



Lateral Hiring Best Practices Guide

Third Edition, 2016

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TABLE OF CONTENTS

INTRODUCTION

5

Additional Best Practices Invited

NEEDS ASSESSMENT

6

- 6 General Needs Assessment Considerations
- 7 Business Structure — Do the Economics Align and Support Your Firm’s Culture?
- 7 Firm Size, Geographical Considerations, Growth Markets, and Investment in New Practice Group Opportunities
- 7 Small Groups, One-offs, and Possible Consolidations
- 8 Issues to Consider When Hiring Laterals
- 9 The Market and Labor Availability
 - Bear Versus Bull Markets and the Effect on Lateral Hiring*
 - Lateral Hiring and the Bull Economy*
 - Lateral Hiring and the Bear Economy*
- 10 Conflicts
- 10 Integration
- 10 Alternative Hiring Options: Short-term, Contract Temporary Lawyers, Part-Time, and Flex-time Hires

METHODS FOR HIRING LATERALS

11

- 11 Working with a Search Firm
- 13 Advertising and Posting
- 13 Direct Outreach through Social Media
- 14 Internal Referrals
- 14 Alumni Outreach

STRATEGY AND PROCEDURES FOR LATERAL HIRING

14

- 14 Strategizing — The Nuts and Bolts
- 16 Standardize Hiring Criteria to Control Costs
- 17 Lawyer Interview Training
- 18 Market Watching and an Annual Audit

MARKETING YOUR FIRM

19

- 19 Know Your Firm and Determine an Overall Message
- 20 Communicate the Message

- 20 Creating Recruiting Materials
- 21 Educate Interviewers
- 21 Diverse Methods to Attract Candidates
- 21 Partner with Search Consultants

DUE DILIGENCE

22

- 22 Background Searches in the Legal Industry
- 23 Standardizing Due Diligence Procedures
- 23 Initial Screening of Resumes or Curricula Vitae (CVs)

INTEGRATING LATERALS INTO YOUR FIRM

24

- 24 Effectively Extending the Offer
- 24 After Accepting, But Prior to Arrival ...
- 25 Arrival: Helping Laterals Hit the Ground Running
- 26 Orientation — Making the Best Impression
- 27 Peer Advisors and Partner/Mentors
- 27 Work with Your Professional Development and Marketing Teams
- 28 Evaluate the Lateral Integration Program
- 28 Partner Integration Specifics
- 29 Partner Due Diligence Specifics

APPENDIX — DUE DILIGENCE COMPARISON CHART

30

APPENDIX — RESOURCES AND REFERENCES

34

- 34 Websites
- 34 NALP and ALI-CLE Video Webcasts
- 34 Diverse Bar Associations
- 35 Articles, Books, and Periodicals

Articles

Books and Periodicals

Introduction

The purpose of this Guide is to assist recruiting professionals in navigating all aspects of lateral hiring and in becoming a knowledgeable resource, trusted advisor, strategic thinker and successful problem solver for hiring partners and/or firm management on matters related to lateral recruiting.

This Guide is organized into the following sections:

- **Needs Assessment**
How do you determine whether you need to hire a lateral attorney and what issues should you consider before entering the lateral hiring market? Help determine how lateral hiring should align with your firm's overall strategy.
- **Methods for Hiring Laterals**
What are the most common and effective methods used to hire lateral candidates?
- **Strategy and Procedures for Lateral Hiring**
What standards, policies, and procedures are required for a well-run lateral recruiting program?
- **Marketing Your Firm**
How do you attract lateral attorneys to your firm and encourage legal search firms to promote your firm with lateral candidates?
- **Due Diligence**
How do firms verify lateral attorney qualifications and credentials?
- **Integration**
What are the most effective ways to quickly integrate lateral attorneys into your firm, both professionally and socially?
- **Resources/Appendix**
Where can you find additional information on lateral hiring?

Before using this Guide as a resource, readers should note the following:

- › Although lateral hiring is often associated with mergers, this Guide is not intended to explore best practices related to merger activity among legal employers.
- › Most importantly, because each firm has its own culture, practices, and structures, recruiting professionals should review the ideas in this Guide and incorporate those practices that will work well in their unique law firm environment.

Additional Best Practices Invited

This Guide will continue to be updated. If your firm has developed best practice suggestions that you would like to share, you are invited to submit information to NALP Member Communications and Media Relations Manager Sarah Ramirez at sramirez@nalp.org.

Needs Assessment

A **needs assessment** is a *systematic exploration of current hiring needs*. A systematic and thorough needs assessment will prevent your firm from making short-sighted hiring decisions and ensure that your lateral hiring aligns with your firm's strategic hiring goals.

In the distant past, it was common for lawyers to spend their entire careers with a single employer. Now, lawyers do not always identify with or feel as dependent on any particular employer for career success — lawyers no longer perceived their current employment as necessarily holding the promise of longevity, job security, or long-term career opportunities. Consequently, we have seen a dramatic rise in the movement of lateral attorneys both at the partner and associate levels. As the market has driven numerous firms to downsize and in some cases close their doors, there is a plethora of highly qualified and credentialed attorneys searching for lateral positions. Once you are able to conceptualize your firm's strategic hiring goals, you will be better able to provide informative insight to your hiring partners as to when it is truly appropriate and makes economic sense to hire laterally.

To determine whether to look to the lateral market to support your firm's strategic plan, an effective needs assessment is essential. Below are some of the factors to consider in a needs assessment and issues to think about before hiring lawyers in the lateral market.

GENERAL NEEDS ASSESSMENT CONSIDERATIONS

- Evaluate the specific work that needs to be done and at what level. Through assessment, you will be able to discern this information and develop your strategy.
- Analyze your firm's current capacity and utilization of attorneys as well as the level and potential utilization of any future incoming attorneys you may have on the docket.
- Track attorney census statistics and evaluate existing metrics (e.g., number of partners, associates, leverage, diversity, and capacity and utilization at practice group and office levels). This analysis is important as utilization numbers affect the firm's bottom line and it may be possible to look internally for solutions rather than adding laterally.
- Review your firm's strategic plan. Whether and how many lawyers to hire is usually based on such factors as expanding business opportunities, new offices in specific geographic markets, attorney turnover, promotions/elevations, retirement, and newly developed (or expanding) practice groups. For recruitment professionals, a firm's strategic business plan serves as a blueprint, establishing the framework for forecasting and implementing your hiring needs short and long term.
- Look for any retention issues and recognize their relationship to recruiting. Retaining current talent is preferable to spending resources on hiring and training new talent. Knowing the morale of your associates and taking steps to improve it will go a long way in preventing unwanted departures and help to address attrition issues.
- Assess your lateral hiring needs and how laterals will affect leverage in your firm. **Leverage** is generally *the ratio of associates to partners or of junior associates to more senior associates*. Am Law firms' leverage ratios are a measure of equity partners to all other attorneys (including income/non-equity partners and of counsel attorneys). Leverage is one of the main factors that drives law firm profitability.
- Assess how lateral growth can increase the diversity landscape of your firm.

BUSINESS STRUCTURE — DO THE ECONOMICS ALIGN AND SUPPORT YOUR FIRM’S CULTURE?

- Examine the composition of your internal structure. Assess whether the firm is appropriately leveraged to meet your clients’ current and projected needs. If not, is looking to the lateral market the solution to right-size your firm? The answer to this question will guide you in your next move.
- Consider the following factors when evaluating how a candidate will fare at your firm: the candidate’s talent, your firm’s billable hours expectations and requirements, the rate structure in place (centralized or loose billing system), the candidate’s potential book of business (usually applicable for lateral partner candidates), the presence of sound firm management and a respectful work environment, growth prospects, practice support and infrastructure, and ongoing professional development opportunities in addition to potential billings on collections and business development potential.
- Consider the impact of the lateral hire on clients and on those within your firm who are working on their matters.

FIRM SIZE, GEOGRAPHICAL CONSIDERATIONS, GROWTH MARKETS, AND INVESTMENT IN NEW PRACTICE GROUP OPPORTUNITIES

A firm’s size, geography, and practice group capabilities become very important to support the breadth and depth of legal services driven by current and prospective clients. These factors are important considerations in a potential lateral hire’s decision process.

- Recognize that businesses are limiting the number of firms they use in order to streamline and contain their costs. Additionally, firms may need to adopt or modify existing diversity initiatives in response to corporate business demands. Some clients have created a need for a broad range of legal services requiring firms to have multiple geographic locations. Determine whether your firm will add lawyers in more cities and increase practice areas to service corporate America’s one-stop shopping wants.
- Be aware that law firms, too, have responded in an attempt to remain competitive; we have seen a rise in the number of law firm consolidations driven by client demands.
- In a volatile economy, be particularly cognizant of how firm mergers affect staffing at your firm. Balancing workloads and right-sizing your practice groups will take additional communication and coordination with your practice group leaders.
- Be cognizant that some markets are difficult to grow. Do your research early in the process in order to analyze and recognize such impediments.

