



910:Hiring & Motivating Your Legal Team

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*Recruiting
&
Retaining
In-house Staff*

Recruiting and Retaining In-house Staff

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Attracting qualified professionals and motivating them to give their best are top concerns for today's corporate legal departments. This InfoPAKSM offers some tips on how to successfully recruit, hire and manage employees. **This information does not represent legal advice and should not be relied on as such, nor do the opinions expressed in this material reflect the views of ACC or its lawyers, unless so stated.** This is not intended as a definitive statement on the subject, but as a tool, providing practical information for the reader. Included are sample forms and checklists relevant to the topic.

Please help us improve this InfoPAK by contributing your relevant information concerning Recruiting and Retaining In-house Staff. We hope that you find this material useful. Thank you for contacting the Association of Corporate Counsel.

This information has been produced by *Robert Half Legal* (www.roberthalflegal.com) at the direction of the Association of Corporate Counsel

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Overview Of Robert Half Legal

I. Recruiting, Hiring and Managing: An Overview

Attracting qualified professionals and motivating them to give their best are top concerns for today's corporate legal departments. These offices must locate attorneys, paralegals and administrative staff with the right expertise to address the changing array of legal issues that companies face. And once a first-rate team is assembled, general counsel and supervisors must encourage them to strive for peak performance and to work effectively together to accomplish common goals.

Despite your best efforts, sometimes you'll be faced with problem employees or other difficult situations. Knowing how to promptly and appropriately react allows you to minimize the impact of adverse circumstances on your staff. This InfoPak offers some tips on how to successfully recruit, hire and manage employees.

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 forecasting possible workload peaks and valleys, which will help you decide the type of employee required -- full-time, part-time or project -- or whether you even need a new hire at all. After creating a plan, prepare a job description and research compensation trends in your area.

Hiring the Best People

A well-prepared job description can help you evaluate the quality of the resumes you receive. When you've decided whom you would like to interview, the job description can also assist you in developing questions to ask during these meetings. Once you have a top candidate for the position, be sure to check references thoroughly in accordance with your company's policies and/or procedures. Once new hires are on board, provide a proper orientation 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 inspire 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. Recruiting 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, and it's called strategic staffing.

This approach begins with reassessing your employment requirements in terms of your department's long-term objectives. The next step involves satisfying those needs with a well-chosen mix of full-time and project legal professionals. With this process, you don't become locked into maintaining additional staff you may not need regularly. Instead, you turn a portion of your largest fixed cost -- labor -- into a variable cost that is tied to your changing workloads. This flexibility can give you a significant competitive advantage. Strategic staffing also protects the jobs of full-time employees by helping you avoid a demoralizing cycle of overhiring, layoffs and costly rehiring when conditions change again.

1. Filling 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 to look 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 that held the position was hired: Are new skills and abilities now needed? 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.

2. Initiating a Strategic Staffing Plan

After you've determined the staffing needs for the position in question, step back and 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.

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 strategic staffing plan -- carefully thought-out and executed -- should be your first priority.

3. Deciding on the Kind of Help You Need

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

- *Pinch hitters* fill in during employee absences, providing 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.

4. *Monitoring Your Staffing Activities*

Strategic staffing is a year-round effort. Once you've put a plan into action, you will still need to regularly reassess your human resources needs. 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.

Talk to your full-time staff often about 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 strategic staffing approach offers your legal department considerable flexibility and provides 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 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 used in 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 hire the most qualified legal staff, but it also uncovers areas in which employee training might be useful. Following are several strategies designed to help you build an effective competency model.

1. *'Interview' Your Top Talent*

Nearly every firm employs several stand-outs 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 identifying all of the traits 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 work?

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

2. *Talk to Clients and Vendors*

Your contacts within the company and the vendors you use can also be sources of valuable information. Seek input from those with whom staff members interact on a regular basis. You may find they value a particular employee because he or she 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.

A fully developed competency model will help to enhance the talents of your current employees. Weigh their strengths against those you've found to be most important to your company's success. If you find a gap that applies to a significant number of workers, invest in additional 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. As you receive and review resumes, the job description will help you narrow the field. 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. (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.)

