

Legal Talent at the Crossroads:

A Blueprint for Action

A REPORT OF THE NEW JERSEY STATE EMPLOYMENT AND TRAINING COMMISSION

COUNCIL ON GENDER PARITY IN LABOR AND EDUCATION

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Foreword

The Council on Gender Parity in Labor and Education is privileged to present *Legal Talent at the Crossroads: A Blueprint for Action*. This blueprint is a compilation of best practices drawn from the full report, *Legal Talent at the Crossroads: Why New Jersey Women Lawyers Leave Their Law Firms, and Why They Choose to Stay*, authored for the Gender Parity Council by Teresa M. Boyer, Ed.D., Cynthia Thomas Calvert, Ph.D., and Joan C. Williams, Ph.D.

Established by legislation in 1999 as a committee of the New Jersey State Employment and Training Commission, the Council's mission is to address gender-based barriers in education and the workplace in the State of New Jersey. A previous Council report, *Women at Work: Achieving Gender Parity on the Job*, identified gender inequities in five industry sectors essential to New Jersey's economic growth, which included the field of law.

As a result of the findings in that report, and with the support of the founding partners of the Forum on Workplace Practices in the Law, the Council commissioned The Center for Women and Work at Rutgers University to conduct a study that focused on the current climate for women lawyers in New Jersey. While this blueprint is especially designed as a user's guide, the full report details all the research methodology, data, direct quotes, and source sites. Both the full report and the earlier *Women at Work* report are available online at www.njsetc.net and at www.cww.rutgers.edu.

Hundreds of New Jersey's attorneys participated in the research by completing an online survey or by participating in interviews or focus groups. We are grateful that so many women were willing to speak openly about their work and private lives. The story that emerges clearly illustrates that there are best practices law firms can adopt and strategies individual women lawyers can implement to increase the retention and advancement of women in legal careers.

This *Blueprint for Action* can help guide law firms and women lawyers in developing and creating innovative workforce practices. Sharing the information contained in this guide and in the original report will help firms strengthen their workplaces by creating more equitable environments as well as empower women lawyers with successful strategies to use throughout their careers.

Dianne Mills McKay

Dianne Mills McKay, Chair
Council on Gender Parity in Labor and Education
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In Appreciation

The New Jersey State Employment and Training Commission would like to extend special thanks to the members of the Council on Gender Parity in Labor and Education, and the Founding Partners of the Forum on Workplace Practices in the Law for their support of the research that provides the foundation and data for this guide. Their insight into the profession, advice, and financial support were integral to its success. The Commission would also like to thank the more than 520 women who participated in the survey and shared their experiences, challenges and progress, significantly informing the findings described in this guide. Additionally, we are most indebted to Teresa M. Boyer, Ed.D., Cynthia Thomas Calvert, Ph.D., and Joan C. Williams, Ph.D., of The Center for Women and Work at Rutgers, The State University of New Jersey, for their diligent collection and analysis of data, and authorship of the report from which this guide is drawn.

Special thanks are also extended to Dianne Mills McKay, for her tireless commitment and passion on gender equity issues as demonstrated by the eight years she has served as Chair of the Gender Parity Council, and to Christine Amalfe of Gibbons, PC, for her leadership on the creation of the Forum, and her contributions as a member of the Gender Parity Council.

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Legal Talent at the Crossroads: A *Blueprint for Action*

Executive Summary

Many New Jersey women lawyers are at a crossroads, deciding where the next steps in their career paths will take them. In a profession where the best talent means the best business, law firms are seeking to reduce attrition and dissatisfaction in order to increase their bottom line. They have done so not only because it is beneficial to their firm but also to meet client demands for greater diversity and to address their most fundamental management objective: attracting and retaining the best legal talent.

As never before, women are making a choice. As described in detail in the full report, *Legal Talent at the Crossroads: Why New Jersey Women Lawyers Leave Their Law Firms and Why They Choose to Stay*, many women lawyers choose an exit strategy when faced with the dilemma of balancing work and family obligations. While this may be problematic for women, it definitely affects firms that have made a financial investment to prepare these women to be successful lawyers.

But retention isn't the only problem. Women comprise close to half (45%) of the associates in law firms in New Jersey, but they hold only 17% of the partnerships. This issue speaks to broader concerns about career and workforce development, especially with respect to the access and upward mobility of the best talent to senior positions in New Jersey law firms.

In a profession where talent is the most important asset of a firm, attracting and retaining the best talent not only gives firms an edge over their competition, but demonstrates the business case for developing policies and best practices that are aimed at retaining women lawyers. The best practice discussion in this blueprint, which is drawn from the full report described above, gives clear guidance to law firms that desire to proactively support not only women lawyers, but everyone in their firm. The following are highlights of those best practices that emerged from the full report.

1) Educate the entire organization: *Ensure that leaders within the firm work with partners and practice leaders to define the business case for firm policies that support women's advancement and promote the advantages of a diverse workforce.*

2) Make sure women are part of the social fabric: *The most common practice found in firms with environments supportive to women was the creation of a women's initiative that provided the opportunity and forum for mentoring, networking, training and scheduled socializing. Such an initiative can serve as an effective medium, for supporting not only junior women lawyers, but all women in the firm.*

3) Assess assignment and evaluation systems: *Assess assignment systems for equality among firm attorneys. Firms should provide education and training about gender bias for those people in the organization responsible for assignments and evaluations. One option is to have a partner review all evaluations for fairness and lack of bias before evaluations are shared.*

4) Make advancement policies transparent: Publish the criteria for partnership, as well as for intermediary positions.

