

NALP 2015 Annual Education Conference

YOUR MISSING PRACTICE AREA MANUAL: KNOW THE RIGHT QUESTIONS TO ASK FOR LATERAL ASSOCIATE HIRING

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**THE ASSOCIATE NEED QUESTIONNAIRE:
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❖ **Practice Areas Included**

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- Banking
- Bankruptcy & Restructuring
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- Energy
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- FDA
- Finance
- Government Contracts
- Health Law/Healthcare
- Intellectual Property – Patent Law
- International Trade
- Investment/Asset Management
- Labor & Employment
- Litigation
- Project Finance
- Real Estate
- Securities
- Tax

THE ASSOCIATE NEED QUESTIONNAIRE: THRESHOLD QUESTIONS

1. Associate Level

- Junior Level (1 to 3 years)
- Mid-level (3 to 5 years)
- Senior Level (5+ years)
- Non-track attorney

2. Reason for the need

- Replacement position (who left and where did they go?)
- Increase in work (identify case/client matter/new partner)
- Is there approval to make this hire?
- Multiple office or single office opening

3. Credentials

- Grades
- Law school
- Law Review
- Law firm experience (actual experience &/or firm itself)
- State Bar admission(s)
- Clerkship (type/level)

4. Other Relevant Criteria

- Would you consider a retool (clarify practice area(s), year step-down, skillset)?
- Would you consider government or in-house candidates?
- Open to relocation candidates?
- Is a certain type of personality desirable?
- What can we tell candidates about partnership or counsel tracks?

5. Identify the urgency of the need and type of search to be conducted

- What is the timing to fill
- Partner access and involvement in the search
- Advertise on website, job boards, etc.
- Internal referrals
- Recruiters or No Recruiters
- Consider a targeted search with one search firm
- Any particular law firms you do/do not want to consider associates from

ANTITRUST

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For sub-categories, check each that apply. For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Merger Review		
Litigation <ul style="list-style-type: none">• General• Class Action		
Second Requests (FTC/DOJ)		
Criminal/Cartel Investigations		
Client Counseling		
Hart-Scott-Rodino (HSR) <ul style="list-style-type: none">• Preparing forms only• Counseling, analyzing documents		
Government Experience (preference for DOJ or FTC)		
Other		

Additional Questions:

1. Is there a specific industry focus that is helpful (e.g., pharmaceuticals, healthcare, technology, IP, media)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

BANKING

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For sub-categories, check each that apply. For required and preferred experience, please estimate the % of time the associate will perform this work.

Industry Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Statutes/Regulations <ul style="list-style-type: none">• Dodd-Frank Act• Volcker Act• Bank Powers Act• Bank Holding Company Act• Bank Merger Act• Payment Systems• Other		
De Novo Charters		
Changes in Bank Control		
Asset Recovery & Creditors' Rights		

BANKING CONTINUED

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Transactional Matters		
Banking Litigation		
Commercial Lending/Financing <ul style="list-style-type: none"> • Type of transactions (consumer, commercial, etc.) • Size of transactions 		
Government Relations (i.e., rulemaking/comments)		
Enforcement, Government Investigations Identify particular statutes/acts/regulations _____ _____ _____		
Other		

Additional Questions:

1. What is the nature of our clients (e.g., community, regional, national, international banks/financial institutions, payment systems operators and service providers, securities, insurance, finance, mortgage companies, other)?

2. Do we practice before particular agencies (e.g., FDIC, Federal Reserve, Office of the Comptroller of Currency (OCC), Consumer Financial Protection Bureau (CFPB), state/regional authorities)?