SMALL GROUPS, ONE-OFFS, AND POSSIBLE CONSOLIDATIONS

- Review your firm’s strategic plan. It will guide your efforts on how best to proceed. In the current economy, many firms are looking to build on existing business and have also been branching out with new practice groups. Often this means acquiring a small group of laterals, with someone who is already viewed as a market leader. If the acquisition of a small group of laterals is successful and profitable, you will have helped your firm establish a basis for additional future growth.

- Consider internal lawyers before hiring laterals to determine whether there are slow practice groups with strong lawyers who can be retooled.
- Even at times when there are plenty of candidates on the street, your best acquisition may be a single attorney or a practice group that survived downsizing. Your challenge will be to figure out (a) how your firm is distinguishable from where they currently practice and (b) why making a move to your firm makes sense even if the economy is shaky.
- If your firm is contemplating rapid growth, realize that acquisitions of large groups of laterals or consolidations of firms will bring about many integration issues that must be resolved early on. Additional issues often arise in the arena of conflicts and must be worked out prior to the newcomers coming on board. Work with your firm's professional development team and firm management to close these gaps or recognize and deal with the differences. Related to integration is the impact the hire will have on current attorneys (especially if you're hiring a group that includes non-partners) and the firm's culture.

ISSUES TO CONSIDER WHEN HIRING LATERALS

- Realize that lateral hiring is always about timing and fit.
- Remember that laterals may bring significant costs in the form of higher salaries, competitive benefit packages, and recruiter fees. In addition, statistics show that lateral hires have a slightly higher attrition rate — making the right hire will prevent exit costs.
- Evaluate the talent pool to determine who may best provide a value-added contribution to your firm's bottom line.
- Understand that targeting and recruiting candidates with a well-designed approach will increase the odds that the laterals hired will succeed in your firm, as will supplementing your recruiting effort with a strong professional development/integration program. Identify ideal characteristics: years of experience, type and depth of experience, credentials and/or personality traits desired. Consider how far outside these parameters your firm may stretch: class years outside the ideal, associates willing to take a reduction in class year or those with a nontraditional background.
- Think about your firm's leverage. Typically, large law firms follow a traditional pyramid-type model in which a small number of equity partners direct a large staff of associates with a middle management structure of junior partners and senior associates.
- Think like a lateral. Laterals, unlike most entry-levels, look at quality-of-life issues, caliber of work, reputation of colleagues, and other factors. Compensation is not the most important factor. Professional growth, advancement and mentorship opportunities continue to be important factors for laterals. In addition, keep in mind that potential laterals who are currently employed will understandably be concerned with the idea of "jumping ship" in an uncertain market. Establishing your position as one that provides job security and business growth potential will be a determining factor in an acceptance.
- Know what your firm has to offer a potential lateral; for example, be able to enunciate your firm's strengths. Develop your firm's message/brand and make sure it's consistent with the message your partners are delivering. Also, be able to address difficult questions you may receive. Laterals are motivated to move for different reasons; know what fit works for your firm.
- Recognize that mid-levels at most large law firms often lateral to mid-sized firms; mid-sized firms recruit from large firms to capitalize on the large firms' training and development of lawyers.

- Recognize that growing your firm will take time and effort, especially if your firm's plan is to grow incrementally through individual or "one-off" hiring. One-off lateral hiring can be both time-consuming and expensive. Small group acquisitions and consolidations are generally less costly and result in more rapid growth, but they require solid firm cultural integration efforts to ensure success.
- Stay abreast of impending changes in laws and legislation that could pose an adverse impact on certain of your firm's practice groups and offices, perhaps ultimately resulting in an overabundance of lawyers at your firm.

THE MARKET AND LABOR AVAILABILITY

Bear Versus Bull Markets and the Effect on Lateral Hiring

Lateral hiring for the years 2009-2014 fluctuated due to the changing economy at the time. From the years 2014-2015, lateral hiring volume increased nine percent across all lawyers types (partners, associates, counsel/of counsel, staff attorneys, etc.) and continues to change dependent on current economic trends. The following two sections address ideas to consider in both a **Bull Economy** (*often characterized by an economic boom and labor shortages*) and a **Bear Economy** (*slow economy with high unemployment rates*).

Lateral Hiring and the Bull Economy

The main consideration here is the tight legal talent supply versus the demand to replace attorneys and the resulting level of attrition of legal talent. These considerations need to be incorporated into your short- and long-term hiring goals.

- Understand that the supply of lawyers able to handle sophisticated, complex, and demanding legal work may not be increasing fast enough to meet demand.
- Stay current with economic trends and impending changes in laws and legislation. These could have a direct impact on certain industries and affect certain practice areas and attorney staffing needs.
- Realize that lawyers usually choose to leave their current employment due to either dissatisfaction with firm management, lack of support for their practice, conflicts and/or rates. Be willing to capitalize on the resulting vacancies by incorporating new laterals who possess synergistic qualities attractive to your firm's growth plan.

Lateral Hiring and the Bear Economy

- Realize that the lack of legal jobs will affect your attrition rate. Consider this when developing your firm's growth plan.
- Develop a new systematic process to assess needs and sift through requests to hire.
- Look internally before looking laterally. Lawyers can often be retooled or transferred to another office to even out utilization. In addition, look to the future and consider arrival/departure dates of all lawyers.

- In this type of economy you will have room for negotiating. Consider reassessing your fee structure in connection with using a legal recruiter. Also keep it in mind when discussing an offer package for the attorney.
- Keep track of market trends.

CONFLICTS

- Recognize that looking to the lateral market increases the likelihood of client conflicts of interest. In addition, as associates are encouraged to begin business development efforts earlier and earlier, they will begin to move clients and matters with them and therefore, potentially more conflicts will arise. Having a system in place to handle conflicts in a timely manner for laterals other than partners is becoming increasingly important.
- Assess how conflict requirements impact your hiring process and realize that conflicts need to be resolved at an early stage so that appropriate screening measures can be implemented prior to a lateral's hire. Assuming that the firm's clients will always agree to waive conflict issues will be problematic to your lateral hiring efforts in the long run.

INTEGRATION

Consider how your firm will embrace its new lateral hires and ensure that there is a commitment to helping laterals become a part of the firm family. Three areas to focus on:

- **Professional Development and Training:** Incorporate a program of general and targeted training, considering the needs of all lawyers.
- **Business Development:** There is an increasing emphasis on associates beginning to develop business and client contacts earlier in their careers. Make sure the firm is able to assist laterals in cross-selling business opportunities. For example, many firms have programs in place in which some of the partners outside of a new lateral's office or practice group each introduce the new lateral to at least one client. This type of program provides monetary or percentage incentives for partner cooperation and can strengthen client relationships.
- **Relationships:** Laterals will remain at a firm longer if they develop close relationships with partners, peers and staff. Seek out programs designed to build firm relationships across the entire organization.

ALTERNATIVE HIRING OPTIONS: SHORT-TERM, CONTRACT TEMPORARY LAWYERS, PART-TIME, AND FLEX-TIME HIRES

- Consider hiring contract lawyers to solve short-term staffing concerns. Contract lawyers are usually engaged to assist on large-scale projects, are non-permanent in nature, and provide assistance on more routine and repetitive legal tasks.
- Think beyond the traditional hire. Larger firms sometimes hire staff or contract attorneys who may not meet the firms' general hiring criteria but who possess the raw potential to succeed. Such positions are viewed as providing a lawyer on a "trial basis." If s/he performs well, the performance is rewarded by converting the staff attorney position to a full associate position.

- Consider part-time and flexible time schedules. These arrangements help to retain good lawyers by allowing them to better meet their goals for balancing family and work considerations. Allowing part-time and flexible schedules demonstrates that the firm values and supports lawyers' contributions to the firm. While not an ideal option for every practice group, firms may consider providing flexible schedules in order to retain their investment in a lawyer's training and development.

Methods for Hiring Laterals

Now that you have identified a need, there are several different methods that you can use to hire lateral associates and partners. The best approach to conducting a lateral search will depend on several factors, including the level of attorney you seek, your firm's policies and culture, its geographic location, and the practice area for which the firm is hiring. While there may be additional ways to hire lateral candidates, below you will find the five most common methods used to hire laterals: (1) working with a search firm, (2) advertising and posting, (3) direct outreach through social media (4) internal referrals and (5) alumni outreach. While each of these methods is discussed separately, many firms combine all five methods to attract qualified candidates.

