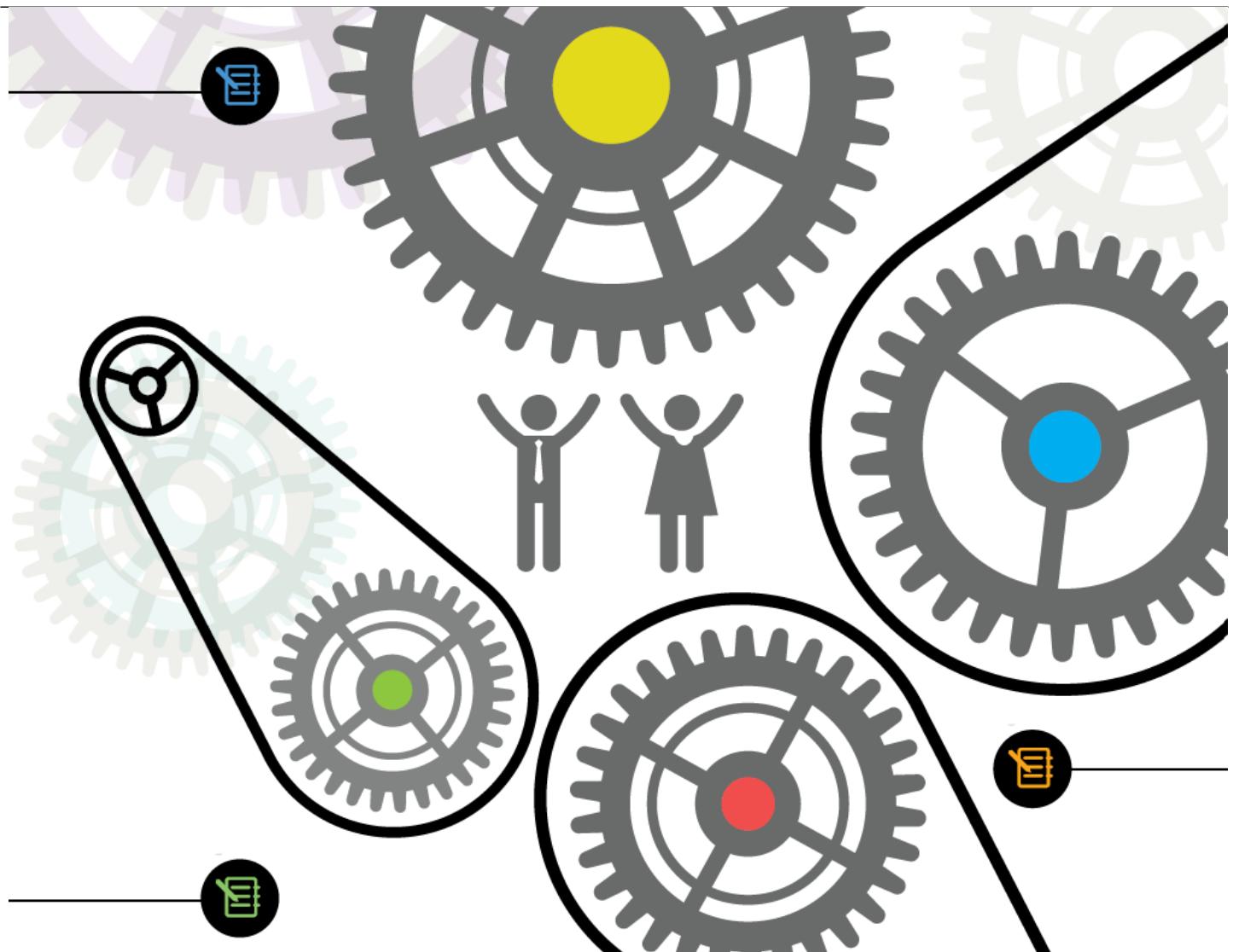

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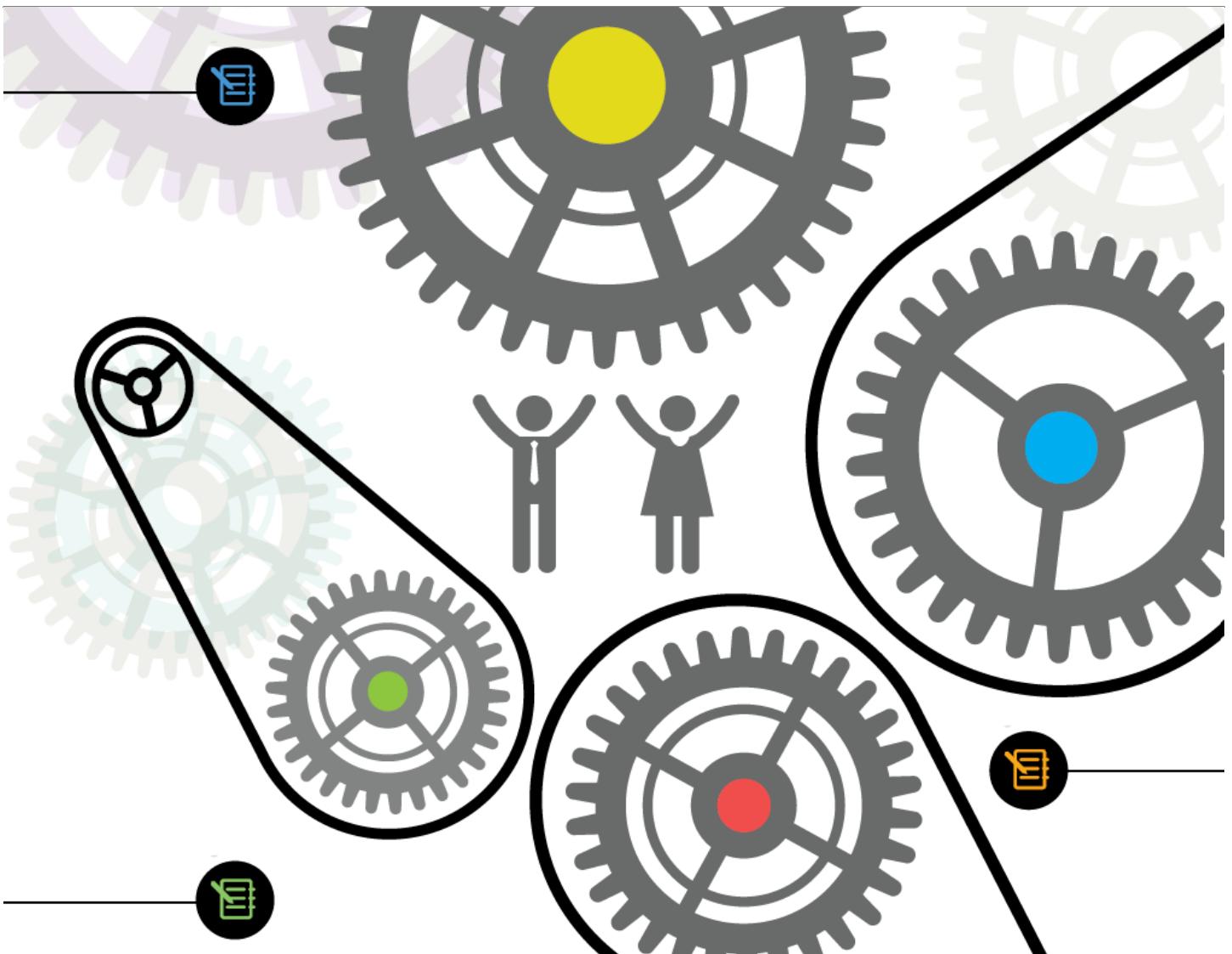
INFORMED. INDISPENSABLE. IN-HOUSE.

Keep the Energy Up With an In-house Rotation

Employment and Labor

Law Department Management





CHEAT SHEET

- **Popular practice.** Twenty-four percent of all organizations use job rotation programs.
- **Benefits.** Professional rotation programs are highly correlated with employee engagement and job satisfaction, leading to greater retention.
- **Trends.** Generally, companies that implement job rotation programs are younger, larger, and faster-growing than their peers.
- **Maximum effectiveness.** To ensure the likelihood of success for a lawyer in a non-legal rotation, appoint a mentor for the employee and encourage the attorney to leverage their existing skillset.

