

Five Fundamentals for Successful Succession Planning

by
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US and Canadian Bar demographics indicate that 30% to 40% of actively practicing lawyers are at an age and stage where they are beginning to retire, phase down, or contemplate the end of their careers. A recent *Law Firms in Transition Survey* by Altman Weil found that partners of age 60 or older control at least one-quarter of total firm revenue in 63% of responding firms. The same survey also reported that only 31% of law firms have a formal succession planning process.

So therein lies the rub, the rock and the hard place: 30% to 40% of lawyers phasing down, many with management/leadership positions and huge practices — and no formal plans to capture the value of their relationships and experience for the firm's future.

Based on our experience working with law firms to develop and implement effective succession strategies, we see the following five best practices as fundamental building blocks for every law firm that does not currently have a formal succession planning process.

1. Do not wait for senior lawyers to volunteer for succession planning.

Some senior lawyers know succession planning is important and will voluntarily participate, but usually will do so only a year or two before a planned retirement — which is often too late for effective planning and execution. Many seniors will not come forward at all, for a variety of reasons. They want to keep their options open and they worry that if they act too soon they will become 'lame ducks' — irrelevant, with too little to do and in some instances disadvantaged in compensation. Those that come forward because they have a health issue are *per se* not coming forward at an optimal time.

Altman Weil's guideline

Begin succession planning at least five years before an anticipated retirement. This gives you time to transition clients, to fill any expertise gaps and to groom new leaders. Do not put it off — in the vast majority of law firms and individual situations, time is NOT going to make succession planning easier.

2. Develop a firm-wide succession strategy.

Even those lawyers who are receptive to the idea of succession planning are unlikely to follow through unless there are formal processes and procedures in place. Those that are not receptive

will use the absence of precedent or policy to resist — and frequently, they are the ones who most need to participate.

In the absence of a firm-wide plan, anyone who is resistant will raise procedural objections: “*Why are you talking with me? I just had my fourth best year!*” Or: “*Why aren’t you down in Bill Smith’s office? He has been semi-retired for at least a year now; he just hasn’t told anybody!*” Or: “*This is out of the blue—I’m only 63!*” “*—I’m only 68!*” “*—I’m only 73!*” “*My mentor/father/uncle practiced until he was 78!*”

Altman Weil's guideline

Establish a firm-wide understanding among all lawyers that, starting at an agreed-upon point, everyone will be asked to collaborate in a succession or transition planning process. Without this foundational element, the firm will likely have inconsistent and sporadic succession planning with anemic follow up. Trying to initiate individual succession plans on an *ad hoc* basis nearly always produces *ad hoc* results.

3. Focus on client transitions.

With the size of many senior lawyers’ client bases and the breadth and depth of their client relationships, successful client transitions are critical.

The five-year standard is particularly important for effective transition of most clients. But this is the area where the firm will likely face the most push-back from senior lawyers, who may have legitimate concerns about compensation systems that continue to reward higher production over client transition, de-stabilizing long-held client relationships, or an inadequate pipeline of skilled and trusted lawyers to hand clients off to.

Altman Weil's guideline

Begin strategizing as early as possible. In the first year of transition start to introduce the next-up lawyers to clients, have them interact meaningfully with client decision-makers, find realistic venues and opportunities for clients to communicate, interact and then work with designated successor lawyer/s. By beginning the full five years in advance, the senior lawyer can meaningfully assure the clients that he/she is still onsite and active, able to supervise, mentor and, if need be, troubleshoot legal work and client communication. Finally, by allowing five years, if a planned transition is not working or is developing a 'chemistry problem,' there is time for the firm to re-boot.

4. Make an ongoing commitment to training and mentoring the successor generation.

Although successful client transitions require a commitment to the next generation of relationship managers, many law firms defer training and mentoring.

Developing a plan to transition and retain clients stands a much better chance of success when the firm's more senior lawyers have been routinely training, mentoring, supervising work and sharing work with their colleagues and next-up lawyers. Perhaps even more important, the clients are much more likely to know the successor lawyers in a team environment than in a firm where the senior lawyer has been responsible for all major interactions and delegation occurs behind the scenes.

