Guess Who Doesn’t Fit In at Work

By LAUREN A. RIVERA  MAY 30, 2015

ACROSS cultures and industries, managers strongly prize “cultural fit” — the idea that the best employees are like-minded. One recent survey found that more than 80 percent of employers worldwide named cultural fit as a top hiring priority.

When done carefully, selecting new workers this way can make organizations more productive and profitable. But cultural fit has morphed into a far more nebulous and potentially dangerous concept. It has shifted from systematic analysis of who will thrive in a given workplace to snap judgments by managers about who they’d rather hang out with. In the process, fit has become a catchall used to justify hiring people who are similar to decision makers and rejecting people who are not.

The concept of fit first gained traction in the 1980s. The original idea was that if companies hired individuals whose personalities and values — and not just their skills — meshed with an organization’s strategy, workers would feel more attached to their jobs, work harder and stay longer. For Southwest Airlines, screening job candidates based on their willingness to provide a wacky experience for strangers contributed to the fun environment that enabled the company’s financial success. Likewise, for the investment firm Bridgewater Associates, which seeks to distinguish itself through its pursuit of transparency and honesty, screening out potential hires who couldn’t handle criticism made good business sense.

But in many organizations, fit has gone rogue. I saw this firsthand while researching the hiring practices of the country’s top investment banks, management consultancies and law firms. I interviewed 120 decision makers and spent nine
months observing the recruiting practices of one firm in particular. The professionals I spoke with, who were charged with reviewing applications and conducting interviews, consistently underscored the importance of cultural fit in hiring. While résumés (and connections) influenced which applicants made it into the interview room, interviewers’ perceptions of fit strongly shaped who walked out with job offers.

Crucially, though, for these gatekeepers, fit was not about a match with organizational values. It was about personal fit. In these time- and team-intensive jobs, professionals at all levels of seniority reported wanting to hire people with whom they enjoyed hanging out and could foresee developing close relationships with. Fit was different from the ability to get along with clients. Fundamentally, it was about interviewers’ personal enjoyment and fun. Many, like one manager at a consulting firm, believed that “when it’s done right, work is play.”

To judge fit, interviewers commonly relied on chemistry. “The best way I could describe it,” one member of a law firm’s hiring committee told me, “is like if you were on a date. You kind of know when there’s a match.” Many used the “airport test.” As a managing director at an investment bank put it, “Would I want to be stuck in an airport in Minneapolis in a snowstorm with them?”

Discovering shared experiences was one of the most powerful sources of chemistry, but interviewers were primarily interested in new hires whose hobbies, hometowns and biographies matched their own. Bonding over rowing college crew, getting certified in scuba, sipping single-malt Scotches in the Highlands or dining at Michelin-starred restaurants was evidence of fit; sharing a love of teamwork or a passion for pleasing clients was not. Some (former) athletes fit exclusively with other athletes; others fit only with those who played the same sport. At one hiring committee meeting I attended, I watched a partner who was an avid Red Sox fan argue for rejecting a Yankees supporter on the grounds of misfit.

Selecting new employees based on personal similarities is by no means unique to banking, consulting or law; it has become a common feature of American corporate culture. Employers routinely ask job applicants about their hobbies and
what they like to do for fun, while a complementary self-help industry informs white-collar job seekers that chemistry, not qualifications, will win them an offer.

Although diversity in many industries has increased in recent decades, progress in the corporate realm has been slower than expected. Selection based on personal fit can keep demographic and cultural diversity low. In the elite firms I studied, the types of shared experiences associated with fit typically required large investments of time and money.

Class-biased definitions of fit are one reason investment banks, management consulting firms and law firms are dominated by people from the highest socioeconomic backgrounds. Also, whether the industry is finance, high-tech or fashion, a good fit in most American corporations still tends to be stereotypically masculine. Consequently, fit can exclude high-performing candidates — female or male — who are more stereotypically feminine.

Some may wonder, “Don’t similar people work better together?” Yes and no. For jobs involving complex decisions and creativity, more diverse teams outperform less diverse ones. Too much similarity can lead to teams that are overconfident, ignore vital information and make poor (or even unethical) decisions.

When it comes to creating a cohesive work force, managers often discount the power of shared experiences on the job, especially working interdependently on a high-stakes project. The more time we spend with co-workers, the more similar to them we tend to become. When hiring, do we really need an additional screen on whether people drink wine or whiskey or enjoy Nascar or Nabokov?

Perhaps most important, it is easy to mistake rapport for skill. Just as they erroneously believe that they can accurately tell when someone is lying, people tend to be overly confident in their ability to spot talent. Unstructured interviews, which are the most popular hiring tools for American managers and the primary way they judge fit, are notoriously poor predictors of job performance.

Fit can work, but personal similarity is not the key. Organizations that use cultural fit for competitive advantage tend to favor concrete tools like surveys and structured interviews that systematically test behaviors associated with increased
performance and employee retention. For managers who want to use cultural fit in a more productive way, I have several suggestions.

First, communicate a clear and consistent idea of what the organization’s culture is (and is not) to potential employees. Second, make sure the definition of cultural fit is closely aligned with business goals. Ideally, fit should be based on data-driven analysis of what types of values, traits and behaviors actually predict on-the-job success. Third, create formal procedures like checklists for measuring fit, so that assessment is not left up to the eyes (and extracurriculars) of the beholder.

Finally, consider putting concrete limits on how much fit can sway hiring. Many organizations tell interviewers what to look for but provide little guidance about how to weigh these different qualities. Left to their own devices, interviewers often define merit in their own image.

Wanting to work with people like ourselves is not new. In the past, employers overtly restricted job opportunities based on sex, race and religion, which is now illegal. But cultural fit has become a new form of discrimination that keeps demographic and cultural diversity down, all in the name of employee enjoyment and fun.

