

InfoPAK<sup>SM</sup>

## Recruiting & Retaining In-House Counsel

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# Recruiting & Retaining In-House Counsel

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Attracting qualified professionals and motivating them to give their best are top concerns for today's corporate legal departments. This InfoPAK<sup>SM</sup> offers some tips on how to successfully recruit, hire, and manage employees.

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This material was compiled by Robert Half Legal.

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# I. Recruiting, Hiring and Managing: An Overview

The job of recruiting top talent in today's increasingly competitive market for legal professionals has necessitated a new playbook of recruiting strategies. The demand for attorneys, paralegals and administrative staff with the right expertise to address the changing array of legal issues that companies face is forcing legal organizations to re-examine how and where they search for skilled talent and ways to attract such professionals.

Then, once a first-rate team is assembled, general counsel and supervisors must encourage staff to strive for peak performance and work effectively to accomplish common goals. Just as essential is the ever-present challenge of keeping staff motivated and engaged in the work to guard against turnover.

And despite your best efforts, sometimes you'll be faced with problem employees or other difficult situations. Knowing how to promptly and appropriately react in such situations allows you to minimize the impact of adverse circumstances on your staff.

This InfoPAK offers tips on how to successfully recruit, hire, manage, and retain skilled and high-performing employees.

The following is a summary of the areas we'll cover in detail:

- **Recruiting Top Talent:** Before you begin the hiring process, you should have a comprehensive recruiting strategy in place. This involves accurately identifying not only the current work required but also forecasting possible workload peaks and valleys, which will help you decide the type of employee required — full-time or part-time — or whether you even need a new hire at all. Could the work at hand be more effectively addressed by a temporary project manager? After creating a plan, prepare a job description and research compensation trends in your area.
- **Hiring the Best People:** A well-prepared job description will help you evaluate the quality of the resumes you receive and facilitate the hiring process. When you've decided on candidates you'd like to interview, the job description can also assist in developing questions to ask during these meetings. Once you have identified a top candidate for the position, be sure to check references thoroughly in accordance with your company's policies and/or procedures. And once new hires are on board, providing a proper orientation is essential so they can hit the ground running.
- **Motivating and Managing People:** Sustaining your team's productivity levels and minimizing turnover requires that you effectively manage and motivate employees to give their very best. Providing a supportive work environment that offers open communication and honest feedback are among the best ways to elicit peak performance from your legal staff.
- **Handling Difficult Situations:** Even the strongest companies can face difficult times that make staff reductions necessary. And managers who employ the best hiring strategies and supervisory styles are not immune to the problems presented by underperforming team members. How you deal with a variety of challenging

workplace situations – including layoffs and terminating employees – will determine whether you’re able to protect your company as well as the morale of the rest of your team.

## II. Step-by-Step Guidelines to Recruit Top Talent

### A. Determining Your Staffing Needs

As corporate legal departments attempt to address rising workloads while also containing human resources costs, they’re often faced with the challenge of doing more with less. There is an alternative, however, referred to as flexible staffing. This approach begins with reassessing your employment requirements in terms of your department’s long-term objectives and then determining the most effective manner to achieve those goals by utilizing a well-chosen mix of full-time and project legal professionals.

#### 1. Fill Needs, Not Desks

As caseloads increase and deadlines loom, many hiring managers and administrators respond by immediately attempting to fill job vacancies or create new positions. A well-planned hiring process can help you keep up with the rapid pace of change within organizations today.

To cost-effectively maintain access to top legal talent, try looking beyond the “one person, one job” approach. When a staff member leaves, don’t automatically assume you must replace him or her with another full-time professional with the very same qualifications. Examine how the work may have changed since the last person who held the position was hired: Are new skills and abilities needed now? Also consider whether some of the job responsibilities could be redistributed among existing staff. Duties that must be performed only occasionally can be assigned to a qualified project professional.

As you are evaluating your requirements, solicit input from legal team members and other employees and managers who regularly interacted with that position in the past. Ask them to identify the legal skill set and interpersonal capabilities that are needed for the position to ensure the kind of support and results desired can be delivered.

If you are considering creating a new position, similarly check with any staff members who you expect to interface with the position for their thoughts on the required skills and competencies – as well as their ideas regarding the scope, volume and frequency of the anticipated work product. Such input will help you develop thorough and comprehensive criteria for the work as you move forward with the staffing process.

#### 2. Evaluate Long-Term Requirements

After you’ve determined the staffing needs for the position in question, step back and consider the big picture of your requirements for both the identified work and work that’s anticipated for the

future. In addition, conduct a comprehensive analysis of your entire department's employment trends for the past year. By identifying workload peaks and valleys, you can better plan for upcoming demands.

### 3. Initiate a Flexible Staffing Plan

While a full-scale staffing evaluation for your department is recommended, you may already know how well your staffing plan is working without doing a formal analysis. The indications are obvious. Low morale, missed deadlines and increased absenteeism are danger signs that your team is understaffed. If that's the case, a flexible staffing plan – carefully thought-out and executed – should be your first priority.

#### Flexible Staffing

Old Staffing Paradigm	Flexible Staffing Paradigm
Think job	Think tasks and responsibilities that are keyed to business goals and enhance an organization's ability to compete
Create a set of job specs	Determine which competencies and skills are necessary to produce outstanding performance in any particular function
Find the person who best fits the job	Determine which combination of talent can best handle the tasks and responsibilities required
Look mainly for technical competence	Find people who are more than simply technically qualified but who also can carry forward your company's mission and values
Base the hiring decision primarily on the candidate interview	View the candidate interview as only one of a series of tools designed to make the best hiring choice
Hire only full-time employees	Consider a blend of full-time employees and contingent workers to meet variable workload needs



The percentage of professionals in today's labor force who are working on a temporary or project basis is rising — for a variety of reasons. Specialists at very high levels often choose interim assignments over full-time work because of the schedule flexibility and diversity of projects and work environments. This is a boon for companies, which are able to take advantage of the in-depth knowledge and experience these individuals possess.

#### 4. Determine the Kind of Help You Need

Once you've determined that a strategic flexible staffing plan can help you achieve maximum productivity, examine the different types of temporary professionals available:

- Pinch hitters fill in during employee absences and provide assistance during peak work periods. They can also help you bridge the gap during job vacancies resulting from an extended job search or hiring freeze.
- Specialized experts include professionals with skills that don't exist internally who can help with specific new initiatives.
- Professionals for special projects can work with full-time staff or with technical experts on one-time tasks, such as automated litigation support for a particular case.

If you do decide to hire temporary professionals, the obvious benefit is that you don't become locked into maintaining additional staff you may not need on a regular, ongoing basis. Instead, you turn a portion of your largest fixed cost — labor — into a variable cost that is tied to your changing workloads.

Additional advantages of hiring temporary workers include:

- Protects the jobs of full-time employees, enabling you to avoid a demoralizing cycle of over hiring, layoffs and costly rehiring when conditions change again.
- Lessens the burden for legal staff that may already be spread too thin due to increasing workloads.
- Provides access to skills required for special projects, such as e-discovery initiatives, that may not be available with current legal staff.
- Offers a trial period during which you can evaluate a temporary or project professional to determine if he or she is a strong candidate for a full-time position.

#### 5. Develop a Persuasive Business Case for the New Hire

Once you've determined the kind of help you need, whether it's a full-time legal professional, temporary or project hire, you may need to justify the desired staff addition to senior executives.

How do you build an effective and persuasive business case that will enable you to secure agreement and funding to begin the hiring process?

We're all aware that most all business decisions that involve a potential expense are evaluated through a cost/value analysis. Essentially, will the total expected cost of a project yield business value that is equal to or greater than the financial investment?

If you need to develop justification to hire a new legal professional, develop a detailed and comprehensive proposal. Ask yourself the questions included in the following guide – and then use your answers to build a strong business case to demonstrate that a positive decision to hire will ultimately bring benefits and value to the business that outweigh the cost of investment.

## Guide to Building a Successful Business Case to Hire New Staff

Why is new staff needed? State the problem or issue – the reason for adding a new legal professional. Has the workload increased? Are there new cases that need to be managed? Do you want to increase productivity or improve response to clients? Do you require specialized legal skills that current staff members don't have? Are multiple deadlines imminent that won't be met with the existing workforce? Is the proposed new staff part a solution for the organization's growth objectives?

What are the job responsibilities? Summarize the job description and the responsibilities of the position. Where will this hire fit into the existing team? What is the reporting structure?

What are the expected benefits? Identify the benefits, both short- and long-term, you anticipate as a result of hiring new staff. Will new revenues be realized? Will customer satisfaction be enhanced, which in turn could generate additional business? Also, outline the possible risks of *not* hiring new personnel. For example, can the organization afford *not* to hire a new professional? Are experienced staff members totally burned out because of excessive workloads and may decide to resign? Recognize that continuously overworked employees are consistently more stressed and less productive – so factor that into your business case if appropriate.

What is the cost for the new hire (whether permanent, temporary, full-time or part-time)? Itemize all anticipated expenses associated with the new hire – salary, health insurance and other benefits. If you plan to add the headcount permanently to the payroll, annualize the expense, including "loaded" costs such as vacation, possible bonuses, pension funding, training, etc. If you're proposing a temporary worker, include the expected expenses for the duration of the project. If the new hire will offset overtime payments you're now paying to existing staff, factor that into your cost summary as well as any potential new business revenue that the new professional may generate.

What is the timeline? Outline the anticipated timeline for the new hire, as well as any particular hiring strategies you may be planning.

If appropriate and viable – discuss why your hiring proposal will provide a long-term solution to staffing issues.

Conclusion and summary – As you summarize the business case, make sure to include clearly defined business benefits or results in your proposal as well as specific metrics to support those benefits. Your objective is to present a credible solution that meets the needs of the business; an investment that will add value to the organization. Also, remember to include potential risks to the business if your proposal is *not* approved.

## 6. Monitor Your Staffing Activities

Flexible staffing is a dynamic, ongoing process. Once you've put a plan into action, you need to regularly reassess your human resources needs in light of possible shifts in your organization's priorities, client demands or emerging competitive threats. This allows you to make any necessary adjustments, such as utilizing paralegal project professionals in new areas if you find they have additional knowledge of which you were previously unaware.

As you consider modifications to your staffing plan, talk with your full-time staff to solicit their input. Ask how project professionals are working out. Are they making a difference in workloads? Members of your team who are closest to the projects are obviously in the best position to offer this feedback.

If intelligently planned, implemented and monitored, a flexible staffing approach offers your legal department a cost-effective way to deal with fluctuating workloads while maintaining your full-time team's morale and productivity.

### B. Using Competency Modeling

Whether you decide on full-time, part-time or project professionals, what qualities should you seek in potential staff members? Many firms today are using a process called "competency modeling" to help target the characteristics that distinguish top performers. This information can then be applied during the hiring process to evaluate prospective employees.

Competency modeling involves determining, as accurately as possible, what combination of traits and abilities are required for professionals to excel in their jobs. This process not only helps you identify the most qualified legal staff, but it also serves as a tool to align staff performance with business objectives and uncover areas in which employee training might be useful.

Nick Boulter and Murray Dalziel, Ph.D., suggest a series of stages in the development of a competency model for a specific job in their book, *Achieving the Perfect Fit: How to Win with the Right People in the Right Jobs*:<sup>1</sup>

#### **Stages in Competency Modeling:**

Define the criteria for outstanding performance in the role.

