The Changing of the Guard: Selecting Your Next Firm Leader

PATRICK J. MCKENNA
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Contents

About the author ...................................................................................................................... VII

Acknowledgements ................................................................................................................ IX

Introduction: The leadership succession process ............................................................... 1
  The different approaches .................................................................................................. 1
  Some of the challenges involved .................................................................................... 5
  What this book is about ................................................................................................. 7

Appendix A: When a firm leader suddenly departs ............................................................ 9
  The swift appointment of an interim firm leader ............................................................. 9
  A thorough assessment of your current condition ......................................................... 9
  Determining where you need to go ................................................................................. 9
  Developing a profile of the leader who will guide you there ............................................ 9
  Beginning the nomination and selection process .......................................................... 9
  Selecting your new firm leader ...................................................................................... 9

Part One: Making ready ..................................................................................................... 11

Chapter 1: Choosing a nominating committee ................................................................... 13
  Action #1: Choosing a nominating committee ............................................................... 14
  Action #2: Establish what you're looking for ................................................................. 15
  Exhibit 1: Nominating committee – Sample Terms of Reference ................................... 15

Chapter 2: Developing your timeline .................................................................................. 17

Chapter 3: Identifying the challenges your next leader will face ..................................... 21
  Step one: What is our firm's current situation? .............................................................. 22
  Step two: What do we expect our future to look like? ................................................... 23
  Exhibit 3: What do we expect our future to look like? ................................................... 24
  Step three: What do we want from our next firm leader? ............................................. 24
  Exhibit 4: What do we want from our next firm leader? .............................................. 26

Appendix B: When term limits might be considered ......................................................... 29
  The argument against term limits ................................................................................ 29
Appendix G: When a firm leader has to let go ................................................................. 115

Part Six: Talking with Firm Leaders ................................................................................. 117

Interview 1: Talking with Stephen J. Immelt, chief executive officer at Hogan Lovells .... 119
Interview 2: Talking with Vincent A. Cino, chairman at Jackson Lewis .................... 123
Interview 3: Talking with Carter G. Phillips, executive committee chair at Sidley Austin .... 125
Interview 4: Talking with Timothy E. Powers, managing partner at Haynes and Boone .... 127
Interview 5: Talking with Kim Koopersmith, chairman and managing partner at Akin Gump Strauss Hauer & Feld ................................................................. 133
About the author

PATRICK J. McKenna is an internationally recognized author, lecturer, strategist, and seasoned advisor to the leaders of premier professional service firms; he has also had the honor of working with at least one of the largest firms in over a dozen different countries.

He is the author of numerous books, most notably his international business bestseller, First Among Equals (currently in its sixth printing and translated into nine languages). His consulting expertise was acknowledged in 2008, when he was identified through independent research compiled and published by Lawdragon as “one of the most trusted names in legal consulting”, and his three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: Innovations In Legal Consulting (2011). One example of that innovation was his launching the first instructional program designed to specifically address the issues that new firm leaders of larger firms face in their first 100 days – which has thus far graduated over 70 new leaders many from AmLaw 100 and 200-sized law firms, as well as from notable accounting and consulting firms.

In addition, he serves as contributing editor to Of Counsel, The Legal Practice and Management Report, based in New York City; he is the only expert in professional service firms admitted to the Association of Corporate Executive Coaches, the #1 US group for senior level CEO coaches; and was acknowledged in 2014 by The American Lawyer magazine as “a longtime succession consultant and coach to new firm leaders”.

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Introduction: The leadership succession process

EVERY FIRM eventually finds itself in need of a new leader. The executive committee or board must seek to replace the current incumbent as that individual comes to the end of their term of office, announces a return to their practice, or perhaps is contemplating retirement. Every year we also see firm leaders step down because of a loss of partner confidence, an unexpected disability, a tempting career offer from a prestigious corporate client, or even, on occasion, being laterally recruited by a competing firm! And in many of these instances, a firm’s knee-jerk reaction to rapidly find some replacement has them anointing some partner with little to no management experience to become the leader of a multi-million dollar business.

