



Cheat Sheet

- *Find talent.* MassMutual directs a legal recruiter to contact every associate with four to eight years of experience at six premier Boston firms to gauge their interest in working for the company in Springfield, Massachusetts.
- *Demonstrate interest.* The general counsel of MassMutual calls candidates directly. To further demonstrate the company's interest, MassMutual structures interviews tailored to the individual candidate.
- *Establish career paths.* It is increasingly common for departments to offer parallel career paths for lawyers interested in strategic projects and for specialist lawyers interested in more traditional in-house practice.
- *Measure engagement.* Since engagement is so critical, it must be measured. An annual engagement survey is incredibly valuable. Pay special attention to the areas that are high and low.

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The Graying

of the Legal Department and

Its Implications for Hiring and Developing In-house Talent

By Mark Roellig and Aaron Kotok

As legal departments seek to replace retiring attorneys, they will find that the well of high-quality law firm associates and partners (typically relied upon to hire in-house talent) is drying up. In addition, law firms are spending less time training their lawyers with the specific skills they will need to succeed in an in-house department. To remedy this, leading legal departments are changing their hiring practices to discover talent more quickly, and they are retaining that talent by increasing engagement and creating compelling career paths for the millennial generation.

On Jan. 1, 2011, the oldest Baby Boomers — born between 1946 and 1964 — began turning 65, heralding the beginning of a massive demographic shift. By 2030, the entire generation will have reached retirement age, making up almost 25 percent of the US population.

By contrast, millennials — born between 1982 and 2004 — are entering the workforce, and the lawyers and law students among them are confronting an industry that is muddling through an identity crisis. In 2012, a record 46,500 students graduated from US law schools, and nine months later, a record-low 64 percent held jobs as lawyers. Small wonder then that law school applications dropped by nearly 18 percent in 2013, which was 27 percent lower than in 2008.

These two trends — the “graying” of the population and a downshift in law firm employment — have tremendous implications for how general counsel will hire, train and develop their teams and leadership bench. Over the next few years, retirement of senior legal executives and law firm partners will accelerate, leaving legal departments without many of their most tenured, valued staff and external advisors. Unfortunately, as they attempt to replenish their teams, legal departments may find a smaller pool of talent groomed for in-house work. (See Figure 1.)

For decades, most in-house legal departments assumed that law firms provided the best training ground for the role of in-house counsel; indeed, very few legal departments hire directly from law schools. They prefer instead that law firms (and even other in-house departments) make the investment in training future talent. That investment is disappearing. Law firms were not immune to the financial crisis, and in an extraordinary move, many large firms thinned the ranks of junior and mid-level associates, decreasing the amount of leverage that made them so profitable only a decade before. During

the gloomiest 24-month period of the recession, US law firms laid-off nearly 5,000 lawyers (plus another 9,500 staff), and the list of shuttered firms only continues to grow.

Perhaps a less obvious consequence of the deleveraging of law firms relates to the training that lawyers traditionally receive. Years ago, law firms routed associates through various departments before designating their specialty. More recently, most firms simply assigned each associate to a specific practice area upon hiring (usually after a summer associate period that permitted some broader exposure). During (and since) the financial crisis, many lawyers who survived layoffs were summarily re-deployed across their firms as needs shifted. For instance, as corporate work dried up, associates could be reassigned to adjacent practices, such as securities litigation or bankruptcy.

The changes gave associates experience in other areas but made them less prepared for legal departments looking for either deep specialists or broad generalists, depending on their specific needs. Given this, legal departments must examine more closely (1) how they discover and attract candidates, and whom they hire from among them; and (2) the opportunities available for their best talent to advance and increase their engagement.

