



Managing #MeToo: Responding to Student Reports about Workplace Misconduct

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Why is this a meaningful discussion to have together?



Source: Power Shift Project, "Power to the Intern," *Freedom Forum Institute* (formerly *Newseum Institute*), March 2, 2018,
<https://www.freedomforuminstitute.org/initiatives/power-shift-project/videos/>

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Harassment is born out of power.

Employers have it;
Interns don't.



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Discussion Goals

- Discuss the methods law schools are currently utilizing to respond to student reports of sexual misconduct by an employer
- Explore the complexity of responding to reports of employer misconduct, and how certain details can drastically change a law school's response
- Provide audience members with talking points to consider and discuss with their own school or employer
- Provide audience members with resources for further education and support

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Employer Survey Results

- 13 responses
- Demonstrated the disconnect from the media's focus and the reality for many firms
- Overall, firms have already had policies in place to address harassment; had already shifted focus away from alcohol at social events as part of wellness; and did not have mandatory arbitration clauses

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Employer Survey Results

- Many firms had already implemented "best practices" for interviewing: sending interview teams to OCI (partner + associate) with a mix of gender, providing guidelines to lawyers interviewing in hotels about room setup, asking for beds to be removed, training for interviewers
- In addition to summer associates receiving training on what to do if they experience harassment, they are provided information on what will happen if they are perpetrators of harassment. Students can sometimes be the harasser (of each other, staff and lawyers, in all types of ways) and there are consequences for them too.

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Take Aways from the survey

- Many of these issues are part of the culture and are profession wide.
- They must be addressed by the community as a whole, including law schools.

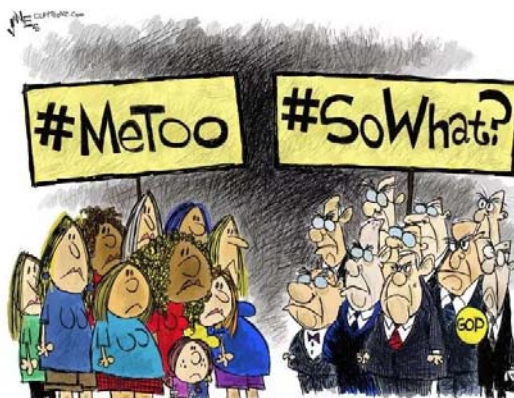


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Scenarios



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Scenario #1

A male 2L summer associate at a Big Law firm mentions that he flirted with and subsequently engaged in sexual relations with a female partner (he does not work for this particular partner). He admits getting involved was a mistake and even though he does not receive work from this female partner, he is afraid that if he ends the relationship, she will sabotage his chances of a post-grad employment offer.



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Who at your law school handles reports of employer sexual harassment?

Dean of Career
Services

Title IX
Coordinator

Faculty and/or
administrators

Other

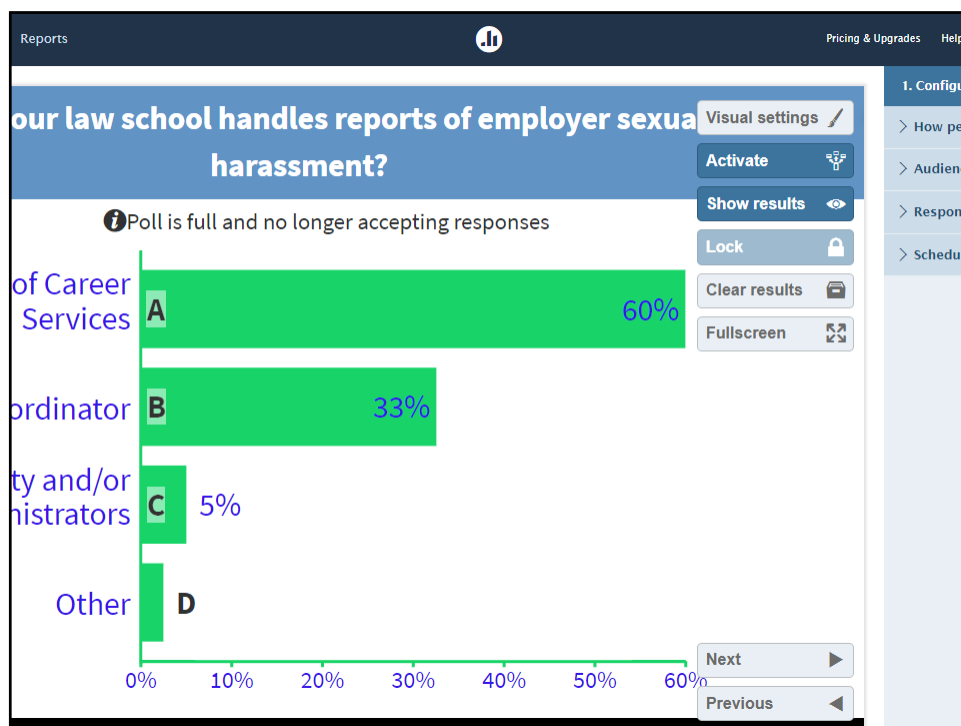
Poll Everywhere

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Scenario #2

- Solo practitioner asked intern for cell phone number in the event that the attorney needed to touch base with intern about work assignments or invite intern to client meetings or court. Solo practitioner starts sharing inappropriate pictures or social media memes via text that make the student very uncomfortable. How do you advise the student?



