

Principles and Guidelines that Address (1) Seeking Hand-Selected Student Candidates and (2) Hand-Selecting Students for Employers

I. NALP Principles and Standards for Law Placement and Recruitment Activities (Excerpts)

PART II. PRINCIPLES FOR LAW SCHOOLS

A. Law schools should make career planning services available to all students.

1. Career planning and counseling are integral parts of legal education. Law schools should dedicate to them adequate physical space, equipment, financial support, and staff.
2. The professional services of a career planning office should be available to students without charge.
3. Law schools should strive to meet the career planning needs and interests of all students. Preferential treatment should not be extended to any student or employer.

E. Law schools should develop and maintain productive working relationships with a broad range of employers.

1. Law schools should work actively to develop and maintain employment opportunities for students and graduates. All employment opportunity notices should be publicized to all students.
2. To enhance student learning and increase career development opportunities, the office of career services should maintain good working relationships with students, faculty, alumnae/i, and other elements of the legal community.
3. In order to ensure maximum information-sharing and efficiency in the employment search process, law schools should cooperate with one another to the fullest extent possible in gathering employer information and providing interview services.
4. Law schools should not disseminate information learned in confidence from employers.

PART IV. PRINCIPLES FOR EMPLOYERS

B. Employers should respect the policies, procedures and legal obligations of individual law schools and should request only services or information that are consistent therewith.

1. Employers should not expect or request preferential services from law schools.
2. Employers should not solicit information received by law schools in confidence from candidates or other employers.
3. Appointments with candidates for in-house interviews should be established for a mutually convenient time so as not to unduly disrupt candidates' studies.
4. Employers should promptly report to the office of career services any misrepresentation or other abuse by candidates of the employment search process.

II. NACE: A Faculty Guide to Ethical and Legal Standards in Student Hiring

The National Association of Colleges and Employers (NACE), provides a set of ethical standards for guiding the job-search process. Titled *Principles for Professional Practice for Career Services & Employment Professionals*, these standards are based on notions of fairness, equal opportunity, truthfulness, non-injury, confidentiality, and lawfulness. NACE also publishes additional guidance on these issues.

Below is the NACE Faculty Guide to Ethical and Legal Standards in Student Hiring.¹ Although the guide is directed to faculty at the undergraduate level, the guide provides a great overview of the legal and ethical considerations that arise when seeking and referring hand-selected candidates.

A Faculty Guide to Ethical and Legal Standards in Student Hiring

Purpose of This Guide

Students aren't the only one interested in their success; their accomplishments are also very important to the college. Staff members in career services, admissions, development, alumni relations, and you, the faculty, have a direct investment in their achievement. The role you play in the employment process complements the role played by career services. Occasionally, however, helping students in their job searches can result in unanticipated illegal or unethical actions.

The National Association of Colleges and Employers (NACE), the leading source of information on the employment of the college educated and an organization to which a great number of academic and hiring organizations belong, provides a set of ethical standards for guiding the job-search process. Titled *Principles for Professional Practice for Career Services & Employment Professionals*, these standards are based on notions of fairness, equal opportunity, truthfulness, non-injury, confidentiality, and lawfulness.

In its foreword, the *Principles* document notes that colleges and employers share the common goal of "achieving the best match between the individual student and the employing organization." The six essential precepts that serve as the foundation of this goal are:

1. All candidates should have equal access to the opportunity for open and free selection of employment opportunities consistent with their personal objectives and optimum use of their talents.

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2. Both colleges and employers should support informed and responsible decision making by candidates.
3. All aspects of the recruiting process should be fair and equitable to candidates and employing organizations.
4. Career services professionals and faculty involved in recruiting should provide generally comparable services to all employers, regardless of whether the employers contribute services, gifts, or financial support to the college, department, or office, and regardless of the level of such support.
5. As required by the Family Educational Rights and Privacy Act (FERPA), any disclosure of student information outside of the educational institution will be with prior consent of the student unless health and/or safety considerations necessitate the dissemination of such information. Both career services professionals and faculty will exercise sound judgment and fairness in maintaining the confidentiality of student information, regardless of the source, including written records, reports, and computer data bases.
6. Any recruitment activities through student associations or academic departments should be conducted in accordance with the policies of the career services office and accepted ethical, equal employment and legal practices.

Because of the influence you have with both students seeking jobs and employers seeking new talent, NACE has created this guide to assist you.

Guidelines

Candidate Referral

We must maintain an environment of equal employment opportunity and act in a fair and nondiscriminatory manner without regard of a student's race, color, gender, religious belief, color, national origin, disability, veteran status, or any other factor beyond bona fide occupational qualifications that may exclude a student from consideration for a position for which she/he is qualified.

Employers may contact you to request the names of students who would be good candidates for job opportunities. At first glance, it seems harmless to provide the names of your best students. However, there are some potential legal and ethical pitfalls. If you or a colleague receive a job lead from an employer and choose only to refer a few individuals without publicizing the position to all students who may be qualified, you are not maintaining "a fair and equitable recruiting process." Choosing to refer only a select group of students without providing an opportunity to all students may expose you to scrutiny.

