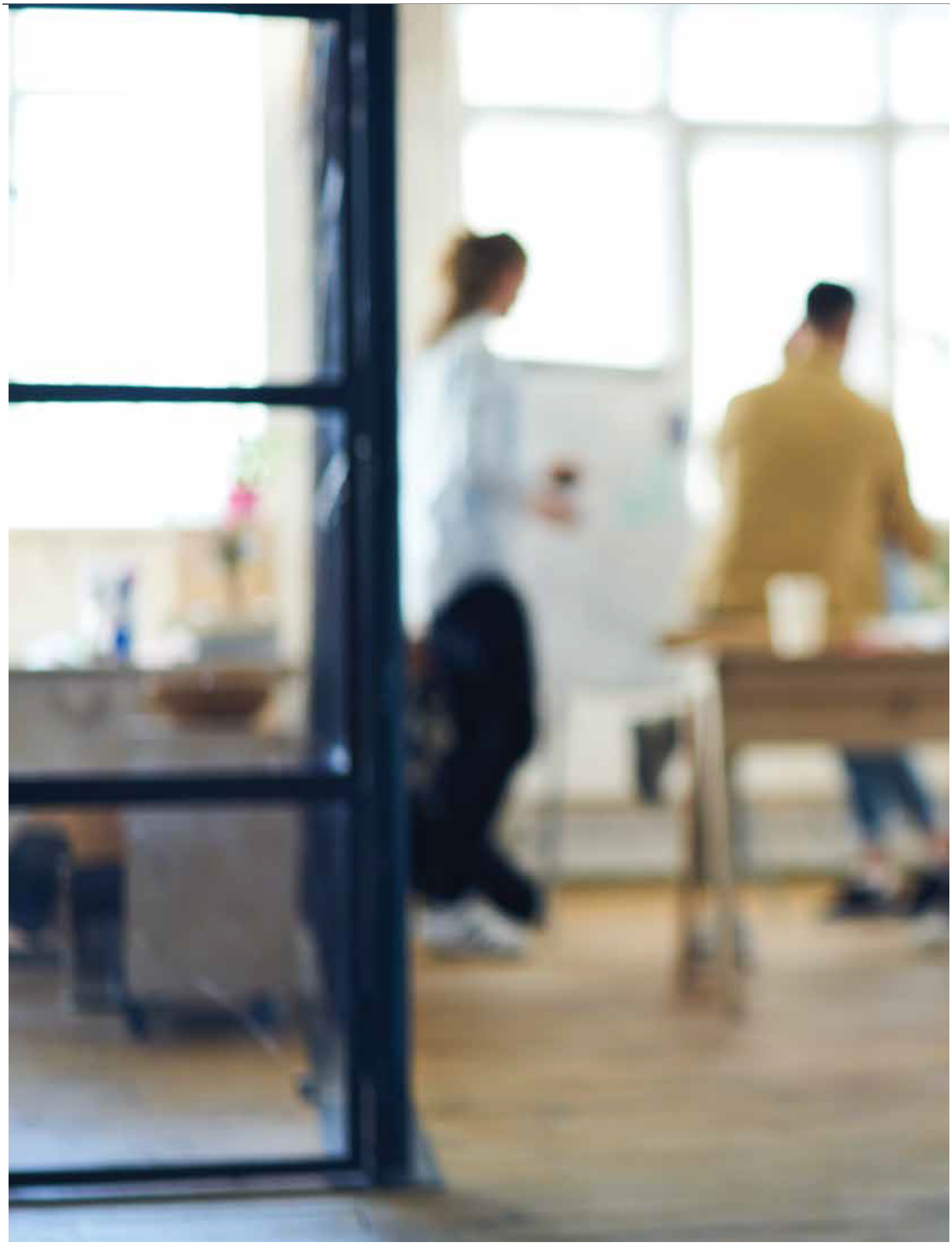
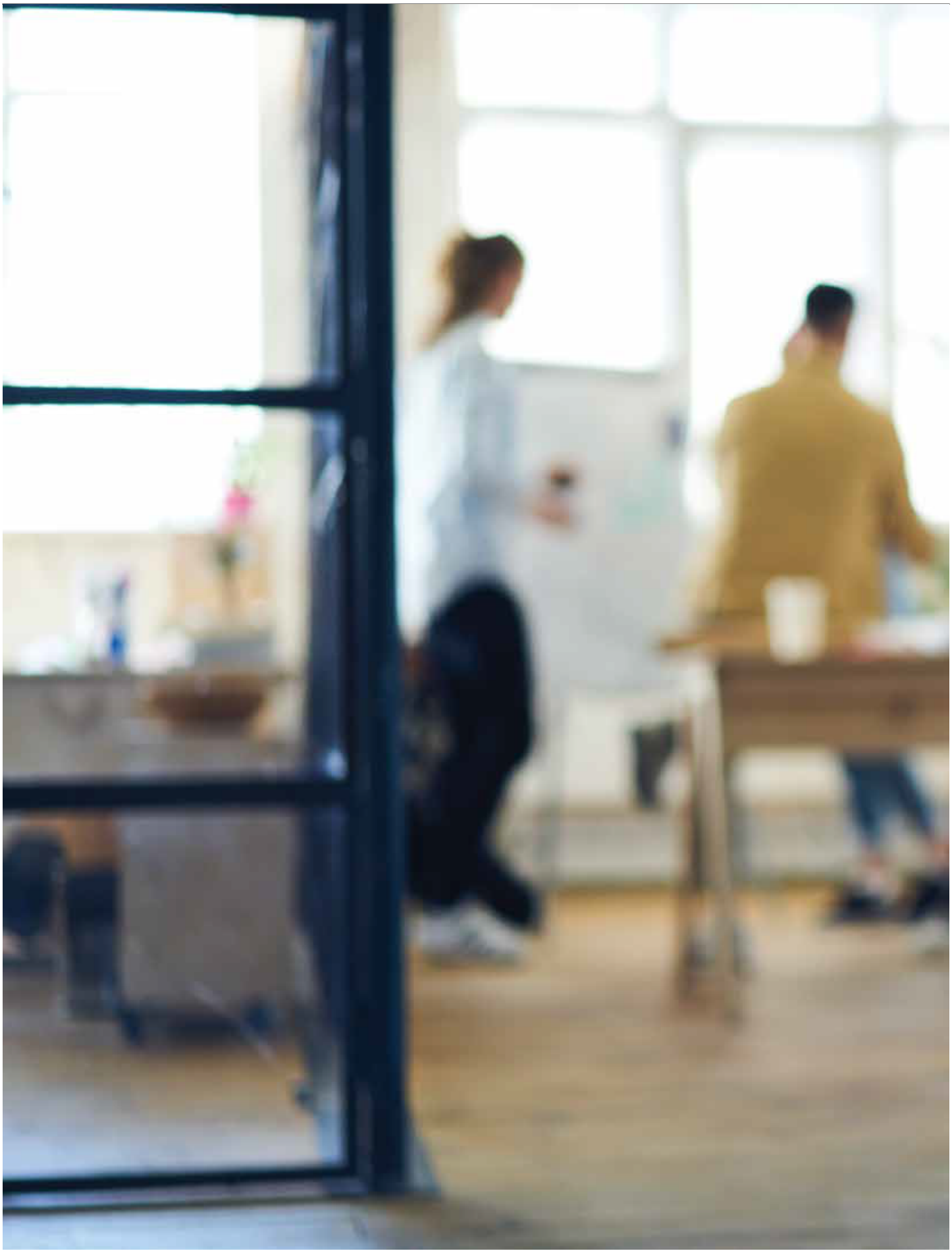
Leaders Create More Leaders: Why GC Succession Planning is Critical

