

Navigating Employment Agreement Negotiations in the Modern Work Landscape

As the world of work undergoes some of its most profound shifts in years, so are employment agreements. Gone are the days of one-size-fits-all agreements with standardized benefit packages, rigid parameters, and uniform work arrangements. From flexible scheduling and remote work provisions to intellectual property rights, the new world of work demands dynamic agreements that reflect the evolving needs of organizations and their employees.

Five key factors are driving the shift to more highly negotiated employment agreements:

Culture shift: The pandemic led workers across sectors to rethink what they want from their jobs and employers. The results? A greater desire for work-life balance, with candidates favoring employers that make efforts to achieve this and these employers gaining an edge in securing talent.

Changing market conditions: Economic uncertainty coupled with a persistently tight labor market have placed employers in a unique position where, depending on the sector and the role, they may either hold the advantage or find themselves hotly competing for talent.

Remote work arrangements: Whether it's stipulations regarding work hours and communication protocols or more complex provisions on data security measures and tax implications, remote work has introduced unprecedented complexity into employment agreements.

New labor laws: Changing regulations on pay transparency, non-compete agreements, and even drug testing policies have far-reaching effects on new hire negotiations, company operations, and work culture.

Digital transformation: Tools such as electronic signatures, collaboration software, and contract management platforms enable more streamlined and collaborative negotiation processes for both parties.

As organizations and HR professionals navigate this transition, there's an opportunity to create better and more agile negotiation processes that foster mutually fulfilling professional relationships. To help you approach employment agreement negotiations with greater confidence in this new landscape, we sat down with Vikki Dingman, Senior Principal Client Director at Korn Ferry Digital, and Elena Paraskevas-Thadani, President of EPT Legal, LLC, a firm specializing in training, ADR (mediation/arbitration), professional coaching and workplace investigations. Below, we share their advice for HR professionals and organizations to help them negotiate more productively and successfully.



1/ Make sure you're on the same page with recruiters and hiring managers

“Employment agreements are among the most important tools for organizations to maintain consistency, secure transparency, and manage legal risk,” notes Vikki. “While HR professionals often focus on compliance and systematic protocols, recruiters and hiring managers' priorities lie in how quickly they can get the right person on the job.”

Vikki adds, “A hiring manager who fails to understand the significance of securing an employment agreement will cause delays. Worst-case scenario, they can negatively impact a candidate's decision on accepting the role.”

She emphasizes that educating hiring managers and recruiters on why securing an agreement is crucial for a smoother hiring process and long-term risk management. Greater alignment ensures that candidates receive accurate information, reduces the likelihood of conflicts down the line, and secures more satisfactory outcomes for all parties.



2/ Explore candidates' expectations at the outset

The early stages of negotiations present a vital opportunity to gain deeper insight into candidates' priorities, which can significantly improve the chances of a successful match. More importantly, exploration demonstrates your organization values open communication and is committed to making the right fit for both parties.

To ensure HR professionals start the negotiation process on the right foot and can craft more compelling offers, Elena recommends that the HR point of contact ask candidates targeted questions about their motivations and the specific circumstances that prompted their job search. "Generally, that comes with questions like 'Why are you leaving?', 'What are you looking for in a new role?' and 'Where do you see yourself X years from now?'" she explains.

In the short term, insights gathered from these conversations can be powerful motivators and negotiation tools during the hiring process. Over the long term, they help foster positive employee experiences where individuals feel valued by organizations. For example, candidates who express interest in advancing their professional development through certifications, licensing, or upskilling will greatly value employers willing to provide those opportunities—and can make them more receptive to compromise on other elements such as salary and work arrangements.



3/ Don't be afraid to bring up salaries early on

Here's an all-too-common scenario: an organization is halfway through a lengthy interview process only to have the candidate pull back when they find out the salary does not match their expectations. "You shouldn't get to the contract signing stage and there's some objection from either side on the anticipated pay package," explains Vikki. "Back in the day, the rule was: don't talk salary until you've made the offer," she adds. "But things have changed and—while it may not be wise to share a specific number in the first interaction—discussing a range is not considered inappropriate anymore."

