

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Today's podcast is what is gender-neutral legislative drafting, and what does it involve?

Like many of the states, California has adopted and requires the office of the Legislative Counsel to draft measures - including bills, resolutions, and constitutional amendments - in a gender-neutral manner. So, what does that mean exactly?

Well, specific to California was the adoption in 2018 of Assembly Concurrent Resolution, ACR, 260, which is Chapter 190 from the 2018 legislative session. Now, according to the language of ACR 260, it is intended to encourage the Legislature to engage in a coordinated effort to revise existing statutes and introduce new legislation with inclusive language by using gender-neutral pronouns, or even reusing nouns to avoid the use of gendered pronouns.

In addition, ACR 260 encourages state agencies to engage in similar efforts to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.

Now, the text of ACR 260 is extensive and has number of provisions. But, again, it makes California one of numerous states that requires gender-neutral drafting. So basically, in California and most of the other states, bill drafters are told to avoid male or female gendered terms except when a gender-specific term is applicable.

Nonetheless, in most instances, drafters are admonished to make sure that neither intent nor clarity of language is sacrificed when using gender-neutral language. And of course, standard grammar and punctuation standards should also be followed by the bill drafter. Legislative drafters are also making their way through existing statutes in order to transition over to gender-neutral language with existing laws.

So, in addition to using gender-neutral language in drafting new statutes that are being proposed, legislative counsel around the country are looking at existing code sections and reviewing them and modifying them to ensure compliance with this guidance.

So, what are some examples in avoiding the use of gender specific nouns, and instead using gender-neutral language. For example, drafters should use police officer rather than policeman, or Presiding Officer rather than Chairman.

Now, some of these examples might be obvious, but sometimes it can be difficult to draft measures using gender-neutral language to avoid gender specific pronouns. As a result, suggestions to legislative drafters include repeating the subject of the sentence or the original noun, omitting the phrase with the pronoun if you don't need that particular phrase, or even rewriting the entire sentence to avoid the need for using any sort of pronoun. Of course, drafters are also being told NOT to use he or she, or his or her, in drafting.

So, the purpose, basically, of gender neutral legislative drafting is to ensure that statutes and regulations are inclusive of all individuals and residents of the state. And these efforts comport with current national drafting guidance.

Thanks for joining today's podcast on gender-neutral drafting in California legislation.