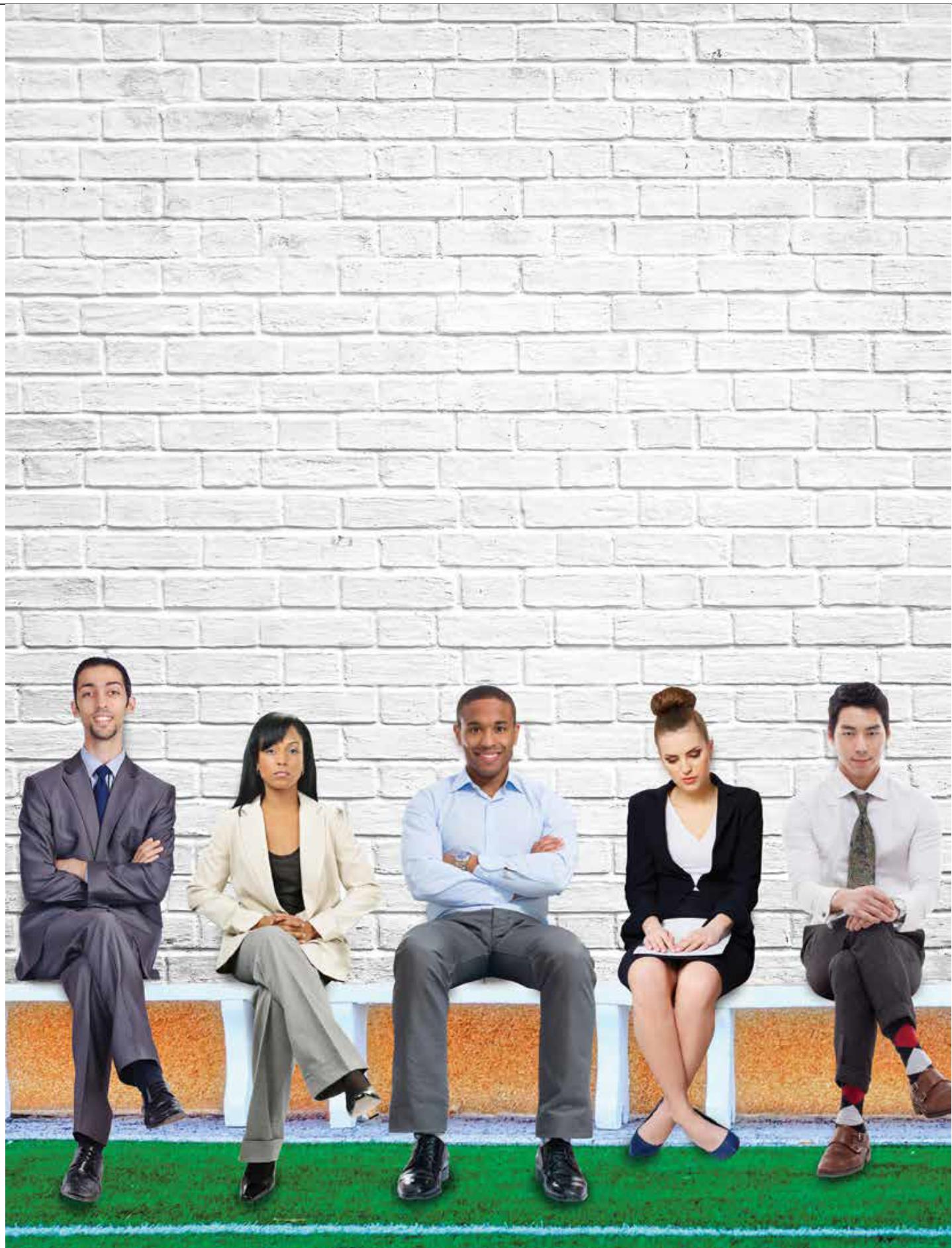

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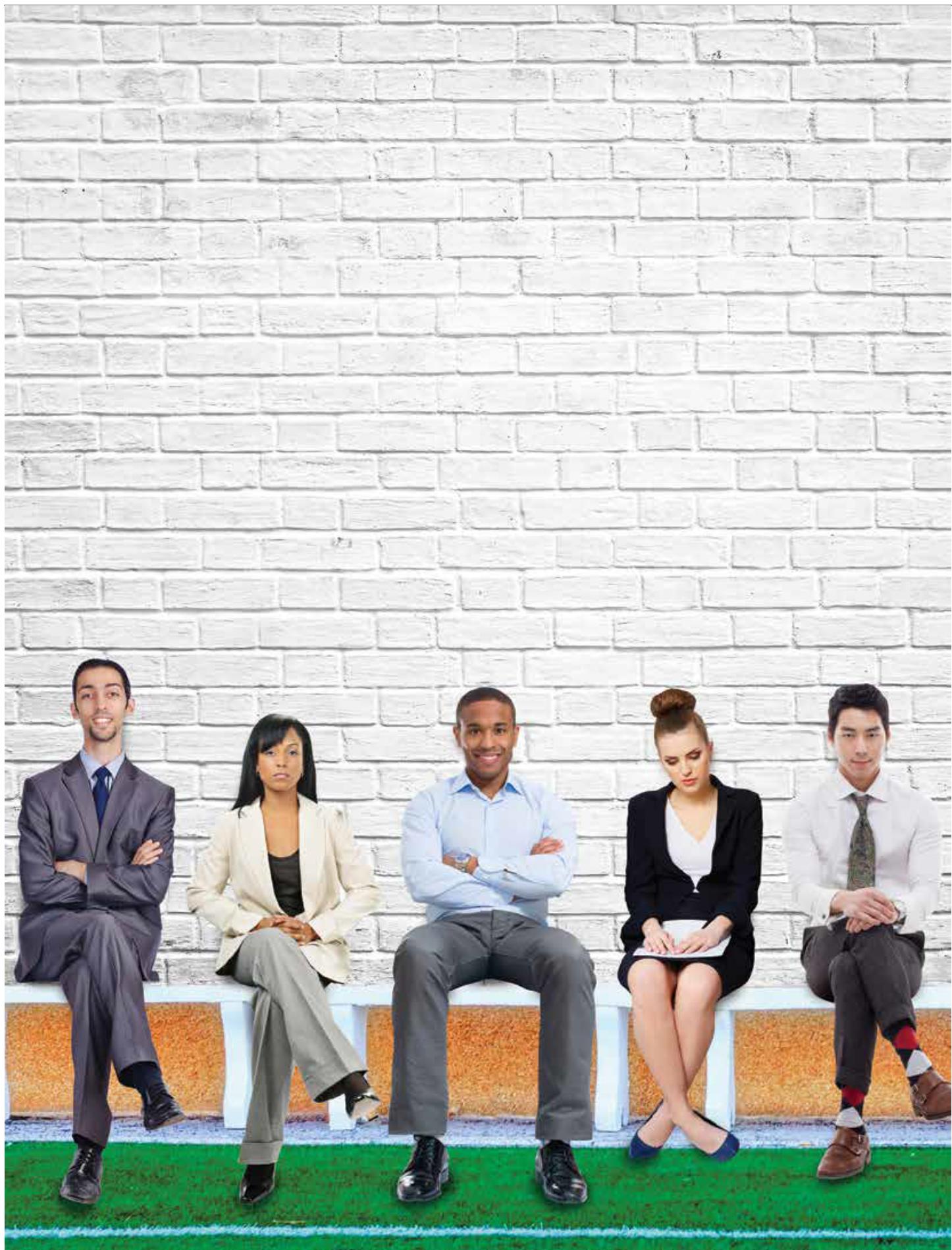
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Succession Management: What is it Good For?