Imperative #1: Attracting and hiring the best legal talent

With a smaller pool of potential talent to draw from, legal departments should revisit how they acquire future

lawyers. Legal departments typically wait for an open position or need and recruit through traditional sourcing channels, such as advertisements, recruiters, social media, the company web page and personal referrals. Though these forms of recruiting may successfully generate a large volume of leads, CEB research shows that generating a large number of applicants does not guarantee a better set of candidates. With 75 percent of candidates applying to at least three organizations — and one quarter applying to more than 10 — hiring managers report a significant degrading of the quality of applications. Indeed, the interview-to-offer ratio is more than three times higher for “passive” candidates (those not actively seeking new employment) than for “active” candidates.

MassMutual’s experience validates this data, finding it particularly effective to target lawyers who already work with the company as outside counsel, or who are familiar from past work or industry conferences, and to proactively identify and recruit them. In many cases, the company is very familiar with their body of legal work and how they might fit with the company’s culture. In addition, MassMutual also has found that maintaining a database and network of diverse lawyers ensures that it constantly expands the diversity of its applicant pools. Drawing “known quantity” lawyers from outside counsel — with their years of “embedded” experience with the legal team — may be the best way for smaller departments to find their talent. Large law



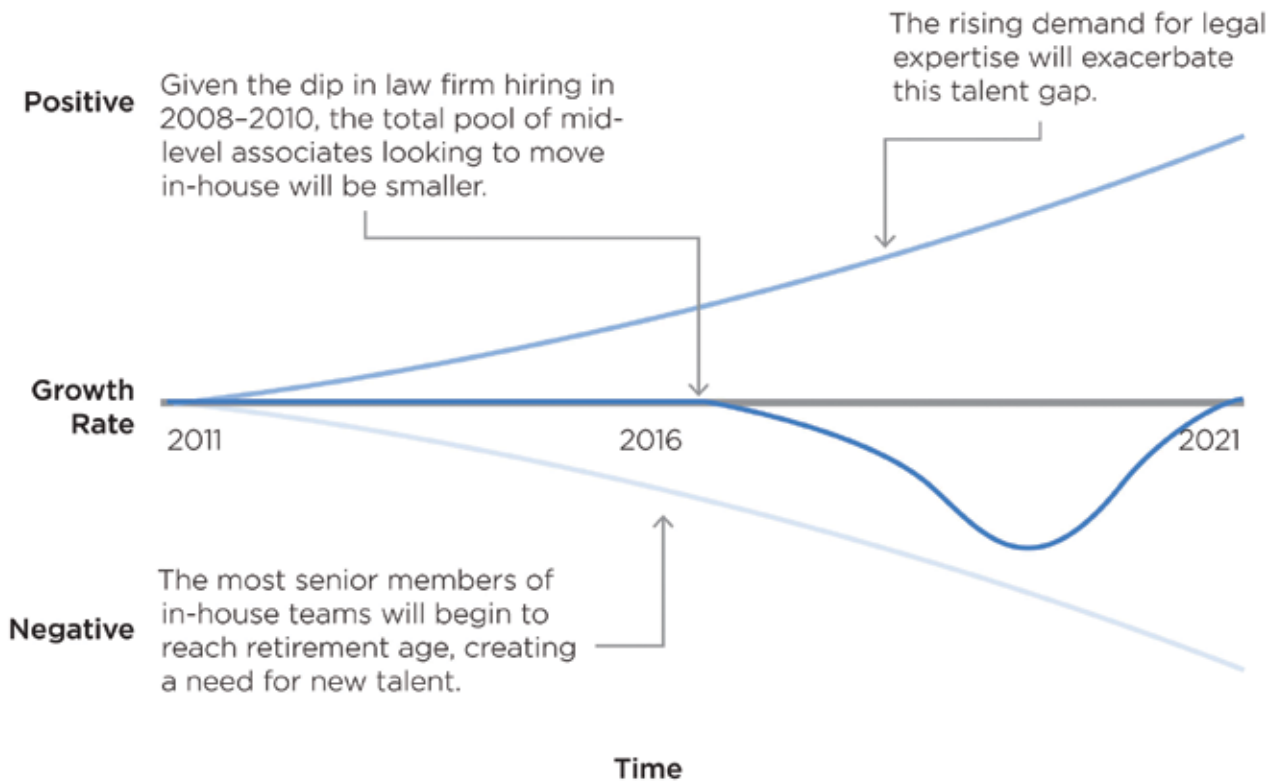
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Figure 1: A Changing Talent Marketplace

- Talent Demand
- Law Firm-Trained Talent
- Current In-House Talent



departments have more flexibility to take some risks in hiring, can count on a flow of lawyers in and out, and generally have the budget and personnel to accommodate overstaffing and understaffing for several months. Small departments rarely can afford to take such risks for a long period of time.

