

Rethinking Recruitment Practices in the #MeToo Moment

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Today's Topics

- What has the #MeToo movement meant for legal recruitment?
- What aspects of hiring and summer programs should be re-examined to address concerns about professionalism and safety in the workplace?
- What are some of the best practices that ought to be considered to address #MeToo?
- What is your role as a professional?

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Hypothetical

After extending an offer to a candidate, you send an email to all of the interviewers encouraging them to reach out to send their congratulations. Rather than sending an email, a partner decides to send the candidate a text. You later learn that the partner also offered to meet the candidate for a drink to discuss the offer.

Appropriate or Inappropriate?

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Today's Themes

- Power Dynamics and Perception
- Pressure to Secure a Job
- Navigating Blurred Personal/Professional Lines
- Minimizing Opportunities for Risk – Time and Place
- Addressing and Avoiding #MeToo Backlash



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Hypotheticals: On-Campus Recruiting

- While staying at a hotel for OCI, a partner invites the Recruiting Coordinator into his/her room after dinner to review the day's candidates.



Hypotheticals: On-Campus Recruiting

- At a recruiting cocktail party, you overhear a partner talking to a male candidate and asking how he has been enjoying the ladies at law the school.



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On-Campus Recruiting



- Intense power dynamic and pressure to get a job
- Hotel settings can be confusing, intimidating, and/or uncomfortable
 - Consider removing beds from hotel rooms and/or rotating other furniture (e.g. desk/chairs)
 - Use suites for interviews, where available
- Consider placing a card on interview tables with contact information if there are questions or concerns about the interview process
- Set clear expectations about socializing after on-campus interviews

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On-Campus Recruiting (cont'd)

- Consider training interviewers on appropriate forms of verbal and non-verbal communication, *e.g.*
 - Avoid engaging in overly familiar discussions; comments on dress/appearance
 - Pay attention to body language, eye contact, and body position
- Develop one-pager for interviewers outlining Firm anti-harassment policy, interview do's and don'ts and general expectations
- Follow-up with interviewers about their experiences on campus

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Ongoing Recruitment of Candidates

- Remain ever-aware of the power dynamic
 - An "option" may not always be interpreted as a choice.
 - When in doubt, clarify the nature of the invitation (e.g. group event; availability of other opportunities)
 - Consider what is at stake for all participants.
- Consider time and place
 - Meetings off campus should be in the office or in a public place.
 - Breakfast or lunch, not dinner. Coffee, not drinks.
 - Interviewers visiting alma mater *are still firm representatives* when they are socializing at campus locales during OCI
- Minimize blurring of professional/personal lines
 - Email or call; don't text.
 - Use LinkedIn, not Facebook, Instagram/Snapchat



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Hypotheticals: Summer Programs

- An associate comes into your office and, in a moment of friendly conversation, confesses a romantic interest in a summer associate. What are your responsibilities?
 - Does it change if the participants involved attend(ed) the same law school?



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Hypotheticals: Summer Programs

- *An associate comes into your office and, in a moment of friendly conversation, confesses a romantic interest in a summer associate. What are your responsibilities?*
 - *Does it change if the participants involved attend(ed) the same law school?*
- The Firm is hosting an event and an associate is very drunk and making a spectacle of him/herself. How do you handle it? Should a member of the recruiting staff always be last to leave an event?



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Hypotheticals: Summer Programs

- *An associate comes into your office and, in a moment of friendly conversation, confesses a romantic interest in a summer associate. What are your responsibilities?*
 - *Does it change if the participants involved attend(ed) the same law school?*
- *The Firm is hosting an event and an associate is very drunk and making a spectacle of him/herself. How do you handle it? Should a member of the recruiting staff always be last to leave an event?*
- *A summer associate stops by your office and tells you that during a summer lunch, a partner told a sexually-charged joke. No one appeared offended. What do you do next?*

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Summer Programs

- Provide anti-harassment/discrimination prevention training to summer associates and summer program participants
 - Clearly outline appropriate/inappropriate behavior between summer associates, firm attorneys, and recruiting teams
 - Clearly delineate complaint procedure for summer associates
 - Remind participants of their roles and obligations as firm representatives
- Maintain an open, ongoing dialogue
 - Offer to assist candidates and colleagues if they have concerns about navigating situations, personal and/or professional relationships

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Summer Programs (cont'd)

- From classmates to colleagues
 - Remind junior associates that they are superiors to summer associates
- Consider a policy on romantic relationships during the summer
 - At least one firm has prohibited romantic relationships between summer associates and associates
 - Could also permit but require disclosure as in supervisor/manager context
 - Recruiting staff should not be fraternizing with summer associates



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Hypothetical



A summer associate comes into your office the day after the mid-summer reception. The summer confides in you, almost in a joking way, that Jean was trying to hit on Pat all night and Pat looked uncomfortable. The summer then realizes that you are a supervisor and asks that you please don't tell anyone. What do you do?