Employment and Labor

Law Department Management





CHEAT SHEET

- ***An inside job.*** Hiring internally is convenient and easy, but risks saddling the department with insular, static thinking.
- ***Ends, not means.*** Selecting a new leader in the legal department necessitates a long-term, detached look at the future of the department.
- ***An investment, not a slogan.*** Succession management requires real commitment rather than simple lip service.
- ***Eyes on the prize.*** New hires cannot lose sight of the organization's essential function: to serve the client and generate value.

Selecting the next generation of leaders, whether within a global corporation or in-house legal department, has always been a daunting task. However, with the rapid pace of today's environment, it is more critical than ever to get it right. There are three basic approaches to succession management: select from inside, recruit from outside, or bury your head in the sand. It is the view of the authors that succession planning is best executed from within the organization. Research and in-house general counsel interviewed for this article agree. The rapid pace of change is one of the foremost reasons a succession plan, not only for replacing the general counsel, but also senior level attorneys, is essential.

Succession management planning is the process of identifying high potential leaders within your organization or department and developing them to take over. Turnover and vacancies will occur in every organization whether you plan for them or not, and it is best to be prepared to fill those vacancies for a smooth transition. By having a culture of talent development rather than constantly filling vacancies through crisis and chaos, you can take better advantage of the strengths and skill competencies within your organization. Additionally, a talent development culture sends the message to your employees that engagement and retention are valued organizational goals.

Two main factors drive the need for succession management plans: an aging workforce and a mobile workforce. There was a time when workers were company employees for life. Those days are gone. There is more turnover more frequently (the average employee changes jobs approximately every four years). Thin budgets pose another challenge. However, without a willingness to invest in employee training and development, there is little beyond salary increases to convey that you value your employees and their growth. If you are not willing to invest your financial resources and allow employees to develop so that they can grow and add responsibilities, they will find an employer who will. When employees feel like they are an investment, they are more willing to invest in their employer.

Natural selection

In a traditional legal department hierarchy, a general counsel was most likely chosen from the internal ranks based on their ability to execute a particular skill, namely litigation. However, now general counsel and the rest of the legal team are seen as part of the fabric of the companies for which they provide legal services. They serve as risk managers as well as legal strategists, with the general

counsel and senior deputy counsels typically included as part of the company's senior management team.

New leaders need to be challenged before being anointed. Even the most technically skilled leader must have confidence that they can, when the winds are shifting, change course on a moment's notice.

What legal departments are looking for now is to hire the right people at the outset, with potential in mind bring them up through the ranks. This means not only looking at legal expertise, but managerial capabilities, seeing these as complementary skills.

One of the traps in choosing a new leader can come from depending too much on the identified person's charisma. Dr. Noel Tichy, a professor of management and organizations at the Ross School of Business, suggests that the chief failing of organizations is choosing its new CEO based on his or her personal attributes alone, instead of pairing it with proven leadership experience. Just as being promoted based on skillset does not guarantee someone will be a great leader, charismatic musings and grand visions ring hollow if they are not coupled with leadership capabilities and execution. Tichy's observations are no less true for in-house counsel.

It's true that a leader must have a vision to light the way for his or her followers. However, vision needs to be accompanied by a thorough scan of the environment and the good sense to adjust strategies accordingly. The rules of play shift faster than ever before. When coupled with a good strategy and a scan for external turbulence, a leader's vision acts like as a beacon that guides employees and the organization to safer shores. It goes without saying then that the leaders of tomorrow must be able to adapt to shifting winds, high tides, and the roiling waters of external turbulence. In our discussions with a US-based global healthcare company general counsel, it is exactly this constantly changing environment that prompted his legal department to start succession plan stating that, "a decade ago we didn't have a robust succession plan, but now we cannot afford not to due to the increased pace of change." Additionally, it is these changing environments that allow counsel to be tested throughout their careers and prove they are ready to move to the next level as they pass each test.

