

# How Law Firms and Other Hiring Organizations Can Determine if an Attorney Has the Qualifications to Do the Job They Are Hiring For

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If you are hiring attorneys for your business, it's important that you ask the right questions during interviews and hire the right attorney. In this article, we explain how to determine if the candidate is able to do the job.

When you are deciding whom to hire for a legal job, you need to ask four questions about the potential hire: (1) can they do the job, (2) can they be managed, (3) [will they do the job long-term](#), and (4) do they really want the job? You may also ask a few other questions as well: (1) do we like this attorney, and (2) are they a good "cultural fit?"

This article covers the first of these six hiring criteria.

## Can the Potential Attorney Hire Do the Job You Are Hiring For?

[When deciding who to interview, the legal employer needs to understand if the candidate can do the job they are hiring for.](#)

This is arguably one of the most challenging questions because being able to do the job differs from firm to firm. One of the most useful is to review some examples of people that cannot do the job.

**The attorney's intellectual ability compared to the sophistication of the work, including the attorneys and clients the attorney will be working with.**

Many law firms hire based on smarts. They are interested in attorneys from the best law schools with the best grades. Different types of attorneys can perform well in different environments. This is a fact and something that employers generally understand instinctively.

[Law firms can tell if an attorney can do the job by](#) (a) law school and their performance there, (b) quality of past experience, (c) the attorney's prior experience in a practice area, (d) length of time attorney employed by employers, i.e., resume, (e) whether the attorney is good enough for you or not?, (f) ability to generate business now (or in the future) if this is a requirement. **Quality of law school attended and performance there (the attorney may be over or underqualified for the job.)**

Sometimes, [in terms of law school and performance](#), firms hire underqualified or overqualified attorneys. Both are mistakes.

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## **Underqualified Attorneys Will Be Cast Out or Leave.**

The problem with hiring an underqualified attorney is that the smarter attorneys around them will immediately pick up the attorney's intellectual incompatibility. The other, more qualified attorneys may run circles around the attorney in order to avoid working with them, will rip apart their work, and so forth. Most importantly, underqualified attorneys may fail to serve clients and, therefore, be put on nonessential assignments. The attorney without the same intellectual ability will be cast out from the firm like a virus.

Here are some mistakes I have seen law firms make in the past:

A top law firm where I once worked hired a graduate from a barely accredited California law school in the middle of the 1990s because his father was a significant client of the firm. He could not understand what was going on and could not do the job anywhere near the level the law firm needed. He could not do the job.

A major law firm hired an LLM from a foreign country who graduated from Harvard Law School. They could not get him to understand the differences between case law and civil law.

During the "Internet boom" of 1998-2000, prominent New York law firms started hiring all sorts of attorneys who were not top students from third-tier law schools. Most of these attorneys were gone within months.

Law firms hire people with individual pedigrees, and this is their brand. They also do this because it defines their brand.

makes other attorneys there feel they are part of something special, and so forth. If this is watered down, it creates problems.

Attorneys without the intellectual firepower to compete will be unhappy, unproductive, not be given work. They will leave on their own when they realize they do not have what it takes to compete. This does no one any good, and attorneys should be avoided.

## Overqualified Attorneys Will be Unhappy and Leave

An attorney who is overqualified for a firm will almost always leave. They will be unhappy, believe they are important enough. The compensation is not enough, feel entitled, and complain about the quality of work and the responsibility level. Hiring overqualified attorneys is a mistake. These sorts of attorneys rarely stick around.

Here are some mistakes I have seen law firms make in the past:

A midsized law firm (in any city) hires an Ivy League-educated corporate attorney from a prominent New York law firm during a national slowdown in corporate work. Most of the midsized law firm's attorneys are graduates of the top 100 law schools. The law firm has small to midsized clients. The attorney will complain and always leave when the market gets better. A small law firm with attorneys from local law schools hires a top 10 law school graduate who did not get a job with them after interviews while in law school. The attorney will be unhappy with their compensation and the firm's prestige and will leave after gaining experience.

Law firms make these mistakes all the time. It does not work. The overqualified attorney will hardly ever stick around. They like they can do better. People with the best qualifications rarely do. They want to work with the best "tribe" they can find.

Almost all attorneys have natural homing devices that drive them to work at the best firms they possibly can.

## **The quality of the legal employer the attorney is coming from (either better or worse)**

Law firms can gauge attorneys' intellectual ability by the quality of their law school and performance there. However, this is a short-term measurement and not always meaningful. The firms, institutions, and other employers an attorney has worked for and the length of time they have been at each is a better measure, in my opinion. Law school shows motivation at one point in time. People get motivated, learn and commit at different speeds.

