

## NASFAA's "Director Download" – Episode 3 Transcript

- Justin Draeger: Hey, everyone, welcome to another edition of "Director Download." I'm Justin Draeger.
- Allie Bidwell: I'm Allie Bidwell, one of our *Today's News* reporters.
- Beth Maglione: I'm Beth Maglione, executive vice president of NASFAA.
- Julia Judish: I'm Julia Judish. I'm an attorney at Pillsbury Winthrop Shaw Pittman, in their implement law group.
- Justin Draeger: And we should also add, Julia, you are our outside council. You've been with us for ...
- Julia Judish: A long time.
- Justin Draeger: A long time.
- Julia Judish: I've practice for over two decades, and I think not entirely that long with you.
- Justin Draeger: Okay. So, NASFAA's ... We weren't like your learning ground when you were practicing?
- Julia Judish: Oh, no.
- Justin Draeger: Okay, we got the second decade. All right.
- Julia Judish: Yes.
- Justin Draeger: That's good. We brought you in because we wanna talk about something that's, I think, everybody's trying to navigate. We're also in a climate, I think, that might be difficult for some people culturally to transition to.
- Beth Maglione: Yeah. I mean, I think we'd remiss in not acknowledging right up front that there's been a lot in our sort of culture and certainly in our news cycle the past few weeks and months, for starting with the larger Me Too movement, and many maybe long-buried allegations of sexual assault coming to the forefront, sexual harassment, sexual assault. And then very recently, the Kavanaugh hearings, which I think, have brought all of these issues, especially the issue of sexual assault, to the forefront. But as I understand it, we're not focusing on these extreme cases of sexual assault, or very, very clear sexual harassment today. Is that-
- Justin Draeger: Right. I think maybe, since we have Julia's expertise here, we should talk about what should happen in those situations, just so if somebody finds themselves in

that really unfortunate situation, they can try to navigate appropriately. But we wanna spend the bulk of the time today in sort of what I would consider, I hope is maybe a lighter fare, but might not be for some people, which is why we're talking about it. Because some people, and especially in financial aid, I think we are a professionally affectionate group. Besides doing accounting work, we also do the hard science, we also do account reconciliations and regulatory compliance. We also do a lot of counseling. A lot of aid administrators consider themselves social workers because they are delving into and brought into students' lives in a really intimate way. And if you're a director on a campus, you have all of those types of employees. And some people want a hug when they see you, and some people might not want to be touched at all. And we kinda wanna get into that area a little bit.

Justin Draeger: Before we go into all of that, though. Beth, you just talked about sort of the climate we're in. Julia, if somebody feels like they have been harassed, not even mentioning assault for a moment, at work, what steps should they be taking immediately?

Julia Judish: Well, hopefully they work in a place that has policy against sexual harassment, but even without a policy, sexual harassment is unlawful. So, they should, and I would encourage them, to report it to, whether it's a human resources department or whatever entity or person at their work place is charged with investigating and documenting these issues. Sometimes an individual may feel sexually harassed and just want it to stop, not want any consequences to happen. Even then, I encourage them to report it and mention their preference that no action be taken because that helps the organization if it happens again, you may not ... If something happens to you personally, you may not know if it's a one-off or if there's a repeated pattern.

Justin Draeger: So, you could go in and you could say to HR, "I'm not sure, I'm not wanting any action to be taken here, but I want to document it so that there's some sort of trail associated with this."

Julia Judish: Yes. Or I've even heard of HR folks who have received complaints that say, "I have an issue with this person and I'm not going to ... I don't wanna give you the details unless you have another complaint. I want you to know. I know you may not be able to keep this confidential if I tell you about it and you may feel a need to investigate it, and I don't want that, unless you get another complaint about him, and then I want you to record that I have this."

Justin Draeger: Interesting. So, from an employer standpoint, they might have specific policies or procedures they have to implement if they are told something.

Julia Judish: Yes.

Justin Draeger: And so you might want to just say, strategically, "I'm gonna withhold telling you the details unless there's some pattern that you've identified or heard another complaint."

Julia Judish: I'm not recommending that as something that most people should do, but it is something I've heard happen.

Justin Draeger: So, there's a lot ... They have more than just one option.

Julia Judish: Yes.

Justin Draeger: Because some people might feel like, "I'm not going to report something because it will result in X, Y, Z."

Julia Judish: Yes.

Justin Draeger: Okay. So, let me focus in for just a second then, on the harassment part. Because you said if somebody feels harassed. So, where is the line? What's the litmus test here when somebody feels harassed, and the person doing the harassing doesn't feel like it's harassment? So, how do you ... I doubt there's a policy and procedures manual, even the one you helped us develop, even as good as that one is-

Julia Judish: And it's excellent.

Justin Draeger: It is excellent. It's iron-clad. But where is the that line? Who's gonna define it?

Julia Judish: Step back for a minute to what the legal standard is, and the legal standard I find interesting because it has an objective and a subjective element. Objectively, a reasonable person would have to find the conduct harassing.

Justin Draeger: Okay, a reasonable person.

