

## **STRATEGIES FOR SUCCESS WHEN YOU DO NOT RECEIVE AN OFFER FROM YOUR SUMMER EMPLOYER**

Each fall a number of students return to Boalt from their summer jobs without offers of permanent employment. The emotional impact of not receiving an offer from a summer employer ranges from difficult to downright devastating; it is important to acknowledge this and give yourself some time to recover. This guide is for when you are ready to consider what you need to do to move forward.

While not receiving an offer does place you in a very difficult situation, you can and will get a job after not receiving an offer from a summer employer, as many practicing attorneys can attest from their own experiences. The degree of difficulty you should expect to encounter in your job search depends on the circumstances that led to your lack of an offer. This guide describes many effective methods for analyzing the potential effects of your no-offer situation and for developing a strategy that should help you succeed in subsequent interviews and job searches. You may also wish to read Chapter 9 of Kimm Walton's book, *Guerilla Tactics for Getting the Legal Job of Your Dreams* (available in the CDO office).

Expect to be asked whether or not you received an offer from your summer employer during the interview process, usually during your initial interview. The way you respond to this question may make the difference in whether the employer decides to consider you further. In order to respond effectively and to be as strong a candidate for employment as possible, you need to: (1) know why you did not receive an offer; (2) be able to discuss the situation without making negative comments about your summer employer; (3) have a response to the question that is clear, not evasive, and that parallels the explanation your former employer will provide to prospective employers who call to inquire about you; (4) express what you learned from the experience, and (5) be able to acknowledge the situation while at the same time highlight your strengths, interests and abilities and convey your enthusiasm about the practice of law. In addition, if at all possible, you should have at least one positive reference from your summer employer.

### ***IF YOUR EMPLOYER'S POLICY OR PRACTICE IS NOT TO GIVE OFFERS.***

Some employers rarely or never give offers of permanent employment to their summer clerks.<sup>1</sup> If that is your case, your situation is relatively easy, but you must be clear about your summer employer's policy on extending offers and about how your situation fits into that policy. Having no offer from an employer that doesn't give offers is clearly not a problem, but it is important to tell potential employers about the no-offer policy and to have strong

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<sup>1</sup> Some employers, particularly small firms, don't make the decision until quite close to the time when the former clerk would begin work (late in the spring semester or after admission to the bar), in which case you might find yourself interviewing without knowing whether you will have an offer or not.

references from your summer employer as well as samples of your written work.<sup>2</sup> This is especially true where you knew from the start that there would be no offer: be sure to explain how you went into the situation with your eyes open, and why you made the choice you did (probably because what you expected to learn was more valuable to you than the prospect of a permanent job offer).

Your first task is to ascertain your summer employer's policy on offers to students at your level.<sup>3</sup> If the policy is ambiguous about making offers or if its policy is to make offers, you need to find out how many offers (if any) were actually made to your peers (i.e., summer clerks in the same year of school as you). If offers were made to other clerks in your same year of law school, or if the employer's policy allows such offers, read on.

### ***IF YOUR EMPLOYER'S POLICY OR PRACTICE IS TO GIVE OFFERS.***

If the employer you worked for makes offers of permanent employment to summer clerks, you must determine as best you can why you did not receive an offer, find as many positive references as you can, and have a strategy for your job search. While your personal situation is unique, certain things apply to everyone: always present yourself as positive (about both yourself and your employer), and never try to disguise your situation. The reasons you give as to why you did not get an offer should not conflict with your employer's explanation. You certainly don't have to agree fully with the employer's assessment, but you absolutely must not create the impression that you are being less than honest about what happened.

Going back to your summer employer to find out why you did not get an offer is likely to be painful, yet it must be done if you are to make the best of the situation going forward. In addition to finding out what you can about your employer's decision, you need to preserve as positive a relationship as possible with the employer and the individuals there. Be sure, before you make contact with anyone from your summer employer, that you are in an emotional state to keep these two priorities foremost in your dealings with them. If you find that you are unable to get the information you need from your employer, you may ask a counselor from the CDO to contact them on your behalf and help you learn more about the reasons for their decision.

## **1. Fact-Finding**

Employers decide not to extend offers to summer clerks for many reasons.<sup>4</sup> Sometimes these reasons are clearly explained to the student, but more often the explanations are vague. Employer vagueness may be due to the basic human reaction of discomfort with (and

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<sup>2</sup> Remember that you must always obtain permission from your supervising attorney in order to use written materials prepared as part of your job as a writing sample, and to delete names and any other information that would compromise client confidentiality.

<sup>3</sup> If your job was for your 1L summer, your situation is easier. At most, 1Ls are invited back to spend part or all of their 2L summer with an employer, and many employers make no offers at all to 1Ls.

<sup>4</sup> If you believe that the decision not to extend you an offer was based on discriminatory or other illegal reasons, please see the CDO's materials on discrimination in employment, and discuss the situation with Terrence Galligan, Director of the Career Development Office, or with Assistant Dean Victoria Ortiz.

sometimes avoidance of) telling someone bad news. Individuals may also give vague explanations when the reasons for not extending an offer are not clear to them, when they personally disagree with the decision, or when they are not able to explain the reasons forthrightly to the student. (The latter situation may arise if the reason is related to economic problems within a law firm, if it is due to a personality clash, or if it is for some other reason that the employing organization would find awkward to reveal.)