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Conferences are an overwhelming rush of presentations, conversations, and potential meet-ups, and it can be tough to know where to focus your time. How do you figure out which sessions to attend? Should you skip the keynote to meet an important contact? How many coffee dates are too many? And what should you do if you’re an introvert who hates small talk?
What the Experts Say

Professional conferences are an unavoidable fact of working life. And even if you’re an introvert who dreads the multi-day extravaganza of breakout talks and cocktail-infused networking sessions, you must resist your impulse to stay home, says Francesca Gino, a professor at Harvard Business School. “Skipping conferences is problematic because you’re missing out on the benefits of networking,” she says. “Today, probably even more than ever before, networks are a key form of social capital for achieving goals in both your professional and personal lives.” And meeting people at conferences “who likely have the same interests as you and are highly relevant to your work” is a good way to nurture and expand your network, says Dorie Clark, author of *Stand Out Networking*. “The fact that technology has made it easier to interact with people across great distances and time zones actually makes face-to-face interaction even more valuable.” Here’s how to get the most from the conferences you attend.

Change your mindset

Despite the known benefits of having an extensive and diverse network, many people “shy away from the opportunity to create new connections because networking makes them feel inauthentic and physically dirty,” says Gino. To reduce these feelings, she suggests changing your mindset and motives. You’re not just networking because you *should*; you’re doing it because it’s good for your career. She says that people who focus on their professional aspirations “network more frequently and experience decreased feelings of dirtiness” compared to those who are focused on merely meeting professional duties and responsibilities. As you’re getting ready for a conference, “try to stay motivated to network professionally for the growth, advancement, and accomplishment” that it will bring.

Pre-introduce yourself

Weeks before the conference starts, “think about the people you would really like to get to know and then carve out time to accomplish that goal,” says Gino. Clark recommends creating a “priority wish list” of people you’d like to meet. Send those people an email introducing yourself; if possible, get an introduction from a mutual friend or colleague. If the person is presenting, tell her that “you’re going to make it a point to come to her session,”
says Clark. “There’s a lot of fear when presenting that no one will come to your session so the fact that you’re making the effort will be appreciated.” If the person is not presenting, invite him for coffee. Or inquire “if there’s any session he’s excited about going to, then ask: Can we sit together?”

**Be strategic with your time**
Consider two things when choosing which sessions to attend. “A session should fulfill either a content goal, meaning the talk will be educational, or it should fulfill an interpersonal goal, meaning you want to meet or support the person who is presenting,” Clark says. The keynote speech is usually skip-able, but because someone famous often delivers it, “it’s fun to go,” she adds. “It’s likely to be entertaining and will give you bragging rights as in: ‘Hey, I heard Elon Musk speak.’” That said, “The keynote doesn’t have much networking value beyond being a conversation starter.”

**Network on your terms**
If plunging into a crowd makes you uneasy, you’ve got to “take initiative to create a situation where you feel comfortable,” says Clark. Perhaps one-on-one meetings are better for you or small group settings. If so, Clark suggests making a reservation at a local restaurant for about eight people before the conference. Then invite people from your wish list. “You want it to be a mix of people you know and people you would like to get to know better,” says Clark. “Tell them you’re bringing together a group of interesting people and you’d like them to join.” And be sure to tell them why the dinner is of interest. “If she’s a tech entrepreneur, tell her that you’re also inviting venture capitalists,” for example.

**Listen more; talk less**
When you’re attending a semi-professional, semi-social networking situation — such as a group dinner or conference cocktail reception — your goal is to “allow enough space for others
to shine,” says Clark. Harness quiet power by asking thoughtful questions and listening carefully to how others respond. Having conversation starters at the ready can make small talk more palatable. For example, you might ask: “Which work project are you most excited about right now?” or “Which session are you most excited to attend?” If you’ve invited people together, it’s also important that you “exert sufficient control” of the situation. “Make sure people are interacting with and getting to know each other,” she says. Ask people to introduce themselves. Think of commonalities among group members and highlight those when you’re making introductions. “Try to bolster group cohesion rather than letting it be a fragmented experience,” says Clark.

**Manage your existing connections**
Conferences can be useful venues to solidify your current professional relationships. After all, says Gino, “good networking not only means creating new connections. It also means maintaining and strengthening existing ones.” But don’t spend all of your time with people you already know. That defeats the purpose of going to the conference in the first place. “If you know beforehand that certain colleagues are likely to glom on to you, draw clear boundaries – for both of your sakes,” says Clark. Having existing dinner or lunch plans can be handy. “Say to your colleague: ‘I need to meet new people tonight, but tomorrow I’m going to a session that I think we’ll both find interesting. Would you like to go together?’”

**Make time for yourself**
Conferences are exhausting, and can be especially so if you’re not an extrovert. “The fundamental truth about being an introvert is that you need to manage your energy differently from other people,” says Clark. “You need to know when you’re on the brink.” And so if you spend five days pushing yourself to attend every luncheon, cocktail party, and networking reception, “you’re going to be worn out and frayed, and you will not be at your best.” Put simply: Skip happy hour. In its place, do something restful or restorative. This is sound advice for both introverts and extroverts. “It’s easy for any professional to lose sight of self-care” because he or she is busy, adds Clark. Eating well, exercising, and getting enough sleep are important to our health. Don’t neglect your own wellbeing. One of the most
important ways to do this, says Gino, is to try not to be someone else when you’re in social situations. “Focus on being yourself,” she says. “This will help ensure that you don’t stress out too much or get too tired.”

Principles to Remember

Do:

- Shift your mindset by focusing on how networking is good for your career
- When choosing which sessions to attend, consider whether you’ll learn something or meet someone new
- Take the initiative to create networking situations where you feel comfortable

Don’t:

- Spend all of your time with coworkers you see every day – draw clear boundaries
- Burn out – give yourself time to rest and rejuvenate during the conference
- Try to be someone you’re not – putting on a false persona is stressful and tiring

Case Study #1: Organize small group gatherings and take time to recharge
Parisa Parsa, the Executive Director of the Public Conversations Project – a Boston-based group that helps workers and organizations create constructive dialog in their professional, civic, and personal lives – attends several conferences a year. “I don’t know if I will ever figure out how to make conferences not exhausting,” says Parisa, a natural introvert, “but I know what I need to do to make them productive.”

