



PROJECT *for* ATTORNEY RETENTION

An Initiative of the Center for WorkLife Law at UC Hastings College of the Law

BALANCED HOURS PROGRAMS – A SOUND BUSINESS STRATEGY IN TURBULENT TIMES

In the midst of this unprecedented economic crisis, law firms are struggling to find ways to cut costs while at the same time continuing to provide excellent client service and compete for new business. Once a firm has shed its under-performing personnel, risks and hard choices remain. Balanced Hours schedules are a viable business option that may help firms retain their investment in high-performing attorneys, and avoid certain legal risks,¹ when there is not enough work to keep everyone busy. Balanced Hours schedules also provide a mechanism to handle fluctuating periods of workflow without demoralizing layoffs and the expensive and time consuming hiring process when business picks up.

The High Cost of Layoffs

There is no question that layoffs produce payroll savings. But those savings come at a significant cost. The costs to a firm as a result of layoffs include:

- Direct costs, including severance, continued insurance payments, and outplacement services, which delay savings for months;
- Administrative partner hours related to layoffs;
- Relationship partner hours related to communicating with clients regarding personnel changes;
- Administrative personnel time spent on termination-related tasks;
- Loss of knowledge, skill, and contacts that the attorney takes out the door;
- Loss of recruiting and training investment; and
- Decreased morale and productivity of the attorneys who remain.

In addition to these immediate costs, history has shown that when the economic situation improves, a firm will pay dearly to recruit, hire, and train replacement attorneys.

Layoffs Lead to Lost Billable Hours

Moreover, layoffs often result in a loss of total billable hours, reducing revenue. James Sandman, former managing partner of Arnold & Porter, explains:

The theory of layoffs is that you align capacity with available work by transferring the billable hours of those lawyers laid off to those who remain, filling up the available time of the survivors. But not everyone has the same skill set, and a material portion of the billable hours of those laid off never transfers. So of the 1500 billable hours a laid-off associate might have had, only 1200 might be retained and assumed by others. That's a loss of 20 percent of the revenue that was generated by the laid-off associate.

¹ For example, a firm may find that some full-time attorneys are billing approximately the same number of hours as are part-time attorneys – all or most of them women who took a substantial pay cut in order to reduce their hours. This can raise questions of equal pay. In addition, if a firm measures attorneys' productivity solely by measuring billable hours, layoffs are likely to have a disproportionate impact on women.

Balanced Hours Cut Costs Now and in the Future

At the same time as law firms often lack enough work to go around, many attorneys are seeking fewer hours in order to be able to better balance their work and personal lives. Yet in today's economic climate, attorneys may be reluctant to request a reduction in hours. Balanced Hours programs allow firms to adapt to economic conditions by encouraging attorneys to work individually-tailored, reduced and/or flexible schedules that are aligned with current workloads. The programs are accompanied by strong reassurances that reducing one's hours will not result in negative career consequences.

ACTUAL SAVINGS: LAYOFFS VS. BALANCED HOURS

Option A: Reducing firm outlay through layoffs

Consider a practice group consisting of six non-partner attorneys with an average compensation of \$200,000.

Payroll savings of laying off one attorney	\$200,000
plus reduced benefit costs	+ 60,000
plus reduced malpractice costs (if not prepaid)	+ 4,000
minus three months of severance	- 50,000
<u>minus outplacement services (\$3,000-\$9,000)</u>	<u>- 3,000</u>
Total savings	\$211,000*

**This number does not take into account those costs that are harder to quantify (e.g., loss of contacts, knowledge, and skill that the attorney takes out the door; loss of the firm's recruiting and training investment; decreased morale and productivity of attorneys who remain).*

Option B: Reducing firm outlay by offering flexibility

Consider the same practice group, if all six non-partner attorneys voluntarily agree to reduce their schedules and compensation by 20%.

Total savings \$240,000**

*** Importantly, under the balanced hours option, the firm retains its recruiting and training investment in its high-performing attorneys, boosts morale through a sense of shared pain, frees up partner time to focus on business development, and has the flexibility to expand when the workload improves without going through the expensive hiring process.*

The cost of fixed overhead (e.g., rent, utilities) remains the same under either option because the firm continues to bear those costs.

Examples of organizations that are implementing flexible work programs as cost cutting measures include:

- The University of California is offering a temporary voluntary time reduction program to deal with anticipated budget cuts. The plan allows eligible employees to reduce their time from a minimum of 10% to a maximum of 30% of full-time.
- Sigma Group took a hard look at its overall staffing plan and workloads. The company identified certain employees who could meet business needs while working a modified schedule and offered them the option. Employees were receptive to the program and the company was successful in cutting costs and saving jobs.
- George Mason University in Virginia has always had a flex-time policy in place, but is now encouraging employees to “test drive” flexible options in response to recent budgetary challenges. The flexibility policy includes options for a flexible or compressed work week, job sharing, or remote work.
- KPMG Europe asked its staff and partners to volunteer for working either a four-day week with a proportionate pay cut or sabbatical of up to three months or reduced pay. In an effort to incentivize participation, the accounting firm offered only a 10% reduction in pay – instead of the typical 20% reduction – for the four day option if 75 percent of the company agreed to the program.
- Flexibility is part of the company's culture at Toronto-based Delta Hotels Ltd. During these tough economic times, the company is encouraging employees to voluntarily reduce workweeks and hours where possible. Employees’ salaries are reduced accordingly.
- As part of an overall effort to keep costs down, Blue Cross and Blue Shield of Massachusetts has allowed qualifying employees to work from home. This policy has been in place for the last three years and it is helping the company keep costs down during these tough economic times. Currently hundreds of employees participate in the program.

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To learn more about Balanced Hours programs, visit www.pardc.org
or call (415) 565-4640.