

Don't touch that compensation system... yet!

Law firms struggling with partner compensation — which is to say, almost all firms — often blame the compensation system. But more often than not, the problem lies with the ways in which the compensation process plays out, including expectations of partner behavior and the communication of the process by which a figure is reached.

Law firms frequently call me to say they need help with their compensation system. Sometimes, they'll indicate that it's simply part of the strategic review. After peeling back the layers and determining what they really want, however, it is often apparent that the compensation system is just fine "as is." It is the deployment of the compensation process that can create unnecessary challenges.

In this article, I will explore why so many partners may be griping about a compensation system that, in fact, is just fine.

WHAT THE HECK IS THE COMPENSATION SYSTEM?

Unless the system is entirely formulaic and quantitative, requiring no human intervention (a rarity, to say the least), all too often there is a sense of mystery about what the compensation system is and how it is applied. Subjective factors are often listed somewhere, and in fairness, are usually properly considered. However, this is a well-kept secret from those affected by the system.



By Gerry Riskin

The result is that if you ask any individual partner to describe the compensation system, you will get a unique interpretation that will differ in some way from that of any other partner in the firm. This diversity of perception creates the fodder for unresolvable circuitous discussions (debates, really) about the compensation system.

HOW ARE COMPENSATION DECISIONS COMMUNICATED?

Typically, the compensation committee will spend countless hours poring through mountains of data and then engage in debate and discussion about what is fair, what behaviors the firm is trying to encourage or discourage, and how everyone else affected would feel about any particular decision.

After the committee completes this onerous (and typically thankless) task, the numbers are communicated to those affected without any detailed explanation. As a result, a partner receiving his or her "number" is left to speculate how the number was determined, usually attributing more to billable hours and receipts than the compensation committee did. This in turn leads to the conclusion that nothing really matters except numbers — or worse, even the numbers are not assessed uniformly or equitably, but rather are covered in a cloak of bias.

All this could have been avoided if the number had come with an explanation of the factors that affected that partner's compensation and how. The explanation need not be extremely specific, but it must at least touch on the factors that were considered most relevant in assessing that partner's number.

THE HIDDEN PROBLEM: WHAT'S THE PLOT?

Giving high-quality feedback to a partner regarding compensation requires that the partner know what the firm expects of her or him and the firm's assessment of how performance relates to those expectations. In most firms, those expectations are not clear in the first place, but that does not stop the compensation committee from considering what they ought to be in the compensation process.

If a partner is unaware of what the firm expects, communicating the dissonance between the expectations of the firm and the performance of the partner will fall on deaf ears. Perhaps instinctively knowing that, most compensation committees are reluctant to have the dissonance discussion at all.

So if we find the plot — that is, ensure the partners know what is expected of them, not just at compensation time but throughout the year — then the compensation committee can apply subjective factors with more confidence and communicate better to those affected. Communicating the outcome requires the following steps:

1. Preparation

At least two individuals from the compensation committee must agree upon the precise message that is to be delivered to each partner and create a bullet-point outline. The points must connect the deliberations of the compensation committee to the individual partner's plan and performance. This requires at least a consultation with the partner's practice group leader (if this is not already integrated into the compensation process).

2. The Meeting

Those two individuals and the partner should block off at least 30 minutes, even if the meeting takes only 10. The objective of this meeting is to deliver a clear message that contains encouragement and appreciation for the contributions of that partner and, if applicable, precise areas for improvement with a process to help the partner achieve it. That process might involve an internal or external coach, a course or program, or some other customized solution. The options should be discussed with the partner, who should participate in selecting what he or she believes to be the most effective potential path.

3. Follow-Up

The compensation process is endless. The process whereby partners receive feedback on their performance in the normal course of events must be integrated with the compensation committee's future deliberations.

WHAT IF THE COMPENSATION SYSTEM IS FLAWED?

There are cases where the firm's compensation system is not consistent with behaviors that the firm expects from its lawyers. There are many firms in which the lawyers will nevertheless tend toward the desired behaviors out of loyalty and respect for good leadership.

If, however, the dissonance between the compensation system and the desired behaviors is great enough, then it will be necessary to at least fine-tune the system, and significant changes might well be necessary. It is my hope that this article will discourage many firms from prematurely reaching the conclusion that the compensation system must be changed.

One last thought: Some of the finest firms in the world have secret systems in which no partner knows what any other partner earns. This process all but eliminates the jealousy and aggravation that comparisons can cause. I appreciate the challenge of getting the horses back in the barn; nevertheless, I think that senior management ought to consider the possibility of going to such a process if at all practical. •



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