

Associate Advancement and Client Dissatisfaction

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Is your firm aware of client dissatisfaction with the way your associates are developed and advanced? The signals of dissatisfaction are all around us, yet most firms just manage the symptoms, without restructuring their associate talent development model. Your firm can get ahead of this problem with a solution that leading firms have adopted – a “levels and promotion” system.

What are the signs of client dissatisfaction? One clear complaint from clients is that “We’re paying for first-year associates to be trained.” In frustration, many corporate counsel have simply banned first-year associates from appearing on any bill.

Another complaint is that associate billing rates go up each year according to the seniority of the associate. The client sees no connection between another year on the job and advanced competency. In other professional services organizations and the client’s company, advancement results from increased competency and promotion over one’s peers. Clients rightly complain, “Why are we paying a higher hourly rate for a fourth-year associate just because they are a year older?” This leads clients to demand a contradictory regulation of their bills: “Push work down to more junior associates.”

Selling the First-Year Associate

Instead of capitulating to client “bans” on first-year associates, firms can respond in two ways. One is to provide intensive training, at firm expense, in the summer program and the first three months of the associate’s full time job. Summer programs can improve what associates already do reasonably well – research and writing. What they lack are hands-on client assignments and intensive supervision. Leading firms also develop competency standards for legal analysis and writing. They provide one-on-one outside coaching for some. Firms like Skadden and Milbank demonstrate what can be done in the first year. They have external training programs, matched with firm assignments that bring first years “up to speed” more quickly in performing valuable tasks.

A second response is to develop data on the relative cost of a trained first year doing a legal task like “writing a diligence report,” compared to a second or third year. However, we need to know the average time and cost for that task at each level. Is it really true that a third year can perform a task in half the time of a trained first year? If firms can demonstrate that a competent result can be achieved on a task at a lower total rate, why should it matter that the first year spent 80% of the time on the task and a supervising third year spent 20% of the time?

Many clients are still not convinced – based mostly on anecdotal evidence. So they stick with the first-year ban. That's why firms that have upfront training and the data to support the cost of legal tasks have an advantage. They can sell the client on using a first year because of both competence and costs.

Levels and Promotion, not Just Seniority

Levels and promotions systems for associates have been around for about ten years, but they have not penetrated firms outside the AmLaw Top 50 to a great degree. Orrick was one of the first firms to adopt such a system, and despite “being different” when they go into the recruiting market, they have not retreated.

In brief, how do these talent-advancement systems work? First, they are based on competency more than seniority. Firms develop explicit competency statements and standards, both in broad legal skills (e.g., writing, communications, analysis) and in practices (e.g., facility with practice-specific documents). Associates are then evaluated according to competencies, not just years on the job. There are specific levels of advancement and one gets promoted at several levels of increased skill and knowledge. The promotion levels will sound familiar: Junior Associate to Midlevel Associate; Midlevel to Senior Associate; and sometimes Senior Associate to Counsel or Income Partner.

Why is this different from a seniority system? The difference is that the highly competent junior lawyers can advance faster, despite a lack of seniority. An associate with 2.5 years of experience can become a Midlevel. An associate with 5-6 years may become a Senior. And it cuts both ways. An associate who is not progressing through the competencies will be held back. So a third or fourth year might still be titled a Junior Associate and paid accordingly.

These systems take time and expertise to establish in the first place, and ongoing investment by the lawyers to evaluate and promote their lawyers. But when it comes time to raise the billing rates of their associates, leading firms have an answer that their corporate clients understand. “On July 1, Jill's billing rate will increase because she got a promotion to Midlevel Associate.” The firm will educate their clients on the competencies that Jill has attained and will celebrate her formal promotion. Clients see this type of advancement in other professional services and in their own backyards. They will be sold and the dissatisfaction irritant will go away. Beyond that, Jill's firm should have a competitive advantage.