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Walking The Talk Of Unconscious Bias Training

Rachael Bosch Forbes Councils Member
Forbes Coaches Council COUNCIL POST | Paid Program
Leadership

POST WRITTEN BY
Rachael Bosch

Rachael Bosch is the Founder of **Fringe PD** where she and her colleagues help people and teams communicate better at work.

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As a communications coach, I'm a staunch supporter of companies having a robust professional development curriculum. Yet even I will agree that corporate training on inclusivity and unconscious bias have their pitfalls and limitations if employees don't — and aren't expected to — practice what they learn when their decisions matter most.

Enter the annual review process. Our conscious and unconscious inputs inform some of the most important decisions we face at work: Who deserves to advance in their career? Despite what we learn in a classroom setting, research shows that bias still creeps into performance evaluations if we're not paying attention. This is especially true if the message isn't reiterated and enforced within and among our leadership structures, as well as by middle management and down on the front lines — both visibly and behind closed doors.

Bias is a big problem. Our smallest words on a feedback form can lead to decisions that affect not only a person's livelihood this year but their career trajectory for years to come. All it takes is a single bad review to halt someone's rise to rockstar status, leaving their career dreams hanging by a thread. In cases where the employees being held back are disproportionately from underrepresented groups, as is common in many professional services industries, the issue of bias can compound into visible trends across a company.

So before you sit down to tackle this year's performance paperwork, consider the following tactics for putting the lessons you (may have been forced to) learn about bias into practice when writing performance reviews.

1. Make your structure work for everyone. Your organization's performance review form shouldn't be open to any interpretation. If you find yourself unclear on the expectations and what they mean for your feedback, then talk to someone in HR about how you can improve the performance form. When reviews are vague, bias can thrive, and if your forms aren't soliciting consistent data from all users, then an adjustment is warranted — for the sake of a level playing field for all employees, no matter their background.

We strongly recommend a numerical scale that assigns ranks to clearly defined behaviors, providing concrete examples of the performance. This approach guides evaluators in their recall process when they might otherwise lean on subjective beliefs. The result will be a more uniform application of your organization's performance criteria, as well as staff who can focus their performance on what matters to your company's values.

2. Think twice about your word choice. The language you choose matters more than you might think — and it matters especially more during employee evaluations than during your normal course of business. When studied across many industries, unfair gender-based trends emerged related to word choice in performance reviews. Generic language like "good" was shown to vary widely in terms of meaning. As pointed out earlier, this lack of clarity invites ambiguity, introducing subjectivity into what should be a mostly objective process.

As one example of the impact of word choice, the constructive feedback delivered to female and male employees often differs in their framing — as a weakness versus a growth area, respectively. Then finding doesn't change even when women are the ones doing the evaluating, suggesting this is a social construct more than anything else. Women in the workplace might be criticized for "their inadequate relationships with clients," while men modeling similar behavior are encouraged to "strengthen their client relationship skills." This subtle difference between positive, actionable language and static, negative language is important.

The reviewer's good intentions are not in doubt — but the details and nuances that ensure *you* understand the person's behavior and performance do not translate when your written comments are shared with unfamiliar readers. The meaning gets murky, and others may interpret the performance of these two people differently. Unfortunately, this misinterpretation will likely compound over many years in that person's career too.

3. Quit with the creativity! Inspiring, compelling narratives may win over your clients and move target audiences to action. But performance evaluations are not the venue for showing off your extensive vocabulary or top-shelf writing skills. Variation is the opposite of ideal in the case of evaluations. Repetition across evaluators may be boring, but being consistent is much more vital. See tip No. 2 for the rationale on being clear on your meaning and employing the same language when you do, in fact, mean the same thing.

4. Spread the word about bias. Even if training won't solve the problem entirely, any attempt at improved understanding about bias is worthwhile. Ask your HR team for resources about feedback and bias. At the very least, make sure all your direct reports and their reviewers know about its effects — and I mean "all" literally. The phenomenon of bias isn't isolated to a single gender, seniority, generation, or industry. It's a human thing.

Everyone at your organization should be held accountable for having a baseline understanding of bias and its surreptitious way of tipping the scales in the (ideally) objective annual review process. Clarity of language is the key. Only when people throughout your organization take what they know about bias and actively apply it will the trends about diversity and inclusion on a large scale start to change for the better.

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Rachael Bosch

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Progressive But Not Pushy: Nudging Clients Toward Inclusive Thinking

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Photo: GETTY

When you're in consulting, earning and keeping the client's trust are what matter most. You must continually speak the client's language and demonstrate credibility on their terms. The last thing you want to do is make them feel alienated or, worse, attacked.

Yet being truly authentic at work also requires you to bring your values to the job at hand. In today's divided political climate, this integration between values and work can be tough — especially if your headquarters (like ours) are in downtown Washington, D.C.

My own approach to values-based leadership tries to strike a fine balance: I endorse corporate practices that align with my core beliefs, while being careful to never condemn alternative opinions. Instead, I strive to turn moments of disagreement into opportunities for improved understanding.

My experience is that we're all much more likely to consider other perspectives when we receive a friendly nudge, rather than a bitter shove, into an unfamiliar mindset. The science backs this up, as well — insight and change are much more likely to occur when we come to it on our own or with gentle guidance.

Setting An Example

In an effort to support diversity in the workforce, we have taken this exact approach. One of the practices I've established at my firm is the use of gender-neutral case studies when my team provides hypothetical scenarios to clients in our problem sets. Our internal policy is to use names like Sam, Alex, Max or Peyton — and always the pronoun "they." This inclusive language should free up the mind to think about the behaviors involved in the situation instead of the sex or gender identities of the people participating in it.

While it's true that this policy aligns with my personal value of increasing diversity, it also helps bring subtle awareness to a client's potential unconscious gender bias, which is an explicit goal of my team's work as communications advisers and leadership coaches.

Of course, the human brain can't help but paint a picture in the mind's eye about what Alex or Peyton looks like as a character. This mental labeling is both socialized and innate. But the lack of overt gender assignments allows my team to follow up with a second level of conversation. When a workshop participant inevitably struggles to verbalize the scenario, defaulting to our normalized language of "he/she," we can gently offer "they" in a supportive and nonjudgmental way, inviting conversation and awareness.

My experience is that these nudges are best delivered in a safe environment — whatever that setting looks like for your team. Avoid scenarios where you'll be perceived as "calling someone out." Nudging someone too hard or in too-public a setting can backfire, forcing people to react immediately and out of self-preservation of their social standing. If you opt for a private aside, remember that the goal isn't to get affirmation that you're right but rather to allow the other person to consider a different possibility than their bias might initially present.

