

Attorney Succession Plan Checklist

by Practical Law

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A Checklist discussing key issues to consider when preparing a succession plan for a law firm partner, of counsel, or other senior attorney. It also addresses typical succession plan contents, identifying and transitioning in successor attorneys, and immediate steps to take when an attorney suddenly dies, becomes ill or disabled, or leaves the firm for other reasons.

Start Succession Planning Early

Consider Key Issues Before Preparing a Succession Plan

Identify One or More Successor Attorneys

Write the Succession Plan

Transition in the Successor Attorney

Take Immediate Action After a Sudden Attorney Departure

Attorneys and their law firms often fail to prepare a succession plan, placing the firm at risk if a partner or other senior attorney suddenly dies, becomes ill or disabled, or leaves the firm for other reasons.

This Checklist discusses the key elements of an effective succession plan for a law firm partner, of counsel, or other senior attorney (the "affected attorney"). It assumes that the firm employs an administrative staff to handle the many clerical and financial tasks related to servicing the firm's clients. For more information about succession planning for law firms, see [Practice Note, Law Firm Succession Planning](#). For related discussions about chief executive officer (CEO) succession planning and succession planning for corporate law departments, see [Practice Notes, CEO Succession Planning: Principles and Considerations](#) and [Law Department Succession Planning](#).

Sole practitioners preparing a succession plan may need to consider additional important issues not addressed in this Checklist, including but not limited to, valuing and selling a law practice and providing access to and closing a client trust account, interest on lawyers trust or IOLTA account, or other business account. For more information on the rules and regulations governing client trust accounts, IOLTAs, and handling client funds, see [Practice Note, Client Trust Accounts, IOLTAs, and Handling Client Funds](#).

Start Succession Planning Early

- Prioritize early succession planning to minimize the potential business disruption caused by the loss of the affected attorney's services due to:

- voluntary departure from the firm after finding a new job. For information on the ethical obligations of a lawyer leaving a law firm to join another law firm, see [Ethical Issues when Switching Law Firms Checklist](#);
- retirement;
- illness, injury, disability, death, or other emergency. For best practices law firms should consider when preparing for and responding to the impact of an emergency on firm operations, see [Law Firm Emergency Preparedness and Response Checklist](#);
- competing family or other personal issues;
- a layoff;
- a firing;
- a promotion;
- a relocation; or
- firm structural or management changes.

Consider Key Issues Before Preparing a Succession Plan

- Before preparing a succession plan, consider:
 - ethical issues related to succession planning as some states have mandatory rules requiring the designation of a successor in the case of an attorney's disability or death. Attorneys should consult their local ethics rules to ensure that they are in compliance with their state's succession planning requirements;
 - the risks of not having a succession plan, including business disruption, client loss, and potential malpractice claims;
 - the firm's short-term and long-term business needs;
 - the firm's demographics, including the ages of potential successor attorneys and whether any of these attorneys are likely to leave the firm within the next one to five years;
 - the affected attorney's age, health, life status, career plans, book of business, retirement plans, partnership agreement or other agreement with the firm, and other personal and professional factors;
 - how much detail to include in the succession plan;
 - who should implement the succession plan;

- how much time it may take to implement the succession plan;
- whether and how to involve clients in preparing and implementing the succession plan; and
- whether to hire a law firm management consultant to assist with the succession planning process. An outside consultant can help take some of the emotional issues out of the succession planning process and provide objective advice when drafting and evaluating a succession plan.

Identify One or More Successor Attorneys

- Define the criteria for one or more successor attorneys to assume the affected attorney's responsibilities.
- Consider the advantages of filling a vacancy internally, including:
 - lower cost because the firm is not required to pay for the services of outside employment search consultants;
 - less time needed to transition an internal candidate into a new role in the firm than to train an external candidate;
 - the internal candidate presumably has a better understanding of the firm's business and culture and has established relationships with the firm's clients and key employees; and
 - boosting employee morale as attorneys see an internal path to promotion.
- Identify and vet potential internal successor candidates, including running a conflicts check for each candidate. For common types of outside counsel conflicts of interest, see [Practice Note, Outside Counsel Conflicts of Interest](#).
- Include high potential junior partners and other senior attorneys with diverse backgrounds and proven track records on the list of potential successor attorneys. For more information about increasing law firm diversity, see [Practice Note, Increasing Law Firm Diversity](#).
- Anticipate the possibility of needing to hire an external candidate to become the successor attorney if no attorneys currently employed by the firm have the required background or practice area expertise to succeed the affected attorney.
- Consider the advantages of filling a vacancy externally, including:
 - the larger pool from which to choose the best candidate;
 - during times of law firm transition, there is no expectation of business as usual; and
 - an external candidate brings fresh ideas as well as new, different, or complementary skills, experience, relationships, and clients.