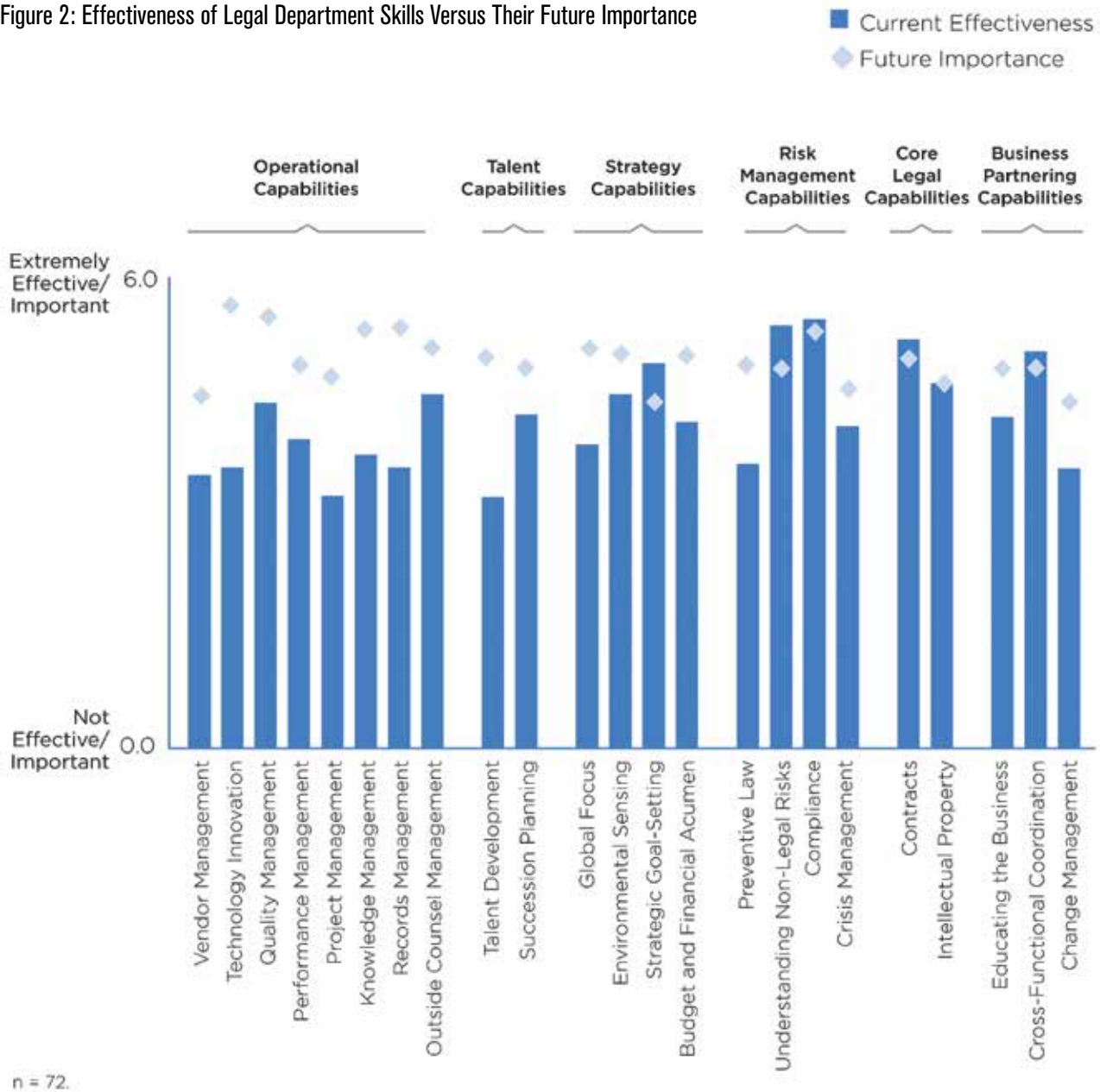
As hiring needs can arise with little notice, and the shifting demographics of the legal industry may limit the amount of available and attractive talent at any given time, many legal departments maintain an always-on recruiting machine. This may mean simply hiring good lawyers who fit with company culture, regardless of specialty, and being sure to hire when the time is right for the lawyer, even

