

Rules of Engagement

How Senior Law Firm Administrators Can Protect Their Jobs

BY ED POLL

First, a hypothetical situation: A managing partner informs a legal administrator or executive director that the law firm will no longer employ him or her.

Then, a question: Could you have done anything to prevent this? According to the rules of professional conduct, lawyers cannot agree to take on a new client without a signed engagement letter. Such a letter establishes the responsibilities of each party to make the engagement a success. Senior law firm administrators – such as executive directors and chief operating officers who are responsible for accounting, human resources and similar functions – can learn from this example when accepting positions with their law firm employers.

In addition to requesting a job description for your new position, you should require that a senior lawyer in the firm – such as the chief executive officer or the managing partner – give you a written statement of the lawyer's/employer's responsibilities to the administrator. Clear articulation of these responsibilities will foster the communication and accountability necessary to ensure the administrator's success.

A statement of lawyer responsibilities may include key elements such as these:

- The lawyer will respond to an inquiry from the administrator within 24 hours.
- The lawyer will be available to meet with the administrator for at least two hours per week.
- The lawyer will provide clear and direct communication in requests of and directives to the administrator.
- The lawyer, in addition to such specific requirements, will observe the same professional and ethical obligations due to a client.

Remember that a written statement of responsibilities is a two-way street. Just as an engagement letter spells out both a lawyer's obligations to a client and a client's obligations to a lawyer (i.e., to be truthful, to provide all necessary and requested documents and to pay invoices on time), so too must an administrator's engagement document state specifically what the lawyer/employer must do and what the administrator must also do to reach the measurements for success in his or her position.

A BASIS FOR UNDERSTANDING

Success measurements must be clearly defined in the agreement so the administrator understands the criteria by which the firm will make



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its performance evaluation. The following elements can shape the understanding:

- If there are certain organizational criteria for success – profits per partner, revenue growth, number of clients, etc. – it must be clear which ones are considered to be within the administrator's control and which ones are not.
- The administrator must be told specifically what he or she is responsible for and how performance of those responsibilities will be evaluated.
- There must be a precise definition of the administrator's base level of compensation and of bonuses or other additional compensation if the administrator meets or exceeds the success measures.

SERVANT NO MORE

As employers, many lawyers and law firms act on the premise that all non-lawyer administrators – including such senior managers as the executive director or chief operating officer – are servants to the law. It is the senior administrator's responsibility to change this dynamic, using a written agreement so that the lawyer/employer recognizes that the administrator plays a different role – that of colleague, not servant.

That is not to say that the key roles of the administrator/employee and the lawyer/employer are the same. The true definition of success comes when each party understands and focuses on its core areas of responsibility. The senior administrator is responsible for profits, organization and efficiency. Meanwhile, senior lawyers – whether individually as managing partner or chief executive officer, or collectively as members of an executive or management committee – are responsible for the firm's strategic course and growth.

These roles are separate, but equally important. Elucidating them in a letter of engagement is the best way to ensure that both sides in the law firm dynamic will fulfill them successfully.

MAKING IT WORK: DELEGATION

This division of responsibility makes so much sense that it raises the question: Why don't more firms do it? The first reason, I believe, is that lawyers are traditionally reluctant to delegate responsibility. In successfully managed firms, lawyers allow administrators to administer, so that the lawyers can focus on the work that they can do best: serving existing clients and marketing the practice to potential new ones. Delegation does cost something, financially as well as in ego. You need the right person to do the work – someone with the ideal confluence of skills, work ethic and values – and you need to compensate that person appropriately.

Delegation allows professional legal administrators to do what they do better than lawyers can: manage the firm's resources, especially human resources. Years ago, when I was a chief operating officer of a mid-sized firm, several partners approached me, saying the employee that we had working the switchboard was very bright, a hard worker and deserved to be advanced. Their idea of advancement was taking the receptionist and moving her to the data processing department. Aside from the fact that I thought that constituted a demotion, not a promotion, I reminded the lawyers that the receptionist was the firm's first point of contact with the outside world and that we should not risk replacing that employee with someone who might not be so good. What we needed to do instead was recognize the employee, reinforce her value and increase her responsibility in her existing position. Smart lawyers leave decisions like this to their administrators, and entire firms benefit as a result.

ANOTHER OBSTACLE: COMMUNICATION

The second common roadblock to effective lawyer/administrator collaboration involves another element of some lawyers' personalities: the sense of urgency and immediacy that often compels lawyers to charge ahead without thoroughly discussing



things first. One of the most important parts of a successful lawyer's learning curve is developing a continuing dialogue with clients in order to learn what they actually want. The lawyer's first impulse might be to get started quickly, certain of the way a case or transaction should be handled. That, however, may not be what the client wants, and you don't know that unless you create an environment for ongoing dialogue. This principle certainly applies to the lawyer/administrator relationship as well.

Creating the written statement of responsibilities for an administrator represents only half of the job. The other half is to have continuing dialogue and evaluation processes that allow for reinforcement, modification or expansion of responsibilities as the firm's circumstances, performance and expectations evolve. In litigation, a "courthouse steps settlement" occurs when lawyers who failed to take enough time to negotiate – to actually find out what the other side wanted – sit down on the steps and talk to one another. The best lawyers have that communication before they reach the courthouse steps. The same concept applies to the best lawyer/administrator

relationships. Otherwise, the "courthouse steps settlement" can turn out to be a negative performance review – or even an exit interview.

NO GUARANTEES, NO SURPRISES

I don't believe that any law firm administrator expects guaranteed job security. Executive turnover is a fact of professional life in any service industry, including the law.

Nevertheless, following the formula outlined here — including written engagement letters, effective delegation and constant communication — will ensure that, if a professional relationship does end, it will occur as the result of a mutual understanding and not a surprise. ✨

about the author

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