



## **2020-21 Annual Report of the Review Committee of Recent Student Complaints of Discriminatory Behavior During the Recruiting Process or Summer Employment**

### **Annual Report**

This report is issued pursuant to the Law School's "Policy & Procedures for Addressing Student Complaints of Discriminatory Behavior During the Recruiting Process or Summer Employment" (available <https://law.duke.edu/career/nondiscrimination/>). The Policy and Procedures require the Review Committee to prepare and distribute a report at least annually to the community describing recent policy violations that have been reported on a Complaint Form pursuant to this policy, along with measures recommended and/or taken by the Law School and the offending employer.

### **Incidents Reported During the 2020-21 Academic Year**

During the 2020-21 academic year, the following incident of discriminatory behavior was reported by a Duke Law student (the "Student") to the Law School pursuant to the *Policy and Procedures Addressing Student Complaints of Discriminatory Behavior during the Recruiting Process or Summer Employment* (the "Procedures").

In this case, the Student reported that during the Student's (virtual) interviews with an employer in January 2021, an attorney asked the student, "Were you born and raised in [the region where our office is situated]?" The Student confirmed that the Student was born in the same state. The attorney later asked, "Were you born abroad?" The Student provided the same answer.

Subsequent to the incident above and pursuant to the Procedures, the Student met with the Student's Career Counselor and later completed the Discriminatory Behavior Complaint Form (the "Form") providing the above details, as well as the time, date, employer and name of the attorney involved. The Student also indicated at that time that the Student had no interest in pursuing employment with this organization and that the Student had other opportunities of employment. The Student did not request that no further action be taken.

This Complaint Form was reviewed by the Law School Review Committee which also consulted with Duke's Office of Institutional Equity pursuant to the Procedures. They each agreed that the behavior of the interviewer as reported by the student was a violation of the Duke University and Law School's Non-Discrimination Policy that prohibits discrimination "on the basis of . . . national origin". In addition, they determined that further action with the employer was appropriate.

The Law School subsequently contacted two representatives of the employer. One representative is a member of the organization's executive management and leader of a large division of the employer; this representative is also a Duke Law graduate and has been involved

in interviewing for many years. The other representative has organization-wide leadership responsibility for hiring and diversity and inclusion matters (the “Representatives”). Upon sending an email to initiate discussion to the Representatives, the Law School received an immediate call back from the Representatives to discuss the incident further. In this initial discussion, the Representatives understood the incident as reported to be a violation of the Law School’s Non-discrimination Policies and were extremely remorseful that it had happened. Following this initial meeting, the Representatives initiated an internal review.

Subsequently, one of the Representatives reported to the Law School the following, which aligns with the remedial measures recommended by the Law School’s Review Committee and Duke OIE:

- The Representative reported meeting by video with the identified attorney, who, upon being told of the incident, recalled the interview and recognized immediately that the question violated the Non-discrimination Policy and was apologetic and sorry.
- The Representatives reviewed the organization’s interviewer training including the list of prohibited illegal and inappropriate questions, confirming that asking about “place of origin” is one such question.
- In addition, the Representatives reviewed the organization’s own non-discrimination policy which all attorneys attest to annually and confirmed it also prohibits discrimination based on place of origin. Thus, the question asked also violates the organization’s policy.
- As the organization’s policies already address this type of prohibited discrimination, rather than create new policies, the organization committed to implementing new means to emphasize its existing policies to all employees and to interviewers in particular.
- This includes prior to when the organization next conducts the large majority of its interviews with students, sending a communication underscoring specific questions and comments that are prohibited and/or that violate non-discrimination policies. It will also identify new ways to communicate the contents of its policies and to ensure understanding by its employees.
- The organization will also send a similar communication to all lawyers, as it recognizes that many of its personnel may be involved in interviewing experienced candidates for whom its policies are equally as applicable.
- Though beyond the technical scope of the Procedures, the Law School also asked that it be communicated to interviewers that trying to discern the national origin – even without violating non-discrimination policies - of only certain students based on their appearance or language skills on a resume is hurtful to those students.
- The employer also agreed to revisit how much focus it places on a student’s pre-existing “ties to the area” in evaluating candidates recognizing that this could lead to a bias towards candidates with comparable backgrounds to the interviewers.
- The Representative again expressed recognition that the question in the incident violated the Law School’s policies and apologized on behalf of the organization. The Representative also asked the Law School to express thanks to the student for bringing the incident to its attention and to communicate on its behalf that the organization is sorry about creating an uncomfortable interview experience for the student.

These outcomes closely align with Duke's assessment of appropriate responses by the employer. Accordingly, given the nature of the incident and the organization's response, no further action was or will be taken based by the Law School based on this incident. The Law School will maintain a record of the violation and include such violation in the Annual Report.