

## Work InBalance

By Deborah  
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### Prevailing Principles to Make Reduced Hour Schedules Succeed

*This column is the fifth of six articles that will be written this year about the balancing and juggling act that we all experience as busy lawyers trying to keep our work and personal lives in order and balance. It is our hope that this series of articles will spark a meaningful dialogue and assist our readers with managing their busy lives.*

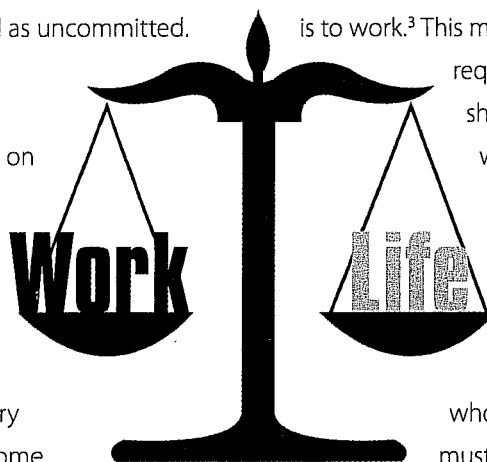


Deborah Epstein Henry

**T**here are numerous challenges for lawyers working reduced hour schedules<sup>1</sup> that have prevented many from pursuing such schedules or from successfully keeping to their reduced hours. Typically, these lawyers are stigmatized, marginalized, and viewed as uncommitted. The traditional path to advancement is often threatened when lawyers on reduced hour schedules do not receive the kind of work assignments that will keep them challenged and enable them to gain the necessary experience to advance. Some of these lawyers are not paid commensurate with their hours, and they are not eligible for bonuses. Additionally, these lawyers are often required to work in excess of their hours, and their schedules are not honored.<sup>2</sup> This article addresses how to make reduced hours work by applying the following ten principles. Before getting into those principles, however, five threshold issues must be addressed to lay the foundation to make reduced hours succeed.

#### Five Ground Rules to Lay the Foundation

First, the word “accommodation” has to be removed from the discussion. Reduced hours must be a win-win economic solution for both the employer and the lawyer if the schedule is to work.<sup>3</sup> This means that the basis for the



request for reduced hours should be irrelevant, and working reduced hours should not be limited to working mothers.

Second, reduced hour schedules are not an entitlement; those who seek such arrangements must be talented lawyers whom the firm hopes to retain and promote (though the arrangement should not be restricted to “superstars”).

Third, the success of reduced hour arrangements should be limited by only two factors: the business case and the creativity of the parties designing the arrangement.

Fourth, the overriding rule is to treat reduced hour lawyers the same as their full-time colleagues, except when it is appropriate or fair to make pro-rata adjustments.<sup>4</sup> This

means, for example, that they should be evaluated using the same criteria for partnership and be eligible for bonuses, pro-rata, if their full-time counterparts are eligible.

Fifth, the ten principles that follow must be executed as a whole to maximize the success of reduced hour arrangements.

## **Ten Executable Principles for Successful Reduced Hour Arrangements**

### **1. Written Policy**

Employers should develop a written policy concerning reduced hour schedules. The exercise of drafting a policy forces colleagues to reach agreement on the often-divisive issues of shrinking law firm hours. In addition to creating consensus, a written policy is a means to keep extremists in check and a way to create predictability and the ability to plan, especially in tumultuous times with changes in management. The written policy also brings uniformity to the process and minimizes favoritism and ad hoc treatment.<sup>5</sup> The key is that the policy is written broadly and with creativity, discretion, and individuality in mind, because lawyers seeking reduced hours do so for varying reasons and at different points in their life.<sup>6</sup>

### **2. Leadership**

The success of reduced hour schedules is contingent upon support from the top. Management must publicly

endorse (both internally and externally) the firm's reduced hour policies. Ideally, management should be well-versed in articulating the employer's business case in supporting reduced hours.<sup>7</sup> This facilitates openness about the policy, setting the tone for ease of accessibility and encouraging its use. Leadership support needs to trickle down to the supervising partners who work with reduced hour lawyers on a daily basis. Supervisory partners must understand the financial incentive of endorsing such arrangements and the reasons why they should become ambassadors for the cause.

