



SEXUAL HARASSMENT AND RECRUITING CONDUCT: CONSIDERATIONS FOR LEGAL EMPLOYERS AND LAW SCHOOLS

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As the cultural conversation about sexual harassment and misconduct in schools and workplaces has become increasingly robust, it has never been more important that career services and recruitment professionals — whose work is situated at the intersection of higher education and the workplace — ensure recruitment policies and practices are designed to adequately address these issues.

LAW SCHOOL CONSIDERATIONS

What follows are some questions and issues to consider as your school evaluates its recruitment policies and practices to ensure that all parties — career services professionals, employers, and students — understand what conduct is prohibited and/or actionable and how to address issues if and when they arise. These considerations are designed to guide you and others at your school toward fostering a safe, open environment that promotes career development and takes seriously issues of harassment or other conduct that may detract from such an environment. These considerations are merely guidelines for law schools to consider following and are not binding.

CONSIDERATIONS REGARDING EMPLOYERS

Does the school have a non-harassment policy governing recruiting programs and job postings (similar to nondiscrimination affirmations in job postings)? If the school wants to develop a policy, consider:

- What will be the consequences for non-compliance with the policy? Revocation of job posting/recruiting services? Ban on recruitment for a period of time?
- Should school request/encourage employers to provide anti-harassment training to interviewers?

Collaborate with the university's counsel to craft, review, and publish a policy. Once a policy is in place, consider:

- When should the policy be distributed to employers? Should employers receive the

policy during sign-up for recruitment, when the employer receives student application materials, and/or at interviews?

- Who must sign to indicate acceptance of policy? Do all interviewers need to sign at the time of interviews or only the recruiting contact?

Also examine the process for handling a complaint/report from a student regarding an employer:

- Who is responsible for reaching out to the employer — outreach team, Dean, etc.?
- Do other offices (Title IX, Human Resources or General Counsel's Office) need to be involved and for what types of situations?
- What systems are in place or available to

track reports or information about employers (and/or specific alumni) received from students about potentially problematic (even if not actionable) behavior?

Should the non-harassment policy or other agreement be provided as part of externship and/or clinical programs?

- Ensure externship supervisors provide contact name at employer to address complaints and/or other issues that may arise during the externship.

What is the set-up for the school's recruiting programs (on-campus or off campus)? Are interviews conducted in hotel rooms or conference rooms/office space?

- If hotels are necessary, attempt to reserve suite-style spaces and/or other modifications, such as removal of beds from rooms, to make students feel more comfortable.
- Consider whether doors can be propped open (using deadbolts, for example).

CONSIDERATIONS REGARDING STUDENTS

What are your school's guidelines for students in terms of reporting harassment/inappropriate behavior experienced in recruiting or the workplace?

- Ensure that any guidelines distributed to students are clear about the process, what action must be taken, and by whom in response to a report, and when confidentiality will be preserved to the maximum extent possible.
- When and how should these guidelines be reported to students? Posted online, included in materials regarding specific recruiting programs (OCI), provided at Career Services orientations, etc.?

What resources and training are available to students describing what is and what is not sexual harassment or other unlawful conduct?

- Consider encouraging students to report incidents that make the student uncomfortable, regardless of whether it may qualify as harassment under Title IX/Title VII.
- If materials include tips for students on when and how to remove themselves from uncomfortable situations, be careful to avoid language that can be construed as placing responsibility for inappropriate behavior with the student.

What resources are available to assist students in evaluating potential employers, and if so, do they include information about how to evaluate equity in the workplace?

- Consider educating students to ask questions about equity issues beyond unlawful conduct, such as mentorship, retention and promotion rates, lateral hiring, pay transparency, etc.

Does your school exhibit an environment that welcomes and takes seriously conversations with students about situations arising in the recruiting process and/or the workplace after a student has been hired?

- Law school personnel should emphasize that they are available to talk with students about situations that arise in the recruiting process and in the workplace once a student has been hired (pursuant to any constraints imposed by the reporting process at your school).

- Ensure that your guidance about preparing for recruiting programs/interviews clearly describes the set-up that students will encounter, including the room/furniture set-up of interview facilities (especially if the program occurs in a hotel), and that law school personnel will be present on site.