As the labor market becomes increasingly tight, employers are investigating creative ways to retain and reward their top talent. One trend is that larger employers are building and expanding their internal rotation programs. According to an annual report put out by McLean & Company, an HR

consulting firm, 24 percent of all organizations now use job rotation programs. Studies have shown that professional rotation programs are highly correlated with employee engagement and job satisfaction, which leads to greater retention of top employees. Job rotation programs also help companies nurture internal talent, provide training to employees who will succeed executives, and identify candidates for key new roles. Forbes recently pointed out that job rotation programs not only help train seasoned talent, but that they also might be key to retaining millennial employees.

Despite the increase in job rotation programs, in-house legal departments have been slow to adopt such practices. Retaining top talent is just as much of a challenge in legal departments as in other departments. From an employee's perspective, the frustrations faced by in-house lawyers are just as prevalent as they are in other areas of a company. When making the decision to go in-house, attorneys often cite the desire to be closer to the clients they represent. Exchanging the daily grind of billable hours and being brought in as a hired gun for select projects does not carry the same pride of ownership as having a seat at the table and helping business leaders drive the best possible outcomes for a company. To keep skills sharp, better understand a business, and boost employee morale, legal departments should consider professional rotations for their in-house lawyers.

Job rotation programs can serve as a channel for these attorneys, giving them an opportunity to meaningfully contribute to the organization and stretch their talents.

I recently had the opportunity to work outside my company's legal department in an inaugural attempt at a business rotation. This eight-month experience allowed me to work as a non-lawyer contributor to my company's software sales team. Like most large legal departments, my employer never had a formal professional rotation program for its lawyers. My experimental rotational opportunity gave me valuable insight into the challenges, pitfalls, successes, and fallout that can come from creating such a program from scratch.

This article will help the reader think about whether a professional rotation program for an in-house legal department makes sense for an employer and its legal team. It will help identify the purpose of such a program and showcase the costs and benefits. It will also address the critical steps to successfully implement such a program.

Purpose of the program

An organization considering a professional rotation program should develop clear objectives. What does the company hope to get out of the program? Perhaps the company is looking for ways to reduce fatigue and boredom and boost productivity. Legal departments tend to have flat organizational structures, with little room for advancement. At the same time, they are often filled with ambitious and talented lawyers who crave growth opportunities. Job rotation programs can serve as a channel for these attorneys, giving them an opportunity to meaningfully contribute to the organization and stretch their talents.

Another purpose might be to ensure a continuous talent stream for succession. In smaller legal departments, attorneys may take on numerous roles, becoming a business law generalist. However, in larger organizations, legal staff often specialize in a particular area. Companies that have nurtured an army of specialists may find themselves without anyone in-house to fill particular roles in the event of sudden employee departures. Rotation programs allow the company to expose trusted internal talent to other areas. There is a risk of job rotations increasing generalization, which could mean a reduction in specialization and a less than optimal level of performance. However, any legal

department that has found itself suddenly without legal expertise in a particular area knows the pains of trying to recruit an outside specialist.

Job rotations also give the company a chance to try on new roles for a valued employee where the company thinks the employee might be a better fit. Rather than transferring the employee, a rotation can serve as a trial for a new role. Of course, the purpose for the rotation should also be focused on the benefit it will provide to the attorney, whether that means exposing her to a new professional area to help hone in on a particular strength or to keep her energized and challenged.

A side benefit to the organization is defining how the company is perceived by its competitors, the broader market, and its customers. Companies that implement job rotation programs are generally slightly younger, considerably larger, and faster-growing. They are also prone to recruit new personnel from within their company and the local labor market than their peers.

Weighing the benefits against the costs

While the benefits of a rotation program can be numerous, such a program is not without cost. Taking an attorney out of their regular role means that not only will the attorney be paid for not performing their normal tasks, but the cost of backfilling counsel can effectively double the cost of the program in the short term.

