



## HIRING TECHNIQUES TO ENSURE SUCCESS

Ellen Freedman, CLM  
© 2005 Freedman Consulting, Inc.

---

Despite the recent dip in the economy, it remains increasingly difficult to hire qualified staff and attorneys, and even more difficult to retain them once hired. There is an acute shortage of legal secretaries caused by changing demographics, different career choices for those who would traditionally fill this slot, the attractiveness of the corporate environment, and retirement of the “old guard” of legal secretaries. To the detriment of the firm’s bottom line, attorneys and paralegals are benefiting from salary bidding wars between medium and large-sized firms. And those same firms are struggling to keep their clients from recruiting away their most valuable employees. This all serves to leave the small firm without much in the way of desirable and affordable candidate choices for any position.

Given all these factors, it is important for firms of all sizes to fine-tune their recruiting efforts. Large firms need the least assistance. They have professional recruiters on staff who devote their time to reviewing resumes, and who have time to think about creatively representing the firm at job fairs, law school open houses and so forth. Large firms can out-bid each other, and hope to hold onto associates and staff with golden handcuffs, e.g. the highest salary. Of course, being the highest bidder does not engender any long-term loyalty, and firms in this position often find that the loyalty ceases the moment the firm down the street raises the ante.

A mid-size or small firm must recruit “smart” if they want to recruit successfully. The old fashioned way —place an ad, review 50 resumes, interview a dozen candidates, interview several finalists many times more, make an offer — doesn’t work well any more. The resumes which come in may now number in the hundreds, yet none may appear to offer the qualifications the firm seeks. And candidates have so many options that the luxury of repeated interviews often results in the candidate being “snatched up” by another firm. The time frame must be shortened dramatically from receipt of resume to extension of offer. Nowadays there is frequently no way to present a variety of candidates for a position without losing the first ones identified. Attorneys who still expect a “cattle call” to fill a staff position are due for a reality check.

The hiring process begins by enticing the appropriate candidates to send in a resume. Depending on the position the firm seeks to fill, the strategy to do so will vary.

### **HELP WANTED ADVERTISING**

If you want to get responses even during impossible hiring times, like around Thanksgiving and Christmas, don’t scrimp on words in your ad. Make sure to include some information about the office environment and job. Interject humor whenever possible.

Keep in mind that, depending on the position you advertise, there are dozens or even hundreds of ads to compete with. Your ad must be located under the right heading, and must be sufficiently different to evoke a response. The “desirable” candidates will only respond to a few ads at any given time. So your ad must speak to them. Adjectives like “fast-paced”, “challenging”, “multi-faceted”, “friendly”, and so forth, will serve to hit a nerve and evoke a response. Just be sure to use them honestly.

Humor in advertising is something that scares most law firms, but it has been the single most effective tool I have ever found for staff positions. For example, one time I was struggling to find a secretary for a VERY finicky partner with a particularly unappealing area of practice (from a secretary’s perspective) during the holiday season. I ran an ad which began “Morris the Cat needs a new keeper”. I got an amazingly large response from qualified applicants. And it helped that the people who responded had good senses of humor, because believe me it was needed in that position!

There is always a better response to an ad when you include a REAL name and address instead of a PO Box. And don’t overlook the possibilities of advertising on-line and on college bulletin boards.

If you’re seeking an attorney, consider advertising in local/legal papers in economically depressed cities, or cities where the type of work you want done is in short supply. For paralegals or administrative positions don’t ignore association job banks, which historically get heavy traffic. Keep in mind, though, that they require a fair amount of lead time to be effective.

## RECRUITMENT BONUS

A recruitment bonus can go a long way to assisting the firm in getting the attention of quality applicants. No one can represent your firm better to the outside world of potential employees than your own employees. Law firms traditionally pay a headhunter twenty-five to thirty percent of starting salary for an associate, but think there’s something wrong with paying one of their own attorneys a recruitment bonus. That’s just dumb. Offer a bonus of fifteen percent of starting salary, payable one-half at hire date, and one-half at the six month anniversary, provided both are still employed. For staff, you might instead offer a flat bonus, say \$1,500 — \$2,000, again payable in two installments.

## INTERVIEWING TECHNIQUES

You will fare best by asking open-ended questions which serve to provide some insights into a candidate’s work ethic and style. These are questions which cannot be answered by a simple yes or no response. Here are some examples of open-ended questions for staff positions:

*Tell me about something you accomplished at your last job, which was not part of your job description, that you’re particularly proud of.*

*What types of things “push your buttons” and what do you do when they’re pushed?*



*Tell me about an instance when you strongly disagreed with your [supervisor/subordinate manager or whatever is appropriate], and how you resolved the matter.*

*Tell me about a recent situation in which you had to deal with a very upset client or co-worker.*

*Of the jobs on your resume, which was your favorite, and why?*

*Describe your best boss and your worst boss, and tell me what was different about them.*

*What do you like least about your job and why?*

*If we were to pay for you to go to school to improve your skills, what courses would you want to take and why?*

*Have you ever had to implement changes you disagreed with? If so, what did you do?*

Start the interview with some small-talk, preferably based on some personal interest or item in the prospect's resume, to get the candidate relaxed and talking. Anywhere from ten to fifteen minutes should suffice. Then proceed through specific questions determined to shake out the "real" experience behind the resume. Continue to ask specific questions until you are satisfied the candidate is accurately represented on the resume, and actually has done what is represented. If you are not sufficiently knowledgeable about the position to ask the specific questions, meet with someone in advance who is, and make a note of the specific questions to ask. Then start to ask the open-ended questions to ferret out the work ethic and style, as well as any weaknesses and strengths.