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 3 years of experience in Labor and Employment Law or 5 years of experience in General Civil Litigation.
- At least 1 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, organizing and maintaining office records systems, maintaining 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 & Qualifications:

- Bachelor's degree in public or business administration or equivalent work experience.
- At least 3 years of experience as a legal administrator in a public agency or 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 & Qualifications:

- At least 3 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 1 year of in-house experience preferred.
- Graduation from high school or a GED equivalent.

D. Researching the Market

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.

1. Comparing Salaries

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. *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. Other ways to benchmark your compensation levels include:

- U.S. Bureau of Labor Statistics Occupational Outlook Handbook -- available online at 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, ongoing staff management. Compensation has a significant effect on how employees feel about their jobs; therefore, salary levels should be periodically reevaluated to ensure they are keeping pace with the market.

2. Attracting 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 of patent law, for example, continues to be sought by many corporate legal departments. 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; employee health care plans; and on-site benefits such as a childcare center, cafeteria and workout facilities.

These and other elements are part of your staff's overall compensation and should be presented to prospective candidates, particularly those with in-demand skills and experience.

E. 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.

1. Recruiting is 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. Identifying 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 great 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:* Attend professional association events regularly to meet potential new hires. Ask others in your network for candidate referrals. Be as specific as possible when you're telling people what you're looking for, and make sure you trust the source of a recommendation.

3. Going Online

In addition to traditional recruiting methods, the Internet has become an invaluable tool for sourcing qualified legal professionals. The ease of posting employment openings, the relatively low cost of advertising and the speed of candidate response has many legal administrators and managers devoting more time than ever before to recruiting online.

As with other tools, the Internet is not without its limitations as a means of 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 -- requiring 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 for increasing 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 visiting 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 describing 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.
- *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 for broadening your reach in the legal community and getting 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. Adding 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. Maximizing 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. Working with Recruiting Firms

In addition to the recruiting sources discussed above, using specialized staffing firms can help you fine-tune your search. 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 give 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.
- *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.

F. 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 promotions are proof to your employees that hard work and excellence are 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 it offers them an opportunity to observe firsthand the management style in your company.

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.

G. Writing the Right Job Ad

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. Refer to the job description you've created and try to summarize it, outlining key responsibilities and required skills.

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

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:

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 “Writing a Job Description,” p. 4). 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 can 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, wherein information is 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 “1996” 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. These often indicate the candidate lacks hands-on experience.
- ***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. Interviewing Effectively

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 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’ problem-solving abilities, legal

experience, practice area expertise, interpersonal skills and overall business acumen. Compare these qualities to the competency model you developed. (See “Using Competency Modeling,” p. 3).

- *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 making the best hiring decisions.
- *Make a pitch for your firm.* Gone are the days when only the candidate had to project a good image. Job seekers today 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 that your last job did not provide?”
- *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.
- *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; jotting down the highlights should be sufficient. You may also want to write more comprehensive notes immediately after the interview. 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.
- *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.
- *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”).

C. The Do’s 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. (See “Checking References,” below).
- *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 -- such as the fact that you went to the same school 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 satisfies everyone in some way yet is not right for the job.

D. Checking References

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.

1. Announce Your Intention

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 cooperative individuals -- and 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. 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.

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.

4. *Getting 'Real' 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.

5. *Going 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. *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. Sometimes a strong candidate is interviewed and evaluated only to be lost because the final hiring decision was slow in coming.

An experienced legal secretary, for example, may receive multiple employment offers before making a final decision, which means there is always a risk he or she may pursue another opportunity if your offer isn't forthcoming. Expediting the selection process will improve your chances of securing the best candidates.

Sample Offer Letter to Prospective Employee

[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] and will report to [Name, Position]. 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 [California or other 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:

F. 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. That means it's essential to get new hires off to a solid start with a quality orientation.

1. Plan Strategically

The best orientation programs are well-planned, ongoing processes 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
- Engender a sense of camaraderie, collaboration and teamwork

2. Explaining 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. Establishing 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 the 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. Assigning a mentor can help reduce the learning curve and take some of the stress out their 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 continual. Make sure you maintain the flow of information when 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

Attorneys and paralegals aren't the only professionals corporate legal departments must recruit, hire and motivate. You must also locate and retain administrative staff with the right expertise to help you 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.