Flipping The Script

Since putting this policy into practice, I've observed some interesting trends in how teams engage with gender-neutral case studies in my workshops. For example, the "boss" or "leader" character in any scenario is almost always assumed to be male. This holds true whether the workshop participants are men or women — likely because the preponderance of experiences for all professionals today has a man in the topmost position of authority.

Participants of all ages and gender identities also tend to have one of three types of reactions when faced with the choice of a pronoun assignment. Some people call it right out before I do — "I see you didn't provide us with a gender, so I'm not sure" — and move right on to answering the question at hand. Others make an assumption about gender first and then immediately catch themselves. This reaction usually manifests as the "he/she" stammering I mentioned earlier, where a gentle "they" can provide guidance and relief.

There is occasionally a third type of participant who tries to justify their personal opinions about nonbinary gender identity by arguing that a binary gender is required in order to accurately interpret the scenario. These "defenders of they," as I call them, will insist (almost defiantly) that "they" is exclusively a plural pronoun and imply that our case study is therefore invalid. My experience is that it's unproductive to engage with this type of participant on this logic. Instead, I try to make headway with those who are interested and engaged.

I am hopeful that workplace gender expectations will eventually improve, and I feel strongly that dismantling our gender stereotypes and binary reduction is an important step in that direction. Perhaps future generations won't be so quick to link gender identity with status. In the meantime, I believe that the small decisions of small companies like yours and mine will help nudge at least a few people to think about things differently, which — regardless of your politics — we can all agree would help us communicate with each other more effectively.

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An Exploration of Civility within the Legal Industry

by Jeremy Bloom, Rachael Bosch, and Jennifer Mandery

A study by the NALP Foundation and Fringe Professional Development seeks not only to explore civility within law firms but also to identify policies and procedures for addressing incivility.

We've All Been There to One Degree or Another

Dread. Sheer dread. As I walked down the hall to Casey's office, my stomach churned. That familiar feeling of anxiety filled my entire body.

Casey, the partner for whom I did most of my work but whose name I've changed here for anonymity, had a well-earned reputation for belittling and yelling at associates, and I had been the object of that perhaps-too-smart mind's fury many times before. It had gotten to the point where that feeling of dread permeated my thoughts about my work every single day and sometimes even made me question being a lawyer altogether.

I was a second-year associate at this point. While Casey defined incompetence as anything less than perfect, Casey's social standing at the firm seemed strong. Perhaps it was just me — maybe I wasn't good enough? This was my first job out of law school, and I was proud to be an associate at this firm, not to mention the perks that came along with it. I told myself I would persevere. I was determined to make this job work.

Those moments of dread lengthened, consuming my entire morning commute. And then they became not just moments but days where I felt I needed to quit right away. I began looking for other jobs, which helped me daydream about other options. And sometimes I had the chance to work with other, more civil partners, and I even felt positive about my career choice at times.

But it just took one phone call, one email, one interaction for all those feelings to come back to life. Casey would yell and scream, make fun of people, and call them names — even in group settings and even to more senior associates. A group of us would leave Casey's office together and then never say anything about what we just experienced.

I knew Casey wasn't the only "screamer" at the firm. In fact, Casey seemed to be more the norm than the exception. I figured this treatment would help me become a great lawyer — after all, Casey was an exceptional lawyer and neither Casey's mind nor tongue was unique at the firm. This was just the way it was, and I needed to adapt to it and accept it.

I tried — and succeeded — for about three years to make things work. This success included getting one prescription for anxiety and then another for the first migraines of my life, which the specialist concluded were stress-induced. I continued to stay at the firm.

Eventually, I realized that clinging to something that was making me this unhealthy just wasn't worth it. I accepted another position and never told the firm why I left. I didn't ask to be reassigned from Casey or seek some other solution. Nothing seemed realistic or long-term. I just left. I didn't consider myself a casualty of uncivil behavior at the time, but in retrospect I realize that I was.

Why Incivility?

Experiences like the one above, as shared by a former Big Law associate, are all too common in the legal profession. The way we choose to communicate with each other has a very real connection to an attorney's productivity, engagement, and well-being. Uncivil treatment is harmful to mental health and a significant driver of attrition.[1] Difficult working relationships are one of the greatest causes of on-the-job stress,[2] which costs companies $300 billion annually.[3]

In 2018, the NALP Foundation and Fringe Professional Development partnered to study incivility in the legal profession, including fielding a survey of law firm administrators. This article examines incivility and its impacts, and provides results from that survey.

How We Got Here

For decades the issue of civility has been discussed and debated in society at large. Early discussions focused on adhering to strict societal standards of politeness and purity.[4] Within the legal industry, the initial focus was on interactions with opposing counsel because most lawyers had small or solo practices with a limited need for communication.

Over time, communication in our industry shifted. The hyper-focus on civility actually gave lawyers a free pass to be uncivil — their outrage on behalf of clients enabled them to argue to the fullest extent.[5] The small legal practices of the nineteenth century also evolved into larger organizations, creating more opportunities for interaction within a firm. Today lawyers not only have opposing counsel to interact with, but also an ever-growing staff of associates, business professionals, and paralegals.

Passionately advocating for one's client is still excused, but this intense communication style has seeped into the inner workings of our legal organizations — often with serious

"I have left two law firms due to incivility from managing partners and am experiencing the same problem at my current firm. This has primarily been incivility by older men, but it has become increasingly common with women who are more senior than me (but not in management)."

— A white woman, mid-level associate, at a firm with 26-50 lawyers

"Concerns were swept under the carpet in each instance, because dealing with the offender might have cost the company money."

— A white woman, partner, at a firm with 251-500 lawyers

"They listened carefully and had me write down what happened. They proposed a course of action to stop the behavior. When I asked for a different course of action, they worked with me to accommodate my preferred approach. When that didn't work, they listened again and took action to protect me. I was close to the edge in terms of leaving the organization, thinking I couldn't take the situation, but the response of the firm's then leadership was so compassionate and caring I was able to stay the course and keep my career on track."

— A white woman, partner, at a firm with 101-250 lawyers consequences. The legal industry has gone from Atticus Finch to Michael Avenatti and that cultural evolution has eroded our expectations of civility.