Earlier this year, Parisa, who is also a minister, attended the annual Unitarian Universalist Association conference in Portland, Oregon. Before she arrived, Parisa reached out to several people with whom she wanted to connect at the conference and invited them for coffee or a meal. “I do terribly when it comes to chatting with people on the spot, so I tried to set up one-
On-line meetings so I could focus my attention and not have to fight for airtime,” she says. “Reaching out to people in advance made sure I was on their radar. They knew they were a priority to me.”

In the past, she has also arranged small group dinners around specific topics. Since most people know her but don’t necessarily know each other, Parisa gets the conversation flowing by asking everyone to introduce themselves and to provide an initial take on the topic at hand. “I like bringing people together for a smaller, structured gathering. Big groups can be overwhelming.”

Parisa also makes sure to not wear herself out by giving herself time to rest and recharge. “I used to feel that I had to be at each and every session, but now I’m more strategic about choosing sessions based on the content.”

During her most recent conference, she went for frequent walks around Portland and nipped into coffee shops to reflect on and write about the presentations she’d seen. “I tried to see little bit of the city,” says Parisa. “It’s really sad when the only part of the city you remember is the inside of convention centers.”

Case Study #2: Offer your assistance in order to be seen as a potential resource

Ron D’Vari, CEO of New York-based advisory firm NewOak Capital, is a self-described “conference junkie” who attends dozens of conferences each year. Conferences, he says, “expose me to new ideas and perspectives and give me a sense of the marketplace and where things are going.”

Earlier this year, after he learned about the upcoming Professional Risk Managers’ International Association (PRMIA) conference in New York, the first thing he did — and what he always does — was call the conference organizer. “I asked if I could help with content — I volunteered to speak or to moderate a panel, and I let them know I could help introduce them to other speakers,” says Ron. “Offering to be a part of the conference provides many more networking opportunities than merely attending the conference.”
Ron won a spot on a panel. Before the conference started, he examined the agenda and looked at the list of speakers and presenters. Whenever he came across a person he wanted to meet, he sent them an introductory email and a request to connect on LinkedIn. “That way, they know who you are,” he says.

Ron attended the conference with several colleagues but he made sure to go to different sessions and networking events. “You can’t stay in a clique with colleagues,” he says. “It’s time to get to know other people.” After all, “conferences are expensive. You’ve got to be able to get your two grand’s worth of connectivity.”

When networking, Ron also makes an effort to do more listening than talking. “My objective is be seen as a resource for people. I want to engage them in a way so that when they have a technical question down the road, they think to pick up the phone and call me.”

At the PRMIA conference Ron made many connections, including a Fed official with whom he is currently writing a paper.

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What You Need to Know about Negotiating Compensation
Introduction

Study after study has long shown that women lawyers are not paid at the same level as their male counterparts. In August 2012, American Bar Association President Laurel G. Bellows appointed a blue-ribbon Task Force on Gender Equity to recommend solutions for eliminating gender bias in the legal profession, with a principal focus on the disparity in compensation between male and female partners. This guide is one in a series of projects the Task Force has implemented to promote gender equity.

What You Need to Know about Negotiating Compensation helps you understand what information you need to know—and where to find it—before the partner compensation process gets underway. You will find specific strategies and techniques for how best to navigate your firm’s compensation system and to strengthen and leverage your negotiating position. You also will learn about the importance of sponsors and effective self-advocacy and what you need to say about yourself. This knowledge will help you level the playing field, maximize your ability to increase your partnership compensation, and close the gender pay gap.

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I. What Do You Need to Know about Your Firm’s Partner Compensation System?

It is impossible to play a “game” well without knowing its rules. Law firm compensation systems vary widely and, as with most systems, the rules that matter are not all written in the formal procedures. In fact, many of the most important rules are not. Changing trends in the profession also contribute to the ever-changing nature of most law firm compensation processes, increasing the importance of business origination and client development. Even if you feel that you’re familiar with your firm’s particular system, it always makes sense to begin your preparation for successfully navigating the process by familiarizing yourself with how the process will work each year.

What Is at Stake for You?

Law firm compensation discussions always concern salary (or your firm’s surrogate for salary, e.g., points, compensation groups, levels, or bands) and bonuses, if the firm provides bonuses for partners. These discussions also focus on whether a partner will get paid more or less than the prior year, how fast a partner should move up/down (normally based on the perception regarding the sustainability of that partner’s performance), and who the partner’s “peers” are. The compensation process clearly involves dividing up the pie, but in many law firms the conversations about relative compensation levels also impact how an attorney is perceived by firm leadership with respect to readiness for managing major client relationships and firm leadership roles. Leadership roles on important firm committees are reserved for “successful” partners, with success being defined by criteria that equate to higher compensation.
Who Makes the Decisions?

Law firms make compensation decisions in different ways. Some firms place compensation decisions in the hands of their managing partners; others invest their executive management committee or boards with the authority. Still others designate a specific compensation committee. Some firms have their practice group, client service team, or industry group leaders make compensation decisions, or put the final decision to a vote by the partners. In order to maximize your effective advocacy, determine who makes the decisions at your firm. If it is a group of people, it is important that you know which attorneys will comprise the decision-making body. Never leave your compensation fate in the hands of a group of people who do not know you or what you’ve accomplished (more about the process of advocating for your compensation below).

What Type of Compensation System Does Your Firm Employ?

Law firm compensation systems have varying degrees of transparency.