The inside option

Choosing leaders is risky business. However, there are several things your legal department can do to make sure that your succession plan is sound. As mentioned before, going outside of your organization may seem appealing, but all you need to do is scan the newspapers to see headlines about organizations that appoint CEO after CEO because they can't seem to find the right person for the job. At this point, the logical decision would appear to be to look inside your organization to select someone who knows your company's business, the power structure, and your clients/customers. Choosing internally can create a unique set of challenges.

Like many sound choices, selecting the leaders of tomorrow requires multiple perspectives. However, many times, senior leaders assume that they alone know what is best for their organization. After all, isn't their opinion the only one that matters? Well, not necessarily.

Following a single perspective without thoroughly exploring a variety of options or taking the time to analyze the external environment will only ensure that the decision is skewed. This is especially true when choosing an internal successor who may have curried favor with key individuals, but has not developed the skills necessary to lead a department or the organization. Tichy suggests that

succession planning should be a group effort that includes human resources, your organization's current leaders, and potentially the board of directors, in order to ensure that the leadership pipeline is filled from within an organization. The general counsel of the healthcare company agreed saying, "Succession planning and implementation is a collaborative effort between our HR and legal department" and further that its planning is "inclusive of all levels."

Succession plan development

One international energy general counsel interviewed for this article uses the annual performance appraisal and other formal occasions to talk with the company's attorneys about how things are going and uses these opportunities to set objectives. These conversations, which typically involve the human resources department, include planning for the next job, function, and challenge. The goal is to continuously have attorneys in the pipeline that are at varying stages of readiness, from "ready now" to "has the potential to be ready at different points in the future."

Goal oriented

In order to successfully manage your leadership pipeline, you have to begin with the end in mind. In other words, who you hire is just as important as who you promote. Succession management does not happen in a vacuum and selecting your next leader, whether for a team, department, division, or organization doesn't begin at the point of departure of the former leader. If you want to have a successful transition from one leader to the next, you need to plan for what you want.

Succession management as a goal is no different from any other goal. You identify where you are, where you want to go, the gap between the two, and then you develop a strategy and the tactics that will get you from point A to point B. Too often organizations view succession planning as a luxury for which there is no time because the focus is constantly on getting the current work done. To the contrary, we would posit that little is as important to the health and well-being of your workforce as is the time, attention, and investment you make in developing their skills for promotion and to become your leaders of tomorrow.

In order to move people into positions in which they will be useful to your organization, you have to assess where they are now and what types of training and experiences they will need to grow into who they are capable of becoming. Decide if they are ready now, and if not, what will it take to get them ready. Are skills lacking or is it experience? If it's experience, what specific kinds of interactions, projects, delegation opportunities, etc. will prepare them for the next level? What are their natural strengths and what challenges need to be addressed? Once you've identified the what's, you can begin developing a plan to address the how's.

Additional online resources for succession planning

Below are a couple resources that will assist in developing your legal department talent.

www.kornferry.com/institute/general-counsel-senior-leader-more-just-lawyer

What's going on?

The world is an unpredictable place. It behooves every organization regardless of industry or location to be prepared for the sudden departure of leadership. The strategy that worked for your organization last year can be the one that does you in this year. That's why every strategy, including your succession management plan should include a thorough check of external stimuli along with a profound understanding of what's affecting the industry. These questions should be asked: "If one of our key leaders left today, would their potential successor be able to handle what's going on in our industry right now? Would they be able to bridge the knowledge divide?" In-house legal departments have unique challenges in this regard, as there is the technical legal work that only lawyers can do, but these same lawyers are more frequently being seen not as stumbling blocks to accomplishing goals, but also as business partners tasked with ensuring the legal strategies developed move the entire organization toward success.

Jay Hummel, the managing director of financial services firm Envestnet, suggests that as organizational leaders you should analyze your company to make sure that you are ready for a leadership change and you must encourage departing leaders to be available in some capacity to mentor the new guard. But how?