If the rotation is one where counsel temporarily leaves the legal department, there is the additional complication of funding the role. Giving in-house legal staff an opportunity to work outside of legal can provide a fresh perspective and serve as a benefit across the company, but budgeting for such opportunities can be a complicated accounting practice. In-house legal budgets are often tight, so allocating expensive legal department headcount to another division within an organization might not be possible, unless the other division is willing to help fund the rotation.

There is also the risk that the rotational employee might leave the company after the rotation. Although most literature cites the positive correlation between rotational opportunities and employee retention, it is not impossible that a rotation program will actually hasten an employee's departure. The rotation might make the employee more marketable, for example. Also, there is the possibility that the rotation will fail, due to poor planning or otherwise, making the company lose faith in the employee or disenchanted the employee in the company.

Overall, the benefits to a legal department can be great. However, there is a substantial cost in creating and implementing such a program, and the risks are high as well. If a company decides to commit to a rotational program for its in-house counsel, success will largely depend on a well-designed and implemented program.

Lessons from my rotation

My rotation out of the legal department and into the Software Sales team was an eight-month adventure. Specifically, I was joining the team that was transforming Cisco's offerings from traditional hardware and software products sold on a transactional basis to solutions based on holistic, customer-focused services. Such a dramatic departure from my normal role meant that I had a rapid ramp-up period. Below is a log of what I learned within the first three months.

AT 30 DAYS...

I knew practically nothing about my new team when I started the role, so from day one, it was like drinking from a fire hose. To get up to speed, I attended our annual sales conference, met everyone on my team, and interviewed them.

In a surprising turn of events, the key executive who had brought me onto his team abruptly resigned. Without any guidance from him, or any formalized structure in place, I was left to my own devices to learn all I could about the innovative team I was working with, what problems they were trying to solve, and how I could add value.

I spent nearly every hour of each workday reading about our products, shadowing colleagues, and asking probing questions. At the end of the first 30 days, I had a foundational understanding of how Cisco sold products, how my team sold solutions, and who the key players were.

AT 60 DAYS...

After an initial period of building a basic understanding of what we did as a team, I was in a position to probe into the larger issues we were trying to solve. I was able to apply critical thinking skills I had developed as a lawyer to uncover underlying issues. I had uncovered enough details to find pain points with our offerings and shared my findings with leaders across several organizations that touched on the software sales team.

The challenge at the 60-day mark was that I still only had a rudimentary understanding of all the factors that went into the complexity of our offerings. I was discovering that a lot of the complexity in our offers was due to internal conflicts of interest. Again, I began to apply my background as a lawyer to look at the problems from different points of view to better understand the motives of the different parties and the underlying reasons for the conflicts.

However, spotting issues is not the same as solving them. Sharing the issues with various leaders was met with mixed responses. Some were happy to invite me to take on additional projects. Some were dismissive (or defensive) of my findings. Some responded with, “Great observations … now what?”

AT 90 DAYS...

This is when the fun began. At 30 days, I had built a basic knowledge. At 60 days, I had developed a deeper understanding of the problems that needed to be solved. At 90 days, I was ready to act on my findings. I attended a team all-hands meeting and specifically listened to each team lead explain what they were working on. I made note of any initiatives that aligned with pain points that I had identified, and I offered my services to those presenters.

At this point, I began to learn on a different level. It was no longer a quick ramp-up, but rather a richer understanding of the offerings and the challenges we faced as a company. Learning by interviewing, reading, and watching cannot compare with applying that knowledge. From the 90-day mark until the end of the rotation, I continued to learn and the company began to reap the benefits of my rotation.

Implementing the program

Assuming a legal department determines that a rotational program is in the best interest of the company and its legal staff, success of the program will come down to planning and execution. Implementing the program can be broken down into six sub-categories:

1. Duration of rotation;
2. Determining candidates;
3. Determining where counsel will rotate;
4. Backfill for the employee during absence;
5. Mentoring of rotating employee; and,
6. Re-integration into the organization.

As with everything else in the successful development of a professional rotation program, these six steps must be worked out ahead of time to ensure the greatest chance for success.

Duration of rotation

Unlike filling a new role, a job rotation is, by its nature, temporary. A time limit must be set early and should help define the nature of the rotation. While most rotational programs are less than one year, some companies do long-term talent rotation programs that span two years or more. These types of programs are most common when the goal is to allow the employee to move around to three or four different roles within the same department to gain a greater breadth of experience and to help younger employees determine a career path that best matches their skills and interest.