Employment and Labor

Career Development





CHEAT SHEET

- ***The process.*** The GC should lead the interview and selection process, with the CHRO and CEO playing critical roles.
- ***The candidate.*** The ideal GC candidate should be confident, curious, a smart risk-taker, have emotional intelligience, self-awareness, and financial acumen, be willing to make personal sacrficies, and be capable of developing relationships.
- ***The selection.*** Once the choice is made, give feedback in real time, prepare a pep talk, and introduce the candidate to the stakeholders.
- ***The trouble spots.*** Avoid a law department-centric perspective; the ideal candidate should be a good fit for the organization as a whole.

There may be nothing more important to the work of the legal department — and its impact on the organization it serves — than the way it plans for and executes general counsel succession.

To develop an understanding of how this process can work best, we turned to some of the people most familiar with it — public company GCs, executive search professionals, and a Fortune 100 human resources executive — 20 individuals in all. We also drew on the collective wisdom and robust discussions among nearly 30 other general counsel who attended ACC's CLO Club "Talent Management and Succession Planning" program at the October 2017 Annual Meeting.

Why it's important

General counsel are typically part of the leadership team; their position naturally connects them to others across their organizations. *By being open about the succession planning process, you are letting the candidate know there is a place at the table for those who can help anticipate developments, proactively manage the company's legal risks, and strategize in related areas such as finance and employment matters.*

Who's involved in the process

The GC leads. Colleen Batcheler, executive vice president, general counsel, and corporate secretary of Conagra Brands, Inc. is one of many experts advocating for making sure the GC is the point person in this process. After all, who knows the expectations demanded of the position better? Moreover, it is the GC's role to communicate and liaise with all key stakeholders: the CEO, chief human resources officer (CHRO), board members, and, of course, the succession candidates.

The CHRO plays a key role. In addition to the general counsel, the CHRO can and should play an important part in the process. As Tanya Clark Robinson, vice president of human resources for Aetna notes, collaboration with the CHRO lays the groundwork for the process: "Succession planning, in general, is most effective when the GC and CHRO consult together to create the slate and preliminary action is taken long before you actually need to fill the position. This requires receptiveness on the part of the sitting GC to invest the time and resources necessary to develop a strong and credible pipeline of potential candidates."

The CEO must be involved early. In most cases, the CEO is the single most important decision maker in the process for all of his or her direct reports. Consequently, the general counsel should reach out to the CEO at the outset of succession planning. By keeping in mind what the CEO wants and needs, the GC mitigates the risk of presenting and grooming the wrong candidates.

“Because the CEO vote carries so much weight, the GC needs to figure out what’s on that person’s mind,” says Michele Mayes, vice president, general counsel, and secretary for The New York Public Library; former executive vice president and general counsel of Allstate Corporation; and former general counsel of Pitney Bowes, Inc. “It’s better to go to the CEO first and say, ‘These are the people I believe have the potential to replace me. Let me know if you feel they are strong enough candidates early so I don’t waste our time,’” Mayes shares.

The CEO will be looking for someone who can weigh the business benefits of a situation against the legal risks,” says Paul Williams, partner at Major, Lindsey & Africa, an executive search firm. “That’s where there may be a gap between the incumbent GC and internal candidates. CEOs look for someone who will not be mired in a legal box.”

Consider other stakeholders. By engaging with the CEO, you will also get a list of the key company stakeholders who should be involved in the interview and selection process.