Spend the last half of the interview informing the applicant about the job, the benefits, the expectations, and going over the job description. Don't do this part first, or a savvy candidate will try to tailor all their subsequent answers to your situation. Smart applicants know how to throw in innocent questions early on designed to find out what you are looking for, so they can craft their responses to give you what you want. Keep turning the focus back in the direction you want, so you control the process.

Remember that there's a real shortage of qualified quality applicants at all levels. For that reason don't scrimp on the time you spend providing the applicant with *honest* and complete information about the position. It's just as important nowadays that you sell the position and your firm as it is for the applicants to sell themselves. I emphasize honesty, because applicants have so many options. If you mislead, it won't take them long to move on, and bad-mouth you in the legal community thereafter. Don't underestimate the negative consequences of "bad PR" on future recruiting efforts. Every job has positives and negatives. Emphasize the positives, but don't hide the negatives. There's a lid for every pot, and you want to find the person who can handle the negatives; not trick someone unsuited into the position. wittingly or unwittingly.



**WHAT YOU CAN'T ASK**

As important as it is to know the right questions to ask a candidate, it is just as important to know which questions *cannot* be asked. Questions that may prejudice someone on the basis of sex, age, religion, national origin, physical disability, pregnancy, relationships with disabled persons, physical illness, mental illness, or recovering alcoholism or drug addiction are illegal. The Pennsylvania Human Relations Commission provides a comprehensive list of what you cannot ask, and explains why, on their web site at [http://sites.state.pa.us/PA\\_Exec/PHRC/publications/web\\_preempqs.htm](http://sites.state.pa.us/PA_Exec/PHRC/publications/web_preempqs.htm). They also provide legitimate business reasons for asking some of the risky questions. You will be surprised by some of the questions listed. For example, there are issues associated with asking about names and location of colleges attended, as this information has been used by some employers to determine the race of the applicant for discriminatory purposes.

Of course, many questions can be crafted so as to pass muster. Here are some examples:

ILLEGAL	LEGAL
Will you be leaving to raise children when you get married?	What would you like to be doing in 3-5 years? Do you see any outside commitments as barriers to accomplishing those plans?
Have you ever filed for workers' compensation before?	Why did you leave your past jobs?
Have you ever been addicted to drugs?	Do you currently use any illegal drugs?
Do you have a disability which would interfere with your ability to perform the job?	Can you perform the functions of this job with or without reasonable accommodation? (Note: be sure to have a job description for each position to help your firm avoid ADA issues.)

**TESTING**

Some firms are afraid to test applicants, feeling that this may somehow offend the candidate. My experience is that candidates admire a firm which is cautious in hiring and attempts to select from only the most qualified candidates. Provided the testing is administered fairly and with consideration to the candidate, it should not discourage potential applicants.

For staff positions, testing might include spelling, grammar, word processing skills, dictation, math skills, and proofreading. There are a number of companies which provide testing materials to firms at affordable pricing. The advantages of using commercially



available testing is that it presumably is already reviewed for potential discriminatory factors. Two companies which supply testing materials/software are OPAC —Office Proficiency Assessment & Certification— ([www.opac.com](http://www.opac.com) or 800-999-0438) and PRI Associates — TapDance for Law Firms — ([www.priassoc.com](http://www.priassoc.com) or 800-774-9165).

Testing potential associates and lateral partners may also be a smart move. Let's face it, most firms pour over an attorney's law school grade point average and honors, clerkships and job history, and pay no attention to factors which would reveal that the attorney is tomorrow's "600-pound gorilla" in the making. While a firm can work diligently to control the wayward partner who tramples associates who displease and eviscerates staff who make minor mistakes, it's makes a lot more sense to hire "emotionally intelligent" lawyers in the first place. Today's law firm environment is challenging enough without spending a good deal of your time trying to manage a partner who throws his/her weight around, intimates other partners, and generally throws tantrums at the first hint of resistance to any request. You may already have one or more persons at your firm who fit this description. Do you knowingly want to bring aboard another?

Industrial psychologists administer personality testing. However, a law firm needs someone who is attuned to the vagaries of the practice. One such individual is Lawrence Richard, a principal with Altman Weil consulting. As a psychologist and former trial lawyer, he is certified to administer a number of tests that measure emotional intelligence. He can be reached at 610-359-9900 x 428, or at [lrrichard@altmanweil.com](mailto:lrrichard@altmanweil.com).

