new kinds of harassing situations that may arise. The discussion of student complaints at these meetings may also serve to deter professors from engaging in the harassing behavior.

B. Mechanisms for Addressing Gender Harassment

It is apparent from the questionnaire results that students, and especially female students, allow hostile and harassing behavior to go unchallenged because they do not feel comfortable reporting such behavior to the faculty for fear of negative repercussions. It is also apparent from the questionnaire that students who report hostile or harassing behaviors are not satisfied with the results of that report. One reason for the dissatisfaction is that students are often not made aware of how their complaints are subsequently handled. Accordingly, we suggest the implementation of a structured and publicized internal law school procedure for resolving complaints.

There should be several resources for students to utilize to address complaints. First, because students are hesitant to make complaints for fear of repercussions, a complaint form should be created to allow students to anonymously (if they so choose) record their concerns. Such forms should be available throughout the law schools, and students should be made aware of the form's existence and location during orientation. The complaint form should direct students to deposit it in a place where only the dean of the law school, or some other designated faculty member, would have immediate access to it.

Second, it is recommended that several faculty members—and possibly students—be available to speak with students about hostile or harassing behavior encountered by students. Students should be made aware that the designated faculty members and students are available to address these particular types of concerns. Designated students and faculty members could provide the student with all available options on how to further proceed with their complaint.

Finally, a follow-up procedure (where the identity of the complaining student is known) should be created so that students may be made aware of what and why a particular action was taken or not taken. This should help to alleviate the concern, expressed by students, that their complaints are not taken seriously or are dealt with ineffectively.

American law schools have come a long way since the time when women were not even allowed to attend. However, the latest research

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suggests that high levels of gender hostility continue to pervade this nation's law school classrooms. Consequently, as this research suggests, women law students are subjected to unequal educational opportunities. We urge all law school administrators around the country to take a moment to evaluate their own classroom atmospheres and to consider some ways in which to provide a truly equal education for all of their students.

Appendix

This questionnaire is based in part on one distributed at another law school. From the results obtained here, we hope to learn more about the attitudes and experiences of students here at NIU College of Law as compared to your peers at other law schools. Please respond based on your experience as an NIU College of Law student. These questionnaires are unmarked and anonymous so that you may feel free to respond openly and honestly to the questions asked. Answers given on this questionnaire will be reported only in the aggregate.

Section A

1. What is your gender?
Please circle one of the following: Male Female
2. What is your year in school?
Please circle one: 1L 2L 3L
3. What is your age?
21 to 25 41 to 45
26 to 30 46 to 50
31 to 35 51 to 55
36 to 40 56 or above

Section B

Please circle the letter in front of the statement which best describes your answers to the question asked.

1. On the whole, how satisfied are you with you law school experience?
 - a. very satisfied
 - b. satisfied
 - c. dissatisfied
 - d. very dissatisfied
2. Comparing yourself to others at your law school, would you agree that the statement "I feel that I am a competent person, at least as much as others" is:
 - a. always true
 - b. often true
 - c. sometimes true
 - d. rarely true
 - e. never true

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3. Overall, how do you feel about your life since entering law school?
- delighted (“excited”)
 - pleased
 - mostly satisfied
 - mixed (about equally satisfied and dissatisfied)
 - mostly dissatisfied
 - unhappy (“depressed”)
 - terrible
4. Approximately how often do you interact professionally with a professor outside of class?
- never
 - once or twice a semester
 - once a month
 - once every two weeks
 - once a week
5. How often do you do the following in a typical 3 hour course? (Please circle the number which best describes you).
- | | never | about
once every
four weeks | about
once every
two weeks | once a
week or
more |
|---|-------|-----------------------------------|----------------------------------|---------------------------|
| a. Ask questions in class | 1 | 2 | 3 | 4 |
| b. Volunteer answers in class | 1 | 2 | 3 | 4 |
| c. Ask professors questions after class | 1 | 2 | 3 | 4 |
6. When you have questions about the material presented in class, which one of the following options best describes what you do? (Please circle only one).
- I raise my hand and ask the professor for clarification.
 - I ask the professor about it after class.
 - I ask another student to explain it.
 - I look up the answer in a reference source.
 - I don’t worry about it until I prepare for exams.
 - I don’t do anything.
 - Other (please specify) _____

7. A number of statements about law school are given below. Overall, do you agree or disagree? (Please circle the number which best describes you using the key to the numbers stated below).

1 = STRONGLY AGREES 3 = DISAGREE
 2 = AGREE 4 = STRONGLY DISAGREE

	SA	A	D	SD
a. I think of the demands of law school as a temporary interruption in my life.	1	2	3	4
b. I seem to fit in at my law school as well as most of the other students.	1	2	3	4
c. Before law school, I thought of myself as intelligent and articulate, but often I don't feel that way about myself now.	1	2	3	4
d. I enjoy facing the challenges of law school.	1	2	3	4
e. I have seriously considered dropping out of law school.	1	2	3	4
f. In general, I feel confident that my talents are respected in law school.	1	2	3	4
g. I feel pressured to set aside my values in order to think like a lawyer	1	2	3	4
h. My values have not changed since I began law school.	1	2	3	4

8. Overall with respect to your classroom, do you agree or disagree with the following statements?

.1 = STRONGLY AGREES 3 = DISAGREE
 2 = AGREE 4 = STRONGLY DISAGREE

	SA	A	D	SD
a. When I speak in class, I believe that my peers respect what I have to say.	1	2	3	4
b. I feel unsure of myself when a professor disagrees with me.	1	2	3	4
c. Speaking in class is important in learning the law.	1	2	3	4
d. I lose my confidence whenever I am in class.	1	2	3	4
e. When I speak in class I feel my comments are not valued by my peers due to my sex.	1	2	3	4
f. When I speak in class I feel my comments are not valued by my peers due to my race.	1	2	3	4

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Section C

For the following questions numbered 1-33, please circle the letter(s) below the statement that best describes your belief about the opinion espoused within the statement. A key to the meanings of the letter(s) is indicated below.