if not necessarily for the department. MassMutual generally finds that the “sweet spot” to hire lawyers is between four and 10 years out of law school. In the company’s experience, four years of practice provides the necessary foundation for professional legal skills. After 10 years or so, however, lawyers’ compensation needs may be out of range, or they have simply decided to lock-in a long-term career in private practice or government. Other in-house organizations have concluded that the skills to be effective in-house are so different that they are comfortable hiring directly out of law school, and they can avoid needing to break counterproductive habits acquired in private or government practice. An

increasing number of well-known companies and high-quality legal departments, such as HP, Pfizer, Dish Network and Cargill, pursue this approach, which may be difficult for smaller legal teams, as it requires a sophisticated, structured and well-resourced training program. Also, one risk in doing this is to the new lawyer: If the in-house practice does not work out, it is very difficult to get a position in a high-quality firm — while the converse is not true.

To hire for skill and fit, MassMutual directed a legal recruiter to contact every associate with four to eight years of experience at six premier Boston firms to gauge their interest in working for the company in Springfield, Massachusetts.

Figure 2: Effectiveness of Legal Department Skills Versus Their Future Importance



The interest level from that initial outreach was about 2 percent. Then, the first contact from MassMutual was a direct call from the general counsel, not a recruiter or even another lawyer in the department. Active recruiting often began with a 6 PM phone call, reaching the lawyer at his desk. It sent the right message — finding talent is one of the most important things MassMutual does. During that outreach, the general counsel stated that the company

understood the candidate might have an interest in MassMutual. To further demonstrate the company’s interest, MassMutual structured interviews tailored to the individual candidate, requiring no more than two sets of meetings (to show the company was serious about making decisions). Then, before making the offer, MassMutual requested the candidate’s most recent performance review. (Most of the major firms provide written appraisals to their associates.)

The company concluded that if the candidate had worked four-plus years at one of the major Boston firms, had a good appraisal and a solid interaction with the company, MassMutual was willing to make an offer and then train them in the areas of law the company practices. This approach of taking talented lawyers and teaching them your business and the legal areas relating to it may not work for a smaller in-house group that requires the lawyer to be productive in a certain

practice area immediately or shortly after being hired.

Finding the “best” talent for the legal department, then, requires more than simply posting a position and watching the applications roll in. It takes a different set of skills and temperaments to work in-house, and not all lawyers are built for the corporate legal department. For all of its attractions (including, at most departments, more flexible hours and limited to no tracking of hours), the in-house legal environment has also become extremely demanding and challenging, requiring creative, responsive and proactive lawyers who are critical thinkers. In-house lawyers need to constantly identify ways to strategically improve productivity, efficiency and sales, while reducing costs and obtaining superlative results. Individuals who have learned and enjoyed one in-depth area of law

may be disappointed in the breadth of issues that must be addressed in-house and the requirement to sometimes be satisfied with an answer that is just “good enough.”

