Best Practices for Hiring and Working with Students & New Lawyers From Underrepresented, Underrecognized & Marginalized Groups

Presenter

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Agenda

Definitional Framing & Context

Pre-Recruitment

Recruitment/Hiring

During a Position

Questions/Comments

Diversity (Lily Zheng)

The workforce demographic composition in an organizational body that all stakeholder populations, especially underserved and marginalized populations, trust to be representative and accountable. Diversity is achieved through actions that explicitly counter present-day and historical inequities and meet the needs of all populations.

What communities am I able to build trust with that are important for the success of my org? Which am I less able to reach? What kind of person might reach them? (criteria)

Equity and Inclusion (Zheng)

Equity: the measured experience of individual, interpersonal, and organizational success and well-being across all stakeholder populations and the absence of discrimination, mistreatment or abuse for all. Achieve equity by eliminating structural barriers resulting from historical and present day inequities and meeting unique needs of individuals, groups, and orgs.

Inclusion: the felt and perceived environment in an organizational body that all stakeholder populations, especially underserved and marginalized populations, trust to be respectful and accountable. Need to feel valued and respected. Achieve through actions that explicitly counter historical and present day inequities and meet unique needs of all. Belonging is a metric for measuring inclusion.

Foster Belonging

- Feeling of being happy or comfortable as part of a particular group, and having a good relationship with the other members of the group because they welcome and accept you (Cambridge)

- Lack of belonging directly affects performance in law school both in academics and broader engagement

- Certain people more likely to feel a lack of belonging

- Individuals and processes can foster or perpetuate a lack of belonging

Important Context

Historical context

Affirmative Action in higher education; "this time in DEI"

Demographics of the city of Denver and state of Colorado

Amazing but potentially overburdened affinity bar organizations

Legal Education and Legal Profession's glacial pace of change

Lack of representation at the top (legal ed & legal profession)

What We're Seeing in Legal Education

Increased number of students seeking accommodations

Generational differences that sometimes conflict

Increased number of first generation law students

Underrepresentation Despite Some Gains

- 2023: Majority of students identify as white
  - 40% of the class are students of color
  - Women- 55.8%
  - LGBTQ+ - 14.7%
  - First Gen college - 24.2%
- Disability not tracked universally

Under-Representation Despite Some Gains

- First generation students, who are more likely to be students of color, women, older students, and part-time students, face more challenges in law school than their non-first generation peers, including the need to work more hours per week and also spend more hours studying (LSSSE)

- Higher attrition rates for Black/African American students than for students from other racial and ethnic groups (ABA)

Underrepresentation Despite Some Gains

- Ultimate pass rate for white bar examinees in 2021 was 90%, compared with 86% among Asians, 81% among Hispanics/Latine, and 72% among Black test takers (ABA)

- Despite record job market for graduating class of 2022, employment and salary outcomes remain unequal for graduates of color and for first-generation college students (NALP)

- Black graduates, Native American and Alaska Native graduates, and Native Hawaiian and other Pacific Islander graduates continue to enter private practice at significantly lower rates than their peers from other racial and ethnic groups (NALP)

Under-representation
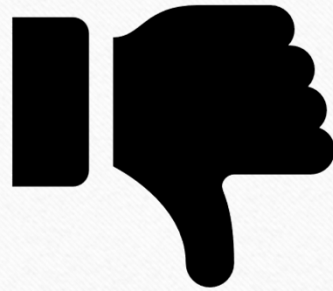
- Isolation & Alienation
- Lack of Belonging
- Imposter Syndrome
- Stress
- Stereotype Threat
- Microaggressions
- Tokenization