Provide training and/or programming for students on how to navigate employer sponsored/ hosted social events and/or recruiting events.

Consider instituting drink tickets and/or providing a non-alcoholic cocktail option at law school-sponsored events.

WELLNESS/MENTAL HEALTH PROGRAMS FOR STUDENTS

What wellness programs exist for students on campus (educational programming — managing stress, creating calm, therapy dogs)?

- Are there opportunities for Career Services professionals to partner with other offices on wellness programs?
- Are there opportunities to partner with legal employers on wellness events held for students at the law school?

Maintain a list of resources available for students in need of support, including school-sponsored health apps, fitness centers, counseling centers and programs offered through their counselors, local LAPs (if available to students), and substance abuse support/recovery programs.

Ensure law school staff understands the process for referring students to counseling services. Consider training on noticing indicators for students needing support.

EMPLOYER CONSIDERATIONS

What follows are questions and issues to consider as your organization evaluates its recruitment and summer associate program policies and practices to ensure that all parties — attorneys, staff, candidates, and summer associates — understand what conduct is prohibited and/or actionable and how to address issues if and when they arise. These considerations are designed to guide you and others at your employer toward fostering a safe, open environment that promotes successful recruitment practices, along with networking and career development opportunities, and takes seriously issues of harassment or other conduct that may detract from such an environment. These considerations are merely guidelines for employers to consider and are not binding.

CONSIDERATIONS REGARDING ALCOHOL/SOCIAL EVENTS

Does the legal employer have a general alcohol policy, an alcohol policy as it relates to summer associate programs, and/or an alcohol policy as it relates to recruiting events, meals and activities? If the employer wants to develop policies, consider:

- Should the policy impose a limit on the type/amount/length of time that alcohol is served at summer associate and/or recruiting events?
- Should the policy require that non-alcoholic options are prominent?

- Who is responsible for overseeing compliance with the policy and what are the consequences for non-compliance?
- Should the employer prohibit employer sponsored or funded after parties?

Does the legal employer provide orientation/programming for summer associates and new associates on how to navigate employer sponsored social activities and social activities at which attorneys and/or staff will be in attendance?

Does the legal employer promote or otherwise make available resources such as LAP or EAP to summer associates?

CONSIDERATIONS REGARDING HARASSMENT

The legal employer should create/review general sexual harassment policies and reporting procedures. During creation/review of the policy, consider:

- What is the process for handling a complaint/report from an employee?
- Does the policy clearly describe the reporting process, what action must be taken and by whom in response to a report and when confidentiality can or cannot be preserved?
- What training is available or could be provided to recruiting and professional devel-

opment professionals that receive sexual harassment complaints?

- Determining how the organization's culture and leadership shape the atmosphere for welcoming and handling reports.
- What support mechanisms exist for the reporting individual?
- The pros and cons of requiring all employees to sign mandatory arbitration agreements.

Also consider: What measures does the legal employer have in place to prevent harassment in the workplace and recruiting?

- Consider implementing a general harassment prevention training program and/or incorporating harassment prevention training into the employer's interviewer training program.

- Determine and implement an appropriate harassment prevention training program for summer associates.
- Review recruiting procedures for all positions to determine if any changes are necessary (one interviewer vs. two interviewers, interviews over meals, adjustments to interview settings, etc.).

Determine if it is necessary to put procedures in place for reports of misconduct during any part of the recruiting process.

- Should the employer report candidate/summer associate misconduct to the student's law school? If so, what is the process for reporting student misconduct to the law school? Who is responsible for reaching out to the school?

WELLNESS/MENTAL HEALTH PROGRAMS FOR EMPLOYERS

What wellness programs are offered to employees as part of their benefits?

- Review and maintain a list of mental health support offerings available to employees, both internal (i.e., EAP) and external (i.e., LAP). Provide summer associates a list of resources available to them.

- Does the legal employer offer educational programming for wellness and/or mental health? Are there additional opportunities for the employer to develop and implement wellness/mental health programming? Are these programs included as part of summer associate programs?

RESOURCE GUIDE

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This resource was prepared by the Sexual Harassment and Recruiting Conduct Work Groups of the JD Career Advisors and Recruiting Sections.

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