1. Increased regulation

Among the dominant issues affecting legal departments are a slew of new corporate governance, accounting and ethics regulations stipulated by the Sarbanes-Oxley Act of 2002 (SOA), the SEC and the stock exchanges. 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.

Helping to comply with the new regulations is a core consideration for legal departments of public companies, but also a concern for private businesses. 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 quickly becoming the new standard for business conduct.

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, including conducting research and drafting documents.

2. Technology

Another major force impacting today's legal departments is the continual evolution of technology. 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. Because of potentially catastrophic viruses, 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 in-house counsel and paralegals as well as carry out their own projects.

3. Changing relationships with outside counsel

In an effort to keep expenses down, corporate legal departments are curbing their use of outside counsel and opting instead to depend more heavily on in-house professionals. As a result, workloads are becoming heavier for in-house counsel and legal assistants. This is another reason administrative support staff are seeing more work come their way.

Attorneys were asked, "Is your law firm or corporate legal department planning to increase spending on technology over the next five years?" Their responses

- Increase significantly – 14%
- Increase somewhat – 54%
- No change – 22%
- Decrease somewhat – 3%
- Decrease significantly – 1%
- Don't know – 6%

Total – 100%

Attorneys were asked, "Has your corporate legal department increased or decreased its work with outside law firms in the last 12 months?" Their responses:

- Increase – 45%
- Decreased 15%
- No Change – 38%
- Don't know – 2%

Total 100%

What was the primary reason for the decrease?

- More work being done in-house – 47%
- Cost management or reduced budgets – 33%
- Poor client service – 7%
- Poor quality of work – 7%
- Other – 6%

Total 100%

Source: Survey of 200 attorneys among the largest law firms and corporations in the United States and Canada commissioned by Robert Half Legal and conducted by an independent research firm.

Increased workloads resulting from these changes are causing a "trickle down" effect as a growing number of basic legal activities and tasks are passed on to administrative personnel. 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 but are now taking on even more of the responsibilities these individuals previously managed, such as selected research and document preparation.

B. 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 not requiring 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;
- Master new legal software and become the department's go-to persons for new technical applications.

C. Will new skills be needed?

Assisting in these new areas may require legal administrative professionals with broader skills 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 and 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 is increasingly important as departments attempt to manage more work in-house, and the work of administrative personnel is a crucial part 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 and paralegals as well as expert witnesses and many more. (For more, see the "Fostering Teamwork" section.)

D. What training should you offer?

After determining what these stepped-up requirements mean for your department, you'll need to provide relevant training for your support staff. To help them assist in SOA-compliance-related tasks, you should offer at least a basic overview of the new rules to provide a context for work they may be called upon to perform. Make sure staff understand the company's liability for non-compliance and the importance of ethics in the activities of every employee. The legal department plays a central role in coordinating compliance efforts. Employees should be familiar with procedures for documenting "whistleblower" complaints and how the department is charged with protecting these individuals and reporting wrongdoing "up the ladder" (first to the chief legal officer, then the CEO, and up to the full board of directors, if necessary). While not all administrative staff will be involved in compliance support, they still need to understand the importance of this new focus, which is so significantly impacting the work of corporate legal departments.

Also be sure your administrative team remains up to date on technology. Depending on individual roles, they must understand software tools for organizing and managing information including CaseMap, TimeMap, NoteMap, PowerPoint, 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 devices, including BlackBerrys and handheld Palms when these professionals are out of the office.

E. What are the staffing implications?

A key obligation of any general counsel or legal manager 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 have cost-control mandates that may limit both the use of outside counsel and the hiring of additional staff. These restrictions can make staffing a significant challenge, especially since they come at a time of increasing workloads in most 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 maybe 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 meeting growing 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 gives you more flexibility. Many departments are bringing in additional support on a project basis (see the "Determining Your Staffing Needs" section). This allows them to augment the efforts of full-time staff, especially during peak times. This choice offers immediate access to specialized skills not available internally or not required long-term and 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.

F. Retaining Your Top Talent

Once you've built a knowledgeable and capable administrative staff, keeping your top performers is key. 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. 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. Motivating and Managing People

A. A Positive Corporate Culture

Besides financial incentives, the most important motivator for employees to give their best — and to remain satisfied with your company — is your corporate culture. Many businesses are addressing these priorities by revising policies and changing long-held attitudes in order to create a more attractive organizational climate.