In any event, you are entitled to a clear (though usually brief) explanation of why you did not receive an offer; do not accept a generic response. You can press for specifics, or contact additional people within the firm, but this should always be in order to learn and to build alliances, never to argue or complain. Moreover, you will have to be aware of when further inquiries will be counterproductive. The employer should also tell you what they will say to prospective employers who inquire about you, and give you the names of one or two attorneys within the organization who will give you positive references. (Keep in mind that due to liability concerns, law firms are increasingly implementing policies which prohibit attorneys from providing any qualitative information with respect to summer associates. If you encounter this situation, contact a CDO counselor for further assistance.)

Part of your fact-finding should include determining how many of the summer law clerks received offers and how many did not. This will help you know how to interpret what you hear from the employer about the reason you did not get an offer. The higher the proportion of students who did not receive offers, the less weight prospective employers will give to your lack of an offer--and vice versa.

A description of the most common reasons for not extending offers, together with advice on how to handle each kind of situation, follows:

#### Lack Of "Fit"

Law firms often tell students that they liked the student and her/his work, but that the student just didn't seem to be a good "match" or "fit" with the firm. If the lack of an offer is in fact due to a mismatch, the student is usually as aware of the mismatch as is the firm.<sup>5</sup> It is reasonable to tell a prospective employer that you were told the lack of an offer was due to a lack of "fit." If you agree that you didn't fit into the firm, explain briefly to prospective employers why this was so (e.g., The firm was very formal and you are an informal person, or vice versa) and describe how you used the knowledge you gained over the summer to select the employers you are interviewing with this year (e.g., "Knowing now that I am a relatively informal person, I selected your firm and others like it that are known for having a rather informal atmosphere while still doing excellent and challenging work"). Also tell them about the projects you found particularly challenging and enjoyable during your summer, and stress the fact that you liked the work and that you look forward to the practice of law. You don't want them to think you won't fit in at their office or that the term "fit" is being used when in fact the previous employer found you difficult to work with or not highly motivated to practice law.

You might disagree with the firm's explanation and believe you did generally fit into the firm. This divergence could be due either to evasiveness on the part of the firm, or a real difference in the way you and the firm perceived your summer experience. What is

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<sup>5</sup> In such a case, the firm may have, in the long run, done you a service, by foreclosing an option which would not have been right for you.

important in this case is not to defend your sense of the “fit” being fine (which leaves the interviewer wondering just what the problem really was), but to let the employers you are interviewing know that your personality and workstyle are not problematic. You can acknowledge your disappointment, say that you respect the employer’s judgment, and move on to more positive aspects of your experience.

### Student "Opting Out"

Students sometimes decide early in the summer that, for one reason or another, they are no longer interested in working for their summer employer in the future. This decision may affect their attitude and even the quality of their work product in a way that makes it unlikely they will receive an offer. If your lack of an offer results from this kind of situation, it is probably a good idea to tell prospective employers that you decided early in the summer that you were not interested in working with your summer employer in the future, and acknowledge that you probably let your disenchantment show. Be aware that this is not an optimal work history (ideally, you would do your very best even for an employer with whom you had decided you saw no future), and you must demonstrate that you understand this; be sure not to be critical or defensive. Consider pointing out what you learned from the situation, and why you are, in contrast to your earlier experience, enthusiastic about the job you are interviewing for. Interviewers will often respect an honest appraisal of the circumstances and your role in them, provided that you express it diplomatically.

### Unsatisfactory Work Product or Poor Judgment

Sometimes the decision not to extend an offer is based on a negative assessment of the quality of the student's work. "Quality" in this instance may mean poor performance in one or more critical skills (e.g., writing, research, analysis, timeliness) or it may mean that, while the overall quality of the student's work is generally acceptable, it is still below the standards of that firm or is lower than the work of the other summer clerks. Ideally, students would not be surprised to learn that they did not receive an offer for this reason; if there were issues over the course of the summer, the student would have received feedback to this effect that is clear and timely enough that he or she has the opportunity to rectify it. In reality, however, such extensive and timely feedback is often the exception rather than the rule. In addition, some students choose to avoid the "signals" they receive from employers, whether explicit or implicit, with the mistaken notion that they are not that serious or that, if they are ignored, they will go away. Thus students may believe their work is satisfactory, only to learn at the end of the summer that it was not, and that this is the basis for a decision not to extend an offer.

If you are told that you did not receive an offer because of the quality of your work, you are in a difficult no-offer situation. Students sometimes agree that there were problems with their work product; sometimes they disagree. (Even if you disagree, do not attempt in an interview to defend your work, which could compound the problem.) In either event, there are several things you need to do. First, find out if this is the assessment the employer will give when potential employers inquire about you. Try to get them to tell you the specific instances and projects where your work could have been stronger, and to specify the areas needing improvement so that you can learn from the experience. If there are specific weaknesses in your skills, take positive, identifiable steps to rectify them (consult with an academic advisor

if need be), and be prepared to tell interviewers what you are doing to strengthen your legal abilities. Strive to strike a good balance between accepting the judgment of more experienced legal minds than yours, and expressing confidence in your abilities.