The meaning of the word "civility" has also evolved. Today it's most often used to define behavior that's similar to our own. Incivility, in contrast, is used to explain away anything that might offend the sensitivity of a group to which we belong. To put it more plainly: "If you act like me, then you are civil. If you don't act like me, then you are uncivil."

Think about how often you hear incivility bandied about today, particularly in the political landscape. Each side constantly accuses the other of acts of incivility, defining the term from its point of view and not from a place of neutrality. These modern interpretations and their frequent overuse have led to confusion over the terminology of civility and a jaded dismissal of the impact of uncivil behavior.

Yet there is a documented and dramatic impact of these behaviors and communications on our societies, relationships, and organizations. Exploring the holistic well-being of our industry's attorney population requires consideration of the interactions that fill our days and billable hours — so much of our time is spent engaged in interpersonal communication. With the average number of uncivil encounters at work more than doubling since 2016,[6] it is critical that we take a careful look at the impact that these communications have on engagement, productivity, and mental health in our field.

For this study, the NALP Foundation and Fringe define "civility" as productive communication (verbal and non-verbal) that encourages positive relationship-building and interpersonal connections. In contrast, incivility is engaging in behavior (knowingly or unknowingly) that is inconsistent with mutually accepted cultural standards and that thereby damages interpersonal connections. Note that we have refrained from tying these definitions to any form of politeness. We have also defined both words in a way that can remain malleable to the organizational standards of behavior that may apply. The critical piece of each definition is the relational one. Are you building or deteriorating relationships? This should be how we define civil behavior.

Some uncivil conduct is obvious. Examples include:

- Swearing/verbally attacking
- Being condescending or belittling
- Interrupting others
- Being judgmental
- Using disrespectful language
- Spreading rumors
- Throwing temper tantrums

Other uncivil conduct is subtler, including:

- Imposing false deadlines
- Sending aggressive or too-frequent emails
- Showing disinterest in others' opinions
- Excluding someone from emails or meetings
- Blaming others
- Avoiding responsibility
- Delegating difficult (or boring) tasks
- Taking too much credit
- Failing to share information

In 2017, the National Task Force on Lawyer Well-Being published a report that noted how incivility in the legal profession is on the rise: "[C]hronic incivility is corrosive. It depletes our energy and motivation, increases burnout, and inflicts emotional and physiological damage."[7]

We are also more frequently seeing the outcomes of uncivil behavior. Incivility causes both intentional and unintentional disengagement, as well as increased attrition.[8] For example, one study of 800 managers and employees from 17 industries identified the following outcomes for participants who had experienced incivility:

- 25% took their frustrations out on clients
- 38% decreased their work quality
- 47% decreased the amount of time they spent at work

- 58% left or thought about leaving their job
- 63% spent work hours worrying about or trying to avoid the offender
- 66% experienced a decrease in their performance
- 78% experienced a decreased commitment to their organization[9]

For the legal industry, it is critical to think not only of the economic toll on our organizations (lost revenue from attrition, lack of productivity, and healthcare costs) but also about the individual toll on our talent. We know that relationship difficulties are one of the greatest causes of stress and that managing stress is imperative for our organizations to remain healthy.[10] We all know an attorney who interacts with colleagues in a way that creates or exacerbates a negative outcome, causing unnecessary strife and wasted energy.

This study's interest in civility is multifaceted. We aim to shed light on these behaviors in our industry and organizations not only to help increase well-being but also to increase inclusivity and belonging. The word civility comes from the Latin root *civilis*, meaning "befitting a citizen." And it is important that we consider the impact on all of our organizational citizens. It is a well-documented phenomenon that women experience more incivility than their male counterparts.[11] The NALP Foundation and Fringe PD hope to explore this as well as other demographic trends in our final phase of research, a lawyer survey intended to provide further details on this issue. We are seeking additional responses to that lawyer survey. Please contact the authors for additional information about participating in or promoting the ongoing lawyer survey, including for the link to the survey. Once complete, a report of the findings from the study will be available from The NALP Foundation and Fringe PD.

As we strive for healthy, productive, and inclusive organizations, the legal industry must consider the impact that our communication behaviors — civil or otherwise — have on all of us.

Introduction to the Study

The NALP Foundation and Fringe PD recently conducted a *Study of Civility within the Legal Industry* among law firm administrators to explore civility within law firms and to identify policies and procedures for reporting and addressing incivility. Our organizations took on this research in the hope of giving law firms a mechanism to identify and mitigate this type of interpersonal communication.

The study addresses the impact of workplace behaviors and communications in a way that is not always captured through traditional anti-harassment training and policy. It provides law firms with best practices for addressing uncivil behavior and for establishing policies to address this critical issue. The results of this study are highly valuable to law firms and can be used to help create and implement processes or adjust current policies, codes, and training.

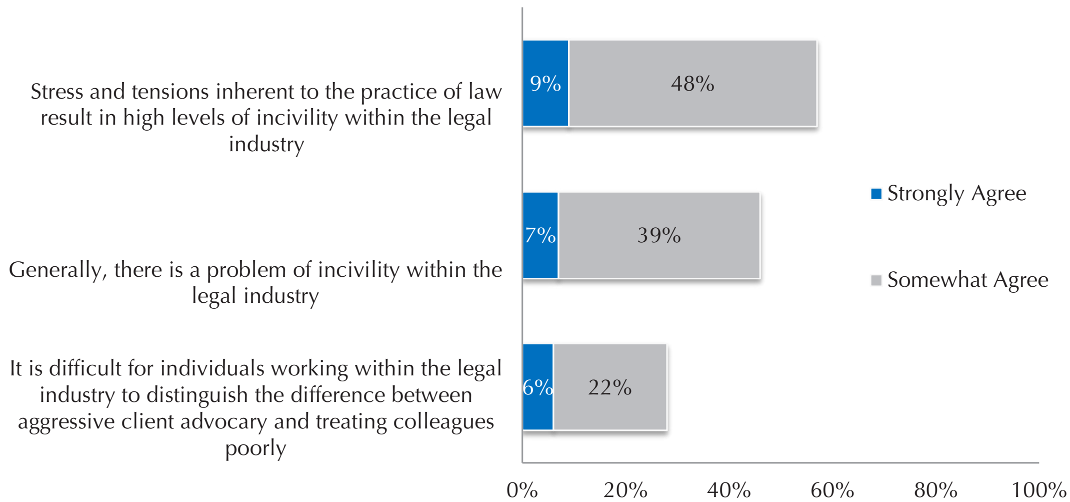
Methodology

In September 2018, a letter explaining the importance of the study was sent to law firm administrators within NALP's membership; it invited each person to participate in a survey.[12]

The NALP Foundation has a long history of working with law firms and law schools and of handling their sensitive data. The data and responses were kept confidential, and participants are not identified by firm name, responses, or outcomes. The information gathered included current policies or codes that address civility (outside of legally mandated anti-harassment policy), procedures for reporting complaints of uncivil behavior, and training programs.