While professionals' interest in achieving a better work-life balance has prompted many companies to offer options such as flexible hours, telecommuting and childcare programs, it's the intangible elements of corporate culture that are probably the most important to employees. Your policies regarding open communication, regular recognition and opportunities for intellectual growth, for example, are key influences for legal professionals considering your company and department.

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.

1. 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.

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 swiftly to input from employees, since prolonged silence or delay can be discouraging.

3. Allow Room for Error

When people are challenged to become more resourceful and responsible -- which inevitably entails risk taking -- a certain amount of error will occur. Rather than abandoning empowerment strategies, assess what went wrong. Carefully consider why the mistake occurred and how it might have been prevented. Did the employee have the information necessary to render a good decision? Were others involved in the decision-making process (peers, support staff, etc.)?

Based on your findings, incorporate changes in the employee empowerment process that will prevent problems from reoccurring. Ultimately, empowering your staff members can result in increased department productivity and greater employee satisfaction.

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 law, 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. Conducting Performance Appraisals

While many managers regard performance reviews as more of a time-consuming chore 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.

Still, successful reviews require careful balancing. You'll want 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:

- *Don't make it an annual event.* Provide input 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 eight 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.

- *Deliver negative feedback with care.* Discussing an individual's weaknesses in a constructive way can be quite a challenge. To keep employees optimistic, provide examples of how to improve in specific areas. This will help them focus better on future success. Be sure to comment on positive attributes as well. Encouragement is the best incentive for improvement.
- *Reinforce company values.* Employees who are clear about expectations and how their daily contributions tie into the business's 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 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 of advancing 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 underperforming employees. How you respond determines whether the situation is resolved quickly or gradually worsens and ultimately affects your entire team's productivity.

1. Putting 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 fully comprehend the standards of acceptable performance and how their efforts — or lack thereof — affect the company's productivity.
- *Outline the consequences.* Staff members should know 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 input face to face, discussing what can be done to enhance performance.
- *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 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.* Recalling what you talked about last year in a performance review with a staff member can be difficult. To be fair to everyone involved, you need to take notes and keep a written record of your discussions. 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

1. 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 you always check first 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 use. 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.
- *Issue a second warning.* If the behavior hasn't improved, have another one-on-one meeting. This time, deliver a memo that outlines areas that need improvement and explains 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.

1. *Exploring 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 ideas:

- *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 in 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 situation, 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.* An often-used method of reducing 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 in order to avoid charges of age discrimination. This means you run the risk that a significant number of employees you want to retain may accept the offer.

2. *Using Outplacement Firms*

Outplacement firms specialize in helping dismissed employees regroup and find new jobs. In a typical outplacement program, workers who've been terminated are offered an opportunity to attend seminars or one-on-one sessions in areas such as career counseling 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, particularly if you're dealing with large numbers of dismissed legal professionals. Still, it's one of the best ways to help those who've been with your company for a long time and need the support that outplacement services can provide.

3. *Helping Remaining Staff Cope*

Layoffs are stressful not only for those who lose their jobs but also for remaining employees. Downsizing affects morale, company productivity 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 allowing employees to make decisions on their own not only demonstrates that you welcome their ideas, but it also helps 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. Additional Resources

ACC Docket Articles

- Six Sigma: Positioning for Competitive Advantage by Thomas L. Sager and Scott L. Winkelman ACCA Docket January 2001
<http://www.acca.com/protected/pubs/docket/jf01/six.html>
- What Every Law Department Needs: A Performance Evaluation System That Works by Michele S. Gatto ACCA Docket January 2001
<http://www.acca.com/protected/pubs/docket/jf01/what.html>
- Getting Closer to the Business: How to Foster Innovation and Value Through Culture and Philosophy by Jeffrey W. Carr and James Lovett ACCA Docket January 2001
<http://www.acca.com/protected/pubs/docket/jf01/getting.html>
- Using Exercise to Reduce Corporate Law Practice Stress: It's a Marathon, Not a Sprint ACCA Docket June 2001 <http://www.acca.com/protected/pubs/docket/jj01/stress1.php>
- The Spirit of Work by Dr. Lance Secretan, ACCA Docket November/ December 2001
<http://www.acca.com/protected/pubs/docket/nd01/spirit1.php>
- Interviewing Job Applicants: Can I Ask This Question? by James K. Cowan Jr and Laura Effel ACCA Docket March 2001
<http://www.acca.com/protected/pubs/docket/ma01/interviewpage1.html>

