

The Impact on Diversity of Moving from Lock-Step to Competency-Based Compensation

May 25, 2010

Ten years ago, Blackwell Sanders developed a performance based system for evaluation to replace the traditional lock-step. As law firms innovate to meet the needs of clients in current economic conditions, over half of the top 50 firms in the Am Law 100 state that they plan to move from a lock-step system to a performance based evaluation model, including early adopters such as Howrey, Orrick and DLA Piper.

Competency-based models tie compensation to performance and some tie billing rates to compensation. When implemented successfully, these systems can provide much more transparency into the partnership advancement process by providing associates with concrete feedback on a regular basis. When billable rates are tied to increased compensation, there is more incentive for firms to invest in associate skill building practices. These systems can empower attorneys to create and proactively manage the development of their careers, potentially resulting in a positive impact on employee engagement as well as increased retention. The impact on many female attorneys who seek to ramp down/up their careers around personal needs can be tremendous because of the increased transparency.

As firms implement new performance based models, they will be well served to carefully create competency based compensation systems that are fair across diverse attorney populations. The same principles that are applied to eliminating bias from other firm processes, e.g., hiring, work flow distribution, etc., can be applied to competency based evaluation. For example, decision-making committees can be constructed to represent the diversity of the attorney population. These committees can also be equipped with diversity data in order to understand potential areas of concerns and overall diversity objectives. Leadership of the evaluation process by those who are close to the process and the appropriate levels of accountability including diversity objectives are also critical to the fair administration of a new system. Finally, attorneys can be asked for their anonymous feedback on the existing system to create a baseline understanding of the fairness of lock-step. They can be regularly surveyed thereafter to monitor their feedback on a new competency based system, thus creating an effective measure of fair administration.

This research brief includes links in reverse chronological order to recent articles, research, and course materials relevant to effectively managing the impact on diverse attorneys when moving from lock-step to a competency based compensation system. Some highlights from industry experts include the following:

- According to the 2009 study entitled "Report of the Fourth Annual National Survey on Retention and Promotion of Women in Law," the lock-step compensation system has resulted in small gender pay gaps at junior levels but increasing gender disparity at more senior levels.
- According to a 2008 *New York Law Journal*, Peter Sloan, a partner at Husch Blackwell Sanders and author of "From Classes to Competencies, Lockstep to Levels," says that competency based models can increase the transparency of partnership decisions as well as associated accountability. Because the Blackwell Sanders system ties compensation to billable rates, there is shared incentive between associates and the firm to develop associates, making training, mentoring and coaching important investments rather than expensive cost centers. At Blackwell Sanders, which was the first to move away from lockstep in 2000, turnover dropped from 30 percent before the new system to 14 percent in 2004, and it has been relatively flat since then with turnover of women leveling at 10 percent (lower than men in 2005 and 2006).
- According to a 2009 *New York Law Journal* article by Larry Richard, who heads the leadership and organizational development practice at Hildebrandt, firms need to fully understand the competency based model and carefully manage the transition because of its impact on employee morale and engagement. As the system requires more active decision-making about compensation and promotion decisions, the system needs to appear fair and accurate in order to motivate associates. Outcomes that are designed to be measureable will be most successful.
- According to the 2010 study entitled "Survey of Women Partners on Law Firm Compensation," conducted by MCCA and PAR, the representation of diverse attorneys in compensation and relevant management committees can help to bring diversity considerations to the decision-making process.

Research Study Reports on Compensation Challenges Faced by Women Partners in Large Law Firms

MCCA, April 2010

<http://www.mcca.com/index.cfm?fuseaction=Feature.showFeature&FeatureID=141&pageId=4>

A recent study, "Survey of Women Partners on Law Firm Compensation," conducted by MCCA and the Project for Attorney Retention reveals the perspectives of women partners on the issue of compensation. Primarily coming from firms with point or levels compensation systems, survey respondents state that promotion to equity partner depends largely on revenue generation. However, the study reveals that women partners feel they do not receive their deserved credit as compensation decisions are mainly made by committees which lack females and minorities.

Seyfarth Shaw plans to link merit pay and billing rates for associates

Lynne Marek, *The National Law Journal*, 02/24/2010

<http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202444464787>

Reflecting the growing movement from lockstep to merit-based compensation, Seyfarth Shaw now has a levels associate compensation system which consists of three levels, each with three additional sub-levels. Movement begins after an associate's first year in service and depends on his or her ability to satisfy eleven competency components selected by the firm. This new system specifically establishes a linkage between associate competency and billing rates as the levels determine the price clients pay.

