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LAW FIRM MANAGEMENT: PHASES OF STAFFING

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Law firms' success, like that of any other types of organizations, is largely based on its people. It truly takes a village to create a functional, productive, professional and successful firm, and the staff is the key to the success of such venture. As the leader of your firm, you may have revolutionary ideas and unstoppable drive to succeed—yet, unless you operate within a team that shares your vision, you are likely to end-up spending time on frustrating efforts to put your firm into driving gear.

In this article, we share our general ideas on how to create a successful and functional law firm environment based on four stages of staffing: hiring, training, retaining and letting go.

Hiring the Right Candidate for Your Immigration Firm

The success of an immigration law firm relies heavily on the strength of your team of attorneys and support staff. Therefore, hiring the most appropriate employee the first time around is critical. By assessing candidates thoroughly you best serve the candidates too. Ultimately, an employee will not be happy if their experience, skills, or competence do not fit the position requirements.

Screen Candidates Effectively

Resumes are often vague and embellished and candidates may speak very eloquently during the interview. However, neither of these common interview tools by themselves discerns if a candidate has the true experience you require for the position. Create an application with specific questions. For example, an employer who will be hiring a paralegal to prepare H-1B petitions may ask, "How many H-1B petitions have you prepared from start to finish independently in the last three years?" This type of specific question will elicit more useful information than a generic resume listing H-1B petitions among several other types of petitions in a prior position that lasted 10 years. Are strong writing skills important for the position? If so, request a writing sample with the application. By requiring candidates to put in a little effort in the beginning, you will quickly separate serious candidates from the rest.

A short application will weed out most of your unqualified candidates. From the short stack remaining, in a telephone screening interview, you can follow up on the responses from the applications to determine the quality of experience. For example, "Describe a couple issues that you have spotted and resolved in preparing your 10 H-1B petitions."

Hypotheticals Provide Insight into a Candidate's Job Performance

The most effective predictor of how an employee will perform on a work assignment is how a candidate will perform on a hypothetical assignment. For example, if you are hiring a staff member to do data entry, ask them to complete a short data entry hypothetical project. You will see the candidate's accuracy, efficiency, and ability to follow instructions. If you are hiring an attorney to prepare or review a certain type of immigration application package, ask the candidate to complete an immigration form based on hypothetical facts. You will see whether the candidate spotted the issues, how the candidate resolved the issues, and his/her accuracy and efficiency. Is efficient touch typing required for the position? Try one of the many short touch typing tests on the Internet.

Assessments Can Supplement Your Interview

There are many different assessments commercially available to help you in your hiring process. For example, you may choose to administer an assessment that rates the candidates' ability to think logically. Other assessments may try to predict a candidate's work behavior or work styles. Yet another assessment will give you the sense of an [employee's work values](#). Our values are our invisible drivers which indicate why we take the actions we do. They also direct our constant decision-making on the job and determine how we allocate our resources. Assessments can be costly. Consider how important the position is for which you are hiring. As with any employment practice, consult with your employment attorney as needed.

Listen to Your Gut

Of course, your own life experience and intuition will also guide you. Listen to your inner wisdom. Contemplate whether a candidate will fit and be happy in your firm's culture. You owe it to the candidate and to yourself to make the best match.

Training

After the right candidate has been chosen, it is important to transition him or her to being a valuable addition to a well-oiled mechanism of your office.

Technology

As a general rule, a modern law office takes advantage of today's technology as any other contemporary professional

service. Even if you prefer to stay on the conservative side—after all, not all of us are technology geeks—you have your own way to make a complex system of deadlines and reminders work. It is essential, therefore, that a new hire is fully integrated into your operations with technology being one of the first priorities. You want to make sure your new employee avoids making mistakes with technology that can later turn out to be detrimental (such as forgetting to properly set a reminder for a filing date, RFE response, etc.). It may sound like common sense, and it is: spend time or dedicate a responsible party to educate your new hire on the intricacies of your system and monitor the progress until you have reached comfort knowing the person fully grasps the concepts and knows how to operate the tools.

