**Withdrawal of a Job Offer**

**Overview:**

Sometimes a job offer must be withdrawn. It can be very upsetting to a surprised candidate. You should be able to document or articulate valid and nondiscriminatory reasons for withdrawing the job offer if later challenged.

**Discussion:**

There are many reasons an employer may need to withdraw a job offer. The most common reasons are new information that changes your evaluation of the candidate, such as falsification, negative information in a background check, positive test result in a post offer drug test, discovery that employment would be a violation of a valid non-compete agreement, or simply that the candidate has failed to respond to the job offer in a timely manner.

Another common reason for withdrawing a job offer is a change in business circumstances after the offer was made. The reasons for the change might be a downturn in demand for the company’s products or services, re-employment of the employee who recently held the role, or some unanticipated factor that now makes it unwise for the employer to fill the position with this candidate.

As a general rule, employers are not required to explain their decision to withdraw an offer. However, since a job offer was already made, the candidate will want to know a reason for the withdrawal. One approach is simply to explain to the candidate that new information has come up that changed your view of the candidate’s qualifications for the job. On the other hand, this explanation may seem vague and unsatisfactory to the candidate and cause the candidate to assume that your decision is somehow based on improper reasons.

For this reason, a better approach would be to provide a more detailed explanation of the final decision to the candidate to help the candidate understand your rationale. The detailed explanation should be factual, straightforward, and brief. There is no need to go into elaborate detail to justify the decision. It should simply articulate the legitimate, non-discriminatory, business-related reasons for the withdrawal. Therefore, although the candidate will not like the decision, at least the candidate will have a better understanding of it and be less likely to think that the action was for an improper reason.

Some employers choose to call the candidate and explain the need for the withdrawal. This is more personal and allows for some discussion. It takes a manager skilled in such conversations and a plan for the conversation, but likely will come across much better than a simple letter or email. Often, following the telephone call to the candidate, it is a good idea to send a very short confirming withdrawal of offer letter that starts off with the statement, “for the reasons you and I discussed on the telephone”. No matter how careful and prudent you handle this delicate situation, you should be aware that there is always a chance that the candidate may still perceive wrongdoing and bring legal action.

If the candidate has resigned from a current job to accept the job offer, the candidate may be more likely to consider legal action. In this case in particular, a telephone call or personal meeting with the candidate should precede the letter if the circumstances warrant, especially where the withdrawal is due to no fault of the candidate. If you anticipate a potential legal issue arising later involving the job offer withdrawal, seek out further guidance from your legal department or Catapult to determine what is right for your company

While it is not a call you may look forward to, do not delay the discussion. The longer the time between offer and withdrawal, the greater the chances there will be changes in the applicant’s life because of the offer. When you call, express regret and concern and tell them that you understand the impact that this may have on their current role. Explain that you have tried to reach out as quickly as possible to mitigate any harm.

Again, do not go into great detail to justify the decision. Simply state the legitimate, non-discriminatory, business-related reason for the withdrawal. End with a wish that the applicant is successful in his/her job search.

[Important Note: If you used a consumer reporting agency to conduct a background check and the reason to withdraw the job offer was based on information in part or whole in the report, make sure you comply with the federal Fair Credit Reporting Act (FCRA) before taking the adverse action instead of just sending a simple withdrawal of offer letter.]

Written by a Catapult Advisor.