WORKING WITH A SEARCH FIRM

There are many factors that you should consider when determining whether or not to use a search firm:

- Consider the cost of using a search firm. Each search may vary with respect to whether a search consultant is warranted, so you may decide to use a search firm for some searches, but not all. Today, the industry standard fee paid to search firms is 25% of a single placed lawyer's guaranteed base compensation. Consider negotiating capping the fees when multiple lawyers are placed by the same search firm at the same time, or creating a sliding scale downward of fees for multiple placed lawyers. Additional fee negotiations may need to take place when considering partner candidates to accommodate varying partner compensation models.
- Ensure that you have a current fee agreement in place with any agency with which you work. You should consider a clause in the agreement that addresses your firm's policy as to multiple submissions of the same candidate from different headhunters and how fees in such situations will be allocated. It is recommended that the law firm have a standard, uniform fee agreement it can send to each search firm. This alleviates the need to have terms reviewed and renegotiated each time a search firm desires to submit a candidate. Be sure to periodically review to ensure the language is up-to-date and reflects the firm's current policies, such as ways applications are accepted, a new address or new firm name.
- Determine what kind of search to conduct. There are a number of different types of searches including:
 - A **contingency search** (often called "non-exclusive"), which is governed by an agreement between a legal employer and a search firm that states that the legal employer will pay a percentage of the placed attorney's first-year compensation. You can conduct a contingency search with a number of agencies simultaneously. The search firm only gets paid if it successfully fills the need.
 - An **exclusive contingency search**, which enables a selected agency to have an exclusive arrangement to help you find your candidate — typically for a limited period of time (i.e., to provide a head start). This is a much more targeted search and keeps several agencies from tripping over the same candidates in a small market or niche practice. This is particularly helpful in specialized searches such as intellectual property. Still, the search firm only gets paid if successful.

- ▶ An **exclusive retained search**, which provides a search firm with exclusive rights to search for a specific candidate or practice group. Typically, with retained searches you will pay the recruiting agency money on a scheduled basis. The fee paid is for the service provided. The money paid to the recruiting agency is credited towards any placement made, but the law firm runs the risk of paying a fee without seeing any tangible results.
- Select the right search firms. While you will likely receive resumes from search consultants whom you have never met, you should attempt to partner with a select group of search firms in order to ensure that there are search consultants who know your firm and know your needs and can thus find better matches for you. Consider having the search firm meet with the practice group leaders in the relevant group so that the search firm can garner a better understanding of the skills needed.
- Add incentive agreements (i.e., increased fee for a limited period of time to a select handful of search firms). For some hot areas, e.g., intellectual property, this could be an effective tool.
- Create a search firm chart or use the features of your applicant tracking system to keep track of search firms with which your organization has current agreements in place, what fees are required, and how many times the search firm has placed a candidate with your firm successfully. This will allow you to keep track of search firms you have current contracts with, any required fees, and the number of times the search firm has successfully placed a candidate with your firm.
- Include at least one search firm based outside of the local market where you are trying to fill the need in order to target candidates who may be looking to relocate into the geographic area where your need exists.

PRACTICE TIP:

Attempt to partner with a select group of search firms in order to ensure that there are search consultants who “know” your firm. Consider having your key partners meet with representatives from the search firms so that they can market your firm’s strengths effectively. Streamline your process by zeroing in on those search firms that know your firm best and have traditionally produced strong candidates.

- Confirm that the search firm(s) are members of the **National Association of Legal Search Consultants (NALSC)**: <http://www.nalsc.org>. The members of NALSC are committed to certain ethical standards. Its *Code of Ethics*, to which members subscribe, addresses issues of ‘**poaching**,’ (*recruitment from a firm in which it has made a placement within a certain period of time*), and providing truthful and accurate information.
- Advise search firms of your hiring criteria before you begin working with them. You should also consider working only with search firms that properly screen their candidates based on your criteria before they submit them to you. Advise your search firms of your internal recruiting procedures in order to streamline your working relationship process. Due diligence, such as reference and credential checks, are best handled by the law firm itself. However, the search firm should provide the law firm with accurate resumes, transcripts, writing samples, and reference lists.
- Search firms can also assist you in achieving your lateral hiring diversity goals. There are recruiting agencies that work solely with minority candidates. You should also emphasize to the search firms with which you already have a relationship that your firm wants a diverse pool of candidates.

- Encourage search firms to have one main contact. Request that they contact the legal recruiter so that the hiring process is managed consistently. Search firms often reach out to the law firm partners directly. This can cause confusion, particularly when competing search firms send the same candidates. If the search firm contacts lawyers directly, insist on the firm including the recruiter on all correspondence.

ADVERTISING AND POSTING

An additional method for identifying lateral attorneys is by advertising. There are many different ways to advertise.

- **Firm Website:** Your firm’s website is a good source to use for recruiting. A candidate who finds a position posted on your website can do additional research on your firm before submitting a resume in connection with an open position. Most law firms now have online applications, which can streamline the process and save your recruiting department time on data entry and paper management. More importantly, candidates who apply directly do not have search firm fees associated with their hire.
- Keep your web postings current — but remember that posting a position on your website may open the door for search firms to begin submitting candidates. If you want to prevent those types of submissions, you may want to delay your posting in favor of pursuing other methods first. Alternatively, you can clearly state in the job posting that you are not accepting third party submissions. Finally, the website can simply indicate that search firms must first call the legal recruiter directly to inquire about current needs and how to submit applicant information.
- **Law School Career Services Offices:** Although the process varies by school, many schools offer online job postings. Employers can post their open positions, allowing these openings to be reviewed by a diverse pool of alumni as well as current students. For specialty needs, such as tax, employee benefits, etc., consider advertising at the schools which have LLM programs.
- **Industry Publications:** If you decide to post job descriptions, consider advertising in (1) local newspapers and business journals; (2) legal trade, professional, or business association websites and bulletins; (3) bar association and specialty bar association publications and listing services; and (4) job boards through organizations that target diverse attorneys, such as the Minority Corporate Counsel Association. (Job boards such as Career Builder and Monster.com are not quite as popular in the legal industry for attracting lateral candidates, but this is an option worth exploring.) You may also want to consider sponsoring or participating in industry-specific events.
- **Distribution List:** Add search firms and sister offices to your email distribution list. Send out the list of all the current open positions in the firm on a monthly basis.

DIRECT OUTREACH THROUGH SOCIAL MEDIA

Law firms can serve as search firms by using certain social media outlets to directly target qualified candidates. For certain tools, the costs are significant but are still significantly less than a fee paid to a search firm. The cost benefit analysis is whether the legal recruiter has the time to essentially serve as a “headhunter” and whether there are ethical considerations to having a legal recruiter approach candidates directly. Nonetheless, online databases permit a legal recruiter to search by using a variety of parameters including practice area, geographic market, law school, etc.

INTERNAL REFERRALS

In a down economy, internal referrals are an exceptionally cost-effective way to develop your firm's partner recruiting pipeline.

- Many firms offer a referral bonus to lawyers who refer qualified candidates who are hired by the firm. The fees are paid in various ways: after six or nine months; on the one-year anniversary after the new lawyer starts; or half at start and half after a certain period of time. This can be a great means for not only saving search firm placement fees but rewarding lawyers who successfully promote the firm and recruit the right candidates.
- Another good source for finding qualified candidates is to ask your current lawyers to mine their contacts. Ask them to periodically reach out to contacts they think would be an asset to the firm. Tell them also to keep an eye out for lateral prospects during business development events.

ALUMNI OUTREACH

- Try to determine which "former" firm attorneys may consider coming back to the firm (if you were to consider them). Stay in contact with your alums, reach out to former summer associates, and ask them if they know of lawyers who may be a good fit for your firm.

Strategy and Procedures for Lateral Hiring

The recruiting function is highly visible, with recruiting professionals being increasingly asked to provide strategic input into professional hiring processes. Law firm recruiting departments no longer just churn out interview schedules and file candidates' materials. With the right strategy and procedures and the backing of firm management, recruiting professionals can efficiently identify and target qualified candidates and lead their firm to a more prestigious position in the legal market.

Establishing standard procedures and hiring criteria is essential to running a top-notch recruiting department at a firm.

STRATEGIZING — THE NUTS AND BOLTS

- Do you need to hire a lateral attorney? If this is a replacement hire, check to see if other underutilized attorneys in the same practice group can pick up the extra work. If this is a new hire, make sure there will be enough work available to justify this new attorney hire.
- Devise an appropriate recruiting process for your firm and ensure your department's procedures are supported by firm management. Suggest that your managing partner or hiring partner communicates to all professionals that your firm has adopted this lateral recruiting process to assure that it identifies and hires the best possible lateral candidates.
- If your firm has multiple offices, it may benefit from streamlining the lateral recruiting process by designating one gatekeeper to oversee all lateral hiring. Having a gatekeeper in place for this process will ensure that there is continuity throughout all offices while allowing for differences in local legal markets.

Your firm's management should decide if this means one gatekeeper for all offices or one gatekeeper per office.

- Develop minimum hiring standards. Developing written criteria is invaluable in resisting requests to hire clients' relatives or neighbors as favors. Recognize that for certain practice areas, the hiring criteria may need to be adjusted in order to find the ideal candidate.
- If the firm has an anti-nepotism policy, it is important to understand what that policy entails.
- Before presenting potential candidates to the appropriate hiring partner or department chair, it is important to conduct as much preliminary due diligence on candidates as possible. Not only will you save the hiring partner or department chair time, but you will save yourself embarrassment if you uncover important information.
- Avoid unnecessary delays in the decision-making process by establishing an efficient process that should result in faster decisions.
 - Assume that each viable candidate is interviewing with your competitors. Eliminating unnecessary steps reduces the risk of losing high-caliber candidates and establishes a reputation for being time-efficient.
 - Create and streamline a lateral recruiting system that involves the fewest number of decision-makers appropriate to your firm's culture. A recruiting professional should be empowered to make as many decisions on his/her own as possible.
 - Develop a standard list of materials required from each candidate (e.g., resume, law school transcript, writing samples, deal sheets, list of references, business development plan, etc.). Make sure these materials are ready to review with your hiring partner or department chair.
 - Keep accurate records of all candidates reviewed by the firm. For firms with multiple offices, make sure there is a central location for recording candidate submissions to avoid overlapping efforts or duplicate submissions from search firms.
 - It is important to pay particular attention when recording the date and source from which you receive each candidate's submission. The ability to adhere strictly to this intake process will be essential in determining who is entitled to credit for the referral.