1. Select a sample of people performing the role for data collection.
2. Collect sample data about behaviors that lead to success.
3. Develop hypotheses about the competencies of outstanding performers and how these competencies work together to produce desired results.
4. Validate the results of data collection and analysis.
5. Apply the competency models in human resource activities, as needed.

## I. Building An Effective Competency Model

### a. “Interview” Your Top Talent

Nearly every firm employs several standouts who consistently outperform their peers. For example, if you’re a senior corporate counsel overseeing 12 employees, you may have a particular staff member who has become the troubleshooter by default. Coworkers rely on his or her interpersonal skills and analytical abilities when they need to resolve an issue – two traits to incorporate in your model. The key to competency modeling is to identify all of the traits and capabilities inherent in extraordinary performers.

One of the easiest ways to gain this insight is to observe your outstanding employees directly. As you do, ask yourself:

- What, if any, special skills do they possess?
- What personality traits do they share?
- What common attitudes and beliefs do they bring to the job?

Typically, patterns will emerge during your research; and these are the qualities you should incorporate into your competency model.

### b. Talk to Clients and Vendors

Other sources for valuable input for a competency model are your contacts within the company and the vendors you use. Solicit feedback from those with whom staff members interact on a regular basis. Ask for specifics about why they value a particular employee. They may cite that an employee listens carefully to their requests and often is able to resolve issues independently, rather than passing problems on to others. Based on that information, you would incorporate problem-solving ability, listening skills and accountability into your competency model.

### c. Put Your Competency Model to Work

Once you've determined the skills and competencies your company requires, you’re ready to move to the next step – locating individuals who demonstrate these capabilities. If you're in the process of hiring, you should stipulate those skills in your job description for the position (see Section II.C., “Writing a Job Description”). And you should also develop interview questions that specifically address the targeted competencies; for example, problem-solving or strategic planning. With pre-established guidelines in place, you will increase your odds of making the best hiring decisions.

A fully developed competency model also can help you enhance the skills of your current employees. Weigh their strengths against those you've found to be most important to your firm's success. If you find a gap that applies to a significant number of workers, you may want to invest in relevant training. It can be an excellent way to build and promote leadership from within the organization.

## C. Writing a Job Description

A detailed job description should be developed well in advance of the recruitment process. The job description will serve as the basis for your job ad (see Section II.D., “Writing the Right Job Ad”) that you will use in your recruitment efforts; and as you receive and review resumes, it will help you narrow the field. The more accurate and comprehensive your job description is, the more successful you will be in attracting appropriate talent for the position. And when the candidate you select comes on board, you will be able to define exactly what’s expected on the job.

A well-written job description should include the following:

- Primary Responsibilities – Outlines the main duties of the position.
- Secondary responsibilities – Describes periodic, rather than daily, duties (i.e., “train new staff members”).
- Experience Required – Specifies type and amount of experience. For example, does the candidate need to be familiar with a specific practice area and industry (i.e., extensive knowledge of intellectual property for software manufacturing) or have a minimum number of years’ experience in the field?
- Compensation – Establishes a starting salary range for the position.
- Preferred Educational Background – Specifies degrees, certifications and other credentials sought. Note of caution: Be careful not to turn this item into a “deal-breaker” later in the hiring process. Credentials can be a useful screening device, but their absence should not prevent you from hiring an otherwise qualified, experienced prospect.

## I. Sample Job Descriptions

### Sample Job Description #1

Position: Associate General Counsel for XYZ College

Job Summary: Provide a wide range of legal services to the client; report to the General Counsel.

Primary Responsibilities:

Assist the General Counsel, primarily in the areas of employment law, contract and commercial law, and general civil litigation.

Litigation responsibilities include both assisting the General Counsel and supervising outside counsel.

Educate and counsel faculty and staff on legal issues.

Draft, review and negotiate contracts.

Represent the client in administrative proceedings.

Requirements & Qualifications:

Candidate must be a member of the Florida Bar.

Candidate must have at least three years of experience in Labor and Employment Law or five years of experience in General Civil Litigation.

At least one year general corporate/transactional experience preferred.

Prior college or university experience preferred.

## Sample Job Description #2

Position: Legal Administrator for the Legal Department of ABC Corporation

Reports To: ABC General Counsel

Supervises: Legal secretaries and/or technical and support staff as assigned.

Job Summary: Supervise all legal support personnel, including legal secretaries, word processors, files clerks, and legal data entry personnel; handle administration and management of office operations; liaise with other ABC Corp. operating departments.

### Primary Responsibilities:

Hire, train, supervise, evaluate, and terminate all legal support personnel, including legal secretaries, word processors, files clerks, and legal data entry personnel, under the general direction of the General Counsel.

Prepare work plans and coordinate the scheduling and timely completion of work for all legal support personnel.

Purchasing and payment of all accounts; prepare, coordinate, review, and monitor overall accounting and financial administration including budgets, financial reports, cost of service analysis, and organizational reviews, all in consultation with appropriate Legal Department staff members.

Handle daily office administration and management, including selection and maintenance of office equipment and automation, organization and maintenance of office records systems, maintenance of law library.

Coordinate departmental agenda, including tracking, assembling, and monitoring agenda items, attend agenda planning meetings.

Act as liaison and interface between Legal Department and other ABC Corp. employees, operating departments, and bodies.

Perform related duties and responsibilities as required.

### Requirements and Qualifications:



Bachelor's degree in public or business administration or equivalent work experience.

At least three years of experience as a legal administrator in a public agency, private law firm, or corporate legal department.

Accounting experience, including budget preparation, analysis, monitoring, and expenditure control.

Human resources experience, including hiring, training, supervising, evaluating, and terminating personnel.

Knowledge of and ability to maintain a law library.

### Sample Job Description #3

Position: Legal Secretary in the Legal Department of MNO Corporation

Job Summary: Perform clerical, secretarial and administrative support work in maintaining office operations and assisting MNO Corporation's legal department; report to the General Counsel.

Primary Responsibilities:

Perform all functions of a legal secretary working in the area of general civil and commercial litigation, including calendaring, docketing, filing, preparing motions, pleadings, and correspondence.

Perform all functions of an executive secretary, including composing, typing, and editing correspondence, memoranda and reports, arranging and coordinating travel and appointment calendar, and performing miscellaneous administrative and clerical duties in support of the General Counsel and MNO Corporation's Legal Department.

Establish and maintain Legal Department's filing system, control records and indexes.

Requirements and Qualifications:

At least three years of experience as a litigation legal secretary with experience at both the State and Federal court level.

High level of proficiency with all MS Office programs, particularly MS Word, Excel, Access, PowerPoint, and Outlook.

At least one year of in-house experience preferred.

Graduation from high school or a GED equivalent.

## D. Writing the Right Job Ad

Once a comprehensive job description is prepared, writing a job ad to catch the attention of qualified candidates to the position is a natural next step – and an important one.

Classified advertisements, whether in print or online, are probably the most widely used recruiting method in business today. If you expect to attract candidates who best match the qualities you're seeking for a particular position, invest some time in writing your employment listings. Use the job description you've created as reference and summarize it, outlining the key responsibilities, required skills and competencies.

While advertising costs may limit the length of your ads, you should include enough information to make them as targeted as possible.

The job ad shares many of the same elements used in the job description – but the key is to be succinct and straightforward. If you're too general, you'll increase work for yourself in evaluating unqualified candidates.

Here are some elements of a well-written job ad:

- **Headline:** The headline is almost always the job title.
- **Job information:** Include a sentence or two about the general duties and responsibilities of the job. Whenever possible, use the active voice in your description.
- **Company information:** Always include a few words about what your company does and why someone would want to work there.
- **Qualifications and hiring criteria:** Specify the level of education and experience required to do the job.
- **How to respond:** Let applicants know the best way to reach you: phone, fax, e-mail, etc.

## 1. Sample Legal Secretary Job Posting

Here is an example of an ad that takes into consideration these criteria:

### **Legal Secretary, Corporate (In-House):**

Busy, expanding legal department of large insurance corporation seeks capable, well-organized individual to support three in-house lawyers. Responsibilities include producing correspondence, maintaining attorney schedules and client files, and updating publications. Position requires dynamic individual who can work independently and multi-task with ease. High school diploma or GED required; BA or AA (associate of arts) degree preferred. Must be proficient in Windows and Microsoft Office. Competitive salary and benefits offered.

Mail or fax resume to:

## 2. Sample Corporate Attorney Job Posting

### **Corporate Attorney - Healthcare Litigation:**

National healthcare provider seeks litigation attorney with 4 + years' experience in healthcare law. Responsibilities include: directly manage assigned litigation cases (inception through trial); identify, advise and conduct legal action required to best protect company's interests; prepare initial pleadings and discovery demands/responses; prepare and appear at hearings on motions, attend depositions and examinations under oath. The position requires candidates with a Juris Doctor Degree; undergraduate degree in biological sciences, pharmacy, or related healthcare fields preferred.

Mail or fax resume to:

## E. Understanding the Job Market Realities

Before you begin your recruiting process, it's important to understand the realities of the current job market.

High general unemployment is obscuring the fact that specialized talent is in short supply, leading to candidate shortages, especially in the legal, technology and financial sectors.

College grads are in short supply – the unemployment rate for college graduates 25 or older is about half the current unemployment rate.<sup>2</sup> Talent shortages persist – the marketplace is demanding workers who are versatile, creative, responsive and articulate; and educational offerings have not kept pace with that demand. The result is that the confidence of professionals with specialized talents is building. They are becoming increasingly selective when evaluating employment offers.

Keep tabs on the employment environment in your area to track the hiring level for legal professionals. Research legal job openings in your area through job postings in your regional bar association, local legal business groups, and other available sources. Understand the kinds of positions you will be competing against with your job posting. Then include compelling information in your job ad that promotes your company, its unique culture, and what separates your organization from others. For example, ask yourself, “Why would someone want to work here?” Your job ad needs to distinguish your company so you can spark the interest of qualified applicants.

### I. Think Outside the Box When Considering Talent

We've all heard news reports during the past couple of years about the difficulties that highly qualified job seekers are having in finding employment. People have been laid off – and while they're willing to accept a job at a lower level or less pay than their previous position, some cannot even get an interview. When potential employers review the resume, they don't seriously consider the candidate because he or she is “overqualified” for the position at hand.

Employers, however, should take advantage of this current marketplace reality and the talent that may be available. An overqualified candidate may very well be thrilled to get the job, despite the lower pay schedule. In addition, you can possibly get the benefit of adding an individual with notably more experience and skills than you envisioned at the pay grade you advertised.

Additionally, in the current hiring market, consideration should be given by employers to candidates who appear to have strong potential but who may fall a bit short on a handful of the position's requirements. So, review resumes carefully and consider interviewing those who demonstrate performance and leadership potential. Oftentimes, targeted training can help address the gap in particular skills for a candidate – and the person's overall leadership potential can make him or her a strong and high-performing employee in the short-term – and a valued leader over the long-term.

### 2. Research Competitive Compensation Standards

A prerequisite for successful recruiting is a competitive compensation package.

Managers who have access to the most up-to-date information on salaries and other incentives will be best positioned to structure an attractive employment offer once a qualified candidate is identified.