Identifying the candidates

To even be considered a candidate for the GC slot, the experts cited a dozen core competencies critical to succession planning — competencies that go well beyond those they needed just to get to the place where they’d be considered for this role, including:

1. **Internal core confidence.** Mayes says that the candidate needs “the appetite and grit to be effective at taking smart risks,” and “the ability to fashion concrete solutions combined with an openness to criticism or challenges.” Julie Preng, managing partner of Legal and Compliance Specialty Practice and the Stamford office managing partner, expanded on this, explaining that “the person should not be thwarted by failure.”
2. **Emotional intelligence.** John Gilmore, managing partner of BarkerGilmore LLC, a legal search firm, notes that most emotionally intelligent leaders have the ability to effectively read people and situations “and to know how, when, and if to adjust. They listen more. They perceive the words, actions, inactions, and interaction of the speaker in order to address his or her objectives, not their own.”
3. **Self-awareness.** The ability to honestly assess oneself and the courage to seek out feedback and make positive changes to behaviors based on others’ perceptions is a characteristic of leaders. “If the candidate really digested the feedback, then they are mindful of it moving forward,” says Victoria Reese, managing partner and global head of the Legal, Risk, Compliance & Government Affairs Practice at Heidrick & Struggles, a worldwide executive search firm.
4. **Intellectual curiosity.** A fundamental desire to know everything about the business is a telltale sign that the candidate has the right intentions. “He or she should seem genuinely curious about the industry, the business, and the interests of key stakeholders,” Batcheler says. “You know it’s right when the desire is to help lead the business, as opposed to just get the promotion.”
5. **Smart risk-taking.** Developing the experience and judgment to take the bold risks worth taking is another necessary characteristic. A keen sense of positive outcome and the knowledge of the likelihood of failure, which comes from deep preparation and assessment of

all key risk factors, are leadership traits. “A growth mindset is comprised of continuous learning and the willingness to take smart risks,” says Michelle Banks, the former global general counsel at Gap Inc. and current executive coach at BarkerGilmore. “That, coupled with a passion for the business and for leadership in general, is key.” Mayes goes a step further, suggesting that potential candidates should expand their risk appetite. “When you take smart risks, people notice,” she says. “Those risk-embracing candidates are not thwarted by failure or criticism and instead are actually open to it. No one can guarantee success.”

6. **Intellectual agility.** The ability to understand multiple points of views and theories helps GCs avoid silos. “This includes the ability and willingness to be flexible and openminded,” says Mayes. “This is not the same as being a pushover. Every decision needs to be for the good of the company.”
7. **Financial acumen.** A full understanding of the financial statements of the business and key performance indicators (KPI) is necessary to be an effective GC. Even more critical is the ability to translate your legal advice or principles into financial terms that are relevant to the profits and losses of the business in order to solve problems. “You need to ask yourself: Am I comfortable enough with the financial driver of the business that I can ask the most relevant questions and speak in business terms?” Batcheler says. “The right candidates can frame their legal advice in a way that puts financial and business risks, and opportunities, at the center of the conversation.”
8. **Capacity.** The energy, adaptability, growth mindset, and expansive outlook to take on more than is asked of you. “When someone can successfully accomplish more than is expected of them, they can then open themselves up to developmental opportunities,” Reese says.
9. **Good listening skills.** Potential candidates who like to hear themselves talk may be more readily noticed but less positively. PJ Harari, partner and global practice leader with Major, Lindsey & Africa, shares that candidates may be passed over because of this. “If you are doing all the talking, you are not getting all the right facts. You are not learning. You are not viewed as approachable, which impacts building strong relationships with others at the company, and you will not be viewed as a good leader,” Harari shares.
10. **Executive decision-making capability.** Create solutions and make decisions that can be trusted by the CEO and the board. “Do you see the candidate operating in a way that demonstrates their abilities?” Preng asks. “Giving options is not adequate, business people want to hear recommendations and solutions.”
11. **Willingness to make personal sacrifices.** Be available. Be in the trenches with your business colleagues, and make the same, or greater, personal sacrifices than they do in order to develop trust and confidence. “The candidate needs to honestly assess if he or she is willing and able to give the time, energy, and focus that the GC role demands, even when it means their personal and private lives may sometimes take a back seat,” says Batcheler.
12. **Track record of developing relationships across the company.** While this competence is really relevant only to internal succession candidates, Preng notes that “the right candidate can rely on the fact that they have forged real credibility and connectivity. When that trust is already built in, they don’t have to throw the weight of their new title around.”