Understanding whether any candidate has the appropriate balance of these softer skills and personality traits can be difficult, and the typical interview context rarely brings them to surface in any meaningful way. Much can be, and has been, written about diagnosing an organization’s culture and assessing a candidate for cultural fit. A comprehensive approach, however, must include internal business clients’ perspectives, as they will often be most affected by a new legal hire. For example, one company identifies the top performers in its client-engagement surveys, and runs a series of interviews with them and key stakeholders to find the consistent themes that seem to

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drive clients’ impressions of these leaders. The balance of these traits is likely to vary by organization. Do your clients value confidence? Adaptability? Creativity? Use the results of this investigation to craft a series of standard interview questions or guidance, with a consistent way to “score” and compare candidates’ responses.

As shown in Figure 2, general counsel predict a growing need in

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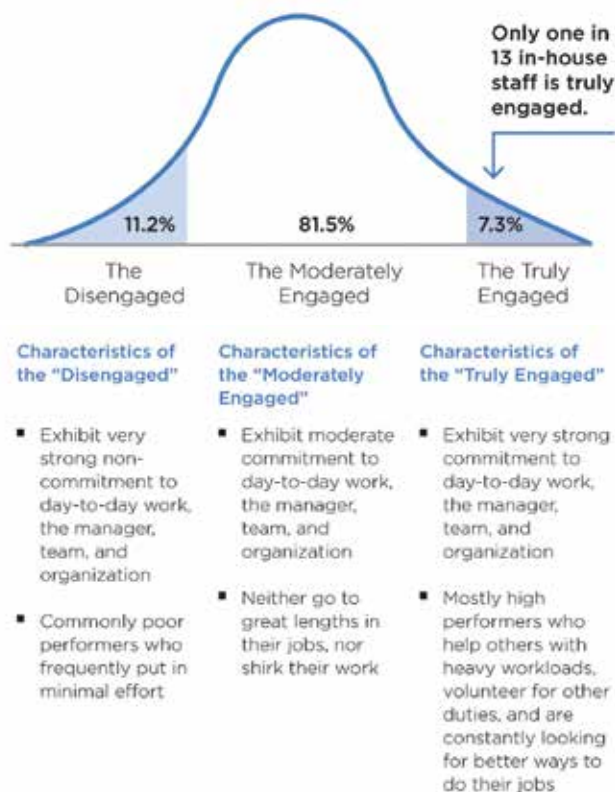
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Figure 3: Legal Department Engagement

Engaged lawyers are excited about being part of a winning team, driven to achieve results, persist at difficult tasks for long periods of time, help others and readily adapt to changing situations.



a number of legal skills in as little as five years. The largest skill gaps occur in operational capabilities and talent management, which is not surprising given the number of initiatives involving people and project management. Increasingly, general counsel are finding that many of the skills necessary for the effective practice of in-house law are very different from those valued in private practice and taught in law school or at firms. Finding the rare few experienced lawyers who bring these skills to the table will become increasingly important — putting still more pressure on the recruiting, interviewing and hiring practices of in-house legal departments.

Imperative #2: Engaging and retaining the best legal talent

Identifying and hiring the best legal talent for your organization is pointless

without consistently encouraging lawyers both to add significant value to the enterprise and to stay with the organization. Because only one in 13 in-house legal team members is truly engaged (see Figure 3), legal departments have the opportunity to improve lawyer productivity and effectiveness.

In fact, CEB research consistently demonstrates that organizations with high engagement levels experience positive returns on talent outcomes and the bottom line. Every 10 percent improvement in commitment to the organization, for example, can increase an employee's effort level by 6 percent, which, in turn, can improve an employee's performance by 2 percent. Every 10 percent improvement in commitment can also decrease an employee's probability of departure by 9 percent. And this engagement can have real effects across the organization:

Organizations with an average of 9.3 engaged employees for every actively disengaged employee in 2010-2011 experienced 147 percent higher earnings per share (EPS) compared with their competition in 2011-2012. In contrast, those with an average of 2.6 engaged employees for every actively disengaged employee experienced 2 percent lower EPS compared with their competition during that same time period. Gallup estimates that active disengagement costs the US \$450 billion to \$550 billion per year.¹

