OPEN LETTER TO NALP MEMBERS:
SEEKING ENGAGEMENT ON RENEWING OUR COMMITMENT TO
PREVENT SEXUAL HARASSMENT IN THE HIRING PROCESS

November 14, 2017

Dear Member,

Today we write on behalf of the NALP Board of Directors to engage our community in an ongoing dialogue about the issues of sexual harassment and sexual assault. NALP members hold fairness, professionalism, and ethical behavior as core values. We are reaching out now to invite all members to reenvision what we can do to assure that the interview and hiring processes in our industry are as free as possible from circumstances that might give rise to unwanted incidents or awkward encounters.

In this moment it is impossible to read the news or social media without having a heightened awareness of sexual harassment and without wondering what we must reflect on in all aspects of our professional lives. The New York Times has described this as the “Click” moment:

…as allegations against Harvey Weinstein and others continue to metastasize, it feels as if we have crashed into the iceberg. Disaster metaphors – tsunami, hurricane, avalanche, landslide — seem to be in endless rotation to describe the moment, but the point is that many powerful men have seen their careers disintegrate, and with astonishing speed.

A great many women — and some men, too — have also spoken out more openly and more forcefully than ever before about what happens behind closed doors or even in the open spaces of studios, newsrooms and other workplaces. Companies have rushed to reassert zero-tolerance policies and whipped together training programs. (The New York Times, November 5, 2017, “The ‘Click’ Moment: How the Weinstein Scandal Unleashed a Tsunami”)
Law schools, law firms, and other places of legal employment are not uniquely immune from this pernicious dynamic, and a simple Google search reveals stories of similar allegations within our own industry.

There are multiple aspects of our recruiting and hiring processes to reexamine, and we start this dialogue with some of those aspects that are likely already on the minds of many of our members.

At the root of sexual harassment, of course, is the harasser. Over the coming days and weeks, as this pervasive problem continues to play out in the press, much analysis of the psychology of harrasers will no doubt be explored. Our primary industry focus will likely not be on the “whys” of this issue, but on what we can do to further develop policies and practices to perhaps help prevent and curtail the impact of this behavior. Requiring interviewers to sign a professional conduct acknowledgement before interviewing, and including a statement of professional conduct expectations in interview packets and on interview room doors are just a few ideas from our members to get us thinking along the right lines.

One area for improvement consistent with the recently-released and excellent report from the National Task Force on Lawyer Well-Being is to deemphasize alcohol at social events. Alcohol is pervasive in the legal recruiting process from pre-cruiting networking events right through the end of summer programs. We know from speaking to many of you in preparation for writing this letter that to the extent you have received complaints from students about sexual harassment or discomfort relating to the recruitment process, it is most often in situations where alcohol has been involved. There are myriad ways to begin to deemphasize alcohol at industry recruiting events, including by limiting alcohol options to beer and wine, prominently featuring mocktails and non-alcoholic beverages, and by modifying reimbursement policies so that the costs of alcohol at “after parties” and other firm-related outings are not covered.

Because so much of the media coverage about harassment in the entertainment industry has focused on behavior that took place in hotel rooms, another obvious place to begin rethinking our policies is with the common practice of conducting interviews in hotel room space. Sexual harassment and assault can and does happen anywhere. It’s difficult to imagine though that any school or employer believes hotel room interviews are ideal for this purpose. Rather, the practice has proliferated and continues, in our industry and others, largely as the practical default solution to complex logistical challenges. And while we have no reason to believe that any sexual harassment or assault occurs in our hotel-based interview programs — indeed, because these are very busy settings involving rotating students, attorneys, and CSO and law firm staff, we have reasons to believe these things do not occur — interviewing in a hotel room can and does make some students, and attorneys, uncomfortable.

Hotel rooms are designed to be private spaces — it’s not the mere presence of a bed that can make it awkward. Some schools and employers opt, when logistically possible and not prohibitively expensive, to remove the bed. Some programs are so large though that hotels simply can’t and won’t make such accommodations. Still, the removal of the bed from the room, or the use of a living room
area in a hotel suite, does not assuage the awkwardness and discomfort for some students. It is hard to imagine that all students can be at their best in this setting, and particularly for some women, having to enter a hotel room to interview for a job must inevitably make some candidates anxious in a way that is detrimental. We know interviewers sometimes report feeling uncomfortable as well when speaking with students while trying to ignore the presence of a bed, or while sitting on a couch.

We call on law firms and law schools to work together to come up with alternative ideas. The logistical hurdles are complex and the alternatives will inevitably involve a balancing of competing drawbacks, but in many instances there will be acceptable alternatives. For instance, some law schools use space in other university buildings, such as at the business school. Some use rentable co-working space for their early interview weeks. Hotels have many public spaces that might be used, such as meeting rooms and conference or convention areas. Some of our Canadian member law schools conduct law firm interviews in convention center spaces, separating individual interviewing spaces with pipe and drape walls to create booths for each firm. The Equal Justice Works Career Fair and the New York L.L.M. job fair are conducted in open spaces with firms and organizations at designated tables. Surely there are other creative solutions that can be discovered.

We readily acknowledge that identifying new interview sites will be difficult, and schools know too well that other options come with their own sets of drawbacks, such as a lack of privacy for discussing grades or other matters sensitive to candidates. Atop those challenges, contractual obligations and practical and financial limitations will likely require that change take place over a number of recruiting cycles. Regardless, we hope opening this conversation with you and among our members starts us in the direction of moving away from hotel-based interviewing programs where possible, for the good of our students and the industry as a whole, and where hotel room interviewing remains necessary for lack of any viable alternatives, that firms and schools work together to implement practices to minimize the risks of sexual harassment or assault in those settings, and wherever interviewing and recruiting occurs.

Most importantly, we hope that this conversation is an entry point to a wider and more important discussion. We call on all of our members to engage in a comprehensive review of their interview, recruiting, and summer programs. This moment in time presents an opportunity to think anew about the measures we have in place to keep our students and summer associates safe and free from harassment and bias throughout their recruiting and summer associate time. From speaking to many of you, we know that there are many good policies and practices in place, and many creative ideas about how to further improve the environment. Clearly, collaboration between law firm and law school members will be the best way to forge any new policies and practices that are needed.

We are reminded that NALP’s Principles and Standards compel us to conduct all activities related to the placement and hiring of law students at the highest ethical and professional level. This moment of public dialogue about sexual harassment provides us with an opportunity to renew our commitment to the highest ideals. We invite you to reach out to us individually to discuss this challenge, and we invite you to reach out to each other to begin a conversation about how we might move forward together. We invite you to take up this discussion on our member community platform,
NALPconnect, through sections or the all-schools or all-employer groups. We invite you to think about sharing creative solutions with each other, and to seek creative solutions collectively in city group meeting discussions and law school consortium meetings. We invite articles and commentary written for the NALP Bulletin on this topic so that we might all figure out together how to establish new best practices that acknowledge we all share responsibility for guarding against sexual harassment in all aspects of our hiring and employment practices.

Sincerely,

David A. Montoya
President
DMontoya@law.utexas.edu

Melissa Lennon
President-Elect
melissa.lennon@temple.edu