5) Provide business development opportunities: Create and support meaningful business development opportunities through activities that provide training on networking and building client relationships, and demonstrate how to effectively connect women lawyers with potential clients.

6) Make flexible work arrangements available to all: Making flexible work arrangements available to all employees communicates the value of the policy to the organization, as well as avoids discrimination and stereotyping.

7) Allow customizable flexible work arrangements: Provide and support a variety of flexible work arrangements. Law firms are offering different types of flexible work arrangements including: full-time schedule with flexibility to work at home or other locations as needed, compressed work weeks (fewer days/longer hours), reduced hours, and job sharing.

8) Have a written policy pertaining to flexible work arrangements: Ensure that flexible work policies are clearly defined and written and that they are made available in written form to all employees. This demonstrates the employer's support as well as promotes fairness and access for all.

9) Provide proportionality to flexible work arrangements: Fair treatment is essential to making flexible work arrangements work. For those with reduced hours, it is important to make sure compensation, including benefits and bonuses, workload, assignments and advancement, are proportional to the hours actually worked.

10) Focus on implementation: To prevent a flexible work policy from becoming just another initiative that can be easily ignored, the following are best practices for implementing policies:

- Hold managers and firm leaders accountable for making flexible work arrangements work;
- Communicate support for the policy from the highest points of the organization;
- Create procedures for proposing and approving flexible work arrangements;
- Provide training on how to successfully implement flexible work arrangements and how to supervise those who use those flexible work arrangements;
- Provide an internal database of different flexible work arrangements that employees are using and offer employees suggestions for making the arrangements work effectively;
- Benchmark where the firm is at the time the policy is put into effect, then periodically review the employer's position with respect to the benchmarks;
- Disseminate full information about the policy throughout the firm; and,

- *Communicate the firm's successes, such as recruiting a sought-after applicant because of the availability of flexible work arrangements or bringing in a new client that was impressed by the firm's pro-active program.*

11) Encourage professional development and provide advancement: *Continue to provide professional development opportunities and paths for career advancement to all employees, including those who utilize flexible work schedules.*

12) Monitor flexible work arrangements at the firm level: *Implement a system of firm-wide monitoring to ensure consistent and efficient application of firm policies.*

13) Provide technology: *Effective technology is vital to enable attorneys to work off-site. It is important to ensure access to computers, telephones and faxes, as well as to the firm's computer system.*

All of the best practices described above contribute to the development of career empowerment for women in law firms. Providing knowledge and options puts the choice in the hands of the individual attorney to choose what best fits best her career. Women who feel empowered in their careers at a particular firm have more reason to remain.

Lastly, this report contains a section where successful women lawyers participated in in-depth interviews about their career paths, the reasons for their success, and the advice they would give to women lawyers who are just beginning the practice of law. Many of the women interviewed cited the influence of role models and mentors, and some described having champions of both genders that gave them essential information, opportunities, and encouragement. Some felt that their firms were supportive in their quest for work-life balance, while others felt they succeeded in spite of their firms' lack of support in that arena. The ten areas of advice in this section of the blueprint focus on what the individual woman can do to influence her own career path and reach her goals. Most advised new lawyers to make a career plan, work hard, develop and rely on strong interpersonal relationships inside and outside the firm, and speak up for what they want.

As stated earlier, many New Jersey women lawyers are at a career crossroads, with options to consider and decisions to be made. Additionally, law firms are seeking new ways to attract and retain the best legal talent possible. This blueprint provides a clear guide to the best practices that can be implemented to assist the individual lawyers as well as the law firms that employ them. Successful implantation will create a win-win result for both.

Legal Talent at the Crossroads: A *Blueprint for Action*

This *Blueprint for Action* summarizes the best practices that a firm can use to increase the satisfaction, retention, and advancement of women lawyers. To serve as a concise guide for practitioners and law firms, it condenses information from a full report authored for the Gender Parity Council by Teresa M. Boyer, Cynthia Thomas Calvert, and Joan C. Williams, of The Center for Women and Work at Rutgers University. The full report, *Legal Talent at the Crossroads: Why New Jersey Women Lawyers Leave Their Law Firms and Why They Choose to Stay*, was prepared based on a study that included an online survey, focus groups and interviews with more than 520 women lawyers to gain a better understanding of their perceptions about their careers and their reasons for staying or leaving their employers.

Description of Study Participants

The loss of women lawyers, either from the profession as a whole, or in proportional lack of advancement to the most productive levels of the workforce, is a problem that many law firms recognize and have sought to address. They have done so not only because it is beneficial to the legal profession, but also to meet client demands for greater diversity and to address the most fundamental management objective: attracting and retaining the best legal talent.

Of the female respondents for the study described above, 78% were married or living with a partner. One quarter stated that they earned all of their families' income, and 25% of those sole breadwinners were married or living with a partner. Over half (53%) of respondents stated that they earned between 40% and 60% of the family income.

Most female respondents had responsibility for family care. Nearly two-thirds (60%) had children (less than the 81% of women nationally). Ninety-three percent of respondents had parents or in-laws still living, of which 13% had significant responsibility for their care. An additional 38% did not currently have significant elder care responsibilities, but expected to during the course of their careers. In addition, 70% of female respondents said their career commitment was the same or more than that of their spouses.

