



PROGRAM MATERIALS

Program #30108

May 13, 2020

Coaching Underperforming Partners into Productive Partners

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Coaching Underperforming Partners into Productive Partners

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- President, Legal Talent Advisors
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 - Law Firm Events
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 - Law Schools
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 - 3 books
 - 100+ articles
- Coach
 - Underperforming partners
 - Business development success
 - Finding fulfillment in the practice



Denise D. Lehr, Esq

Denise D. Lehr serves as the Director of Professional Development and Compliance at Kelley Kronenberg. In this role, Denise creates and facilitates educational programs, with a focus on the growth and advancement of the firms' attorneys. In addition, she provides mentoring, coaching, and performance management strategies to help department leaders and their associates improve productivity and profitability.

Polling Question #1

How many of you have at least one partner you would classify as an underperformer?

- A. At least one
- B. I know of two or three
- C. Yikes, we need to address this!

Quick List

Write down 3 names

Overview

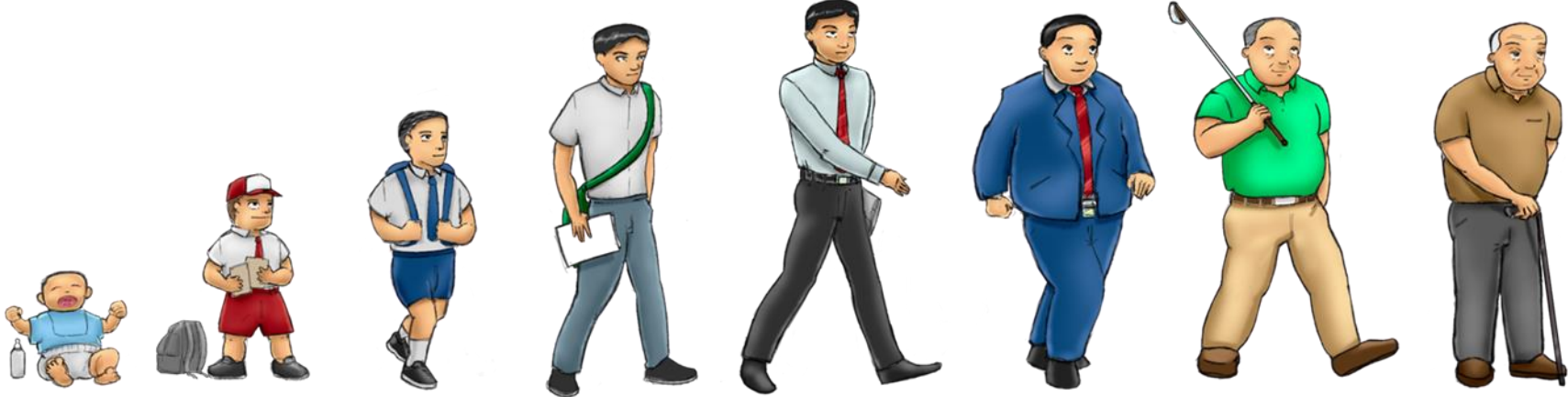
- What is Underperformance?
- The Cost to the Firm
- Bias Against Underperformers
- Partner Expectations
- Reasons for Underperformance
- Coaching the Underperformer
- What if Nothing Works?

First Things First



First you have to ask what it is that makes you say this partner is an underperformer? Are they missing deadlines? Not billing enough hours? Failing to act in the best interest of the firm or of the client?

Underperformance Happens



Poor Firm Practices

- Standards based on financial performance with other contributions under-valued or ignored.
- Underperformance tolerated by firm leaders for long periods of time.
- Attorney should have never been made an equity partner in the first place.

All Too Common

84.2% of firm leaders said they have “**chronically underperforming lawyers**”

Source: Altman Weil Law Firms in Transition Survey 2019

When asked why?

- **83%** identified **weak business development** skills
- **53%** said flat or declining **market demand**

Source: Altman Weil Law Firms in Transition Survey 2018

Cost to the Firm

- Lost work
- Client confidence declines
- Lower staff morale
- Tense partner relationships
- Undermines the firm value/culture
- Lack of promotion to others

Bias Against Underperformers

- Assumptions are made about the partner
- Lack of communication with the partner
- Partner not included in work opportunities
- Negative comments shared about the partner

Underperformance Examples

- Bills less than expected hours at his level of the partnership.
- Fails to manage engagements that are profitable
- Fails to follow to financial guidelines
- Fails to manage projects or priorities adequately or cost effectively
- Fails to leverage work to an agreed level

Start with Your Firm's Expectations

- Do all the partners know what it means to be a partner in your firm?
- How do they know this?
- Do you discuss it at partner meetings, or have it written down in an owner's manual?