It starts with the organization and the vision from the top. Whether your succession plan is formal or informal, whether it includes only the upper-most echelon of talent or is implemented unit by unit within the legal department, the value placed on your future leadership is seen not through speeches about how important the future is, but on the actions taken to identify and develop talent for the future.

Succession management is an investment not a slogan. Having a good plan does not require you to send your employees to expensive "leadership development" programs, although there maybe a place for such programs in your plan. Instead your goal should be to provide mentoring, coaching, and learning opportunities, where employees work on meaningful projects that test their judgment and decision-making skills in an environment you created, where they are allowed to make the kinds of mistakes where they can grow those same skills.

One of the common themes among the general counsel we interviewed was that naming an heir apparent was not a good strategy. Identifying your high potential employees doesn't mean you have to make announcements to the entire department who those people are. Each lawyer's career development plan will be individual to their strengths, weaknesses, and interests, as well as the department's current and future needs. If you lock your talent into a particular path, the change mentioned above may leave them ill-prepared to move to the next level. Our healthcare general counsel stated it like this, "We don't make final decisions on who might fill future vacancies because intervening business conditions could change what our future needs will be."

Customers are key

With all this talk of organizations and the internal players, it's easy to forget about every organization's ultimate key to success: the client. There are many examples of organizations failing because they were so focused on their strategy that they missed key messages from clients. That's why bringing in outside leadership is such a risk. Many incoming leaders want to make his or her mark in a new company. However, any succession plan must analyze what is working from a customer perspective and build on that. Alan Olsen, a principal at the legal management consultancy Altman Weil, Inc., advocates the careful cultivation of internal talent to ensure that certain key success indicators are built upon through training and skill cultivation. Wooing outside talent should be more or less a last resort and done when there is a need to fill gaps in expertise.

For in-house legal departments, this means hiring a new leader who does not understand the legal department's partnership with its clients — the organization's other departments. Since legal is not a revenue generator in most corporations, partnering with the profitable departments to help them succeed is of utmost import. Hiring someone who does not understand this construct could prove detrimental not only to already developed goodwill, but the corporation's business as a whole.

Change creates resistance

If you do not currently have a succession management plan in place, expect to receive flack about creating one. Change, even positive change, is not always met with positive reactions. There will be those who are leery of the process, the identified or chosen, or just the fact that something new is being attempted. Take care not to view their reactions as resistance, but to instead hear what they are really trying to convey. All too often resistance is seen as a negative. Instead, if you choose to understand the emotions of your employees and view their resistance as an opportunity to engage those who will be affected by the changes as information — a resource — you will be able to avoid some of the pitfalls that result in upwards of 70 percent of change efforts failing.

Leaders should be mindful of how any significant change fosters resistance in individuals. Employees understand that they have the right to experience and express their feelings about changes that they feel are not mutually beneficial for them and the organization. Leaders should research how change affects morale, and precipitates feelings of grief or anxiety. Lastly, they should be prepared to acknowledge those who do not get the leadership nod but felt they deserved it. In short, a little organizational psychology goes a long way.

The final analysis

Succession management is a crucial step to move your legal department, as well as your organization, to the next level. There are a variety of considerations from who, when, why, and how. Assembling and implementing your plan should involve the input not only of those currently in positions of leadership, but also a representative sample of all those affected by the leadership change. Getting buy-in to the overall plan will help in the eventual acceptance of new leadership. Involve your lawyers in the plan development process so they understand the skills, qualifications, and leadership qualities that are required to guide your organization in the future.

Further Reading

Tichy, N, (2015). "Succession: The Need for Radical Transformation," *People & Strategy*. 38(2), 8-10.

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Hummel, J. (2016). "From Founder to Successor: 8 Areas to Consider When Planning for Succession," *Journal of Financial Planning*. 29 (1), 20-22.

Olsen, A. R. (2015). "Transition Assets: A Foundation for Succession Planning and Lawyer Development," *Of Counsel*. 34 (2). 6-8.