To determine the duration, a company should consider the goals of the rotation, and balance them against the cost to the organization. For example, if the program includes moves to three different roles, then it must allocate enough time to each role to ensure that the employee can come up to speed in the particular roles and make meaningful contributions. Although the introduction to a new role will vary greatly depending on how different the position is from the employee's normal role, it is safe to assume it will take at least three months to become comfortable in the new role. An advantage to a rotation is that the employee already knows the company culture, but he still needs time to understand the nuances of his new role, and to become proficient in handling its demands. If the employee is expected to deliver specific projects upon the conclusion of the rotation, then the program must provide enough time for the employee to meet those goals as well.

Because the time required for ramp up and wind down can easily start at six months, the natural conclusion would be to make the rotation as long as possible to ensure the greatest chance for success. At the same time, an employer needs to balance the need to allow enough time for success against the strain that the employee's absence from her normal role will have on the organization. The longer an employee is absent from her normal role, the greater chance that the rotation will seem permanent, and a lot of the value in keeping the employee with her normal contacts and context will be lost. Also, if the absence creates strain on a department, it may result in resentment for the employee who is on rotation.

Determining candidates

This can quite possibly be the trickiest of all implementation activities to perform successfully. Unlike hiring a new employee, the program is staffed exclusively from a pool of existing employees. That pool is a group of loyal, hardworking lawyers, who are competitive and analytical in their decision-making processes. Because the goals and demands of a rotation are different than those of a permanent role, the criteria for hiring will be different as well, potentially making the job description

difficult to define. Unlike hiring for a new position, the job description cannot be as objective, which creates risks for the selection of candidates.

If the employer opens up the role to all internal candidates, it might be setting itself up for having to explain why certain candidates were not selected. Likewise, employees who were ideal for the role might not decide to apply. Conversely, if the employer specifically reaches out to ideal candidates only, then they have removed transparency for the opportunity.

What teams will the rotation include?

Finance departments are the most cited area in any organization for setting up talent rotation programs. The specialized skillsets in finance and their numerous applications within an organization make it ideal for job rotation programs.

Legal departments have many parallels to finance departments. In a large organization, the legal department may have attorneys specifically dedicated to sales, product development, litigation, intellectual property, real estate, mergers and acquisitions, corporate and securities, and compliance just to name a few. While many of the teams have significant knowledge overlap, the skills required to become an expert in any one of these areas may take years to develop. A rotational program might be an excellent opportunity to provide a lawyer exposure to one or more of these areas without the need to invest years of training. It is unlikely that the employee will become the company leader in any group he rotates to in the near term, but six months of exposure to the new role will give the employee the foundation to build on at a later date, and at the very least, to be able to minimize siloed departments.

Expecting that an attorney can't become an expert in a new department, though, program administrators should determine whether the attorney will rotate one or several times during her rotation. Each time the employee rotates, there will be ramp-up time and some disruption in the team that the attorney joins and leaves.

What if the company develops a rotation outside of the legal department? For example, moving someone from the legal team to an operations or sales role. This can create a great opportunity to expand counsel's skillset, and it may bring fresh perspective to other departments. The challenges in this kind of rotation are significantly magnified, though. The rotational roles should make use of a skillset that is not so far reaching that the attorney is destined to fail. For example, moving someone from legal into finance would require a fundamental understanding of finance and accounting, which most attorneys do not have. Even if the attorney has basic requisite experience for another department, he most likely will not bring a heightened level of expertise to the role. This may result in the rotation being more of an orientation on how other departments work, unless the attorney can be tapped for his alternate perspective.

Additionally, two ways to maximize the effectiveness of a lawyer in a non-legal rotation would be (1) to obtain a mentor for the employee to help hone his or her talents, and (2) encourage the attorney to leverage his or her existing skillset. The second of these can be challenging, lest the employees may be treated as simply the "lawyer on the team."

Backfilling the rotational employee

The temporary loss of a rotational employee can be hard on those the attorney normally supports. A reduction in headcount is naturally a strain inasmuch as the loss of a trusted advisor who knows his

or her clients' business needs.