These statistics quantify what many know anecdotally: women lawyers face high-pressure time demands as they commit themselves both to their profession and to their families. In survey comments, focus groups, and interviews, study participants noted that male partners typically had stay-at-home wives, and that this set expectations within their law firms in ways that put women at a disadvantage. The study found this disadvantage to be expressed in two key ways: attrition and leadership.

Attrition

At the time of the survey, the first part of 2008, attorney attrition was as high in New Jersey as it was nationally. About half (49%) of respondents had changed employers since 2002. Nearly two-thirds (63%) of those who had changed jobs since 2002 did so once, 23% twice, 9% three times, and 5% more than three times. In a legal market in which associates typically are unprofitable until their third year, over one-quarter (27%) of respondents had changed jobs within their first three years. Another 17% left during their fourth through sixth years. Attrition among partners was small (4-5%). These numbers are consistent with national attrition figures reported by National Association for Law Placement (NALP). While some attrition is needed in the typical business model of a law firm, losing top talent that firms prefer to retain represents a waste of resources. Research indicates that replacing a single attorney typically costs between \$200,000 and \$500,000¹. Equally important is that many attorneys leave before their firms have made a profit on them. Keeping attorneys even an additional two to three years could greatly benefit firms' overall profitability.

Below is a table of the survey results of female respondents' reasons for leaving their prior employers.

Reason for Leaving	All Female Respondents* (N=130)	Associates* (N=118)**	Partners* (N=19)**	Counsel/ Staff Attorney/ Other* (N=72)**
Unsupportive work environment	41%	47%	36%	13%
Poor promotion opportunities	40%	37%	15%	25%
Better wages/benefits offered in next job	33%	32%	15%	19%
More challenging work offered in next job	30%	32%	0%	25%
Long work hours	30%	39%	15%	6%
Difficulty integrating work with family/personal life	29%	33%	26%	9%
Lack of flexibility in work hours	29%	29%	15%	5%
Unfriendly work environment	29%	30%	26%	11%
Reputation for friendly environment in next job	25%	29%	10%	8%
Work load pressures	23%	29%	15%	8%
More flexibility in work hours offered in next job	22%	26%	10%	2%
Lack of job security	12%	11%	0%	15%
Other ***	44%	21%	68%	48%

*Respondents could select more than one reason **Respondents include males and females

***Position elimination, end of temporary position, hostile work environment, not enough women lawyers, long commute, and discrimination.

¹ By conservative estimates, it costs a firm \$200,000 to replace a second-year associate. Natasha Sarkasian, *Who Says Being a Lawyer Has to Suck?*, S.F. MAG., Jan. 1, 2007. Other estimates range from \$280,000 to \$500,000. Lisa Gold, *How to Improve Associate Retention: Old Reward System No Longer Effective*, THE LEGAL INTELLIGENCER, Apr. 19, 1999, at 7.

While these findings reinforce much of the existing literature on women in the legal profession, one of the most important findings is that women lawyers often choose to leave their former employers because of a lack of flexible work arrangements and choose their new employers because of access to those arrangements.

Leadership

The advances in the numbers of women entering the field are not reflected in their representation in leadership positions. The National Association for Law Placement (NALP) data on women’s positions in law firms is below.

Women’s Representation in Law Firms 2008

	% Total Lawyers	% Summer Assoc.	% Associates	% Partners
Northern NJ/ Newark area*	31.9	44.6	45.9	16.8
Other areas of New Jersey	31.4	50.0	44.7	18.2
Nationally	32.6	45.5	45.3	18.7

** The National Association for Lawyer Placement (NALP) published data based on metro areas, and therefore breaks New Jersey’s data into the Newark region and other areas of the state.*

Similarly low numbers have been reported for female in-house counsel; in 2007, 90 companies in the Fortune 500 had female general counsels (18%).² As the table demonstrates, women are not advancing to the highest levels of law firms in proportion to the rates at which they enter the field, and this trend is not unique to New Jersey firms—the data for New Jersey is in line with national trends.

Such findings point to the workforce issues this study seeks to address. Below is a detailed assessment of the key issues and best practices that law firms can use in order to retain and promote high quality legal talent.

Findings and Best Practices

Advances have clearly been made within New Jersey law firms. Almost two-thirds of respondents indicated they were satisfied with their ability to integrate their work and personal lives, and almost the same proportion said they were satisfied with the predictability of their hours. While many women were satisfied with the compensation, professional autonomy, job security, and recognition they received from their current employers, other women expressed frustration with the biases they felt were still present: **work environment bias, opportunities for promotion** and the use of **flexible work arrangements**. These three issues are the framework of this action plan.

² Minority Corporate Council Association, *MCCA’s 2007 Survey of Fortune 500 Women General Counsel*, (2007). Available at <http://mcca.com/index.cfm?fuseaction=page.viewpage&pageid=1480>.

ISSUE #1: WORK ENVIRONMENT

Findings

The study from which this guide is drawn demonstrated that work environments for women have definitely changed in the last several decades. However, the chart on attrition (page 7) indicates that 41% of respondents attributed their choice to leave their former employer to an “unsupportive work environment.” The responses discussing these unsupportive work environments often pointed to more subtle biases that can be broadly applied to many factors. However, most importantly, the women in this study provided copious examples of the impact this has had on their careers. It is also important to note, that there was little evidence in the findings of blatant sexual harassment and overtly discriminatory treatment, both of which were common concerns in the past.