- There are open systems—“I know what everyone makes, or can easily find out.”
- There are closed systems—“I don’t know what anyone else makes.”
- There are partially open systems—“I know ranges of compensation, but do not know exactly who makes what.”

Partners of firms with open compensation systems not only reported the highest satisfaction levels, but they also reported significantly higher compensation levels than partners in firms with partially open or closed systems. Transparency in a firm’s compensation system allows a partner to understand both his/her absolute and relative standing.

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1. In New Millennium, Some Glass Ceiling? The Impact of Law Firm Compensation Systems on Women (Jean C. Williams & Veta T. Richardson, July 2010), the Project for Attorney Retention and the Minority Corporate Counsel Association, in collaboration with the American Bar Association Commission on Women in the Profession, reported the following breakdown among law firms with regard to compensation decision-makers for equity partners:
   - management or executive committee (40%)
   - separate Compensation Committee (22%)
   - managing partner, chair, or president (20%)
   - practice group leaders (12%)
   - partner vote (7%)

2. All definitions from Jeffrey A. Lowe, Major, Lindsey & Africa 2012, Partner Compensation Survey.

3. There was a gender gap in satisfaction levels reported by partners. Twenty-eight percent of men reported they were "very satisfied" with their compensation, but only 22% of women reported the same satisfaction level. Conversely, 9% of women reported they were "not at all satisfied," while 6% of men classified themselves the same way. Id. at 26.
Another factor in evaluating compensation systems is the degree to which the system is lockstep, i.e., compensation is based on seniority and not on ability, experience, or work product. Firms are typically divided into pure lockstep, generally lockstep but allowing some variance, and not at all lockstep. A pure lockstep system is rare.4

A third factor in the transparency of the compensation system itself is whether it is formula-driven, based on objective factors, based on subjective factors, or some variation of these three. Understanding what factors will be considered and how they will be weighted is critical to your decisions about how to get an acceptable return on the investment of your time, both billable and nonbillable.

Understanding the structural dynamics of your firm’s compensation system and the transparency of the process and its outcomes is the minimum information you need to strategically plan your self-advocacy. This information, along with an understanding of the culture of the firm and the politics of the decision-makers, allows you to ascertain your relative position and formulate your most effective arguments.

One final factor that impacts a true understanding of the partner compensation process is the partnership structure of your firm. The vast majority of big firms today are two-tier partnerships, comprised of equity and non-equity partners.5 Some firms remain one-tier partnerships where every partner is an equity partner, but these are a shrinking minority. There also are hybrid partnership structures that not only have equity and non-equity partners, but also have some fixed compensation equity partners who are required to invest capital in the firm but do not participate in the decision-making or share in the financial results as a true equity owner. The compensation process, the amount of your compensation, and your negotiation strategy can be materially impacted by where you are situated in the partnership structure of your firm.

Who Advocates for You before the Compensation Decision-Maker?

As with all compensation system characteristics discussed above, the official process will vary widely among firms. The important point is that you know who will be your official advocate before the compensation decision-making body. That knowledge enables you to strategically plan both your official and unofficial advocacy (see below).

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5. Equity partners share in the firm’s profits and losses. Non-equity partners (or income partners) receive a fixed salary and may also receive a bonus.
What Are the Criteria Used to Make Compensation Decisions?

There may be a list of criteria in the official description of your firm’s compensation process, but very few, if any, of these lists describe how the listed factors are actually weighted in the decision-making. That list may be separated into “objective” and “subjective” factors and is likely to include at least some of the following:

1. Origination credit (more about this later)
2. Working attorney receipts⁶
3. Billable hours
4. Realization rates
5. Revenue collected
6. Personal profitability⁷
7. Cross-selling to other practices
8. Cross-selling to other offices
9. Leverage of your practice⁸
10. Strategic nature of your practice
11. Necessary specialty for important clients
12. Firm management participation
13. Firm committee participation
14. Practice group management participation
15. Industry team leadership⁹
16. Client relationship team leadership
17. Institutionalizing client relationships⁹⁰
18. Mentoring others within the firm
19. Training others
20. Marketing yourself (and/or the firm)
21. Participation in professional organizations
22. Participation in civic organizations
23. Participation in pro bono work
24. Contributions to diversity (e.g., planning events or serving on committees)
25. Visibility (e.g., writing articles and giving speeches)

⁶ Major, Lindsey & Africa 2012, Partner Compensation Survey, supra note 2, at 111, defines “working attorney receipts” as the number of dollars collected (or expected to be collected) for work performed personally by an attorney in a fiscal year, even if it was actually collected in the following fiscal year.
⁷ Personal profitability involves a calculation of the revenue collected by the firm as a result of the hours billed by an attorney, less the expenses associated with that attorney (e.g., salary, bonus, benefits, and allocated overhead).
⁸ Most large firms analyze the number of people a partner keeps busy (other partners and associates) in relation to a minimum expectation for partners.
⁹ Industry teams are organized by client segment (e.g., financial services or energy) and work across practice groups.
10 As part of the succession planning process, some firms encourage partners to transition large clients to the firm to manage rather than handing the client over to another partner. If a client becomes a firm client, the relationship is managed by a team, rather than by a single partner.
If your firm uses a formula system, then the only factors that really count will be the ones with numeric values in the equation. In objective and subjective systems (and hybrids of the two), there is likely to be talk about the “number of factors” that are considered. However, in a recent survey, partners almost universally felt that the most important factor in any firm’s compensation decisions is origination of business, and the top three factors are originations, working attorney receipts, and billable hours.\footnote{Major, Lindsey & Africa 2012, Partner Compensation Survey, supra note 2, at 29-31.} One of the key due diligence challenges for you will be to figure out which factors actually influence compensation decisions at your firm. Those should be your primary focus.

What Other Factors Count in the Compensation Process?