While legal professionals consider many different factors when deciding among job offers, a competitive base salary is still key to recruiting top talent. Ideally, you should offer salaries that keep pace with – or slightly exceed – current industry and local market standards.

If you're not sure what these standards are, contact specialized recruiters or consult industry surveys for information about salary ranges for legal personnel at other companies of comparable size in your area. The annual *Robert Half Legal Salary Guide* features compensation levels for a wide range of in-house legal department positions as well as insight into job market trends (available at: <http://www.roberthalflegal.com/salarycenter>). Other ways to benchmark your compensation levels include:

- U.S. Bureau of Labor Statistics' *Occupational Outlook Handbook* (available online at [www.bls.gov](http://www.bls.gov)).
- Reports prepared by industry publications and professional associations (online and in libraries).

Competitive compensation is not only an essential element of successful recruiting and hiring, it's critical to effective and ongoing staff management. Since compensation has such a significant effect on how employees feel about their jobs, salary levels should be periodically reevaluated to ensure they are keeping pace with the market.

### 3. Attract Hard-to-Find Talent

If you're looking for expertise in specialty areas currently in high demand, you may have to be more flexible when planning compensation and benefits. Knowledge and skills in litigation, healthcare and general business and commercial law, for example, continue to be sought by many legal organizations. That means competition for these experienced professionals is likely to be more intense and you may have to pay a little more.

What should you offer to attract hard-to-find talent? Signing bonuses may be used as an added incentive for senior-level professionals. While these are most often thought of as recruitment tools, they can also aid in retention since they usually require employees to remain with a firm for a specified length of time. Other incentives to discuss with top candidates include company stock options or equity incentives, retirement programs and employee health care plans.

Additionally, consider a number of other non-financial perks that can attract top legal talent. According to a survey sponsored by [Robert Half Legal](#), lawyers cited non-monetary "benefits" among the most valued incentives that would encourage them to take a job with another legal organization. One in four (25 percent of) lawyers interviewed said that leadership or advancement opportunities are the most attractive incentive, followed by more interesting work and flexible schedule options.

Lawyers were asked, “Which one of the following incentives would most entice you to take a job with another law firm or company?”<sup>3</sup>

Their responses:

■ Leadership or advancement opportunities	25%
■ More interesting work	14%
■ Flexible schedule or telecommuting	12%
■ High/higher compensation (salary, bonuses, stock options, etc.)	9%
■ Learning or professional development opportunities	7%
■ More vacation time	3%
■ Other	4%
■ None	11%
■ Don’t know/no answer	15%

*Source: Survey of 350 lawyers among the largest law firms and corporations in the United States and Canada. The survey was commissioned by Robert Half Legal and conducted by an independent research firm.*

## F. Making Recruitment an Ongoing Commitment

Once you’ve identified the skills and qualities you need, your next step is to locate candidates who possess them – through a strong and ongoing recruitment program. Remember that recruiting is more about quality than quantity. Just because you attract a large number of resumes doesn’t mean all applicants are equally qualified. Focus on identifying professionals with the skills you need most.

### I. Recruitment – a Year-Round Job

Many hiring managers view the recruitment process to be an as-needed activity. The most successful recruiting efforts, however, require an ongoing commitment that involves continually reassessing your needs and searching for top talent. In fact, companies known for their ability to attract and hire quality employees are always recruiting – even when they have no immediate openings.

## 2. Identify Candidate Sources

There are a number of ways to recruit the talent you need for your legal department. Some of the more traditional include:

- **Classified Advertising:** Evaluate the cost versus the benefit of newspaper or business publication classified ads. These advertisements can reach a large audience, but, in the process, may attract a large number of unqualified candidates you'll have to evaluate.
- **Employee Referrals:** Encourage employees to refer friends and relatives by offering incentives such as bonuses or extra vacation days.
- **Network Referrals:** While most commonly thought of as a job search tool, networking is also an effective strategy for candidate recruitment. Attend professional association events regularly to meet potential new hires. Explore legal alumni groups to see if they may be planning relevant meetings that you can attend. Ask others in your network for candidate referrals. Be as specific as possible about the skills and competencies you're looking for in your ideal candidate; and make sure you trust the source of a recommendation.
- **Peer Suggestions:** Check with others in your department who have recently gone through the hiring experience — ask them for counsel on where they were successful in finding qualified talent.

## 3. Exploit Online Resources

In addition to traditional recruiting methods, the Internet has become an invaluable tool for sourcing qualified legal professionals. Besides listing available positions on their websites, many employers are tapping popular networking sites to augment their recruiting efforts.

The ease of posting employment openings, the relatively low cost of advertising, and the speed of candidate response have many legal administrators and managers devoting more time than ever before to online recruiting. For example, consider posting your job ad on legal recruitment and professional association sites that offer job search resources — for example, local bar association or law college sites.

LinkedIn is also quickly becoming a “go to” resource, not only for job seekers, who can post their professional profile, search for jobs, and review profiles of hiring managers; but for employers as well. For organizations looking to tap into the significant numbers of people who regularly monitor the site for job opportunities, LinkedIn offers a range of fee-based recruiting services, such as job postings and access to search and view candidate profiles by applying a number of search filters, including experience, function, industry, education, and other criteria.

However, as with other tools, the Internet is not without its limitations on attracting qualified candidates. For example, firms listing opportunities on major job boards may receive applications from a much wider geographic region and sometimes from less-qualified applicants which will require additional sorting and review. Firms are also noting that some candidates who post their



resumes online may be more passive job seekers; they merely want to “test the waters” and wait for results.

If you are using the Internet in your recruiting efforts, here are some tips to increase your success in locating candidates:

- Make your company’s website candidate-friendly. Are job opportunities at your office easy to find? Can candidates apply online? What message do applicants receive once they’ve submitted their resumes? All of these factors play a role in the number of job seekers who visit your site and the type of first impression your firm presents.
- Explain what’s unique about the position(s) you’re advertising. What exactly about this role is exciting and challenging? What type of person would be most likely to thrive in your company?
- Sell the firm as well as the position. Unless your company is a household name, be sure to include a sentence or two that describes your business. If your firm has just celebrated a major milestone or received positive media coverage or industry recognition, briefly mention that as well. What innovative employee benefits do you provide? Differentiating your organization from the thousands of others recruiting online will help you build name recognition and attract candidates.
- Network on industry sites. Become familiar with websites of bar and professional associations as well as others targeted to the legal field. These sites can provide valuable opportunities to broaden your reach in the legal community and get to know a group’s officers and members, many of whom may be qualified job candidates. Often these sites will post job openings for a nominal fee.
- Familiarize yourself with recruiter sites. Whereas major job boards guarantee you’ll reach a wide spectrum of job seekers, recruiter sites can expose your employment openings to targeted legal professionals in specific practice areas or industries.

#### **4. Add Flexibility**

Staffing a position on a temporary or temp-to-hire basis can provide you with greater flexibility during your decision-making process. In addition, this arrangement gives you a chance to evaluate a candidate over an extended period of time to determine if he or she is a potential fit for a full-time position.

#### **5. Maximize Your Efforts**

Make the most of the time you invest in your recruitment program by keeping the resumes of all candidates on file after interviews — even those who don’t get the job. You never know when your requirements will change and you’ll need expertise you weren’t originally seeking.

## 6. Work with Recruiting Firms

In addition to the recruiting sources discussed above, using specialized staffing firms can help you fine-tune your search, especially when filling high-demand, specialized positions. You'll gain access to a large pool of qualified applicants and avoid the administrative details of placing ads and preliminary screening. If you decide to adopt this approach, here are some suggestions for finding the best firm:

- Check out recruiters personally. While online and newspaper sources can be helpful, firms offering a personal approach to service can save you time and money in the long run because they can provide individualized attention to your specific needs. To take advantage of this benefit, make in-person visits to firms that specialize in locating legal professionals with the experience and skills you require.
- Be explicit about your needs. When speaking to your account executive, make sure he or she understands your business, your corporate culture and your exact requirements as a legal department — as well as the specific job skills, capabilities, experience, and education credentials necessitated by the open position at hand.
- Clarify fee arrangements. Ensure that you have a clear understanding of how your recruiter charges, and make sure any arrangement you make is in writing.
- Express your concerns openly. If you aren't happy about any aspect of the arrangement, clearly explain your concerns to the recruiter.

## G. Promoting From Within

If you're staffing strategically, you've likely already considered internal resources before you began the recruitment and hiring process. If you have not, take a moment to consider the advantages of promoting from within.

Internal candidates have performance records that can be easily verified, they know the firm's "ins and outs", and they're likely already in tune with the office culture and familiar with many of the key staff members. As well, internal promotions demonstrate to your employees that hard work and excellence are valued and rewarded in the company.

But promoting from within requires careful planning. You need to actively groom promising employees to take on new responsibilities and assume greater authority. Include your best performers as frequently as possible in high-level meetings outside the legal department. This can help them build skills in strategy development and can provide them with an opportunity to observe the management style in your company firsthand.

To expand your employees' leadership abilities, consider appointing promising individuals to chair key committees or task forces. Most importantly, make yourself available to them as often as possible to offer tips on how you approach managing other people, prioritizing your time, and interacting with colleagues in other departments to achieve overall company objectives.

## III. Hiring the Best People

### A. Reviewing a Resume

With a little preparation and a discerning eye, you can reduce the time you spend scanning resumes and ensure you schedule interviews with only the most qualified legal professionals. Here are some tips:

- **Define Requirements:** Have a detailed job description on hand before you begin. It should focus on skills and expertise that will truly impact performance (see Section II. C., “Writing a Job Description”) as well as the attributes, capabilities and credentials needed for the position. While you will no doubt have a fairly clear idea of what the position requires, this document can keep you on track as you review resumes. It should serve as your “filter” and help you narrow the field.
- **Review styles:** Resumes typically fall into two categories, chronological or functional, and it’s important to know what to look for in each type. The classic resume is organized chronologically, with most recent work experience listed first. Job responsibilities are then described after each position listed. An alternative is the functional resume, with information organized according to individual skills, with experience and abilities most relevant to a given position listed first.

When reviewing a chronological resume, pay close attention to dates of employment and any gaps in work history. For example, a resume that states a position was held in “2008” does not clearly indicate the length of employment. The job could have lasted one day or up to 12 months.

With functional resumes, be on guard for vague job descriptions or failure to list actual positions held. This can indicate that the job seeker hasn’t acquired enough relevant work experience.

- **Read between the lines:** A resume should be well-written and free of any typos, misspellings and grammatical errors. Candidates who take the time to produce a clean and professional resume demonstrate attention to detail and a desire to make a favorable impression. Also be on the lookout for such vague phrases as “exposure to,” “familiar with” or other qualifiers. Vague or ambiguous language can disguise a lack of skills, expertise or hands-on experience. For example, is the candidate “familiar” with a particular software program, such as Microsoft Excel? Or do they actually have work experience with the program?
- **Follow up with phone calls:** Even after carefully reviewing resumes, you may still have doubts about which candidates are suitable for in-person interviews. Consider conducting brief telephone calls to narrow the field. This additional step can save you valuable time: An unproductive phone conversation may take only five minutes, but an

unnecessary in-person meeting could require an hour or more of your day.

