

## [ COMMENTARY ]

# DROP LOCK STEP FOR PERFORMANCE-BASED COMPENSATION

by STACY HUMPHRIES AND VIVIAN MORA

**I**n the large-firm world nothing seemed certain except lock-step associate compensation — until now. Once famously resistant to change, large firms in increasing numbers are abandoning lock-step compensation for performance-based systems. In fact, according to a Feb. 1 article in *Texas Lawyer* affiliate *The American Lawyer*, “Paying the Merit-Based Piper,” as many as 30 AmLaw 200 firms have dropped their lock-step system so far, and many more have announced that they are considering performance-based alternatives. There is inevitability to this evolution, which will alter the way many Texas firms compensate their lawyers. With radical change comes a great opportunity.

A lock-step compensation system rewards associates primarily based upon their years of experience. All new associates enter the firm at the same pay rate as their peers; year after year their compensation rates move up step-by-step. This is essentially an entitlement system, where lawyers assume they deserve a pay increase simply because the firms still employ them.

The lock-step model has some benefits. It supports a single firm culture, minimizes internal competition, offers transparency and requires minimal administration. On the flip side, a lock-step system creates little accountability, discourages flexibility for reduced-hours schedules, reduces motivation for star performers and angers clients who feel exploited by automatic annual billing rate increases.

For years large firms have ignored the fact that lock-step compensation is practically unheard of in corporate America, where compensation long has been linked to individual and company performance. These systems set performance as the most significant factor



in whether and what level of a pay increase an employee receives. There are no guarantees, and individuals in the same position have the potential to be compensated differently.

Pay-for-performance structures permit companies to compensate top performers well above average and to provide cost-of-living adjustments or no increase at all for below-average performers. Beyond putting incentives in place for top associates, a performance-based system should provide firms more flexibility, inform associates about the skills they need in order to advance, and address clients' requests for greater correlation between billing rates and skills.

While many firm leaders acknowledge the benefits of adopting a performance-based system, they are paralyzed by the overwhelming challenge of designing and implementing an entirely new compensation model. Scrapping the lock-step model will affect staffing, evaluation and professional development practices at firms, and this much change requires hard work.

Moreover, restructuring a firm's compensation system will impact the firm's culture — its shared values and beliefs. Cultural changes that require employees to change the way they do things are particularly difficult to accomplish in large organizations. Without specific

law students and laterals relied heavily on perceived differences when considering firms. Now, varied compensation models will permit firms to compete on price (i.e. salary), and the nuances of a particular firm's compensation system will provide insight into that firm's culture.

Second, well-executed performance-based compensation will boost associate retention at firms that implement them. A performance-based system is not one-size-fits-all. It rewards star performers, sends a clear message to weaker team members, and adapts to individual circumstances for associates who, for example, want a better work-life balance.

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and consistent support from firm leadership, the culture will not adapt to major change.

Firm leaders face additional challenges unique to the legal profession. For example, an effective performance-based system:

- requires active management, yet many firm partners lack management experience;
- demands constructive and frequent performance reviews, yet many associates never receive meaningful performance evaluations;
- succeeds only if associates receive training and increasingly challenging opportunities, yet many firms have underdeveloped professional development systems and unmanaged work distribution channels; and
- accounts for a variety of skills, including technical legal, leadership and client-development skills, as well as contribution to a team, yet many firms tend to focus on billable hours as the leading indicator of performance.

Implementing an ineffective performance-based compensation system will cause more problems than it fixes, giving rise to recruiting, retention and morale challenges.

### Standing Apart

Those firms that thoughtfully design and execute new compensation models will distinguish themselves from their competitors.

First, differing compensation models will enhance firms' abilities to recruit top talent. Under the lock-step system, where all large firms essentially paid the same,

Third, moving away from lock-step compensation should reduce the number of firms with an up-or-out system, in which associates must make partner or leave. Without the pressure of automatic annual raises, firms should have more flexibility to create shorter, longer or nonpartnership tracks for individual associates.

Fourth, performance-based pay will enable firms to tie associate skills more closely to billing rates. And, quite simply, it is a compensation system that clients understand. The smartest firms will look to their clients for guidance on developing and maintaining performance measurement systems.

Firms learning from clients? That's more than an evolution. That's a revolution. 

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