Preparing the candidate

What to say — and how to say it.

Once it’s clear who the GC candidate is, it’s important to make sure that candidate will be in the most advantageous position when the time comes.

Some of the key considerations in this process are:

- **Transparency.** What to tell the succession candidate, and when.
- **Constructive feedback.** Giving it, relaying it, and making sure it aligns with the needs of the business.
- **Clarity.** The candidate must understand that nothing's final until everyone signs off. There are no guarantees.

Batcheler notes that while there is no prescribed science for succession planning, openness is always at its core. "The key challenge in succession planning is balancing constructive feedback and honesty with business realities," she says. "However, here is the real benefit to a high degree of transparency in talent management. I don't like telling people they are No.1 on the succession plan, because situations can always change."

Instead, she suggested informing the candidate that the higher-ups have taken notice of him or her but, in doing that, exhibit some cautious optimism. "It's important to provide the right encouragement and clear feedback on what the candidate needs to keep doing, and do more of," she says. "But I'll still be cautious about revealing too much, however, because the GC always needs to keep the flexibility to do what's right for the business," she adds.

IF I AM NOT IN LINE TO BE GC SUCCESSOR, OR IF MY GC IS NOT SUPPORTIVE OF MY DEVELOPMENT AS A POTENTIAL SUCCESSOR, BUT I STILL WANT TO BE GC ONE DAY, WHAT CAN I DO?

Even with the best of succession planning, circumstances change. There may be a new CEO or new activist board members. Your company may be merged into another company, move into different businesses, face a significant event like a financial restatement, government investigation, or other high profile crisis. The needs of your company will change.

Even if you are not currently chosen as "high potential" within your company as part of the GC succession plan, there are many things you can do on your own to grow your GC potential. Identify what resources you need to help you. Expand your technical expertise through ACC programs. Use ACC as your networking support. Develop the soft leadership skills by volunteering within your local ACC chapter or at the global level, or commit to be a leader at other non-profit organizations outside your company. What's most important is not what, but that you resolve to take action and follow through.

Hopson highlighted the importance of being proactive as key in his recent success, moving from an associate general counsel role to his first public company general counsel role outside his company. He shared, "I actively sought out legal and business mentors both at work and through professional and other organizations and regularly picked their brains about their career paths and their perspectives on my path. In addition, I used my performance reviews as opportunities to have a candid discussion about additional experiences and responsibilities I wanted to take on and to brainstorm with my boss ways to achieve those goals. Those conversations would then form the foundation of my next year's performance objectives, and I would hold my boss — as well as myself — to them. Colleagues and superiors took notice of my enhanced roles and responsibilities and became advocates of my work to others inside and outside of my company."

Keep an eye on the compass — stay passionate, flexible, and committed to arrive at your destination

of a GC seat, regardless of whether your company supports you in the journey. You are truly the captain of your own ship.

Providing full-throated support.

When the GC backs a specific candidate, it involves a substantial investment of time and effort. This includes helping the succession candidate expand his or her networks inside the company, particularly with the board, Gilmore says. “An important part of succession planning involves the GC letting go of the reins and giving someone more responsibility — primarily interfacing with the board. This puts the next person in line a chance to take charge of direct matters.”

Banks adds: “Open doors, make introductions, let them bench shadow or even step in for you as appropriate, and push them to join a nonprofit board, take on a leadership role in a professional organization, or make a high profile speech for you as examples,” further adding that the support should also come from others, such as another C-suite champion and an external GC mentor. “These leaders can help your potential successors build both their internal and their external leadership networks. Relationships are critical to success in the C-suite.”

The role of development opportunities.