## B. Productive Interviews

The personal interview is one of the most, if not the most, critical parts of the hiring process. While a resume, cover letter and phone conversation can offer insights into a candidate's qualities, a one-on-one meeting allows you to observe an individual's demeanor, confidence level and interpersonal skills. Here are some suggestions to help you make the most of an in-person job interview:

- **Prepare in advance:** Develop an approach you'll use consistently with all of your candidates. Rank key factors required for the job in order of importance. Also, prepare a list of specific questions that will allow you to explore candidates' qualifications against those factors. Prepare questions to determine candidates' problem-solving abilities, legal experience, practice area expertise, interpersonal skills, conflict resolution and negotiation expertise, and overall business acumen. Compare these qualities to the competency model you developed. (See Section II.B., "Using Competency Modeling").
- **Ask the right questions:** To assess the candidate's work style and compatibility with your firm's culture, vary the style of your questions. Ask closed-ended, factual ones ("How many years did you work for Firm A?"); open-ended questions ("Can you describe your major accomplishments?"); and hypothetical, job-related scenarios ("How would you handle a situation in which one of your employees complains that someone else took credit for his ideas?"). Develop interview questions that specifically address key competencies you've identified from your model, such as problem-solving or strategic planning. With pre-established guidelines in place, you'll increase your odds of gathering relevant information that can ultimately help you make the best hiring decisions.
- **Make a pitch for your firm:** Gone are the days when only the candidate had to project a good image. In today's competitive hiring market for skilled legal professionals, job seekers want to know what your organization has to offer them, so it's critical to give a positive first impression. Employees are looking for firms that offer progressive compensation packages and corporate cultures that foster career growth and support a balance between work and personal demands. Be sure to point out specific programs your firm offers when meeting with candidates.
- **Rephrase questions to get complete answers:** If an applicant's response to your question is vague or insufficient, don't be afraid to ask it in a different way. For example, you could rephrase, "Why did you leave your previous position?" to "What types of opportunities are you looking for now that your last job did not provide?"
- **Avoid stating your opinions:** Unless you have an excellent reason for doing so, never precede a question with a statement of your own opinion. Leading questions only invite the candidate to agree.

- **Pay attention:** Fight the urge to formulate your next question while the candidate is still responding to the last one. Actively listen to the answers provided to pick up on bits of information that might otherwise escape notice. Listening closely to an applicant's answers will also enable you to ask more probing, follow-up questions to responses to elicit additional, relevant information.
- **Write it down:** Memory is unreliable, so it's best to take notes in an unobtrusive way during the interview. Don't try to transcribe everything the candidate says word-for-word; jot down the key words and highlights during the discussion, and then write out your notes in more detail immediately following the interview while the information is still fresh. In addition, try to follow a consistent format in your notes. As you likely will be interviewing a number of candidates, this will help you to more easily compare the strengths and weaknesses of prospective employees.
- **Keep on track:** Follow the agenda you prepared in advance as closely as possible to ensure all topics and issues are addressed.
- **Don't rush to judgment:** Try to avoid forming an opinion too quickly about a candidate. Wait until after the interview to evaluate responses and make interpretations.
- **Manage the time:** Leave sufficient time for questions the candidate may have.
- **End on a positive note:** Once you feel you have enough information, end the interview politely. Thank the applicant for his or her time and interest, and briefly mention subsequent steps (i.e., "We'll begin the second round of interviews within the next couple of weeks").

### Key Interview Questions:

The objective of the interview is to discover if candidates have the skills and experience that qualify them for the position as well as to evaluate their interpersonal capabilities, demeanor and confidence to determine if they would fit into your organization. Prepare thoughtful and strategic questions that will provide valuable insights regarding the candidate. For example:

- Can you tell me a little about yourself?
- What do you know about our company, and why do you want to work here?
- What interests you about this job, and what skills and strengths can you bring to it?
- Can you tell me a little about your current position?
- What were your most significant achievements in that position?
- What would you have changed about your last job? Why?
- What are your greatest strengths as an employee? What are your greatest weaknesses?
- What do you seek in a job?
- What type of work environment is least appealing to you?
- What do you think is most attractive about this position? What seems least attractive?
- What capabilities do you have that will set you apart from other candidates?
- Can you provide an example of how you handled a workplace conflict in the past?

Throughout the interview, ask the candidate to use specific examples in their past work that demonstrate their experience, capabilities and problem-solving skills.

For additional interview questions, please see Section IX.A., "Sample Interview Questions."

For a sample of legal and discriminatory interview questions, please see Section IX.B., "Chart of Legal Questions."

## C. The Dos and Don'ts of Interviewing

To be most effective, the interview process should be streamlined, efficient and uniform. Here's some additional advice that can help you maximize your meetings with prospective hires.

Do:

- **Make your candidate comfortable:** Start by engaging in small talk. You can gain insight into the candidate's personality and also put him or her at ease, increasing the likelihood that you'll receive candid responses.
- **Double-check answers:** Ask the candidate many of the same questions that you plan to ask his or her references in order to compare the answers. If a reference tells you something significantly different than what the applicant tells you, follow up with the candidate for an explanation. (Please see Section III.D., "Getting the Most from Reference Checks").
- **Create a standard rating system:** Use a uniform system to evaluate all candidates. You can even use a form that lists the hiring criteria and how each applicant rates on a scale of 0 to 5. Don't forget to measure both strengths and weaknesses.

Don't:

- **Fall victim to the "halo effect":** Don't allow one aspect of a candidate's background – for example, the fact that you both attended the same university or that the applicant worked with someone famous – blind you to reasons he or she may not be right for the job.
- **Overemphasize interview performance:** Don't attach undue importance to how well the person interviewed. Legal professionals who interview well may not necessarily be the best people for the job – they may just be well-practiced at interviewing.
- **Let too many "cooks" spoil the hiring decision:** Don't get too many people involved in making the final decision. If you hire "by committee," you may not find the best person for the position but rather a candidate who impresses everyone in some way yet is not right for the job.

## D. Getting the Most from Reference Checks

It can be tempting to rush through the reference-checking process — or bypass it altogether — in order to make a quick hire. While it's important not to delay making the job offer and risk losing the candidate to someone else, reference checking is still a critical tool for evaluating prospective legal professionals.

Legal issues have compelled many firms to institute policies in which they offer no more candidate information than dates of employment, title and salary. This presents a new set of challenges in the reference-checking process. However, with a little preparation and persistence, you can glean valuable insights from a candidate's references.

### I. Announce Your Intentions

Making a thorough reference check a precondition of hiring can improve your odds of getting quality responses. This is perfectly legal as long as the information being verified is job-related and does not violate discrimination laws.

Inform candidates early in the process that if they become finalists for the position, you will be calling their references. They will likely arrange for you to talk with cooperative individuals. In addition, applicants with something to hide may voluntarily remove themselves from consideration. It's wise to also get the candidate's written approval — not only to check the references provided, but also to pursue additional references of your choosing who might provide further insight.

### 2. A “Do-It-Yourself” Project

Handle the reference-checking process yourself. You know better than anyone else the experience, skills and personality that will best fit the job. So you're the one who will be most effective at securing information from references that you can weigh into your decision-making process. Additionally, by speaking with the candidate's former managers — your counterparts — you're more likely to develop some camaraderie, enhancing your chances of gaining useful information.

### 3. What Should I Ask?

Start your inquiry with the basics: Ask for confirmation of date of hire, title, job duties, salary, and previous place of employment. If the reference is receptive, ask for further information, such as the candidate's strengths and weaknesses, and his or her ability to work as part of a team. Also inquire whether the contact would rehire the applicant if the opportunity arose.

During your referencing checking, confirm important claims the candidate made during the interview and in the resume about job duties and experience, in particular, specific, quantifiable statements — for example, “supervised eight staff members, trimmed budget by 20 percent.”

And keep in mind that the same discrimination laws that apply to interviewing also apply to reference checking, so you may not ask about marital status, age, disabilities, religion, ethnicity, sexual orientation, or other personal issues (please see Section IX.B., “Chart of Legal Questions”).



#### 4. Ask the Right People

As you call for references, be sure the person you're talking with is in a position to judge the work done by the applicant. Supervisors and managers often provide the most detailed information, rather than a human resources manager. Also, family, friends and other personal references may not be able to speak to the individual's business abilities and, of course, may not be objective.

#### 5. Validate References

If you encounter a negative reference among several outstanding ones, continue checking to determine if this is an isolated incident or a sign that the candidate may not be a good fit for the position. Similarly, if you suspect the reference may be a "fake" (i.e., your calls reach only voice mail or an answering machine), call the firm's main switchboard to see if the person is in fact employed there, and ask for his or her title. It's not unheard of for a former coworker to pretend to be a past supervisor.

#### 6. Beyond Reference Checks

In addition to checking references, some employers administer drug tests, require medical exams, or conduct criminal background checks. Whether or not you decide to take these additional steps depends on the nature of your business and the type of position that is being filled. Before making any such moves, however, be sure to consult an employment or labor law specialist.

### E. Finalizing Your Decision

Once you have completed your interviews and thoroughly checked references for the most promising candidates, evaluate all the information you have gathered in a systematic and objective manner.

Compare each candidate's information against the job description requirements, hiring criteria, and the competency model attributes you identified. Determine how closely each candidate's skills, including "soft" skills and experience, measure up to those standards. Rank candidates using your competency model criteria, taking into account the relative importance of the particular skills, attributes, and capabilities. Be sure to consider the "intangibles" as well — qualities such as motivation, creativity, resourcefulness, and ability to handle stress. While these factors are difficult to gauge, they're important components in your overall evaluation of candidates.

### F. Extending the Offer

While it's important to be thorough when evaluating an applicant's skills and experience, don't delay too long once you've identified your first choice candidate. If you are impressed with an applicant's skills and experience, chances are that other companies are as well. Sometimes a strong candidate is interviewed and evaluated only to be lost because the final hiring decision was slow in coming.

Candidates experienced in high-demand practice areas, such as litigation, healthcare, general business and commercial law, for example, may receive multiple employment offers before they make a final decision, which means there is always a risk they may pursue another opportunity if your offer isn't forthcoming. Expediting the selection process will improve your chances of securing the best talent.

**Verbal and written offer:** Call the candidate to offer the position, specifying salary and benefits, proposed start date, and other relevant information. If he or she accepts the position by phone, follow up immediately with a written confirmation of the offer, again including all pertinent information — proposed start date, title, salary, benefits, and other information that you have discussed (see sample offer letter to prospective employee below).

**Be prepared to negotiate:** If the candidate asks for a higher salary, you want to be prepared. If you can't meet the candidate's salary expectations, look for ways to modify other parts of the compensation package — for example, extra vacation days, flexible working options or a performance-based bonus after a specified time on the job may be possible.

**Confirm acceptance:** Then ask the candidate to provide you with written acceptance of the offer — he or she can sign and return to you a duplicate copy of your offer letter. If the agreement is contingent on further reference checking or any skills tests you may require, make sure to include these conditions in the offer letter.

**Keep in touch:** Even before the new hire walks into the office on the start date, keep in touch with the person. Send them copies of your employee handbook, if you have one, benefits booklet, annual report — you don't want to overwhelm them with a huge pile of information, but you do want to provide them with any information that would make them feel comfortable for their first day on the job.