3. Identify one to two matters that are most active in the practice group currently.

4. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

BANKRUPTCY & RESTRUCTURING

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Chapter 7		
Chapter 9		
Chapter 11		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Transactional Matters		
Litigation		
Turn Arounds and Workouts		
Post Petition Payments		
DIP Exit Lending		
Other		

Additional Questions:

1. What is the nature of our clients (e.g., debtors, secured/unsecured creditors, trustees, financial institutions, consumers)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

CORPORATE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Mergers & Acquisitions (M&A)		
Capital Markets		
Private Equity		
Venture Capital		
Corporate Governance		
Securities Filings		
Licensing/High Technology Transactions		
Outsourcing		
Other*		

Additional Questions:

1. What is the nature of our clients (e.g., public companies, private companies, small/mid/large cap, local, regional, national, international)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

*See Finance and Project Finance as related practices

EMPLOYEE BENEFITS/ERISA

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For sub-categories, check each that apply. For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Fiduciary Responsibility		
Governmental Plans		
Health and Welfare Plans		
Multiemployer/Taft-Hartley Plans		
Plan Design and Taxation		
Plan Funding and Restructuring		
Executive Compensation		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Regulatory <ul style="list-style-type: none"> • Employee Retirement Income Security Act (ERISA) • Internal Revenue Code 		
Compliance		
Litigation		
Policy and Legislation		

EMPLOYEE BENEFITS/ERISA CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., publicly-traded and privately-owned companies, state and local governmental entities, tax-exempt organizations, multi-employer pension funds, professional employment organizations, contingent workforce organizations)?
2. Do we practice before particular agencies (e.g., Department of Labor, IRS, Pension Benefit Guaranty Corporation (PBGC))?
3. Identify one to two matters that are most active in the practice group currently.
4. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

ENERGY

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Industry Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Electrical Energy		
Oil & Gas		
Nuclear Energy		
Renewable Energy, Clean Technology, and Sustainability		
Water		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Regulatory		
Transactions		
Litigation		
Utility Rate Making		
Enforcement, Government Investigations Identify particular statutes/acts/regulations _____ _____ _____		
Other		

ENERGY CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., public utilities, oil companies, state-owned entities, power producers, oil and gas companies, petrochemical companies, refiners and marketers, project developers, financial institutions, private equity firms, service companies)?
2. Do we practice before particular agencies (e.g., Federal Energy Regulatory Commission (FERC), Nuclear Regulatory Commission (NRC), Office for Nuclear Regulation, Nuclear Decommissioning Authority, Commodity Futures Trading Commission (CFTC))?
3. Identify one to two matters that are most active in the practice group currently.
4. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

ENVIRONMENTAL

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For sub-categories, check each that apply. For required and preferred experience, please estimate the % of time the associate will perform this work.

Industry Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Clean Air		
Clean Water		
Climate Change & Greenhouse Gas Emissions		
Pesticides		
Ocean and Coastal Resources		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Regulatory <ul style="list-style-type: none"> • National Environmental Policy Act (NEPA) • Resource Conservation and Recovery Act (RCRA) (hazardous waste) 		
Transactions		
Litigation		
CERCLA (Superfund) and State Hazardous Substances		
Environmental Audits & Compliance Assessments		
Brownfields Redevelopment		
Environmental Toxic Torts		

ENVIRONMENTAL CONTINUED

Enforcement, Government Investigations Identify particular statutes/acts/regulations _____ _____ _____		
Other		

Additional Questions:

1. What is the nature of our clients (e.g., industrial, municipal, governmental)?

2. Do we practice before particular agencies (e.g., EPA, Department of the Interior, Fish and Wildlife Service, National Park Service)?

3. Identify one to two matters that are most active in the practice group currently.

4. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

FDA/FOOD & DRUG LAW

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Food		
Drugs/Pharmaceuticals/Biologics		
Devices/Medical Devices		
Consumer Products/Cosmetics		
Agriculture		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Regulatory/Compliance		
Transactions/Due Diligence/Licensing		
FDA Litigation/Agency Enforcement		
Internal/Externals Audits & Investigations		

Additional Questions:

1. What is the nature of our clients (e.g., pharmaceutical (brand or generic), biotechnology, medical device, food, cosmetic, tobacco, consumer product companies, manufacturers, etc.)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

FINANCE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Bank Lending		
Capital Markets		
Private Equity		
Venture Capital		
Corporate Governance		
Structured/Securitization		
Other* – Language Skills/Travel		

Additional Questions:

1. What is the nature of our clients (e.g., public companies, private companies, small/mid/large cap, local, regional, national, international)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

*See Corporate and Project Finance as related practices.