PRACTICE TIP:

In a multi-office firm, your process must consider and account for candidates or search firms that do not disclose prior submissions to your other offices. Try using one candidate-tracking database for this process.

- Communicate your firm's lateral hiring criteria and procedures to all of your lawyers (i.e., post policies and procedures on your intranet, include the policy at attorney orientation or retreats for new lawyers).
- Make sure that all lawyers know how to (1) handle unsolicited resume submissions, (2) refer a friend to the firm, and (3) handle a search firm's "cold call." If cold-calling members of your firm is in violation of your contract with a search firm, it is important to follow up with the search firm immediately.
- Consider drafting a set of recruiting "elevator speeches" to provide to all of your lawyers. Even if they only remember one or two great things to say, those conversations can help identify lateral candidates and make your lawyers feel they are part of the firm's growth plan. Working with your marketing/business developing teams on this will ensure consistent messaging both internally and externally.

- Develop a list of typical questions asked by your hiring committee or hiring partner that elicit all necessary information to make basic hiring decisions. You will also need to be prepared to answer those questions (i.e., why the candidate is making a lateral move at this point in his/her career; where is the candidate admitted to practice law and the status of the admission, etc.) when you meet with the hiring partner.
- Encourage referrals from lawyers currently employed at your firm with a financial incentive. Let everyone know about current openings at the firm with periodic emails. Ask practice groups or department leaders to announce new lateral openings to encourage potential referrals. This can be done at department or practice meetings. These referrals can lead to hiring candidates that fit the firm's culture.

STANDARDIZE HIRING CRITERIA TO CONTROL COSTS

Hiring a lateral can be an expensive process due to search firm fees, salaries, benefits, and the costs associated with training and continuously developing your lawyers. Standardized hiring criteria best suited for your firm will help preserve the firm's mission. Adherence to minimum hiring standards will promote growth that is consistent with your firm's long-term goals.

- **Objective Criteria:** Law school, GPA, legal and non-legal experience, bar memberships, public service, journals, clerkships, etc.
 - ▶ Develop a standard list of all required criteria. (i.e., law school journal activities, leadership skills, entrepreneurial spirit, etc.).
 - ▶ Work with each department chairperson to develop a list of department-specific criteria and if needed, draft a detailed job description based on that information (i.e., what kind of work experience is required; what type and level of work will the candidates be expected to handle on a day-to-day basis; is a particular area of substantive knowledge required, etc.).
 - ▶ If the firm has competency benchmarks, assess each candidates' skill set against each benchmark.
 - ▶ Know whether the lateral candidates will be expected to bring business to your firm, and if so, what the required amount will be. Portable business can be an important hiring factor.
- When hiring a lateral candidate who has been out of school for several years, it is often the case that solid experience and/or a certain expertise in a particular area may outweigh a lower law school GPA. However, if your firm enforces a strict GPA cutoff, apply the rule uniformly and do not make exceptions without management approval. Making exceptions without approval could have significant ramifications.
- **Subjective Criteria:** Establish a set of attributes (or competencies) that characterize a successful lawyer at your firm. As you develop this list, you may find it can get quite lengthy and that the competencies listed vary depending on which lawyer is asked. Here are some suggestions for formulating the list:
 - ▶ Survey your partners to generate a list of highly valued traits and qualities that associates possess. While they may have some old fashioned ideas, partners generally possess a strong work ethic, spend countless hours mentoring associates, and are a rich source of information.
 - ▶ Assemble a focus group of key partners (or hiring committee members) and ask them to list (or pick from an established list) the top five attributes of the star associates.
 - ▶ Develop a list of reasons that former attorneys have NOT done well at the firm. Great sources of this information may include former associate records, exit interviews, and less formal comments from partners and associates within the affected practice group.

PRACTICE TIP:

Using a focus group has the added benefit of bringing the firm's lawyers into the hiring process at a strategic level. Involving lawyers at all different levels lets them know that the firm values their input, listens to them, raises the internal profiles of participants, and as a result, provides the recruiting

- Once the criteria are established:
 - Understand and be able to succinctly summarize your firm’s culture, values, and mission statement. Savvy candidates will ask you to comment on these items.
 - Consciously measure each candidate against the firm’s goals and values. The firm’s value or mission statement provides an effective guide for all major firm decisions, including hiring decisions.
 - Seek candidates who would be a good “fit” for the firm’s culture while meeting the hiring criteria. Beware of the pitfall of creating a type of culture that could be unattractive to candidates and would be counter to the goal of creating an inclusive environment.

LAWYER INTERVIEW TRAINING

Ensuring that all interviewers are familiar with and understand the firm’s hiring criteria is crucial to successful recruiting. Interviewer training can save the firm a significant amount of money by preventing bad hiring decisions. Making sure that firm attorneys know what questions and conversations are inappropriate will give them confidence and help in building a road map for what they plan to accomplish in their allotted time. In addition, determine what type of interview structure will produce the best results (i.e., behavioral, panel, one-on-one, etc.).

- Conduct a “behavioral competency” interviewing workshop. Train your interviewers to ask questions that elicit responses demonstrating whether candidates’ skills and behavior align with established firm values and are akin to those of your successful attorneys. Impress on your interviewers that getting information from candidates regarding their attitudes and expectations is critical to effective hiring and that merely having a conversation with a candidate will not provide the critical information needed.
- Whether you have the resources to use an outside consultant or are required to use an internal resource, you must select a trainer who has credibility with your interviewers. Your lawyers may best respond to a trainer who understands the business of practicing law. If you use an outside consultant, make sure that you include their expertise and knowledge in your promotion of the interviewing workshop. Ideally, you may want to use only the attorneys who have attended the training workshop, if possible.
- Offer the interviewing workshop once a year or have the workshop recorded and available via webcast through your intranet site. If attorneys have attended an earlier session, encourage them to freshen up their skills and continue to be reminded of the firm’s hiring criteria annually. You should always review and revise the workshop materials to keep them accurate and fresh.
- Integrate diversity training into the overall interview training workshop. Including this element will help interviewing lawyers to have an awareness of unintentional bias and to seek, as objectively as possible, candidates who will be successful at the firm.
- Train your lawyers on improper questions.

PRACTICE TIP:

Surprisingly, many lawyers do not know the legalities of interview questions or the nuances of different cultures (e.g., limiting eye contact, being uncomfortable talking about oneself). A cross-cultural component to behavioral interviewing might well prove invaluable to identifying your firm’s next superstar.

- Teach lawyers to look for the diamond in the rough whose resume does not tell the whole story. For instance, candidates who lack extracurricular activities on their resume may disclose in an interview that they worked full-time to put themselves through law school. Remember: hard work, drive, and ambition take as many forms as there are candidates.
- Teach your lawyers to market the firm during each interview. Make sure they remember that even the candidate who is an obvious “no” within the first five minutes of an interview will talk with his/her lawyer friends, who will then form their own opinions of your firm.
- Ensure that interviewers leave each candidate with a positive impression of the firm. Equip attorneys with facts about the firm’s mission, future vision, practice areas, training programs, mentor policy, recent victories, and newsworthy items.
- Challenge lawyers to come up with their own “elevator speech” about the firm — 30 seconds on why they enjoy working at the firm.
- Enlist the aid of your firm’s marketing professionals for some quick reference guides or FAQs to share with your interviewers.
- Consider including less formal interviews as part of the hiring (i.e. social lunches, networking environments, etc.).
- Keep open dialogue with your professional development and business development teams to foster new ideas and keep firm messaging consistent.

MARKET WATCHING AND AN ANNUAL AUDIT

You will add value to the recruiting function of a firm when you keep the firm apprised of market trends. When you can, measure the success of the firm’s hiring efforts, identify areas for improvement, and propose solutions.

- Study market competition and trends and alert firm management when your findings could affect firm hiring.
- Keep an eye on key indicators, including annual salaries, bonuses, and associate salary ranges; clerkship bonuses; local/regional mergers; and creation of new practice groups at competing firms.
- Set aside time each day to keep up on industry reports and periodicals published by organizations including the *Wall Street Journal*, and the *National Law Journal*, *American Lawyer*, or other legal periodicals.
- Approach your workday as you would a brainteaser: How can you use market trends and other newsworthy items to proactively position your firm and make more strategic hiring decisions?
- Develop a year-in-review report of lateral hiring, retention/attrition, department leveraging, diversity, and other statistical data. More importantly, use your report’s information to set short- and long-term goals and priorities. Share this information with your management committee and/or recruiting committee.

PRACTICE TIP:

In a down economy, you can’t rely on just an annual report. Provide analysis on a monthly or quarterly basis to show how your firm is doing compared to other firms.