Female-Gender Bias: A common theme in the interviews and focus groups was the belief that men and women are held to different standards. If asked, most employers would likely say that they try to be gender-neutral in evaluating their lawyers. There were numerous examples given by respondents indicating that the women perceived gender bias as contributing to the unsupportive work environment:

- Feeling isolated from their firms’ networks;
- Not having strong personal relationships with male attorneys in their firms;
- Lack of mentoring, role models, and encouragement; and,
- Lack of advancement opportunities.

Despite best intentions, research shows that gender bias can creep into a legal employer’s evaluation system, affecting compensation, advancement, and even continued employment for women lawyers.

Maternal Wall Issues: The survey and interviews suggested a substantial degree of gender bias surrounding motherhood, or the “maternal wall.” This is in keeping with recent research documenting that workplace discrimination against mothers is probably the strongest form of workplace gender bias.³ Some women noted a change in their career trajectory at the announcement of pregnancy, upon becoming a mother, or upon returning from maternity leave. Other respondents indicated a change in their work environment when they returned from maternity leave. A final trigger for maternal wall bias also appears to occur when requesting or adopting a flexible schedule. While the data collected for the study cannot draw a direct link to that issue, respondents definitely felt that negative competence and commitment assumptions made by their firms were linked to their status as mothers.

³ Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM.J.SOC. 1297, 1313 (2007); Stephen Benard & Shelley J. Correll, Address at the Hastings Law Journal and Center for WorkLife Law Symposium: *Family Responsibilities Discrimination: Lessons for the Use of Stereotyping Evidence and Implicit Bias in Employment Cases* (Feb. 8, 2008).

Generational Conflicts: Generational conflicts include struggles over the concept of suitable gender roles for women. There is a significant body of work documenting the challenges of managing the generational differences between Baby Boomers and the generations that have succeeded them: Generation X, Generation Y, and the Millennials.⁴ Similar conflicts can also arise among women of the same generation who have taken divergent strategies to juggle career and family. These findings were reflected in the data collected for the research. Older respondents readily acknowledged that the profession was very different when they began their careers. Many of the older women lawyers clearly received the message that to succeed, they needed to become “one of the guys.” They did what they needed to do, often working “twice as hard to get half as far,” only to find current younger women lawyers questioning the trade-offs the older women had to make along the way – an experience often painful for the older women.

Best Practices

Educate the entire organization: The firms that address this issue strive to have all their partners understand the importance to the firm of mentoring women lawyers. Supportive managing partners and firm leaders interviewed often found themselves in the education role. They work with the partners and practice leaders to define the business case for firm policies that support women’s advancement, and explain the advantages of a diverse workforce. In addition, showcasing successful women in the firm can often help with business development opportunities, especially given the emphasis many clients are placing on diversity. Firms can take note of those rainmaking partners who are helping junior lawyers with business development, and either reward those who are helping both women and men, or encourage those who are not to consider doing so.

Make sure women are part of the social fabric: One of the most common practices found in firms with environments supportive to women was the creation of a women’s initiative. The full mission of this group varied from firm to firm, but most included the establishment of formal and informal mentoring relationships and circles. Examples of best practices include seminars held by firms to teach lawyers about business development and networking, including building your client base or book of business. In addition, there was a commitment for scheduled socializing. This created opportunities for junior women lawyers to meet informally with partners and senior lawyers. By bringing together all women at all levels in the firm, these initiatives also serve as a forum for addressing some of the generational issues described above.

⁴ See generally FAMILIES & WORK INSTITUTE, GENERATION AND GENDER IN THE WORKPLACE 3-5 (2004), available at <http://www.familiesandwork.org/site/research/reports/genandgender.pdf>; Kristin Downey Grimsley, *Family a Priority for Young Workers; Survey Finds Change in Men’s Thinking*, THE WASHINGTON POST, May 3, 2000, at E1; Melody Finnemore, *Meet the Millennials: Young Attorneys Prompt Need for Firms to Explore New Ways of Doing Business*, OREGON STATE BAR BULL, Nov. 2005, available at <http://www.osbar.org/publications/bulletin/05nov/millennials.html>.

Participants in the survey indicated that these types of activities were critical to their advancement, providing career knowledge they would not have received any other way. Other women specifically mentioned the reputation of a firm's women's initiative as one of the aspects that attracted them to the firm in the first place. It is clear that these programs can be useful in attracting and retaining the best female talent.

ISSUE #2: OPPORTUNITIES FOR PROMOTION

Findings

As indicated earlier, 40% of respondents cited poor promotional opportunities as a reason for leaving their former employer. Only slightly more than half of female respondents are satisfied with their current opportunities for career advancement. A total of 68% of the female respondents either did not expect to be promoted (34%), or did not know whether they would be promoted (34%). Such expectations are borne out by the data: only 17% of women lawyers working in law firms have reached the level of partner. Respondents frequently cited the "glass ceiling" as a reality in their law firm.

The path to equity partnership tended to take between seven and eleven years among survey respondents. Particularly striking was the degree of uncertainty regarding the track to equity partnership. Many fewer respondents were unclear about the path to income partner, which was more likely to be around eight years.