Engaged lawyers are excited about being part of a winning team, driven to achieve results, persist at difficult tasks for long periods of time, help others and readily adapt to changing situations. They are constantly thinking of ways to improve team performance, as they raise issues, develop solutions and enthusiastically carry out change initiatives. When encountering problems, engaged lawyers

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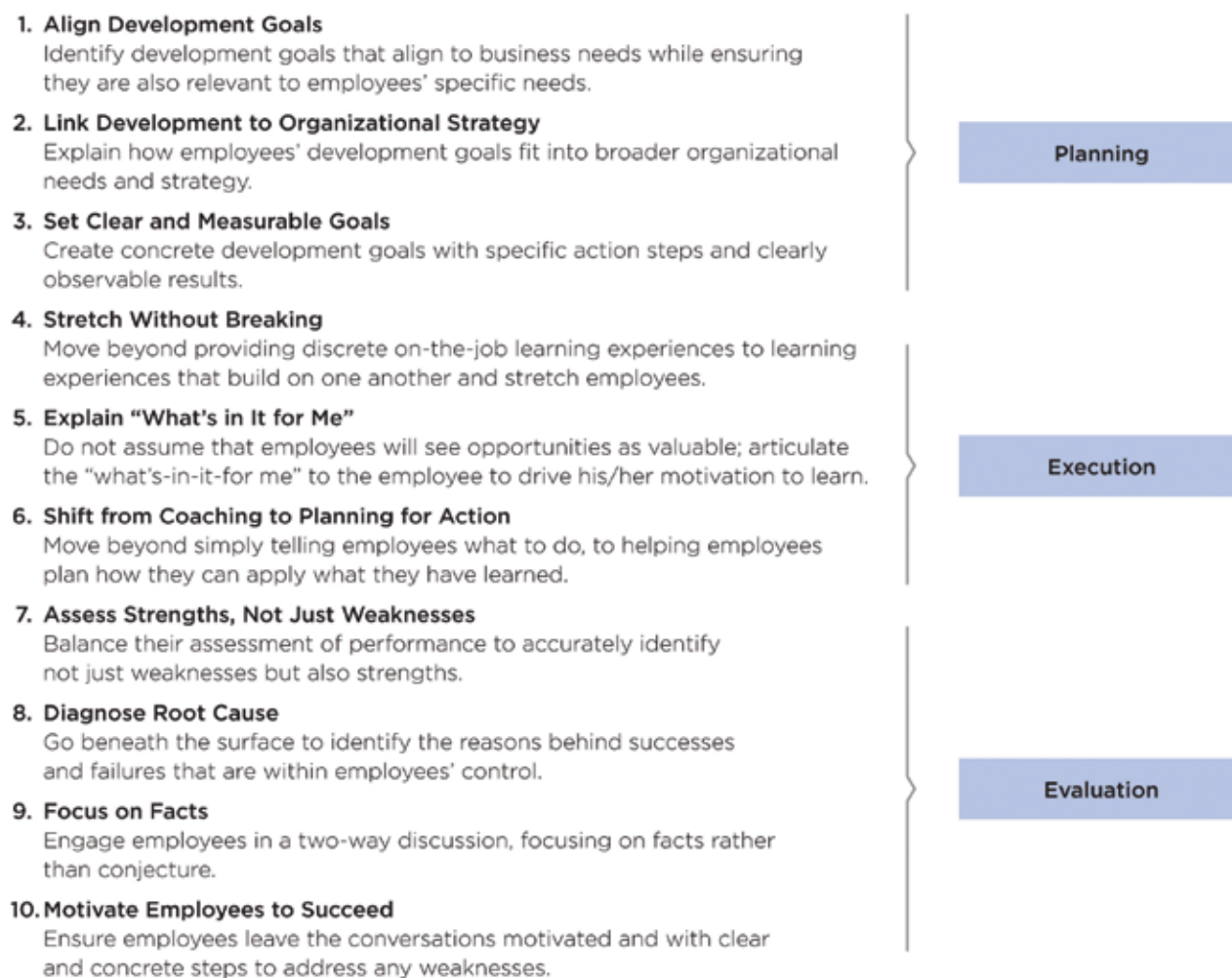