By identifying individuals for employment on a "regular" basis, you may be considered an "employment agency" for purposes of compliance with equal employment opportunity laws. For example, if it appears as if you are referring only male students or only minority students, you may be open to charges of discrimination.

Employers who act in accordance with the *Principles* understand and expect students to receive open and equal access to information about job opportunities.

Suggested action: If you receive a request for student referrals, you can, of course, notify students who have declared an interest in such positions and encourage them to apply. You may also consider announcing the opportunity to your classes or distribute the job description via a listserv. However, for your protection, as well as that of the college, the initial request from the employer should be sent to the college career center so that the position can be posted openly for all qualified candidates.

There are practical reasons for these actions:

- a. You may not know or remember the names of all students who could be interested in such a position. When you provide only a few names without also broadly publicizing the position through the career services office, you are not maintaining “a fair and equitable recruiting process” and are vulnerable to charges of discrimination.
- b. If an employer asks for the name of the top student in a class you taught, remember that there is a difference between providing the names of students who excelled in a job-related class and restricting awareness of an opportunity to just a few. Every qualified candidate interested in the opportunity should be able to apply; it is the employer’s responsibility to decide who would be the best fit for the bona fide qualifications.
- c. The career services office may have an existing relationship with the requesting employer or the specific individual who contacted you, or may wish to expand its relationship to enhance student opportunities. By contacting the career services office, you can facilitate appropriate follow-up and help develop future prospects.
- d. As you may be aware, employers have received attention in the past for recruiting, employment, or on-the-job safety practices that do not necessarily meet the college’s standards. Interaction and potential placement of students in such an environment poses a high potential for inappropriate student exposure and the possibility of public scrutiny.
- e. Confusion or misunderstandings may occur when an employer works with more than one campus office on the same issue and serves to undermine the focus on securing students with viable employment.
- f. It is convenient to both employers and students to have a central, consistent resource for job opportunities (a viable career services office) that publicizes open jobs to multiple majors.
- g. Students who receive regular announcements about job openings from faculty may think the announcements represent all of the current opportunities for their major. Students may miss employers that conduct on-campus interviews, receive resume referrals, and post their positions through the career services office. Students who don’t use the expertise of the specialists in the career services office also miss opportunities for assistance with resumes, interviewing, and other job-search issues.

Referring Minority Candidates

Employers seek a diverse work force and have diversity and affirmative objectives in their college relations programs. Accordingly, they will make special efforts to identify and attract all qualified candidates. You may be asked for help in accomplishing tasks associated with minority recruiting efforts.

The NACE *Principles* document endorses compliance with EEO guidelines and adherence to affirmative action principles by both college and staffing professionals. It is illegal to discriminate against protected groups, and it is considered appropriate for career services practitioners to inform members of protected groups about employment opportunities, especially in areas where minorities are underrepresented.

Similarly, employers are encouraged to inform minority populations of special activities, e.g., information sessions or career fairs that have been developed to help achieve an employer's affirmative action goals. You can participate in all of these activities.

While it is lawful and ethical for you to assist employers in reaching out to minority groups, it is inappropriate for you to identify only those individuals you know to be members of a specific group. You have an obligation to provide a "fair" and open and inclusive system, i.e., one where all students have access to information about career opportunities.

Suggested Action: If you receive a request for minority candidate referrals, you can make announcements in class, post signs in your department, notify minority student organizations (e.g., societies of black, female, or Hispanic engineers, or GLBT organizations), but you should also send the request on to the career services office. Also, you should encourage the employer to contact the career center directly. You can also refer the employer to career services directly to provide as broad an effort as possible and refer the employer to your college's minority student advisory office (if one exists). That office may be authorized to provide a full list of the members of a requested population.

Providing References

If you are asked by an employer to provide a reference for a student, be aware that you must have prior written authorization from the student to provide information, or the employer must have such authorization from the student. Once permission has been obtained, you should provide information that is based on facts, not conjecture, and not on personal information unrelated to the student's qualifications for the job in question. You must always safeguard students' right to privacy.

Suggested Action: When you are asked to provide a written or verbal reference for a student, obtain written permission from the student or a copy of such permission from the employer. All reference information should be based on firsthand knowledge and, if possible, written factual documentation. When providing information, you should avoid personal matters and areas that

would fall outside of bona fide job requirements (e.g., marital status, health, disabilities, race, religion, and more).

Final Comments

Your students' success is best realized when all parties involved in the process work cooperatively, ethically, and within the guidelines established by your college. In cases of uncertainty relative to the rights of students and practices that may subject the college to legal scrutiny, contact your career services office for information and direction.

You and your colleagues on the faculty are encouraged to offer comments to career services practitioners regarding these guidelines and the issues addressed. We appreciate your assistance in assuring an employment process that is free from discrimination and provides equal opportunities to all qualified students.

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