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How do you advise students in the small firm setting where there is no HR representative or policy in place?

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How do you advise students in the small firm setting where there is no HR representative or policy in place?

 **Poll locked.** Responses not accepted.

What does the student want?"

Tell her to quitting "

Block # and get out "

DocumentEverything "

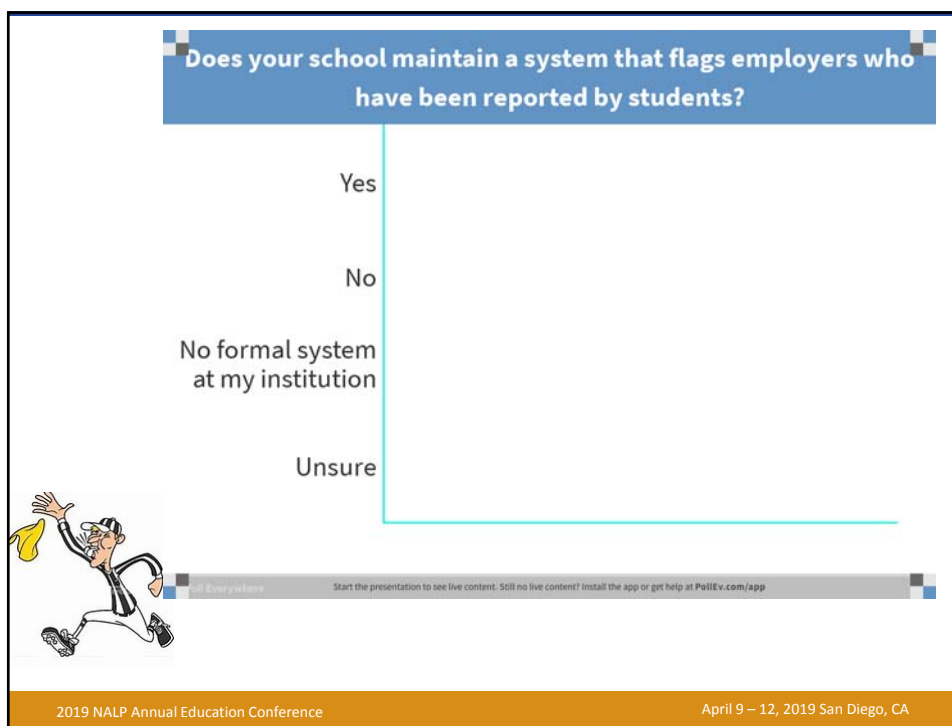
Report immediately "

It depends. Document everything "

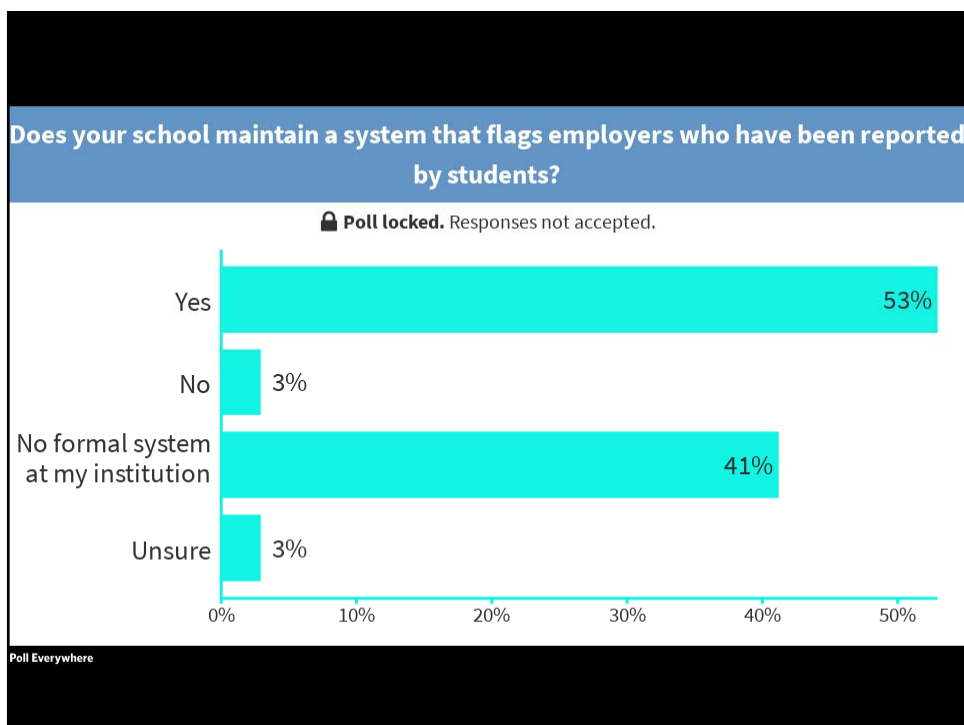
Document all the texts/emails. "