- Weigh each candidate's strengths and weaknesses.
- Rank the candidates.
- Prepare a short list of the top successor candidates.
- Interview each candidate on the short list.
- Consider discussing the attorneys on the short list with clients to obtain their approval and provide them with an opportunity to raise any questions or concerns they may have. While clients may already have a relationship with internal candidates, this may not be the case for external candidates. Accordingly, ensure that clients have an opportunity to review external candidates' resumes and professional backgrounds.
- Present the list of proposed successor attorneys to firm management for their consideration and approval.

Write the Succession Plan

- Prepare detailed written instructions for the successor attorney and other administrative staff in a succession plan document containing:
 - access information for all relevant files, records, and other materials related to the affected attorney's client matters, including a list of open and closed matters for all of the affected attorney's clients and their complete contact information. If any files are kept in a locked cabinet, the succession plan should indicate where the keys are located;
 - computer, voicemail, and other key passwords to gain access to email, voice messages, and other protected information that may not be readily available if the affected attorney suddenly becomes ill, disabled, or dies; and
 - an explanation of how to implement the succession plan according to the affected attorney's wishes and client preferences, including transitioning in one or more successor attorneys.
- Discuss the succession plan with the successor attorney and other individuals responsible for implementing the plan well in advance of any adverse event that may cause the affected attorney's absence from the firm.
- Disclose the succession plan upfront to new clients in their engagement letters. For sample engagement letters, see Standard Documents:
 - [Engagement \(Retainer\) Letter: Hourly-Fee Arrangement](#);
 - [Engagement \(Retainer\) Letter: Alternative Fee Arrangement](#); and
 - [Engagement \(Retainer\) Letter: Contingency Fee Arrangement](#).

- Periodically review and update the succession plan as needed to reflect changes in the affected attorney's personal and professional life and the firm's:
 - business strategy;
 - management;
 - roster of partners and attorneys; and
 - client base.

Transition in the Successor Attorney

A successor attorney may transition in over a period of months, years, or suddenly, depending on why and under what circumstances the affected attorney is departing or has departed from the firm. The affected attorney ideally has sufficient time before a departure to:

- Impart institutional knowledge to one or more successor attorneys.
- Groom a successor in a manner that is consistent with clients' expectations and the firm's strategic vision.
- Actively mentor a successor, including allowing the successor to shadow the affected attorney while performing daily responsibilities to ease the transition at the appropriate time.
- Create opportunities for the successor to develop relationships with firm management, other partners and senior firm attorneys, and the affected attorney's key clients.

Take Immediate Action After a Sudden Attorney Departure

If the affected attorney suddenly becomes ill, disabled, or dies, the successor attorney must take immediate action and enlist the firm's other attorneys and administrative staff to:

- Notify the affected attorney's clients and obtain their consent to transition their matters over to the successor attorney.
- If a client does not consent to being represented by the successor attorney, send a disengagement letter to any clients that choose to hire a new attorney not affiliated with the law firm. For sample disengagement letters for litigation and non-litigation matters, see [Standard Documents, Disengagement Letter: \(Litigation Matter\)](#) and [Disengagement Letter: \(Non-Litigation Matter\)](#).
- Return any original files or client property to clients declining representation from the successor attorney that have not yet engaged a new attorney.

- Notify the firm's insurance company, as applicable.
- Open, review, respond to, process, docket, and file the affected attorney's mail and email.
- Redirect to the successor attorney all telephone calls and email sent to the affected attorney.
- Review the affected attorney's calendar and open files to determine whether any client matters require immediate action, including:
 - responding to deadlines;
 - contacting opposing counsel, courts, and administrative agencies to obtain extensions of time, if needed; and
 - contacting all other persons and entities that may be affected by the attorney's departure from the firm.
- Determine the status of the affected attorney's time entry, billing, and collections to ensure that the firm does not lose any fees associated with the affected attorney's work that has been completed or was in process but not yet billed to or collected from clients.
- Review the firm's trust account to determine whether any client funds need to be disbursed.
- Close any old client matters that had not yet been closed by the affected attorney and destroy or send relevant records to storage according to the firm's document retention policy. For a sample document retention policy, see [Standard Document, Document Retention Policy](#).
- Determine whether to terminate the services of any outside vendors no longer needed.
- Cancel any firm-paid subscription and membership fees for the affected attorney.
- Return the affected attorney's personal property to that attorney's family or other authorized persons.