Tokenization
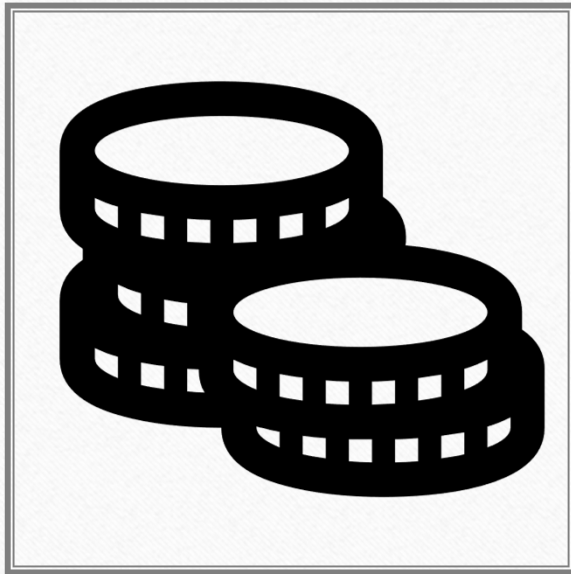
- "Seeking Diverse Externs"
- Diversity essay required
- Can we talk to your group? Email this advertisement to your group?
- Statements without action

Pre-Recruitment Steps

Pre-Recruitment

- Incentivize engagement on DEI efforts
  - Include in billable hours
  - Part of leadership, inclusivity, or service competencies
  - Evaluations from externs/summer associates
  - Activities engaged and brought to the firm
  - Promoting and incentivizing EDI CLE programs
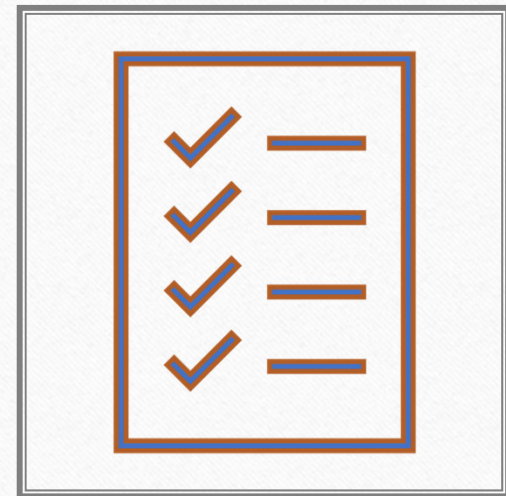
Pre-Recruitment

- Confirm accessibility of materials (screen readers) and space

- Arrange for parking expenses for interviews

- Consider food options & locations of events

What is your DEI commitment and why?

- Discuss clearly and specifically

- Why does it matter for you, your clients, your office, this profession?

- Gather data

- Work to ensure buy-in and commitment from team

The Recruitment Stage

Messaging Your Commitment to DEI

- **What do you signal about your organization before a person interviews (or even applies)?**

  - Authentic images and inclusive language on promotional materials

  - Statement(s) about your organization's commitment to DEI and why **you** care

  - Clear instructions about application procedures

  - Materials: Ask about experiences and commitment to inclusive environment

  - Share your data

Reviewing Applications

- Look beyond GPA/class rank. Go beyond "excellence stereotype"

- Holistic assessment: other meaningful indicators of commitment, work ethic, and aptitude.

- Identify which competencies and characteristics matter most to you

- Consider growth/improvement. Consider life experiences. Consider challenges experienced.
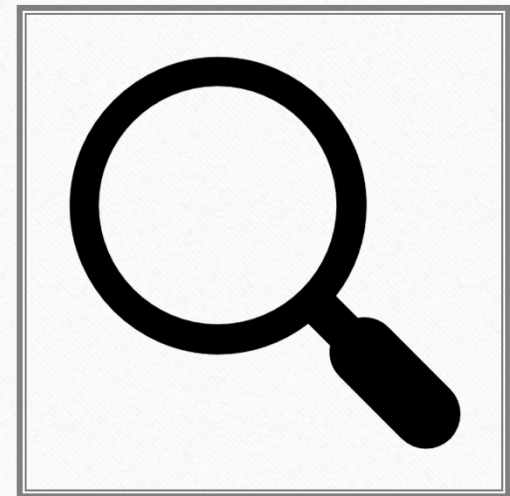
Interviewing Candidates