A total of 57 law firm administrators participated, representing firms with 100 or fewer lawyers up to firms with more than 1,000 lawyers.

Figure 1. Level of Agreement with Statement — As reported by law firm administrators



Base: All firm administrators. On a 5-point scale where 5 equals "strongly agree" and 1 equals "strongly disagree."

Data on Civility from the Firm Perspective

Using a five-point scale where 5 equals "strongly agree" and 1 equals "strongly disagree," firm administrators rated their level of agreement on several statements related to general incivility within the legal industry. Administrators were asked to rate their level of agreement with a set of statements, including:

Rated Agreement with Three Statements:

1. "Generally, there is a problem of incivility within the legal industry."

2. "Stress and tensions inherent to the practice of law result in high levels of incivility within the legal industry."

3. "It is difficult for individuals working within the legal industry to distinguish the difference between aggressive client advocacy and treating colleagues poorly."

On the whole, 57% of participating firm administrators agreed (either "strongly agree" or "somewhat agree") with the statement "stress and tensions inherent to the practice of law result in high levels of incivility within the legal industry," while less than one-half (46%) agreed with the statement "generally, there is a problem of incivility within the legal industry," and over one-quarter (28%) agreed with the statement "it is difficult for individuals working within the legal industry to distinguish the difference between aggressive client advocacy and treating colleagues poorly." (See Figure 1.)

These results demonstrate the strong perception that incivility is inherent in the legal profession. The law firm administrator respondents view incivility as beyond the control of individuals or firms and as a natural consequence of being a lawyer. As discussed below, there are specific steps individuals and firms can take to change that perception.

The results by firm size revealed that law firm administrators from firms of 251–500 lawyers agreed more strongly with each statement, on average, compared with administrators from firms of other sizes. (See Table 1.)

Table 1. Agreement with Statements About Incivility within the Legal Industry (Average Score)* — Overall and by Firm Size

	All Firm Administrators	FIRM SIZE			
		100 and Fewer	101-250	251-500	More than 500
Stress and tensions inherent to the practice of law result in high levels of incivility within the legal industry.	3.4	3.1	3.7	4.0	3.6
Generally, there is a problem of incivility within the legal industry.	3.3	3.4	3.6	3.7	3.3
Generally, it is difficult for individuals working within the legal industry to distinguish the difference between aggressive client advocacy and treating colleagues poorly (e.g. bullying or rudeness).	2.7	2.4	2.8	3.2	2.8
Base: All firm administrators. Note: On a 5-point scale where 5 equals "strongly agree" and 1 equals "strongly disagree."					

Prevalence of Policies and Codes

Results also revealed that policies or codes on civility were not common within participating firms. Over three-quarters (76%) of administrators reported that their law firm did not have a current policy or code (outside of legally mandated anti-harassment policy) to address civility in the workplace. Among the small number of firms that did, the majority reported that this policy or code is effective, as demonstrated by their responses to open-ended follow-up questions:

> *"We make it clear to candidates from the get-go that we have a rule, and we recruit for candidates that fit our culture. People who treat others in an unkind manner are spoken to quickly. The environment at my firm is very positive and people genuinely like each other."*
>
> *— Human Resource Director/Manager, firm of 101–250 lawyers*

> *"Treating others well is part of our core values and is communicated and demonstrated from the top down. When someone steps outside the bounds, whether a partner or employee of the firm, an appropriate conversation is had."*
>
> *— Professional Development Department Director/Manager, firm of 251-500 lawyers*

As detailed previously, firm administrators from firms with 251–500 lawyers reported higher levels of agreement, on average, for all of the statements about incivility within the legal industry. Interestingly, a higher percentage of respondents from this size firm also reported the existence of civility policy or code compared with firms of other sizes. (See Table 2.)

Table 2. Whether Firms Have Current Policy or Code That Addresses Civility — Overall and by Firm Size

As reported by firm administrators	All Firm Administrators	FIRM SIZE			
		100 and Fewer	101-250	251-500	More than 500
Yes	24%	14%	18%	29%	12%
No	76%	86%	82%	71%	88%
Base: All firm administrators. Percentages may not sum to 100% due to rounding.					

In addition, the study explored whether firms include workplace communication in their anti-harassment policy. For the purpose of this study, we defined "workplace communication" as "the exchanging of ideas and information both verbally and non-verbally via email, in person, or through a chat function or video."

Just over two-thirds (67%) of firm administrators reported their firm includes workplace communication in its anti-harassment policies. Results by firm size showed that a remarkably lower percentage of respondents from firms with 251–500 lawyers report having workplace communication in their firm's anti-harassment policy as compared with firms of other sizes. This is consistent with the finding that a higher percentage of firms with 251–500 lawyers have stand-alone civility policies or codes. (See Table 3.)

Table 3. Whether Firm Includes Workplace Communication in Its Anti-Harassment Policy — Overall and by Firm Size

As reported by firm administrators	All Firm Administrators	FIRM SIZE			
		100 and Fewer	101-250	251-500	More than 500
Yes	67%	71%	82%	29%	75%
No	33%	29%	18%	71%	25%
Base: Firm administrators whose firm does not have current policy or code. Percentages may not sum to 100% due to rounding.					

Reporting Uncivil Behavior

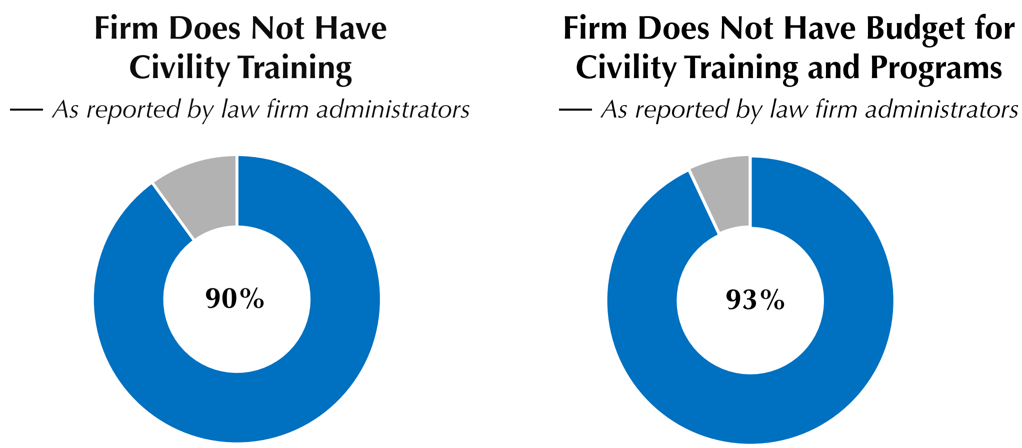
Forty-one percent of firm administrators reported that their firm has a standard procedure for reporting complaints of uncivil behavior. The most common places for filing formal complaints were human resources and practice group leaders. While formal assistance was not universally offered, the majority of respondents did report that their firm offers some type of assistance, including confidential resources within the firm, third-party coaching, and peer mentorship.