GOVERNMENT CONTRACTS

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Substantive Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Commercial Products & Services		
Cost, Pricing And Business Systems		
Expeditionary, Stability and Reconstruction Contracting		
National Security Clearance		
Procurement Fraud		
False Claims Act (qui tam matters)		
State and Local Government Contracts		
International Government Contracting		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Bid Protests		
Internal Investigations		
Litigation		
Counseling and Compliance (FAR regulatory advisement, organizational conflicts of interest)		
Transactional (negotiating teaming, subcontracting agreements)		

GOVERNMENT CONTRACTS CONTINUED

Claims and Terminations		
Other		

Additional Questions:

1. What is the nature of our clients?

2. Identify one to two matters that are most active in the practice group currently.

3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

HEALTH LAW/HEALTHCARE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Industry Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
HIPAA and Health Privacy Laws		
Medicare/Medicaid		
Fraud and Abuse		
Reimbursement: Coverage, Coding and Payment		
Certification, Accreditation and Licensure		
Long Term Care		
Managed Care		
Academic Medical Centers, Hospitals and ASCs		
Other		

HEALTH LAW/HEALTHCARE CONTINUED

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Regulatory/Legislative		
Government Investigations		
Litigation		
Counseling and Compliance		
Transactional		
False Claims Act and <i>qui tam</i> matters		

Additional Questions:

1. What is the nature of our clients (e.g., academic medical centers (AMCs), ambulatory surgical centers (ASCs), biotechnology companies, device manufacturers, distributors, suppliers, group purchasing organizations (GPOs), hospitals, insurance companies, pharmaceutical companies, pharmacies, physician groups, trade associations)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

INTELLECTUAL PROPERTY – PATENT LAW

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Prosecution (prefer associate or agent)		
Litigation (district court, International Trade Commission (ITC)/Section 337, U.S. Patent & Trademark Office (PTO))		
Transactions		
Counseling/Opinions		
Inter Partes Review (IPR)/Reexamination		
Hatch-Waxman/ANDA Litigation		
PTO Registration/Bar (eligible or required)		
Identify Degree Requirements – Undergraduate, Masters, or PhD (e.g., Electrical Engineering (EE), Computer Science/Engineering, Mechanical Engineering, Physics, Chemistry, Organic Chemistry, Biology, other)		
Other		

INTELLECTUAL PROPERTY – PATENT LAW CONTINUED

Additional Questions:

1. Who are our primary clients/industry focus? Note: identify clients by name to ascertain IP focus of practice (i.e., technology versus life sciences) and to understand potential conflicts when sourcing candidates.
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

INTERNATIONAL TRADE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Anti-dumping/Countervailing duties, Trade Remedies		
Customs Laws and Import Controls		
Export Controls and Sanctions		
ITC/Section 337		
World Trade Organization (WTO) – Agreements, Disputes		
NAFTA and Regional Agreements		
FCPA, Foreign Investments, CFIUS		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Litigation		
Counseling, Advisory, Policy		
Represent Petitioner or Respondent		
Other		

INTERNATIONAL TRADE CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., importers, exporters, national, international, industry, geographic focus)?
2. Do we practice before particular agencies (e.g., Departments of Commerce, Treasury, State, U.S. Trade Representative, U.S. Customs Service, International Trade Commission (ITC), WTO)?
3. Identify one to two matters that are most active in the practice group currently.
4. Provide one to three clients/matters you anticipate this new associate working on in the immediate term.