As part of providing full-throated support, GCs need to make sure that their successors are, as Tom Sabatino, executive vice president and general counsel of Aetna, Inc., puts it, pressure tested. “One of the most important developmental opportunities to is to give them exposure during a highly visible situation,” he said. “You want to stress the person to see if they can handle it. All this helps them become well rounded. No one will have all the experience you need — but this will help you check off more boxes when you consider your requirements.”

Gilmore notes that the best practice for a GC is to be an honest, strategic adviser. This will help demonstrate to the executive decision-makers that the candidate is in alignment with the company’s direction and provide more direct insight into how this person will act under pressure.

There are a number of ways that GCs can give their successors pressure tests, all the while developing their understanding of the position they’d be inheriting and preparing them to handle it well. Our panel pointed to the following, some of which need explanation, but most of which are self-evident — they just need to be put into practice:

- Stretch assignments
- Focused mentoring
- Shadowing the GC
- Increased exposure to the board
- Increased exposure to the C-suite
- Expanded scope of responsibilities
- Increased investment and training
- An executive coach
- Key succession development plan
- Increased opportunities to establish reputation/experience as a leader in the profession

As Robinson puts it, “The key is positioning the succession candidates so they are prepared for the ‘general’ part of sitting in the organization’s top legal seat. Affording succession candidates as many stretch opportunities as the organization can support provides the GC the chance to provide oversight as warranted and the candidate the chance to demonstrate an ability to think outside of his/her area of expertise.”

It’s also critical, notes Sabatino, that candidates are able to interact outside the company at which they work. Part of the GC’s role in preparing candidates for succession, he says, is connecting them to sitting GCs at other companies so they can understand how other GCs — and other companies — work.

Banks, who attributes her success to stretch assignments and the focused attention she received, notes that, “Those stretch responsibilities should be designed to get the candidate outside their comfort zone and area of legal expertise — whether that’s from domestic to international, legal to nonlegal, or transactional to litigation — and with senior-level visibility.”

Succession planning often focuses on individuals who are immediately ready to take the position — this is too narrowly focused. Preston Hopson, senior vice president, general counsel, and corporate secretary for Tetra Tech, emphasizes that “it is just as important to focus on individuals who may be ready to take the position in one to three years — and to identify the steps (additional responsibility and experience, training, exposure to board, management duties, executive coaching, etc.) to prepare them to be successful in the position.”

For a succession candidate who is one to three years from transitioning, A. Verona Dorch, executive vice president, chief legal officer of government affairs, and corporate secretary for Peabody, suggests customizing what she called a “key successor development plan.” This provides clarity and focus on certain key qualities and “includes knowledge requirements, relationships, skills, and experiences,” she says. “There are also rotation opportunities and milestone action plans that should be discussed between the succession candidate and the GC quarterly to ensure stakeholder and board support.”

THIS IS A LOT OF WORK TO EVALUATE AND DEVELOP A GC SUCCESSOR – IS THIS WORTH IT? DO GCS FAIL EVEN AFTER ALL THIS WORK TO SUCCEED IN THE GC ROLE?

From our own experiences, and as observed by experts and the many GCs we talked with, focused efforts to develop an internal candidate to be a GC successor significantly increases the likelihood that the candidate will be successful in the transition and on the job.

After the prior GC has left the building and the buck truly stops at the new GC’s desk, the new GC will not have to start from scratch. Removal of the training wheels will be seamless as the new GC is already battle tested and has built a healthy war chest of trust and goodwill within the enterprise, especially with the CEO, other C-suite colleagues, and the board.

New GCs who have been the beneficiary of succession development support — stretch assignments; focused mentoring by other C-suite executives such as the CHRO and/or CFO; opportunities to shadow the sitting GC in meetings; increased exposure to the board; increased exposure to the C-suite; expanded scope of responsibilities beyond the candidate’s “normal” portfolio; increased investment and training on leadership skills; key succession development plan; and executive coaching — are universally able to hit the ground running with the wind behind his or her back.