Additionally, law firm administrators were asked to indicate whether their firm has a department, working group, or individual who is dedicated to managing or overseeing uncivil behavior. In total, 72% of respondents said yes — often the same person or group that manages and oversees the firm's harassment complaints. Only small percentages of administrators from firms with 251–500 lawyers (14%) and more than 500 lawyers (12%) reported that the person or group that manages incivility is separate from those who manage harassment, while none of the firms with 250 or fewer lawyers reported likewise. (See Table 4.)

Table 4. Whether Firm Has Department, Working Group, and/or Individual Dedicated to Managing and/or Overseeing Uncivil Behavior and Complaints — Overall and by Firm Size

As reported by firm administrators	All Firm Administrators	FIRM SIZE			
		100 and Fewer	101-250	251-500	More than 500
Yes, the SAME person or group that manages and/or oversees anti-harassment complaints	61%	71%	73%	57%	50%
Yes, a SEPARATE person or group that manages and/or oversees anti-harassment complaints	11%	0%	0%	14%	12%
No	28%	29%	27%	29%	38%
Base: All firm administrators. Percentages may not sum to 100% due to rounding.					

Figure 2.



Civility Training and Budget

Few law firm administrators indicated that their firm dedicated time and dollars to civility training and programs. Specifically, 90% of law firm administrators reported their firm does not have a formal civility training program, and 93% of law firm administrators reported their firm does not have a dedicated budget toward civility training and/or programs at their firm. Among the small number of firms that reported they had a dedicated budget at the time of the survey, budgets ranged from \$5,000 to \$50,000 annually. (See Figure 2.)

Now What?

From the story recounted at the beginning of this article to our findings from the administrators managing our law firms, it is clear: Incivility is a problem in our organizations and a focus on increasing civility is critical to the development of healthy, engaged, and productive employees.

That said, what can we do about this overwhelming, seemingly insurmountable, challenge? As shown in the data above, very few firms provide training specifically on civility. Yet the majority do include workplace communication in their anti-harassment policy. If firms are going to include communication standards in their policies, it is important to also define them and to integrate these expectations throughout the organization. We can't expect our colleagues to comply with a standard of behavior that we have not expressly defined for them. Here are a few ways to start tackling this challenge.

Be Loud and Clear in Your Expectations

Work with your management committee or other firm leaders to clearly define how employees should communicate with one another. While this may seem obvious at first, it will eliminate a lot of confusion later. Don't be afraid to be painstakingly specific. Bryan Cave, for example, has outlined a very clear Code of Civility for its employees. The firm lists ten specific "rules" that the firm as a whole agrees to as behavioral norms, ranging from "greet and acknowledge each other" to "respect each other's time commitments."[13]

The challenge is to not only create this list, which we expect will be different for every organization, but also to distribute it throughout the organization in a meaningful way. Consider the following opportunities to share your communication expectations.

- Add them to the homepage of your intranet or other common electronic meeting place.
- Ask practice group managers and department heads to share and lead a discussion at their next group meeting.
- Post them in open spaces at the firm.
- Create a video series where firm leaders discuss how they implement civility practices.

Create a Pathway for Those in Need

While it would be wonderful if well-articulated expectations were enough to remove incivility from our workplaces, this simply isn't the case. The truth is, there will always be people who act out — there will always be a "Casey" like the partner in the story above.

As leaders in our organizations, we have an imperative to create a process for confidential and effective disclosure of such behaviors for remediation. While over half of the firms we surveyed include uncivil communication in their anti-harassment policy, fewer than half have a standard procedure for reporting acts of uncivil behavior. We recommend investigating the options for reporting and disclosure in your firm by asking the following questions:

- What keeps people from reporting?
- How can we articulate the importance of reporting?
- What precautions can we put in place to maintain the confidentiality of the reporter?
- What consequences are we willing to impose on any perpetrators?

The challenge seen most frequently, even within the largest law firms, is that working groups tend to be quite small, creating a fear of retaliation for those who experience incivility. The more public that your organization can be in setting expectations and creating a process for reporting, the more that this fear can be mitigated, even if it takes time to shift the cultural standard.

One final note on reporting: Upholding repercussions for violators is important. Studies have shown that the most likely pattern for uncivil communication is by supervisors to their subordinates. This creates a challenge similar to the one seen with sexual harassment, in that the perpetrator is often tied to the profitability of the firm. This means that firms have a difficult decision to make: Either confront the perpetrator and risk alienating that person or accept the behavior and risk a culture of silence. When the perpetrator is a rainmaker firms can be especially reluctant to address the issue. The alternative is that associates, like the one whose story opened this article, know that nothing will come of a claim, so they either need to accept incivility or leave.

Start Where You Are

It may seem daunting to create or modify a code of civility or a reporting process, and perhaps you lack the resources or influence to take on these tasks. But you can still help improve our industry's civility standards by starting where you are — often the most immediate and effective way to move the needle forward on any large-scale problem. This approach also makes it easier to see results, which can increase your motivation to continue.

Consider how many people you communicate with at work on a daily basis, whether verbal or non-verbal communication. What would happen if you increased your engagement and civility among this group? Ochsner, a healthcare company in Louisiana, implemented the highly effective "10-5 Rule" to improve their internal communications and engagement: If you are ten feet from someone, smile or acknowledge them in a positive way. When you are five feet from them, engage verbally by greeting them.[14] Imagine a world without awkwardly silent elevator rides!

