

Best Practice Guide for First-Year Diversity Fellowships

In the 2023-2024 NALP Business Plan, NALP President Tony Waller created a First-Year Diversity Recruiting Task Force in response to concerns expressed by both firm and school members. The charge of the Task Force was to investigate and research the current state of first-year diversity hiring.

On June 29, 2023, the U.S. Supreme Court decision in *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023) ended affirmative action programs in college admissions. Opponents of affirmative action wasted no time seizing on the decision to challenge law firm DEI efforts. In July, a senator disseminated letters to at least 50 of the nation's largest law firms threatening Congressional action against law firms who continued "to advise clients regarding DEI programs or operate one of their own." Thereafter, the American Alliance for Equal Rights initiated lawsuits against several national law firms challenging that their diversity fellowship programs violated Section 1981, which prohibits discrimination in private employment. All suits have been dismissed at this time.

NALP was founded over 50 years ago by representatives from 35 law schools, legal employers, and a bar association in part to address the rampant discrimination in the legal industry that prevented people of color and other marginalized individuals from competing equally for legal jobs. While progress has been made, NALP's own data demonstrates that racial inequality still exists in the legal profession, and there is still much work to do.

As the first-year recruiting season has begun in earnest, the Task Force offers these preliminary "Best Practices" in advance of our final work which will be forthcoming in April 2024. As a reminder, all hiring programs should be reviewed by counsel for compliance with federal and state law.

1. DIVERSITY FELLOWSHIP/PROGRAMS

Schools

- a. Share diversity fellowship opportunities with students.
- b. Rededicate to creating a more diverse and inclusive environment within your law school and the profession.

Employers

- a. Review existing programs and identify ways to ensure compliance with the law while promoting diversity, equity, and inclusion in the legal profession.
- b. Rededicate to creating a more diverse, equitable, and inclusive environment within your organization and the profession.

2. TIMING

Outline the application process clearly to amplify important dates including any deadlines for submission, interviews, and when decisions are made. When an application period begins, it is a start date not a deadline for the entire process.

Schools

- a. Most employers consider applications on a rolling basis. It is okay for students to prioritize exams, necessary downtime, and other factors when determining when to submit applications.
- b. Employers have differing timelines; therefore, it is important to try to help your students develop a strategy to determine when applying early does matter. Check the *NALP Directory of Legal Employers* for information on when employers begin accepting applications and survey employers to collect timelines. Post this information in a central easily accessible location for your students. Best practices include direct office outreach to employers and advising students on how to find the information on their own.

Employers

- a. Let students and law school career offices know if and how application timing matters. First-year law students are constantly balancing conflicting demands on their law school schedules. Knowing when they need to focus on applications (as opposed to when they start applying) is meaningful to their decision-making process. If there is no benefit to applying before the end of the semester, providing that clarity can help students appropriately focus their attention on their studies and exams.
- b. Because most of the recruitment process will take place while students are in classes, clarity about the entire timeline is very valuable, such as the application review period, screening and callback interviews, and when offers will be extended. Include this information in your profile on the *NALP Directory of Legal Employers* where it is easily accessible to both students and law school career offices and update it, as necessary.

3. APPLICATION AND SUPPORTING MATERIALS

Provide clear direction regarding supporting materials.

Schools

- a. **The Application:**
 - i. Remind students that attention to detail is important when completing the diversity fellowship application.
 - ii. Employers ask for a completed application in addition to a resume for several reasons, including to standardize the information about each candidate in the applicant tracking software system, to comply with equal opportunity employment laws, and to see how well applicants follow instructions.

- b. **Diversity/Personal Statement:** Prepare your students for what might be different about the diversity/personal statement, including:
 - i. Encourage students to ask clarifying questions about the statement.
 - ii. Advise students that they should prepare a statement that responds to the specific prompt provided in the application. They should not repurpose their law school application personal statement.
 - iii. Counsel students that while it is ok to share personal experiences, they should remain professional and remember that this is a future employer.
 - iv. Advise students that statements are reviewed to get a sense of writing capabilities; therefore, statements should be error-free.
- c. **Transcript:** Advise employers when transcripts will be released.
 - i. Some employers may be amenable to receiving transcripts (as well as other additional materials) after the initial submission.
 - ii. However, students should first inquire if those materials will be accepted/considered.