Competence in law and staying current

One of the most important aspects of any law practice is to ensure that your staff is competent in their job. This is particularly true of your attorneys, and you should develop a system where your lawyers have access to current developments in the law and to mentors' assistance. It is important to create an environment where attorneys are free to brainstorm challenging issues, know how to use tools and resources for help (*i.e.* [AILA InfoNet](#), [AILA Mentor Directory](#), state bar resources, etc.) and remain motivated to stay abreast of the ever-changing immigration laws.

Client relationship

Each firm has its own unique way to attract and retain clients, turning them into a referral source. It is important even at the interview stage to see that the candidate is a right fit to maintain, reinforce and, preferably, enhance your way of working with clients. This is an important aspect not to be overlooked as client relationships are what make the law business successful. Provided you have established mechanisms to ensure the new hire's loyalty (even though there is never any predictability to that effect), you may want to share your "client magnet" rules so that the new hire can "customize" it based on his or her own personality and experience. This of course is a general statement as it all depends on the level of responsibility the person will have at the firm, the staffing level (attorney, paralegal support stuff) and his or her own unique personality. However, the gist stays the same—the new hire should be able to harmoniously fit into your firm's mosaic and carry an added value when working with clients.

Unauthorized practice of law issues and how to monitor your non-lawyers

One of the most important aspects in training paralegals and support staff is that they must fully understand the line between operational necessity in communicating with clients vs. crossing the line and issuing legal advice they are unauthorized to issue. You must remember that the senior attorney is ultimately responsible for actions of his or her staff so you cannot turn a blind eye to your non-lawyers' staff communications with clients. As soon as you start expanding your operations, you should think of the procedures you need to establish to avoid the unauthorized practice of law by your non-lawyer staff. This can include interoffice memorandums issued monthly or bi-monthly, regular staff meetings addressing the issue and mentorship opportunities. The key is continuity – even the most experienced paralegals can easily slip into legally inappropriate conversations with clients as they know too much; it is your job to assure that your staff remains professional and your practice ethically intact.

Considerations for Increasing Employee Retention

It is frequently said that a firm is only as good as the people who work there. If you are lucky enough to have made successful hiring decisions and have good people working for you, it is important to retain those individuals, and in the event that they leave, to make sure that you have provided the best job experience possible during their time with you. Happy employees lead to happy clients and client referrals are important to the stability and growth of any law firm.

It starts at the interview

Beginning at the interview, it is important for an employer to communicate job expectations and explain how an individual's performance will be evaluated. Clearly communicating these things from the beginning of employment will help staff to understand their role within the firm and how they can grow professionally and personally within the firm over time.

Have realistic expectations regarding longevity

The value that you place on retention of employees may vary depending on whether you are hiring to fill an attorney, paralegal/legal assistant, or administrative position. It is important to assess the acceptable level of turnover for

your firm. Typically minimal turnover is desired for attorney positions. However, for paralegal, legal assistant and administrative positions a higher level of turnover may be inevitable and even acceptable. Prior to making a job offer you should evaluate your staffing needs and the personal circumstances of your job applicant that may cause them to leave the firm or stay at the firm.

Regular performance reviews provide necessary feedback. In order for an employee to be successful within a firm he/she needs to be provided with feedback regarding his/her performance. Employees feel valued when they are provided feedback about their strengths and areas for improvement. It shows that the firm is aware of his/her performance on the job and cares about his/her future success. Just as it is important for an employee to receive feedback, it is equally important for employees to feel like their opinions are valued. Employees should be encouraged to provide feedback to the firm about how the firm is doing.

Salary reviews should be predictable and transparent. It should be clearly communicated to employees when salary increases are considered and the factors that are considered in determining whether someone will receive a salary increase. The same is true for bonuses and other incentives. Uncertainty in how the firm operates can lead to employee dissatisfaction. Just be honest and communicate.

Firm morale and employee appreciation

Employees that feel appreciated and enjoy going to work every day tend to be employees that stick around. Find creative ways to show your appreciation to your office staff and look for ways in which employees can get together to develop their friendships. Employees that have personal connections to the firm and have a sense of social cohesion at their workplace tend to enjoy coming to work every day and find it harder to leave their place of employment.