Talking to your team or work group about the concept of civility is another great way to start where you are. Whether your team has two or twenty employees, consider finding an opportunity to circulate an article on civility among them and to sit down, or even break bread, to discuss the concept in an open and supportive format. Here are some questions to kick off that conversation:

- What subtle behaviors do you consider uncivil or inconsiderate?
- How do you want people to communicate with you?
- What kind of communication could strengthen our team?
- When getting constructive feedback, what would help you better absorb and learn from the information?

This study certainly doesn't provide all the answers for addressing the challenge of incivility, but the tips above can help our industry move forward. By providing spaces where communication is handled with a mindset of growth and positivity instead of with abrasiveness and condescension, we can create law firms that are equipped to keep pace with the change demanded by society.

Endnotes

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About the Authors

Jeremy Bloom is the Interim President and CEO of The NALP Foundation for Law Career Research and Education. Jeremy joined The NALP Foundation in May 2016. He provides leadership for all research, development, and educational initiatives and is responsible for oversight of governance and operational initiatives. Immediately prior to joining The NALP Foundation, Jeremy was assistant dean at the University of Michigan Law School where he led the Office of Career Planning. He has practiced law in a variety of settings, including as a law firm associate, as a securities industry regulator, in-house, and at his own boutique litigation firm. Jeremy has published articles and presents regularly on legal career-related topics. He received his undergraduate and law degrees from the University of Michigan. He can be contacted at jbloom@nalpfoundation.org.

Rachael Bosch is an advocate for innovative and organizational professional development. She founded Fringe PD to bring coaching and training to professionals across disciplines and experience levels. Rachael has spent more than a decade in legal talent management and has a background in theatrical performance and vocalization. She uses this experience, as well as a brain-based coaching certification through the NeuroLeadership Institute and a certificate of Women in Leadership from Cornell University, to develop and deliver training programs on the topics of executive presence, management and leadership, communication skills, and goal pursuit. By integrating her work inside some of the top global law firms with performance and coaching tools, Rachael has been able to identify strategic paths for success that can be used to advance teams and careers. Rachael is also certified to evaluate and train teams on the DiSC behavioral assessments. She can be contacted at rachael@fringepd.com.

Jennifer Mandery is the Director of Research for The NALP Foundation for Law Career Research and Education. Jennifer has over 20 years of experience providing the legal industry with solution-driven research findings that influence business decision-making. She has co-authored multiple publications available for purchase through The NALP Foundation's website, www.nalpfoundation.org, including reports on associate hiring and attrition, associate evaluations, mentoring, and law school alumni satisfaction and employment. Jennifer has presented on The NALP Foundation's behalf to managing partners, hiring partners, legal personnel administrators, law school faculty, and administrators on a variety of topics of importance to the legal industry. She can be contacted at jmandery@nalpfoundation.org.

Virtual Meeting Practice Sessions Reveal Expectation Gap Between Students and Employers

July 28, 2020

By Rachael Bosch, Hannah Kelly, and Jessie Spressart

As part of our commitment to strengthening communication skills in the modern workplace, we recently offered one-on-one practice sessions for law students participating in virtual workplaces this summer — the new norm during the COVID-19 era.

The immediate demand was staggering, and the first 100 sessions filled up within four hours after simply sharing the signup form with our law school colleagues. In the end, we met with about 150 students from 14 law schools, including 57% who identified as racially diverse and 63% who identified as female.

Results from Student Surveys

Before the sessions, we surveyed participants on their goals for both the exercise and their summer experience. Some responses were exactly what we expected — their highest level of worry for developing relationships virtually (63%) was with partners and supervising attorneys. Yet fewer participants than expected were concerned about building relationships with mentors, and only a few, apparently very Zen-like students (11%) weren't worried about virtual relationship-building at all!

When asked which professional skills they wanted to invest in this summer, the typical responses of legal writing (46%) and practice-specific skills (58%) were prominent. But we were surprised that **students actually rated communication skills (66%) as the most desirable to improve**. While this trend is undoubtedly part of the self-selective nature of the participants in these sessions, it may also reflect a greater level of awareness among incoming employees that current communication practices aren't what they might expect in a more formal workplace environment.

The most interesting trend we saw in the pre-exercise survey related to students' daily comfort threshold for being on camera. While employers shared concerns about student burnout from too much camera time and law schools worried that too little camera time would make students feel disconnected, students answered: It's complicated.

The most common response (28%) was 2-3 hours per day, but a majority figure (64%) only emerged by combining the options for 3-4, 4-5, and 5+ hours per day. This large range suggests that comfort with time on-camera is more of a personal preference than a general trend. Employers seeking a high-quality experience for their summer associates, incoming classes, and other teams should try to vary the daily amount of camera time expected of them.

During the individual sessions, we provided answers to questions that were typical for industry newcomers in any circumstances, such as advice on active listening, word choice, and posture. But the exercise also revealed **stark gaps in the expectations of employers and students** alike as our industry embraces the new all-remote context. These gaps relate to technology, attire, and networking.

Shared below are our specific recommendations for helping teams communicate effectively and efficiently during virtual meetings this summer and beyond. What's most obvious from this experience, however, is that all legal professionals — whether in the field for three days or three decades — are still figuring this remote thing out. The experience is simply new to everyone involved. Success for each firm will require proactive communication, flexibility, a willingness to try new things, and the passage of time.

Setting Up Technology

A key ingredient to remote work is technology, of course. But not everyone will have the same level of technological sophistication. Here are some simple ways to produce a higher-quality, more natural, and professional output for your new team of colleagues from any device:

- **Prepare to share**. First and foremost, give your new employees a heads-up when they will be expected to turn on their cameras for a meeting. Some people find a video feed helpful to the conversation, others find it distracting, and still others say it depends on the situation. Be clear upfront (spell out your expectation in the calendar appointment or invitation) so that no one is caught off-guard.

- **Level your sight line**. Advise meeting participants to place their computer cameras at eye level, not above or below it. They can build a makeshift structure out of books or other household props, if necessary, to elevate their laptop to the right height. This helps mimic the experience of eye contact, supporting more natural conversations.

- **Position the light source toward you**. Directing a light toward your face, from behind the camera, can also help other participants see your facial expressions (even small ones) during virtual conversations, which again simulates in-person communication via nonverbal cues. Additionally, avoid having a major light source behind you, such as a sunny window, which casts you in a deep shadow on screen.

- **Be sure to be heard**. Employees should plan to have a plug-in microphone (or headset) for the highest-quality input during meetings. While the speakers on most laptops are serviceable for listening, their built-in microphones aren't usually great, and the person speaking can sound muffled or choppy. Bluetooth headsets, while popular, are also problematic: They can run out of battery, the wireless connection can drop, and they don't do well to drown out ambient noise. (In fact, they typically amplify it.)