In the research, those women who were most satisfied with their positions often attributed it to being able to talk to a mentor, practice leader, or someone else in their firm who provided insight as to the paths to promotion. Several discouraged female respondents reported feeling that they were not getting assistance with business development and that male partners are more likely to share origination credit with, or provide business development opportunities to, other male lawyers than they are with their female colleagues.

A reason women leave law firms that was not fully explored was "more challenging work offered at the next job." Almost a third of our respondents (30%) indicated that this was a reason they left their former employer. Those who work in law firms know that assignments are the lifeblood of a lawyer's career. They affect skill development, networking opportunities, and status, among other things. Assignments determine whether a lawyer feels connected to her firm and fulfilled by her work. Ensuring that women lawyers get their fair share of high profile, desirable work and work with powerful partners and talented mentors is critical.

Best Practices

Assess assignment and evaluation systems: A review of the assignment system can include a check on the teams that are working on the firm's most important matters and for their most important clients. Women in our study often cited the importance of mentors in helping them navigate their assignments and providing them with an understanding of the dual nature of the assignment system and how to use it to their advantage. One of the human resources managers interviewed stated that the firm has started to review this issue, and is in discussion about how best to address it. The number of women on important assignments should be in proportion to their representation in the firm's workforce.

One of the most effective ways to address gender bias is to provide education about bias to those in an organization with responsibility for evaluating others. This can be achieved by having one or more partners or supervisors read all of the evaluations to look for evidence of bias before they are shared with those being evaluated.

Make advancement policies transparent: Advancement is often a mysterious process to younger lawyers. A significant number of those surveyed reported not knowing if they were on track for promotion, and were unaware of the length of time to achieve partner status. Those women who were most satisfied with their careers felt they had someone, either a formal mentor or their practice leader, or another manager in the firm, with whom they could talk about their advancement.

The interviews conducted with successful women lawyers stressed the importance of having a "career plan." Critical to developing this plan is access to information on the advancement process. Providing better information about career advancement encourages the individual attorney to choose which direction she wants her career to go, and this informed choice can help reduce frustration and dissatisfaction.

Publishing the criteria for partnership, as well as for intermediary positions, ensures consistent and equitable access to this information. The process of developing written criteria also gives the firm an opportunity to thoughtfully set the criteria in the first place. It also can help women lawyers ensure that their performance and professional development is on track for their career goals.

Provide business development opportunities: Several female respondents reported that they were likely to stay with their current law firm for the next five years because, among other reasons, they felt that meaningful business development opportunities existed for them and that their firm supported these activities. Specific examples were given of opportunities perceived as particularly helpful, including holding events for women lawyers to develop relationships with women lawyers at client companies and conducting seminars on business development and networking. Such feedback underscores the importance of business development opportunities for the retention of women lawyers.

ISSUE #3: USE OF FLEXIBLE WORK ARRANGEMENTS

Findings

According to the National Association for Law Placement (NALP), the vast majority (96.4%) of the organization's member firms in Northern New Jersey/Newark area have part-time policies.⁵ Impressively, almost half (49%) of the female respondents in this survey reported using flexible work arrangements in their current employment. Flexible work arrangements were defined as an alternative work arrangement in which you work full-time or part-time hours on a flexible schedule at the office and/or telecommute – on a regular basis.

Furthermore, survey data underscored that flexible work arrangements enhanced employers' ability to retain and motivate women lawyers. Forty-six percent of female respondents said that their current firm's flexible work program positively affected their decision to remain in their current job. One quarter said their firms' flexibility programs increased their involvement with their firms.

The responses showed a clear trend in the increasing use of flexible work arrangements. Of those using flexible work arrangements:

- 48% work part-time;
- 39% work full-time and adjust their daily hours;
- 31% use leave;
- 18% work full-time but not traditionally (e.g., work from home); and,
- 12% indicated that they use a different type of flexible work arrangement such as general flexibility in schedule, no set schedule required, adjusted work hours during school vacation and summer, and informally working from home as needed.

Of the 51% of female respondents who had *not* used flexible work arrangements in their current employment, when asked "why not?" 46% said they were not interested, and 15% said they feared the consequences for their careers. The remainder cited a variety of reasons, including "It is clear it would not be approved," "No need," "I don't qualify," "Too busy," "Too new," "Not willing to make financial sacrifice while still carrying full work load," and "Programs not designed for and are generally not used by male employees."

Survey data on this topic was relatively encouraging. Nearly three-quarters (71%) of female respondents reported that their use of flexible work arrangements had no effect on the way members of their firms viewed their abilities and commitment to the firm—a direct contrast to earlier studies and a potential indication that New Jersey firms are incorporating flexible work arrangements into the fabric of their organizations. The survey responses contain many examples of lawyers who are thriving under

⁵ Available at <http://www.nalp.org/press/details.php?id=74>.

flexible work arrangements that offer ample opportunity for professional development and result in high-quality work. Survey comments also highlight that the availability of flexible work arrangements is important not only to lawyers who currently use those arrangements, but also to those who expect to use them in the future.