Program Materials

- Recruiting, Hiring, and Retaining Employees Program Material Annual Meeting 2001
<http://www.acca.com/education2k1/am/cm/104CD.pdf>
- The employee manual: No policy is not good policy. Program Material Annual Meeting 2001 <http://www.acca.com/education2k1/am/cm/603CD.pdf>
- Teaching Contract Law to Non-Lawyers: Learn Training Methods that Really Work Program Material Annual Meeting 2001
<http://www.acca.com/education2k1/am/cm/503.pdf>

ACC In-house JobLine

This is an online database for both searching for and listing in-house positions. Qualified in-house counsel seeking new positions conduct more than 90,000 searches every month, and they're tapping into hundreds of new positions posted each month. Best of all, Jobline is free to prospective employees searching for new opportunities.

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. <http://jobline.acca.com/>

VIII. Sample Form and Policy

A. Sample Interview Questions¹

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?

¹ Excerpted from: "Recruiting, Hiring and Retaining Employees," originally presented at ACCA's 2001 Annual Meeting.

5. What kind of people do you like working 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?
6. What is really important to you, not only in your role as a worker, but also as a whole 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 the odds against succeeding were so great that you gave up.
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 you 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? How do you handle difficulties?

For more information, see "Interviewing Job Applicants" by James K. Cowan Jr. and Laura Effel, from ACCA Docket, March 2001.

B. Chart Of Legal Questions²

Following is a quick reference detailing legal and potentially discriminating interview questions.

| <u>Topic</u> | <u>Legal Questions</u> | <u>Discriminatory Questions</u> |
|---------------|---|--|
| Family Status | <ul style="list-style-type: none"> ○ Do you have any responsibilities that conflict with the job attendance or travel requirements? <p><i>Must be asked of all applicants.</i></p> | <ul style="list-style-type: none"> ○ Are you married? ○ What is your spouse's name? ○ What is your maiden name? ○ Do you have any children? ○ Are you pregnant? ○ What are your child-care arrangements? |
| Race | <ul style="list-style-type: none"> ○ None. | <ul style="list-style-type: none"> ○ What is your race? |
| Religion | <ul style="list-style-type: none"> ○ None. <p><i>You may inquire about availability for weekend work.</i></p> | <ul style="list-style-type: none"> ○ What is your religion? ○ Which church do you attend? ○ What are your religious holidays? |
| Residence | <ul style="list-style-type: none"> ○ What is your address? | <ul style="list-style-type: none"> ○ Do you own or rent your home? ○ Who resides with you? |
| Sex | <ul style="list-style-type: none"> ○ None. | <ul style="list-style-type: none"> ○ Are you male or female? |

² Excerpted from: "Recruiting, Hiring and Retaining Employees," originally presented at ACCA's 2001 Annual Meeting.

| | | |
|-----------------------------------|--|---|
| Age | <ul style="list-style-type: none"> ○ If hired, can you offer proof that you are at least 18 years of age? | <ul style="list-style-type: none"> ○ How old are you? ○ What is your birth date? |
| Arrests or Convictions of a Crime | <ul style="list-style-type: none"> ○ Have you ever been convicted of a crime? <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> | <ul style="list-style-type: none"> ○ Have you ever been arrested? |
| Citizenship or Nationality | <ul style="list-style-type: none"> ○ Can you show proof of your eligibility to work in the U.S.? ○ Are you fluent in any languages other than English? <p><i>You may ask the second question only as it relates to the job being sought.</i></p> | <ul style="list-style-type: none"> ○ Are you a U.S. citizen? ○ Where were you born? |
| Disability | <ul style="list-style-type: none"> ○ Are you able to perform the essential functions of this job with or without reasonable accommodation? <p><i>Show the applicant the position description so he or she can give an informed answer.</i></p> | <ul style="list-style-type: none"> ○ Are you disabled? ○ What is the nature or severity of your disability? |