Setting Standards for Attire

Scoping out the cultural norms of your workplace — like the dress code — can be hard when you're not in an office together and can pick up on the social cues of what is and isn't appropriate. During our practice sessions, many students reported receiving ambiguous advice from their employers regarding attire. As you continue to welcome new employees from a distance, we encourage employers to get very specific on expectations around visual presentation.

- **Give examples**. When providing guidance on your expected dress code, specify whether shirts with collars or with sleeves that cover your shoulders are required. "Business casual" no longer has a singular definition in the work-from-home environment, where these two spheres now blend together so easily. Also, because other employees might appear on-screen in a variety of styles, standards can become muddled. Consider setting up a tiered structure of formality for dress so that you can easily refer to a "level one" meeting, for example, and everyone knows the expectation.

- **Advise on backgrounds**. In the virtual world, our visual appearance no longer stops at attire — most video conferencing tools now let users replace what's behind them in real life with a digital image. Because this background feature is relatively new, the norms for professional settings aren't yet clear. Employers should define upfront the situations in which virtual backgrounds should or shouldn't be used, as well as what types of images are appropriate. We heard that many organizations have created a standardized virtual background, complete with their logo, for employees to use. A note of caution here about virtual backgrounds: Be aware that they sometimes cause more distractions, such as when people's limbs or hair seem to disappear as they gesticulate. Additionally, some students felt that a required background only amplified the pressure they felt to present "perfectly" on screen — "hiding" the realities of the home environments we're all working from. Employers should discuss these implications before launching or encouraging virtual backdrops.

Allowing for Effective Networking

Seeking out advice and forging relationships as a newcomer can be challenging when your only opportunities to connect are during scheduled virtual meetings with set agendas. And with the exception of the 11% of students we spoke to who were as cool as a cucumber when it came to building virtual relationships, everyone else had concerns. They reported that employers were providing lots of opportunities for connection but that many times those opportunities felt full of traps. Again, employers can go a long way by setting clear expectations for everyone involved in workplace networking.

- **Plan for impromptu conversations**. Not all networking has to happen in a massive Zoom trivia event. When working with newer colleagues on a project, be sure to let them know the best way to reach you (or a colleague they haven't met yet) with one-off questions or to follow up. Explain, however, that these preferences will vary by person and that asking each individual as the need arises is a smart practice. This sets everyone up for smaller moments of connection on their own terms and with far less pressure.

- **Foster inclusive camaraderie**. If your firm does host virtual social events or other unmoderated meetings, prepare everyone — newer colleagues and more experienced attendees alike — with guidance for contributing to the group experience in a positive way. For example, explain the protocol of how best to interject into a conversation and how to show up in a way that isn't overly domineering but still demonstrates presence.

We hope that our experience is useful to your team as you continue to prepare your students — and your teams overall — for virtual conversations moving forward.

About the Authors

Rachael Bosch is Managing Director and Founder for Fringe Development. Hannah Kelly is Growth Manager at Flo Recruit. Jessie Spressart is Managing Director of Optia Consulting.

Ellevate Network, Contributor
Ellevate is a global network of professional women who are committed to elevating each other through education, inspiration, and opportunity. Our mission is to close the gender achievement gap in business by providing women with a community to lean on and learn from.

Your Organization’s Secret Superhero

04/17/2017 01:41 pm ET

UNSPLASH

The title of brand ambassador seems to be a popular one these days. Most frequently used for companies who sell products, brand ambassadors are deployed into communities to spread the word, display the product, tweet, Instagram, and hashtag to oblivion. Many companies have brilliantly deployed brand ambassadors. As a relatively active woman, I have always been impressed with the way Lululemon or Nike have created real grass-roots efforts in their efforts to sell $90 leggings!

But brand ambassadors aren't just for companies selling wares. Anytime someone from an organization interacts with a candidate or a prospective client, they are acting as an ambassador. We "wear" our firm culture in much the same way the Lululemon ambassador would wear the latest styles.

Over time, a lack of "ambassadorship" has a significant impact on the ability of an organization to consistently recruit top talent. Yet, in many organizations, very little time is spent discussing the role of a brand ambassador. Even those companies who encourage their teams to convey the feel of their culture often make a critical misstep; they define too narrow a group of employees to act as ambassadors. For many organizations, this is the talent acquisition, human resources, business development, and marketing staff. Unfortunately, that group likely makes up less than 10% of your organization.

We live in a social proof world. People source reviews and talk to friends of friends who might be connected to the business before making an ultimate decision on accepting a job or signing on as a client.

[Related: Why Glassdoor is Not Your Enemy]

When potential candidates or clients are deciding whether or not to choose your business over the competition, what are the odds that their only interaction will be with the 10% we identified? By neglecting to utilize a significant portion of your organization as brand ambassadors, you may inadvertently be deploying mixed messages, a muddled view of the culture, and an unclear vision of your business.

Time for some good news. Your army of brand ambassadors is waiting and ready! The people in your organization chose to be there and are likely happy with their choice. They simply need to be activated and empowered to take on this new charge. Before broadening the scope of brand ambassadors in your organization, it is important to ask yourself if you about this. If you aren't sure, the answer is probably no. You want to ensure that everyone who is empowered to speak to and about to organization is on the same page.

[Related: Why CEOs Need to Prioritize Their Employer Brand]

- Consider **developing a program** for new employees outlining the mission, values, and brand you have cultivated.
- Encourage your teams to **speak openly and honestly** about those values when asked.
- Continue to **revisit on a regular basis**. Organizations shift and grow much as people do. Who we are today is not likely who we were ten, five, or even two years ago.
- Think about who will **consistently deploy this message** to new employees.

By empowering the full force of your employees to speak to their community about the strengths of your organization, you will soon realize the power of these secret super-heroes. After all, why should leggings get all the attention!

—

Rachael Bosch is the Managing Director at Fringe Professional Development. She is an advocate for innovative and organizational professional development, working with professionals across disciplines and experience levels.