However, some residual stigma exists for those who choose flexible work arrangements:

- 23% of female respondents stated that their decision to use flexible work arrangements has negatively affected how others view them and their commitment to the firm;
- 15% reported that they did not use flexible work arrangements because they feared negative consequences for their careers;
- 44% of respondents reported that associates could not make partner at their firms while working part-time;
- About 17% of respondents reported that the quality of the cases they received was “worse” or “very much worse” after they reduced their hours while 80% said their assignments were about the same; and,
- About 5% reported having to change departments after they went part-time.

Interestingly, some of the comments pointed to a common pattern: even within a single firm, part-timers can encounter stigma from some partners or in some practice areas but support from others. The data show that it is important not only where you work, but whom you work for in a particular firm.

It is clear from both the variety of flexible work arrangements described by respondents and the relatively small percentage of women citing that they would have negative consequences on their careers, that flexible work arrangements are becoming more commonplace in the legal workplace.

Reasons flexible work arrangements are chosen: Most women survey respondents who use flexible work arrangements with their current employer reported doing so to have more time with children (64%). The second most common reason for using flexible work arrangements was a desire to control working hours (21%). In addition, there were small numbers of respondents who reported using flexible work arrangements for elder care (9%) and for personal health reasons (8%). Respondents who worked part-time had schedules that varied widely, from eight to 40 hours a week, although most were 28-32 hours a week. Full-time flexible schedules also varied.

Effects of using flexible work arrangements at former and current firms: The lawyers surveyed were likely to leave firms where using leave and flexibility programs might hurt their careers, and to move towards firms where using such programs would not hurt their careers. Nearly two-thirds of female respondents agreed, *many strongly*, that working an alternative full-time schedule (*e.g.*, telecommuting one day a week) would have hurt their careers at their prior employer. Nearly two-thirds also agreed that their careers would have been hurt at their prior employer if they adjusted their hours (*e.g.*, by

leaving to care for children and resuming work later). Seventy-two percent agreed that their careers would be hurt if they worked part-time, and 56 percent said that taking leave would hurt their careers.

The percentages of female respondents reporting that their career would not be hurt by the use of flexible work arrangements at their *current* firms (again, composed of both those who have switched jobs and those who have not) are also dramatically fewer.

Career impacts of using flexible work arrangements or leave at former and current firms

Agree that using this program would hurt my career:	Regular full-time alternative schedules (e.g., telecommuting one day a week)	Regular full-time adjustment of daily work hours (e.g., leave early and resume work later)	Part-time	Use of leave
Prior employer	64.6%	63.48%	72.41%	55.65%
Current employer	41.21%	32.89%	49.33%	30.97%

One telling comparison between former and current employers provided further evidence that respondents moved away from firms where they felt lawyers could not use flexible work arrangements without penalty: only 19% of female respondents had used flexible work arrangements at a former employer, whereas 49% had used flexible work arrangements at their current employer.

Effects of using flexible work arrangements on promotion: When female respondents were asked, with respect to their present firms, if an associate can make partner while working part-time, more than half (54%) responded that they could. The number dropped significantly, however, when the element of “family reasons” was added to the question. When asked the extent to which they agreed with the statement “The culture of the firm supports flexible work arrangements for family reasons without adversely affecting promotion,” only 37% agreed. The number dropped even further when female respondents were asked about their own careers: only 18% of respondents who are working part-time said they expect to be promoted (approximately one-third did not expect to be promoted, one-third did not know, and the remainder did not answer).

The survey then changed the focus from whether a part-time lawyer could be promoted to whether a part-time lawyer actually *had* been promoted at the respondent’s firm in the last five years. Slightly more than half of respondents answering the question (51.57%) said no. Slightly more than a third (34.59%) said one part-time lawyer had been promoted. Only 13.8% said two or more part-time lawyers had been promoted.

Compensation: A majority of respondents (57%) were either “satisfied” or “very satisfied” with their compensation, but there were some survey respondents who indicated that part-time work was affecting their pay.

On a national level, best-practice firms pay part-time attorneys a proportional salary for proportional work.⁶ In this study in particular, survey and interview data showed that attorneys who worked reduced hours or part-time were more satisfied with their firm when they felt their compensation arrangement was equitable. One interviewee who managed the compensation component of her firm emphasized this importance when discussing the process for developing their part-time compensation policy. Proportional compensation should include proportional bonuses as well. Two-thirds of survey respondents noted that they remained eligible for bonuses when they were part-time, while 12% reported that part-timers were precluded from bonuses entirely.

Also on a national level, most firms provide either full or proportional benefits for part-time lawyers.⁷ In New Jersey, only 15% of respondents said their current firms provide full benefits for part-timers; 11% said that benefits were pro-rated according to part-time attorneys' schedules; and 10% reported that their employers did not offer benefits to part-timers. (Fifty-eight percent did not know, and the benefits at the firms of the remaining respondents had various arrangements.)

An additional piece of the compensation picture for part-time lawyers is a mechanism to compensate for working extra hours. For some firms, that mechanism is a "look back" provision in the event that a reduced-hours attorney ends up working longer than the agreed-to schedule. For example, at the end of the year, the lawyer's proportional pay will be increased to match the proportion of a full-time schedule he or she actually worked. Only 8% of respondents said that their firms had such a look back provision, although an additional 39% said that they were compensated financially through a bonus (with no guarantee that they would be paid for all the additional hours worked). Another 3% of respondents said that they could take off additional hours.