It's hard to hold partners accountable to an intangible idea of what it means to be a partner.

Polling Question #2

Has your firm written down and shared partner expectations with the partners?

- A. They are not written down.
- B. They are written down, but not shared.
- C. They are written down and shared occasionally.
- D. They are written and referred to often.

Common Partnership Expectations

- Hours
- Business development
- Case/matter/team management
- Practice/department/office leadership
- Firm leadership roles
- Civic/association involvement
- Collegiality

Gray-area Considerations

- What about a partner who has a leadership role, yet their hours have slipped?
- What about the service partner who bills a good amount, but doesn't step up when asked to do more for the firm?

Each firm needs to qualify what it means to perform as partner before identifying who is an underperformer.

What Makes a Good Partner?

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

- ABA Model Rule 1.1

Good Partner?

- It can't just be s/he is a “good lawyer”
- Professional/personal characteristics of an “owner”
- Must hold partners to an evolving set of standards

Partnership is NOT tenure

Quick List

Write down 3 names.

Do they know why they are underperforming?

Underperformance in 3 flavors



Situational Issues

Events or changes to the partner's standard operating procedure. If the partner does not have a plan to address a certain situation that may come up, they can begin to flounder. Some situational issues that might happen are:

- Loss of major client(s)
- Market driven change
- Standards increasing over time
- Change in life circumstances

Practice Issues

When the partner fails to stay on top of their own career. They are not practicing in the area they want. They are not at the level in the firm that they desire, or they see their area of practice as no longer vital. These are a few practice issues:

- Failure to reinvent skills
- Failure to progress
- Lack of BD or client service mindset/skills
- Burnout
- Comfort

Age-Related Issues

- Statistics show that **50% of partners** in law firms are **55 years of age or older**, but with ego and self-identity driving many partners to stay in their **practice longer**, their age-related issues will affect firms.
- The age-related issues are just as daunting to overcome as situational and practice issues. The following are a few to consider:

Age-Related Issues

- Naturally slowing down
- Transition of client relationships
- Financial setbacks and recession stretching out retirements
- Ego preservation
- Timelines/phase down
- Life driven changes
 - Personal illness
 - Family issues or illness
 - Other

Medical Causes

DO NOT INQUIRE

- Stay away from diagnosing the partner
- Do not ask if the partner is depressed or anxious, or suffers from any other potential medical condition
- No legal obligations to ask such questions
- May trigger legal obligations under FMLA or ADA

Quick List

Write down 3 names.

Do they know why they are underperforming?

Can the cause be identified?

What kind of lawyers do you have?

A bunch of these?



Or are they looking for this?



Polling Question # 3

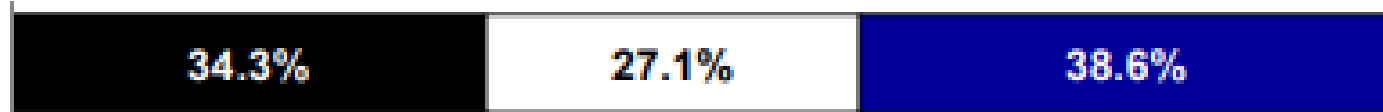
What kind of lawyers do you have?

- A. They'll stay until they drop or get tossed out.
- B. They are looking to leave but need help doing so.

How Firms are Handling This

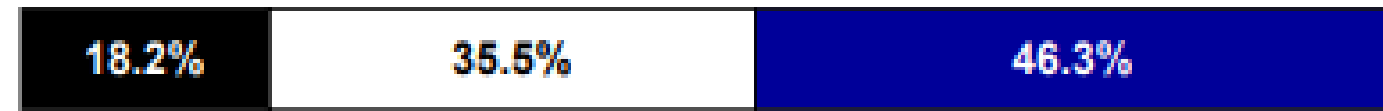
90% Reduce compensation

Reducing compensation



39% De-equitize

De-equitizing full partners



61% Remove the partner from the Firm

Removing chronic under-performers from the firm



Source: Law Firms in Transition Survey 2018

Ways YOU can help Underperformers.

There are two sides here...



Are **you** going to coach the
partner?

Or

Are you going to help **someone**
else be their coach?

Prepare to Coach

- Identifying causes
- Gather data
- Know the firm's expectations
- Identify resources
- Take emotions out



Start with Identifying Causes

Do you think the problem is:

- A. Situational
- B. Practice
- C. Age-Related
- D. A combination of A, B and/or C

Determining the Root Cause is Critical

Gather Data

- Start with talking to others about what they see and hear
- Make inquiries with clients
- Keep notes on what you learn
- Review previous treatment of underperformers

Quality legal service is the goal.