### **3. Support and Monitoring**

Historically, lawyers who worked reduced hours kept it a secret, because the arrangement was so tenuous that they did not want to do anything to jeopardize it. As a result, lawyers who worked such schedules had to keep reinventing the wheel and did not benefit from each other's wisdom. Lawyers who work reduced schedules need the support of a community that nurtures and encourages them to thrive. The community starts with a designee at each place of employment who serves as the supervisor<sup>8</sup> in charge of issues relating to flexibility. This person may be a professional development administrator or partner, as long as at least part of the job description is to oversee lawyers working flexible hours. At a minimum, these responsibilities include reviewing hours on a monthly basis to monitor that the agreed-upon

schedule is being honored and ensuring that the lawyer is getting the right type of professional development exposure, experience, and quality of work. The person also should be part of the proposal process, annual review, and ongoing assessment of whether the arrangement is successful. Some firms find it helpful to designate one partner in each department to serve as the point person on reduced hours for that department.

Beyond the reduced hours supervisor, it is helpful to build in other layers of support by creating a community of lawyers working reduced hours who can advise each other. This might include generating an internal list of lawyers working reduced hours and creating affinity or informal mentoring groups to encourage them to meet regularly to discuss challenges and strategies to successfully manage reduced schedules. The goal is to create a resource for support and information, provide role models, and enhance camaraderie among lawyers working or contemplating reduced schedules.

### **4. Mutual Flexibility**

Mutual flexibility on the part of the lawyer and the employer is critical to ensure the success of reduced schedules.<sup>9</sup> Under the current billable-hour model, law firm lawyers working reduced hours are staffed on proportionately fewer matters, but they are responsible for those matters 100 percent of the time. This means that a lawyer is expected to be a professional and be responsive to

deadlines and crises, even if he or she is not scheduled to be working or in the office. In turn, employers need to be flexible to ensure that lawyers' schedules are not compromised unless it is necessary and to allow for changes in lawyers' schedules when matters are not pressing and personal needs arise.

### **5. Ongoing Communication**

Ongoing communication is essential between lawyers working reduced hours and those who work with them.<sup>10</sup> With effective communication, colleagues and clients will not be negatively impacted or inconvenienced by reduced schedules. Successful communication starts with a written proposal submitted by the lawyer who is seeking the reduced schedule, stating an interest in working reduced hours, a proposed transition from full-time to reduced hours, a proposed schedule and hours, an explanation of why it is in the firm's financial interest to grant the proposal, and how clients and colleagues will not be negatively affected. To minimize colleague resentment, it is ideal to transition from full time when there is a natural break, like after maternity or paternity leave, when a case settles, or a deal or trial ends.

Once the proposal is accepted, the next step is the sit-down meeting at which the lawyer seeking reduced hours meets with a key supervisory lawyer in the department and the person charged with overseeing such arrangements to discuss the "nitty-gritty" details of the arrangement. Ongoing communication is necessary to ensure success. This requires the lawyer to inform supervisory lawyers of changes in scheduling and requires both parties to provide regular feedback about how the arrangement is working.

### **6. Non-Billable Contribution**

Reduced hour lawyers need to be part of the overall team and to minimize colleague resentment by contributing nonbillable hours to the operation of the firm.<sup>11</sup> They should still serve on firm committees or mentor junior lawyers but at a proportionately reduced rate. A reduced hour lawyer's nonbillable contributions benefit not only the firm but also the lawyer's own professional development.<sup>12</sup>

### **7. Assignments and Advancement**

Lawyers working reduced hours need to be assigned exciting work to give them the necessary experience to develop and advance. They also need to be mentored by influential colleagues and staffed on important client matters. In turn, lawyers working reduced hours should be eligible for partnership and evaluated by the same criteria as their full-time colleagues.<sup>13</sup> If partnership policies are

determined by billable hours, lawyers working reduced hours should be eligible for consideration after they have met the same requisite number of billable hours as their full-time colleagues. The delay in consideration (often for a year or two) helps minimize colleague resentment and may maximize the opportunity for promotion. At firms where partnership policies are determined by experience gained or business produced, it may not be necessary to delay advancement for lawyers who work reduced hours.

### **8. Compensation**

Lawyers working reduced hours should be paid on the same scale as their full-time colleagues, with a proportionate reduction in pay according to their hours.<sup>14</sup> They should be eligible for pro-rata bonuses based on the same consideration, factors, and scale as their full-time colleagues.<sup>15</sup>

All lawyers' schedules fluctuate, but for reduced hour lawyers, the risk of working a disproportionate number of hours is greater; therefore, their hours must be closely tracked.<sup>16</sup> When reduced hour lawyers work significantly in excess of their hours, they should be compensated accordingly and possibly should increase their target hours temporarily.<sup>17</sup> Pay that is commensurate to work performed will minimize stigma and second-class status. However, this arrangement is only a partial remedy—the lawyer negotiated reduced hours to gain more time outside the office, so a compensation increase is only a short-term solution.