Listen to your employees

Be open to employee suggestions on workplace improvements and feedback regarding how to make the firm more productive. If an employee makes a suggestion or request for something that will make their job easier, give it consideration and carefully weigh the cost/benefit of making your employee feel appreciated.

Try to determine what motivates your staff

By determining what motivates your staff, you will be able to better understand what factors might play a role in their job satisfaction and what things you can do to keep them satisfied with their job. For example, factors that may motivate employees include: participating in interesting work, receiving good wages, feeling appreciated for work performed, having a sense of job security, having good working conditions, the possibility of promotion and growth within the firm, feeling that there is a future for them at the firm, feeling a sense of personal loyalty to employees, etc. Identifying and focusing on the motivating factors of particular employees can help you to keep people engaged and happy with their job.

Open communication

Make sure that as an employer you are engaged and know what is going on within your firm and with your employees. Provide an environment where open communication and continuous feedback are appreciated. Visit with your employees informally and allow them the opportunity to share their thoughts and suggestions with you.

Provide responsibility and accountability

Most people like a challenge and get bored with their job if they are not provided with meaningful responsibilities and are not held accountable for their job. Likewise, most people don't like to be micromanaged. So, once you have made a hiring decision trust that you have hired the right person, unless proven otherwise, and with proper training give them the responsibility to prove that you have made the right decision.

Parting Ways— Departing Employees

Whether you will be throwing a tearful going away party for a departing employee or breathing a sigh of relief to see him gone, there are a number of matters to address when a staff member leaves your firm. Any departure will be smoother if you have a Personnel Manual and/or an individual contract with the employee so that all parties know what to expect. If your state is an "employment at will state," be careful not to inadvertently create unintentional employment contract provisions through the Manual if you want to be able to discharge an employee at any time for any unprotected reason. While particular issues arise when an attorney leaves, most of the following considerations apply to all staff.

Amicable Resignations

In spite of your disappointment at facing the departure of a valued staff member and worry about replacing their expertise, there are certain matters firm management should address when an employee leaves:

- **Communication with the rest of the office**—The sooner you tell all your staff of the departure, the less time will be spent on whispers and gossip. Additionally, remaining staff, especially in a small firm, needs to be informed about whether a replacement will be hired to overlap and be trained by the departing employee or whether current staff will be expected to cover the work left behind. Division of duties should be discussed to avoid confusion and potential hard feelings. To insure that your office continues to run smoothly after someone leaves, open communication with all staff affected by the departure must take place as early as possible. Further, while your Personnel Manual should indicate a resignation notification time period such as two-week's notice for administrative staff and four weeks for paralegals and attorneys, it may be in the best interest of the firm to allow a resigning employee to leave earlier.
- **Notification to outside parties**—If the employee has had on-going relationships on behalf of the firm with outside vendors, contractors, or clients, you may need to notify those individuals and businesses. For example, if your office manager of ten years is leaving, he or she probably has developed a relationship with outside businesses on which the firm depends. Many firms will have a trained "back-up" for such an individual — someone who covers the office manager or other critical administrative staff member during vacations or other extended absence. If not, you need to know who the outside contacts are that keep your firm running: who is your Westlaw representative; who do you call for payroll checks; who delivers those emergency office supplies at the last minute on a Friday afternoon? If a paralegal is leaving, certain clients will greatly appreciate being notified before they call about the status of their pending removal hearing only to be told their trusted paralegal no longer works for the firm. You also will need to notify your health insurance provider to remove the person from coverage or to discuss COBRA coverage, your 401(k) administrator, your payroll company, and any others who need to know of an employee departure.