Preparing for Interviews	**In the Interview**
Assemble consistent team of interviewers	Invite storytelling
Ensure interviewers understand and are committed to the organization's DEI goals and initiatives	Use behavioral interviewing techniques to gauge competencies/characteristics
Consider standardizing list of questions and an evaluation form for post-interview discussion	Signal interest in extracurricular commitments, activism, experiences outside classroom and legal offices
Ask DEI related questions	Encourage questions and provide email for follow-up
Identify the interviewers to beforehand with pronouns (if ok with attendees)	Share more about what they can expect at office
Get applicants' pronouns, phonetic pronunciation of names, name they prefer prior	

Culture and Interviews

Think less about "Fit"

Think more about "Add"

Additional Considerations for the Recruitment Stage

Avoid	scheduling interviews and events during class time, religious observances.
Develop	rubrics to assess candidates, include DEI contribution/understanding
Consider	offering pay and credit simultaneously (students) and other small ways to signify you care
Update	applicants throughout the process on their status, timeline, etc.
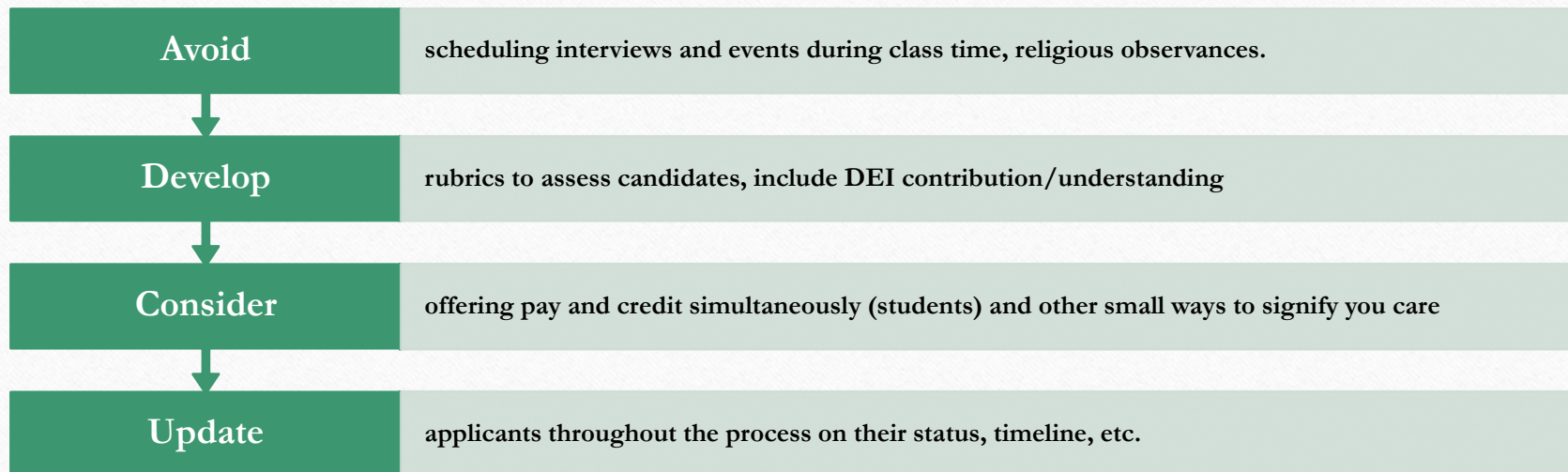
Information Gathering & Sharing

Confirm	Information on names gathered during application, then share with team (phonetic, pronoun)
Ask about	Particular/anticipated needs or challenges they may have (invites authentic relationship early on)
Inquire about	Accommodations they may need
Open	The door to sharing info on their travel plans
Share	Dates in advance of events to extent possible

At Some Point Prior to the Position...

1 Share electronic resource preferences

2 Consider conflicts policy

3 Firm up artificial intelligence policy

During the Position

Avoid Flaunting the "Diversity" Extern/Hire

Be Mindful of Tug-of-War Bias

"Few things are more off-putting than feeling tokenized or having one's difference on display and used for the benefit of others."

What is Professionalism?

Do not assume knowledge (clothing, what to bring, where to go, what not to say, questions etc.)

