Talent Management: Three Controversial Practices Debated

Forced Ranking

Consider forced ranking. General Electric and Pacific Gas & Electric, to name two companies, have been proponents of this system. Under the system, managers give every lawyer in a group a rank relative to the other lawyers. The managing lawyers meet to combine their rankings for all the lawyers, and the General Counsel ranks the managing lawyers. In the end, the listing is complete, showing the lawyer ranked number one through however many lawyers are in the department.

Advocates of forced ranking point out that under other systems, lax managers can slide by with ranking all their reports as excellent performers. One need not think hard to weed out poor performers or accelerate the careers of high potentials. No one is called upon to articulate what makes for valued performance or how you should spot and nurture it. Bonuses can be evenly peanut-buttered around without offending anybody. However, on the other hand, excellent performers fail to receive their due. Those who urge forced ranking press the view that departments should continually upgrade their talents. And a good way to do so is to identify those who contribute the least to the department. Forced ranking flushes these laggards into the open, they say.

Opponents of forced ranking, to be sure, have mostly carried the day. One view of the controversy swirling around forced ranking is that it is a brutal, Darwinian system. An insurance company's law department concluded after several years of ranking and culling its lawyer that the meat cleaver of forced ranking was slicing into competent lawyers and hurting morale. They stopped rankings.

Another drawback is that it is difficult to compare the relative worth and ability of an intellectual property lawyer, for example, to an anti-trust lawyer. Managing lawyers do not work with both of them and what they do varies to the point of incomparability. Another difficulty is deciding on the ranking criterion. Some departments devise a system of looking at relative contribution by experience level. This avoids the misstep of automatically crediting senior lawyers with the most contributions. Other factors include rate of progression, compensation, and number of people managed. Another disadvantage of forced ranking: It consumes time. Then too, disputes as to an individual's ranking can be contentious. For all these reasons, administrative and substantive burdens weigh heavily on forced rankers.

A variation on ranking everybody in the department is to place the lawyers into quintiles. The usual requirement, however, is that across the entire department each quintile must have an equivalent number of lawyers even if one or two units don't rank their lawyers symmetrically in quintiles. Otherwise, a particular unit, say the litigation group, might be forced to allocate people into quintiles when all of its

performers were either better or worse.

What are the consequences to lawyers of forced ranking? First, one's ranking can play an important role in one's compensation. Second, one's rankings over time can inform decisions about promotions. Third, rankings should spell out developmental needs.

Telecommuting

A second controversy in talent management circles concerns telecommuting. It has been obvious for years that with high-speed modems; inexpensive peripherals such as printers, fax machines and scanners, along with the general prevalence of telecommunications capabilities such as email and video conferencing, lawyers are able to work effectively from home offices. Long commute times and the increasing globalization of the in-house practice have also boosted telecommuting. When you must call Tokyo at 11 p.m., the line between home and office blurs.

These reasons support allowing lawyers to work from home for one or more days a week. Some people even argue that they are able to concentrate and produce more in the relative calm and quiet of their home. (Others wonder whether the lure of children, spouses, refrigerators, and deliveries makes this a self-serving argument.)

The obvious disadvantage of telecommuting is isolation. No longer can someone, either client or colleague, pop in and talk. No longer can someone pass you a draft agreement and ask for your comments. No longer can a quick meeting in the conference room include you and your body language, although video conferencing mitigates this point.

Perhaps the most entrenched opposition to telecommuting comes from the traditional manager camp: "we can't tell how hard people are working if we can't see them." This argument has less force for self-motivated professionals such as in-house counsel, because they are managing their own work, setting their own pace, and performing against criteria that do not dictate 9-5pm hours.

Telecommuting brings with it some inevitable influences and dislocations: More is demanded of IT support; managers need to learn different skills; administrative staff may need to be shifted or reconfigured; and security concerns arising from Internet use must be addressed. One can imagine using the opportunity to telecommute as an inducement in a department that can't promote and pay more.

But the allure of virtual lawyers who work from home will likely gain momentum. Commutes waste time. And cell phone usage, which allowed some productivity while traveling to and from work, may face legal restraints. In addition, people have different work metabolisms-- some leap into the fray early; while others are night owls.

Job Sharing

Job sharing is a third controversial practice in talent enhancement. If two in-house lawyers want to work part-time and they have approximately equivalent and complementary skills, why not allow them to share a single job? A scattering of law departments have been able to work this out. In a time where many lawyers would like to work part-time, this provides coverage for the department and meets the needs of those lawyers.

Drawbacks are evident. There needs to be a very close and comfortable working relationship between the job sharers. Otherwise, finger pointing or slipping through the cracks could destroy the arrangement's practicality. Second, clients need to accept that they have two heads instead of one serving them. Third, there can be transaction costs; the two lawyers have to explain to each other what they've done, what they've learned - and no amount of that can be as seamless as a single head. Another disadvantage is that only in larger departments is it likely that this arrangement could take hold.

Weighed against these arguments are factors in favor of job sharing. It allows a law department an option for keeping talented lawyers busy and filling slots. When more tangible rewards of pay and promotion become scarce, it is an option that may be attractive to some people. Job sharing can fine-tune skills more than the traditional one person/one job setup. For example, one co-worker might draft better while the other co-worker enjoys better chemistry with the clients.

Conclusion

It would be brazen indeed to claim that these three are the major controversies burning in the woods of talent management. Other candidates come to mind, such as assuring the diversity of the workforce, certifying paralegals, and creating career progression. Nevertheless, the three topics discussed in this article all have significant debate points for and against them. All three represent options for progressive law departments to think about and perhaps adapt to their circumstances. All of them move toward better management of the talent you have in your department - helping to make the most of your staff.