

Off-Ramps and On-Ramps on the Road to Success

Over the last few years, the media and numerous commentators have lamented the high rate at which highly qualified women drop out of their chosen careers. Some attributed the phenomenon to women's ostensible lack of ambition and/or preference for child-rearing, while others pointed out that women did not so much "opt out" as they were "pushed out" of the workplace by onerous work conditions. A new study of the opt-out issue by the Center for WorkLife Law persuasively shows that most women leave because of "push" factors, but that media coverage of the issue has misled the public to believe otherwise. This study, *"Opt Out' or Pushed Out?: How the Press Covers Work/Family Conflict"*¹ clearly demonstrates that most mothers do not willingly choose to drop out of the workforce. Rather, "they are pushed out by workplace inflexibility, the lack of family supports, and workplace bias against mothers." In analyzing the content of 119 print news stories and comparing them to studies of women in the workplace, the study's authors found that the media have greatly exaggerated both the desire of women to quit work (the "pull" factors) and the number who do so. They also found that the media have painted too rosy a picture of how easy it is for women to re-enter the workforce after taking time out, when in fact they have great difficulty finding work and face serious economic and career penalties when they do.

The "Opt Out or Pushed Out" study builds on and supports another recent study of women's careers by the Center for Work-Life Policy. That research, published in *"The Hidden Brain Drain: Off-ramps and On-ramps in Women's Careers,"*² studied the careers of highly qualified professional women (defined as women with a graduate or professional degree or a high-honors undergraduate degree). Data is presented for women in general and for women in various fields, including law.

The *Hidden Brain Drain* study found that 37% of highly qualified women voluntarily "off-ramp," or leave the work force, at some point in their careers. For women with children, the figure rises to 43%. Women who off-ramp do so for only a limited time, on average about 2.2 years. They do not intend to give up their careers for good, but they find it very difficult to re-enter the workforce. Almost all highly qualified women who stop working - 93% - want to return to their careers, but only 74% are able to find employment. The study also found that these women pay a heavy price for off-ramping. They lose 18% of their earning power, i.e., they earn 18% less than peers who stay in the workforce without a break.

Forty-two percent of women lawyers (vs. 37% of all highly qualified women) take time off from their careers. Women lawyers who leave practice and return stay out longer (3.0 years) and suffer a huge financial penalty upon re-entry: they earn an average of 41% less than their peers who never took time out of their careers (as compared to an 18% drop for women generally, 9% for women in business, 23% in academia, and 28% in banking and finance). The longer women are out of the workforce, the greater the penalty becomes. In addition, the research found that while many women in general who drop out feel that stultifying work conditions prevent them from achieving their full potential, this was especially true for women lawyers. Whereas women in general cite children as the primary reason for off-ramping, the top two reasons given by women lawyers are "lack of career satisfaction" and "feeling stalled in their careers." More than half of women lawyers cited these as the two major factors in their decisions to off-ramp (59% and 53% respectively, vs. 29% and 23% for women in general). When women feel underutilized, underappreciated and unfulfilled, their ambitions turn to frustration and they leave. It is particularly telling that only 3% of lawyers (and 5% of all highly qualified women) who want to return to work are interested in rejoining the firms they left.

Building On-Ramps to Help Women Lawyers Return to Practice

Women who want to return to work need "on-ramps" to facilitate their re-entry and make their return possible. Law firms that appreciate how valuable this talent pool is are starting to create work systems that support re-entry, such as flexible work arrangements. Those firms that are thinking ahead are going even further. They recognize that retaining talented lawyers requires creative thinking, and view the challenges as "opportunities for productive change in the organization of work... [B]y being innovative in their response to employee needs, they necessarily have to rethink their accepted ways of doing work. Such an effort is likely to produce greater long-run productivity, as well as to enhance the overall commitment and responsibility of employees toward the organization's goals." ³ Forward-looking firms are starting initiatives to help highly talented women prepare for their time off, stay connected to the firm while they are away, and transition back to practice when they are ready to return.

One such firm, McCarthy Tetrault LLP, gives pregnant women who are planning to take maternity leave, and adoptive mothers, a "Maternity Leave Tool Kit." In addition to an explanation of the firm's maternity leave and flexible work arrangement policies (along with related forms), the Kit includes advice from other women lawyers, a list of women in the firm with young children, pertinent insurance information, and articles about child care. During a woman's maternity leave, a more senior woman in her practice group who is also a mother serves as her "buddy." This "maternity leave buddy" assists the woman in winding down her practice before her leave, stays in touch with her during her leave, and helps her ramp up her practice when she returns. The firm is also piloting a "Parental Support Program" for mothers and fathers, providing them personal and career coaching before and during their (or their spouse's) maternity leave, and after their return to work, to help them deal with both home-life and career issues.

In addition to individual law firm initiatives, some bar associations are starting various efforts to support non-practicing women lawyers who want to return to law practice. Most of those programs, such as *Back to Business Law*, a pilot project sponsored by the ABA Section of Business Law (<http://www.abanet.org/dch/committee.cfm?com=CL999500>), focus on educational programming designed to update non-practicing lawyers' substantive legal knowledge and skills.