## I. Sample Offer Letter to Prospective Employees

[Date]

[Address]

Re: Terms of Employment

Dear [Potential Employee]:

We are pleased to inform you that after careful consideration, [Company Name] (the "Company") has decided to extend this offer of employment. [This decision is made, in part, on the information provided by you in the Company's form of Employment Application.] This letter sets forth the terms of the offer, which, if you accept, will govern your employment.

You will be employed in the position of [Position Title] and will report to [Name, Position Title]. Your first day of employment will be on [Date]. Your responsibilities will be as directed by the Company from time to time.

Your compensation will be a salary at the annual rate of \$\_\_\_\_\_, payable in [weekly, biweekly, monthly] installments; \_\_\_\_\_ weeks of paid vacation for each full year of employment completed with a maximum period of \_\_\_\_ weeks; and participation in the health and other benefit plans of the Company according to their terms and as may be amended or terminated from time to time.

Our employment relationship will be terminable at will, which means that either you or the Company may terminate your employment at any time and for any reason or for no reason with or without notice (or upon \_\_\_\_ weeks' notice for pay in lieu of notice if terminated by the company).

In the event a dispute does arise, this letter, including the validity, interpretation, construction and performance of this letter, shall be governed by and construed in accordance with the substantive laws of the State of [Designate State]. Jurisdiction for resolution of any disputes shall be solely in [State].

[You also will be subject to the Company's Confidentiality and Invention Assignment Agreement, which is enclosed with this letter and must be signed and returned to the Company.] By signing below, you not only accept the terms and conditions of this offer, but also represent to the Company that you are under no obligation or agreement that would prevent you from becoming an employee of the Company or adversely impact your ability to perform the expected services.

Upon your acceptance, this letter will contain the entire agreement and understanding between you and the Company and supersedes any prior or contemporaneous agreements, understandings, communications, offers, representations, warranties, or commitments by or on behalf of the Company (oral or written). The terms of your employment may in the future be amended, but only through a written document which is signed by both you and, on behalf of the Company, by a duly authorized officer.

If these terms are agreeable to you, please sign and date the letter in the appropriate space at the bottom and return it to [Personnel Department or specific person] prior to \_\_\_\_\_, 20\_\_\_. We hope you accept this offer and look forward to you coming on board.

Sincerely,

[Company Name]

By:

Title:

Agreed and Accepted:

[Prospective Employee]

Date:

## G. Providing Orientation

An employee's first few weeks on the job are especially formative. This is the time when newcomers establish perceptions about the position, coworkers, management, and the company itself. Therefore, it is essential to get new hires off to a solid start with a quality orientation.

### I. Plan Strategically

The best orientation programs are well-planned and ongoing, tailored to your firm's corporate culture and its unique employee base. Your objective should be to:

- Clearly define responsibilities of new hires.
- Educate new employees on your company's overall mission and business practices.
- Provide an overview of policies and procedures, giving new hires a sense of the prevailing culture at your firm.
- Ensure employees have the tools they need to be productive.
- Introduce new hires to team members and others with whom they will likely interface in the course of their work.
- Engender a sense of camaraderie, collaboration, and teamwork.

### 2. Explain the Corporate Culture

Be sure to include in your orientation an explanation of your corporate culture, especially your core values and how they represent your company. Describe the level of professionalism expected on the job, including the importance you place on ethical behavior. Make it clear what you expect from your employees in their daily activities based on those values.

### 3. Establish Expectations

Besides information on your working environment, facilities and corporate policies, the new employee will also want to know how his or her job fits into the big picture. This is where a basic overview of your organization's mission, clients, and competitors is valuable. Having the general counsel or a senior attorney on hand to provide this summary can underscore its value.

Individual attention in the first few days is as important as the corporate overview. An employee's orientation should also include some quality one-on-one time with his or her immediate supervisor, who can provide job-specific information and, of course, introductions to those with whom the new hire will work most closely.

To help newcomers achieve a successful start in your department, provide a job description and outline one or two projects they can begin work on right away. Also consider assigning a mentor who can help reduce the learning curve and take some of the stress out of the new employee's first few days. More tenured staff members or attorneys can show new hires the ropes, provide informal introductions to coworkers, answer questions, and provide support.

#### 4. An Ongoing Process

For a new employee – who is often inundated with information in his or her first days on the job – orientation spread over several weeks or months may yield more lasting results. After a month or two, when professionals have become immersed in their new roles, for example, consider asking them to “shadow” others in the department to learn more about what their colleagues do and how all parties can work together more effectively.

Of course, the most successful orientations are a continuous process. Make sure you maintain the flow of information as new policies are announced or expectations shift. Let your orientation efforts blend seamlessly into ongoing internal communications programs.

## IV. Building an Effective Legal Administrative Staff

### A. Emerging Trends Call for Expanded Roles

As corporate legal departments move more work in-house to address budget constraints, the skill levels and retention of existing staff are becoming increasingly important. But attorneys and paralegals aren't the only professionals departments must recruit, train and motivate. Supervisory counsel must also locate and retain administrative personnel with the right expertise to help the legal department manage a growing number of projects and cases.

Flexible, highly-skilled legal administrative professionals are especially pivotal today as departments face new challenges and a heightened need to control costs. Successfully addressing growing workloads and reduced budgets requires support staff with more sophisticated skills and a willingness to assume broader responsibilities.

Increasingly, employers are look to hire paralegals and legal secretaries who can perform a broad range of duties, especially those who have advanced technical proficiency and experience with legal research platforms and practice and litigation management software programs. This trend is confirmed by research conducted for the *Robert Half Legal Salary Guide*, which also indicates that the number of hybrid or blended positions continues to grow as law firms and legal departments consolidate legal secretary roles and assign paralegals administrative tasks.<sup>4</sup>

## B. How Are Recent Trends Affecting Administrative Staff?

### I. Increased Regulation

Since the passage of the Sarbanes-Oxley Act of 2002 (SOA), public and private companies and their legal departments have undergone upheaval and dramatic change. Responsibilities related to compliance with these complex rules along with an obligation to act as — and protect — “whistleblowers” who report violations have transformed the role of general counsel and the day-to-day duties of legal departments.

SOA-related concerns are taking up more time in the typical general counsel’s schedule, while also resulting in more work for already overloaded attorneys and paralegals. Consequently, there is pressure on administrative staff — especially legal secretaries — to take up the slack wherever they can by broadening their roles. This entails assuming some responsibilities formerly handled by other legal professionals.

And it’s not just support staff in public companies who are affected. Many privately-owned companies are voluntarily adopting some of the SOA provisions to ensure their own practices are consistent with internal control and governance processes that are quickly becoming the new standard for business conduct. As a result, legal secretaries and other support personnel are expanding their roles just as their counterparts in public companies are doing.

Compliance-related activities are not likely to cease demanding attention from in-house counsel any time soon. The first round of businesses to comply with Section 404 of the SOA Act reported to the SEC in the spring of 2005, but SOA compliance is an annual requirement — and in some cases continuous and quarterly — for all public companies. Many private companies are following suit. The ongoing nature of compliance is one factor among many that is rapidly changing the roles of legal support staff.

### 2. Technology

Another major force impacting today’s legal departments is the continual evolution of technology. Research conducted for Robert Half Legal’s Future Law Office project revealed that nearly six in 10 (59 percent) lawyers expect their law firms to increase spending on technology in the next two years.<sup>5</sup>

To improve operating efficiencies, organizations are using sophisticated software packages designed especially for legal applications. Examples include implementing remote access solutions, automating document management systems and adopting electronic litigation tools. Due to the serious threat of computer viruses and unauthorized hacking attacks, departments also are investing in a number of security measures. Administrative staff must be able to use and often train others on this state-of-the-art technology in order to support lawyers and paralegals as well as carry out their own projects.

### Law firms are making a greater investment in IT\*

59 percent of lawyers said their law firms will increase spending on technology in the next two years. Firms plan to purchase:

- Software 79%
- Hardware 72%
- Desktop PCs 62%
- Laptops 49%
- Tablet computers 44%
- Smartphones 41%

Web-based resources are improving client communications and the delivery of legal services. Lawyers surveyed said their firms use the following tools:

- E-filing systems 83%
- Meeting/audio-conferencing tools 79%
- Document storage sites 58%
- Information-sharing sites 51%
- Portals/extranets 30%

*\* Source: Survey of 175 lawyers with the largest law firms in the United States and Canada. The survey was commissioned by Robert Half Legal and conducted by an independent research firm.*



### 3. Changing Relationships with Outside Counsel

In an effort to keep expenses down, corporate legal departments more frequently are curbing their use of outside counsel and opting instead to depend more heavily on in-house professionals. As a result, caseloads are becoming heavier for partners, associates and legal assistants. This is causing a “trickle down” effect as a growing number of basic legal activities and tasks are passed on to administrative personnel.

### 4. Expanding Administrative Responsibilities

This practice extends a trend already in place as support staff assume more of the work formerly performed by paralegals. Years ago, paralegals handled primarily administrative and clerical duties, but today they continue to take on more and more substantive casework. Administrative employees, in the meantime, have gradually been assuming paralegals’ former clerical tasks and are now taking on even more of the responsibilities these individuals previously managed, such as selected research and document preparation.

## C. What Do the Changes Mean For You?

Consider the effect these changes are having — or could soon have — on your department. When making staffing decisions regarding administrative staff, evaluate the extent to which compliance activities, restricted use of outside counsel, and the need to learn new technologies will occupy the time of attorneys and paralegals. What additional assistance will they need? Will you have sufficient resources to meet rising workloads?

Many support staff are, of course, limited by law as to the scope of their involvement in cases, but there are creative ways you can apply their skills in additional areas. Start by thinking of ways in which your existing administrative staff can:

- Handle routine research or document preparation that doesn’t require a licensed attorney or paralegal;
- Help you prepare and distribute information to educate company employees on the increased importance of compliance standards and ethics;
- Help you comply with stringent new rules for electronic record retention and destruction, which can significantly add to the scope of discovery; or,
- Master new legal software and become the department’s “go-to” persons for new technical applications.

## D. What New Skills Are Needed?

Assisting in these new areas may require legal administrative professionals with broader skill sets. Activities that used to occupy most of a legal secretary's time, such as typing, transcribing and filing, are being replaced by responsibilities requiring advanced technical knowledge as well as time and project management skills. These may include research projects, document preparation and, increasingly, interacting with internal clients or others involved in cases.

The bar is also being raised for other administrative positions. Office clerks, legal receptionists, document coders, and other support personnel must be able to use a growing array of technologies, including web- and CD-ROM-based resources. Some may be expected to assist legal secretaries in using new software for managing calendar dates and deadlines.

Support staff must also be able to contribute to case and project teams. This collaboration has become increasingly more important as departments attempt to manage more work in-house, with the work of administrative personnel becoming an integral component of the group's success. They must have excellent interpersonal skills since project teams can include people from a variety of backgrounds and perspectives — both in-house and project-based attorneys, associate attorneys, paralegals, expert witnesses, and many more. (For more, please see Section V.C., "Fostering Teamwork").

## E. What Training Should You Offer?

After determining what new developments mean for your department, you'll need to provide relevant training for your support staff. To help them assist in SOA-compliance-related tasks, for example, you should offer updates on requirements and new filing deadlines. Make sure your staff understands the company's liability for non-compliance, the importance of ethics for every employee, and the central role the legal department plays in coordinating compliance efforts.