- Assess the success of your lateral hires: What are the best recruiting sources? How long do lateral associates of varied experience stick around? Where do they go when they leave? How well is behavioral competency interviewing working at your firm? etc.
- Assess whether you want to continue agreements with all search firms. Consider limiting your firm's relationships to search firms that have successfully placed a number of lawyers with your firm throughout the year, understand your firm's culture, and partner with you to refer candidates who fit your firm's criteria.
- Read attrition reports and/or exit interview notes to identify areas for improvement — associate training, work/life balance issues, diversity, billable hour requirements, etc. You may not be able to resolve an issue, but firm management should be made aware of your findings. Propose solutions when appropriate.
- Critically review each recruiting budget category to evaluate where money can be saved. Key categories include search firm fees, travel, and hotel and car services.
- Keep abreast of what candidates are looking for in an employer. Collect this information from exit interviews, direct discussions with candidates who decline or accept your firm's offer of employment, and search firms. Search firms can provide some information on what they are hearing about your firm from candidates.
- Review your firm's literature on the website on a regular basis to make sure those marketing venues address candidate interests and hot-button issues. Make sure your information on your firm's intranet is current.
- Partner with your firm's marketing department to create new and innovative ways to differentiate your firm from its competitors.

Marketing Your Firm

In order to attract laterals, law firms need to demonstrate who they are, what they do, how they do it, their values, their culture, their niche, the sophistication of their work, and, perhaps most importantly, how they are different from other firms. Firms must demonstrate these characteristics in their marketing materials, recruiting materials, and through verbal communication to search firms, lateral candidates, and colleagues at other firms.

The following section is intended to address how, as a recruiting professional, you can best get your message out to lateral candidates, whether it be at the associate or partner level. The following five steps are necessary to create the right message and have it reach your targeted audience: (1) determine an overall message; (2) communicate the message effectively through the firm's website and recruiting materials; (3) educate your interviewers on the firm's message; (4) find diverse methods to attract candidates such as speaking engagements, attendance at local bar functions, and word of mouth; and (5) partner with search firms.

KNOW YOUR FIRM AND DETERMINE AN OVERALL MESSAGE

- Reflect on your firm's unique characteristics and develop a brand that represents those characteristics.
- Develop a recruiting message that conveys the best attributes of your firm and addresses the needs and questions of the candidates.

- Your message should be specific and should communicate:
 - › What differentiates your firm from other firms;
 - › The lifestyle of the firm and relevant policies such as alternative work arrangement policies, pro bono policies etc.;
 - › That you value diversity, which can be demonstrated by identifying key individuals at various phases of development within your firm, including firm leadership;
 - › The opportunities for development and advancement at the firm;
 - › The compensation and benefits structure;
 - › The firm's substantive practice areas; and
 - › Partner to associate ratios.
- Know the markets in which you recruit.
- Gain knowledge about your own firm including history, practices, clients, governance structure and organization, strategic plan for growth, and policies and benefits. Knowledge of the firm's clients is most important when marketing to potential lateral partners as this information will help determine whether or not the candidate's practice synergizes with your firm's existing practices or if it would be a direct conflict to current firm clients.

COMMUNICATE THE MESSAGE

Create a variety of recruiting resources targeting laterals, as well as law students. The website is the firm's window to public perception and a primary resource for recruits, search firms, and your lawyers. However, you should also consider printed materials and social media sites such as LinkedIn and Twitter as part of your strategy for providing information.

- Monitor the website to keep the information accurate and up-to-date.
- Your website should engage the interest of laterals as well as law students and prospective clients. It should be easy for candidates to determine how they can apply for open positions.
- Use the website to promote the firm's accomplishments and participation in events and speaking engagements and to announce awards received by the firm and its individual lawyers.

CREATING RECRUITING MATERIALS

- While most firms have recruiting brochures targeting students, firms should consider creating recruiting materials targeting laterals as well. These also come in handy for search firms as well.
- Consider using a firm brochure to describe the firm's history, practices, areas of expertise, representative clients, or cases and strategic outlook.
- Consider using additional means for delivering your message such as video, podcasts, blogs, etc.
- Partner with your professional development, practice management, and marketing departments to ensure the website includes information about topics like mentoring, training, career development, practice expectations, work allocation, and other questions and concerns that laterals may have.

- Customization can be very important. Be cautious with a one-size-fits-all approach for all your lateral prospects.

EDUCATE INTERVIEWERS

- This Guide sets forth guidelines for training your firm lawyers in interviewing techniques. The key to good interviewing is to be able to both obtain and impart information during the interview. Thus, while you are training interviewers to assess the candidate, provide them with information about the firm's mission, vision, practice areas, policies, and newsworthy items.
- Ensure that all of your lawyers and staff are able to clearly articulate the firm's message and are able to sell it not only to clients but to potential candidates.
- Make sure that the lawyers in the firm are aware of the positions that are currently open at your firm. Referrals are often the best way to find lateral candidates.

DIVERSE METHODS TO ATTRACT CANDIDATES

- Encourage attendance at local bar association meetings and functions.
- Support involvement in area events and speaking engagements.
- Encourage opportunities to write articles for legal websites or publications.
- Offer a bonus to associates and staff for referring lateral attorneys.
- Spread the message that the firm is open to opportunistic hiring.
- Consider targeted advertising campaigns in trade journals, alumni magazines, or diversity publications.
- Advise alumni directors at the law schools where your firm recruits of your openings.

PARTNER WITH SEARCH CONSULTANTS

- Meet with search consultants on a regular basis for an exchange of information. Search consultants can tell you their perception of your firm in the marketplace, and you can educate them on firm news and events and current hiring needs.
- Ask your search consultants to share candid feedback from candidates who decline your offers.
- Truly partner with search consultants. If you have a good working relationship with some search consultants, you are likely to get their best candidates. Search consultants also make recommendations about firms to their lateral candidates. Trusted search firms/search consultants should be treated as "clients."
- Consider sending search consultants an email when you open or close an opening. For openings, include some marketing materials summarizing the particular practice area where there is an opening. Also send search firms recent awards received by the firm and its individual lawyers so they can pass this information on to potential recruits.

Due Diligence

As noted in *Leading the Legal Recruitment Team* (Englert, NALP, 2001), due diligence is, in its simplest form, a systematic review of an attorney's professional and personal history designed to preclude the introduction of circumstances that could jeopardize a firm's right or ability to provide adequate legal counsel. All employers have a reasonable duty of care in the hiring process and should take reasonable steps to determine if a candidate is fit for the position. Engaging in a screening process demonstrates due diligence and provides a level of legal protection.

According to polls conducted by the **Society for Human Resource Management** and other organizations, there is a trend toward greater use of background and reference checks by employers. This trend is due to various reasons, including new technological advances that make such checks faster and more economical and a rise in the trend of applicants misrepresenting their credentials. Given the fact that 1 in 32 adults have a criminal history and that nearly 50% of resumes have inaccuracies (including fraudulent work or educational information), law firms are increasingly revisiting the subject of whether to conduct background checks on new hires. In fact, of the nearly 6.5 million background checks performed by **ADP Screening & Selection Services** in 2010, 46% of employment, educational, and credential checks revealed a discrepancy in information between what the candidate provided and what the source reported, and 6% revealed a criminal record in the last seven years. Due to the nature of the legal industry, proper due diligence of a firm's lawyers has far-reaching implications.

Legal recruiting professionals have an important responsibility to conduct thorough due diligence on candidates, even more so in an economic climate where the pool of qualified and unqualified candidates has increased. With that responsibility in mind, the due diligence process outlined below represents suggested best practices that you should consider when establishing or refining your firm's policies.

BACKGROUND SEARCHES IN THE LEGAL INDUSTRY

Some firms use third-party agencies for background checks, while others rely on strict screening processes employed by various Boards of Legal Examiners or State Bar Disciplinary Boards. Other firms simply rely on official law school transcripts, proof of prior legal employment, and reference checks.

- Some firms conduct background checks that include criminal and/or consumer background checks (e.g., credit checks) and some do not. Background checks can also assist in identifying misrepresentations regarding education or employment history. Examples of third party background check providers include **Scherzer International** (www.scherzer.com), **Kroll** (www.kroll.com), **Sterling Backcheck** (www.sterlingbackcheck.com), and **ADP** (www.adp.com).
- Some firms conduct reference checks — a separate approach from background checks — that involve contacting a candidate's previous employers. Be sure to request permission from the candidate prior to contacting their references.
- Some firms conduct “**e-due diligence**,” which refers to *performing internet searches to find additional information about candidates*. **Career Builder** reports “that 51 percent of employers who research job candidates on social media said they've found content that caused them to not hire the candidate, up from 43 percent last year and 34 percent in 2012. Forty-three percent of employers use social networking sites to research job candidates, up from 39 percent last year and 36 percent in 2012.” However, some firms believe that reliance on such research could lead to mistaken identity and inaccurate and/or discriminatory employment decisions. While e-due diligence can be a beneficial (and free) additional screening tool, **NALP** suggests to employers utilizing the internet to “use valid, job related criteria when evaluating candidates.” See the *NALP Principles and Standards Interpretations* (www.nalp.org/)

[interpretations](#)) for more guidance. Also, employers need to ensure they are consistent by using the same criteria for all candidates. Employers should consult their employment counsel about applying current labor laws to this area of the due diligence process.