## Experience with Demanding, Top Employers (the More the Better)

If someone has significant experience with a top legal employer, this means they can do the job. This is far more meaningful than the law school attended or performance there. People can do well in great law schools and still be bad attorneys. Practicing law is not taking law school exams.

The time component is essential because the longer the attorney has been able to stay employed with a demanding employer, the more likely they will be able to do your job. If the attorney does not stick around very long, then this is an issue. The attorney may have been asked to leave, not getting work, and not doing the job.

## Experience with Inferior Employers

If an attorney has experience with an inferior employer, the attorney may not do the job. Different employers have different standards for the quality and thoroughness of the work that is required. Many smaller, less prestigious employers are under pressure to push work as cheaply as possible for clients with low budgets. Their attorneys are trained to produce volume and work fast. Law firms in many smaller markets and practice areas have vastly different quality standards. Attorneys from law firms with poor quality standards and low expectations may never adjust to more competitive, demanding environments.

As a general rule:

Attorneys working on sophisticated matters for significant clients are trained to work at a far higher level of detail quality than those doing work for consumers or small businesses.

## **The attorney's prior experience in a practice area**

The ability of the attorney to do the job is also related to their prior experience. The more experience an attorney connected to the practice area, the more suitable the attorney will be to the position. It is likely they will be able to

Law firms should try and hire people with direct experience in the practice area they are hiring for. People trained in a practice area, interested in it, and committed to it will almost always be better hires than those who are not. It is a to fit people into holes they do not belong in.

Law firms hire people trying to switch practice areas all the time. This is nuts. These attorneys will almost always they discover they just do not like practicing law--regardless of the practice area. You are better off hiring someone with experience in the practice area.

If you have a job for a specialist such as a securities attorney, an attorney working doing this will almost always do better than those working on several specialties simultaneously (general corporate, M & M&A, litigation) from a more general

Each practice firm's job also has specific requirements for attorneys in its practice area. For example, some firms want to go to court, and others want litigators to write briefs.

I worked with a small law firm that hired a litigator from a top law firm that had never been to court. The small law firm court all the time and took tough depositions with hostile opposing counsel and witnesses. While the attorney's background was well-suited to the large firm, it did not work at the smaller firm. He could not do the job.

Other law firms want attorneys to run entire deals or aspects of deals.

I worked recently with a Yale Law School graduate who had been trained at Sullivan & Cromwell. The attorney took over at another national firm where they were asked to only run a portion of them (in M & M & M&A). The attorney was in a unhappy and desperate for a new position. They could not do the jobs.

Each practice area has specific requirements. A law firm needs to understand whether the attorney they are hiring has the experience it needs to do the work. If they do not, the attorney may be a bad hire.

## **Length of Time the Attorney was Employed in Past Positions (Resume Gaps)**

In my two-plus decades of experience, I have found that the best way to tell if an attorney will be able to do the job is to test: How long have they stayed at their previous employer, and why are they looking for a new job?

Some people are mentally fit and will thrive wherever they go, and others are not. This is just how it works.

I will never forget the first two people I hired as recruiters for BCG Attorney Search. The first one had been at her previous employer for six years and stayed eight years with me. The second one had worked for her last employer for 13 years and remained for sixteen. In the interim, other hires who had been at their previous employer's a year or two all ended up leaving and finding new positions in a similar length of time they had worked with their other employers.

## **Will the Attorney Abide by the Requirements of Your Job?**

Every job and firm has different requirements for each job. Attorneys also leave law firms for a massive variety of reasons.

Does your firm require or ask its attorneys to:

Work independently or in groups?

Work with a difficult attorney or with an easygoing attorney?

Work directly with clients or not work with clients?

Work in one practice area, or work in multiple practice areas?

Work extremely long hours or something less?

Travel or not travel for work?

Work in an office and have a lot of facetime, or work at home and not worry about facetime?

Entertain clients and go out after work or not?

Bring in business or not bring in business?

Supervise attorneys or not supervise attorneys?

Do outside projects for the firm (writing, speaking, newsletters) or not?

Work weekends or not?

Do their secretarial-related work, or not?

Socialize with attorneys outside of work and at the office or not?

Work with socially-objectionable clients or not?

Tolerate constant negative press about the firm or not?

Work with no expectation of ever being a partner or be expected to make partner and leave?

Receive below-market compensation?

Not get annual performance-related bonuses or bonuses less than the market.

Have good benefits, or not.

Work with harsh ongoing reviews, something in-between, or no reviews.

Work in a branch office with few growth opportunities?

Spend the majority of your time working only on one client or many.

Tolerate a troubled environment with mass partner defections or a growing environment with a lot of uncertainty.

Work in a practice area with little growth in a firm and no plans of growth or not.