There are two factors that will not make any official list of factors, but which have a material impact on the outcome of the process vis-à-vis your compensation. The first factor is whether you have a mentor/sponsor who is participating in the process formally on your behalf or who sits on the decision-making body. The second factor is whether there is diversity on that committee. Research has consistently shown that having more women and minorities on a compensation committee is important to counteract any implicit biases that might otherwise affect compensation decisions. In any event, it is imperative that those on the decision-making body are informed about your accomplishments and contributions to the firm for the period under evaluation.
II. How Can You Find Out What You Need to Know?

Now that you know what you need to know, the next step is to figure out how to get that knowledge. Research shows that when women have solid information, they are more successful when negotiating for themselves. Information gives you power—it enables you to focus on the criteria that matter and to be sure that what you are asking for is reasonable within the context of the firm culture and policies. It not only helps you defend your requests to others but also to yourself. We suggest you think about data gathering on two fronts—first, the substantive benchmarking described in Section I above and second, intelligence gathering about the people who will be making the decision about your compensation.

Substantive Benchmarking

Some of the information is available in writing from the firm, contained in the partnership agreement or other policy/procedure statements; other data are more challenging to amass. In many cases, the only way you’ll be able to get it will be to ask someone whom you trust—that’s why relationships, particularly those with sponsors and mentors, are so critical. But note that not all of the information is objective in nature, which is why it is useful to ask more than one individual to share his/her experience and perspective with you. The more people you ask, the better your analysis will be.

Intelligence Gathering

Although the people who are involved in your compensation decision are, in the vast majority of cases, trying to be fair and equitable, it is inevitable that firm politics as well as their personal preferences will have an impact on whether you get what you deserve.

Find out as much as you can about the people who are making the compensation decisions so you can anticipate how they’ll react. What might their concerns be? How can you make it easier for them to support you? Think about how best to make your case to each of them.

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Methodology, Timing, and Venue

Be sure to take process into consideration as you develop an action plan to garner support.

**Methodology.**

With each person in mind, think about when, where, and how best to position yourself for success. Is a face-to-face conversation likely to be most effective? Or is a phone call a better choice? We strongly caution against relying on email as the way to communicate with others regarding this sensitive subject—it can be the right choice in some situations, but should be selected for a specific reason rather than as the default.

Another point to carefully consider is whether your firm’s formal or informal processes discourage “lobbying” on your own behalf with members of the compensation committee. Instead, in many firms, it is preferable to enlist others to advocate for you with members of the committee.

**Timing.**

When does the timing work best to begin the conversations? If there are any natural windows of opportunity, for example, a meeting where there will be some time for informal conversations, take advantage of them. We suggest that compensation discussions, like tax planning, can’t get started too early in the year.

Then think about with whom you should begin. You may want to start with people who are likely to become allies because they will be easier to approach and more likely to offer you candid feedback. Or perhaps your plan is to begin with those who you anticipate will be more difficult to get on board since it will likely take you more time to convince them to support you. Regardless of what your strategy is, the key is to have one.

**Venue.**

Consider where it is best to hold these discussions. If possible, select places where you will have some measure of control—spots where you are less likely to be interrupted and will be comfortable.

Because there will likely be more than one decision-maker, you also have to think about how they will interact with one another. Is the situation such that, despite a “committee” construct, one person really makes the decision and others then fall into line? Or is it that the committee functions by majority vote? Or perhaps a consensus has to be reached? What coalitions exist and how do they operate?

An informational vacuum creates anxiety. Getting the relevant information takes away some of the uncertainty. The more you know, the easier it will be to develop the right case. With a plausible rationale and justification, you can support your argument and not be tempted to fold in the face of opposition.
III. What Is Effective Self-Advocacy?

Decades of data demonstrate a gender gap in compensation. As discussed in detail in the publication produced by the ABA Task Force on Gender Equity, the gap is “pervasive and longstanding.” As troubling as that is, there is evidence that the gap is widening. The reasons are complicated. To a major degree, however, the cause is attributable to second generation gender issues. Second generation gender issues are workplace challenges women face resulting from either:

- cultural beliefs about gender (stereotypes and related implicit biases). For example, a woman who is assertive can be perceived as aggressive (or even worse!) instead, a trait considered unattractive in a woman.

- workplace practices or policies that appear neutral on their face but result in advantages to men. For example, origination credit policies at many firms award all (or most) of the credit for new business from existing clients to the “origination attorney” or “billing attorney,” who “manages” the client relationship. Because men are more likely than women to be in these roles, they are more likely to benefit from these sorts of policies.

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14. Major, Lindsey & Africa, 2012, Partner Compensation Survey, supra note 2, $734,000 for men vs. $497,000 for women in 2012, compared to $675,000 vs. $513,000 in 2010.


16. Closing the Gap: A Road Map for Achieving Gender Pay Equity in Law Firm Partner Compensation, supra note 13, chap. 3.
Second generation gender issues are usually “unexamined”—they are “just the way things are.” Even more disheartening is that one such issue often triggers another, thereby exacerbating the damage. For example, in a firm that has an origination credit policy like the one in the example mentioned above, a woman who believes she deserves some or all of the credit has to make a difficult decision: should she ask for the credit and subject herself to the pushback she is likely to get or should she just let it go? This is known as the “double bind.” As one report termed it, a woman “is damned if she does, but doomed if she doesn’t.”

So how does knowledge about the fact that second generation gender issues exist help you? Many women believe that knowing about this research is useful as a backdrop for their conversations about compensation. They report the knowledge enables them to appreciate the context in which they are negotiating and to understand that the challenges they face are often attributable to second generation gender issues rather than individual shortcomings. As we have emphasized throughout this guide, knowledge is power in negotiation.

Second generation gender issues impact how women lawyers’ performance and contributions are assessed and, thus, affect compensation decisions. Accordingly, women must pay careful attention to these issues and how they impact firm culture to be effective at advocating for themselves.