Employees should also be familiar with procedures for documenting "whistleblower" complaints and how the department is obligated to protect these individuals and report wrongdoings "up the ladder" (first to the chief legal officer, then to the CEO, and then up to the full board of directors, if necessary). While not all administrative staff will be involved in compliance support, they do need to understand the importance of this relatively new focus, which is so significantly impacting the work of corporate legal departments.

Additionally, ensure your administrative team remains current on evolving technologies that impact the legal field. Depending on individual roles, they must understand software tools for organizing and managing information including CaseMap, TimeMap, NoteMap, Power-Point, Summation, and artificial intelligence software. If your department is involved in litigation, support staff should be able to help attorneys and paralegals prepare for high-tech presentations in the courtroom, including video evidence presentation, videoconferencing, and e-transcript systems. Secretaries, in particular, must assist lawyers and legal assistants in synchronizing schedules via wireless instruments, including tablets and BlackBerry devices, when these professionals are out of the office.

In today's marketplace, in-house counsel must combine legal skills with a thorough understanding of a company's business objectives. When administrative professionals thoroughly understand the business issues and potential legal problems, the more comprehensive support they can provide.

## F. What are the Staffing Implications?

A key obligation of any supervisory counsel is to maintain sufficient human resources to meet growing workloads, and this is no less of an issue when it comes to administrative teams. Training efforts will mean little if you lack adequate staff to handle the work and your best people become increasingly overburdened and stressed.

Many legal departments today must observe cost-control mandates that limit both the use of outside counsel and the hiring of additional staff. These restrictions can make staffing a significant challenge, especially in light of increasing workloads in many departments. So how can you maintain productivity and avoid staff burnout yet remain within departmental budget limits?

Admittedly, it's a tall order, but there are some effective solutions. First, consider the feasibility of reassigning or postponing less critical projects. Junior support staff may welcome the opportunity to take on new projects under the supervision of more senior employees. Perhaps you could create ad hoc administrative project teams that can focus on a critical aspect of a case, then rapidly disband or regroup to meet changing needs. Or you could combine some functions of a particular position to free up a staff member to assist in other areas.

Ultimately, you may not be able to continue to meet growing or changing workloads with exclusively internal solutions. Selected hiring may be appropriate if this can be done within budget and you judiciously select individuals based on the skills you require.

To address the needs of your particular caseload, you may want to pursue an approach that provides more flexibility. For example, many departments are bringing in additional support on a project basis (please see Section II.A., "Determining Your Staffing Needs"). This option enables an organization to augment the efforts of full-time staff, especially during peak times. It offers immediate access to specialized skills not available internally or not required long-term as well as helps relieve the load on core employees. Contract employees can also contribute on an "as needed" basis when hiring someone full-time is not practical.

## G. Retaining Your Top Talent

Once you've built a knowledgeable and capable administrative staff, a continuing focus on keeping your top performers is essential. Your most capable employees are always in demand by other firms. The retention strategies described throughout this InfoPAK also apply to support staff, but there are some special circumstances to take into consideration.

Students preparing for a legal career today often choose to become paralegals, creating a limited pool of administrative personnel – legal secretaries in particular. This shortage increases demand for these professionals, so you should make a concerted effort to ensure your existing staff remain satisfied.

Like attorneys and paralegals, legal administrative professionals also want jobs that are challenging and rewarding. Your company should offer career advancement potential and assignments that allow support staff to use their creativity to accomplish their objectives. Even in seemingly routine tasks such as legal document preparation, there is room for innovation – especially when it comes to the use of technology. Remain open to suggestions from your team

regarding alternative ways of approaching their work. Allowing increased autonomy demonstrates that you trust and value their contributions.

The assistance of capable administrative staff is increasingly critical to a legal department's ability to accomplish its goals. Especially as organizations navigate new governance requirements and adopt emerging technologies, hiring managers must do all they can to attract and retain talented support professionals.

## V. Retention Strategies - Motivating and Managing People

### A. A Positive Corporate Culture

One of the most important motivators for employees to give their best – and to remain satisfied with your company – is your corporate culture. Many businesses are addressing this priority by revising policies and changing long-held attitudes to create a more attractive and positive organizational climate. Policies regarding open communication, regular recognition, and opportunities for intellectual growth, for example, are key influences for legal professionals considering your company and department.

Increasingly, a number of non-financial factors are emerging as critical in the recruitment and retention of legal professionals. In a recent survey by Robert Half Legal,<sup>6</sup> close to seven in 10 lawyers interviewed said that being able to take advantage of flexible work hours or telecommuting is the most attractive incentive to join a new organization or remain with their current company. They ranked free or subsidized training or education as the next most important perk, being noted by close to five in 10 lawyers.

**Lawyers were asked, “Which of the following perks, if any, are most effective for recruiting and retaining legal professionals?” \***

Their responses:

■ Flexible work hours or telecommuting	69%
■ Free or subsidized training or education	50%
■ On-site perks, such as childcare, dry cleaning, fitness center, cafeteria	33%
■ High/higher compensation (salary, bonuses, stock options, etc.)	14%
■ Free or subsidized snacks or lunch	9%
■ Matching gifts program for charitable contributions	9%
■ Good retirement programs (pensions, matching 401k’s, etc.)	8%
■ Health insurance/healthcare	7%
■ Work career opportunities (challenging/ meaningful work, opportunities for growth/advancement, etc.)	3%
■ Work environment/culture	2.5%
■ Benefits (general)	2%
■ Other/don’t know	4%

*\* Respondents were allowed more than one answer.*

*Source: Survey of 350 lawyers among the largest law firms and corporations in the United States and Canada. The survey was commissioned by Robert Half Legal and conducted by an independent research firm.*

## B. Empowering Employees

A firm's competitive edge often lies in the intellectual capital of its staff. Businesses that encourage their employees to be resourceful, exercise creative decision-making and take appropriate risks are more likely to achieve future success. One of the most efficient ways to increase the performance of your staff and your firm is to empower your employees. Taking advantage of the following strategies can significantly increase employee productivity and satisfaction in your office.

### I. Maintain Open Communication

Talented people want to be heard — and be allowed to share their ideas. Likewise, they want to know what's really going on inside an organization — its major goals and strategies — so they can contribute fully.

A work environment that fosters open communication is one key to building and sustaining a strong and positive working relationship with your staff. Employees should feel comfortable voicing ideas and concerns.

- Keep your team informed about business developments that are affecting the firm. As organizational or process changes occur, explain the reasons for the changes and how the team will be impacted. Whenever feasible, ask for staff input on decisions that may affect them, such as budget cuts or procedural structure changes.
- Avoid the pitfall of having staff rely on the office rumor mill to hear about company news. Leaving workers in the dark not only causes anxiousness, but also limits the amount of buy-in and support you receive from them on new initiatives. Productivity and morale suffer in an atmosphere plagued by rumors and uncertainty.
- Instead, be direct and transparent when delivering company or departmental news — good news or even bad news. Keep them informed, encourage questions, and let staff know you'll continue to keep them in the loop. There will also be times when you may not be able to share any news at all. In these situations, being honest and advising staff you'll update them when possible can be enough to reassure them.
- Additionally, keep in mind that communication isn't limited to the words you say. Your actions also play a big role in the messages your employees receive. Think about your daily actions, such as allowing calls to go straight to voice mail or letting e-mails pile up without a response. Sometimes you need privacy but *always* being unavailable or unapproachable is a mistake.
- Remember that for every person who does approach you with questions, there are other less-vocal employees with the same questions or concerns. Regularly check in with all staff members. Increase your visibility and the opportunities for employees to have a direct line of communication with you.

- The most effective managers spend more time listening than talking. Employees feel a greater sense of empowerment when they are invited to offer their insights, ideas and perspectives.

## 2. Provide Necessary Information

Providing employees with the facts necessary to make informed decisions is crucial. Communicate openly about your firm's big picture. Discuss information such as progress on cases and long-term strategies.

Don't forget that exchange of information should work both ways. Encourage your staff members to share their observations, concerns, and ideas, and provide a convenient method for them to do so. Regular meetings between employees and management, staff surveys, and even a traditional "suggestion box" can be effective. Be sure to respond promptly to input from employees, since prolonged silence or delay can be discouraging.

## 3. Encourage Creative Decision-Making

Allow employees as much flexibility as possible in order to enhance business processes and achieve project objectives. While everyone assigned to a particular case or project shares the common goal of a successful outcome, the means to the end may not be the same for everyone. Recognizing this allows you to capitalize on the creativity of your workforce to improve best practices. Specific training on solving problems, making sound decisions and managing time effectively can help prepare your staff for increased responsibility.

## 4. Create a Safe-to-Risk Environment

As a manager, you should encourage your employees to take reasonable risks if you want them to develop innovative ideas and solutions.

You can encourage "smart" risk-taking by:

- Ask employees for their input – listen to their suggestions and take the necessary action to implement good ideas.
- Encourage them to make their own decisions and come up with solutions for problems identified in their work activities. Make yourself available to help employees when needed, but give them the decision-making power to direct their own projects.
- Respect candor – every department or firm needs employees who are willing to speak up for what's important. Just be sure that you're listening.

- Reward risk-taking, no matter how it turns out – advise your staff that you understand that not every risk is successful. When a risk doesn't yield good results, work with the employee to examine why the risk wasn't successful and alternatively, what could have been done for a more positive result. Let employees see by your words and actions that taking a smart risk won't be reprimanded.

## C. Fostering Teamwork

The legal profession requires experts in a wide range of disciplines to work together, not only in person, but on the phone and via the Internet. Your ability to inspire employees to collaborate effectively and seamlessly on projects and activities can add tremendous value to the service your department provides the company.

Explain that, given the collaborative nature of the law profession, credit for successes should go to the team rather than individuals. Nothing is more disruptive to group productivity than an employee who seeks personal credit for an accomplishment that was earned by the efforts of many hardworking people. When exceptional results occur, recognize the contributions of as many individuals as possible, both in writing and in person. Legal staff will learn from this and use your example to promote a spirit of positive teamwork within their workgroups.

Be prepared to provide assistance at a moment's notice, and make sure others in the department do the same. Unanticipated situations occur continually in the legal profession. While you may not be involved every time, you will be more effective if you and your team maintain a flexible approach when these sudden demands surface. Remember, the better you are at being a team player, the more likely you are to inspire a productive legal staff and office environment.

## D. Recognizing Employee Achievements

One of the most powerful tools for ensuring employees are satisfied is recognition – when individuals understand they are contributing valuable work and that their efforts are appreciated. Take time to recognize your employees' achievements and successes. Regularly show that you appreciate their efforts and value their contributions.

Positive reinforcement lets employees know they're on the right track, which fuels their motivation to continue their efforts. The key is to be specific and sincere in your praise.

For example, send an email note of appreciation to acknowledge work well done; or publicly express your gratitude to team members during a staff meeting.

Even low and no-cost incentives can make a significant and positive impact. For example:



- Allow employees to take a long lunch or leave early.
- Write a handwritten thank-you note.
- Write an article in the company newsletter, highlighting an individual's accomplishments.
- Send birthday cards.
- Take the team out to lunch at the conclusion of a project.

You don't need to throw a parade every time an objective is met, but people do appreciate when management pays attention to their successes.