INVESTMENT/ASSET MANAGEMENT

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Investment Company Act of 1940 (“‘40 Act”)		
Investment Advisers Act of 1940		
Registration and Fund Formation (Mutual Funds, Private Funds, Hedge Funds)		
SEC Compliance – Proxy Statements, Board of Directors, disclosures		
FINRA Compliance		
Exchange Traded Funds (ETFs)		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Counseling, Governance Advice		
Regulatory Compliance		
Investment Management M&A		
Other		

INVESTMENT/ASSET MANAGEMENT CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., investment managers, investment advisors, mutual, private equity, venture capital, hedge funds, fund sponsors, money managers)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

LABOR & EMPLOYMENT

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
FLSA/Wage & Hour		
ADA Title II, Title III, and State Accessibility Law		
Labor-Management Relations & Labor Disputes		
Title VII – Discrimination Claims		
Noncompetition Agreements & Trade Secrets		
Occupational Safety & Health		
OFCCP/Affirmative Action Plans		
Immigration & Nationality Services		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Litigation (i.e., ERISA, discrimination, FLSA/wage & hour, individual/class action)		
Counseling/Advising		
Compliance		
Other		

LABOR & EMPLOYMENT CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., labor, unions, individuals, private employers)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

LITIGATION

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience/Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Court Level (state, federal, district, appellate)		
Subject Matter Expertise (e.g., business, insurance, product liability, FCPA, white collar)		
Class Actions		
Appellate		
Brief Writing		
Depositions (1st or 2nd Chair)		
Court Time/Oral Arguments		
E-Discovery		
Investigations		
Clerkship (state, federal, district, circuit court)		
Other		

Additional Questions:

1. What is the nature of our litigation practice and how are cases typically staffed (e.g., complex, commercial, personal injury, insurance, etc.)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases you anticipate this new associate working on in the immediate term.

PROJECT FINANCE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For sub-categories, check each that apply. For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience/Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Document Drafting		
Negotiations		
Due Diligence		
Industry Expertise <ul style="list-style-type: none"> • Power generation (nuclear, renewable, oil, gas) • Infrastructure (roads, airports, bridges, railways, ports) • Mining and metals • Water and wastewater treatment • Telecommunications (wireless, landline and satellites) • Other 		
Geographic Focus		
Language Skills		
Travel		
Other		

Additional Questions:

1. What is the nature of our clients (e.g., sponsors, commercial banks, governmental lenders)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

REAL ESTATE

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Acquisitions & Dispositions		
Development Projects		
Financing/Lending		
Leasing		
Real Estate Investment Trusts (REITs)		
Land Use and Zoning		
Other		

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Type of Matter (i.e., residential, commercial, shopping center, retail, office, mixed use, etc.)		
Condominiums and Cooperatives		
Housing and Community Development		
Economic Development Incentives and Public/Private Projects		
Other		

REAL ESTATE CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., developers, borrowers, buyers, lenders, local, national, commercial, residential)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

SECURITIES

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Securities Act of 1933		
Securities Exchange Act of 1934		
Sarbanes-Oxley Act of 2002		
Broker-Dealer, Market Regulation		
Other		

Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience
Transactions		
Corporate Governance		
SEC Compliance/Filings (e.g., Form 10-K, Form 10-Q, Form 8K, Form D)		
Public Offerings (IPOs, APOs, DPOs)		
Private Offerings (e.g., Regulation D, Regulation S, Rule 144A)		
Other		

SECURITIES CONTINUED

Additional Questions:

1. What is the nature of our clients (e.g., issuers, investment banks, placement agents, investors)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.

TAX

Indicate whether the specified experience is required (R), preferred (P), or not applicable (N/A). For required and preferred experience, please estimate the % of time the associate will perform this work.

Specific Experience/Skillset	Required Experience (R, P, N/A)	Estimated % of Time for Required or Preferred Experience (as applicable)
Controversy/Litigation		
Transactions, Tax Structuring		
Tax-Exempt Organizations		
Tax Planning		
International		
State and Local Tax Services (SALT)		
Payroll Tax and Fringe Benefits		
Other		

Additional Questions:

1. What is the nature of our clients (e.g., corporate, small business, individuals, local, international)?
2. Identify one to two matters that are most active in the practice group currently.
3. Provide one to three cases/matters you anticipate this new associate working on in the immediate term.