Julia Judish: A reasonable person in the shoes, in the situation of the victim.

Justin Draeger: Okay.

Julia Judish: So, if someone is extremely sensitive or takes offense to something that an ordinary person in their situation would not find objectionable, that's not gonna meet the legal standard for harassment.

Justin Draeger: Okay.

Julia Judish: But it also subjectively needs to be unwelcome. And so that's actually leads into our topic today, hug or handshake? There isn't a bright line rule because the answer may depend on your specific relationship to that individual, or the kind of personality the individual has.

Justin Draeger: All right. So, let me ask a question. In this room, who is the most objective person that you see?

Julia Judish: There's no way to tell.

Justin Draeger: So, in this room, I'm ... So, we have different ages, which I assume leads ... Like a reasonable person who's a millennial might have a very different standard than a reasonable person who's a baby boomer. Or maybe the region you're from, or even like your ethnicity might play a part into whether it's a hug or a handshake-

Julia Judish: Or a kiss on the cheek.

Justin Draeger: Or a kiss.

Julia Judish: Absolutely. And that's a frequent issue that I hear from clients who have international offices or international workforces, even within the US, where someone ... They'll get a complaint, and they'll say, "That's his style." People have different senses of personal space based on the culture they're from. How close is too close to stand? Even without touching, how close can someone stand to you without you beginning to feel uncomfortable? That measurement-

Justin Draeger: Are you gonna answer that question or ... ? You can't just throw that out there. Beth, how about for you?

Beth Maglione: We invite you all to experiment with this with your colleagues. It should be awesome.

Julia Judish: But that measurement is different depending on the culture and environment that each person grows up in.

Justin Draeger: So, it doesn't feel like there's any clear guidance. I'm not saying it's-

Julia Judish: There's no rule book.

Justin Draeger: There's no rule book.

Julia Judish: ... for the area that we're talking about.

Justin Draeger: Okay, so let me ask you a question. Do you recall, anyone of you in this room, the last time you were professionally, by a professional colleague, the last you were hugged?

Beth Maglione: Yes.

Justin Draeger: Okay, was it recent?

Beth Maglione: Yes.

Justin Draeger: Like today?

Beth Maglione: Yes.

Justin Draeger: And was it unwelcome?

Beth Maglione: It was not.

Justin Draeger: It was not, not welcomed?

Beth Maglione: It was surprising, because this is not a person I work with all the time. And then every time, I remembered when I received the hug ... Sort of when the hug began to take shape, I was like, "Oh right. Oh, right we're doing this. I forgot we do this."

Justin Draeger: So, the arms extended or came out or okay ...

Beth Maglione: "Oh, okay this is happening. I forgot that this is a thing that happens." And I would not have initiated a hug, probably. But it was not unwelcome. It was fine.

Justin Draeger: It was fine?

Beth Maglione: Yes.

Allie Bidwell: So, you were just kind of like you didn't care either way?

Beth Maglione: I just stood there limply.

Justin Draeger: Dead fish is always sort of the stance I take too when I'm being hugged. All right, so it was fine?

Beth Maglione: Yes.

Justin Draeger: But you wouldn't have initiated it? That wasn't your go-to move?

Beth Maglione: Probably not. No, probably not.

Justin Draeger: Okay. Julia, do you remember the last time you were professionally hugged?

Julia Judish: Yes, in the past two hours.

Justin Draeger: And did you initiate or ... You guys just knew you had a rapport that this was happening?

Julia Judish: We had a long-standing rapport, and I was on my way to this podcast. So, I actually might have initiated the hug due to that relationship. But I waited to see, and they initiated.

Justin Draeger: And you were fine with it?

Julia Judish: I was completely fine. Yes.

Justin Draeger: Okay. Allie?

Allie Bidwell: Yeah, within the last couple weeks. And it was fine. The person actually asked if they could give me a hug before they did it.

Justin Draeger: Well that's actually very nice.

Allie Bidwell: I was like, "Yes, please."

Justin Draeger: Yeah. All right.

Allie Bidwell: Yeah.

Beth Maglione: Is that your preference?

Allie Bidwell: Not always, no. I mean, with some people I don't care, really. Just sort of like we've been saying, it depends.

Beth Maglione: Right.

Julia Judish: So, let me ask you. Would you have felt comfortable saying no?

Allie Bidwell: See, yeah. I don't know. I don't know what I would've done in that situation if I really didn't want a hug.

Julia Judish: Yeah. So, what if it was someone else that you were comfortable with that person-

Allie Bidwell: That's an interesting question.

Julia Judish: And it's someone else who, for whatever reason, "Ew," or you just don't want them. And they say, "Can I give you a hug?" And it's in a professional context.

Allie Bidwell: Yeah, I almost feel like you can't say no, especially if that person is your superior.

Julia Judish: So, what if you had planned out ahead of time what to say? What if you had a, "I'm not a huggy person" response? Would you feel more comfortable with that?

Allie Bidwell: Yeah.

Julia Judish: Is it the being called on the spot?

Allie Bidwell: Yeah, I panic.

Julia Judish: Yes.