- In order to determine your firm's policy relative to background checks, you should understand that doing background checks on your own without the use of a third-party agency can be challenging because of limited access to records, mistaken identity, missed activity in another locale, cost-effectiveness, and various other limitations.
- It is important to note that the extent to which employers may consider criminal records for making employment decisions varies according to state law. Please consult your state's laws on this subject.
- Regardless of the firm's preferred method for conducting due diligence on candidates, it is important to research any regulatory policies addressing background checks, including the *Fair Credit Reporting Act* (FCRA), which requires that companies disclose plans to obtain a report and obtain the applicant's signature consenting to same before running the reports. Any negative information used to eliminate a candidate from consideration must be shared with the candidate along with advice regarding the candidate's right to dispute inaccurate information. It is also important to be mindful of EEOC directives prohibiting discrimination of protected classes.

STANDARDIZING DUE DILIGENCE PROCEDURES

- Once you have established the scope of your due diligence policy, it is important to standardize and communicate those procedures to attorneys and staff involved in the due diligence process.
- If e-due diligence is part of your due diligence process, the parameters being used should be clearly identified in the procedures communicated to lawyers and staff involved in the due diligence process.
- Educate recruiting staff, human resources, hiring partners, practice group leaders, department heads, and other attorneys involved in hiring about the importance of proper administration of the process.
- Lateral Questionnaires can be very helpful.

INITIAL SCREENING OF RESUMES OR CURRICULA VITAE (CVs)

Each lateral hiring process begins with an introduction of a candidate by direct contact or through a search firm.

- Once you have secured the resume, CV, or work history, it is important to:
 - Verify the source of the resume or introduction to the candidate (i.e., from a search firm, internal referral, or directly from the applicant).
 - Determine the exact position applied for (partner, counsel, associate). This determination dictates which path to follow in the hiring process because the elements of due diligence may vary depending on the position sought.
 - Immediately record the candidate's application in a resume-tracking database or some other system to register the source and date of the application. This is a critical step in avoiding fee disputes with search consultants.
 - If a candidate is submitted by a search consultant, it is also a good practice to request written confirmation from the consultant that the candidate has given permission to submit an application to your firm on their behalf. Ideally, this should be a clear term outlined in your fee agreement.

- In most cases, interviews or initial meetings take place between the initial screening and the preliminary due diligence phase. The interview itself is a crucial step in the due diligence process as it allows interviewers to speak face-to-face with the candidate and gives the candidate an opportunity to explain any questions the firm may have regarding their resume and application.

In light of the fact that due diligence conducted on partner and associate candidates can differ greatly, we have set them out separately in a due diligence reference chart found in the appendix of this Guide.

Integrating Laterals into Your Firm

Now that you have determined that your firm needs a lateral attorney to fill a gap, you have all of your internal hiring procedures in place, and you have interviewed and decided to hire a particular individual, your next challenges are: (1) effectively extending the offer, (2) securing an acceptance, and (3) integrating your laterals once they have arrived.

EFFECTIVELY EXTENDING THE OFFER

Up until this point, both the candidate and your firm have been trying to assess and impress one another. You want to continue to do your best to present a polished and professional business face to the candidate.

- Communicate directly when possible. When the candidate is represented by a search firm, initiate direct communication with the candidate as soon as possible. You want the candidate to perceive the firm in an active (not passive) role. Emailing is generally appropriate, but think about speaking over the phone when possible. Engaging in conversations rather than sending correspondence builds bonds between the candidate and you (i.e., the firm).
- Ask the partner running the search to personally call the candidate to let him/her know that the firm is extending an employment offer, and include the “highlights” of the firm’s offer in advance of his/her receiving the offer letter. The search firm should be informed that an offer is being extended and provide the offer details to the recruiter.
- After the partner extends the offer, you should follow up with the candidate and s/he should “hear” how excited the firm’s lawyers are that s/he may be joining the firm. Confirm receipt of the letter and let the candidate know s/he can contact you with any questions. Reinforce the open lines of communication so that follow-up is seamless and fruitful.
- Send the offer letter via email and the original letter via regular mail. (If you are unsure of where to send the offer letter, confirm the address where the candidate would like the offer letter delivered.)

AFTER ACCEPTING, BUT PRIOR TO ARRIVAL ...

The firm’s commitment to the lateral should be continuously conveyed through personal communications, attention to timing issues, and follow-up. The process of building trust began with your firm’s initial contact with the candidate. At this stage, it is important to continue to build that trust by setting expectations through email, phone, and written communications from the firm.

- After you receive the candidate's acceptance, call the candidate to let him/her know you have received it and how pleased the firm is that s/he has decided to join your practice.
- Ask accepting candidates if you can share their current personal email address and phone number with various lawyers with whom they will practice since some of the firm's lawyers will want to get in touch with them before they begin employment.
- Send basic HR, marketing, and employment forms to the candidate along with your due diligence materials (i.e., conflict of interest forms, background check releases, etc.) in advance of the first day of employment. Let candidates know that receipt of these forms before they arrive at the firm will help them get off to a quick start.
- Identify when their new firm phone/fax/email address will be functional and communicate this information to aid in their transition. Confirm that their office is ready and waiting for them, and let the lateral know how to ship materials to their new office.
- Ask the partner running the search to designate one peer attorney to be the integration mentor. This mentor should contact the candidate to express how glad they are that the lateral has decided to join their team. If the contact will be via email, ask the attorney(s) to "cc" or "bcc" you.
- The week before a candidate's arrival, send an email confirming their start date and making sure they have received answers to all of their first day questions (e.g., where to park, what time to arrive, who to ask for, if breakfast/lunch are included during orientation, dress code, etc.).
- Along with the lateral's orientation schedule, provide the lateral with key partner and their mentor's biography pages.
- Provide the lateral attorney's resume to all orientation speakers (lawyers as well as staff) and also to practice group leaders at least five days before their presentations. Nothing will help put laterals at ease more than evidence that people at the firm took the time to find out about them.

ARRIVAL: HELPING LATERALS HIT THE GROUND RUNNING

Effective coordination of the orientation process and communication of firm policies and procedures is fundamental to helping laterals hit the ground running on their first day at your firm.

- Take charge of the orientation process, keep speakers on time, schedule breaks, and do not let orientation run into the lunch hour.
- Make sure that new laterals have peer lawyer names, office locations, secretarial assignments, and phone numbers and that they are introduced on their first day.
- Coordinate a first day lunch with the lateral's integration mentor and two additional lunches with peer lawyers during the upcoming weeks. It can be helpful to ensure that at least some of the peer lawyers chosen have had personal experience with a lateral transition.
- Ask peer lawyers to come to their lunches with a list of the top five things they wish they had known about how to navigate the firm (or its processes). These are the routine day-to-day business issues that we all assume everyone will automatically know — but that they don't.
- Send an introduction email to the office, along with a photo, and other appropriate firm groups announcing the lateral's arrival on their first day.

- Email the lateral's bio to any alumni of the lateral's law school in the office. This is one of the fastest ways to help establish personal connections between the firm and the lateral.
- Where bar rules allow, update the firm's website to include the lateral's bio and contact information and photo where possible. New lateral hires may not feel a part of the firm until they are listed on the firm website.
- Make sure business cards (where bar rules allow), personalized firm notepads, and other firm "swag" are ready and waiting on the new hire's desk on day one.
- Make sure new laterals are added to all appropriate email distribution lists.
- During week one, be the "go-to" person for new lateral hires, but make sure they know who to call should they have similar questions in the future.
- Create a customized "Who to Call" list for the new lateral.
- During the first week the emphasis should be on building a social support group through peer group lunches and dinners and on building professional relationships through departmental meetings, office events, and case status updates.
- Arrange at least one social lunch or dinner with the lateral's partner mentor relatively soon after their arrival.
- During the first month, lateral integration should include client introductions, social events, committee participation, and lateral "boot camps" or other training programs.
- During the lateral's first year, helpful integration efforts include involvement in the summer associate program, invitations to all office and departmental events, participation in retreats, and an initial — even if informal — evaluation by a supervising attorney or department head.
- Ask the lateral to be involved in recruiting/interviewing as soon as practicable.

ORIENTATION — MAKING THE BEST IMPRESSION

While the elements set out below are not applicable to all firms or appropriate for all levels of lateral attorneys (entry-level associates, mid-levels, equity partners, etc.), you will want to convey sufficient information so that all new lawyers feel that they have the necessary background to navigate their first week at the firm.

Set aside time on the orientation schedule for the lateral to meet with members of the recruiting department. Use that time to explain attorney-specific policies and procedures. Create a small notebook that new laterals can reference containing the following:

- Management and structure of the firm and the individual office, including names, titles, locations, contact numbers, and email addresses.
- The firm's strategic plan and where the firm is in its plan — where it has come from and where it plans to go. Provide the firm's vision statement.
- Firm economics — factors affecting profitability, how the firm calculates utilization and realization rates, and policies and procedures related to non-billable time, inputting time, and billing and collections. Make sure new lawyers feel they are an integral part of driving the firm's business and its success.

