

Legal Issues

A Faculty Guide to Ethical and Legal Standards in Student Hiring

Purpose of this guide:

The success of students in obtaining employment is important to a number of parties on the college campus. In addition to the students themselves, these parties include the professionals who work in the career center and in admissions, development, and alumni relations offices, and you, the faculty.

You play a direct role in the employment process for new graduates. Usually, your role and that of the career services practitioner are complementary. Occasionally, however, helping students in their job searches can result in unanticipated illegal or unethical actions.

The National Association of Colleges and Employers (NACE), to which a great number of academic and hiring institutions belong, provides a set of ethical standards for guiding the job-search process. Entitled [*Principles for Professional Conduct for Career Services & Employment Professionals*](#), these standards are based on notions of fairness, truthfulness, non-injury, confidentiality, and lawfulness. In its foreword, the *Principles* document notes that colleges and employers share the common goal of "achieving the best match between the individual student and the employing organization."

Three basic precepts serve as the foundation of this goal, namely:

Maintaining an open and free selection of employment opportunities in an atmosphere conducive to objective thought, where job candidates can choose optimum long-term uses of their talents that are consistent with personal objectives and all relevant facts;

Maintaining a recruiting process that is fair and equitable to candidates and employing organizations;

Supporting informed and responsible decision making by candidates.

Because of the role you play in the hiring process, and the influence you have with both students seeking jobs and employers seeking new talent, NACE has created this guide to assist you.

Guidelines

- **Candidate Referral**

Employers may contact you to request the names of students who would be excellent candidates for job opportunities. At first glance, it seems harmless to provide the names

of your best students. However, there are some potential legal and ethical pitfalls. If you or a colleague receive a job lead from an employer and choose only to refer a few individuals without publicizing the position to all students who may be qualified, you are not maintaining "a fair and equitable recruiting process."

Also, by identifying individuals for employment on a "regular" basis, you may be considered an "employment agency" for purposes of compliance with equal employment opportunity laws. For example, if it appears as if you are (innocently or otherwise) referring only male students or only minority students, you may be open to charges of discrimination.

Employers who act in accordance with the *Principles* understand and expect students to receive open and equal access to information about job opportunities.

A Suggested Course of Action: If you receive a request for student referrals, you can, of course, notify individual students who have declared an interest in such positions and encourage them to apply. However, also post the position in your department and announce it to your classes. At the same time, contact the university career center so that the position can be listed campus-wide. There are practical reasons for these actions. The career services office may have an existing relationship with the requesting employer through co-op, part-time/summer job, internship, job fair, or other recruiting programs. Or, the career center practitioners may wish to develop a broader relationship with the employer. Sometimes unproductive misunderstandings occur when an employer works with more than one campus office.

- **Referral of Minority Candidates**

Most employers have diversity objectives in their college relations programs. Accordingly, they will make a special effort to identify and attract minority candidates. You will probably be asked for help in accomplishing this task.

The NACE *Principles* document endorses compliance with EEO guidelines and adherence to affirmative action principles by both college and staffing professionals. It is illegal to discriminate against protected groups. It is considered appropriate for career center practitioners to inform members of protected groups about employment opportunities, especially in areas where minorities are underrepresented. Similarly, employers are encouraged to inform minority populations of special activities, e.g., information sessions or career fairs that have been developed to help achieve an employer's affirmative action goals. You can participate in all of these activities.

While it is lawful and ethical for you to assist employers in reaching out to minority groups, it is inappropriate for you to identify only minority individuals who might fit the needs of an organization. You have an obligation to provide a "fair" system, i.e., one where all students have access to information about career opportunities.

A Suggested Course of Action: If you receive a request for minority candidate referrals, you can make announcements in class, post signs in your department, notify minority

students' organizations (e.g., societies of black, female, or Hispanic engineers), pass the request on to the career center, and encourage the employer to contact the career center directly. You can also refer the employer to your college's minority student advisory office (if one exists). That office may be authorized to provide a full list of the members of a requested population.

- **Providing References**

When you are asked by an employer for a student's reference, confidentiality becomes a major concern. Simply, information about a student should not be shared unless the student has furnished you with prior authorization. Once permission has been obtained, you should provide information that is based on facts, not conjecture, and not on personal information unrelated to the student's qualifications for the job in question.

A Suggested Course of Action: When you are asked to provide a written or oral reference for a student, obtain written permission from the student. All reference information should be based on firsthand knowledge and, if possible, written documentation. When providing information, you should avoid personal matters (e.g., marital status, health, disabilities, race, religion, etc.) that by law should not be included in employment decisions, even if you believe that such information might enhance the student's candidacy.

- **Final Comments**

The goal of student employment is most likely reached when all parties involved work cooperatively, ethically, and within the law. There may be instances when you are unsure of how to help your students and stay within the law. On those occasions, call the career services center for more information.

You and your colleagues on the faculty are encouraged to offer comments to your career services center practitioners regarding these guidelines and the issues this guide addresses. Please feel free to note issues that may not be covered.

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