A big driver of this shift has been new regulations requiring employers to disclose salary ranges in job postings, which aim to promote transparency and help candidates make more informed decisions. This requirement has prompted organizations and employees to reassess their approach to salary discussions, encouraging more open communication from the outset.

Vikki encourages candidates and employers to have open and early conversations about what's important to them. "Whatever your deal breakers are, put them out there. Because you want to know as early as possible whether the other party is willing to meet them," adds Vikki. Elena also recommends making salary ranges part of your initial exploratory conversations. "Ask candidates their desired salary and how they came up with that number. This will eliminate a lot of unnecessary back and forth and help you learn more about how they view themselves and the value they bring to your organization."

4/ Prepare to negotiate more with candidates

“In the age of remote work and four-day work weeks, salary is generally the last thing people push back on,” explains Vikki. “Now, the main focus is on questions like ‘Where will I work?’, ‘How much time off will I get?’ and ‘How often do I have to be in the office?’” Consequently, organizations now have many more provisions to negotiate and incorporate into employment agreements.

Who negotiates and to what extent they do it has changed, too. Shifts in workplace dynamics, a heightened awareness of a potential employee’s market value, and economic factors are compelling entry-level talent to be more assertive when negotiating employment agreements. In the past, negotiations with entry-level candidates may have covered just a few points, such as salaries and expense reimbursements, but they may now include conversations on elements such as exit clauses and home office arrangements.

Vikki points out that one of the most significant changes in employment agreement negotiations in recent years is candidates requesting exit clauses in their offers. “Today’s dynamic job market means that employees don’t linger in roles for long, and organizations undergo frequent restructuring,” she adds. As a result, candidates now enter negotiations seeking greater certainty on what they can expect upon exit. Although it may feel awkward, Vikki believes that negotiating exit clauses upfront is highly beneficial for organizations. “First, it establishes clear expectations between the employer and the employee regarding the terms of separation. And second, it reduces the potential for misunderstandings or disputes later on,” she concludes.

With so much on the table, negotiations can feel overwhelming for both parties. To better manage complexity and avoid drawn-out negotiation processes, Vikki recommends HR professionals incorporate the following practices in their negotiation prep:

- Outline non-negotiable elements: Avoid turning the process into a power struggle with endless back and forth between candidates and decision-makers by agreeing with your team upfront on what your organization is willing to negotiate.
- Have a solid foundational contract: Create a source-of-truth for agreements outlining all non-negotiables and featuring a clause library for negotiable elements that your team can easily modify.
- Research contentious points: Identify which elements candidates are most likely to push back on and develop strategies to address them during negotiations.



5/ Streamline executive-level negotiations by outlining non-negotiables

When negotiating with candidates for more senior roles, additional considerations arise. From provisions on compensation, bonuses, confidentiality, non-compete, and non-solicitation, executive employment agreements are more complex and less standardized than those for employees at lower levels. According to Vikki, the more established the organization, the more these agreements change. “There’s so much to consider with these candidates that often what slows down the process is not the negotiation itself, but drafting the agreement.”

Elena adds that the highly negotiated nature of executive employment agreements can lead some candidates to believe that everything is up for discussion, prolonging the process and prompting excessive back-and-forth between HR and other decision-makers within the organization. Once again, to save time and maintain better control over the process, she recommends that HR departments agree on non-negotiables before starting conversations: “Define upfront which items you are not willing to concede and which ones you are willing to negotiate.”



6/ Be careful with non-compete clauses

One element both experts warn HR professionals should pay special attention to is non-compete clauses. “You really need to think through whether you need these provisions because they’re becoming increasingly disfavored and increasingly difficult to hold up in court,” explains Elena. She adds: “If you feel that you need them, do make sure that they are reasonable in limitation and in the time duration.”

Enforcing non-compete agreements can be complex and costly for organizations. Moreover, in a market where job hopping has become the norm, a restrictive non-compete provision can negatively impact a candidate’s willingness to accept a position for fear of career stagnation or legal repercussions.

Still, non-competes have their place in some instances. “If your company’s viability in the marketplace relies on safeguarding intellectual property, processes, or client lists from competitors, then you should have a non-compete clause,” shares Vikki. However, she acknowledges the pragmatic reality: “Do I think non-competes are important? Yes. Are they enforceable in the long run? Probably not.”