Allie Bidwell: And if someone said that and I don't feel like I could've just said, "No," and then what? Walked out of the room?

Justin Draeger: You're not talking about Beth, right? I just wanna be clear.

Beth Maglione: Let me apologize for that. That was weird. Thank God I asked first, though.

Justin Draeger: All right. I wanna focus in on something that you said Allie, though, that if it's your superior it's hard, though. Because now we're talking about a power dynamic.

Allie Bidwell: Right.

Justin Draeger: But you only have so many superiors at NASFAA. We're not a huge ... But superior or the power dynamic might exist outside of your official work structure, too. So, for example, we're a membership organization. If I have a member that wants to give me a hug, yes they're my customer, they're my member, we love them. But there's a power dynamic there, too. It might be a little weird for me to constantly be rebuffing physical contact with all of our members.

Julia Judish: Yes.

Justin Draeger: So, how do you navigate a power dynamic? So, there's the acute one-

Allie Bidwell: But that's going the other way, though.

Justin Draeger: What do you mean?

Allie Bidwell: If someone who is more like your customer, like you said, is initiating a hug with you-

Justin Draeger: But there's still a power dynamic or a power differential.

Allie Bidwell: Right, but it's the opposite way from what I was talking about.

Justin Draeger: So, you're talking about ... Oh. You're just talking like a colleague? I thought you were talking about in a chain of command.

Allie Bidwell: Yeah. No, that's what I was talking about.

Justin Draeger: So, that's a very-

Allie Bidwell: But you're the superior in this situation.

Justin Draeger: Oh no, I'm not.

Allie Bidwell: And you're receiving-

Justin Draeger: Not to the ... I don't feel that way, I really don't. So, if a member comes to me and they wanna put their arm around me or ... So, in this very day, I've interacted-

Allie Bidwell: That's why we have cardboard Justin.

Justin Draeger: I've interacted with several members today, and some members I gave handshakes to, and some members I did a handshake that they pulled into a hug, and some members I full-on hugged. And some of it's brain memory, like, "What have I done with this person before?" But some of it is just trying to figure it out in the moment. But when I'm with members, I feel like I don't wanna offend any members. And I think a lot of people who work with customers don't wanna offend their customers or ...

Allie Bidwell: Right.

Julia Judish: Yes. That's the feeling of not wanting to give offense is very common among employees, and if I can make a gendered statement, it's something that most girls in this country are raised not to give offense to be polite, not to be rude. And so to use an example that I can ... On this broadcast, I don't want to describe in detail, but I'll just refer to Louis CK, and in his apology for the kinds of behaviors in which he engaged, he said, "I thought it was okay because I asked, 'Would it be okay if I did,'" an act which is actually illegal to perform in public. And apparently, people must have been so shocked that they didn't say no. And he did it. But it was not okay with them. And yet, even in that situation, there was such a power differential. He wasn't their supervisor, but he was an important person in their field. They did not feel okay, comfortable, saying, "No, don't do this really outrageous action in front of me." And it made them very uncomfortable to say that.

Allie Bidwell: So, it's almost like coercion in that case.

Julia Judish: Well, yes, but so ... On the one hand, it's certainly better for people to ask. Right? You felt better having someone say, "Is it okay for me to hug you?" 'Cause that was not just assuming that you were okay with being hugged.

Justin Draeger: And that's being very much reinforced today. So, you have children.

Julia Judish: Yes.

Justin Draeger: I don't know how old ... Are they older?

Julia Judish: They're grown.

Justin Draeger: Oh, they're grown? Okay.

Julia Judish: Yes.

Justin Draeger: So, today, like my kids since middle school have been receiving messages about affirmative and positive consent.

Julia Judish: Yes.

Justin Draeger: So, this is a big thing. But you're going a step further and saying by even asking the question you might be exerting undue influence on somebody when there's a power differential?

Julia Judish: No. I'm saying that asking the question is not a guarantee that the person won't feel pressured.

Justin Draeger: It still creates the same ... could create the same pressure.

Julia Judish: Not deliberately pressured. It makes it better. It's a respectful ... So, that was part of why I was asking Allie if you had something that you could say like, "I'm not huggy," would that make it better? Because the dynamic of rejecting someone is difficult. The dynamic of saying something that's not about them makes it easier.

Justin Draeger: So, you bring it on yourself.

Allie Bidwell: Right.

Julia Judish: Right.

Allie Bidwell: Or say like, "I have a cold. I don't wanna get you ... "

Julia Judish: Right.

Justin Draeger: But if you say you're not huggy, you've basically cut it off. 'Cause one day you'll be healthy again.

Allie Bidwell: Right.

Justin Draeger: Presumably. "She looks healthy today, I guess I'm going in for that hug."

Julia Judish: Except then that she can't hug anyone else, right? Because then it's, "I've seen you. You are huggy."

Justin Draeger: Right.

Julia Judish: "Just not with me."

Justin Draeger: Oh, boy. We've created quite a quagmire here.

Julia Judish: Right. But it's still better to use your words.