Know the Firm's Expectations

- Read all documents that outline expected behaviors of partners
- Talk to leadership about their expectations
- Discover urban myths that exist in your firm

Identify Resources

- Skills and training options
- Business development support available
- Employee assistance program
- Mental health coverage through insurance plan
- Lawyer Assistance Program
- List of vetted executive coaches

Take Emotions Out

- Stay focused on the goal...don't get sidetracked
- Stay calm, bring the person back to the topic
- Be specific on what behavior needs to happen or change
- Stay factual....don't use absolutes “always, never...”
- Don't be a “should” person

This might be a friend so it could be difficult.

Good Coaching

- Be a good listener
- Ask partner to share the issues/concerns
- Ask partner to look for ways to solve their own problems
- Help partner set targets/goals
- Set deadlines
- Hold partner accountable

Be a good listener

- The coaching relationship starts with listening to the partner.
- The partner may feel attacked or wrongfully identified as an underperformer, especially if they have not been receiving feedback on a regular basis.
- Explain the firm's point of view.
- Listen to the partner's explanation of his or her performance.
- Take notes so you can address their points one by one.

Ask the Partner to Share Concerns

- Possibility partner is relieved to be called out
- He or she is aware that things have been slipping
- Uncomfortable bringing it to anyone's attention.
- Ask questions that will help to identify which category of underperformance
- It is possible that it's a combination of all three.
- Extract as much information as possible.

Ask Partner to Solve Their Problem

Brainstorm ideas with the partner

- Situational issues:
 - new business plans
 - more effort to grow current clients
- Practice issues
 - Attend continuing legal education programs
 - Learn new practice areas,
 - Attend well-being sessions to lessen burnout.
- Age-related issues
 - More delicate, may end with a decision to leave

Help Partner Set Goals

SMART as a framework for goal setting.

S – Specific: The goal should be a specific task, activity, or achievement. Do not use words like “better” or “improve”, as these are hard to quantify.

M – Measurable: The goal must be measurable, like an increase in hours billed or an amount of business development that will be conducted each month.

A – Attainable: The goal should be realistic enough to reach, but not so low that it’s not really a goal.

R – Result-oriented: The goal is set with the intention that there will be a positive outcome for the effort to achieve it.

T – Timeframe: The goal must have a deadline attached to it, otherwise there is no sense of urgency to make any changes.

Hold Partners Accountable

- Reversing underperformance hinges on the assumption that the partner will do what has been asked of him or her.
- Some partners will try to fly under the radar if they think no one will hold them accountable

Hopefully Coaching is . . .



Quick List

Write down 3 names.

Do they know why they are underperforming?

Can the cause be identified?

Will coaching work for this partner?

Performance Improvement

- Deliberate and organized with firm management approval
- Should involve the individual, they need to understand their situation
- Subject to individualized planning
- Personal accountability, timelines and feedback
- Individualized investment is warranted with coaching and other assistance as needed

Developing a Performance Plan



- Must be a written document
- Include timelines/deadlines
- Determine what does success look like
- If they haven't brought in business, what have they done for the firm?
- Outline the consequences

See Attached Sample Plan

Quick List

Write down 3 names.

Do they know why they are underperforming?

Can the cause be identified?

Will coaching work for this partner?

What if there is no improvement?

What if Nothing Works?

- Support from firm management
- Be prepared with separation agreements/etc.
- Difficulties in terminating a partner - partnership votes/etc.
- Documentation is important
- Not all partnership agreements outline criteria for performance issues, if you're going to kick someone out - have stuff to prove it

What if Nothing Works?

- Support from firm management
- Be prepared with separation agreements/etc.
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- Not all partnership agreements outline criteria for performance issues, if you're going to kick someone out - have stuff to prove it

Income/Non-Equity/Contract Partner

Terminate as you would any other at-will employee.

Equity Partner Terminations

- Every Partnership agreement is different
- Not easy to terminate an equity partner
- Usually requires a process and a vote
- Partner might be entitled to compensation
- Read your partnership agreement

**We need to help them
recognize when its...**





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SPEAKER · AUTHOR · ADVISOR

Help your **PEOPLE**
Improve their **PERFORMANCE**
Lead them to higher **PRODUCTIVITY**
And increased **PROFITABILITY**

Resources

Expelling Law Firm Partners, Douglas R. Richmond, Cleveland State Law Review Law Journals 2009

From Problem Partner to Productive Partner: Helping Your Law Firms' Underperformers, Sharon Meit Abrahams, Thomson Reuters 2019

How To Deal With An Underperforming Partner, Kalman Shiner, Mondaq 2018

Law Firms in Transition, Altman Weil Flash Survey 2019

Law Firms in Transition Survey Altman Weil 2018

The keys to motivating, developing and managing your firm's lawyers, American Bar Association 2019