19. Based on numerous interviews and focus groups Carol Frohlinger has conducted.
20. Joan C. Williams & Consuela A. Pinto, Fair Measure: Toward Effective Attorney Evaluations, (2d ed. 2008), written for the American Bar Association Commission on Women in the Profession, in collaboration with members of the ABA Section of Labor and Employment Law. The stereotyping and implicit biases that affect the evaluations of women associates also affect the evaluation of women partners in the compensation process.
What Are the Official and Unofficial Processes?

Spend some time thinking about how you want to present yourself to those who will be evaluating you. This is your opportunity to make sure that your successes are clear to those who decide your compensation. One thing you can do to ensure you have the specificity you need is to keep a written record of your accomplishments (some call it a “brag book”) and update it regularly.

The Official Process.

Let’s assume your firm, like many firms, requires a self-evaluation and reviews by others in determining attorney compensation:

- You evaluate your performance over the past evaluation period—usually one year, although it can be a longer or shorter time period.
- People with whom you have worked will evaluate your performance over the same period.

We recommend that you consider the following as you write your self-evaluation:

- Carefully follow the instructions and don’t turn in your self-evaluation late!
- Answer the questions you are asked, and describe your performance in the most positive light. Focus on your important assignments—your goal is to highlight your strengths, not to provide a detailed account of everything you did during the year.
- Confidently explain your contributions, staying on point as you do so.
- Organize statistical information on all of the client and administrative matters for the evaluation cycle in a way that is easy to understand.
- Quantify as much as possible. For example, it may be helpful to state the dollar value of transactions/trials/projects you have worked on. Focus on what you accomplished, not just on the activities you performed (i.e., return on investment, not amount invested).
- If you faced professional or personal setbacks in this review period, mention them. Because these issues can affect your performance evaluation, you should be sure to address them yourself.
- Be sure to explain the significance of and causation for increases or decreases in your numbers.
- Be sure to discuss criticisms/negative feedback you may have received in prior reviews and the actions you’ve taken as a result.

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21. Reviewers may include practice group heads or others senior to you as well as peers. Peer reviews can happen in two ways: First, if a partner does work for a client of another partner (the relationship partner), the relationship partner will often review the partner’s work on that matter. Second, partners on the compensation committee evaluate the performance of other partners.

Don’t let your numbers do the talking. Tie your responsibilities and accomplishments to your numbers and explain why your numbers show important contributions.

- The language you use should be clear, direct, and specific. Don’t use emotional words such as “hope” or “disappointed” or express anger or frustration. Speak in bullet points, not paragraphs.
- Be positive. Don’t make excuses, give explanations.

Don’t forget to use your “brag book” for specific examples as you prepare your memo. If a self-evaluation memo is not required, consider preparing a personal advocacy brief anyway. You can decide whether to submit it or simply use it as a way to keep track of your accomplishments and your successes.

With regard to getting reviewers to evaluate your work, approach them early and get their agreement to submit a timely review. Don’t assume, however, that they actually will submit a review or do it in a timely and comprehensive manner. It is up to you to provide your reviewers with the information they need to effectively and accurately evaluate you, and to encourage them to do it. You need to remind them of your contributions, highlighting the projects you worked on together.

Don’t ignore potential reviewers who might have negative or critical things to say about you. In most compensation processes, reviewers can submit unsolicited comments. If you sought out timely constructive feedback and acted on it, you are likely to have already minimized this problem and neutralized your detractors. Your response to this feedback should be part of your self-evaluation. But if not, the time to act is before the reviews are in.

The last part of the official process typically gives you an opportunity to meet with those involved in making the compensation decision. As stated earlier, each firm has its own process; you may be meeting with the compensation committee (or individual committee members), practice group leaders, office heads, or other partners involved in the compensation process. Get ready for this meeting the same way you would for a critical negotiation or court hearing:

- Prepare an outline.
- Boil down your key points.
- Know the facts by heart.
- Structure the facts as an advocate.
- Practice your presentation with a trusted colleague and ask him/her to provide feedback on both content and delivery.
- Present your achievements in a positive and direct way.\(^23\)
- Be prepared to affirmatively address any issues or prior criticisms.
- Make a specific “ask.” That is, say what you expect and believe you are entitled to receive.

The Unofficial Process.

What about the unofficial compensation process? Every firm has one. Ask senior colleagues and peers how the compensation process actually works. Carefully watch how your senior colleagues navigate the process to see how things actually get done and what really does not work. Here’s one example. If the only people who can submit reviews for you must be on your “reviewer list,” develop a list that includes not only your major supporters but also other busy people who you know get many other requests. You would only hurt yourself by not including those people on your reviewer list. Include people with whom you’ve done pitches, people who know about your client relationships, and people who understand your contributions to firm culture and citizenship.

Additional Considerations

Client billing credit/origination credit.

As discussed earlier, most compensation systems give great weight to partners who are “credited” for having brought the client into the firm and for maintaining the client at the firm. Often the person getting the “credit” is not the person who actually brought the client or new matter in or who actually keeps the client’s business at the firm. To address this, you need to be sure that your contributions are detailed in your self-evaluation and otherwise communicated to those people who are making the compensation decisions. You also need to understand the political morass of “fighting” for credit.24

Uncollectible time that is not your fault.

What about uncollected time that was written off by others or because of fee arrangements negotiated by others? How can you protect yourself from criticism for uncollectible time for which you had no responsibility? Be sure you understand any billing and collection issues and address them directly. Include any contingency cases even if they are not yet resolved, providing a detailed assessment of the likely outcome and when the fee is expected to be received.

IV. How Can You Positively Position Yourself for the Future?

Although the systemic issues that impact compensation negotiations are beyond the scope of this guide, each of us can and should reflect on things that are within our individual control. The question here is, “How can you best strengthen your negotiating position?” The answer includes immediate actions related directly to compensation, as well as long-term strategies.

Strategies Directly Related to Compensation Negotiations

» Learn from your own experience.