SA = strong agree

A = agree

AS = agree somewhat

DS = disagree somewhat

D = disagree

SD = strongly disagree

1. The NIU College of Law is a comfortable environment for women in the classroom.
SA A AS DS D SD
2. Women professors must prove their competence to students more than male professors.
SA A AS DS D SD
3. Students at this law school challenge female professors more aggressively than they do male professors.
SA A AS DS D SD
4. At times, my comments in class have been belittled or ignored by the professor teaching the course.
SA A AS DS D SD
5. Generally, students are no more tolerant of male students' comments and questions in class than they are of female students' comments and questions.
SA A AS DS D SD
6. Male professors call on male students more often than female students.
SA A AS DS D SD
7. Female professors call on female students more often than male students.
SA A AS DS D SD
8. During class, students have made gender insensitive remarks intended for the class to hear.
SA A AS DS D SD
9. Generally, students in this law school are very respectful of gender issues.
SA A AS DS D SD
10. During class, students have made gender insensitive remarks not intended for the class to hear, but intended for a few students near them to hear.
SA A AS DS D SD

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11. I have taken a course(s) with a professor who tolerates inappropriate gender related comments by students.
SA A AS DS D SD
11a. How many professors have you taken courses with who have tolerated inappropriate gender related comments by the students in class? _____
12. Humorous comments made by students or professors are misconstrued by a few highly sensitive students to be inappropriate.
SA A AS DS D SD
13. I have taken a course(s) with a professor who devalues the abilities of women by treating them according to stereotypes.
SA A AS DS D SD
13a. How many professor have you taken courses with who have devalued the abilities of women? _____
14. I have found that when a student makes a gender insensitive remark in class, most of my professors open up a debate between the class and the student who made the comment.
SA A AS DS D SD
15. I have heard one or more of my professors make a derogatory comment about females.
SA A AS DS D SD
15a. How many professors who you have taken a course with have made a derogatory comment about females? _____
16. I have taken a course with a professor(s) who uses hypothetical scenarios that portray women in sexually provocative situations.
SA A AS DS D SD
16a. How many professors have you had who use such hypotheticals? _____
17. I have taken a course with a professor(s) who made it known that inappropriate gender insensitive comments by students would not be tolerated.
SA A AS DS D SD
17a. How many professors have you had who make it clear that gender insensitive comments in the classroom will not be tolerated? _____
18. I have taken a course with a professor(s) who used offensive humor concerning gender.
SA A AS DS D SD
18a. How many professors do you believe use gender offensive humor? _____

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19. I have taken a course with a professor(s) who tolerated offensive humor by students concerning gender.
SA A AS DS D SD
- 19a. How many professors do you believe tolerate the use of gender offensive humor by students? _____
20. Most professors at this school foster an atmosphere in which gender insensitive remarks are not tolerated.
SA A AS DS D SD
21. When addressing sensitive topics such as rape or domestic violence, professors are sensitive to the impact of such material on students.
SA A AS DS D SD
22. I have heard law students made gender insensitive remarks at law school functions.
SA A AS DS D SD
23. I have personally heard a professor(s) from this school make gender insensitive remarks at law school functions.
SA A AS DS D SD
24. Many male professors in this law school are very sensitive to and respectful of gender issues.
SA A AS DS D SD
- 24a. How many professors have you taken a course with who are sensitive to and respectful of gender issues? _____
25. I find that there is more gender hostility at this law school than at other universities I have attended.
SA A AS DS D SD
26. I would feel comfortable talking to my professors about gender inappropriate comments made by students.
SA A AS DS D SD
27. If I thought a professor did not handle a gender inappropriate comment made by a student in a responsible way, I would feel comfortable talking to that professor about it.
SA A AS DS D SD
28. I would feel comfortable talking to my professor about gender inappropriate comments made by the professor.
SA A AS DS D SD
29. There is at least one or more students in my class who have consistently made insensitive remarks about women when topics such as rape and domestic violence are being discussed.
SA A AS DS D SD
- 29a. About how many students have made insensitive remarks when such topics are being discussed? _____

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7. Have you ever spoken with faculty members about harassment or gender hostility by other faculty members or students?

Yes No

If you answered "yes" please go on to question 8.

If you answered "no" please go to Section E..

8. Were you happy with the results of that discussion?

Yes No

If you answered "yes" please go to Section E.

If you answered "no" please use the space below to indicate why you were not happy with the result of that discussion and then go on to Section E:

Section E

Please use this space to describe any acts or comments by a professor or fellow student you have witnessed or experienced at the law school that made you uncomfortable for gender-based reasons. Please be as specific as you can, but ABSOLUTELY DO NOT identify anyone by name. As with the rest of this questionnaire your responses are anonymous.