

Law360

Tips For Firms On Making Flextime Work

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Flexible time schedules are gaining in popularity as more attorneys demand a better work-life balance, but in order to make the schedule a win-win, firms need to become a partner in the process, legal experts say.

Though law firm layoffs still abound, more and more are looking at alternative measures in order to cut costs while keeping the pool of talented lawyers happy, experts said.

Flexible work arrangements are certainly a good thing for firms, said Jack Zaremski, the founder and president of New York-based recruiting firm Hanover Legal. Firms need to do more very simply to make the work environment more healthy for everyone involved, and flexibility is always a good thing.”

But establishing a flexible work arrangement can often prove tricky for both the firms and the individual attorneys, who fear the potential stigma and backlash attached to pursuing a customized schedule.

Law360 explores the top five ways that firms can make flextime more appealing for everybody.

Put It in Writing

One of the most significant pressures on firms right now is to provide healthier work environments for all their attorneys, Zaremski said.

The most common complaint that I hear as a recruiter for law firms is that attorneys have no control over their lives,” he said. “ Needless to say when people lose control, they inevitably become unhappy, and that often leads to an unhealthy environment as well.”

Deborah Epstein Henry, Esq., founder and president of Flex-Time Lawyers LLC, encourages firms to be upfront about where they stand on work-life issues.

A written policy is not the answer alone but positives come out of it,” she said. “ It forces consensus on an issue and gets them to sit down and agree on parameters for these arrangements.”

Many times, junior lawyers don't even want to broach the subject of flexible arrangements with firms, preferring to opt out of a potentially uncomfortable situation or risk being exposed, Henry said.

By having a policy in place, a firm can keep the extremists in check while also minimizing ad hoc treatment and favoritism, she said.

Use It, Don't Lose It

A firm needs to evaluate whether its environment lends itself to flexible arrangements, and the best way to determine that is to look at the usage rates, experts said.

You have to look to see if your usage rates are above the national average, which the National Association for Law Placement has put at 5 percent,” Henry said. “ The law firms recognized in the Working Mother Media & Flex-Time Lawyers Best Law Firms for Women initiative generally are around 8 percent.”

Firms must look at who's using these policies and why, she said.

You want to make sure that it's men as well as women, partners in addition to associates, Henry said. You want to make the flexible work program gender-neutral, reason-neutral and seniority-neutral."

While some of these programs may have been unofficially dubbed the "mommy track" in the past, times have changed in part due to the younger generation, she said.

In the past, mostly women have wanted alternative arrangements, Henry said. "While today the majority of attorneys requesting these arrangements is still women, what's really changed the picture is generation Y has spoken out and said, 'We want to work differently.'"

Though firms may feel that they hold all the cards right now and can have their pick of the litter given the recession, that situation will not always be true, she said.

So many lawyers have been laid off, but the war for talent will return," Henry said. "Firms will have to be more sophisticated about how to manage their talent and get people to not only join the firm but also stay."

Connect the Economic Dots

One of the best ways to make a flexible arrangement be in the firm's best financial interest is to establish an economic link between work-life policies and usage, Henry said.

I shudder when I hear a firm use the word 'accommodation' when it comes to work-life policies," she said. "You are creating an economic win-win."

In order to send the right message, firms need to retain and promote lawyers interested in work-life arrangements to show clients and colleagues that they are not just paying lip service to the idea, experts said.

While some flexible workers may be worried about becoming a target during layoffs, Henry maintains that such workers provide an economic cushion during tough times.

You have associates that are getting paid based on hitting this 2,000-hour target, and so many lawyers are not meeting those targets right now, so the firms are essentially carrying them," she said. "In contrast, if you have somebody who is working a 75 percent schedule and is being paid commensurate with that, they are much more inclined to meet those hours."

[Orrick Herrington & Sutcliffe LLP](#), named one of the best 50 law firms for women by the Working Mother Media & Flex-Time Lawyers initiative, already appears to have taken that message to heart.