Think about what you’ve learned from your previous compensation negotiations. What did you do that worked well? What was not effective? Then consider what actions you’ll take this time to ensure that you will advocate for yourself as successfully as you would for a client.

» Get yourself in the right frame of mind.

Recognize that you don’t get what you deserve; you get what you ask for. Accept that negotiating for yourself is something you have to do—no one else will do it for you.

» Anticipate challenges.

Don’t be blindsided; most of the time, you’ll be able to figure out the things people might say that you don’t want to hear. Knowing in advance what you will say in response will alleviate a great deal of stress and ensures that you will be more effective “in the moment.”
Long-Term Strategies

➤ Invest in yourself.

Make sure you have a career development plan (including a well-developed business development strategy) and the skills to execute on it. If you don’t, close the gap.

➤ Keep a journal.

This “brag book” enables you to recall your accomplishments when it’s time to write your self-evaluation or to regularly update important people on what you’re doing.

➤ Enlist allies.

Purposefully identify and cultivate people you like and trust who will advocate on your behalf. These may be sponsors or others with whom you have a strong relationship. Of course, because reciprocity matters, you should always be seeking ways to help them as well.

➤ Help other women.

More than as allies, women should be alert to the benefits of promoting qualified women colleagues for leadership roles in their firms and supporting women colleagues generally. The greater the number of women on the major governing committees of your firm, the less impact second generation gender issues will have on women generally because these issues are more likely to be recognized and addressed. Additionally, the diversity of thought that women bring to firm decision-making benefits not only women but men and the firm more broadly.

Conclusion

Negotiating for yourself about compensation can be tricky. Gender stereotypes about whether and how women should negotiate, coupled with organizational impediments, mean that women must navigate negotiation carefully and thoughtfully. Preparation is the key to success. We hope this guide has provided you with the information you need to craft a plan that will work for you.
About the Authors

Carol Frohlinger, J.D., is a consultant, speaker, and co-author of *Her Place at the Table and Nice Girls Just Don’t Get It*. As a co-founder of the advisory firm, Negotiating Women, Inc., she is committed to helping organizations gain strategic advantage by leveraging the talent women bring to leadership roles. Carol’s pragmatic approach, grounded in solid research, focuses on change initiatives embraced by both men and women. Carol is also an internationally known speaker on the topic of how women can negotiate with authenticity to achieve their maximum personal and professional potential. She has appeared on the Today show as well as other television, and her advice has been featured by CBS MoneyWatch, NPR, and The New York Times, among other mainstream media. Frequently called upon to provide expert insight by publications serving the legal profession, she also contributes articles to professional journals, Forbes.com, and The Huffington Post. Carol was selected by then-Senator Hillary Clinton to lecture on the issue of pay equity for women and to serve on a panel with the senator to address the causes and implications of the gender gap in pay. She has been honored by The International Alliance for Women with its “World of Difference Award” and was named to the Top 50 Most Influential Women List by the Irish Voice.

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Jane DiRenzio Pigott is Managing Director of R3 Group LLC and specializes in providing leadership, change, and diversity/inclusion consulting to professional service organizations. R3 Group's services enhance financial performance and an organization’s competitive edge by allowing the organization to retain, develop, and promote its key talent. R3 Group approaches leadership, change, and inclusion strategically and produces measurable results toward its clients' goals and objectives. Before founding R3 Group, Ms. Pigott practiced law for over twenty years, most recently at Winston & Strawn, where she served as the chair of the global Environmental Law practice and relationship manager for one of the firm's largest clients. At Winston, Ms. Pigott served on the firm's Executive Committee, the first woman to do so, and its Compensation Committee. While there, she created and chaired the firm’s Diversity initiative; that initiative implemented a strategic action plan that resulted in the firm winning multiple awards for its leadership in the industry and results as compared to its peers. Ms. Pigott is a frequent speaker and author on topics of leadership, project and people management, and diversity and inclusion. In addition, she holds leadership positions on corporate and civic boards.
About the ABA Task Force on Gender Equity

In August 2012, American Bar Association President Laurel G. Bellows appointed a blue-ribbon Task Force on Gender Equity to recommend solutions for eliminating gender bias in the legal profession.

The Task Force has produced several publications addressing pay equity:
- Toolkit for Gender Equity in Partner Compensation
- Closing the Gap: A Road Map for Achieving Gender Pay Equity in Law Firm Partner Compensation
- What You Need to Know about Negotiating Compensation
- Power of the Purse: How General Counsel Can Impact Pay Equity for Women Lawyers

The Task Force also has implemented numerous projects to achieve gender equity, including:
- The Midwest Regional Summit for Women In-House Counsel was held in March 2013, in Chicago.
- ABA women’s affinity groups are addressing ways for these groups to leverage their collective power and maximize coordination.
- Young lawyers are utilizing social media to engage young women and men in the conversation about gender equity.
- In conjunction with the Section of International Law, the Task Force created a women-to-women business referral network with various women bar leaders and lawyers from international bar associations.

For more information on the Task Force on Gender Equity, visit its website at www.americanbar.org/GenderEquity.

About the ABA Commission on Women in the Profession

As the national voice for women lawyers, the ABA Commission on Women in the Profession forges a new and better profession that ensures that women have equal opportunities for professional growth and advancement commensurate with their male counterparts. It was created in 1987 to assess the status of women in the legal profession and to identify barriers to their advancement. Hillary Rodham Clinton, the first chair of the Commission, issued a groundbreaking report in 1988 showing that women lawyers were not advancing at a satisfactory rate.