Along with the quality of your work product, employers are evaluating your professional judgment and integrity. These evaluations can be based on actual work assignments or just personal interactions. Often what may not have seemed like a big deal to the student will be viewed as an egregious error in judgment by an attorney at the firm. These are harsh consequences, but a preview of how you will be evaluated by colleagues in your professional career as a lawyer. If you believe that your summer employer based its decision not to extend you an offer on a negative evaluation of your judgment or integrity, find out as much as you can about the basis for this decision. You will need to develop a strategy for dealing with this situation; we recommend that you make an appointment to speak with one of the counselors at the CDO about how best to handle it in the course of your job search.

### Law Firm Economic Problems

Sometimes employers cannot extend offers due to economic factors about which they may or may not have been aware prior to extending offers for summer clerkships. Some firms are candid in disclosing this information to their summer clerks. Others are reluctant or unwilling to give this reason because it could reflect badly on the firm. If economic conditions within the firm are acknowledged to be the reason for your lack of an offer, future employers are unlikely to consider it to be a reflection on you professionally or personally. However, if you believe this to be the true reason you did not receive an offer, but the firm does not acknowledge it as the reason, you are in an awkward position. It is never wise to speak negatively about a former employer; prospective employers will fear you may treat them the same way at some future date. On the other hand, you need to indicate that the lack of an offer wasn't due to your personality or your professional ability. If the ratio of offers made to number of summer clerks is lower than in past years, you could point this out to prospective employers (but be aware that the question will remain of why you were not among those who received offers). If you were told your work met their standards and they liked you and would have made you an offer if there had been space for you, tell prospective employers. Then let them draw their own conclusions about why you did not receive an offer. If it would be appropriate to pass along the name of someone at your summer employer who can speak well of you, be sure to do so. (It is possible that this person could be more candid with your prospective employer than the firm was with you.)

### Personality Conflicts

Sometimes there are strong personality conflicts between a summer clerk and one or more of the attorneys with whom the clerk interacted during the summer. The conflict may result from a misunderstanding or some other behavior. Such a conflict with an attorney who is supervising an assignment often results in a work product that is evaluated as being of poor quality. If the attorney has significant influence on the hiring process, this conflict could have an impact on whether or not the student receives an offer. Such a situation is, of course, seldom cited by the employer as the reason the student didn't receive an offer. If you believe your lack of an offer arose from such a situation, the best course of action is usually to find other attorneys within the firm who liked you and your work to act as references, and to

direct prospective employers to them. It is not prudent to describe troublesome situations or individuals to prospective employers; they may well decide that you do not work well as part of a team and are not worth considering further.

### Office Politics

Sometimes there are in-house "political" reasons why employers do not extend offers. There could be any number of factors at work here, including but not limited to management problems, financial considerations, power struggles, and personalities. Again, most firms are reluctant to state any of these factors as a reason for not extending an offer, so they usually state some other reason, such as those that have been mentioned above, most frequently a poor "fit." The strategy for dealing with this situation is similar to those for personality conflicts, described above.

## **2. References**

Maintain a good relationship with your former employer even though that employer has decided not to give you an offer. You will need recommendations from your former employer as part of your job search; keep in mind also that you may well encounter the firm and its attorneys again if you ultimately practice in the same specialty area or in the same legal community. Find out what your former employer will tell people who inquire about you. If at all possible, find those attorneys in the organization who will give you good references. As noted above, due to liability concerns some law firms have policies which prohibit attorneys from providing any qualitative information with respect to summer associates. However, some employers feel a responsibility toward their summer clerks and will try to be helpful to them in their job searches. Faculty members, legal writing instructors, and attorneys or others with whom you worked in previous summers or on a part-time basis can also serve as positive references.

## **3. Interviewing**

In interviews, you can acknowledge your disappointment at not getting an offer, but do so briefly as well as frankly. Simply answer the questions you are asked, in a straightforward way; do not volunteer information unless there is something specific which it is important that your interviewer hear (such as the fact that no other students received offers). Emphasize what you learned during the summer and from the feedback you received, and speak enthusiastically about the matters you enjoyed working on and the attorneys you enjoyed working with. Let potential employers see your enthusiasm about the practice of law, your positive attitude, your energetic and upbeat personality, and your pride and confidence in your legal abilities and in your future success in practice. Never speak critically about the employer that failed to give you an offer. It will harm your chances with future employers, who will probably see you as someone who will be hard to work with or who might also "badmouth" their organization.

Finally, while not getting an offer is disappointing and difficult, over the years many Boalt students have had that experience and have risen above it, establishing successful and

satisfying legal careers. The lack of an offer usually makes the job search process more challenging and more time consuming; it may even foreclose you from consideration by some employers. However, it is not an insurmountable problem, and the strategies described in this handout should help you. To discuss these or other job search issues, make an appointment with a CDO counselor.