DLA Piper to Abandon Lockstep Under New Associate Compensation Plan

Leigh Jones, *The National Law Journal*, 12/09/2009

<http://www.law.com/jsp/article.jsp?id=1202436180557>

DLA Piper has abandoned lockstep for a new performance-based associate compensation system which has been effective since January 1, 2010. Emphasis is given to the "value added" to client service and the firm, rather than billed hours or years of experience. With the claim that the move does not reduce spending on associate compensation, the new system consists of three compensation levels – the same number of levels established by Orrick, Herrington & Sutcliffe which earlier switched from lockstep compensation to a levels system.

The Shifting Associate Paradigm

Dan DiPietro, Lisa Keyes, Laura Saklad, *The American Lawyer*, 11/17/2009

<http://www.law.com/jsp/PubArticle.jsp?id=1202435524399>

The transition from lockstep compensation to a performance-based system requires careful preparation such as establishing a multifaceted evaluation mechanism and reassessing work distribution to include an attorney's goals and skills. While abandoning lockstep may be laborious, in the current economic climate, it offers clients billing rates reflective of associates' competence and motivates attorneys to work harder to advance.

The Issues in Moving From Law Firm Lockstep to 'Levels' Compensation

Larry Richard, *New York Law Journal*, 11/06/2009

<http://www.law.com/jsp/law/careercenter/lawArticleCareerCenter.jsp?id=1202435219939>

Moving away from lockstep compensation demands significant time, effort, and leadership. Because of the risk involving attorney morale and motivation, the transition to a levels compensation system must come with well-designed changes in evaluation, competency identification, and training. A committed and diligent management is a must to ensure a successful move towards a levels system.

Report of the Fourth Annual National Survey on Retention and Promotion of Women in Law

National Association of Women Lawyers and the NAWL Foundation, October 2009

<http://www.nawl.org/Assets/Documents/2009+Survey.pdf>

Given its prominence as an industry norm, the lockstep compensation system has provided a small income gap between male and female attorneys in the early years of their careers. However, at increasingly senior levels, such a gap becomes a large disparity as the men and women develop their legal careers in different ways and at different pace.

Leaving Lockstep: Moving Toward Competency-Based Compensation

NALP/ALI-ABA, Webinar, Original broadcast on 07/21/2009

http://www.ali-aba.org/index.cfm?fuseaction=courses.course&course_code=RWRM01

This webinar analyzes whether it is time to abandon lockstep for a merit-based system by assessing the reasons for the transition, focusing on issues of implementation, and evaluating the experiences of the process.

Law Firms Create New Models for Diversity

Melissa McClenaghan Martin, *New York Law Journal*, 07/31/2008

<http://www.law.com/jsp/law/careercenter/lawArticleCareerCenter.jsp?id=1202423389860>

The move away from lockstep is seen as an investment in associate development as alternative systems such as levels or merit-based compensation provide thorough evaluation, monitoring, and training. In the case of Blackwell Sanders which switched to a levels system in 2000, women were retained as the system gave an option to associates to define their pace in career development. The case study can be purchased at <http://www.blackwellsanders.com/pdf/locksteptolevels.pdf>.

Lockstep Compensation. Does it Still Merit Consideration?

James D. Cotterman, *Law Practice Today*, August 2007

<http://www.abanet.org/lpm/lpt/articles/fin08071.shtml>

Although several notable firms have moved away from lockstep, the system itself can still be acceptable given some modification. Revisions include advancing lawyers earlier in their career, providing flexibility for leadership to intervene in partner's progress in lockstep, and inserting a merit-based program into lockstep. This article provides additional suggestions on how to modify lockstep.

Howrey to Ditch Lockstep Compensation for Merit-Based Model

Zusha Elinson, *The Recorder*, 06/29/2007

<http://www.law.com/jsp/law/careercenter/lawArticleCareerCenter.jsp?id=900005556017>

In June 2007, prior to the economic crisis and the trend towards merit-based compensation that followed it, Howrey decided to abandon lockstep for a system aimed to reward hard workers and justify billing rates to clients. In addition to the evaluations set in place to assess competency, each associate was paired with a partner responsible for his or her growth. Given the contrast to the industry status quo, the move was seen as unnecessarily troublesome.