## E. Promoting Staff Development

*Limited* career growth and development opportunities consistently rank high on the list of why good employees decide to resign from their positions. In the article, “4 reasons employees quit their jobs,”<sup>7</sup> writer Donna Fuscaldo emphasizes that most all employees want to grow professionally; and when there's little or no likelihood to do so, there's a good chance they'll leave for a better position. She also urges, “If your company needs to attract and retain highly skilled workers, then you better make sure you are providing growth opportunities.”

Managers should actively engage employees about their career goals and help them develop plans to achieve them. To what position do they aspire? What new developments in the legal field may they want to pursue? Do they want to gain leadership skills that would enable them to manage a project team? Do they want to get up to speed on new technologies that will aid in legal research?

Once the employee has identified his or her professional development vision — or even short-term skills they want to attain — for example, a professional certification or mastering a legal software program — assist the employee in developing an outline or roadmap of steps they need to take to gain the required skills or experience. Action plans may be focused on a range of topics, from obtaining leadership, managerial, or technical skills to developing professional networks within or outside the company.

Here are some effective ways to help support and promote staff development:

- **Subsidize course development and training:** Many organizations have a formal tuition aid program in place to help pay for training, Continuing Legal Education (CLE) courses or other seminars or classes employees may take. If not, consider allocating a budget to employees for such educational opportunities or reimburse them for courses, programs or seminars they take.

- **Offer flexible scheduling:** Offer employees time off so they can attend continuing education courses or training programs; or let them reschedule their work hours to allow time for seminars or courses.
- **Alert employees to development opportunities:** Employees will research development courses that align with their goals; but supervisors should also continue to advise them of potential opportunities, both internally and externally.
- **Offer membership payment in professional legal associations:** Professional associations provide a wealth of resources often not available within the work environment – and at typically modest membership fees. Staff should be encouraged to become members in one or more associations, depending on the area of their legal specialization. Not only do such organizations usually provide members access to on-line educational and library resources, news and tutorials, many also offer events, seminars and conferences in chapter locations in major cities throughout the country.

Participating in legal associations also enables in-house counsel to network with other legal professionals, providing an opportunity to connect with peers, share successful strategies, advice, and support, and access the kinds of information and resources not available elsewhere.

- **Recognize milestones:** To encourage development activities, announce during a team meeting when an employee has enrolled in a training course, completed a seminar or earned a certification. As well, set an example by advising staff when you are pursuing development opportunities.
- **If budgets are tight:** Even if your budget doesn't enable you to help pay for external development options, there are many opportunities you can provide within your organization. For example, provide funding for membership fees for in-house counsel in professional associations, many of which offer a broad range of resources, including professional training and development, access to valuable resources, current news and information, events and programs, as well as connection to other law professionals. Many such organizations also offer a discounted rate for enrollment of multiple people as members.

Other options available at no or nominal cost are mentoring programs, e-learning and self-study courses. Or allow employees to job shadow a coworker to help expand their knowledge and abilities; or assign employees to work on special projects in addition to their regular duties, where they can contribute but also learn from more senior and experienced colleagues on the team.

- **If feasible -- reward deserving employees with promotions:** Promoting from within an organization generates additional advancement opportunities for others. It serves to enhance morale and motivation, as other employees recognize they could similarly benefit from internal opportunities in the future.

## F. Conducting Performance Appraisals

While some managers may regard performance reviews as more of a time-consuming necessity than a benefit, developing and conducting employee appraisals can keep your staff focused on their most important objectives, identify areas where training is needed, and further motivate those who excel in their jobs. Performance appraisals provide both you and the employees a chance to reflect on past performance, review expectations, set new benchmarks, and discuss career goals.

Still, successful reviews require careful balancing. You need to provide your employees the feedback they need to advance their careers, yet you don't want to damage morale or diminish their enthusiasm. Consider these tips for your next evaluation:

- **Establish meaningful and measurable objectives:** To start, work with employees to develop a set of objectives against each will be informally and formally appraised during the course of the following year. Ensure the objectives are aligned to the organization's overall goals and mission. As well, the objectives should be specific, attainable and measurable – and each should include an associated timeline for completion.

Importantly, have employees actively participate in the discussion and written development of their objectives – this is essential so they have a clear roadmap and vested interest in achieving each target identified.

- **Don't make it an annual event:** Provide feedback to employees throughout the year so there won't be any surprises when it's time for a formal review. If an employee needs to improve in a certain area, for example, don't wait several months for the formal review to let him or her know. Your immediate feedback will help workers fix the problem behavior before it becomes a habit.

Additionally, regularly review the written objectives with the employee. If business conditions have changed, amend the objectives accordingly to ensure alignment with business priorities.

- **Deliver negative feedback with care:** Discussing an individual's weaknesses in a constructive way can be a challenge. To keep employees optimistic, provide examples of how to improve in specific areas. This will help them focus on future success. Be sure to comment on positive attributes as well. Encouragement is the best incentive for improvement.
- **Reinforce company values:** Employees who clearly understand expectations and how their daily contributions tie into business goals are the most successful in their jobs. Discuss key corporate objectives during the appraisal process to help clarify staff members' roles and how their projects fit into the big picture.

- **Consider self-evaluations:** You may want to ask each staff member to assess his or her own strengths and weaknesses prior to your review. This not only gives them an opportunity to examine their performance and career paths, but also provides you with insight into their perceptions and goals. Of course, some employees may feel awkward completing a self-evaluation because they are worried about rating themselves too highly or too harshly. To help staff members feel more at ease, let them know that any discrepancies can be discussed during the review.
- **Document appraisals in writing:** Whether your company issues standard evaluation forms or you create your own, all comments should be in writing. Cite specific examples to support your assessments.
- **Keep the tone conversational:** Schedule a personal meeting with each employee, and be sure to budget enough time to engage in a two-way dialogue on all topics that need to be covered.
- **Set objectives for the next year:** Make sure individual goals are in line with your department's casework, but also consider a staff member's career path. If an employee has future plans to advance into an expanded role, for example, then objectives should be geared toward acquiring the skills needed for the type of position envisioned. Discuss options for seminars, classes, or other professional development. Your employees should leave the review with several specific goals for the coming year.

## VI. Handling Difficult Situations

### A. Working with Underperforming Employees

Regardless of where you work, sooner or later you'll have to deal with under-performing employees. How you respond determines whether the situation is resolved quickly or gradually worsens and ultimately affects your entire team's productivity.

#### I. Put Fairness First

Above all, the process you have in place to deal with problem employees must be fair. Here are some tips:

- **Clarify expectations:** Your employees need to clearly understand the standards of acceptable performance and how their efforts — or lack thereof — affect the company's productivity.
- **Outline the consequences:** Advise staff members of the consequences of their failure to meet these standards.

- **Address problem behavior as soon as possible:** Otherwise, you send the message to other employees that a certain behavior is acceptable.
- **Respect employees' privacy:** Avoid criticizing one staff member in front of others.
- **Offer employees a chance to improve:** Share your feedback face-to-face and privately with the employee. Discuss the problem behavior or performance, addressing directly and specifically why it was inappropriate. Ask the employee for his or her reasons behind the behavior, and then invite the employee to suggest a solution to avoid that behavior in the future or to enhance their performance. They are more likely to work towards a solution if they are at least in part responsible for developing it.
- **Match the discipline to the offense:** How serious was the offense? What does the individual's employment record look like? Has he or she been a problem employee before, or is this the first time that there's been a performance or behavioral issue? A first-time offense does not typically deserve the same reprimand as a regularly recurring problem.
- **Be consistent:** Applying the same rules, protocols and expectations to everyone helps limit the possibility of being charged with discrimination.
- **Document, document, document:** To be fair to everyone involved, you need to take notes and keep a written record of your discussions as they take place as well as specific steps outlined and agreed upon to improve performance. That way, at a later time you won't inadvertently think the person said or did something he didn't say or do; likewise, you can't be accused of saying or doing something that you didn't. And you may need this documentation in the event the person's behavior – or termination – becomes an issue.

## B. Considering Termination

### I. Some Basic Guidelines

Despite your sincere efforts to help underperformers get back on track, sometimes your only option will be termination. State labor and employment laws may vary, and it is advisable that before making a final decision about termination, you should always first discuss the situation with someone in your human resources department and, if necessary, an attorney who specializes in employment law. While no termination case is exactly alike, there are some general steps many companies follow. You may need to skip or add steps, depending on the circumstances. Here are some general guidelines:

- **Notify your employee that he or she is not meeting company standards.** You should give this warning verbally, in a one-on-one meeting. Make a memo to yourself about what was said and the date you gave the warning.
- **Issue a second warning.** If the behavior hasn't improved within the designated timeframe, have another one-on-one meeting. This time, deliver a memo that outlines areas that need improvement, associated dates and explanation of how the employee's actions are negatively affecting business.
- **Issue a final warning.** If the individual's conduct doesn't improve, ask your human resources or legal representative to guide you. In some instances, a final warning is appropriate. In other cases, termination without a final warning may be the correct step.
- **Terminate the employee.**

## C. Coping with Layoffs

Layoffs differ from terminations in one critical respect: The people being let go haven't necessarily done anything to warrant losing their jobs. Companies downsize for a variety of reasons, including seasonal shifts in productivity, an unexpected business downturn, a merger, or an acquisition.

### I. Explore Alternatives

Downsizing should always be a last resort for a firm. If you've staffed strategically, your careful planning may help you avoid layoffs — or at least minimize them. Some companies that have found downsizing to be unavoidable have been able to reduce the number of people who need to be terminated using the following tactics:

- **Temporary pay cuts.** Reducing labor costs is probably the simplest and most direct way to cut staffing expenditures without having to terminate employees. The key is to make sure everyone shares in the reduction — including senior attorneys and managers.
- **Voluntary leaves of absence.** Some employees who face a layoff situation may be receptive to taking a voluntary leave of absence with certain conditions: approximate idea of how long they'll be away from work; reasonable assurance their jobs will be waiting when they return; and a promise that certain benefits, depending on the circumstances, may remain in place during the leave.
- **Leaves of absence.** During a downturn, companies sometimes ask their employees to volunteer to take a period of time off in lieu of termination. While not all employees can afford to "wait it out" until the company needs them again, if a firm can convince enough workers to accept this option, it can emerge much more quickly from a slowdown once conditions improve. That's because a company can more easily expand again to meet increased demand if it has a pool of experienced workers to call upon.

- **Early retirement.** A method frequently used to reduce payroll costs is to encourage early retirement, generally through financial incentives. Offers of early retirement usually have to be extended to wide classes of employees to avoid charges of age discrimination. A potential downside risk to this option, however, is that a significant number of employees you want to retain may accept the offer.

## 2. Draw Upon Outplacement Firms

Outplacement firms specialize in helping dismissed employees regroup and find new jobs. In a typical outplacement program, workers who have been terminated are offered an opportunity to attend seminars or one-on-one sessions on topics such as career counseling, resume-writing and the basics of job hunting. In addition, job seekers are often given office space, access to a phone, and administrative help — all for a predetermined period of time.

Outplacement can become expensive, however, particularly if you're dealing with large numbers of dismissed legal professionals. Still, it's one of the most effective ways to help those who have worked with your company for a long time and need the support that outplacement services can provide.

## 3. Help Remaining Staff Cope

Layoffs are stressful not only for those who lose their jobs but also for remaining employees. Downsizing affects morale, company productivity, workload distribution, and long-term processes. If you do have to lay off employees, it's critical to step up your efforts to motivate remaining staff and help them focus on the positive.