My colleague Brian Burke (chair Emeritus from Baker & Daniels) reminded me recently of how some firms tend to react to a leader retiring by overcorrecting. For example, the firm may choose to replace a single long-serving and highly regarded managing partner with a committee of three, perhaps out of some concern that no one partner could possibly do what this last firm leader was able to accomplish. So the firm heads in a completely different direction with their succession process — what Brian calls a “curb-to-curb orientation”, often without really understanding why the course change is being made.

How should suitable candidates for firm leadership positions be identified, developed, selected, or elected?

The different approaches
There are, fundamentally, three different approaches to choosing your next firm leader. Leadership transition in firms usually takes the form of heir succession, partner selection, or the contested election. Each of these three approaches has very distinctive advantages and disadvantages, and each may be used at different times in a firm’s evolution depending upon the “curb-to-curb orientation” to which a firm might succumb.

The heir succession approach
Heir succession is a planned succession in which some partner (an heir) is appointed as a successor months or years before the incumbent firm leader steps down. Following this approach allows your executive committee/board to defer to your current firm leader in the belief that they are best equipped to make the decision about who should replace them.

Advantages
One firm well known for employing this approach is Jones Day, and as they describe it:

Frank Ginn developed the managing partner concept that still is used at Jones Day. It was Ginn’s view that lawyers function best when able to focus on practicing law, rather than engaging in debates on such matters as firm administration or allocation of income. He saw no benefit and significant costs in a system that tried to mechanically assign credit for client origination or other...
responsibilities of partners, so no such system ever developed at Jones Day. Universal recognition of Ginn’s dedication to the welfare of the firm as a whole, and to the welfare of each partner, allowed the institutionalization of the managing partner system, through which the managing partner has authority to make all management decisions, including designating a successor. Since then, this governance system has never been the subject of any disagreement within the firm. It is one of the critical components of an institutional management approach that has been an important element of the firm’s success over the last century.

Disadvantages

There is some evidence to show that allowing a firm leader, even—and perhaps especially—a very successful one, to choose their successor can bias the selection dynamic. When the incumbent has accomplished great things for a firm or been in the position for an extended period of time (over ten years), executive committee/board can often be tempted to anoint a clone. The incumbent will not admit that the firm needs someone with different ideas and competencies, and the board can’t imagine insulting their highly accomplished partner by not accepting their choice.

In these instances, powerful incumbents may assume that they know best and may even exclude elected board members from any succession discussions and decisions. I’ve witnessed this happen subtly, where over a period of a few years the incumbent nurtures one particular partner by continually giving that individual increasing responsibility such that everyone just normally assumes that this individual will eventually take over. The incumbent may have good intentions and truly believe that they have an insider’s insight into who is the best candidate, but their judgment may also be clouded by a desire to preserve their legacy. There have also been those occasions where the incumbent may have selected someone who they knew they could manipulate. Meanwhile, many of these candidates naively assume that they are prepared because they have observed the firm leader in action, sometimes for a few years. From my years of working with new firm leaders and as these anointed candidates soon discover, observation is a poor substitute for doing.

Often these firm leaders (perhaps unconsciously) are most attracted to a replacement who is a mirror image of them. Typically their choice of a successor is a partner whose leadership style, business philosophy, and even personality are similar to the mentor. While in certain instances it may make sense to select a candidate who leads much as their predecessor did, many times it is a mistake. In our rapidly changing marketplace, firms need new leaders who can evolve their firm’s competitive strategies and cultures, not replicate them. They need to identify the candidate with the specific skills, knowledge, and ‘must-have’ criteria that the firm may need going forward. The delusional incumbent believes that if they can find a partner just like them, this new leader will help the firm enjoy the same success that they helped it achieve.

I have also seen those instances where an existing leader appears to have anointed a “below-average” candidate. As much as the incumbent wants to select a mirror-image replacement, they come to the conclusion that there is no suitable clone and no one who can begin to accomplish what they have achieved and so they decides (perhaps unconsciously) to anoint a successor they instinctively know is not up to the job. Such a selection will eventually cause everyone to recognize what a great job the incumbent
The Changing of the Guard: Law Firm Succession Planning

did as firm leader. It may also result in
the executive committee/board asking
the incumbent to continue in some form,
as the new leader seems to lack enough
experience to go it alone. Meanwhile, our
retiring leader can justify their actions in all
sorts of ways: after all, the new leader will
grow into the job, they're still young and
eager to learn. To hope that some politically
anointed but moderately acceptable
candidate will eventually grow into the job
can be a perilous gamble.