## REFERENCE CHECKS

Human resource professionals estimate that as much as 35% of information found on resumes is false, or grossly exaggerated. Typically, misrepresentations are made in educational qualifications, and dates and duties of employment. For this reason, you should always verify educational degrees by requesting a copy of the applicant's transcript. You should also check each employment reference to verify dates of employment, to make sure no dates have been expanded to hide short jobs with potentially damaging references. If an otherwise honest applicant chooses to mislead, it will often be in the form of an inflation of the current job duties and status. The applicant is counting on confidentiality when interviewing, which precludes you from contacting their present employer to check facts as presented. For that reason, any job offer presented should be contingent upon a verification of the facts presented in the resume *and* during the interview(s), including job title, duties, and salary.

Obtaining honest references from past employers is virtually impossible. Unless the applicant signed a release with their prior employer(s), chances are all you'll get will be a neutral reference providing dates of employment, positions held and salary. All is not lost however. If you can get to the person for whom the applicant actually worked, (as opposed to a human resource manager), you can ask for an opinion of the candidate's suitability, based on the job you describe. Many past employers will give an honest personal opinion as to whether the candidate could fill the slot you describe. That's a lot safer for them then providing any sort of reference on the candidate's past performance.



Anyone you plan to hire who will handle trust or operating funds at your firm should have a background check into credit and criminal history. Most investigation firms routinely do these for a small flat fee. Remember, it's your license and reputation on the line. If your bookkeeper embezzles money from your trust account you don't want to find out after the fact that you were negligent in hiring because you did not uncover a past criminal history of embezzlement.

## TRAINING AND ORIENTATION

Today's law firm environment is complicated. Our intake, conflict checking, records management and docket management techniques must be handled precisely and accurately. Our technology is more complex than ever. We cannot "assume" that someone who comes from another law firm has the requisite knowledge to be on the same page with respect to issues of primary importance like confidentiality and acceptable client service.

Starting a new job is stressful. People tend to make more mistakes when stressed, and this is compounded by an unfamiliar environment. Add to that the fact that attorneys typically are very quick to form an opinion of someone, which is difficult, if not impossible, to change afterwards. So sometimes perfectly good people are marked for failure in their first few hours or days on the job, because they are not given proper orientation and training.

Training and orientation doesn't have to be expensive. Excellent training programs can be established on "shoestring" budgets, and with resources available at the firm. The important thing is that all new employees, including staff and attorneys, receive a consistent and thorough orientation and training before they are shoved behind a desk and buried under work. Only then will you be able to adequately and accurately know when you've hired a winner or loser. (For a sample training and orientation outline for staff and/or attorneys, send an email request to [lawpractice@pabar.org](mailto:lawpractice@pabar.org).)

## CORRECTING YOUR ERRORS

Always keep in mind that hiring is *not* a precise science. Mistakes can and do happen, despite the best efforts on the part of the firm to properly assess and screen candidates. Most firms compound the error by not correcting its mistakes promptly. You should have candid conversations with the employee concerning unacceptable aspects of performance early on. Be sure to document the employee's file regarding inadequacies and the conversations regarding them. And by all means terminate the employment relationship without undue delay if counseling does not result in improvement.

Most attorneys will suffer for one or more years with an unacceptable secretary or associate, all the while praying the employee will seek other employment. In fact, often they seek ways to "torture" the employee, to try to encourage him or her to move on, rather than just have honest discussions about shortcomings, and then terminate the employee if sufficient improvement is not made. Unfortunately, the "torture" method usually turns out to be a double-edged sword, making life just as intolerable for the attorney.



In over thirty years of human resources management, I have never heard a supervisor, attorney, or administrator state that they fired someone *too* soon. It has always been the opposite statement, usually followed by “WHY did I wait so long?” If handled humanely and with proper preparation, terminations are rarely as bad as envisioned by those who must do the deed. You’re not doing yourself or the unsatisfactory employee any favors by prolonging an unsuccessful relationship.

## SUMMARY

People are a law firm’s greatest asset. In today’s tight labor market, you must think creatively about expanding your definition of an “acceptable” or “desirable” candidate. You must consider reaching deeper into the talent pool than you might otherwise want, and plan to fill the gap with additional training and education. You must consider options like telecommuting, job sharing, and part-time employees. You must use every possible avenue to advertise the position and to recruit candidates, including using your own employees as recruiters.

Job candidates, including those of lower “quality” than we would have historically sought, have more options than ever before. If you don’t treat them with dignity, respect and consideration from the moment they walk into the door, and honestly represent the position, you will not be successful in your recruiting and retention efforts. Once hired, you must provide them with some orientation and training to assist them in becoming successful in the position. The old “sink or swim” mentality became inappropriate at the same time as the “cattle call”. Neither is appropriate in today’s successful law firm.

*A version of this article originally appeared in the  
January/February 2002 issue of the Pennsylvania Lawyer*

©2005 Freedman Consulting, Inc. The information in this article is protected by U.S. copyright. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only, and does not constitute legal advice or endorsement of any particular product or vendor.