A new program under way at University of California Hastings College of the Law in San Francisco is taking a different approach. The Project for Attorney Retention has initiated a series of seminars called "Opting Back In and Forging Ahead: Helping Lawyer Caregivers Return to Law Practice." Unlike other "on-ramping" programs started by bar associations and some law firms, this program does not cover substantive law or legal skill updates. Instead, participants are prepared for the process of re-entering the workforce: how to find a job, prepare a resume, go through an interview, negotiate a flexible work arrangement, and help them and their families make the transition to their return to the workforce. The program consists of two sessions, each having four weekly meetings. Participants may register for one or both sessions. In addition to outside experts in such areas as career counseling and interviewing skills, a panel of employers will discuss what they are looking for in this candidate pool, and parents who have returned to work will share their experiences and advice. As an extra benefit, West LegalEd Center has offered each participant a complimentary online CLE program to help them update their legal knowledge.

This "Opting Back In" program was launched on October 13, 2006, with a group of 12 women and one man. Participants have been out of the workforce from 1 to 17 years, have a broad range of legal talents and prior work experience, and many have outstanding credentials, including federal clerkships and experience as associates at prestigious firms. Most participants have children (ranging in age from infants to teenagers to adults) and three have twins.

This program is sponsored by Hastings' Center for WorkLife Law (<http://www.uchastings.edu/?pid=3624>) through its Project for Attorney Retention (PAR) (www.pardc.org). For further information, contact me or Opting Back In Program Director Linda Marks at 415-581-8826 or marksl@email.uchastings.edu.

¹ Joan Williams, Jessica Manvell, and Stephanie Bornstein, *"Opt Out' or Pushed Out?: How the Press Covers Work/Family Conflict,"* The Center for WorkLife Law, University of California, Hastings College of the Law, www.worklifelaw.org, 2006

² S.A. Hewlett, C.B. Luce, P. Shiller, and S. Southwell, *"The Hidden Brain Drain: Off-ramps and On-ramps in Women's Careers,"* Center for Work-Life Policy, (Cambridge MA, Harvard Business School Publishing Corporation), 2005

³ Lotte Bailyn, *Breaking the Mold: Redesigning Work for Productive and Satisfying Lives*, Second Edition (Ithaca, NY and London, ILR Press) 2006, p. 142

Law Firms That Support Fathers and Mothers

Many law firms have support groups and other initiatives for women lawyers with children. While these are extremely valuable, firms increasingly recognize that the stresses of law practice affect all lawyer-parents, both men and women. Because of this, some firms are starting programs and initiatives that provide support, information, and networking opportunities to dads as well as moms. Here are a few examples:

- "The Mamas and the Papas" at Blackwell Sanders Peper Martin LLP: The Mamas and the Papas provide parenting support for lawyers who are parents and their families. Lawyer-parents meet regularly to share stories, network, and offer mutual support, and the group sponsors Sunday afternoon gatherings at a local park for lawyers and their families. The firm also hosts a dinner to recognize lawyers' spouses and thank them for their support. <http://www.blackwellsanders.com/diversityInitiatives.aspx>
- "The K&E LLP Parenting Link" at Kirkland and Ellis LLP: This initiative was started two years ago in order to provide useful parenting information for lawyers at Kirkland and Ellis. Originally begun in Chicago and videoconferenced to other offices, now almost every Kirkland and Ellis office operates its own Parenting Link program. The Parenting Link presents monthly lunch hour programs in which outside experts address a wide variety of subjects of interest to parents, including wills, trusts and college savings, sibling rivalry, finding the right preschool, family vacations, discipline, and improving children's sleep habits. Lawyers and their spouses are invited to the sessions, and the firm has opened programs to clients as well. The Chicago office attracts 50-100 participants for each monthly session, and some lawyers on parenting leave attend via teleconference from home. The firm recently set up an internal communication link on its website where lawyers and registered clients can share questions and advice, and view calendars of upcoming programs. <http://www.kirkland.com/careers/benefits.aspx?type=lateral>
- "Side Bar" and "Flexible Return from Maternity" at Skadden, Arps, Slate, Meagher & Flom LLP: These new initiatives are primarily for women but are also open to men. "Side Bar" enables

lawyers to take a personal leave for up to three years, with the expectation that they will return to the firm at the end of that period consistent with the needs of the firm and their department. Side Bar participants are expected to remain connected to the firm during their leave, e.g., by attending firm-sponsored events and continuing legal education programs. The "Flexible Return from Maternity" (FRM, pronounced "firm") program allows lawyers returning from parenting leave to design their own return schedule for up to twelve months, either through reduced hours or a combination of office and home days. FRM is a way to help returning parents transition back into practice and complements Skadden's flex-time policy, which allows lawyers to work a reduced schedule on a long-term basis.
<http://www.skadden.com/Index.cfm?contentID=188>

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