Finally, there are those occasions wherein
the argument is put forward by the current
incumbent that some partner has now earned
or deserves the position and that rewarding
them by making them the next firm leader
would be the honorable thing to do. In one
sense the notion of earning it is an admirable
tradition. If a partner works hard and
selflessly contributes time to firm activities,
rewarding them seems the proper thing to
do. Unfortunately, it is not always in the
best interests of your firm. Many have come
to realize that rewarding performance or
seniority by appointing that individual into a
senior leadership position can backfire. You
are assuming that if someone can produce
results in one position, they can produce
equal or better results in another — when the
reality is that the new responsibilities may
require entirely different skills.

In the corporate world, a recent study
of companies where the CEO handpicked
their successors found that almost 80 percent
underperformed the stock market during their
tenure. Stanford University Professor David
Larcker warns "CEOs are preoccupied with
personal legacy and might pick someone just
like themselves."

The partner selection approach
At some firms, a nominating committee
will seek input from all partners regarding
leadership needs and suggested candidates.
The committee then talks in depth with the
prospective candidates regarding their
interest, qualifications, and willingness to
serve. This partner selection approach
is an effort to determine the one, single
"consensus" candidate that the vast majority
of the firm's partners feel would be the
best person to take on the responsibility
of leading the entire firm and by doing
so, obviate any need for controversy or
divisiveness within the firm.

Once a recommendation is made, the
committee then puts the matter to the partners
for approval. If the nominating process has
resulted in only one candidate (as is usually
the case), many firms require that in order
to be elected, a candidate must receive a
majority vote of the partners. This allows
partners to either dispute the committee's
recommendation by withholding votes or
assures the successful candidate the support
of a large majority of the partners.

Advantages
Morrison & Foerster described how this
process unfolded during their last succession
process. According to San Diego Partner
Don Rushing, who led the chair Selection
committee:

"We had the privilege of speaking with
every partner about who the next chair
should be. We are in an outstanding position
for a transition to a new generation of
leadership. Our practices are strong, with
headline-grabbing matters across the globe,
and financially we are having our best
years ever. While a number of candidates
could have served the firm well as the
chair, we felt that Larren's many personal
attributes, combined with his singular success
in building a world-class Bankruptcy and
Restructuring practice from scratch in one of
the world’s most competitive legal markets, made him an especially attractive choice to continue MoFo’s growth in today’s hyper-competitive environment.”

**Disadvantages**

At one firm, two candidates emerged, each of which had the strong backing of different sections within the firm. Pressure was exerted by the members of the executive committee for only one name to be put forward, as a contested election was deemed to be not in the firm’s best interests. The pressure escalated and eventually resulted in one of the finalists withdrawing their name.

At another firm, a powerful rainmaker quietly made it clear to the board that he would leave if not selected as the new managing partner. Although there was general agreement that he would not be a very good choice, the board members felt obligated to vote in favor. A compromise was negotiated whereby the scope of the new firm leader’s job would be reduced.

Finally, there are firms in which the executive committee/board control the selection process and select a leader from among their own membership on the theory that the board members were elected by the partners already. This procedure can lack independence and be subject to undue influence, since any new firm leader is neither ratified nor confirmed by the partners.

**The contested election approach**

The contested election is an explicit succession process that takes place over a predetermined time frame in which two or more partners are put through a series of assessments/activities in order to decide who will be chosen/elected as the firm’s next leader. While this democratic approach has a philosophical appeal, it can become slightly challenging, as happened recently in one firm where the contested election resulted in the firm’s new leader being elected by a single vote.

**Advantages**

It could be argued that one of the benefits of a contested election is that it provides a development opportunity for those partners by battle-testing their thinking and giving each the gift of in-depth feedback (increasingly rare as you become more and more senior). The contested election becomes somewhat like a presidential campaign during which the candidates become accustomed to the glare of peer scrutiny, which will obviously prepare them for the real job of being the firm leader. The contested election process can be enormously effective in helping to determine the best leader for the firm.