- Policies and procedures related to CLE and professional seminars, payment of bar dues, professional licensing fees, and requesting reimbursements from the firm.
- Diversity and inclusion, ethical, and pro bono commitments and aspirations of the firm and expectations of firm lawyers.
- Human resources information — how the firm’s non-attorney staff operate and their responsibilities, employment manuals and policies, hours of operation, office perks, compensation, benefits administration, etc.
- Associate compensation, bonuses, and partnership evaluation criteria (as appropriate to firm culture and procedures).
- Policies and procedures for file opening and records management.
- Library procedures and research resources.
- Marketing/public relations — who’s in charge and what’s expected of each lawyer.
- Periodically arrange for recent lateral hires to meet with the office managing partner. Determine frequency based on the rate of lateral hiring activity.
- Identify where the firm’s history and branding materials can be found on the intranet.
- Make sure new laterals are aware of the firm’s calendar and where to find it.
- Discuss any unwritten rules and guidelines — e.g., the best time to get in to see the office manager, firm/departmental event attendance expectations, etc.

PEER ADVISORS AND PARTNER/MENTORS

While this Guide does not attempt to provide in-depth information on mentoring and professional development, you should at least consider the following advisor/mentoring issues in the context of effective integration.

- Discuss peer advisor selections and partner-level mentors with the appropriate department head based on your personal and professional knowledge of the lateral.
- Assure that advisors and mentors understand their roles and the firm’s expectations for the relationship through appropriate training.
- Solicit regular feedback on the relationship from each of the participants.
- Although advisor/mentor relationships will differ from one another, make sure to provide the lateral with a framework of expectations. The firm that laterals have just come from may well have approached the mentoring process differently or have not had a mentoring program at all.

WORK WITH YOUR PROFESSIONAL DEVELOPMENT AND MARKETING TEAMS

Today’s lateral associates routinely state that professional development opportunities — or the lack thereof — are one of their main reasons for changing jobs. Providing training enhances professional competence and strengthens ties to your firm.

- Personally introduce professional development and marketing contacts to laterals and assure them that the firm — through those departments — is committed to their success at the firm.
- Prepare a checklist for the lateral to follow/fill out to assure that his/her professional credentials and contact information are updated with local and state bar associations, Martindale Hubbell, phone directories, and other professional, community, and charitable organizations.
- Provide lateral bios to your public relations firm as well as to local newspapers announcing your latest hire.
- Survey laterals to determine the type and level of training they have received, the type of training they believe is important, and past training they believe has been particularly useful in their practice.
- Communicate laterals' responses to the firm's professional development team and ask how you can further assist in gathering information.
- Assign a long-term advisor to provide your new lateral hire with a professional development integration plan within the first week that clearly demonstrates how the firm will be investing in the lateral's success.
- Work with professional development to assist in developing cross-training opportunities for laterals — as well as for other attorneys. This may include, but is not limited to, training opportunities in other departments, as well as networking, public speaking, writing, community involvement, and client pitch training.

EVALUATE THE LATERAL INTEGRATION PROGRAM

- At regular intervals (i.e., one month, six months, one year), solicit laterals' feedback on all aspects of their integration into the firm. Ask what was done well as well as what needs improvement.
- Where appropriate, confirm that new laterals have met with the marketing team or with their individual team contact to discuss business development.
- Solicit feedback from lawyers, administrative directors/managers, paralegals, and administrative assistants about how laterals seem to be fitting in and typical lateral questions that might be better addressed during the interview process or orientation.
- Remind yourself that your lateral integration program will need to change and grow over time.

PARTNER INTEGRATION SPECIFICS

While the overall process of lateral integration is thoroughly discussed in the preceding sections, a lateral partner joining your firm has unique needs and concerns. The ability to meet his or her clients' demand and grow his or her practice is at the top of a lateral's list (and should be). Specifically addressing those concerns should begin at the very inception of the hiring process and continue until well after the partner has joined the firm. Concentration on this and other issues unique to partner integration add vision and depth to the process. Once again, please note these tasks should be considered in addition to, not instead of, all other best practices described in this Guide.

- The firm's practice area leaders should meet partner candidates within their jurisdictions during the first or second meeting. Ideally, the managing partner of the candidate's home office should also take a lead role, and together work to assure that the candidate:

- ▶ Understands the scope and capabilities of the firm's existing practice and how s/he would fit in;
- ▶ Learns the capabilities of the other practice areas that might be of use to the candidate's clients;
- ▶ At minimum, meets the key team members early in the process, and, if possible, participates in a social opportunity with those on the team.

These practices, although part of the recruiting process, are an intrinsic part of the lateral partner's integration into the firm. They lay the groundwork for future communication and success.

- As mentioned above, the most important (and likely the first and only) concern of a new partner as they walk through the door of your firm is to have their clients fully integrated into your billing systems and processes as quickly as possible. Those in your firm responsible for generating engagement agreements should be employed at the earliest appropriate time, as well as your billing team and the new partner's administrative assistant. The sooner a new partner is comfortable that client engagement letters are in place and bills are flowing smoothly, the more quickly they can feel comfortable continuing with the rest of their integration activities.
- Quickly and successfully accomplishing client on-boarding will allow you a fighting chance to complete other important orientation tasks, such as computer orientation, who does what, and meeting/re-engaging with the people in the office and the firm who can make his/her professional life easier. By beginning integration at the top of the recruiting process and continuing throughout, the new partner will already be familiar with his/her colleagues and the way the practice works. We all know, however, that the nuts and bolts are important, and not gaining access to that training leaves a new partner dependent upon others and feeling helpless at times.
- CLE deserves its own mention here. Not only is it important for your new partner to transfer their CLE credits to your system, but asking them to conduct CLE coursework at the firm in their area of expertise is an opportunity for internal networking and information sharing.
- Check in with your new partner at three and six weeks, and three and six months, asking if there are any remaining gaps in the integration/orientation process, and how the firm can improve. Respond quickly to any requests for additional information, and develop plans implementing suggested improvements where appropriate. Finally, let the partner know that you have made changes based on his/her suggestions. It will please the new partner and give you a real life best practice to include in/improve the firm's integration process.

PARTNER DUE DILIGENCE SPECIFICS

- **LPQs:** Candidates who bring business to the firm are typically asked to complete an extensive questionnaire. Commonly called a **Lateral Partner Questionnaire** or "LPQ," the information supplied via this form is essential to the due diligence process. Candidates who have some business but are not ready to be considered at a partner level, or who are to be considered "counsel" or another appropriate term specific to the firm, can also fill out a similar form (perhaps an "LHQ" or **Lateral Hiring Questionnaire**) to streamline and accelerate due diligence. The response to this questionnaire will give your diligence team specific information on clients the candidate hopes to bring to the firm and allow the team to vet those clients for potential conflicts of interest. Early vetting of conflicts of interest is essential to success. An early discovery that an immovable conflict exists saves time and expense on both sides. It also allows the firm to put conflicts waivers in place in a timely manner when necessary.
- Be aware that many partner candidates have had little or no experience with a job search at their level. Either the search consultant, you, or a designated person on your team should be consistently helping them through the unique diligence hurdles, including the completion of the LPQ. Reporting client names and financial information, compensation history, references, and other necessary aspects of diligence that can be unique to partner candidates, and typically occur early in the process can seem daunting to an inexperienced candidate. Paying strict attention to these details protects both the firm and the candidate.

Appendix — Due Diligence Comparison Chart

Partner Candidates

Partner Candidates—Preliminary Phase

- Secure a current resume or CV and business plan.
- Verify the source and date of the submission.
- If the source is a search consultant, ask for written confirmation of the candidate's permission to submit to your firm.
- Perform a quick search of the candidate's current firm website to confirm employment.
- Have the partner candidate execute a confidentiality agreement for the mutual protection of the firm and the candidate.
- Identify any additional potential candidates (other partners, associates, staff) who may want to follow the primary candidate. Follow Initial Screening steps for each additional candidate.
- Ask the candidate to identify whether s/he or others at their current firm are working on matters adverse to the interviewing firm.
- Immediately record the candidate's application in a resume tracking database or some other system to register the source and date of the application. This is a critical step in avoiding fee disputes with search consultants.
- Confirm primary area of practice.
- If a litigation candidate, conduct a quick search of court dockets to verify their level of litigation experience/involvement.

Associate Candidates

Associate Candidates—Initial Screening Phase

- Secure a current resume, CV, or work history.
- Verify the source and date of the submission.
- If the source is a search consultant, ask for written confirmation of the candidate's permission to submit to your firm.
- Obtain an official transcript or authorization to request one from the candidate's law school (and graduate/undergraduate schools, if applicable).
- Perform a quick search of the candidate's current firm website to confirm employment.
- Confirm bar admission information on various state bar websites.
- For junior candidates (e.g., less than five years out of law school), obtain a writing sample, preferably one in which they were the sole author.
- Determine the position applied for (partner, counsel, associate). Since the elements of due diligence vary depending on the position sought, this determination dictates which path to follow in the hiring process.
- Immediately record the candidate's application in a resume tracking database or some other system to register the source and date of the application. This is a critical step in avoiding fee disputes with search consultants.
- Confirm primary area of practice.

