Evaluating and Compensating Firm Leaders

QUESTION:

My question is how to evaluate and compensate partners for their leadership work - - from the Managing Partner to Practice Group Leader to the Office Managing Partner, etc. As our firms have grown, the era of titular but ineffective and unaccountable leadership has passed and the jobs have become very time-consuming and demanding. Some practice groups can be the size that whole firms used to be. At the same time most leaders are also producing lawyers. Balancing these two roles and compensating them is a challenge.

RESPONSE:

The question addresses a challenge for law firms that implicates philosophical and practical considerations. There is general agreement with one of the premises of the question--the era of the title-holder has passed. The business world, including law firms, expects performance from everyone, especially from leaders.

It follows then that evaluation and compensation should be keyed to performance. Addressing first evaluation and compensation of the firm's leader, it is likely that the firm selected this person to lead because of her/his judgment, vision, communication skills, honesty, and fairness, among other traits that would have served the leader in her/his practice. The newly selected leader, therefore, probably will have been relatively highly compensated before taking on the firm leadership role. The leader's compensation should not be diminished by reason of the new leadership position. Although there is no hard and fast rule of thumb, the firm's leader should be expected to be among the most highly compensated partners, but probably not *the* most highly compensated.

For the firm leader's compensation to be credible, her/his performance must at least match her/his level of compensation. To achieve accountability, the firm leader should be expected to meet performance objectives to which the leader and the firm agree. In this connection, it would be desirable for the firm's leader and the firm's governing body (i.e. executive committee or board) to discuss the leader's objectives annually and for the governing body to conduct and communicate to the firm's leader an annual evaluation.

This process is much easier described than accomplished, because the leader in a law firm does not always possess the same measure of authority as a corporate CEO. Care should be taken, therefore, to identify objectives that the leader is capable of meeting. If the firm's leader meets or exceeds the agreed to objectives, her/his compensation should reflect that fact, and the contrary also should be true.

In some firms, the firm's leader maintains an active practice, and it is desirable for her/him to do so to maintain credibility as a practicing lawyer and to enhance the likelihood that the she/he can return to full-time practice after completing the leadership role. In these situations, the leader's compensation should reflect performance in the practice and leadership roles, and the evaluation and related compensation decision can assist the leader to strike the optimal balance between practice and leadership.

Evaluating and compensating practice group leaders presents similar but also somewhat different considerations. First, the practice group leader is likely to have a much more significant (based on time commitment) personal practice than the firm's leader. Second, the firm's partners might more readily recognize the necessity of compensating the firm's leader for her/his leadership role, but might be less willing to accord the same recognition to practice group leaders. Third, there often can be tension between the practice group leader's advancing her/his own practice and her/his support of the practice group.

If the firm really expects the practice group leader to lead the practice group toward enhanced performance, then the firm should evaluate and compensate the practice group leader based (at least in significant part) on the performance of the practice group. Indeed, every partner's compensation might well reflect consideration of the collective success of the practice group of which she/he is a member. Clearly, if the practice group leader's performance as a practice group leader meets expectations, her/his compensation should not suffer by reason of service as a practice group leader.

In some firms, effective practice group leaders are given billable-hour-equivalent "credit" for leadership time. This device is intended to encourage practice group leaders to spend the time necessary for the leadership role. There is a risk here, however, of valuing the "input," or the hours spent on leadership, rather than the outcome, or the performance of the practice group. In today's performance-driven environment, performance should be the guiding consideration.

Profitability is one of the performance factors on which the firm might evaluate its practice group leaders. Many law firms are moving toward profitability metrics for practice groups, and the existence of these data might invite their application in the evaluation of practice group leaders' performance. Indeed, some have suggested that the law firm allocate its profits to practice groups in proportion to their relative profitability and allow the practice group leaders to allocate the practice group's share of profits among the practice group's partners. This approach might hold superficial appeal, but there potentially are serious issues with it. First, calculating profitability in a law firm is far from precise. Second, many, many firms have abandoned formula-based compensation systems in the beliefs that subjective systems more fairly reward performance across a broad spectrum of contributions and that formulas are subject to manipulation. Third, there would be risk that competition among practice groups for larger shares of the profits pie could create "silos" that would inhibit collaboration across practice groups. While it would be desirable to accord significant weight to the practice group's performance in compensating the practice group's leader (and its partners), doing so through a formula-based allocation of the firm's profits probably would not be desirable in many law firms.

The overarching theme for the firm's leader and practice group leaders is that the firm should evaluate performance based on clearly stated and mutually understood performance criteria or objectives and compensate the leaders accordingly.

The LAB was formed as a resource to provide pragmatic advice to assist new managing partners with their critical burning issues and help them succeed. **The LAB** is comprised of the following distinguished current and former law firm leaders: Angelo Arcadipane (Dickstein Shapiro LLP); John Bouma (Snell & Wilmer LLP); Brian K. Burke (Baker & Daniels LLP); Ben F. Johnson, III (Alston & Bird LLP); John R. Sapp (Michael Best & Friedrich LLP); Keith B. Simmons (Bass Berry & Sims PLC); William J. Strickland (McGuire Woods LLP); Harry P. Trueheart, III (Nixon Peabody LLP); together with Patrick J. McKenna (Edge International).