# Heed Red Flags to Avoid Lateral Hiring Heartbreak

***By Valerie Fontaine***

*"The more you understand about the candidate's current context — not just the numbers — the better."*

One key to lateral success is understanding red flags that may crop up throughout the recruiting process and how to deal with them. Red flags can differ dramatically from firm to firm, depending upon each firm's people, hiring process, and history. They're also easily overlooked, either because they're subtle, or because the candidate is likeable, has connections within the firm, or allegedly has an impressive book of business. You can save significant time and money and avoid lateral hiring heartbreak by identifying which red flags are immediate deal-breakers at your firm and which can be addressed — and how to do so.

## Common Red Flags

Red flags can arise any time during the lateral partner hiring process and may include:

- Frequent moves,
- Projections on the lateral partner questionnaire (LPQ) differing dramatically from past performance,
- Decreasing compensation or other indication of subpar performance at the current firm,
- Blaming the current platform for lackluster achievement (most candidates have the same problems elsewhere),
- Inconsistencies in data provided (ask for information several different ways),
- No diversification of clients or reliance on just a few,
- Delays in recruitment without legitimate reasons,
- Protracted negotiations over terms of the offer, and
- Primary interest in compensation rather than the hiring firm's growth strategy and the opportunity presented.

## Risk Tolerance

Once a red flag is identified, you must determine whether it's a deal-breaker for your organization or merits further vetting. Risk factors may be weighted differently by different firms.

In most cases, no one factor is a knock-out punch but, generally, honesty is a core issue. Being less than forthright on data provided on the LPQ or in interviews; the candidate being fired from the current firm during the interviewing process and not disclosing that fact; or not revealing convictions, liens, claims, or other issues upfront, which later are discovered in the background check, all are red flags that — on their own — can nix the deal. If, however, the warning sign is not a deal-ender, determine what information you need to either eliminate or mitigate the risk. While one or two might be overcome, multiple red flags compound risk.

Some firms are more conservative and risk-averse than others, and risk tolerance can vary even between offices or practice groups of the same firm. Conduct a cost/benefit analysis: weigh the perceived benefit of the addition against the overall impact on the firm of a failed hire. Remember, cost can be more than financial; it can include harm to the firm's reputation in the community, or to morale or culture internally.

## Mitigation Strategy 1: Make Lists

The first step in dealing with risk factors is identifying a list of warning signs tailored to your firm. Red flags and success factors will differ between firms since various styles of candidates work best in specific firm cultures and situations. Conduct a three- to five-year lookback at which of your firm's lateral hires succeeded and which didn't and why. Note any risk factors the less-than-stellar hires demonstrated during the hiring process and use that list when vetting potential hires.

Look also for attributes of successful past hires and how those were demonstrated during the hiring process. Identify your firm's top performers and ascertain commonalities, even subtle attributes, and structure your interviews to reveal those traits. Watch out for candidates who fall short of those factors, regardless of how attractive they otherwise seem.

## Strategy 2: Identify Your Best Interviewers

Ask everyone who interviews candidates to write down whether they think the prospect would succeed at your firm and why or why not. Determine which interviewers get it right most often. Use those people in the hiring process because they're demonstrably the best at predicting future success or failure of candidates at your firm.

## Strategy 3: Use Hard Data

Remember, LPQs, resumes, bios, and business plans are marketing documents and possibly susceptible to puffery. That's why many firms use computer data analysis and algorithms for predicting lateral hiring success rather than relying upon traditional gut-level decision-making. Merely liking a candidate or receiving a strong recommendation is not enough; decisions must be based on metrics and actual evidence. Hard data also gives firms the confidence to push against traditional boundaries. This mitigates the explicit and implicit bias of hiring in one's own image and opens the process to a more diverse pool of candidates.

## Strategy 4: Verify

Firms want to see as much independent verification of the data entered on the LPQ as possible. Some use an unaffiliated analyst to work with candidates when filling out the questionnaire. The analyst reviews printouts of reports from the candidate's current firm and other hard data that backs up entries on the form. They work around proprietary issues by using NDAs and/or having the candidate hire outside counsel who views the printouts and verifies the truth of the LPQ. This practice can eliminate a large percentage of the weaker candidates along the way. Keep in mind, however, that the more you understand about the candidate's current context — not just the numbers — the better.

## Strategy 5: Use Trusted Search Firms

Partnering with trusted search firms can facilitate the lateral hiring process and help you identify and investigate red flags along the way. To maximize the search firm/law firm relationship, share your lists of risk markers and success factors with your selected outside recruiters. Compile a checklist of the information you need from candidates so the recruiter can provide it up front. Law firms also can enlist the search consultant's assistance in getting more information if further vetting is warranted.

If the search firm becomes aware of a risk factor during the process, they must disclose it immediately. Good legal recruiters understand that the long-term client relationship is more important than an individual deal. Once a relationship of trust between a search firm and law firm is established, the law firm may be more willing to listen to a compelling reason to review a candidate even with some risk factors attached.

**Internal Recruiter's Role**

To maximize your value and reduce the risk of failed hires, take a proactive role in helping your firm recognize and avoid candidates who wave too many red flags. First, educate firm leadership and all parties involved in the recruiting process regarding the importance of paying attention to warning signs, how to detect them, and how to respond. Get their buy-in to the policy of paying careful attention to risk markers.

Here's how the recruitment director at one AmLaw100 firm handles red flags:

Looking back at the firm's lateral hiring success/failure record, the recruitment department identified a list of risk markers broken down by the stage of the recruiting process during which they usually occurred, and now affirmatively watches out for them. At each stage, the internal recruiters aim to maximize usage of firm resources and minimize attorney time.

At the submission stage, the in-house recruiting staff aims to identify candidates with too much risk attached and weed out non-starters. Thus, they request as much information as possible up front from the outside recruiter, referral source, or direct candidates. This includes:

• A three-year history of personal credit and originations, not shared credit.

• Portable business (can differ from historical numbers).

• Billable hours and rates (Note: a partner may be experiencing rate pressure at the current firm and want to reduce billing rates in the future).

• Tenure at current and prior firms.

• Compensation expectations.

• While the firm doesn't ask for important clients at the submission stage, it may be volunteered. If so, they run a preliminary conflicts check.

At the LPQ stage, the recruiting staff analyzes the data immediately upon receipt. They again look for red flags and speak with candidates about any questions or perceived inconsistencies. They prepare a summary which is sent to the sponsoring partners with an assessment, including a statement of risk markers. If the internal recruiters suspect a lot of risk, they recommend terminating recruitment at that point.

**Manage Risk**

If the firm chooses to ignore the warning signs, it does so at its peril. However, you can manage the risk by:

• Assessing whether the firm can afford to take the hit if the lateral doesn't succeed,

• Keeping the new hire on a short chain,

• Going into it with eyes wide open and documenting everything. (Then, if it doesn't work out, you have ammunition to remind your partners of the situation if the firm again wants to ignore warning signs), and

• Sharing the risk when setting compensation, offering a low base and upsides with benchmarks so the candidate bets on him or herself. If a candidate balks at this, it's a MAJOR red flag!

## Conclusion

Understanding how to detect, evaluate, and deal with warning signs that pop up during the interviewing process will boost your firm's lateral recruitment success, minimize wasted time and effort, and reduce the instances of failed hires. Developing recruiting processes to handle your firm's most problematic red flags can help overcome the tendency to ignore such risk markers with even the most charismatic of candidates and reduce lateral hiring heartache down the road.

## About the Author

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