Justin Draeger: Okay, let me ... Can we go back to the gender thing for just a moment? So, am I inferring right that you're saying girls are raised sometimes to not reject, to be cognizant of not rejecting an offer for a hug or whatnot. So, do I infer from that that boys are not raised from that? Or are boys mostly the ones putting the hugs on others? Or what's the ...

Julia Judish: No, I wouldn't go so far as to say boys aren't raised with that.

Justin Draeger: Okay.

Julia Judish: Just that the message tends to be stronger with girls. I think boys, generally, are raised not to deliberately make others feel uncomfortable or impolite, and are just ... A man in a workforce is just as vulnerable to feeling pressured by a superior or by a member or customer into a situation in which they are uncomfortable.

Justin Draeger: So, there's two aspects to this. If you are the one ... And I think we've probably all been in the situation where you approach someone and you may think you're on handshake terms and they think you're on hugging terms. And then you do a little dance and it's a little awkward. And most of the time I do that dance if they've offered the hug, I'll immediately transition into a hug because it does feel like more rejecting to not reciprocate. So, there's that aspect. The other aspect is if you are a person approaching someone, is it just ... I guess I'm questioning is the general don't hug people?

Julia Judish: So, it depends on the relationship. So, I think Beth, you and Justin talked about doing this sort of mental inventory, "What's the past history?". And the past history certainly matters, though you can't assume just because someone is comfortable in one situation, they'd be comfortable in another. So, the hug I had was prior to eating a meal together, it was in a much more social context.

Justin Draeger: You hadn't seen each other in a little while?

Julia Judish: In a little while, and that was fine. And I'd probably be fine with these individuals hugging me anytime, anyplace. But there could be a situation in which in a much more professional context, someone you encounter and who has initiated a hug with you in the past, may not welcome a hug because there's an audience and because it takes them ... it sends a message of being less professional. So, being conscious of the context matters. I think it's incredibly important to be conscious of any power differential. And if you are in a position

in which there's a power imbalance where you're the more powerful one, my rule of thumb is let the other person initiate.

Beth Maglione: Reciprocate only.

Julia Judish: Reciprocate only, because you cannot have any confidence that their acquiescence, either physical or to your question, is actually what they want to be doing, actually what their preference is. So, you want to be guided by their preference with respect to physical contact.

Justin Draeger: Yeah.

Beth Maglione: It gets confusing quick, right? 'Cause as you're talking about this mental inventory, I mean, just today I thought, "Oh, right. Okay, we hug. Let's hug. Great, we're doing a hug." And Justin, you're talking about like at a conference, maybe you're there and you're in a conference, there's 3,000 financial aid administrators, you see somebody you know, you literally can't go through the mental Rolodex fast enough, right?

Justin Draeger: Well, you can't, but I of course keep notes.

Beth Maglione: I know. And then I'll just say this. The handshake. Okay, I want to talk about this separately. It feels, and this might be a generational thing, in fact it probably is, or it might a gender thing, I don't know. It feels like anachronistic to me. Like when I have gone out for the bold handshake, I feel like people are like, "Hey, how you doin'?" And like-

Justin Draeger: It feels like you would never truly greet someone that you worked with ... That might be something I reserve for brand new people.

Beth Maglione: I'm not sure what is more awkward for me, the awkward hug or the awkward handshake. But long story short, they're both completely awkward.

Justin Draeger: It feels like a corporate gesture of yesteryear, maybe, a little bit to me.

Beth Maglione: I've even had people tease me like, "Oh, okay. Let me shake your hand."

Justin Draeger: "Thank you, Miss Maglione," sort of thing? Yeah.

Beth Maglione: Yeah, because ... Yeah, my dad was in business many years. He definitely said, "When you go into business, you need to do the firm handshake." I think Sheryl Sandberg talked about the firm handshake for women. I embrace the firm handshake and-

Julia Judish: And the limp hug.

Beth Maglione: And the limp hug. Exactly. And I just ... But sometimes, it too feels awkward.

Justin Draeger: No, it did feel ... I offered a handshake to a member today that I've known for years. And it felt like this is where ... I mean, I've known her forever. I mean, I know about her daughter and we've talked about kids. And it's a little weird.

Beth Maglione: Yeah, how do you sort that out? It really is. I'm not sure which one is-

Allie Bidwell: This might be a generational thing, but that may be where the head nod comes in. Like, "Hey, how's it going?"

Justin Draeger: Julia, when you came to our door to come in, because you can't get into the NASFAA offices without ringing in, I did not offer you a hug or a handshake. Did you notice that?

Julia Judish: Well, I was carrying a backpack so ...

Justin Draeger: Well, I mean, you still could have shaken a hand right, if I had offered it?

Julia Judish: Yes. That's true.

Justin Draeger: Okay. And did you feel like that was less warming or welcoming by not doing anything?

Julia Judish: No.

Justin Draeger: You felt fine?

Julia Judish: I felt absolutely fine.

Justin Draeger: Okay.

Julia Judish: Yes.

Justin Draeger: Well, great.

Julia Judish: You smiled at me, you welcomed me.

Justin Draeger: Yeah.

Julia Judish: Right.

