"Rational" Performance Reviews and a High Performance Culture: Observations on the K&L Gates Partner Departures

By LawVision on August 12, 2015

In recent weeks much attention has been focused on the 90 partners who left K&L Gates in the last seven months. As the Legal Intelligencer cleverly observed, at least 91 different stories can be had about the cause of the departures.

In speaking with Bloomberg Big Law Business, firm chairman Peter Kalis attributed the partner departures to giving "rational" performance evaluations that can lead to high turnover. Rational? What does that mean? Does it somehow imply that there are also "irrational" performance reviews?

Sadly, yes. "Irrational" performance reviews are often more commonplace than "rational" ones, especially at the nonequity partnership level. This commentary is not directed at K&L Gates in particular, but from a broader industry perspective. Lawyers' tendency to avoid interpersonal conflict coupled with high degrees of individual autonomy often creates a perfect storm whereby compensation decisions become a proxy for having difficult conversations.

This brings me to my second observation about the K&L Gates departures. In the Bloomberg article Kalis states that "The performance evaluation of nonequity partners can be viewed as part of that bond we have with associates. Of course, if you're going to be rational about evaluations, significant numbers will be in transition because we intend to continue to promote up associates and to drive a high performance culture."

This is a complex statement that must be unbundled carefully. First, if we're applying a "rational" performance evaluation process to nonequity partners, logically we should be applying the same standard across all levels of the organization, including associates and equity partners. However, the firm lauds a recent mid-year promotion of 50 new associates to nonequity partner. Assuming the same "rational" performance evaluation was applied to the associates as it was to the nonequity partners, the issue may not be the rationality of the evaluation process but the actual underperformance of the nonequity partners.

Kalis continues, stating that "We have a bond with our best performing associates that they are going to get promoted." In isolation, simply promoting the best performers doesn't create a bond sufficient to promote engagement within a law firm. However, comingled with accountability, transparency, feedback and skill development, firms can certainly make great strides by demonstrating that there is a path within the firm- and consequences if lawyers' are unable to meet expectations. These consequences should not come with large groups of partner departures due to underperformance. They should be managed over time.

This brings me to my final observation. What exactly does a "high performance culture" mean? Can you create one simply by having some "rational" performance reviews and ushering in new associates into the non-equity partner rank? Something seems amiss with this logic. If the firm has a high performance culture, then why the sudden departure of 90 lawyers as a result of rational performance reviews?

Culture is not something that is created in a vacuum, nor in a seven-month period of time. It can't be created with press releases. It can't be crafted by switching titles or removing underperforming partners. It happens over time. A long time.

A high performance culture might look like the 50 new nonequity partners at K&L Gates receiving regular, punctual feedback about their skill development and business generation performance compared to specifically articulated expectations. Only time will tell. Perhaps a majority of the 50 recently minted nonequity partners will eventually become equity partners at the firm. If not, at least a high performance culture might help to avoid 50 different musings on the basis of their career trajectory.