

The Catalyst

The newsletter of the ISBA's Standing Committee on Women and the Law

May 2024 • Volume 29 • Number 4 •

The Amendment of Illinois Supreme Court Rule 794(d) to Include Sexual Harassment Prevention Within the Definition of Professional Responsibility CLE Credits

By *Dina Ninfo*

On June 17, 2022, the Chicago Bar Association (CBA) submitted a proposal to the Illinois Supreme Court Rules Committee (Rules Committee) to amend Illinois Supreme Court Rule 794(d) to expand the definition of the mandatory professional responsibility CLE requirement to include sexual harassment prevention. This proposal was set forth by Kathryn (Katie) Liss, the chair of the CBA's Sexual Harassment Task Force and second vice president. Katie Liss is also a founding and executive board member of the Illinois Force of Lawyers Against Sexual Harassment (FLASH). The ISBA Standing Committee on Women and the Law, the Women's Bar Association of Illinois, FLASH, Women Lawyers on Guard, Inc., the Institute for Inclusion in the Legal Profession, and the Ladies Who Lunch all filed attestations in support of this CBA proposal. This CBA proposal was further supported by the Illinois Supreme Court Commission on Professionalism which asserted that the proposal "...highlights sexual harassment prevention as an integral facet of Illinois lawyers' professional responsibility and emphasizes the importance of eliminating this misconduct within the profession."

This CBA proposal proceeded to a public hearing before the Rules Committee on November 15, 2023. Many members of the supporting organizations were present in-person and virtually for the oral arguments on this proposal. It was not lost on all who were present, including members of the Rules Committee itself, that Katie Liss was advocating for sexual harassment prevention in front of an all-male panel. It is noted that at the time of this hearing the Rules Committee was comprised of 23 total members, which included only five women.

Katie Liss expertly advocated for the adoption of the Rule amendment arguing that "[t]he goal of professional responsibility continuing legal education is to serve as a catalyst to increase professionalism within the legal profession" and that sexual harassment prevention is necessary to overcome its historical prevalence within the legal community.

Katie Liss emphasized that over the last 30 years the progress of eradicating sexual harassment from the legal profession has remained relatively stagnant. She noted that the number of respondents who have experienced sexual misconduct often or with some frequency, has only decreased by 15 percent over the last 30 years. Katie Liss further noted that 75 percent of women reported that they experienced a demeaning comment, story, or joke on account of their gender. Katie Liss argued that past practice has not been effective in combating the culture within our legal profession that fosters sexual harassment and that change is necessary.

The most concerning opposition to the Rules amendment proposal was from the MCLE Board. The MCLE Board argued that: (1) the amendment would confuse attorneys; (2) it would decrease the amount of Diversity, Equity, and Inclusion (DEI) accredited courses; and (3) it was unnecessary because the MCLE Board already accredits sexual harassment programs. Katie Liss pointed out that the MCLE Board also argued that the inclusion of DEI courses within the professional responsibility criteria would confuse attorneys, which has not proven to be the case in practice. It was further noted that of the 19 courses within the MCLE repository that touched upon sexual harassment, only three involved the topic of sexual harassment prevention. The vast majority of courses involving the topic of sexual harassment were substantive courses directed towards employment lawyers. Katie Liss noted that this was a chance for Illinois to be a leader in respect to addressing sexual harassment within the legal profession and creating real change within the culture of our profession.

In mid-November 2023, the Rules Committee recommended sending the CBA proposal to amend Illinois Supreme Court Rule 794(d) to include sexual harassment prevention to the Illinois Supreme Court. On January 31, 2024, the Illinois Supreme Court issued an order amending Illinois Supreme Court Rule 794(d) to include sexual harassment prevention within the definition of professional responsibility effective February 1, 2024. The Rule now reads "...[e]ach attorney subject to these Rules shall complete a minimum of six of the total CLE hours for each two-year reporting period in the area of professionalism, civility, legal ethics, sexual harassment prevention, diversity and inclusion, or mental health and substance abuse." We recognize the inspirational advocacy of Katie Liss on this important issue and the ISBA Standing Committee on Women and the Law was proud to stand with her and the CBA in solidarity to effectuate real change towards eradicating sexual harassment from the legal profession.

© Illinois State Bar Association