



## COMMUNICATE YOUR EXPECTATIONS CLEARLY

Ellen Freedman, CLM  
© 2006 Freedman Consulting, Inc.

---

It was an experience which was not at all uncommon. In the course of interviewing associates for a partner retreat, a common thread was an expressed concern about lacking any understanding of what partnership criteria was at the firm. The partners were shocked. They thought they had been crystal clear.

At another point in time I was interviewing non-equity partners at another firm in preparation for their retreat. They claimed not to know how compensation decisions were made, nor what it would take for them to become equity partners. Again, the managing partner was surprised. This had been, after all, communicated.

At another point in time I was conducting pre-retreat interviews at yet another firm. Young partners expressed disappointment and outright dissatisfaction over their compensation and unchanged share of equity from the previous year. Each admitted that they didn't really know how the compensation or equity decisions were made, but felt somehow the rules had changed. The senior partners were distraught and dumbfounded. They felt they had done well communicating in this area.

Flash back to another point in time prior to a practice management audit at another firm. Paralegals and young associates with lackluster productivity all claimed that they didn't know what their goal of billable hours was, let alone how close or far they were from reaching it. They claimed that they received no reports, no comments, nothing except, at review time, a comment about whether they had met or fallen short of their goal. But still no mention of what that goal actually was.

Unbelievable? Rare? The exception rather than the rule? No, no, and probably not. The problem lies in communication. Sometimes the total lack of communication. But most often imperfect and/or unclear communication, compounded by an assumption on the part of those communicating that they are being crystal clear. Too often that is not the case.

Let's take the first experience concerning associates who didn't know the criteria to become partners. The partners said they consistently stressed important criteria such as taking on management responsibilities, developing a book of business, providing superior client management service and so forth. However, the only messages senior associates "heard" at review time was how they were doing relative to their goal of billable hours, coupled with an occasional mention of something handled particularly well or poorly. Based on what they "heard," there did not seem to be any subjective criteria built into the compensation system to reflect how they were doing on all the other alleged important criteria which weren't measurable in billable hours. And nothing was discussed regarding any of those efforts or accomplishments at review time. So therefore the message which was ultimately delivered was conflicting and confusing.

The firm did not employ any individual (or firm-wide) written marketing or strategic plans to use as a tool to review accomplishments and make attorneys accountable to achieve certain benchmarks. No one said "how much" was enough. How much rainmaking? How much firm management activity? What kind of activity? It was all just an uneasy, unsure guessing game for the young associates.

It doesn't take a rocket scientist to figure out that many of these associates would quickly defect to a firm that made the expectations and path to partnership clearer. What people abhor most of all in the workplace is uncertainty. If you're a senior partner at your firm, think back to your own days of pre-partner anxiety. The uncertainty probably made you want to move on more than once. But people probably didn't move around as much then. There was a stigma attached to it. Loyalty meant a lot. So maybe you stuck it out. Nowadays? No one looks askance when you switch from one firm to another. So you must concentrate on eliminating as much of the uncertainty as possible in order to hold onto good people.

Don't misunderstand. I'm not suggesting you promise what you don't know you can deliver. I'm merely suggesting that what you think you're communicating may not be the message that's being heard.

Let's go to the second instance, where non-equity partners were clueless about compensation decisions and what it would take to become a full equity partner. Well, the firm had done a better job here of providing reports showing exactly how the compensation was calculated. The problem was that no one explained to the young partners what the numbers on the page represented, so they didn't know how to utilize it. In other words, the reports were meaningless to the young partners. That just never occurred to the more senior partners. You are



probably asking yourself why they didn't ask just ask for an explanation. I can only assume that they were reluctant to admit that they were clueless, and that was exacerbated by the nonchalant manner in which the information was provided; it likely left them feeling that they were somehow inadequate because they did not understand it.

I watched in part amazement and admittedly part amusement at the retreat as the current and former managing partners explained the numbers on the report to the non-equity partners. They were appreciative. Now they had a tool which helped them gauge their own performance, and anticipate their compensation. Now they understood why there were receiving the report each month.

And it turned out, the transition from non-equity to equity partner resulted from a reasonably simple mathematical calculation. When one got "past the line" from negative bottom number to positive using a certain formula related to compensation, it would become a "done deal". But although the managing partner frequently and diligently performed the calculation for each non-equity partner, that was never communicated. Nor were those non-equity partners told how close or far away they were, and how much of a shift would be necessary to make the final push across the line. It was agreed at the retreat to give each non-equity partner an update at least quarterly. Problem solved.

At the third firm mentioned above, the young partners were disappointed and upset over equity points and compensation. At least one of the senior partners was angry at the negativism of the young partners, and what he perceived as an attitude of entitlement. He was working harder than ever to put food on everyone's plate, so to speak. At a time when the young partners were, shall we say, somewhat lackadaisical about beating the bushes to help bring in new business, this partner generously decided to forego taking some of the dollars he was entitled to in order to send more to the junior partners, just to keep them happy in an uncharacteristically flat year. So the rules did change, to the advantage of the junior partners. They really weren't entitled to as much as they got under the firm's compensation formula.