Best Practices

Make flexible work arrangements available to all: When survey respondents were asked their reasons for using a flexible work arrangement, a majority (64%) cited childcare, but there were other reasons noted, including control of work hours (21%), elder care (9%), and health (8%). These responses indicate that flexible work arrangements are relevant for reasons other than parenting. A number of firms have also extended flexible work arrangements to support staff as well as lawyers, with considerable success.⁸

Allowing flexibility only to mothers or parents creates several potential problems. First, it runs the risk of being discriminatory. Second, it feeds stigma: a flexible work program available only to mothers can reinforce maternal wall stereotypes that mothers are less committed than other workers. Third, making

⁶ Project for Attorney Retention, *The Scoop*, available at www.pardc.org/TheScoop/.

⁷ *See id.*

⁸ Linda Chanow, *Project for Attorney Retention, Flexible Work Schedules*: Address at the Association of Legal Administrators 37th Annual Educational Conference and Exposition, Seattle, WA, May 5, 2008.

children a prerequisite for eligibility for a flexible schedule overlooks that flexibility can be a retention tool for all valued attorneys. Fourth, it may cause resentment among lawyers who do not have children.

Allow customizable flexible work arrangements: Each employee's obligations outside the office are different, as are the flexible work arrangements that would allow them to meet those obligations. There are many different types of flexible work arrangements, which can be used alone or in combination. These include:

- full-time schedule with freedom to come and go or work from home as needed;
- compressed work weeks in which the employee works full-time in fewer but longer days;
- reduced hours that can be worked in fewer hours per day, fewer days per week, or fewer hours per year;
- full-time work with some hours worked regularly from another location; and,
- job sharing.

It is important to recognize that employees' obligations may change over time. Having the flexibility to change the type of arrangement that employees can use to meet these changing obligations will allow valued employees to continue working productively and reduce attrition.

Have a written policy pertaining to flexible work arrangements: Some of the survey respondents' answers indicated that they were not familiar with the terms of their own employers' flexible work policies. Having a written policy that is available to all employees demonstrates the employer's support for the policy, as well as for making the policy fair. Model policies are available online, but it is important for employers to customize or develop their own policies in cooperation with the various stakeholders of their firm, and to include in the process a discussion of the employer's goals and priorities to ensure that the policy is effective for everyone. Several of the managing partners interviewed for this study reported that their firms were in the process of creating written policies for their firms, and that associates and partners were involved in the effort. Although these were often difficult discussions, with some of the employees expressing fear that a written policy would have the counter effect of actually limiting their flexibility, the process provided both the employer and employees with a clear understanding of the parameters of the policy.

Provide proportionality: Fair treatment is essential to making flexible work arrangements work. For those who are working full-time with flexible schedules, the issue of proportionality doesn't come into play – they should be paid as any other employee. However, for those who reduce their hours, it is important to make sure that their compensation, including benefits and bonuses, workload, assignments, and advancement, are proportional to the hours they actually work.

Focus on implementation: As recounted in the full report, a number of respondents noted that their firms did not really have flexible work arrangements in practice, despite the existence of flexible work policies. To prevent a flexible work policy from becoming just another initiative that can be easily ignored, careful implementation is necessary.

To implementation to be advantageous, the firm must:

- Hold managers or and firm leaders accountable for making flexible work arrangements work;
- Communicate support for the policy from the highest points of the organization;
- Create procedures for proposing and approving flexible work arrangements;
- Provide training on how to successfully implement flexible work arrangements and how to supervise those who use those flexible work arrangements;
- Provide an internal database of different flexible work arrangements that employees are using and offer employees suggestions for making the arrangements work effectively;
- Benchmark where the firm is at the time the policy is put into effect; review periodically the employer's position with respect to the benchmarks;
- Disseminate full information about the policy throughout the firm; and
- Communicate the firm's successes, such as recruiting a sought-after applicant because of the availability of flexible work arrangements or bringing in a new client that was impressed by the firm's pro-active program.

Encourage professional development and provide advancement: Lawyers will view flexible work policies as usable alternatives to leaving their firms only if the policies are not viewed as career-enders. Developing and promoting lawyers with flexible work arrangements can be very effective at countering any negative perception. Some of the New Jersey firms involved in the survey have done an excellent job with this, with one exemplar creating a publicity campaign around the number of part-time attorneys that have been promoted to partner. This clearly sends the message to both other employees in the firm and their clients, that using flexibility will not be counter-productive to professional advancement. At the same time, it demonstrates the firm's commitment and responsiveness to work-life issues.

An issue that arises is the schedule on which lawyers using flexible work arrangements should be promoted. The answer depends on the firm's promotion policies and on the type of arrangements used by the lawyer. This would fall under the same recommendations for other advancement policies stated above: the key is to make the criteria known and to apply them equitably.

Monitor flexible work arrangements at the firm level: In the ideal workplace, individuals who use flexible work arrangements would feel comfortable speaking with their practice leader or supervising attorney when they felt their schedule needed to be adjusted. Almost a quarter of the women we interviewed cited that as professionals they felt it was their responsibility to do so, and valued the independence and trust demonstrated in this relationship. Whereas this professionalism and open dialogue was apparent at some of the firms represented in the research, other respondents did not feel as comfortable speaking to their practice leaders about their scheduling issues. This could have been

because she did not feel that individual was completely supportive of the firm's policies, or in a small number of cases, because of individual bias. Twenty-two percent of survey respondents stated that someone at their firm – who could have been a firm-designated individual or a person acting informally – worked with them to develop their flexible work arrangements, but only 8% said that someone at the firm has met with them on a regular basis to discuss how their schedule is working for them and the firm. Having firm-wide monitoring, whether through practice group leaders' meetings, or through a person appointed to review the policy on a regular basis, can promote efficient and consistent implementation of the program.