These things are why attorneys I have worked with have left their firms or told me they were leaving in just the past few months! I could elaborate on all of these reasons, but the fact is that attorneys will not be able to be managed if they are unhappy.

## Is the Attorney Good-Enough for You or Not?

The biggest thing that employers need to understand is whether the attorney is a good attorney or not and can do the best way of getting this information is typically to ask the attorney the following questions:

### How busy are you?

This is a tried-and-true way to understand how proficient most attorneys are. While it has limitations, this is often the best way to understand the quality of work an attorney is doing. In almost every law firm, some partners are busy and give out to people who do the best job. The best attorneys are also experts at generating work and getting others to do work. The ability to do this as an associate with partners translates into the ability to do this later on with clients.

Suppose an attorney is complaining there is not enough work. In that case, the best ones will be writing articles for the firm, giving presentations, and generating clients if there is no work. Every attorney should always be busy. They can make themselves busy regardless of whether or not the firm has work to give them. Your best hires will always be busy.

In contrast, people who wait around for work are not good hires. Attorneys who do not know how to create work and get it done--creating work is a requirement of being a good attorney. Attorneys who are trouble, do subpar work, and do not get along with partners and clients typically are avoided. They do not have a lot of work.

### What partners are you working with?

In most firms, some partners are highly regarded and those who are not. Some associates may not work with partners who are not working for senior associates and counsel. By taking the time to understand who the best partners are in a firm, you can often understand how the candidate perceives work quality.

You should also ask what partners the attorney has worked with in the past? How long they worked with a given partner? The best attorneys will tell you about working for the best attorneys in their firms and say things like, "She will not sha

other attorneys!" That is a sign that the attorney is probably excellent.

Suppose an attorney is doing a series of discrete assignments for partners and working for many partners for a short period of time. In that case, this is often a sign that they probably do not do the best work and should be avoided.

## What are you working on?

The best attorneys will be working on the most sophisticated matters at the firm and will talk about them with entrants. The worst attorneys will be working on these because they are considered the best the law firm has. The law firm will put them on its most important matters and give them the most responsibility. Suppose you are interviewing an attorney from a law firm you know has important matters. You ask them what they are doing, and they tell you about insignificant matters compared to what they are doing; you know there are issues.

An attorney from a top law firm tells you he is spending most of his time suing clients for unpaid bills. This is a bad sign.  
A senior associate from a major litigation law firm tells you they are making mainly discovery.

Conversely,

A second-year associate at a major law firm tells you she will be going to trial and cross-examining witnesses at client trial. This is a good sign.

A fourth-year associate tells you he is the lead associate on an IPO for a firm's major client, and 15 attorney team on it. This is a good sign.

Law firms give attorneys work based on their perception of how good the attorney is. An attorney will tell you a lot about their skill level, depending on what they say.

**What do you think you could improve on?**

Lawyers are asked what they can improve on all the time, and their answer to this question often reveals their skill level and how they are doing at the firm. Here are some really bad answers I have heard recently.

"I need to have paralegals and legal secretaries proofread my work more. I make too many errors."

"I should be better about asking for assignments. My hours are low."

These are things attorneys said in interviews, and they are not acceptable. The best answers are things like:

"I want to spend more time on business development."

"I want to get better deposition skills."

"I want to run my transactions."

Often, the best attorneys will start talking about books they are reading, outside courses they are taking, and similar things that indicate they are likely to be good hires and take their jobs seriously. Statements made by a good attorney indicate a willingness to grow, improve, and seek greater challenges. Some people never stop growing, and others do.

**What do you like most about what you are doing?**

Enthusiasm for the job's subject matter is essential--so does how the person talks about what they are doing. Statements that indicate an interest in growth and improvement are important.

"I love learning more about my practice area."

"I enjoy finding solutions that other attorneys do not see."

"I enjoy crafting contracts that protect my client and finding new ways to do this all the time."

If an attorney gives bland answers that show a lack of interest in the practice area and no enthusiasm, they typically are not the best you can do.

## What clients are you working for?

Most law firms have their top clients, and others have smaller, less significant clients and matters. If the attorney is doing the biggest clients and has a lot of responsibility with them, the odds are that the attorney is doing good work. If the attorney is doing the smaller clients and matters, the odds are that the attorney is doing good work.



on less significant matters, the opposite is often true.

### **Have you done any outside work in your practice area?**

Attorneys who are fired up about what they are doing take all sorts of outside courses, write articles, teach night school, teach CLE classes, and all kinds of stuff to contribute their enthusiasm to the market. If people have this enthusiasm, the odds are that they are getting positive feedback from their work in the firm's practice area.

### **How confident do you feel about your ability to do this job based on what you know about it?**

The level of confidence an attorney has in their work will come through in this question. Attorneys are faced with challenges daily. The most confident attorneys will explain in a measured way they will do their best, ask for help when necessary, and explain why they see things this way.

