

Leveraging NALP's 14-Day Reaffirmation Provision

By Michael Gotham

The August on-campus and callback interview season is just around the corner. A common refrain among law firm recruiting professionals before, during, and after the interview season is the lack of communication from some law students after the employers extend their offers. Too often, students who have been in regular contact with the law firm recruiter as they schedule their callback interviews and wait for offers suddenly go "radio silent" after they receive an offer. Despite the employer's phone calls and emails to the student, the student simply doesn't respond about their interest in the offer or the likely timing of their decision.

NALP's 14-day reaffirmation provision can be a helpful tool in this regard. Part V of NALP's Principles and Standards ("the timing guidelines") (available at <https://www.nalp.org/principles>) provides that employers who extend offers to students not previously employed by them for full-time or summer positions may require students to reaffirm their continuing interest in those offers within 14 days of the date of the offer letter. The reaffirmation requirement must be included in the offer letter. Employers may rescind offers where the student does not reaffirm their continuing interest within the 14-day period. (Parts V.B.1 and V.C.1) NALP's interpretations of the timing guidelines further provide that the employer should state the person to whom the student should communicate their reaffirmation and the manner in which they should do so.

At a minimum, the reaffirmation provision requires at least one communication from the student to the employer after receiving an offer and before accepting or declining the offer. It might encourage the student to make their decision more quickly. It certainly gives the employer another reason to check in with the student. In instances where the student has been unresponsive, it can

give the employer some leverage to insist on a response. As a last resort, the provision can provide a way out of the offer for an employer who may question a student's professionalism based on his or her lack of communication and responsiveness.

While students may not always read carefully all the materials provided by their career services office — including information about NALP's timing guidelines — they likely do read an employer's offer letter. They are unlikely to miss statements in an offer letter about the deadline for accepting the offer and the obligation to reaffirm their interest in the offer within 14 days. The following are examples of offer letter language.

"Consistent with NALP guidelines, this offer will remain open until [Date]. We ask that you reaffirm your continuing interest in this offer within 14 days from the date of this letter, by [Date]. To do so, please send an email to [Name] by this date. This offer may be rescinded if you do not reaffirm your continuing interest within the 14-day period."

"We will be pleased to hold this offer open for you until [Date], and we look forward to your affirmative response. Of course, we would be delighted to hear from you sooner. In any event, please reaffirm your continuing interest in this offer within 14 days of the date of this letter. Your reaffirmation should be in the form of an email to [Name]. Failure to do so may result in the rescinding of our offer."

"As a member of the National Association for Law Placement (NALP), [Firm Name] abides by and supports NALP's guidelines for the extension, reaffirmation, and acceptance of offers to law students. Therefore, we request a reaffirmation of your interest in this

offer no later than [Date]. If you do not do so we will assume you are no longer interested in our firm and will rescind this offer."

In those instances where a student has not reaffirmed their continuing interest in an offer, and where the employer is reluctant to rescind the offer, calling the career services office at the student's law school may prompt a response. Career services professionals are typically in regular contact with many individual students during the fall recruiting process and can reach out to a nonresponsive student on the employer's behalf.

In fact, to the extent an employer can do so, it can be helpful to communicate with career services offices generally about offers — when they've been extended, when the affirmation or acceptance deadline is approaching, and when they've been accepted or declined. Career services professionals are counseling students regarding their options and offers throughout the recruiting season — for them to provide informed counseling advice, it is important for them to know the options that students may have received.

Unfortunately, there may always be some students who do not communicate their continuing interest in an offer or the likely timing of their decision. However, the 14-day reaffirmation provision is one tool that can increase the likelihood of helpful communications between students and employers during the recruiting process. ■

Endnotes

¹ Employers offering full-time positions to commence following graduation to candidates not previously employed by them should leave those offers open for at least 28 days following the date of the offer letter or until December 30, whichever comes first. Candidates should reaffirm these offers within 14 days from the date of the offer letter, if an employer requests such reaffirmation in its offer letter. Employers that have requested this reaffirmation may retract any offer that is not reaffirmed within the 14-day period.

² Employers offering positions for the following summer to candidates not previously employed by them should leave those offers open for at least 28 days following the date of the offer letter or until December 30, whichever comes first. Candidates should reaffirm these

offers within 14 days from the date of the offer letter, if an employer requests such affirmation in its offer letter. Employers that have requested this reaffirmation may retract any offer that is not reaffirmed within the 14-day period.

³ If an employer chooses to implement a reaffirmation provision, the offer letter should state clearly that the student is expected to reaffirm his/her interest in the offer on or before X date. In addition, the offer letter should also specify to whom the communication should be addressed and the method(s) by which the candidate should reply (e.g., e-mail, telephone).

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