The firm established a new path to partnership this summer to filter junior attorneys into three separate, staggered tracks —partner-track associates, career attorneys and legal team professionals, and custom-track associates.

In addition to offering a variety of career paths, firms would be wise to move away from the "soup to nuts" approach and start emphasizing particular skill sets, said Susan Hackett, senior vice president and general counsel for the Association of Corporate Counsel.

If you can break out segments of work that require great expertise and offer lawyers the option of specializing in that —I prepare witnesses, or I write summary judgment motions, or I'm the expert in drafting these kinds of contracts, or negotiating that kind of accommodation —then not only do those lawyers tend to work more efficiently, but they can plan their schedules to do project pieces that have a distinct beginning and end point. That's much easier to manage, she said.

If firms began to embrace that approach, then they may also have an easier time promoting a pay-by-the-piece situation where memos are worth \$2,700 each or something like that, Hackett said.

The better at producing them that the lawyer gets, the more profitable and valuable she becomes,” she said.

Focus on the Big Picture

Just as firms start to move away from the billable hour, Hackett recommends that firms start moving away from evaluating a lawyer's worth on hours alone.

The true value of the lawyer is the solution or outcome they help the client achieve, so compensate and evaluate lawyers on their competency, efficiency and ability to solve client problems, not whether they took a long time doing it, she said.

By making it less about the numbers and more about the work itself, firms can reward the right people based on merit, Hackett said.

Clients actually value having their work done quickly and efficiently; the cost of the service and the rewards earned by the lawyer from the firm for performing the service should be more closely tied to results, and not to hours,” she said.

If you are working on a reduced-hour schedule that puts you at 80 percent of others' schedules on the project, you are still responsible for those matters 100 percent of the time and will be expected to step up, Henry said.

A typical concern for law firms is whether they are going to be responsive and accessible outside the office,” she said. “ You need to show that not only is your work top-notch but your clients and colleagues are not negatively impacted by your unconventional schedule.”

But firms must also live up to their promises by recognizing and rewarding these individuals and not punishing them for taking a different path, she said.

They should be compensated on a pro rata basis, and eligible for bonuses and advancement, she said. Maybe that should occur at a delayed rate, but they should still be eligible. If there is an expectation, then, in turn, the firm needs to show that mutual support.”

There Is No 'I' in Team

One flextime approach that firms should try to embrace is to make it easier for attorneys to work together in teams, Hackett said.

This is good for clients in that lawyers who are currently spread on other client matters aren' t the only ones capable of doing their work, there is inherent opportunity for better training and succession planning with the client and the firm, and lawyers interested in work-life can make contributions as team members that are less suitable if they are the only counsel on the job and thus unable to set a schedule that allows for greater flexibility and predictability, she said.

Law firms also need to appoint a person who is in charge of supervising schedules and who can look at lawyers' hours on a regular basis and evaluate the type of work they are receiving, Henry said.

It's good to have a person who can make sure these people are not getting stigmatized or are no longer getting the good work, she said.

[Debevoise & Plimpton LLP](#), another one of the top 50 firms for women, boasts a director of professional development who has managed the reduced-hours program for two decades.

Part of the director's job is to reach out to associates who are pregnant or on leave to help ease them

back into work at a logical pace for them, the firm said.

In addition to a liaison, other firms have also created mentoring programs that offer those seeking flexible work arrangements a willing ear.

In the past, no one benefited from the knowledge of their predecessors, but these programs help to create a community of lawyers who can go to each other, Henry said.

Besides emotional support, firms can also make sure those who choose this path are properly outfitted in terms of technology so that they can work efficiently, she said.

In the end, all of that will go a long way toward establishing the law firm as having a healthy attitude about the challenge of balancing work with life, experts said.

There is a much larger voice of lawyers who want to work differently," Henry said. " It is no longer this stigmatized, small group of working moms. Just as firms need to be on the cutting edge of practice areas, they need to be on the cutting edge of managing talent."