Justin Draeger: I was genuinely happy you were here-

Julia Judish: That's very good.

Justin Draeger: ... to sort through these issues. All right, I have one other question, all right? So, you said, as a general rule, which I always appreciate general rules because as Beth mentioned, you can't do the mental math on everybody, especially when

you're in a huge setting. When there's a power differential, do not initiate, reciprocate instead. Okay, almost every manager, director I know, at some point, is going to find themselves dealing with an employee who's having a human issue that's leading them to an emotional outcome that feels like they might need an embrace because they are in a very rough spot. It might have nothing to do with work. It could have something to do with their personal life. And I'm not talking female or male or anything in between. I'm just saying everybody is a human and they have human moments. What do you ... Even in that situation, do you just let them hang out there?

Julia Judish: What I say is, "Do you need a hug?"

Justin Draeger: Okay.

Julia Judish: Not, "I want to give you a hug," or, "Can I give you a hug?" Because you're giving them a way to say, "Yes. Yes, I need a hug." That's their way of initiating it, is a "yes." But you also give them an out where they can say,-

Justin Draeger: I'm okay.

Julia Judish: "I'm okay." But it's not a rejection. It's not, "Can I give you a hug?" "Do you need a hug?"

Beth Maglione: I like that. That puts the person-

Julia Judish: In control.

Beth Maglione: ... who's having an emotional moment in control of the situation. Yeah, it's interesting because okay, so there's this with the love languages, and one of the ways that people, humans, express appreciation and love to other humans in any kind of setting is through physical touch. And I've even read studies about how touch increases trust. It decreases cortisol hormone levels, stress hormones in the body. So, there is, I can see a good argument for wanting to reach out and maybe pat someone on the shoulder, say, "Do you need a hug?" Probably shouldn't ... You're saying I should not pat the crying person in front of me on the shoulder, probably.

Julia Judish: Well, patting is a step down from hugging, okay?

Justin Draeger: I'm glad you're clarifying this for me.

Beth Maglione: We need this hierarchy probably.

Justin Draeger: Don't pat me, but hug me all day long.

Beth Maglione: I'm not into patting.

Julia Judish: Or putting your hand on someone's wrist, right? I know I'm a toucher in conversation. I'm a short woman and I'm older and I don't think I'm threatening to anyone.

Justin Draeger: Except when you're representing us, then you're very threatening.

Julia Judish: In that sort of context.

Justin Draeger: That's right.

Julia Judish: And yet, I'm aware that the advice I tend to give is, "Be professional." Yet I give myself the permission to not consciously but in I retrospect realize, "I've just reached out and I touched that person on the arm as a way of connection."

Justin Draeger: So, let me go back to the gender roles for just a moment. Do you feel like that's more acceptable from a woman than a man who would be reaching out and touching someone on the wrist or the shoulder or ... ?

Julia Judish: I think our cultural expectation is that yes it is. And so it is less likely to be viewed as a sexual advance than perhaps someone else doing it.

Allie Bidwell: I can't really put my finger on it, but when I just think about the situation if a male coworker or boss or whatever reached for my hand or my arm, that would make me more uncomfortable than if he just patted my shoulder.

Justin Draeger: Although I do want to point out, as I was leaving one day from the office, I stopped by your workspace and I gave you a wave goodbye-

Allie Bidwell: I thought it was a high five.

Justin Draeger: Allie stood up and aggressively slapped me five, which I felt was like ...

Allie Bidwell: He leaned over and was like ... I had headphones on so I couldn't tell-

Justin Draeger: I was like, "I'll see you later." I was trying to get your attention. I liked it. I'm telling you, it was not unwelcome. It felt like I had just sunk a three-pointer or something.

Beth Maglione: See you tomorrow.

Allie Bidwell: High five boss, another awesome day.

Justin Draeger: We'll be back tomorrow, another day at NASFAA.

Julia Judish: Yes. But the example I was giving of touching the wrist is when I'm sitting across the table from someone. So, it would be an actual lunge for me to reach and touch them on the shoulder.

Allie Bidwell: Yeah.

Justin Draeger: Well, we just had an all-staff strategic retreat this last week. And as part of it, we had someone from DC improv come in and they did improv work with the entire staff, try to reinforce the "Yes, and ..." philosophy, like build on people's ideas. But the way she phrased it was, there was an improv game we played. But she said the areas that are safe to touch were between the shoulder and the elbow, right? And in this context, it was the knee, but that was because we were playing a game.

Beth Maglione: But give fair warning.

Justin Draeger: Well, we were playing tag. It was like a seated game of tag.

Julia Judish: Well, not usually. The knee is usually off-limits.

Justin Draeger: So, you would disagree.

Beth Maglione: Legal counsel advises against knee touching.

Julia Judish: Yes.

Beth Maglione: It sounds like.

Justin Draeger: But the shoulder to the elbow-

Julia Judish: But not the wrist? Really?

Justin Draeger: No, not the wrist.

Allie Bidwell: Well, like he said we were sitting, and there was running involved.