Share in writing clear expectations and ramifications and explain the "why"

Encourage authenticity

Be open, flexible, willing to shift- determine what matters most

Attire

Be specific if you want to suggest that attendees wear certain clothing (what does professional even mean). Be specific with a wide variety of options and share why you think such dress is appropriate

Be mindful of how people of all gender identities and people who are religious/culturally observant might interpret your descriptions

Consider: what purpose do the attire requirements or recommendations serve and who do they center. Is there a way to embrace a range of identities, backgrounds, body types, and cultures **as you're sharing any advice/suggestions?**

During the Position

- Do whatever you can to get to equity – so each student/lawyer gets what they need to survive and succeed—access to opportunity, networks, resources, and supports—based on where they are and where they want to go

  - Overshare information vs. Undershare

  - Be mindful of putting certain responsibilities on students/new lawyers

  - Clarity on costs for coffees, lunches etc.

Ensure Equity & Equal Access

- Knowledge (trainings, information shared)

- Assignment Distribution (coordinator/track amount and types)

- Access to People (structure time with key folks)

- Communication Protocols

- "Second Summer" & Post-Grad Opportunities (process and guarantee interview?)

Clarity on Assignments

What does the work product look like (and why?)

Diversity of work products

Context on assignment

Meetings/reflections related to assignments

Grow Students' &
New Lawyers' Networks

- Collaborate: Build Connections with Similarly Situated Organizations

- Mentorship - Advising:

  - Junior Person

  - Partner mentor

  - Be sure person has capacity/wants to engage

Keep Up with the News

- Be cognizant of current events – local & nat'l

- Acknowledge issues

- Raise issues for reflection – for all

- Recognize celebratory events

What Does Free or Social Time Look Like?

Organize Culturally Conscious community building, networking, and social events

Mindful of number, time, type.

Office Efforts

- Optional pronouns on email signatures, business cards, outside doors

- All gender restrooms (when permissible by code/building)

- Avoiding honorifics in office – using Attorney X, Counselor Y

- Suggesting avoid the use of gendered terms in writings

- Create an interfaith calendar (for awareness, recognition, support, and understanding)

Pay attention to your language

Be mindful of how people want to be identified

Speak slowly and intentionally

Be mindful of words/phrases that are commonplace but are not inclusive

crazy/nuts/insane/psycho, try wild/absurd/awful

crippling/paralyzed, try overwhelming/stagnant/stuck

you guys, try you all.

Microaggressions

Brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative [racial, sexual, identity, gender, religious, etc.] slights and insults

"Using inclusive language is a choice" (Pitt Law)

Appearance / Mock Interviews / Language Ability

Feedback Practices to Avoid

Harm by omission (afraid of being seen as a stereotype when giving direct feedback, thus robbing people of the feedback)

Ruinous empathy (care personally but stay silent)

Feedback in the form of assessment/evaluation without intermediate coaching

Feedback Best Practices

"FAST" – frequent, accurate and actionable, specific, timely

Check your egocentric bias (not only one way of doing things)

Avoid gendered stereotypes (e.g., tone; power; nurturing)

De-bias your adjectives ("articulate"; "shines"; "aggressive")

"SKM" – stop doing, keep doing, do more of

Make them better – concrete suggestions for improvement, next steps, new areas to develop

Before any formal feedback meeting, ask for a self-assessment and their impressions of project to use as a guidepost when framing

Two-Way Street of Feedback

- Encourage team members to share feedback anonymously & with trusted person
  - Assignments
  - Feedback they received
  - Interactions
  - Social events

When Mistakes Happen

I apologize; I'm going to do better

I recognize I have work to do

Thank you.

I appreciate the labor you've put in.

I believe you.

What I'm gathering is (insert what you've learned)

I'm going to reflect on this (sometimes)

How can I make this right (sometimes)

Do you have resources you'd recommend (sometimes)

Lifelong lessons

Reflection

Consistency

Opportunities for New Learning

Take Care of Yourself

Follow-Up/Support/Idea Sharing:

- afreeman@law.du.edu / 303.871.6788