- **Final paperwork with the individual leaving—**
Pursuant to your personnel policies, you may owe the employee time off for earned vacation or sick leave; or you may have a policy in place to pay for earned but unused time. A frank departure interview with the employee could be useful and enlightening, especially with a senior employee you trust. This person may be more willing to be open about the good and bad aspects of working with your firm and provide suggestions for improvement.
- **Future recommendations and security concerns—**
Many firms have a policy in responding to a reference request to provide only objective facts concerning a former employee, such as job duties and time period employed. You might consider adding whether you would consider hiring them again if you had an open position. Another method of controlling information given as a reference is to provide the departing employee with a “form” recommendation letter he or she may provide to potential employers. Remember to retrieve any office keys or magnetic lock cards and parking cards. Even with amicable departures, you may want to consider changing locks or lock codes. You also don’t want to forget to have the departing employee removed from access to your email and server.

Discharge of Employees

As disruptive as the departure of a loyal and trusted employee is to a law firm, additional issues arise when an employee’s performance is unsatisfactory.

When hiring new employees, firms should plan ahead for the possibility the individual may not work out. In the Personnel Manual or hiring letter, many firms provide for a probationary period (often 90 days) for all new employees; during this time, the employee may not be entitled to firm benefits, such as health insurance, or accrual of leave time. Performance is evaluated and discussed during the probationary period as needed and at the end of the period. Another method of “trying out” a new employee, especially useful for administrative staff, is through a “temp to perm” arrangement with an employment agency. While use of an agency generally requires payment of a fee, it may be worth the cost for the opportunity to be sure the hire is a mutual fit. If the temporary employee is not working out, you ask the agency to send someone new.

Your Personnel Manual could contain specific steps

for addressing employee performance issues once the probationary period has ended with the opportunity for re-evaluation within a designated time period. If performance does not improve, the employee will be terminated. However, keep in mind you do not want to create an implied contract. Whether or not you have a Personnel Manual, the sooner performance issues are addressed the better for all concerned; an employee’s supervisor and co-workers will only become more and more frustrated with a non-productive or difficult employee. Giving an employee specific feedback about performance concerns and a chance to improve can result in an employee who is a true asset.

On the other hand, if you believe an employee has engaged in gross misconduct or serious breach of firm policy, from violating client confidentiality to mishandling your trust account to embezzlement; you must consider removing that individual from your office immediately. Pursuant to your [state’s Rules of Professional Conduct](#), you have ethical duties to your clients and to the profession; you also have fiduciary duties to your firm. When that employee is terminated, you must protect your business: change the locks; contact relevant outside persons with whom the employee worked on the firm’s behalf; cut off her access to the firm’s email account or server; contact your malpractice carrier if appropriate.

For other than gross misconduct, you probably will want to provide a notice period, such as two to four weeks, to the employee that the firm no longer needs his services. The period of time will depend on the employee’s position and whether you will be replacing him. It is difficult to terminate a valued employee because the firm no longer needs or can afford the position. If you cannot reassign him within the firm, then provide notice, a strong recommendation letter and help with finding new employment if you choose; but terminate the employment before further financial difficulty develops.

Special Issues with Attorney Departures

Whether an attorney in your firm departs amicably or is terminated for cause, the firm must comply with the state’s Rules of Professional Conduct in handling the departure. Clients of the attorney must be notified within certain protocols and permitted to choose whether to continue their relationship with the firm or the departing attorney. Attorneys in the firm have a duty to notify the State Bar in certain circumstances. For example, North Carolina’s Code of Professional Responsibility requires that,

A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the North Carolina State Bar or the court having jurisdiction over the matter.

The firm may have to address fees earned but not paid, client funds in the firm's trust account, notification to the firm's malpractice carrier and any other relevant individuals or businesses, removal of the attorney from the firm's stationery and other printed or digital material.

The departure of an attorney, paralegal or other staff member is disruptive. In most cities, members of immigration firms know one another and word of departing attorneys and paralegals spreads quickly. Absent serious misconduct, it will be to your benefit if your employee's departure is friendly and professional and communication in the legal community is positive.

Conclusion

The points brought up in this article are only the tip of the iceberg, and the authors' intent is to make you think about these issues so that you can apply them appropriately to your particular situation. Each and every professional environment is unique, yet operating a law firm has its similarities. It is invaluable for us to share ideas and experiences with one another, not only to better our individual firms but to also create a better, more collegial system for immigration practitioners.

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