

HR FEATURE HUMAN RESOURCES MANAGEMENT

Problem Partners

Help your firm leadership shift from underperformers to productive team members.

All firms have it. Firm leaders wish it would correct itself, but it won't. Underperforming partners are a pain point for many firms. As professional advocates, attorneys refrain from showing weakness. This exacerbates the problem, as underperformers avoid asking for help and firm leaders avoid addressing the issue. But in your role you can help your firm leadership step up and address these issues.



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The first step in the process is to understand why a partner begins to slip. For every individual attorney there is a unique reason and backstory for their issues. In your role, you can help uncover what is happening.

"It may be that the person was always an underperformer, but it had gone unrecognized due to the fact that others were bigger concerns," says John Harrity, Managing Partner of Harrity LLP. He further explains that there are levels of underperformance, and as the lowest performing attorney leaves, the next lowest performing attorney moves to the bottom of the list.

Thomas S. Tripodianos, Managing Partner of Welby, Brady & Greenblatt, LLP, also suggests the underperformance issues might stem from the attorney feeling as though management isn't invested in them. He adds that the obvious outcome is that they are not invested in the firm, so their productivity recedes.

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There is also another common culprit causing the problems: inability to change. "There are some folks who have embraced change, but there are the ones who are resistant," says Jack Greiner, Managing Partner of Graydon Law. "Their lack of change can impact client relationships, especially when it comes to retaining the client."

Erin Rhinehart, Co-Managing Partner at Faruki PLL, adds, "In my experience, partners (voting and nonvoting) underperform when business slows, skills fatigue, accountability is lacking, there are interpersonal issues among the partnership and leadership transitions."

No matter the reasons, there are generally three main categories for falling behind: situational issues, practice issues and age-related issues. Unfortunately, most firm leaders manage generically, says Gerry Riskin, Founder of law firm consultancy Edge International. "They apply a measurement to an entire class [of attorney] rather than looking at each person individually."

But it's important to understand what is happening with the individual underperformer to help them improve. A good place to begin is by helping your leadership identify which category the poor performers fall under by asking the right questions around the issues.

UNCOVERING THE UNDERPERFORMANCE REASONS

It's important to remember that people are unique. There is no one-size-fits-all approach. "From my perspective, successful performance is best viewed on a spectrum for all attorneys — not with a binary 'good/bad' lens," says Thomas Tupitza, President of Knox McLaughlin Gornall & Sennett, P.C.

Situational issues, which is the first category for falling behind, are events or changes to the partner's standard operating procedure. If the partner does not have a plan to address a situation, they can begin to flounder.

The COVID-19 pandemic is an extreme example of a situational issue that no one had a plan to address. It caused some practice areas to surge and others to fade. Therefore, underperformance might become an issue with attorneys who have always been productive.

Some other situational issues that might happen include:

- Loss of major client(s)
- Market driven change
- Firm standards increasing over time

Greiner also points out a partner might have trouble if a great client relationship they've had for a while goes away — they can find it hard to adapt. It's common when the general counsel changes and there is limited time to build a new relationship before work is transferred to another firm. To address situational concerns, guide the firm to offer proper support to help the attorney overcome whatever it is that has impacted their practice.

Practice issues can also arise when the partner fails to stay on top of their own career. They look up one day and realize they are not practicing in the area they want, they are not at the level in the firm they desire, or they see their area of practice is no longer needed. Harrity says an attorney may begin to underperform because they've lost interest in their job.

Some of the issues the partner could be facing include:

- Failure to reinvent skills
- Failure to progress

- Stalled out midcareer
- Lack of business development or client service mindset/skills
- Burnout
- Comfort/complacency

“Skill fatigue” might be the root of the issue, too, according to Rhinehart. “When a partner begins to handle the strategic parts of a case, they spend less time in [the] weeds. This might cause them to lose confidence in their own skills because they have not kept up to date.” Often firms create their own practice issues by promoting attorneys into partnership levels when they lack the drive or ability to be a productive partner.

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A trickier issue to address can be the ego and self-identity that drives many lawyers to stay in practice long after they should. It can be a barrier to proper succession planning for the firm, too. In fact, it’s reported that over 50% of partners in law firms are 55 or older.

Age-related issues are just as daunting to overcome as situational and practice issues. The following are a few to consider:

- Transition of client relationships
- Financial setbacks and recession stretching out retirements
- Ego preservation
- Life-driven changes

“Twenty-five years ago, the perception of what it meant to practice was different. Some partners either can’t retire or are reluctant to retire due to financial pressures,” says Riskin. His mantra for these scenarios is to “help them find their value.” He tries to guide attorneys toward another focus, such as a mediation practice, that requires a certain skill set that does not necessarily mature until someone has been in practice for a while. Riskin stresses that opportunities are still available to these partners beyond the firm’s walls.

When addressing issues that fall in the age-related realm, you must heighten everyone’s awareness not to cross the line with any discriminatory comments or actions. But having these conversations is important, especially when it comes to discussing next steps for the firm beyond the partner.

ADDRESSING THE ISSUE

Whether it’s caused by situational issues, practice issues and age-related issues, chronic underperformance can be a blow to a partner’s career. If they are not equipped to manage the problem, they can fall victim to a downward spiral. Without the firm’s support, training and guidance, partners who are suffering from any of the above might not know how to proceed. Help your firm leadership determine the root cause of the poor performance and then help the partner address it.

“A leader who thinks [financial] punishment is effective is delusional,” says Riskin. “The motivation is not money.”

Reduction in compensation is not a solution; countless management studies have proven this to be true. Regrettably, 90% of firms will reduce compensation to address the issue, and 39% will de-equitize the partner, according to Altman Weil’s 2019 Law Firms in Transitions Survey. Further, the survey reports that 61% will remove the partner from the firm in the end.

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It's time to shift firm leadership away from punishing and toward coaching. "When a lawyer who has a history of performing well slides into poor performance, you need to have candid discussions without being threatening or irritated," says Mickey Maher, Managing Partner of Hecht Solberg Robinson Goldberg & Bagley LLP. "Something has led to the poor performance, and it's the manager's role to get at the root cause and fashion a solution."

Your leadership might not know how to work with a poor performer, but you can coach them to be coaches. Before the managing partner or practice leader starts coaching, gather information from the offending attorney's colleagues, direct reports and, if appropriate, clients. Prepare financial data and a list of resources for the firm leader to refer to if necessary. The next critical step is to teach the firm leader how to effectively coach. The following will help you guide them:

1. Show the coaching partner how to be a good listener.
2. Ask the partner to help the underperformer look for ways to solve their own problems.
3. Have the coaching partner share resources.
4. Support the coaching partner in setting targets/goals with the underperformer.
5. Celebrate success.

It is difficult for some people to ask for help, especially attorneys. Your firm leaders want to help those they see in distress, but sometimes they lack the skills or experience to handle difficult conversations.

But you can support both the leaders and the underperformer during this stressful process.

Once an underperforming partner sees their progress, they will be motivated to put energy back into their practice and into the firm. It's a benevolent way to move your problem partners to productive partners.

About the Author

Sharon Meit Abrahams, EdD, is a legal talent expert who has coached hundreds of attorneys over the past 25 years some of which used to be underperformers. She coaches firm administrators on how to coach their own attorneys.

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