What is the best course for backfilling the rotating employee? Some in-house legal departments commonly make use of outside legal departments or contract attorneys when they have a temporary shortage of in-house expertise. In the case of a rotation, however, the temporary open position should be filled by someone else in the company's legal department. It is an ideal way to expand the rotational program since it will give another attorney the opportunity to try something new, and to expand the skillset of the legal department as a whole. Also, since the rotating employee is still with the company, she can serve as an advisor to her backfilling colleague.

One of the easiest ways to accomplish this would be to do a job swap. The risk with this is that the company might focus on comparing the two swapping attorneys with each other, which would undermine the spirit of such a rotational opportunity.

Mentoring of rotating employee

Unfortunately, this is one of the most overlooked components of a successful rotation program, though its importance cannot be overemphasized. When counsel rotate out of their existing position, they are stepping into a role where they often know few of their new colleagues and are expected to take on projects that are most likely outside of their comfort zone. They will have questions, and likely many concerns, and without a stable support network invested in their success, they will undergo a lot of extra stress.

The optimal mentor should be someone who knows about the position the rotating employee is filling. That way, the mentor can offer practical advice. Also, the mentor should not be in the employee's chain of command, to encourage open dialogue.

Re-integration

As all good things must come to an end, so too will a well-designed job rotation. Ensuring a smooth transition out of the rotation and back into one's old role should not be forgotten. Planning for reintegration needs to be done before the rotation even begins.

Internal clients should be informed that their legal counsel is doing a rotation. This will set the expectation that they are not being abandoned and that their attorney will be returning at a defined point in time, bringing additional skillsets. Also, it will encourage the company to keep the rotating employee apprised of critical issues that exist in the attorney's normal role.

As the rotation winds down, the rotating attorney should have regular meetings with his replacement to sync up on key issues. Once he has a handle on what he has missed, the leadership in his normal role should be reminded of the impending return. At the conclusion of a rotation, the employee should have an exit interview to assess what he learned and to review any deliverables. Re-integration should be treated almost like a new hire, with an introduction of the employee to his old team.

Tools for success

If a legal department decides to make the investment into a rotational program, they should jump in with both feet and develop a strong program that transcends any one individual. A formalized, well-developed program can be repeated and built upon, and can be used as a recruitment and retention

tool.

In my particular case, I went from a comfortable, stable position within the legal department to the sales department, an area I knew little about, and was expected to participate as a non-lawyer, strategic contributor. After returning to legal after an eight-month rotation, I had developed an entirely new skillset in creating product offerings in a different area of the company. Also, I had worked closely with several new teams that I previously did not have exposure to. As a result, I now have a more holistic picture as to how my company makes strategic plays and brings new offers to market. These new skillsets have allowed me to work in larger, cross-functional roles in the company, and to understand the entire internal process much better than anyone who stayed in the same role could achieve. In the end, my legal department and the entire company benefitted from my rotation, as did I.

That said, the rotation did have its challenges and at some points, failure seemed possible. Such a role would have been extremely intimidating if it were a permanent one, rather than a rotation, and I might not have taken a similar permanent position. By building it as a rotational program, it gave the company the benefit of providing me training in new areas with the security in knowing that I would return to familiar territory at some point.

A successful rotation program should provide the chance for employee growth, while also allowing the department creating the rotation to reap the benefits in the end. If a legal department determines the risk and cost is justified, wants to invest in its talent, and puts the work into developing a robust program, then it can create a top job rotation program. Such a program has the potential to create a world-class legal department through greater employee morale, retention, and subject matter expertise.

Further Reading

1 "HR Trends and Priorities Survey," McClean and Company, 2016.

2 "Are Rotational Programs The Key to Retaining Millennial Employees?" Kaytie Zimmerman, *Forbes*, Aug. 8, 2016.

3 "Job Rotation from the Employees' Point of View," Heh Jason Huang, *Research and Practice in Human Resource Management*, 7(1), 75-85.

4 "The Adoption of Job Rotation: Testing the Theories," Tor Eriksson and Jamie Ortega, *Working Paper*, Department of Economics, Aarhus School of Business.

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