In one 150-lawyer firm, where they had three candidates for the position of firm chair, one admitted to me: “Had I been the only candidate, it would have been a no-brainer and I would not have given preparing to assume office another thought. But because there were three of us, I invested a lot of time thinking about the firm, the issues, and what needed to be addressed going forward. The very notion of having to compete for the position energized me beyond belief.”

Firms that are most successful with this approach promote a healthy culture in which partners embrace competition for the top job and the notion that the best firm leader will emerge from the process.

Alan George “A.G.” Lafley, author of The Game-Changer and CEO of Procter & Gamble, counseled in the Harvard Business Review the same sentiments that I’ve heard from a number of managing partners that I highly respect:

More horses are better. More candidates means you have more choices, more breadth
and depth of leadership, more leaders performing at their peak and delivering better business results, and more leaders to take on more business opportunities. But you don’t have to make it a horse race that becomes public. It doesn’t have to divide the organization and it doesn’t have to distract from the business.

**Disadvantages**

While that may sound good, the disadvantage is that a contested election (sometimes called a horse race) creates an acknowledged winner – and losers. Here is some excerpted commentary, as reported in the legal media, from one contested election. To most readers this would appear to be extracted from a political campaign of some sort, rather than from the activities within a respectable professional services firm.

Heavyweights prepare to do battle… One partner goes so far as to say it would be “almost impossible” for him to win the vote… His reputation as a strong public speaker and presenter should stand him in good stead as the three candidates tour the firm’s offices ahead of polling… Sources point to this candidate’s toughness as an “effective task master” and a hard worker, even if he may need to work on staying personable to be successful in the leadership campaign… “At the end of the day, real estate is not a very exciting background for a managing partner to come from”… It seems that no candidate can yet be called the favorite.

In these kinds of situations, a highly valued partner who loses may ultimately take it very personally and decide to leave the firm. A contested election can also become quite distracting to everyone as it is politicized through continuous hallway speculation and as various camps develop. As the competition intensifies, it is not uncommon for partners to take sides for or against particular candidates. This can result in overt behavior that deters teamwork and knowledge sharing.

In a number of surveys I have conducted over the past ten years, when asking firms “how often are contested elections the process used to determine who the next firm leader will be” the typical results that I get back may seem surprising:

- 12 percent respond “Always”;
- 3 percent respond “Usually”;
- 43 percent respond “Sometimes”;
- 34 percent respond “Rarely”; and
- 10 percent respond “Never”.

These results would lead me to conclude that the majority (58 percent) of firms find themselves at some point having to contend with effectively managing a contested election. At our most recent First 100 Days masterclass for new firm leaders (held in January 2015), all but one of the participants confirmed that there was at least one other contender for the position.

**Some of the challenges involved**

Whichever methodology you favor, you may expect that the election/selection of a new firm leader will always be disruptive and an emotionally charged endeavor. It is rarely a polite ceremonial undertaking. Some of the more common shortcomings that I’ve observed (and had to work around) in the firm leadership selection process include the following:

- The selection/election process becomes such a complicated endeavor that it causes your firm to lose valuable momentum as individual partners and
practice leaders shift to a “stand-by” mode, waiting to see what changes await their firm’s future directions. As any effective leadership transition process can take about four to six months in determining the best choice and then another three months in the proper orientation of the new incumbent, your firm’s momentum has the potential to be stalled for close to a year.

The issues that most firms face have grown ever more complex over the past few years and as a result often need a new leader with competencies and experience very different from those evidenced in your last firm leader. A new firm leader often faces a number of unique and paradoxical challenges – to honor the past while creating the future; to orchestrate both an institutional and symbolic role as head of the firm; and to deal with the issues inherent in leading highly intelligent, autonomous professionals would would never, ever consider themselves as followers.

Unfortunately, rather than doing their homework and pinning down the specific traits and skills necessary, board members may look for celebrities amongst their ranks – those professionals who are leading luminaries or exalted rainmakers – in some misguided belief that the attributes required to be a extraordinary rainmaker are the same as those required to be an effective firm leader. Too many executive committees/boards begin to discuss who might be the next firm leader without even knowing what they should be looking for. In other words, the default position is that someone who feeds the firm most likely also has the capabilities to be someone who leads the firm.