Despite the best of intentions and the best of succession development plans, some new GCs fail. In most instances, these failures involve the following factors outside their control:

- **BATTLE OF TITANS:** Escalating dysfunction within the executive ranks, and/or changing of the guard at the CEO or board levels — all may undermine the new GC's ability to be effective because of lack of support at the highest levels.
- **ENTERPRISE CHALLENGES:** Seismic shifts in the competitive landscape, including new business strategies and significant M&A activities, high profile and high-stakes litigation, and regulatory challenges — all may require new skill sets or legal leadership with seasoned expertise that the new GC does not have.

We offer a roadmap for a greater possibility of success to develop the next generation of legal leaders. As with life, there is no guaranteed formula for success. However, as the adage says, the more we practice, the luckier we are.

How candidates can get derailed

Just because it seems likely a candidate will get the nod, succession is not guaranteed. As Wanji Walcott, senior vice president and general counsel at PayPal Inc. notes, there is always a chance that a candidate will get tripped up with some derailing behaviors. A number of behaviors that are certain to have a negative impact on the likelihood of the successor being offered the job include:

- **Lack of organizational savvy.** "Some people display a lack of emotional intelligence. They can't read a situation or an audience, and they can't pivot and adjust," Walcott says. "Even worse are the folks who are not collaborative or cannot work toward a collective set of goals with several teams." She added that people who talk more than they listen often set themselves up for failure.
- **Lack of humility.** The candidate needs to be approachable. "It's so easy to let the thought of your position and power go to your head," Sabatino says. "When someone demonstrates a sense of entitlement, it can be a sign of bad things to come."
- **Working on cruise control.** "The candidate's head needs to be in the game," Mayes says. "They need to proceed knowing that you're watching them."
- **Insular views.** "Someone who's too parochial or unable to look outward for ideas may not be the best fit," Williams says. "We're promoting from within, not only looking within."
- **Lack of listening skills.** "People who jump to conclusions quickly or are impatient to get to a result often miss what are the most important big picture facts and risks," shares Phuong Y. Phillips, chief legal officer of Zynga Inc. They create their own barriers to success because they think they know the answers before understanding all the stakeholders' perspectives.
- **Lack of exposure to other companies, departments, and industries.** "Networking, continuing education, and conferences, for example, help prepare you for various legal and business issues," Sabatino says.
- **Wearing ambition on their sleeve.** It's one thing to want to succeed, but another to be blatantly ambitious. "Most people will not be comfortable trusting someone who's too ambitious of protecting the company," Sabatino says.
- **Deputy-general-counsel-forever syndrome.** "For some reason, deserved or not, people have a real tendency to think about others in the context of who they were when they met. It is important that a deputy outwardly demonstrate growth and leadership to overcome the

mental default picture of that deputy formed at another (earlier) time and create a different perspective than the one formed initially about a person. In other words, it is something that those that desire successorship must understand and manage," Preng notes.

Once the choice is made

With the succession candidate informed that he or she is the succession candidate, everyone's actions will be felt. The candidate is now in the spotlight, and the GC will want to relay all the progress he or she has seen, and vice versa. Just as at the start of the selection process, this also emanates from the connectivity loop between the GC and CEO.

At this point in the process, Mayes suggests that a GC take the following actions:

- **Give feedback in real time.** "Strike while fresh in their minds — the candidates and stakeholders. Work toward closing the loop."
- **Prepare a pep talk.** "They need to know what it's like to be in your chair and how it feels to carry your weight."
- **Introduce the candidate to the stakeholders.** "Deploy increased exposure to decision-makers on substantive matters. This is the chance to show what they're made of. After all, it's not only what you know, it's who knows what you know."

GC engages with key stakeholders.

