Core Competencies

Legal Research, Analysis and Communication – Critical Competencies in Legal Professional Development

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Legal Research

Prepared By:
Heather J. Innes
Alberta Justice and Attorney General
Legal Services Division
Edmonton, Alberta

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INTRODUCTION

The purpose of this short paper is to:

a) serve as an introduction to the concept of competencies as a tool to evaluate professional development in the legal environment;
b) briefly examine legal research and the related competencies of analysis and communication; and
c) provide suggestions for using a competency framework to guide your own professional development.

COMPETENCIES GENERALLY

What is a Competency?

A competency is:

> …an underlying characteristic of an individual which is causally related to effective or superior performance in a job. Competencies can be motives, traits, self-concepts, attitudes or values, content knowledge, or cognitive or behavioral skills – any individual characteristic that can be measured or counted reliably and that can be shown to differentiate significantly between superior and average performers, or between effective and ineffective performers.[1]

According to Corporate Human Resources, Government of Alberta, competencies are "any attitude, skill, behaviour, motive or other personal characteristic that are essential to perform a job, or more importantly, differentiate superior performers from solid performers."[2]

What is a Competency Model?

According to Bock and Ruyak:

> A competency model is a customized list of behaviors and skills used to distinguish or predict employee performance within a business. In a law firm, the model defines various behaviors and skills – and the developmental levels of those behaviors and skills – that are necessary as each attorney progresses on the path to partner. Competency models can be tailored to reflect a

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[1] Bock & Ruyak at 3, citing R.E. Boyatzis
[2] Alberta. Corporate Human Resources. Online: http://www.chr.alberta.ca/Practitioners/?file=learning/competencies/apscomp/aps-competencies&cf=353

> business's individual strategy and vision. Effective integration of a competency model can enable the business to better achieve its long-term strategic objectives, and create or enhance a high-performance learning culture.[3]

Larry Richard of Hildebrandt has described a law firm competency model as:

> ...a framework that identifies all the competencies that an associate needs to have mastered at each level along the climb to partnership and defines each of those levels in a sufficiently clear manner for the associate to understand the attitudes or behaviours expected of them.[4]

Generally speaking, if a competency model were viewed as a pyramid, it would build from technical knowledge and skills at its foundation upward to more refined behavioural competencies, or soft skills at the top[5]. The foundational technical competencies are often associated with specialized knowledge in certain fields or businesses (like the practice of law) while differences in behavioural competencies might distinguish a person who performs "as expected" from a "star performer."

A competency model for a particular workplace would be expected to reflect the culture of that workplace and the types of skills and behaviours are valued there.

Many competency models include not only descriptions of the core competencies, but *benchmarks* (experiences and tasks that demonstrate the competency) and *levels* (stages through which lawyers progress as they develop their knowledge, skills and abilities.)

Why Competencies?

The impact of the recession appears to be one of the primary drivers of an increasing trend towards using a competency based approach in U.S. and U.K. law firms. Another factor, in the U.S. at least, is an increasing unwillingness on the part of clients to pay for the high salaries of newly minted lawyers, as reflected in their hourly billing rates.[6]

One of the first U.S. law firms to adopt a competency model was the firm Husch Blackwell LLP, in 2001[7]. In recent years numerous global law firms have announced a departure from the traditional lockstep compensation model for their lawyers to a competency based evaluation and compensation system.[8] A 2009 survey conducted by

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3 Bock & Ruyak at 3
4 Furlong (Lexis)
5 Bock & Ruyak at 13
6 Tom Huddleston Jr, "Survey: Associate Training Gaining Steam" (17 November 2010), online: The AmLaw Daily http://amlawdaily.typepad.com/amlawdaily/2010/11/assoc-training.html
7 Husch Blackwell LLP, online: http://www.huschblackwell.com/associate-level-system/
8 Furlong (Lexis)

NALP revealed that the majority of firms who responded to a survey on competency models either had such a system in place, in development or planned.[9]

While the adoption of competencies and competency models has not yet taken off in Canada, this is a trend worth noting, given the increased emphasis on professional development and continuing legal education in the legal profession.

Uses of Competency Models

Competency models are probably most often used by organizations for performance appraisals and professional development. They could also be used for many other purposes, including decisions about promotions, compensation, recruitment, mentoring, and partnership selection and development.[10]

COMPETENCY IN LEGAL RESEARCH, ANALYSIS AND COMMUNICATION

Legal research is sometimes described as a process that can be mastered. However, even if this is true and the process is mastered, there are many other factors that may differentiate a "star" legal researcher from one who performs "as expected". Some of these factors are the researcher's ability to call upon other skills or competencies, particularly related to analysis and communication.

Legal research, analysis and communication are competencies that are linked together in the effective practice of law. In many law firm competency models "legal research and analysis" is treated as one competency area, with either legal writing or communication being another area. Some firms might describe the competency area as legal research, but the ability to analyze is included, certainly at the more advanced Levels in the model.

Legal Research and Analysis Models

In the case of legal research, or legal research and analysis, three levels in a competency model might look like this:

Level 1: Conducts research
Level 2: Oversees research
Level 3: Sets research strategy[11]

Or, they might look like this:

Level 1: Performs accurate research
Level 2: Takes initiative to perform comprehensive research
Level 3: Research strategist[12]

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9 Mara at 7
10 Mara at 8
11 Fried-Fiori at 1
12 Bock & Ruyak at 100-101