Altman Weil's guideline

Team-oriented firms will have a substantial advantage in developing meaningful succession plans, following through on those plans, and achieving success. Such firms also are inherently more amenable to training, developing and promoting younger lawyers into firm and practice management positions, rather than hoarding power among a senior or founder generation. Teamwork provides a tailwind for succession planning.

5. Assess the impact of your compensation system.

If the law firm's compensation system disadvantages transitioning lawyers, the ranks of senior lawyers willing to participate in succession planning will be much thinner, likely less committed, and more likely to choose the shortest possible timeframe for the succession process. This is just human nature — compensation is still a real need for many and a scorecard for many more.

Altman Weil's guideline

Since law firm compensation systems, their administration, and each law firm context may vary significantly, the following guidelines are based on experience and are meaningful; however, specifics and levels of applicability, will vary from firm to firm.

As a law firm develops its succession strategy, it is critical to objectively assess whether the firm's partner/owner compensation system is, or is not, an obstacle to effective succession. If a group or committee has been chartered to develop a Succession Plan, its charter might well include providing an objective assessment of the compensation system's relevance to, and projected impacts on, effective succession planning, transition of clients and phasing down lawyers' production. Alternatively, a firm's standing compensation entity, typically the Executive Committee or Compensation Committee, can assume responsibility to objectively review and determine if any obstacles exist, and if yes, what particular aspect(s) of the system represent outright, or *potential*, obstacle(s)?

If a firm's compensation system for its owners is more subjective than formulaic, the system *might* be properly characterized as having **potential** obstacles to successful transitions. In other words, a firm with subjective criteria applying to individual partner performance might be in a position to alter its criteria to match goals for successful transitioning of clients and practices, while retaining the standard partner system's focus on rewarding individual production and business development. As with subjective law firm compensation criteria in general, the subjective compensation firm should strive to establish criteria that are clear and clearly communicated. Use of examples and illustrations can augment criteria and help to model constructive phase-down actions and behaviors.

"Objective" or formulaic owner compensation systems, often provide incentives and rewards based on, or linked to, working attorney production in collections, or (less often) billings or billable hours. Formulaic systems that are primarily linked to individual production, client management and origination benchmarks are likely to represent outright obstacles to transitioning legal work — by delegating legal work to others, seniors' compensation will be reduced, tied to reduced client work/collections, client management collections and, sometimes, origination collections/credits.

The formulaic firm can potentially offset, or outweigh, the formulaic system's obstacles to succession planning, by directly changing the compensation system as is applies during phase down and, sometimes, in the years approaching phase-down. There might also be indirect solutions, or partial solutions, available through a law firm's retirement policy, ownership criteria and standards and senior counsel compensation, that a firm should definitely review, in concert with its review of its compensation system incentives, rewards, disincentives and penalties, and as part of its Succession Plan or Program.

In Conclusion

The breadth and sheer size of the wave of baby boomer transitions are having unprecedented impacts on individual law firms. For law firms facing even average levels of transition, that have not developed an adequate response, ***time marching on is not on your side***. In this era of major generational transition, it is not hyperbole to state that some firms will survive the transition of its baby boomers and become stronger, with more market share — while other law firms will become weaker, losing clients and economic strength.

It is critical for law firms identifying significant transitions in their future, ***to draw a line in the sand, and develop a firm-wide, thoughtful Succession Plan or Program***.

A law firm's Succession Plan needs to focus on the seniors and develop plans that ideally match their horizons, their clients' needs and includes their collaborative follow through. The ongoing planning process and other firm priorities should prepare its next generations of lawyers to assume increased responsibility. Throughout, anticipation of, and focus on the successful transitioning of clients should be paramount.

Last but not least, law firm leadership must determine whether existing compensation systems' incentives, rewards, disincentives and penalties will hinder, or represent obstacles to effective transitions, and if yes, how to offset or outweigh the obstacles through direct changes or "carve-outs" to the compensation system, or through the combined weight of other firm systems, combined with the firm's Succession Plan.

About the Author

Alan R. Olson is a principal of Altman Weil, Inc., serving clients from the firm's Midwest office in Milwaukee, Wisconsin. For over twenty-five years, he has advised law firms across the country on strategic planning and practice management.

Mr. Olson is a thought-leader in the discipline of succession planning for law firms, including leadership and management transitions, practice transitions, compensation systems and key client retention strategies.

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