

Professional Perspective

# Considerations for BigLaw Staffing & Associate Development

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# Considerations for BigLaw Staffing & Associate Development

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In a demanding law firm environment, maximizing the potential of associates is a priority. In order to help associates navigate their careers, staffing partners need to have a good sense of direction, and be active listeners. And associates need to be encouraged to speak openly regarding their staffing goals and concerns.

In my own BigLaw department comprising approximately 115 attorneys, staffing—including the assignment process—is a core day-to-day responsibility of a small group of partners. It is our aim to maintain an ongoing, substantive staffing dialogue with all associates, as those conversations are critical to informing our process. In this note, I offer some observations as to how this might best be approached.

## Staffing Conversations

The staffing dialogue should begin from the associate's first day and evolve as the associate gains experience. Has the associate received sufficient instruction? Has the associate developed skills at or above class level? What are the associate's longer-term goals? Does the associate need help identifying the steps toward achieving those goals?

This requires time and effort. Many associates are like a person on a street corner in need of directions. Most partners can point to the right way, but effective staffing requires more than that. A staffing partner should also offer to walk with the associate for a time, occasionally steering them away from harm, and reminding them to check their surroundings. The associate and guide must stay close to each other, and periodically discuss whether the journey is going well.

The strongest mid-level associates are developed using opportunities, experiences, guidance, feedback and mentoring. And starting the staffing dialogue early is particularly consequential for associates from traditionally underrepresented groups, who, studies show, are less often afforded second chances and long runways for achievement.

## Variety & Associate Development

For most junior associates, the principal goal is to be given variety in assignments. In an investment management group like mine, variety comes in a number of forms: in the investment strategies and terms of the private funds we launch and advise; in the size and institutional complexity of our asset manager clients; and in the range of practice styles and team permutations that a sizeable group can offer. Where clients are large and complex, variety can be achieved within a single relationship. But ideally, by the time an associate has spent a few years with us, they will have worked with a range of clients, on diverse projects, and with a number of teams.

In addition to providing variety, it is crucial to ensure that young associates are sufficiently challenged. In a group that has long-term client relationships and work that involves some repetition, partners should ensure, as each new class enters the firm, that the associates moving up take the time to survey their workflows and determine which tasks are appropriate for delegation or re-assignment to a member of a more junior class. Teams should be adjusted to minimize unnecessary layering of associates, and create room for growth.

As associates gain seniority, they should have greater involvement in marketing, training, and mentoring efforts. Naturally, if a core function or skill of an attorney in our group is yet to be learned, the staffing partner must look for opportunities to staff the associate on a matter that will provide that experience. And, if an associate's interactions with another attorney have not been fruitful, steps must be taken to arrange alternatives.

## Sharing, Analyzing & Monitoring Feedback

As a staffing partner, convincing an associate to report their experiences candidly can be a difficult task. Many associates are sensitive to rocking the boat, and the use of electronic communications and remote-working can allow issues to go unnoticed. In many cases, the upward feedback or report a staffing partner receives comes too late—after the associate has determined to take their journey via an entirely different route.

As a staffing partner, it is discouraging when an associate makes such a decision without prior discussion. We would prefer to hear of a problem or potential move at a stage early enough to potentially influence it. But, an after-the-decision effort to smooth an associate's transition to a new role, for example via references or introductions, will usually be appreciated by the associate and reported to others.

Providing a means for sharing feedback plays an important role in staffing, but analyzing that feedback can be an additional challenge. As has been well-documented, when anonymity cannot be assured, positive feedback is much easier to share than negative. Many of us will also prioritize the giving of specific feedback only when a positive or negative experience has been especially notable. And, when feedback is provided following a notable experience, that feedback is not only more specific, but more strident and more memorable. There is a danger that the record of an associate's development disproportionately weighs the most positive, or most negative, interactions they have had in that period.

This is why obtaining feedback from multiple sources is critical, and it is also why it is important to have the record include an objective summary of raw feedback. In my group, there is a belief that annual feedback rounds are best distilled into three parts: praise for success, suggestions for improvement, and the setting of new goals. For these purposes, partners in the given group should share a consistent view of what effective performance means at differing levels of seniority. And so, we seek to identify and maintain the currency of the hard and soft criteria that we use to objectively assess associate performance, while recognizing that success comes in many forms, and it is not often that all boxes are checked.

Furthermore, as effective staffing for an associate will often depend in part upon understanding working habits and preferences, staffing partners must monitor feedback for insights useful in team-building.

## Associate Utilization Is an Imperfect Measurement

By the time an associate has spent a few years learning their craft, their utilization versus that of their peers is a core means of assessing their work ethic, level of engagement with colleagues, depth of client relationships, and capacity to eventually become a work provider for others. However, staffing partners must recognize that utilization is a highly imperfect measurement.

High relative utilization can reflect inefficiency or a lack of delegation skills, while low utilization provides no guide to the associate's effort, engagement or potential if that associate has not had an ample supply of work. Thus, utilization is just one data point. Success should be measured taking into account more than just billable hours. At my firm, associates have considerable scope to record time to—and treat as billable time—pro bono matters, recruiting, DEI, and other firm citizenship efforts.

## Effective Staffing Is Valuable

In implementing a system for effective staffing, the cooperation of one's fellow partners is key. While some level of organic staffing is unavoidable, staffing systems generally require the distribution of opportunities through a centralized function (i.e., one or more partners, using a system that tracks availability and assignments). So-called “free-market” (i.e., not centralized, and thus more dependent on associate proactivity) staffing, albeit practiced by some large and extremely successful firms, can be a maze in which associates can become lost, and in busier times, a breeding ground for resentment at both the associate and partner level.

In the end, effective staffing bears fruit for law firms in many forms, including improved hiring, associate retention, better work product, more satisfied clients, and warm alumni. In the increasingly competitive market in which we operate, law firms should recognize the value of, and devote considerable attention to, improving their models for associate staffing.