Poll Everywhere

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Factors to consider

- No HR department
- Student's bar admission application/use of employer as reference
- School's relationship with employer (alumnus, future postings, etc.)
- Student sensitivity levels/cultural differences
- Internal policies at the law school (MOU, policies for posting jobs)

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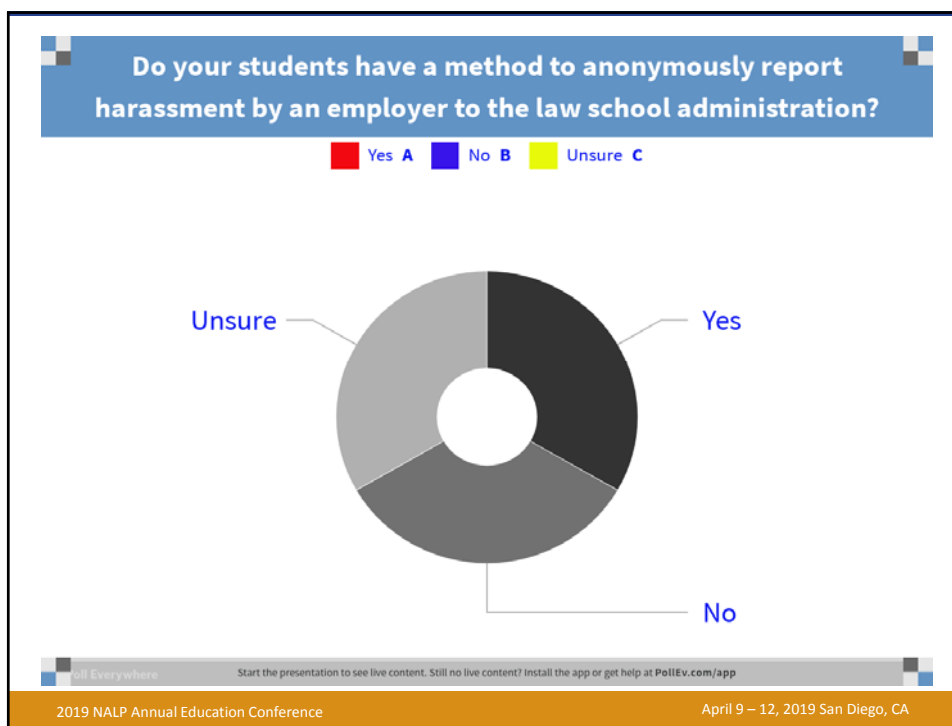
Scenario #3

- One of your externship students, Robert, comes to you reporting that the attorney who supervises and assigns his work, Nina, has been making him uncomfortable with comments, suggestive remarks, and requests for favors. Robert is afraid to lose his stream of work and not be able to fulfill his externship hours requirement if he does not work with this attorney anymore. What do you do?