Employers

- a. **Transcript:** Clarify whether transcripts can be provided after students apply. If so, specify how the transcript should be provided if materials were submitted via an online portal.
- b. **Diversity/Personal Statement:** Clarify the purpose of the personal statement.
 - i. Be clear on how the statement is being considered as part of a candidate's application packet.
 - ii. Determine ahead of the application process who within your organization will have access to the statement and their role in this and future employment determinations, if any. Be transparent about this in your application materials because the content is often very personal, students will feel less exposed if they know who the readers might be.
- c. **Writing Sample:** Provide guidance on the length of the writing sample and the type of sample you are seeking (*i.e.*, memo, brief, article, etc.).
- d. **Optional Documents:** If any supporting document is noted as optional (*i.e.*, personal statement, letters of recommendation, personal or academic references, etc.), ensure that it is in fact optional. If a student will be disadvantaged if they do not submit "optional" materials, then the materials should not be noted as optional.

4. INTERVIEWING

An inclusive and intentional interviewing process is an essential step in promoting diversity, equity, and inclusion in hiring because it creates a fair and equitable process for all candidates. Structured

interviews, where the same questions are asked in the same order to each candidate, improve the consistency and transparency of the hiring process and helps to reduce bias.

Schools

- a. **Prepare your students for what might be different about a diversity fellowship interview, including making students aware of the following:**
 - i. Some employers will ask about their diversity statement, while others do not.
 - ii. Students should be prepared to talk about sensitive/personal issues if they raised them in their diversity statements as well as respond to questions.
 - iii. Students should be comfortable discussing their commitment to diversity.
 - iv. Students should be able to manage diversity conversations to focus on their qualifications for the job.
 - v. Although they are interviewing for a diversity fellowship, students should also be able to respond to questions about the employer's business practice areas.
- b. **Provide guidance to students so that they can apply to the positions that best align with their goals and interests.**
 - i. Some employers are hiring 1Ls with the expectation of long-term employment.
 - ii. Help students consider whether their interests align with the employer's business, practice areas, and geographic location, and how they can communicate that during the application process.
- c. **Coach students on questions they might ask that are specific to diversity fellowships, including the following:**
 - i. Does the fellowship include additional mentorship, coaching, or other professional development opportunities?
 - ii. Does the fellowship include the opportunity to work directly with a client?
 - iii. How do they approach return offers?

Employers

- a. **Diversity/Personal Statement:** Clarify how the diversity/personal statement will be shared and considered during the interview process.
 - i. Be clear on how the statement is being considered as part of the interview process.
 - i. Let students know whether the interviewers will have access to the statement prior to their interview.
 - ii. Let students know if they should expect to receive questions about their statement during the interview.

- b. **Provide interviewers with guidance on questions:** Provide guidance to your interviewers as to how they should — and should not — be referencing diversity information during the interview. Examples:
 - i. Craft questions that seek the connection between the applicant’s commitment to diversity and the skills that are required for the job.
 - ii. Craft a structured and transparent interview process to include specific questions to minimize unintentional implicit bias.
 - iii. Do not ask questions that may seem related to diversity, but would not be appropriate in other interview settings, such as questions about personal characteristics, parents’ occupations, economic class, etc. For example, interviewers should not ask questions such as: What nationality/ethnicity are you? Are you on the spectrum? What country are you from? Where are your parents from? What do your parents do for a living? What part of town did you grow up in?
 - iv. Avoid questions about controversial topics that are in the news and relate to diversity-related topics, especially if you are not asking these questions of other candidates. For example: Do you think there is such a thing as a “diversity hire”? What are your personal views on the SCOTUS decision on affirmative action?
- c. **Be mindful of class attendance when scheduling interviews.** Remember that 1L summer job interviewing often takes place while classes are in session. Missing class is counter-productive to a student’s academic performance, and many schools have policies that prohibit missing class for job interviews. As a result, virtual options are especially appropriate during the academic year.
- d. **Provide reasonable time frames to consider and respond to offers.** Remember that students are in the very early stages of learning about legal careers and how their interests align with different practice possibilities.

Developed by the First-Year Diversity Recruiting Task Force

Chair: Alison Ashe-Card, Duke University School of Law

Elisabeth Beal, William & Mary Law School

Marredia Crawford, Baker & McKenzie LLP

David Diamond, Northwestern Pritzker School of Law

Gary Greener, UCLA School of Law

Donna Harris, Cleary Gottlieb Steen & Hamilton LLP

Benson Lee, White & Case LLP

Maureen Reilly, University of Pennsylvania Carey Law School

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