Justin Draeger: Now, do you think ... Here's another dynamic I wanna add. Obviously, since I've become woke in the last several years, and I say that half-joking, but I'm serious. As a male, I didn't grow up fearing for my safety. I've never felt leered at, if anything I felt shunned. It's fine. But I've become sympathetic and learned about the experiences that women face in school and in the workforce. There's a question, do you think ... So, this came up during the election with Mike Pence, this idea of some men have a rule that they will not be alone with women and will not go out to lunch with a woman. But in a way that becomes sexist because you're cutting off opportunities then.

Julia Judish: It's a very destructive rule.

Justin Draeger: Yeah.

Julia Judish: Because so much of career related progression is about conversations that happen and maybe not in formal settings, and that rule is offering those opportunities only to men and not to women.

Justin Draeger: Okay. So, my question is then, is that with another male, I know this about myself, I am much more likely to reach out and touch their arm or their shoulder or when I see them for the first time, even if it's not a hug or a handshake, to just be like, "Hey, what's going on?" And I purposely will not do that with females. And that's not a form of ... I mean, it is gender related.

Julia Judish: So, does the touching come with mentoring advice?

Justin Draeger: Probably not. So, it's not the same.

Julia Judish: Right, it's not the same.

Justin Draeger: It's okay.

Julia Judish: It's okay.

Justin Draeger: In fact, it would be in the differential there in genders, it would probably be advisable.

Julia Judish: Advisable to wait to see whether she initiates it, and then to reciprocate.

Justin Draeger: All right. And with women, you wouldn't have that same limitation because of the differential.

Julia Judish: Yes.

Justin Draeger: Okay.

Julia Judish: Mostly, not always.

Justin Draeger: Yeah. There are other differentials. There are power differentials.

Julia Judish: There are power differentials.

Justin Draeger: We talked about that, yeah.

Julia Judish: Right. So, if I'm working with an associate, a male associate, I should not give myself that leeway.

Justin Draeger: Right. So, you wouldn't be reaching out and touching them all the time.

Julia Judish: Right. I don't.

Justin Draeger: Not that you wouldn't be, you do not.

Julia Judish: Yes.

Justin Draeger: Okay, just to clarify.

Julia Judish: Yes.

Justin Draeger: All right.

Beth Maglione: I guess from a leadership perspective, how do you make sure you're fostering a culture that isn't allowable to ...

Justin Draeger: That's a good one to get into a little bit because this isn't a hug and a handshake per se, but it does come down to language and how you communicate with people. Some of this is also maybe generational. But as someone who, maybe until recently, I feel like I've been looking a lot older lately, was treated a lot like ... You might hear like, "Kiddo," or ... You know what I'm saying? The things that would sort of put you in your place.

Beth Maglione: Yeah-

Justin Draeger: That ties into the culture of the organization, power differentials.

Beth Maglione: Right. Yeah, there's definitely ... So, I can think of many well-intended comments, especially when I was a slightly younger woman, I would say, generally older men would say things like, "Hey, kiddo." Or-

Allie Bidwell: Sweetheart.

Beth Maglione: Yeah. I have heard that makes me cringe a bit. But even less egregious, but still just kind of slightly, the diminutive, a little bit too precious. It's a little bit, I think, unintentionally and inadvertently belittling. Maybe that's part of this larger cultural issue, or maybe that's just a generational thing. It's hard for me to suss those out. I guess, if you are a leader or supervisor of any age, how do you make sure that, generally speaking, besides modeling good behaviors, how do you make sure that this is sort of not okay in your culture and people will feel good at all ages and genders?

Julia Judish: So, I know you ruled it out, but I think I'm gonna go back to it because it's very important, and professionals who have done workplace studies have found that the modeling of behavior from the top is enormously important in setting the tone in the workplace. And so, it is an extra burden for the top person in terms of remembering that they're always wearing that hat, even if you run into them in the supermarket. It's not like there's a venue in which your employee the next day or the next year will forget what you said or did, and that you're his or her boss. So ...

Justin Draeger: I think that can be really hard for people in leadership to do, because they don't feel any different, especially if they were once a peer.

Julia Judish: Oh, yes.

Justin Draeger: And now they're in an organization of power, of formal power. If they go out for drinks later or happy hour, they don't feel they're any different, but there is a difference.

Julia Judish: Everyone else does. Everyone else does, and so it is ... It can be, and I've heard people say that it feels isolating to, especially in the situation that you've said, where you have been up here and now you're not, now you're in a position of authority. And that's not to say that friendships end, long-standing personal relationships and bonds of respect and affection go away. They don't.

Julia Judish: But how leaders conduct themselves and how they're seen conducting themselves, because it can also be the case, especially in larger organizations or when new people, the new people may not know the history. They may not know that you were college roommates together and best man or woman at each other's weddings, and they just see that form of interaction. And it's a responsibility that those in positions of authority have is to try to ... You can't really make a mistake modeling professional behavior, but you can make a mistake if you assume that everyone is comfortable with or assumes a level of sort of casual informality that includes touching. Because you're setting the tone, this is the way. Of course, I'm not saying there should be no touching. I'm just saying let others initiate it.