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Careful monitoring, as noted, is the better long-term remedy.

### 9. Training

Repeated firm-wide training<sup>18</sup> is necessary to minimize colleague resentment and to educate lawyers about the firm's economic interest in supporting reduced hour schedules. Additionally, supervising partners and reduced hour lawyers need to be trained on the nitty-gritty of effectively managing and implementing reduced hour schedules, respectively.

Training for the reduced hour lawyer should focus on such issues as organization, time management, responsiveness, accessibility, childcare coverage, travel, how to keep work flowing when the lawyer is not in the office, and how to ensure that colleagues and clients are not negatively impacted by the lawyer's schedule.<sup>19</sup> Training for supervisory partners involves advice about handling the sit-down, including conversations about mutual flexibility, communication, nonbillable contribution, support, monitoring, assignments, advancement, compensation, and technology, as well as how assistants should handle inquiries when the lawyer is not in the office, what to do if the lawyer is regularly billing in excess of

the target hours, and what to do if the lawyer's quality of work and exposure deteriorate.<sup>20</sup>

### 10. Technology

It is essential for lawyers working reduced hours to receive effective technological support. With the advent of email, faxes, cell phones, BlackBerrys, and Treos, it is easier than ever for lawyers to work remotely and for legal employers to provide efficient technological support. Law firms should help their lawyers use technology wisely by being clear about reasonable expectations for responsiveness and accessibility to clients and colleagues. This clarity will help lawyers exercise proper judgment and more effectively manage the challenges of delineating lines between work and home. **DB**

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### NOTES

1. The term "reduced hours" is used here to refer to law firm lawyers who work a reduced percentage, typically 60 to 80 percent, of the required billable hours of a full-time law firm lawyer. The term "part time" has historically been used to refer to reduced hours, but it is a misnomer, because many reduced hour lawyers work

40 hours a week if billable and nonbillable hours are combined.

2. Deborah Epstein Henry, "The Case for Flex-Time and Part-Time Lawyering," *The Pennsylvania Lawyer* (Jan./Feb. 2001), pp. 44-45, at [www.flextimelawyers.com/pdf/art1.pdf](http://www.flextimelawyers.com/pdf/art1.pdf).

3. See Deborah Epstein Henry, "The Business Case for Flexibility: Why Flexible and Reduced Hours Are in a Legal Employer's Financial Interest," *Diversity & the Bar* (March/April 2007), at [www.flextime lawyers.com/pdf/art4.pdf](http://www.flextime lawyers.com/pdf/art4.pdf).

4. Joan Williams and Cynthia Thomas Calvert, "Balanced Hours: Effective Part-Time Policies for Washington Law Firms," *The Project for Attorney Retention Final Report*, 2nd ed. (Aug. 2001), pp. 21-26 ("principle of proportionality" applies to pay, benefits, bonus, assignments, billable hour ratio, and advancement), at [www.pardc.org/Publications/BalancedHours2nd.pdf](http://www.pardc.org/Publications/BalancedHours2nd.pdf).

5. *Id.* at 27-29.

6. A further discussion of written policies will be forthcoming in this author's November/December 2007 column.

7. Henry, "Business Case for Flexibility," *supra* note 3.

8. Williams and Calvert, *supra* note 4, at 36-37.

9. Lisa Carney Eldridge and Deborah Epstein Henry, "Cashing In on Part-Time," *The Bench* (March/April 2003), p. 13, at [www.flextimelawyers.com/pdf/art2.pdf](http://www.flextimelawyers.com/pdf/art2.pdf).

10. *Id.*

11. Eldridge and Henry, *supra* note 9.

12. Deborah Epstein Henry, "The Nitty-Gritty of How and Why to Make Part-Time Work," *The Balance Beam* pp. 4-6 (2003-2004), at [www.flextimelawyers.com/pdf/2003\\_2004newsletter.pdf](http://www.flextimelawyers.com/pdf/2003_2004newsletter.pdf).

13. Eldridge and Henry, *supra* note 9, at 14.

14. Williams and Calvert, *supra* note 4, at 21-23.

15. Williams and Calvert, *supra* note 4, at 21-23.

16. Henry, "The Case for Flex-Time and Part-Time Lawyering," *supra* note 2, at 45.

17. Williams and Calvert, *supra* note 4, at 35.

18. Williams and Calvert, *supra* note 4, at 31-32.

19. Henry, "Nitty-Gritty," *supra* note 12, at 2-6.

20. *Id.* at 2-6.