Practicing open — and regular — communication and empowering employees to make decisions on their own not only demonstrate that you welcome their ideas, but also help them to feel more in control of their jobs. Encourage people to work together more effectively by holding inexpensive team-building events, such as brown-bag lunches. And don't hold back your praise for those doing a particularly good job.

## VII. About the Author

Robert Half Legal is the legal staffing division of Robert Half. The company provides law firms and corporate legal departments with highly skilled professionals, including lawyers, paralegals and legal support personnel, on a project and full-time basis. With North American and global locations, Robert Half Legal also offers [managed review and e-discovery services](#).

Through our expertise, diligence and attention to meeting the needs of our clients, Robert Half Legal has earned a reputation for outstanding service and professionalism. Many of our account executives are attorneys and administrators who have experience working in law firms and legal departments. They possess an “insider’s knowledge” of our clients’ needs, enabling them to serve as advisors on hiring and personnel management issues. Robert Half Legal maintains an active referral network, an advanced e-recruiting program and an extensive database of highly qualified legal professionals currently available, all of which offer us access to a large talent pool for fulfilling the staffing needs of law practices and departments.

Robert Half Legal routinely assists offices in identifying the appropriate personnel resources required for their cases or projects, and provides legal professionals whose specific training, experience and practice area expertise make them ideal for the assignment, whether it’s temporary or fulltime. Robert Half Legal also serves as a reliable information source on workplace trends and management issues within the legal community. Our Future Law Office project is part of an ongoing effort to offer our clients and candidates a global perspective on trends within the legal field that are shaping their offices and careers. (The report may be viewed at [www.futurelawoffice.com](http://www.futurelawoffice.com)). We regularly conduct national surveys of attorneys and other legal professionals about topics ranging from new technologies and flexible work options to the fastest-growing practice areas. In addition, Robert Half Legal has produced a number of informative pamphlets for management within law firms and corporate legal departments, complimentary copies of which may be requested by contacting us.

For additional information or for online job search services, please visit the Robert Half Legal website at [www.roberthalflegal.com](http://www.roberthalflegal.com). To reach the office nearest you, call 1-800-870-8367.



## VIII. Additional Resources

### A. ACC Sources

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"Top Ten Interview Tips for Compliance with Equal Employment Opportunity Laws," ACC Article (June 2010), *available at* <http://www.acc.com/legalresources/publications/topten/compliance-with-equal-employment.cfm>.

Dani Sanchez-Gleason, Esq., Richard Greenberg, Esq., "Top Ten State Background Check Issues," ACC Article (Apr. 2011), *available at* <http://www.acc.com/legalresources/publications/topten/State-Background-Check.cfm>.

"Law Department Glossary of Job Descriptions," ACC InfoPAK (Aug. 2008), *available at* <http://www.acc.com/legalresources/resource.cfm?show=19640>.

“Using Background Checks in Making Hiring Decisions,” ACC QuickCounsel (Mar. 2013), available at

<http://www.acc.com/legalresources/quickcounsel/ubcimhd.cfm>.

## B. Other Sources

### I. Robert Half Legal Salary Guide

Published annually, the guide contains current information on more than 70 legal professional positions in the U.S. and Canada; available at:

<http://www.roberthalflegal.com/salarycenter>.

### 2. In-House Jobline<sup>SM</sup>

Through this on-line database, browsers may search or list available in-house positions. Qualified in-house counsel seeking new

positions conduct more than 90,000 searches every month, tapping into hundreds of new positions posted each month. Jobline is free to prospective employees searching for new opportunities. For more information, please visit: <http://jobline.acc.com>.

The new Resume Bank allows you to post a confidential resume and pre-approve the release of your information to prospective employers. Additionally, you can explore online employment information specific to your job search in the “Resources” Section of the Jobline web site. For more information, please visit: <http://jobline.acc.com>.

# IX. Interview Resources

## A. Sample Interview Questions

*Excerpted from "Recruiting, Hiring, and Retaining Employees," originally presented at ACC's 2007 Annual Meeting.*

### Personality

1. How would a person who dislikes you describe you to me?
2. Do you consider yourself tactical or strategic? Give examples.
3. Have you ever had to go out on a limb to do something you thought was right?
4. Give me three adjectives to describe yourself.
5. What are your favorite leisure time activities?
6. Do you consider yourself creative or analytical? Give examples.
7. What books have had the most impact on your life, and why?
8. Who are your heroes?
9. Do you have any crusade or soap box issues?
10. How do you motivate yourself?
11. What magazines do you subscribe to at home?
12. What are you going to be doing at 2:00 p.m. on Saturday afternoon?

### Values

1. Have you ever made any mistakes at work? Discuss.
2. Tell me about your ethics.
3. Have you had any major disappointments in your work? Discuss how you handled them.
4. Describe your value system.
5. Tell me about a situation where you had to violate your standards. What caused you to make the decision?

6. How do you manage your emotions?
7. What are your most important deeply held values?
8. Give me an example of a value that is really meaningful to you.
9. What is your personal philosophy about life?
10. How do you deal with situations at work when company events contradict your philosophy or values?

### **Teamwork**

1. Who was your best boss, and why?
2. Who was your worst boss, and why?
3. What have you found to be the most effective way to change someone's mind?
4. In which of your previous positions did you most enjoy working with your immediate work group? What factors made it rewarding?
5. What kind of people do you like to work with?
6. How do you take direction?

### **Goals and Objectives**

1. How do you define success?
2. What is the most important goal around which you organize your life?
3. What are your short- and long-term career goals?
4. Why do you want this job? What do you most deeply hope for in a new job with us, if we bring you aboard?
5. Why do you want to leave your current job? Why did you leave your past job?
6. What is really important to you, not only in your role as a worker, but also as an individual outside of work?

### **Qualifications for Employment at Company/Expectations**

1. Now that you have met with us on several occasions and understand our organization and style, tell me how you would fit in and why.
2. How can you uniquely contribute to \_\_\_\_\_ (*company*)?
3. Tell me your understanding of the job.
4. What expectations do you have of your supervisor?
5. What would be your expectations as an employee?
6. What interests you about the position?
7. Do you have any questions about what is important to you at \_\_\_\_\_ (*company*)?
8. What information have you found out about \_\_\_\_\_ (*company*) that you did not know before?

### **Assessment**

1. In what areas could your boss have done a better job?
2. Tell me about an instance where your work or your ideas were criticized.
3. Do you think your former boss(es) evaluated you fairly?
4. What was the biggest business risk you ever took? Why was it a risk? What was the outcome?
5. What do you consider/analyze before deciding to take a risk?
6. What did you really like about your last job?
7. What bothered you or stressed you the most about your last job?

### **Perseverance**

1. Describe a work situation where you faced incredible odds but prevailed.
2. Describe a similar situation where you gave up because the odds against succeeding were too great.
3. What was the most difficult adjustment you have had to make in your career? Why was it difficult? What did you do? What was the result?

### **Teachability**

1. What work style or personality characteristics do you think are most valuable for success? Which do you possess? Which do you not possess or would like to improve?
2. What kinds of things do you learn quickly?
3. What kinds of things do you find difficult to learn?

### **Management Questions**

1. How many people have you hired?
2. How many people have you fired, and why?
3. What is your style with employees you supervise?
4. How do you handle difficulties?

## B. Chart of Legal Questions

Excerpted from "Recruiting, Hiring, and Retaining Employees," originally presented at ACC's 2007 Annual Meeting.

Following is a quick reference that details legal and potentially discriminating interview questions:

Topic	Legal Questions	Discriminatory Questions
Family Status	<p>Do you have any responsibilities that conflict with the job attendance or travel requirements?</p> <p><i>Must be asked of all applicants.</i></p>	<p>Are you married?</p> <p>What is your spouse's name?</p> <p>What was your maiden name?</p> <p>Do you have any children?</p> <p>Are you pregnant?</p> <p>What are your childcare arrangements?</p>
Race	None	What is your race?
Religion	<p>None</p> <p><i>You may inquire about availability for weekend work.</i></p>	<p>What is your religion?</p> <p>What church do you attend?</p> <p>What are your religious holidays?</p>
Residence	What is your address?	<p>Do you own or rent your house?</p> <p>Who resides with you?</p>
Sex	None	Are you male or female?
Age	If hired, can you offer proof that you are at least 18 years of age?	<p>How old are you?</p> <p>What is your birth date?</p>

Topic	Legal Questions	Discriminatory Questions
Arrests or Convictions of a Crime	<p>Have you ever been convicted of a crime?</p> <p><i>You must state that a conviction will be considered only as it relates to fitness to perform the job being sought.</i></p>	<p>Have you ever been arrested?</p>
Citizenship or Nationality	<p>Can you show proof of your eligibility to work in the U.S.?</p> <p>Are you fluent in any languages other than English?</p> <p><i>You may ask the second question only as it relates to the job being sought..</i></p>	<p>Are you a U.S. citizen?</p> <p>Where were you born?</p>
Disability	<p>Are you able to perform the essential functions of this job with or without reasonable accommodation?</p> <p><i>Show the applicant the position description so he or she can give an informed answer.</i></p>	<p>Are you disabled?</p> <p>What is the nature or severity of your disability?</p>



## X. Endnotes

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<sup>1</sup> Nick Boulter & Murray Dalziel, Ph.D., *ACHIEVING THE PERFECT FIT: HOW TO WIN THE RIGHT PEOPLE IN THE RIGHT JOB* (Gulf Publishing Company 1998), [http://www.amazon.com/dp/0884156257/ref=rdr\\_ext\\_tmb#reader\\_0884156257](http://www.amazon.com/dp/0884156257/ref=rdr_ext_tmb#reader_0884156257).

<sup>2</sup> Bureau of Labor Statistics, May 2013, available at <http://www.bls.gov/news.release/empsit.t04.htm>.

<sup>3</sup> Robert Half Legal, *Survey Shows Non-Financial Perks Rank Highest for Recruiting Legal Staff*, May 30, 2013, <http://legal.rhi.mediaroom.com/2013-05-30-Survey-Shows-Non-Financial-Perks-Rank-Highest-for-Recruiting-Legal-Staff>.

<sup>4</sup> *Robert Half Legal 2013 Salary Guide*, <http://www.roberthalflegal.com/SalaryCenter>.

<sup>5</sup> Robert Half Legal, *New Research Shows Impact of Technology on Legal Field*, Aug. 2 2012, <http://legal.rhi.mediaroom.com/technology-future-law-office>.

<sup>6</sup> Robert Half Legal, *Survey Shows Non-Financial Perks Rank Highest for Recruiting Legal Staff*, May 30, 2013, <http://legal.rhi.mediaroom.com/2013-05-30-Survey-Shows-Non-Financial-Perks-Rank-Highest-for-Recruiting-Legal-Staff>.

<sup>7</sup> Donna Fuscaldo, *4 Reasons Employees Quit Their Jobs*, Mar. 28, 2013, [http://www.ragan.com/Main/Articles/4\\_reasons\\_employees\\_quit\\_their\\_jobs\\_46436.aspx#](http://www.ragan.com/Main/Articles/4_reasons_employees_quit_their_jobs_46436.aspx#) (last visited Oct. 2, 2013).