Justin Draeger: Right.

Julia Judish: Right.

Justin Draeger: Okay, let me talk about another thorny patch that I'd like to try to tread over. You are a supervisor. Okay, there's a power differential. Employees, and I'm coming at this as a male to female, they come in, they've changed something, her hair ... Something.

Beth Maglione: About their physical appearance.

Justin Draeger: Now, it's obvious there's something ... Yeah, about their physical appearance. And it's obvious. Like maybe they went from really long hair to short hair, it's obvious. Like my general rule is don't say anything about anything, or just say, state a fact like, "Oh, you got your haircut." And they'll say, "Yes." And you say, "There you go."

Beth Maglione: "I have no feelings about how it looks."

Justin Draeger: Yes, I have no feelings, because it ultimately does not affect your competency in any way.

Beth Maglione: "You look very competent with that new shorter haircut."

Justin Draeger: "You look just as competent as you've always looked with that hair."

Julia Judish: Yes. Yes, but that actually ... That joking line is the risk. And I've had, even aside from the authority differential issue, I've heard people say who have lost a lot of weight, that though initially they were glad to have it recognized, the positive comments about made them then feel, "Well, what were you thinking about me before?" And so ...

Justin Draeger: So, like the, "You look great," sort of thing.

Julia Judish: Yes, uninvited. But if an employee comes to you and says, "Do you like my new haircut?" You have to say yes.

Justin Draeger: You can't say-

Beth Maglione: That's the advice of legal counsel, ladies and gentleman.

Justin Draeger: Okay, let me write that down. Well, let me tell you, in my eight years as NASFAA president, and my years working before that, nobody has ever asked my opinion about their hair, so.

Julia Judish: All right.

Justin Draeger: Save maybe my wife, occasionally.

Julia Judish: Yes. In that context you also have to say yes.

Justin Draeger: Yes, okay. Not say, "I like it longer."

Beth Maglione: Learning a lot today.

Justin Draeger: I'm just saying that's good to know, because I do feel like, yes it's kind of jokey, but it's also sort of like ... There are obvious things you want to comment on because you're a human and you wanna say, "I acknowledge that you have done something different." Right? Like you can't just pretend like you're a computer.

Julia Judish: Or, I mean, I say things like, "That's such a great color sweater." I'm praising the color, right?

Justin Draeger: That seems fraught.

Julia Judish: Now, take a man, take a young woman wearing a sweater, saying, "That sweater looks great on you."

Justin Draeger: Right

Julia Judish: ... is a dangerous comment, if it's a close-fitting sweater.

Justin Draeger: Right.

Julia Judish: So, saying, "That's a great purple color."

Justin Draeger: Or say, "You're wearing a sweater. Fact." That's my go-to.

Julia Judish: Well, I'm not sure in that context-

Beth Maglione: What if you just yell, "Sweater! Haircut!"

Julia Judish: I get the, "You cut your hair." But the comment on, "Oh, you're wearing a sweater."

Justin Draeger: That might be ...

Julia Judish: I'm not sure why.

Justin Draeger: That might be too confusing, you're right.

Julia Judish: Yeah.

Justin Draeger: Okay. All right. Do you have anything else you wanna hit on? Is there stuff, other areas that we're not covering that you see come up and ... ?

Julia Judish: So, people say things that may not be the most wise comments in all good intention. And we've been talking a lot about being mindful, do the mental Rolodex of who initiated ... "Are they a hugger or are they not a hugger?" "Is there a power imbalance?" Sometimes our brains don't work that fast. It's always an okay thing if you did something and you're thinking, "Was that just cringey? Should I not have done that?" It's always okay to try to resolve any doubts that that other person may have, "How did he mean that?" by saying, "Oh, I hope I wasn't presuming," or, "That was just meant to be a friendly hug," or, "I didn't mean to indicate that you looked bad when your hair was long."

Justin Draeger: Right. So you're saying it's okay to say those things.

Julia Judish: It's okay to say and it diffuses the situation and it actually injects some humor in it, which also diffuses the situation. Or even after the fact, "I hope I didn't offend you with the handshake. I just heard this podcast, it really freaked me out."

Justin Draeger: Right. Well, speaking of intention, to what extent does intention matter? So, if somebody says an off-hand remark that somebody ... That maybe even is offense or borderline offensive, but they didn't intend any harm, is it still harassing?

Julia Judish: It can be. So, certainly intention matters. If your intention is to harass, that's relevant. If your intention is not to harass, that's not an iron-clad defense.

Justin Draeger: Based on the interaction.

Julia Judish: Based on, right. I mean, it certainly, it's relevant. And if I did something that made someone uncomfortable and didn't mean to, then I ought to say, "I'm sorry," and I should stop doing it.

Justin Draeger: If somebody's intent is not to harass, then you would think that once they were made aware of it, whether it's through HR, a neutral third-party, or directly in a diffusing way, that then they would say, "Oh my God, I would never. My intent was not that." And they would self-correct very quickly.

Julia Judish: They would self-correct and maybe apologize. But what becomes a problem is when people use that as sort of their-

Justin Draeger: Constant ...

