

Avoiding Promotion Errors: Building in Safeguards Against Underperformance

By James D. Cotterman

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Promotion errors occur when a capable individual is elevated to a position where (s)he does not, and perhaps cannot, succeed. Law firms often struggle with the consequences of these errors for years, in the form of stalled non-equity and/or underproductive equity partners before finally resolving the issue often with removal from the firm. Avoiding the promotion error trap requires thinking as carefully about a new position's requirements as the firm typically does in assessing a candidate's past performance.

As decision makers consider candidates for advancement, much discussion centers around their individual historical performance metrics, their temperament and fit with the group and the like. But rarely is critical due diligence about how the lawyer is likely to function in the new role part of the calculus. Or if it is, the rigor and independence of judgment is insufficient.

For non-equity and equity partner positions, it is critical to articulate the full range of attributes that describe and illustrate what it means to be successful. Couple this with a considered assessment of the skills and competencies necessary for the partner of the future. Hopefully this begins a conversation that could save your firm significantly later on.

Let's tackle the essentials first. All partners are expected to make a significant contribution to revenue from practicing law. True historically, true now and true for the foreseeable future. The exceptions to this are quite limited. Is this expectation understood among the decision-makers and is it highly probable that this will be the outcome? Hint, if the candidate is not meeting the expectations for the new role already, (s)he will NOT get better later.

In addition, all partners must manage practices, lead their teams and interface with increasingly sophisticated purchasers of their services. Thus, today's partners not only need their teams to produce significant revenue, but to do so with an acceptable profit margin (or net contribution), coupled with high value, efficiency and effectiveness for the client. This idea of 'value' has become critically important for law firms over the last decade as clients have taken on a more active role in the provider-client relationship.ⁱ

Business development success is the single greatest differential between non-equity and equity partners. Equity partners are expected to keep their team busy and cross-sell others effectively. This results in 'rainmaker' status. Non-equity partners may not excel in making rain, but they can and should excel in building client relationships, managing client service portfolios, and growing client engagement with the firm. These alternative forms of business generation are important and essential skills.

When considering skills for the future put technology proficiency and the leveraging of AI technology in the delivery of legal services at the top of the list. Qualitatively, put leadership potential and demonstrated collaboration skills on the table as well.

Finally, ask if this candidate already is successfully handling the requirements of the new role, even without the imprimatur of the new title. Obviously, this is a best-case situation, one often seen in education and military models of employment and advancement in which candidates must demonstrate that they can consistently and successfully do the job before they get the job.

In the military there are regular formal education requirements, varied assignments/postings, and increasing levels of responsibility mapped out across a career. Ongoing formal training provides new skills and varied postings bring additional experience. Each year the individual is subjected to formal, rigorous and consequential evaluations. And while no system is perfect, due care is taken to ensure that a candidate 'has what it takes' to take on the increased challenges and responsibilities of the higher rank.

But holding off on promotions for this best-case scenario may very well cost a law firm in terms of increased turnover, possibly beyond what is deemed acceptable. Instead, candidates should be vetted for promotions with the same diligence typically reserved for new hires.

Organizations commonly vet new hires with role playing, rounds of interviews, group meetings, and standardized tests before extending an initial job offer. Take the promotion candidate through a similar process, not with the expectations of their current role, but with the expectations of the future role, just as you did with them as a potential new hire. This could map out where additional skills, competencies and contribution are required and better manage career expectations.

A thorough examination of what is required to be a successful partner can be found in further reading noted below.ⁱⁱ

Of all the decisions firm leaders make, people decisions may be the most consequential. A law firm's most valuable assets are its people. A firm is far better off when its team members are doing the jobs they are best suited for and in which they can be successful.

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End Notes

ⁱ Read this 2016 seminal paper by Casey Flaherty, *Unless You Ask - A Guide for Law Departments To Get More from External Relationships*. This paper sets forth the degree of specificity clients expect, while simultaneously providing a road map for all law firm partners to achieve some competitive differentiation by becoming adherents to this cause.

ⁱⁱ *What Is Expected from a Partner?* James D. Cotterman, Altman Weil, Inc. 2019.

What Are the Obligations of Partners? Thomas S. Clay, Altman Weil, Inc. 2012.