7/ Manage compliance and legal risks with expert support

With remote work blurring geographical boundaries, HR professionals face a new challenge: navigating an increasingly complex multi-jurisdictional web of labor laws. From negotiation processes to ongoing employment relationships, a fast-evolving legal landscape means the risk of unintentional non-compliance looms large. “I’ve seen some very well-intentioned HR professionals ask candidates what their current salary is without realizing that can be illegal in some jurisdictions,” points out Elena.

To effectively manage these risks, she advises HR teams to get input from labor attorneys when they draft the job posting. Beyond verifying the posting and ads comply with all applicable regulations, a labor attorney can be a trusted guide on the laws governing candidates’ employment based on their location and how it should be reflected in the employment agreement.



8/ Set a clear timeline— and stick to it

When talent pools are small, candidates are likelier to entertain offers from multiple employers. A lack of solid processes within an HR team can wreak havoc on negotiations and securing hires. “I see a lot of stalling and offers left on the table simply because organizations don’t have a consistent agreements process,” explains Vikki. “And the process is not just figuring out who writes the agreement, who approves it, or who sends it to the candidate—it’s also ensuring milestones, such as meetings, are met within a reasonable timeline.”

Elena adds that, ideally, organizations should know their time horizon for hiring before entering negotiations and communicate it to candidates. If the timeframe changes, it’s crucial to keep candidates informed to prevent frustration and minimize the risk of them withdrawing from the process. “Employee agreement negotiations play a crucial role in setting the tone for the future relationship between an employee and your organization,” she explains. “Keeping candidates on standby for weeks with no updates after multiple rounds of interviews sours that initial perception and may lead them to question your commitment.”



9/ Be transparent and incorporate flexibility into your agreements

“The truth is people are not as trusting of corporations as they used to be,” states Vikki. “And it’s up to HR professionals to build up and nurture candidates’ trust in their organization with a transparent and straightforward negotiation process.” To avoid problems down the line, she encourages organizations to take a “no surprises” approach and lay out all relevant information upfront—even if it means sacrificing leverage during negotiations.

Remote work provisions and return-to-office schemes are prime examples of the far-reaching consequences of a transparent negotiation process. “I’ve seen organizations offer perks such as remote work during the recruiting process only to start requiring employees to do more in-office days later on,” shares Elena. Another issue she encounters often is remote employees leaving the country and working from abroad under the impression that they can ‘work from anywhere.’ When HR departments step in to enforce policies, employees point to their agreements and push back, placing organizations in the uncomfortable position of figuring out creative workarounds to avoid breaching contracts and losing talent.

In addition to being transparent on the front end, Vikki suggests that HR teams always run things through legal counsel often and ensure they include clauses specifying that employees may be required to fulfill duties beyond their initial agreement. “Business needs are changing fast—and organizations need to ensure they incorporate sufficient flexibility into employment agreements to protect themselves and accommodate those changes,” she concludes.



10/ Consider the impact of your offer on your current employees

“It’s easy for overstretched HR professionals to fall into the trap of getting too enthusiastic about a candidate and be tempted to extend overly generous offers,” explains Elena. While this approach may result in a delighted new hire, she points out it could also spark internal conflict once other employees become aware of disparities in compensation packages. In addition to hurting morale, this practice can land employers in hot water, giving way to pay equity claims and other legal challenges.

Likewise, new pay transparency laws mandating employers to disclose salary ranges in job postings mean that many workers are discovering that new hires for their positions are being offered higher salaries than they currently earn. To mitigate potential conflicts, Elena recommends that HR teams preparing to recruit incorporate salary reviews for their entire team. “If you’re going to deviate from an initially planned offer, be prepared to review compensation for your entire team,” she warns. “Sometimes it may be wiser to pass on a candidate if hiring them could potentially harm the morale of an entire department.”

Create a hiring experience fit for today's dynamic labor market

“Right now, one of the best ways to earn candidates’ trust is by making the hiring process as simple as possible,” concludes Vikki. “On that end, DocuSign has been a game-changer because of the security, visibility, and ease it adds to the process.”

Discover how DocuSign for HR can help streamline your organization's employment agreement process [here](#).



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