Julia Judish: ... sense that, "It's okay because I'm well-intentioned, so that's okay." "I'm just a huggy person." "That's just the way I am," is not okay if you know that that's not the way you're being perceived. So, then you're deliberately doing something that you know makes someone uncomfortable. And so, if you reframe it as, "Well, what's wrong with me doing this when my intention is just to be warm and welcoming," or, "I'm someone who kisses my colleagues," or, "I'm someone who does this and it's all in good fun and it's all ..." If you reframe it as, "So your intention is to do something that you know is making the other person uncomfortable, that's okay because why?"

Beth Maglione: So, what if you don't know how it's being received. Okay, I tease my husband all the ... I'll share this. He is a hugger. He would say it's because he's Italian.

Julia Judish: Yes.

Justin Draeger: So, he's feeling like, "I was raised very huggy."

Beth Maglione: He says, "We hug in my family and that's what we do," and that I need to not be so uptight about the hugging.

Justin Draeger: Right.

Beth Maglione: I don't want to indicate he hugs professionally in his work-sphere excessively, but he goes in for the hug, yeah, for sure, in his personal life. So, we've gone back and forth about this, and my question is just sort of when is it appropriate? I mean, I do think you're talking about sort of being self-aware and also acknowledging. Is it okay to reach out to people and be like, "I'm a hugger, but I don't know. Do you feel like that ... Does that make you feel weird?" Then does that conversation make them feel weird?

Justin Draeger: I mean, it's no more weird though than the handshake-hug mismatch, where if you go in for a hug and they're going in for a handshake, and then you both switch.

Beth Maglione: Well, that's horrible.

Justin Draeger: And I've also had the cheek kiss where that's all confusing.

Beth Maglione: The European kissing?

Justin Draeger: Right.

Beth Maglione: Left, right, right, left? Why are we kissing?

Justin Draeger: It's all confusing.

Beth Maglione: I'm so confused right?

Justin Draeger: Right, and as long as you're kissing the air and not actually touching my face, I guess we're okay.

Beth Maglione: Well, yeah, germs is a whole separate podcast. Let's just ... yeah.

Justin Draeger: Yeah, so what do you-

Julia Judish: And let me also toss out there, religious belief. I mean, there are people who, because of their religious beliefs, will not, in certain circumstances, wish to touch someone of the opposite sex. And so, there's that issue, as well.

Justin Draeger: But to Beth's point, if you are the person who is initiating, we're not talking about the power differential right now, but colleague-to-colleague, is there anything wrong with, as we kind of alluded to at the beginning, there's nothing wrong with just saying, if there's no power differential, "Oh, can I hug you?" Is that what you said? I'm trying to remember now.

Beth Maglione: Do you need a hug?

Allie Bidwell: Do you need a hug?

Justin Draeger: Do you need a hug?

Julia Judish: Do you need a hug was for someone-

Justin Draeger: That's crisis.

Julia Judish: ... in distress. That's crisis.

Beth Maglione: Can we hug? Would you like to hug?

Julia Judish: Yes. It would be kind of weird to go up to someone in your office, "Do you need a hug now?" Just-

Justin Draeger: "You look distressed. But you've always looked distressed, so ... "

Julia Judish: Exactly. So, I guess my reaction to your husband ...

Justin Draeger: 'Cause we're talking-

Beth Maglione: I'm so glad we're finally going to get a ruling on this. This makes me so happy.

Justin Draeger: Because we're talking about equals here.

Beth Maglione: Yes.

Justin Draeger: We're not talking a power differential.

Julia Judish: Right, we're talking about equals. Yeah, so, among equals, people should speak up. People should use their words both ways. If someone is ... If it bothers you that someone brings their tuna fish sandwich into your workplace because it smells badly, tell them that you're sensitive to smells because they may not notice it. So, I do think that expecting people to be mind readers is not fair. And if there is no power differential, then there's not really an excuse to get really angry at someone for doing something that they don't intend to be bad, and you haven't given them any warning is unwelcome. So, assuming good intentions in others is a great way to have a nice workplace, and using your words. The two together, and then respecting what people tell you, the three together-

Justin Draeger: Is utopia. That's it.

Julia Judish: ... a really happy workplace. Because you assume everyone is not trying to do something bad to you and you know that if you speak up about something that makes you uncomfortable, they'll respect it.

Justin Draeger: You'll be heard.

Julia Judish: Right. And that you yourself are not constantly feeling like you're walking on egg shells among your peers because you feel confident that if you were doing something that bothered them, they'd tell you.

Justin Draeger: Yeah. Julia, thank you for coming in and helping us sort this out. I feel like we've answered all questions.

Julia Judish: It's been great fun.

Justin Draeger: Yeah. For those who want to learn more about these types of issues, power differentials, being cognizant of respect in the workplace, our leadership conference, we have a new track this year. It is advanced topics in leadership and management. That conference is February 25 to 27, here in Washington, DC. We'll have more "Director Download" episodes for you in the future. In the meantime, send us your comments, remember to subscribe, and tell a friend. Thanks everyone.