Provide technology: Participants in the survey often mentioned access to technology as critical to their ability to integrate their work and home lives. Comments from survey respondents emphasized the benefits of firm-provided technology.

Many of the best practice firms in the study ensure that they provide state of the art remote access for their lawyers. In addition to providing email-capable telephones, laptops with wireless connectivity, and remote access to the firm's computer system, firms should provide technology training to boost productivity and technical support to keep all the devices in good working order. Ineffective technology systems will undermine flexible work arrangements, which require well-functioning systems that enable attorneys working off-site to remain available to their clients. Many of the women in the study cited doing their best work from home in the evenings, either after children were in bed, or other obligations were fulfilled. The access to technology was also cited by the successful women lawyers in this study, with several indicating that technology allowed them to be more responsive to their clients, wherever their location.

It is important for law firms to have thoughtful and well-designed policies to address the issues raised in this report utilizing the best practices cited, as needed. It is quite clear from the data that women lawyers are looking for workplaces that provide the best environment for them to meet their career goals, and are not afraid to change to law firms that have policies that address their needs.

Advice from Successful Women Lawyers

Successful women lawyers who work in New Jersey law firms participated in interviews designed to gather information about why they are successful and how their success can be replicated by other women lawyers. The women are successful by traditional measures: they have been with their firms a long time, some for 20 or more years. They have earned a reputation for excellence in their practice areas, and they have their own clients. They are also successful by a more personal measure: they are satisfied with where they are in their careers and their personal lives.

How have their experiences been different from those of other women lawyers who feel frustrated and disillusioned? What have they done, or had, or learned that has allowed them to be successful? Researchers asked these women to describe their career paths, identify the factors that contributed to their success, discuss work/life issues and provide advice to others seeking success.

A theme common to all was hard work. Every woman lawyer interviewed described how hard work had laid the foundation for her eventual advancement, helping her to build not only skills and experience, but also credibility and a reputation for being able to get things done. However, many candidly admitted that hard work alone is not enough to get ahead. Women lawyers, they said, face obstacles that men do not. Many of the women interviewed reported that they had supportive husbands who share a portion of childcare and chores. Although, in contrast, men frequently have wives or partners who handle most of their family-related needs, whereas women do not.

These comments reflect that working hard and doing one's best does not necessarily mean that promotions and rewards will inevitably follow. Success also does not mean perfect balance between work and home. With respect to work/life issues, most reported a sense of struggle, of doing the best they could with the resources available to them. Yet, these women persisted because of the love of their jobs and other motivators for success.

Several of the women lawyers had strong women role models early in their careers. Several also had mentors.

A handful of women made their success by following traditional male patterns – working traditional full-time schedules, either not having children or having others who played active roles in raising their children. Other women had very supportive firms, which they believe made their success possible. Some reported that they were able to work flexibly on a full-time schedule, usually after they had established their reputation as a hard worker and their value to the firm.

The advice that women lawyers provided for their peers has been compiled into ten areas. Thoughtful and deliberate contemplation on this advice will give women lawyers a personal platform upon which to build their career success and satisfaction.

Advice

1. **Know what you're getting into:** Several of those interviewed have known people who became lawyers because they didn't know what else to do, and many of them ended up miserable because they did not understand what the practice of law entailed. They advise new lawyers to research both law and law firm life.
2. **Have a plan:** Few of the women interviewed left their careers to chance. Most had known where they wanted to be professionally from the time they finished law school, and their career decisions were made carefully to ensure that they met their goals. They advise not only knowing where you're going, but also knowing when you want to arrive.
3. **Work hard and well:** While hard work alone does not ensure success, virtually all the interviewees agreed that hard work is a necessary ingredient of achievement.
4. **Develop strong interpersonal relationships:** A key piece of advice most interviewees would give young lawyers is to build personal connections both inside and outside their firms. The connections help to advance careers, and also to develop business.
5. **Look for people who can point you in the right direction:** Formal and informal mentors are extremely important, but many people struggle with how to find those special people. One partner emphasized that associates need to develop relationships with partners.
6. **Develop business:** Having one's own clients is essential to success, and yet client development is a mysterious process for most young lawyers. Most advised developing a niche practice, which gives lawyers a product to sell.
7. **Speak up about what you want:** Many of the women interviewed felt it was important that the individual take responsibility for their own careers as professionals. Critical to this was finding your own voice to share what you want and need for career advancement. Women who are demanding may get criticized for not conforming to stereotype, but should nevertheless ask for opportunities.
8. **Create support at home and in the office to help balance work and life:** Having a well thought out plan for managing your home life and your work is essential, according to the interviewees. Create a balance, use a schedule, and always have back up plans.
9. **Be responsive to clients:** As a big part of their success, those interviewed stated they returned client calls and emails promptly. Always stay focused on your client and be accessible to them.
10. **Be flexible:** Flexibility, whether working full or reduced hours, helped the interviewees to address their most pressing needs at the office and at home. Flexibility on the part of your employer helps, but the women also noted that they had to demand flexibility of themselves.