Now in its third decade, the Commission not only reports the challenges that women lawyers face, it also brings about positive change in the legal workplace through such efforts as its Women of Color Research Initiative, Women in Law Leadership Academy, women in-house counsel regional summits, and Margaret Brent Women Lawyers of Achievement Awards. Drawing upon the expertise and diverse backgrounds of its twelve members, who are appointed by the ABA president, the Commission develops programs, policies, and publications to advance and assist women in public and private practice, the judiciary, and academia. For more information, visit www.americanbar.org/women.
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Why Women Don’t Negotiate Their Job Offers

by Hannah Riley Bowles

JUNE 19, 2014

Research shows that women are more reticent than men to negotiate their salary offers. For instance, one study of graduating MBA students found that half of the men had negotiated their job offers as compared to only one eighth of the women. This general pattern has been replicated in survey studies of working adults and in laboratory experiments. It begs the question: Why? Is this a “confidence” problem? Is negotiation a skill for which men are simply better socialized than women? Why leave money on the table?

Researchers have examined the why, and the answer has more to do with how women are treated when they negotiate than it has to do with their general confidence or skills at negotiation. Numerous studies have been conducted in which participants rate their impressions of employees who negotiate for pay and of employees who let the same opportunity to negotiate pass them by. The researchers then compared people’s willingness to work with that employee after evaluators saw him or her negotiate, or not. If evaluators were less inclined to work with the same employee after seeing him or negotiate, we deemed that the “social cost” of negotiation.

In repeated studies, the social cost of negotiating for higher pay has been found to be greater for women than it is for men. Men can certainly overplay their hand and alienate negotiating counterparts. However, in most published studies, the social cost of negotiating for pay is not significant for men, while it is significant for women.
The results of this research are important to understand before one criticizes a woman — or a woman criticizes herself — for being reluctant to negotiate for more pay. Their reticence is based on an accurate read of the social environment. Women get a nervous feeling about negotiating for higher pay because they are intuiting — correctly — that self-advocating for higher pay would present a socially difficult situation for them — more so than for men.

But here’s a twist: we love it when women negotiate assertively for others. It’s just when women are negotiating assertively for themselves — particularly around pay — where we find a backlash. Unsurprisingly, research also shows that women perform better (e.g., negotiate higher salaries) when their role is to advocate for others as opposed to negotiating for more for themselves. Men’s behavior and the ensuing social effects don’t shift much depending on whether they are advocating for themselves or others.

OK. So, we shouldn’t blame women for being more reticent than men to negotiate for higher pay. But, is there anything that women can do about it? Thankfully, yes.

The answer is to use a “relational account” — or what I have learned from Sheryl Sandberg to call a “think personally, act communally” strategy. Using a “relational account” or “I-We” strategy involves asking for what you want while signaling to your negotiating counterpart that you are also taking their perspective. So, how does it work?

First, you want to explain to your negotiating counterpart why — in their eyes — it’s legitimate for you to be negotiating (i.e., appropriate or justified under the circumstances). Sheryl says that in her negotiations with Facebook, she told them, “Of course you realize that you’re hiring me to run your deal team so you want me to be a good negotiator.” Sandberg wanted Facebook to see her negotiating as legitimate because, if she didn’t negotiate, they should be worried about whether they’d made the right hire.

Second, you want to signal to your negotiating counterpart that you care about organizational relationships. After pointing out that they should want her to be a good negotiator, Sheryl recounts saying, “This is the only time you and I will ever be on opposite sides of the table.” In other words, “I am clear that we’re on the same team here.”
In experimental research testing evaluators’ impressions of alternative negotiating scripts, we found that relational accounts helped women both get what they wanted and make the impression that they wanted to make. For instance, one successful relational account that we tested was very similar to Sheryl’s, but was written for a more junior employee: “I don’t know how typical it is for people at my level to negotiate, but I’m hopeful that you’ll see my skill at negotiating as something important that I can bring to the job.” Note that I’m not suggesting that women use these scripts word-for-word. Come up with an “I-We strategy” that makes sense in context and feels authentic to you.

When the explanation for why the woman was negotiating seemed legitimate, people were more inclined to grant her compensation request (as compared to when she was simply negotiating for a higher salary without that explanation). When her script communicated concern for organizational relationships, evaluators were more inclined to work with her. Indeed, there was no significant difference in the willingness to work with a female employee who negotiated using a relational account (“I-We” strategy) as compared to female employees who let the opportunity to negotiate for a raise pass. Variation in the negotiation scripts did not significantly influence the evaluations of male negotiators.

I should highlight that not every legitimate explanation for negotiating helped women. For instance, conventional wisdom in the negotiation community has been to negotiate for a raise when you have another job offer. We tested multiple negotiation scripts based on an outside offer — even ones suggesting that the offer just dropped in the employee’s lap. Unfortunately, in all of the outside-offer scripts we tested, the suggestion that the employee would leave if the offer were not matched seemed to undermine the impression that the employee cared about organizational relationships. As a result, evaluators reported being more willing to grant a woman with an outside offer a raise, but they were disinclined to work with her (as compared to if she let the opportunity to negotiate pass). The outside-offer scripts had no significant effects on the evaluation of male negotiators.

The key to a relational account (or “I-We”) strategy is to explain why your counterpart should perceive your negotiating as legitimate in terms that also communicate your concern for organizational relationships.

I should acknowledge that this idea of using “relational accounts” or “I-We” strategies drives some women crazy. It makes them feel like they are bending to unjust stereotypes or simply being inauthentic. I sympathize with that reaction. We were surprised while doing the research that it would be so hard to make the backlash effects go
away. But, every movement needs its idealists and pragmatists, and I am playing the pragmatist here.

It is good advice for any negotiator — male or female — to ask for what they want in terms that their counterparts will perceive as legitimate and mutually beneficial. But for women, it is especially helpful because it unburdens them from the social costs of self-advocating. By sharing this research, I hope to shed light on this bias. Most people don’t want to discriminate. With more self-awareness as negotiators and evaluators, we can work to close this gender gap.

Focus On: Negotiating

- Negotiating Is Not the Same as Haggling
- Negotiate from the Inside Out
- To Negotiate Effectively, First Shake Hands
- The Simplest Way to Build Trust

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