As they say, no good deed goes unpunished. A year-end memo explaining why equity had not changed, and explaining why there was a little higher distribution for the young partners than they should have expected, was carefully crafted and distributed. But apparently it was so well crafted that no one "got it" and it didn't serve the purpose at all. The senior partners worked so hard not to undermine confidence in the firm during an atypical flat revenue year, that the younger partners just didn't get it.



At the retreat, after some prodding on my part, everyone got their thoughts expressed and their emotional baggage unpacked. It took a little “dose of reality” from this neutral outsider to shock some understanding and gratitude into the heads of the young partners as to what had actually transpired. The grumbling stopped, the anger subsided, bridges were rebuilt, and the firm was able to move forward with some real planning for everyone to contribute more, and take some of the burden off the top rainmaker.

Let’s go to the fourth experience; paralegals and young associates who didn’t know what their goal of billable hours were. Was it true or a misunderstanding? Yes, it was true. The firm didn’t want to express a goal because they were afraid that people would “retire” upon reaching their goal, rather than keep working. They felt that leaving the goal uncertain would spur people to work harder.

Ok, there’s a small chance that this strategy might work for associates. But certainly not for paralegals. They’re not striving to get a piece of equity some day. It’s a seller’s market, folks. People are not as paranoid about holding their jobs, because in most cases, unless they are totally overpaid, someone else will be waiting in the wings to hand them their next decent job.

The solution for this firm is easy. Tell everyone their minimum goal. Give them a monthly report to track their progress. Pay a bonus for any significant excess, provided that the veracity of the recorded hours proves out.

Veracity? Don’t laugh, but I used to regularly monitor hours recorded by young associates and paralegals on firm contingent matters and firm administrative matters. I’d find all sorts of abuses. For example, hours recorded on contingent matters by attorneys in the real estate department. Need a few more hours to make your goal? Hey, no problem, record them to one of the firm’s contingent cases, since no one really monitors the individual time entries.

I once caught a baby lawyer recording his lunch hour each day under firm administration (varying categories). When I questioned it he quickly said that the requirement of hours was too steep, and he could only get close by recording his lunch hour. Somehow he felt that was sufficient justification. Of course my highly diplomatic response, which included instruction on accurate record-keeping, time management and other related topics, ultimately distilled down to the essential message: work harder. Ok, I’m nothing if not compassionate to the challenging professional lives you folks have chosen, but it was in fact a choice, and reality often stinks like a slap in the face with a dead fish.



When I managed firms, I had the ability to control communications to a great extent. For example, every new attorney, from baby lawyer to lateral partner, met with me when the first set of reports were handed out. I went over every report carefully, explaining how to read them, how to spot possible errors or problems, and explaining the significance of the information.

I clearly communicated those items which fell under my “administrative” umbrella, from timesheet submission rules to hourly requirements. I always asked whether I was being clear, and what questions needed answering. No one worried about asking me dumb questions, because I encouraged them. I was not condescending. I didn’t make people think they should understand what I was explaining. In fact, I always made it clear that if I did a poor job of explaining, I appreciated them calling me on it and asking questions.

Often I was asked the “softer” questions. What is the partnership criteria? How is my compensation going to be figured out? How will the firm treat me if I decide to have a baby? Will it affect my partnership chances? Aside from referring the attorney to their mentor for further discussion, I would do the following:

- § Provide them with a copy of any memos issued in the past dealing with the topic. (I always kept information in a well organized topic-based manner for just this purpose.) I would then discuss them with the attorney in more detail.
- § Provide anecdotal examples of similar situations and encourage the attorney to talk to the parties involved for further guidelines. For example, “Kathy is a partner, and she had two maternity leaves, one of which occurred when she was made a partner. Her work ethic and performance was always exemplary, and that of course will always be required to make partner. But I encourage you to invite her out to lunch to discuss your concerns further, and gain a perspective from someone who navigated those waters successfully.”

Think about how your firm is communicating information. Are you delivering a clear, consistent message? Are you communicating effectively? Sometimes the only way to find out is to ask those who are receiving the information. Keep in mind that sometimes they may not give you the most truthful answer for any variety of reasons. So you may want someone else to ask for you. That might be your firm administrator, a younger partner, or even an outside consultant. Are you “assuming” people know things when they don’t? Are you



creating your written internal communications from the perspective of someone who doesn't know the first thing about the topic? Chances are you're writing it from the perspective of someone who already knows a lot, and it may not be comprehensible for someone at the other end of the knowledge continuum.

*A version of this article originally appeared in the 10/2/06 issue of the Pennsylvania Bar News.*

©2006 Freedman Consulting, Inc. The information in this article is protected by U.S. copyright. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only, and does not constitute legal advice or endorsement of any particular product or vendor.