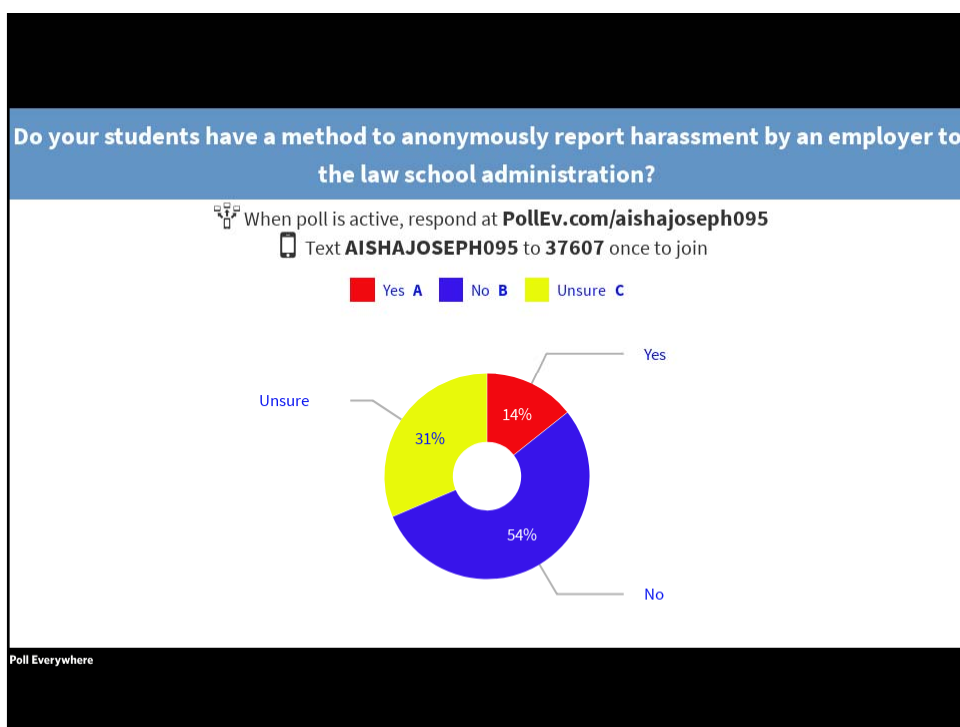
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Factors to consider

- The student is an extern, and therefore not an "employee"
- Title IX protections
 - No retaliation allowed
- State law protections?
- Institutional policies
- Availability of alternative placements
- Employer policies
- What about other students who work for the same supervisor?

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For your consideration: Know the Available Rules

- Federal law (under Title VII and Title IX of the Civil Rights Act of 1964)
- State law
- Your school's institutional policy on sexual misconduct
- Employer's sexual misconduct policy (and other employment-related policies)

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Federal law

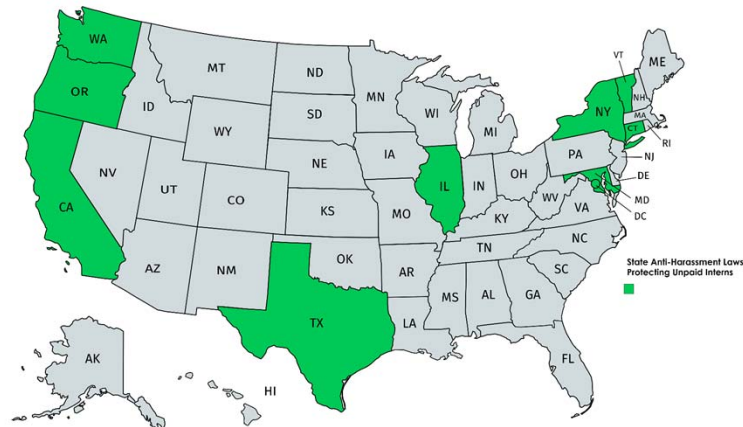


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State-level sexual harassment protections

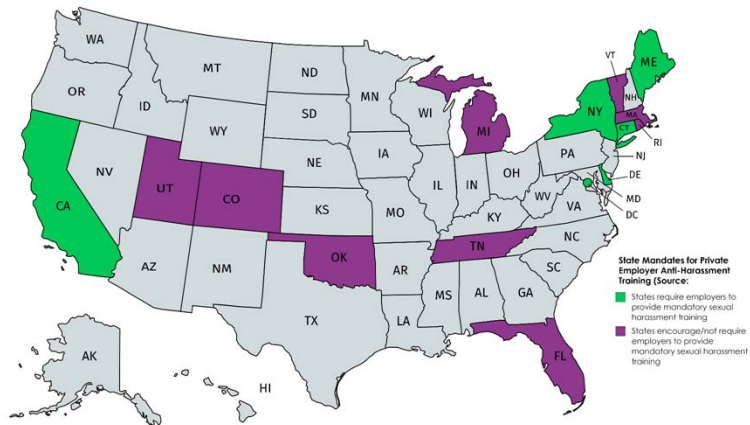


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State-level sexual harassment protections



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Institutional policy



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Employer policies



Source:
2018 survey, Society
of Human Resource
Management
(SHRM)
Harassment-Free
Workplace Series

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How does your school relay its non-discrimination and harassment policies to employers?

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Promote awareness to
key stakeholders



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How does your school prepare students to respond to sexual harassment during an internship/externship/clinic (i.e., tip sheet, role-playing, online training) ?

Results unavailable.

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**For your consideration:
Supporting your student in the aftermath**

- Termination of and transition from the internship
- Flagging and tracking reported employers
- Employer reference for bar admissions
- Wellness Resources

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CSO message to share with employers & students:

"Our students are assets to your workforce and should be viewed and treated as such. They have an expectation to work in a professional, safe work environment, free of harassment and discrimination."

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