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RE-EVALUATING EVALUATIONS

By Susan G. Manch

There has certainly been a lot of talk about associate evaluations this spring. Firms are saying that rigorous performance appraisals are behind associates being let go in seemingly greater numbers than usual. Associates are saying their evaluations are only being used as a ruse to cover layoffs needed to stabilize overstaffed firms. Both agree that evaluations got a bit tougher when salaries went up. As more firms move toward merit-based compensation systems, as they recognize mismatches made in their haste to hire laterals, and as the market continues to slow, the effectiveness of firm associate performance appraisal systems may come under careful review.

We all know that fair, timely, and consistent performance appraisal is critical to effective associate management, but few firms would say they are wholly pleased with their systems for providing that information to associates. Once, most firm evaluation forms looked pretty much the same. Today, a wide range of options exists to allow firms to tailor a performance appraisal approach that fits the developmental goals and philosophy of the firm. The key is to take the time to determine which type of evaluation system is right for your firm.

Step 1.

As with all decisions, you have to begin by determining your desired outcome. In some firms, the annual performance appraisal is simply a means of communicating senior attorneys' opinions of past work product and progress. In other firms, annual or biennial evaluations are used to determine base compensation or bonus allotments. In an increasing number of firms, the associate review process is an integral part of the overall plan for professional development.

Any or a combination of these objectives may work for your firm, but the key to efficiency is linking whatever form of associate evaluation system you choose with a comprehensive plan for attorney development. Most firms spend a lot of attorney time filling out forms, summarizing comments, and conducting evaluation interviews. Yet often that information ends up providing no benefit beyond the fifteen-minute associate interview. In order to get the greatest benefit from the time spent, it makes sense to use the information for more than just a, "*You're doing fine,*" meeting.

Step 2.

You may want to talk with the participants to see what they think about the system. The junior and senior attorneys who review and are reviewed probably know best what works well and not so well. This information-gathering phase should also include discussions with practice group leaders and professional development administrators to assess how well the current system fares under scrutiny. It is always eye opening to learn what little use is made of information that required many attorney hours and loads of administrative anguish.

From the feedback gathered assess how participant needs fit in with the firm objective set in step one. Most associates will tell you they want more and better feedback. Most partners will tell you they want to spend less time and have a simple form to fill out. Process administrators say they would just once enjoy not having to beg everyone to get their forms in on time.

Step 3.

Consider the available options. Many firms today are moving toward competency based evaluation systems. This approach measures performance against predetermined sets of skills, behaviors, and personal qualities that are tailored to the requirements of each specific practice area. Criteria for measurement are set by the practice group and broken down in evolving responsibilities. Many firms create as many as three levels of evaluation, focusing on attorneys in their first and second years, third through fifth years with the firm, and those more senior.

Firms who decide to stay with the traditional system of applying a standard set of criteria to all attorneys are taking a careful look at exactly what they are measuring. Often, they find that even criteria developed recently does not reflect characteristics necessary for success today. Firm practices have had to become fluid and flexible to meet swiftly changing client needs and interests. The firm profile of who is successful has to be just as flexible and should be reviewed and updated annually.

The most important aspect to review in existing systems is the way in which reviewers are asked to rank or rate performance on a scale or with a numerical value. Such subjective systems always involve a high level of grade inflation and junior attorneys become accustomed to everyone being “Outstanding” or “Above Average.” Heaven forbid even the most junior associate should be told he or she might need to better develop a skill or might be progressing as expected without superlatives. Think carefully about how ratings are used and what kind of information you actually hope to collect from them. You may find it more useful to toss the rankings and ask for commentary instead.

Step 3.

Decide how the system will work. Most associates are reviewed annually, although many firms offer more frequent evaluations of the newest associates in their first year. Typically, any senior attorney who has worked with an associate is asked to provide a review of that work and a practice group leader or committee develops a summary of the feedback to be presented to the associate. A few systems involve the use of an associate self-appraisal process and/or an upward appraisal process of supervising attorneys. Many systems offer associates and supervisors the opportunity to set goals for the next review period.

Beyond making a determination of what and who will be evaluated and by what means, additional issues for consideration include whether the associates will get copies of their evaluations, which attorneys should conduct the evaluation interviews, and how the information collected will be used. Some firms use review information in making merit-based salary or bonus decisions, many use accumulated information to aid in partnership decisions, and a few firms use the aggregate information in planning professional development efforts for the next year. If the system is changing radically, there may be a need to consider “grandfathering” a group of attorneys who might suffer under the new plan.

Step 4.

Plan for implementation of the new system. It is important not to rush the introduction of a new evaluation system. Once all the difficult policy decisions have been made and the system has been designed, all participants will need time to familiarize themselves with the new process. Firm meetings, training seminars for evaluators, and practice group meetings can help ensure that everyone understands his or her role and how the system works. Many firms are moving to an automated evaluation process that is available on the firm’s intranet. This can save attorneys hours of time and makes it easy to get supervisory comments from those attorneys constantly on travel. It can also provide the means to collect and sort the information in ways that may make it more useful to supervisors and professional development specialists.

It is very useful to put the associate performance appraisal policies and procedures in writing. It is then available for everyone to study and less subject to individual interpretation. New associates, both entry-level and laterals, should be provided information on the system in the orientation process.

The final step involves waiting to see how it works, then going back to the design phase to correct any missteps. You cannot assume that all will go smoothly the first time, but if everyone understands that the firm is trying to create a more effective and efficient process they should be willing to work through issues. Providing meaningful comment on performance remains the single most important means of ensuring both initial learning and retention of what has been learned. No firm can afford to waste time on any process that does not accomplish that simple goal.

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