



Upgrading Through Free Agency: Seasonal Hires In A Down Economy

Insights

12.03.12

Seasonal hiring is a critical element of retailers to successfully maximize sales and profits over the holidays. Increased crowds of shoppers require additional staff to provide quality customer service. With the competition of Internet shopping, retailers must provide an in-store service experience that cannot be accomplished with normal staffing levels. By way of example, major retailers such as Target and Walmart have announced expectations that they will hire tens of thousands of seasonal workers.

Given the state of the economy and the unemployment rate, employers are likely being presented with a better crop of candidates looking for seasonal work than ever before. Undoubtedly, some of these employees will perform so well that they will be retained. The question retailers must ask is whether they should plan to do more than just retaining the one-off spectacular performer and use this seasonal hiring binge as an opportunity to try to improve the quality of their overall in-store work force.

Have A Game Plan

In the sports world, teams are constantly looking to improve every position. A player who is performing adequately is constantly in danger of being cut and replaced by a player who is believed to be an upgrade at the position. These swaps do not always achieve the desired result, of course, but the teams never stop looking for higher-quality players.

Most businesses, including retailers, rarely operate with this mindset. The prospect of terminating employees who are performing their job adequately simply doesn't seem fair to most workers who believe that doing a good job should be enough to keep the job. This results in many store-level managers finding themselves lamenting their inability to keep some of the seasonal workers who have performed better than their regular staff. In the manager's mind, their regular staff has not performed poorly enough to justify replacing them.

This perception of unfairness inherent in replacing an adequate employee with two years of tenure with a new hire who has worked for six weeks makes trying to improve the workforce through seasonal workers legally risky. This is so because juries are not as much concerned with whether discrimination occurred as they are with fairness.

But failing to take advantage of opportunities to upgrade employees has significant downsides as well, in terms of store performance. Employees who stock more shelves in less time, or have better upselling skills, or who need less oversight, improve store profitability. The greatest advantage to finding these employees through the seasonal work force is that they have a six-week tryout period providing a significantly better ground for consideration than a 30-minute interview.

Retailers who choose to use seasonal hiring as a means of upgrading their store teams' quality should take a number of steps to diminish the legal risks inherent in replacing adequate performers with better performers.

The Draft: Hiring

In order to be positioned to improve the team, employers need to hire the best candidates for seasonal positions. This requires not skimping on the hiring procedures. Retailers will likely receive a surplus of applications for every position. Teach managers to identify good applications and problem applications. Look first for applications that are fully completed. Applicants who take the time and correctly fill out the application are more likely to do a good job.

You should also look for work histories with significant terms of employment. While in times past, it may have been expected that individuals looking for seasonal work would not have that type of employment history, in the current state of the economy, it is much more likely that many will. Carefully review the statements about why an applicant left a former employer and stay away from applicants providing answers that suggest a victim-like mentality.

Once a manager has culled applications for quality candidates, the interview process is critical. This will be the opportunity to determine if the applicants are potential long-term employees. Individuals who express an interest in staying beyond the holiday season if work is available are going to have a significantly higher vested interest in performing well during the season than an applicant looking for a few weeks of work to earn some extra income for the holidays. Individuals who are looking for opportunities for advancement in the company, if available, will also be more dedicated to their work. Even if not hired for regular positions, these employees will likely do more during their tenure.

Training Camp: Evaluating

The most critical component of using seasonal hires to upgrade the workforce is the evaluation process in place during their employment. This process must be facially fair to all the current employees, or perhaps even weighted slightly in their favor. The key to facial fairness is providing notice to the current employees of any deficiencies in their performance and heightened expectations as well as continued assistance in raising performance levels.

Managers should evaluate their team's performance well before the seasonal workers start. The goal is to be very clear with workers that expectations are being raised and identify opportunities for improvement. Workers need to understand that what was acceptable performance may not be sufficient to maintain employment in light of the current job market.

sufficient to maintain employment in light of the current job market.

At the same time, it is critical to offer assistance to these employees to help them improve.

Managers should be holding regular, even if brief, team meetings to assist employees in working on areas for improvement. Managers must emphasize that the importance of the season to the success of the store increases the importance of their being at work when expected, on time, and with a “can do” attitude.

When the seasonal employees begin work, the managers must have the time and opportunity to observe all the employees, and use that time and opportunity. The manager should make notes of observations of employees doing either particularly well or poorly. This will not be an easy task during the holiday rush, but will be a critical component of post-holiday employment decisions. The manager should also be addressing any deficiencies with employees as they happen and providing assistance and support. By the end of the season, managers should have a well documented study of their team's performance.

Choosing the Active Roster: Retaining and Dismissing

When the store is ready to return to normal staffing levels, managers should have a very good idea of which employees they want to retain. Nevertheless, the decision-making process must be studied to be supportable against employment claims. First, the manager should determine what number of employees are needed of both part-time and full-time employees, among which available labor hours can be divided.

In some cases, keeping a greater number of employees with fewer hours works better and provides more flexibility than was previously available. In other cases, very regular scheduling might dictate the need for only full-time employees. But creating a proposed new team structure is a key first step in communicating the business purposes behind the changes.

Once the manager has the structure in place, fill it with the strongest employees. At this point, the documentation created of employees' performance over the season will be critical in differentiating among the employees. However, new documentation should be prepared wherein managers explain their choices. For example, if one employee significantly outperformed the others in stocking, it should be noted that the choice was made because of strength in this area. If another employee was the subject of several customer complaints over the season, then it should be noted that this played a role in not retaining that employee.

If employees receive written evaluations, it is also critical that these be reviewed. No matter how superior the performance of a seasonal employee, it will be difficult to justify trading up when the employee losing the job was rated “Outstanding” three months earlier.

When the manager has picked the new team and made decisions that some employees will not be retained, a higher-level review should be used. Here, the reviewer, either a district manager or an HR representative should sit down with the manager and challenge him or her on the decision making. The goal is to determine how well the decisions can be explained.

If managers are unable to articulate clear straightforward reasons for retaining a newer employee and terminating a more tenured employee at this point, the chances of their being able to adequately respond to these questions in a deposition is minimal. The decisions should also be reviewed to make certain there is no bias, or even the impression of it. For example, if a manager is choosing to retain three young male employees and letting go three older female employees, the support for the change must be rock solid.

Winning The Game

Ultimately, the store with the best employees will deliver the best results for the company. While upgrading by retaining short-term seasonal employees and terminating longer-tenured employees has risks, if carried out correctly, it presents a tremendous opportunity for growth.

For more information, contact the author at EHarold@fisherphillips.com or 504.522-3303.

This article also appeared in the March/April 2013 issue of *Converge*, a publication of *HospitalityLawyer.com*.

Related People



Edward F. Harold
Regional Managing Partner
504.592.3801
Email