People who do not research, gather publicly available information about your job and feel secure that they can do it are not the best attorneys. A lack of confidence means they are running from something and may not be the best hire.

### **What would your references say about you?**

The best attorneys always have plenty of references ready to go. When asked about what their references would say, they offer enthusiastic appraisals of their work and engagement. [In contrast, poor to average attorneys will often not have references or cannot articulate what a reference would say about them.](#)

The legal employer an attorney last worked for is no different than a client: Some attorneys impress clients with their interpersonal and work skills, and others do not. If an attorney can impress their former employers and get a glowing recommendation, then the odds are good they did a good job where they were in the past.

I do not recommend checking the references at an attorney's current employer because you never know how honest they are likely to be--for example, the employer may be angry the attorney is leaving. However, you should always check references from past employers. Rather than speak with HR, it is always the best idea to talk with the attorneys the attorney worked for. Human resources can be helpful, but they will often just confirm dates of employment. If partners in your firm have worked with other partners in the attorney's past firms, speaking with them is a good idea.

### **Do you have any samples of your recent work?**

Asking for copies of redacted and nonconfidential work that an attorney has done can be very instructive. Here, even if you are unfamiliar with the quality of work required at the attorney's previous employer, you will learn how the attorney approaches their work product.

A great deal can be gleaned when it comes to an attorney's work product. If you overemphasize this, you will disqualify otherwise highly qualified attorneys from getting jobs in your firm. Every firm has people who love to tear apart other attorneys and believe that no one other than them can do good work. Consequently, they find reasons to hire no one. It becomes an exercise in justifying their ego rather than good hiring.

One firm on the West Coast tests potential patent attorneys with a ridiculously complicated test composed of one hundred opportunities to make arcane errors so far out there that it could be argued no one would know these landmines. They had spent weeks understanding them. From what I understand, they have tested 100s of attorneys over the past ten years and have not hired a single one of them. The firm has never hired anyone in ten years, and the founders are the only ones who remain. As far as I am concerned, this firm wastes the legal community's time to massage its ego.

Writing samples can show writing ability and training. Other documents can reveal attention to detail. Everything an attorney does and produces shows the sort of attorney they are and where they are at. However, most firm styles and ways of working are teachable. I do not think disqualifying candidates based on their work samples is always the best idea. **(If unemployed) Why aren't you working?**

This is one of the most critical questions. In most cases (over 50%), an unemployed attorney may be bad news at the

Attorneys are often unemployed because they:

Were asked to leave.

Did not have any work.

Were fired.

Had psychological or social issues that made them quit.

Were unable to fit in with the people.

Could not get repeat work from other attorneys.

Were not committed to the practice of law.

Had substance abuse problems.

Had family or personal issues that took precedence over their jobs.

Did bad work.

Did something (or series of somethings) stupid.

They were seen as antagonistic to the firm--were gossipers, had a bad attitude, etc.

None of these things are always true--but they merit serious consideration. In some major and highly efficient markets like New York City, if an attorney is unemployed, most prominent law firms will not even bother asking why. They know it is in most cases. Why take the chance if other candidates don't come with the same potential baggage.

The correct answers most often involve things like:

An entire practice group jumped up and went to another law firm leaving all the associates without work.

The firm laid off an entire practice group.

The firm closed an office.

The attorney moved home.

Attorneys who are 100% in the game prioritize their careers and stay employed until they find other jobs. While you are welcome to hire whomever you want, your best bet is often the employed attorney when comparing two attorneys (the employed and the other unemployed). Repeated periods of unemployment are a further warning sign that something is wrong with the attorney.

## **The Attorney's Ability to Generate Business Now (or in the Future) if this is a Requirement for the Job**

I save this for last because this is a requirement of so many jobs. Some attorneys have this ability, while others do not.

If the future business is a requirement of staying employed, the attorney ought to be informed of this at the interview. You can see how they respond. Alternatively, you may just be seeking worker bees, and that is fine too. Then hire for worker bee qualities.

If hiring for business generation, you typically want to see an upward trajectory of bringing in business, substantial results in that direction, consistent success, and few excuses for not having a business. Most attorneys without business will give you reasons, which are really just excuses. Still, the fact is that the best attorneys can figure out how to build books of business wherever they are and continue to improve their books year after year. A declining book, reliance on only a few clients, and other issues are often not worth the risk. Attorneys can find themselves in the wrong environments to generate business. A different environment may be better, but you need to be careful.

In most instances, the business that an attorney represents when they are laterally moving to your firm ends up being 2/3 of what materializes when they get there. This is not always the case, but you need to be very careful and always understand that the outcome is not always represented in interviews.