

Call for Papers
AALS Section on Professional Responsibility 2021
Co-Sponsored by AALS Sections on Civil Rights,
Employment Discrimination Law, Leadership, and Minority Groups

Legal and Judicial Ethics in the Post-#MeToo World

The Section on Professional Responsibility seeks papers addressing the role of legal and judicial ethics in the Post-#MeToo world. This program calls for scholars to confront big questions facing the profession about sexual discrimination, harassment and other misconduct. In 2016, the American Bar Association amended Model Rule 8.4(g) to say that it is professional misconduct to “engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socio-economic status in conduct related to the practice of law.” Few jurisdictions have adopted this change, and some explicitly rejected it on First Amendment grounds. In 2019, the federal judiciary amended the Code of Conduct for U.S. Judges to make clear that misconduct includes engaging in unwanted, offensive, or abusive sexual conduct and to protect those who report misconduct, but some argue the reforms do not go far enough and they do not apply to state judges or to the U.S. Supreme Court. Congress held hearings on sexual misconduct in the federal judiciary in early 2020. Lawyers and members of the judiciary have avoided investigations into credible allegations of sexual assault, discrimination, and harassment by resigning their positions, only to move on in other positions in the legal profession and, in some instances, repeating the same misconduct. Headlines regularly feature attorneys and their involvement in sexual misconduct in the workplace and beyond, whether as bystanders, facilitators, or perpetrators. This program seeks contributions to address these complex and controversial issues. Panelists will discuss the role of lawyer and judicial ethics as a means to remedy the enduring sexual misconduct in the legal profession and beyond. Jaime Santos, founder of Law Clerks for Workplace Accountability and commentator for the acclaimed podcast Strict Scrutiny, is confirmed as a presenter. At least two additional presenters will be competitively selected from this call for papers.

Topics discussed at the program might include:

- *Does ABA Model Rule 8.4(g) addressing sexual harassment run afoul of the First Amendment?*
- *Is ABA Model Rule 8.4(g) merely a values statement or is it a source for discipline?*
- *What obligations, if any, do disciplinary authorities have to investigate credible, public information about alleged sexual misconduct by the lawyers licensed to practice in their jurisdictions?*
- *Should regulators adopt new rules or policies to address sexual misconduct, including the ability of lawyers and judges to avoid investigations by resigning their positions?*
- *If other areas of law (criminal, civil) do not cover aspects of sexual misconduct, is there a role for professional conduct rules to do so because of the lawyer’s special role in society?*
- *What reporting obligations do law schools have as they certify students’ fitness in bar admission applications? How does this fit within the Title IX framework?*
- *Should ethical rules on sexual misconduct that apply to the federal judiciary also apply to the U.S Supreme Court?*

To be considered, please email your paper to Renee Knake, Chair of the Section on Professional Responsibility, no later than August 1, 2020 at rknake@uh.edu Preference will be given to completed papers, though works-in-progress are eligible for selection.