In addition to a continuous feedback loop between the CEO, the GC, and the succession candidate, there should be similar communication between the key business executives, general counsel, and succession candidate. The GC captures key stakeholders' real time feedback and relays it immediately to the succession candidate. Mayes said that during one process, the stakeholders she regularly checked in with were the CFO and the head of the business unit. "These were the folks who would be in the boat with the candidate in real-world scenarios," she says. "Their opinions carried more weight and their input was critical to the feedback loop."

Stakeholders engage with the candidate.

With the CEO's blessing, the stakeholders can provide their feedback directly to the candidate. Mayes stressed the importance of doing this in real time. "Give the person all the information necessary to understand what's required to sit in the GC's chair," she says. "The goal is to close the loop while the situation is fresh on the candidate's mind."

Robinson noted that it is clearly to the company's benefit that the candidate and stakeholders interact. "Exposure to key internal and external stakeholders with whom the succession candidates would engage as the GC provides a foundation for relationships that will prove essential to longer-term success," she said. "This may range from board members and C-suite leaders to analysts and other external constituents with whom the GC may engage on a regular or ad hoc basis."

Taking off the training wheels.

"This boils down to the GC giving someone more responsibility — primarily interacting with the board of directors," Gilmore notes. "It includes putting the next person in line in a position where they can take charge of direct matters. Let them identify and deal with risks and present proper solutions. Often it's the GC who takes credit for those wins, but the candidate needs to gain the trust of that

business team and be given a chance to be innovative."

A few cautionary notes

While following the game plan outlined above is likely to provide for a successful transition, there are some landmines the experts we talked to advised watching out for, including:

- **GC mindset.** The GC thinks that his or her choice is the best choice. This is the time to keep your ego in check because it may, however unintentionally, reflect negatively on the candidate.
- **Law department-centric perspective.** The GC views the succession candidate through the lens of their effectiveness in the legal department (versus effectiveness in all business groups).
- **Using succession planning as "false" motivation.** Although the GC has concerns about the succession candidate, the candidate is placed in the line of succession to keep them happy.
- **Failure to remove the training wheels.** The GC "protects" the succession candidate from high-visibility failure. "Make sure the candidate's experience is rounded out," Walcott says. "Because once in the role, situations will arise that they will not have even been dreamed of."
- **Lack of commitment to succession planning.** Vigilance is a key trait. The incumbent's enthusiasm for the entire process may have waned. "Maintaining your motivation through a long process is a task in itself," Walcott says. "If you're wholly committed at the beginning, make it your goal to remain so until the end."

In addition to leaders who are quoted in this article, the authors are thankful for thought leaders – APRIL MILLER BOISE, senior vice president, chief legal officer, and corporate secretary, Meritor, Inc.; KELLY MCNAMARA CORLEY, executive vice president, general counsel and secretary, Discover Financial Services; CYNTHIA LEE DOW, global legal practice leader, Russell Reynolds Associates; LUCY FATO, executive vice president and general counsel, American International Group, Inc.; IVAN FONG, senior vice president, legal affairs, and general counsel, 3M Company; JULIETTE PRYOR, senior vice president, general counsel, and corporate secretary, Cox Enterprises; and CAROLINE TSAI, executive vice president and general counsel, The Western Union Company – who generously shared ideas and insights in their interviews for this article.

If you get it right

The entire succession planning process offers many positives if it's implemented correctly. By planning ahead, identifying the right candidates, and keeping honest lines of communication open between every stakeholder in the process, it will demonstrate that the right person is being groomed for the job. And it will provide you with peace of mind when you need to let someone else take the wheel.

Lily Yan Hughes

Senior Vice President, Chief Legal Officer, and Corporate Secretary

Public Storage

Lloyd M. Johnson Jr.

Chief Executive

Chief Legal Executive LLC

Chief Legal Executive LLC is an executive coaching and consulting firm. Lloyd M. Johnson Jr. is also founder and executive director of the Women’s In-House Counsel Leadership Institute.