- Does it change if Jean and Pat are both summers?
- Does it change if Jean is a female and Pat is a male?
- What if it wasn't at a firm-sponsored event? (e.g., a couple of summers hung out over the weekend)
- Does it change if you have a prior relationship with the summer associate? (e.g. friends from college)
- Can you ever guarantee confidentiality?

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Rethinking Summer Programs



- Monitor alcohol consumption
 - Limit timing of open bars, availability of hard alcohol or use drink tickets
 - Offer alternatives (e.g., “mocktails” – nonalcoholic cocktails)
 - Encourage Firm participants to limit themselves to 2 drinks
 - Encourage participants to look out for each other and recommend water/cab home when prudent
- Decrease focus on alcohol broadly
 - Avoid structuring events around alcohol consumption
 - Consider active/outdoor events – biking, segway/walking tours, hikes
 - Consider wellness-oriented events – juice press, meditation, mindfulness
 - Move away from after-party expectations and culture
 - Reconsider granting leeway to junior associates to plan impromptu events



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Employee Incident Form

This form is to be filled out by employees who are abused on the job. Return the completed form to your Immediate Supervisor and keep a copy for your records.

Name: _____

Location: _____

Position Held: _____

Date of Incident: _____

Site: _____



Ongoing Harassment and #MeToo
Backlash Prevention

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The #MeToo Backlash

- All attorneys deserve to be mentored, guided, and given the same opportunities for success
- Avoid “backlash” thinking that discriminates against women
- Fear of an unjust accusation is no excuse for male mentors to alienate themselves from the women of the firm, or to refuse to sponsor and guide female associates

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Hypotheticals: Harassment Prevention

- A female associate consistently comes to work in overtly provocative clothing.
- Partner invites associate to stay at partner’s weekend home overnight because they have a court appearance the following morning near the weekend home but far from the office.
- Client comes on to a female associate at a client dinner; a male partner and a male senior associate are also present.
- Senior counsel and associates are “friends” on Facebook and Instagram; senior counsel then gets promoted to Partner.

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Mentorship Programs

- Emphasize the importance of consistent and appropriate gender-neutral best practices
- Lunches, coffees, walks (v. dinners; drinks)
- Equal opportunity for mentorship for men and women by “high powered” mentors – i.e., do not place all women with female mentors
- Men and women should both have equal access to “key stakeholders” in the Firm



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Business Trips

- Business trips offer a unique bonding opportunity for bonding
- Ensure that female associates are given the same opportunity to go on business trips, pitches, and client lunches/dinners with male partners as male associates
- Consider all members of the team when planning business development activities or social events
 - Avoid traditionally male-dominated venues in favor of more neutral settings (e.g. golf outings vs. spectator sports)
 - Avoid venues that are never appropriate for the workplace (e.g. strip clubs)

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Business Trips (cont'd)

- Avoid blurring of professional/personal lines
 - Set expectations about where and when you will meet
 - Meet in hotel lobby or restaurant, not in hotel rooms
 - Text messaging is appropriate but should remain professional
 - Avoid excessive alcohol consumption
 - Draw clear lines and offer feedback, when appropriate



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Responses to Harassment in the News

- News stories that are particularly salacious, upsetting, or related to the law firm industry should be part of a public conversation on these topics
- Associates look to Firm management to message—promptly—that such behavior is inconsistent with Firm values
- Use these messages as a time to remind and reattach policy guidance



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Review/Revise Training and Policies

- Create positive opportunities for change by encouraging a culture of communication and feedback
- Commit to live anti-harassment training at least once every two years
 - Ask employment counsel to present to key decision-makers (partners; department/firm leadership)
 - Consider external training if internal resources lack expertise
 - Work with trainers to ensure content is appropriate for your workplace and culture
 - Ensure that Bystander Training is included in all trainings (i.e., what to do if you personally witness inappropriate conduct)
 - Emphasize that jokes about “being too PC” or “accidentally having a #MeToo moment” are inappropriate and demeaning to these efforts

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Review/Revise Training and Policies (cont'd)

- Examine complaint policies and ensure that viable complaint channels exist for all employees
- Ensure that women are getting “front of the house” responsibilities as much as men (client-facing opportunities, speaking roles, seats at the table)
- Ensure that men are required to do as much “back of the house” work as women (putting slide decks together, gathering materials, finalizing edits)



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