(Whittig, 2012, 23; Gondo, et al, 2013, 36).

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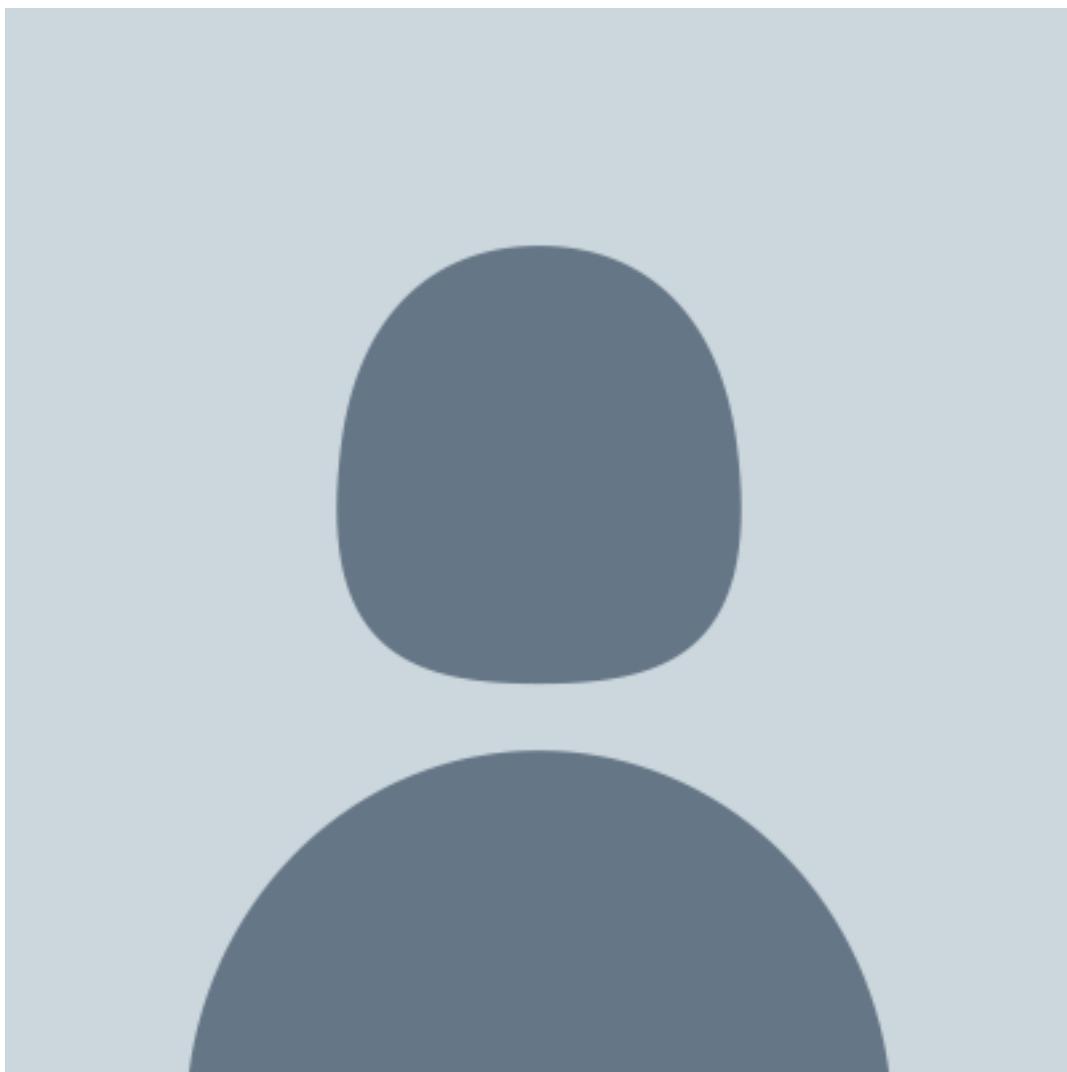


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