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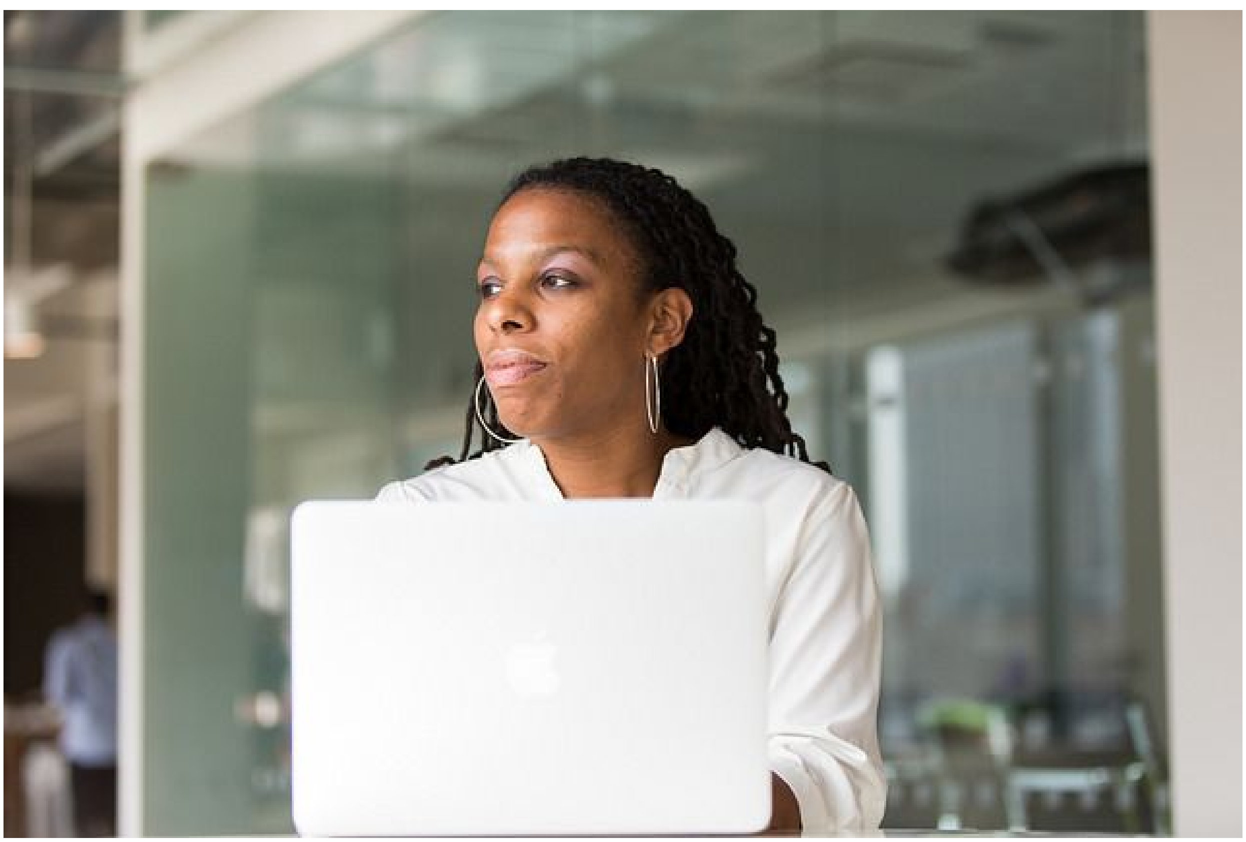
The Flexibility Fallacy: Build on Relationships and Trust Instead

07/07/2017 11:30 am ET



As summer begins heating up, students are graduating and beginning the process of heading into their post-grad jobs. When they get there, they will find that the professional world has many traps to which they can easily succumb. One that we have encountered with more frequency over the past few years is something I have started to refer to as the Flexibility Fallacy.

Millennials entering the workforce have clearly defined their desire for balance, flexibility, and autonomy. In a recent study by Deloitte, Millennials ranked work/life balance and autonomy/flexibility in the top three reasons to choose to work for an organization. Employers are beginning to realize the importance of these desires and, in an effort to attract the best talent, are flaunting their balance and flexibility programs. “You can work from anywhere!” feels as though it is a part of almost every recruiting pitch these days.

To be clear, I believe fully in the importance of creating balance and flexibility for your workforce. More than just a belief, the data shows us that these practices lead to greater employee satisfaction and higher retention levels.

[Related: 6 Reasons Why Your Company Should Hire Flexible Workers Now]

That being said, I have seen too many new professionals utilize this flexibility at the expense of building critical relationships. The fact of the matter is that our modern workforce continues to rely more and more heavily on relationships, and the success of a relationship hinges on the trust between both parties. That trust requires an investment of time, and you build workplace relationships at, you guessed it, work. When it comes to balancing flexibility with face time, we suggest that employees and organizations consider the following:

Employers:

- **Put out a safety net:** Although it may be difficult for your newest team members to accept in the moment, create a lag time after the start of employment before employees gain access to a flex program or policy. This period can provide critical time for people to begin building relationships while still letting them know that the option will be there for them at a later date.
- **Put it in writing:** Having a clear and accessible policy reduces ambiguity for all of your employees at every level. By thoughtfully creating and implementing a policy around your flexibility program, you reduce the risk of inequities in the way individual cases are managed. Also, it becomes much easier to gather data and identify success stories! Organizations like The Diversity and Flexibility Alliance are a great resource if you are looking to build or revamp your flexibility policies.

even knowing it. Share face time expectations with them from the beginning and provide them with tools for building relationships with their peers and supervisors.

New Employees:

- **Be there:** At least at the beginning, go to the office regularly. Get to know the schedules of the folks you work for and make sure that if they come looking for you, you are there to chat with them. Having a physical presence in the office also allows you to start building your personal brand in a way that gives you more control over the impression you leave with your team.
- **Be present:** This is not to be confused with being there. By being present, you bring your whole self to work and are engaged with those around you. Put down the phone and look for opportunities to connect, that is what this time is for after all. When present, you are showing those around you that you are interested and invested in the work that you do.
- **Be gracious:** I know, I know. As a millennial, I don't want to play to stereotypes or overgeneralizations. I am not saying that all millennials or younger employees are entitled. What I am saying is that the cultural narrative has cast us as entitled, so we need to work that much harder to prove that we aren't. When you are starting that new position or new organization, be gracious for everything so no one can put the entitled Gen Y sticker on you!

This article previously appeared on FringePD.com.

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Rachael Bosch is an advocate for innovative and organizational professional development. She works with professionals across disciplines and experience levels. Rachael has spent more than ten years in the legal industry and has a background in theatrical performance and vocalization. Through this experience, she has developed and executed training programs for lawyers, law students, and development professionals on the topics of executive presence, time management, communication skills, and presentation best practices.

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