Partner Candidates

Partner Candidates—Pre-Offer Phase

Prior to consideration for election to the partnership of the new firm, a more intense information gathering process should be conducted. This information can readily be obtained from the prospective candidate by use of an information checklist or questionnaire. The elements of this phase include:

- Confirmation or verification of:
 - ◇ Personal and business contact information including current address, telephone numbers, email addresses.
 - ◇ Professional and employment information including bar admission and prior employment history.
 - ◇ Educational background (college, graduate, law school).
 - ◇ Eligibility to work in the United States.
- Requiring the candidate to indicate whether s/he has any prior history of:
 - ◇ Professional discipline.
 - ◇ Professional claims (liability; ethical claims, complaints, or lawsuits).
 - ◇ Criminal history.
 - ◇ Workplace misconduct.
 - ◇ Government investigations.
 - ◇ Bankruptcy.
 - ◇ Other claims (named defendant in any lawsuit or legal proceeding)
 - ◇ Contractual restrictions.
- Having the candidate provide:
 - ◇ Certificates of Good Standing from the jurisdictions in which s/he is admitted to practice.
 - ◇ Assurance that liability insurance has been maintained.
 - ◇ List of all claims reported to professional liability insurer.
 - ◇ Information about any claims that could be asserted based on known acts or omissions.
 - ◇ Whether the candidate holds outside positions (e.g., director, trustee, officer) or engages in secondary business activity.
 - ◇ Hours/revenue for preceding years.

Associate Candidates

Associate Candidates—Preliminary Phase

- Confirmation or verification of:
 - ◇ Personal and business contact information including current address, telephone numbers, email addresses.
 - ◇ Professional and employment information including bar admission and prior employment history.
 - ◇ Educational background (college, graduate, law school).
 - ◇ Eligibility to work in the United States.
- Requiring the candidate to indicate whether s/he has any prior history of:
 - ◇ Professional discipline.
 - ◇ Professional claims (liability; ethical claims, complaints or lawsuits).
 - ◇ Criminal history.
 - ◇ Workplace misconduct.
 - ◇ Government investigations.
 - ◇ Bankruptcy.
 - ◇ Other claims (named defendant in any lawsuit or legal proceeding).
 - ◇ Contractual restrictions.
- Having the candidate provide:
 - ◇ Certificates of Good Standing from the jurisdiction(s) in which s/he is admitted to practice.
 - ◇ Performance evaluation history for the two most recent evaluation periods.
 - ◇ Assurance that liability insurance has been maintained.
 - ◇ List of all claims reported to professional liability insurer.
 - ◇ Information about any claims that could be asserted based on known acts or omissions.
 - ◇ Whether the candidate holds outside positions (e.g., director, trustee, officer) or engages in secondary business activity.
 - ◇ Client and non-client references.
 - ◇ Hours/revenue for preceding years.
 - ◇ Compensation history for preceding years.

Partner Candidates

Partner Candidates—Pre-Offer Phase, cont'd

- ◇ Compensation history for preceding years.
- ◇ 401(k)/pension/deferred compensation, including firm contribution.
- ◇ Billing rate for preceding years.
- ◇ Revenue/matter origination— past and projected.
- ◇ Fee write-offs (pre- or post-billing).
- ◇ Overall year-end accounts receivable.
- ◇ Client/matter list for conflicts check, including list of potential portable clients and adverse parties.
- ◇ Information regarding relatives employed by the firm.
- ◇ Confirmation that tax returns have been prepared and filed for the past years.
- ◇ Professional references (normally three, which may include partners at current firm, former opposing counsel, colleagues in professional organizations, judges, peers, clients).
- ◇ Whether candidate (or family member) own any non-public securities in any clients.

Associate Candidates

Associate Candidates—Preliminary Phase, cont'd

- ◇ 401(k)/pension/deferred compensation, including firm contribution.
- ◇ Billing rate for preceding years.
- ◇ Revenue/matter origination — past and projected.
- ◇ List of potential portable clients, if applicable.
- ◇ Confirmation that tax returns have been prepared and filed for the past years.
- ◇ Information regarding relatives employed by the firm.
- ◇ Professional references (normally three, which may include partners at current firm, former opposing counsel, colleagues in professional organizations, judges, peers, clients).

Partner Candidates

Partner Candidates—Final Phase

Conduct the background search and conflicts check on the candidate's client/matter list. Report results to the person in charge of the candidate's hiring process (department head, practice group leader, chief human resources officer, etc.). Normally, the same person would ascertain whether the candidate is:

- ◇ Party to a partnership agreement related to the practice of law (obtain a copy of the agreement, if possible).
- ◇ Covered by malpractice tail insurance (required).

Important: Ideally, a candidate will sign and date a completed questionnaire/checklist and authorization to conduct a background check and credit investigation.

At this point, candidates for partnership are voted on by the board, committee, or other partners, and the pre-hiring process concludes.

Associate Candidates

Associate Candidates—Final Phase

- ◇ Client/matter list for conflict checking.
- ◇ Professional references (normally three, which may include partners at current firm, former opposing counsel, colleagues in professional organizations, judges, peers, clients).

Have the candidate sign and date a completed questionnaire/checklist and authorization to conduct a background check and credit investigation.

Offers extended prior to the completion of the entire due diligence investigation should be contingent on satisfactory results of the due diligence phase. Advise the candidate not to give notice at his/her current firm until a formal offer is received.

Appendix — Resources and References

WEBSITES

www.nalp.org — The research section (found under “Research & Statistics”) of NALP’s website includes articles and press releases on both lateral and entry-level hiring. The NALP online bookstore includes books on recruiting and professional development — not only those published by NALP but a number of other key titles as well. NALP members can also log in to access the *NALP Bulletin* archives and handouts from past Annual Education Conferences. NALP’s *Principles & Standards Interpretations* provide clarification of recruiting guidelines, including responsibilities of employers, candidates, and law schools regarding the use of the Internet in the recruiting process. Finally, see the “Professional Resources” section of www.nalp.org — particularly the “Reviewed Resources” page and recruitment-related pages — for additional information and resources.

www.nalpfoundation.org — Includes executive summaries of NALP Foundation reports as well as an online bookstore offering NALP Foundation publications, which include numerous research studies on attorney attrition.

NALP AND ALI-CLE VIDEO WEBCASTS

- Lynn Traverse, *The ABC’s of Lateral Hiring* (Originally Recorded on October 28, 2015), https://www.nalp.org/abcs_of_lateral_hiring_webinar (member log-in required)
- Mark Dighton, Katherine Patterson, *The Care and Feeding of Future Patent Lawyers* (Originally recorded on January 20, 2012), https://www.nalp.org/future_patent_lawyers_webinar/ (member log-in required)
- Diane Downs and Bruce Elvin, *Core Competencies in Law Firm Interviewing* (Originally recorded on February 18, 2011), https://www.nalp.org/core_competencies_webinar (member log-in required)
- Nancy Berry, Linda M. Doyle, Esq. and Paula Nailon, *E-Due Diligence in Law Firm Hiring: A Look at the Issues* (Originally recorded on: April 21, 2009), http://www.ali-aba.org/index.cfm?fuseaction=courses.course&course_code=RWPM04

DIVERSE BAR ASSOCIATIONS

- Hispanic National Bar Association, <http://www.hnba.com>
- National Asian Pacific American Bar Association, <http://www.napaba.org>
- National Bar Association, <http://www.nationalbar.org>
- National Black Law Students Association, <http://www.nblsa.org>
- Native American Bar Association, <http://www.nativeamericanbar.org>
- National LGBT Bar Association, <http://lgbtbar.org/>
- National Association of Law Students With Disabilities, <http://www.nalswd.org/>
- National Association of Attorneys with Disabilities, <http://naadattorneys.org/>

- South Asian Bar Association, <http://www.sabanorthamerica.com>

ARTICLES, BOOKS, AND PERIODICALS

Articles

Note: NALP members can access *NALP Bulletin* articles in the Bulletin archives on www.nalp.org. Non-members interested in receiving an article or inquiring about reprint permission should contact info@nalp.org.

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- Lumpkin, Mellori E., Martin Rhodes, Allison and Rich, Trisha M. *State Bar Regulators Increase Attention to Lawyer Mobility Issues*. NALP Bulletin, June 2015.

Books and Periodicals

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- Manch, Susan. *Partner & Practice Group Acquisition: A Primer on Management & Administrative Practices*. NALP, 2004.
- Ulrich Stacy, Caren and Plunkett, Dusti. *Loyalty By Design: A Practical Guide for Developing an Effective Associate Integration Program*. The NALP Foundation and NALP, 2005.
- *Best Practices in Attorney Professional Development — Heading Off and Handling Wrong Turns*. American Bar Association, 2004.
- *The Complete Guide to Lateral Hiring & Integration Best Practices for Law Firm Leaders*. IOMA, 2005
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Mentoring

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