Some firms seek instant gratification in selecting someone at the partner’s meeting on Saturday and expecting that they should begin in their new role on Monday morning. While that may seem like a gross exaggeration, at the time that this was being written, we were hearing about how Deloitte is hyping the election of their first new female CEO – who has been given only one month to prepare to take charge of 65,000 employees and a $15bn revenue operation. Being a firm leader today is a pressure-packed job and requires orientation time to properly prepare oneself for taking charge. I believe Deloitte’s example is a huge disservice to the new CEO and dangerous to the firm’s future prosperity.

We often see the delicate dynamic whereby a supposedly “retired” firm leader still wanting to “keep their finger on the pulse of the firm” becomes chair Emeritus and continues to serve on the executive committee/board, eventually allowing their finger to slowly and subtly strangle any new initiatives, making it very difficult for the new incumbent to be effective. Some former leaders maintain a strong desire to hang on to their management position for dear life.

Finally, there are those executive committees/boards who really have no idea or defined methodology as to how they will approach the leadership selection process, largely because it has been over a decade since they were last required to find a new firm leader. These boards can sometimes be dominated
by strong individuals that then prevent the board from orchestrating an effective selection process.

What this book is about
While each firm's situation is unique, the necessity for determining a succession process that will work for your firm is critical. What I have attempted to do in this book is outline a comprehensive process involving a number of sequential steps. That said, leadership succession is much more than a simple process that can be managed by the numbers. Almost by definition, the selection of a new firm leader is a highly charged, zero-sum game; there can be only one winner. Various groups and partners may have vested interests in the outcome, with some having a personal interest in whether they will have any ability to influence the new incumbent.

Most executive committees and boards are often unprepared for the challenge and time consuming nature of planning and executing the managing partner selection process … which is probably not at all surprising given that they only have to do it about once every decade! Nevertheless, there are huge consequences. Every partner is watching closely and the process is intensely personal, political, and demanding.

So, how do you manage this selection process? Will certain approaches make the task easier and more efficient?

Selecting a new firm leader represents both a real and symbolic transition. Realistically, succession transfers a degree of power and authority from an old regime to a new one. Symbolically, your selection choice communicates values both in terms of who is selected and how that selection is made. Your leadership selection advances your firm's symbolic identity: “He's from one of our branch offices”, “She will be our first female managing partner”, “He has considerable international experience”, “This partner is committed to employing leading-edge technology.” Each of these statements sends a signal about your firm's priorities and directions.

There are numerous rational, political, and emotional issues that you will need to anticipate and prepare for:

The rational
- Identifying, developing, or refining a workable job description
- Searching for the best candidate compatible to the firm's aspirations and strategy
- Realistically assessing the candidate(s) using various methods
- Determining the very best candidate regardless of personal loyalties

The political
- Coping with the egos and strongly expressed views of power partners
- Dealing with different factions within your executive committee/board
- Avoiding destructive internal politicking

The emotional
- Helping anyone not selected to adjust and move forward
- Helping create support for the new firm leader
- Helping the retiring incumbent to move on

Obviously every situation can be distinctive insofar as it must be executed consistent with your firm's governance and partnership agreements. Therefore, your selection processes may differ depending upon size of the firm, whether the final choice is made by the incumbent or determined by election of all shareholders or selection by your board/executive committee.
If you are comfortable and have a tradition of following the heir succession approach, then it is highly unlikely you would be reading this material. But if you are, you should at least be examining the chapters on determining the firm challenges your next leader will face, developing/refining the job description, hosting town hall meet and greets, and formally interviewing your heir apparent.

Alternatively, if you are more likely to engage in an approach that is most interested in finding the one “consensus” candidate that will satisfy your selection requirements, then more of the chapters should prove very helpful to you.

Finally, if you are one of the vast majority of firms who find themselves having to contend with effectively managing a contested election, then this book is your technical guide for effectively managing your succession challenges. If this selection process is managed well, your new managing partner will benefit from strong support across multiple constituencies. If managed poorly, internal politics will leave your new firm leader struggling to align various conflicted factions within the firm.

To help you I will outline the components of an effective process. So, while every situation may be somewhat unique, best practices would suggest that there are five very distinct phases and each phase has a number of steps.