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Figure 4: Principles of Manager-Led Development



Source: CLC Learning and Development research; Audit Director Roundtable research; General Counsel Roundtable research.

are apt to resolve issues and then tell their leaders what they did rather than waiting to be told what to do. These employees do not come to work to play the game — they come to work to win!

Leaders who act consistently with a clear set of values, objectives and goals are critical to driving engagement. Communication, clarity and consistency around a leader's beliefs, expectations, what they will do and what they will not tolerate are critical. At MassMutual, each of the section leaders in the law department has developed a "Personal Leadership Philosophy" that clearly articulates

these items. The leader shares the philosophy with employees so that values and expectations are clear. This allows the lawyers to understand, identify with, trust and respect their leaders, while also driving engagement.

Having leaders and managers deliver training and development is also a strong driver of engagement. CEB research starkly illustrates the importance of strong managerial leadership and development, showing that employees reporting to managers who are effective at manager-led development have 25 percent higher performance, 40 percent higher retention levels and 29

percent higher levels of commitment than those reporting to managers who are ineffective at development. Figure 4 presents some principles for successful manager-led development:

Many leading departments also examine how team structures and career paths can keep legal work interesting and provide opportunities for growth and variety, even within what is often a flat team hierarchy. It is essential to create an environment where every lawyer can play the role of leader, team player or individual contributor, depending on the issue and team dynamics, rather than rely on a hierarchy with only one

leader at the top. In addition, setting up “major” and “minor” specialties, while moving toward reducing outside counsel spend in key practice areas, also encourages lawyers to seek out exposure to and training in different and unfamiliar areas, which other teams accomplish through rotations and reverse secondments. While it is increasingly common for departments to offer parallel career paths for “manager-track” lawyers and “specialist/individual contributors,” some departments even structure their teams to separate out those who are more interested in “traditional” in-house legal practice (e.g., contracts, commercial transactions and litigation management) from those more interested in larger, longer-term — and often ambiguous — strategic projects (e.g., corporate development, major litigation and investigations). Where such differentiated career paths may not be available, such as in small legal departments, general counsel can ensure the engagement and long-term retention of high-performing lawyers by varying responsibilities and projects, and by offering high-profile assignments and rotations within the organization. The key in each of these approaches is the recognition that many lawyers left private practice to escape careers destined for long and solitary substantive focus

in favor of the variety, diversity and pace of in-house law.

Since engagement is so critical, it must be measured. You do not get what you don't measure, and leaders need a method to be held accountable. An annual engagement survey is incredibly valuable. If it is a standardized survey, one can compare the results against best-in-class companies, as well as within organizations and teams within the enterprise. Pay special attention to the areas that are high and low. At MassMutual, the law department analyzes the results of its survey every year, compares them to benchmark data and other teams, and then works with its teams to create action-items for improvement, learning from those who score high and focusing on the areas where improvement is necessary. If there is no improvement over time, it is probably indicative of weak leadership and the possible need for a change. Leaders must be held accountable for engagement.

Hearts and minds

The practice of law is changing dramatically, and this is reflected in the in-house environment, too. The “new normal” is now one of constant improvement and change. To add the greatest value to the company, legal departments must continue to improve

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on how they can attract and hire the best and brightest talent for their needs, and then enhance their skills through ongoing development. Then, to retain and obtain the greatest value out of this exceptional well-trained talent, the company needs to focus on winning their hearts and minds, as well as their engagement. **ACC**

NOTES

- 1 Gallup, *The State of the American Workplace, Employee Engagement for U.S. Business Leaders* (2013).

ACC EXTRAS ON... Recruiting, developing and retaining talent

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