

# An Examination of the Core Competency Movement

by Susan G. Manch

On June 15 and 16, NALP and ALI-ABA will present the first Lawyer Professional Development Institute, a new annual conference designed to complement the Professional Development Institute by offering an opportunity to explore a single topic in depth. The topic for the first Lawyer Professional Development Institute is “Improving Lawyer Performance through Competencies, Benchmarks, and Lawyer Development Plans.”

Competencies are all the rage and firms are scrambling to find the best (and easiest) way to join the movement without abandoning entirely the freedom they now have to articulate expectations and measure performance based on firm needs. When faced with a question of whether or not to do something, the consultant side of my brain takes over. As a consultant I have been trained to ask the question, “*What do you want to achieve?*” As you consider what you want to learn from this conference — or, barring the conference, as you consider the best way to begin an exploration of the subject of competency-based performance management — answering that question is truly the best place to start.

## *What do you want to accomplish through the development of competencies?*

With the goal of offering a framework to help you puzzle through the possible answers to that question, I want to take a moment to define some of the common words that we toss out when discussing this subject. Competencies, benchmarks, performance standards, or criteria are words we sometimes use as if they are interchangeable and indistinguishable from one another. But taking a step

back and looking a bit longer at each word is a useful exercise because one of the first decisions a firm has to make is to determine exactly what it means by “competencies” in the context of firm life, practice realities, and the lawyer development pathway in that firm.

**Competence:** The condition of being competent; ability, fitness, well-qualified, capable.

**Benchmark:** A standard or point of reference in measuring quality, value.

**Performance Standard:** Something established for use as a rule or basis of comparison in measuring or judging a generally accepted or adhered to level of excellence.

**Performance Criteria:** Standards, rules, or a test by which something can be judged; measure of value.

Now that we have a sense of what the words mean we can assess how they can be used consistently in the firm’s professional development *language*. Competencies are outcomes or final products, so to speak. Reaching the state of competency, by definition, means an individual has learned what is needed, proved him- or herself capable, and/or gained enough experience to be deemed able to do something *competently*. A benchmark, in comparison, is only a point in the road — not the final product necessarily. It is a hash mark on the ruler that is measuring progress on the road to *competency*. Finally, performance standards or criteria are the “work horses” in this language of competency-based performance management. They are the specific resources that individuals will look to when seeking guidance on what *competency* looks like.

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Understanding the words may also help you to decide whether competency-based performance management is right for your firm. Much has been made of the “outcome-oriented” learners of Generations X and Y (Millennials). In the early 1970s, in an effort to level the playing field among students from varying socio-economic levels, racial and ethnic backgrounds, and for both women and men, the United States Department of Education began advocating a shift from deductive teaching methods to outcome-oriented teaching approaches. It took some time, but by the late 1980s and early 1990s, almost every primary and secondary school educational experience was skewed toward this type of learning experience.

For a time, undergraduate and graduate institutions fought this methodology, clinging to the time-tested Socratic method that forced creative thought and problem solving. Near the mid-1990s, however, it became increasingly difficult to motivate and engage class after class of outcome-oriented freshmen using teaching methods that were entirely foreign to them. By the early 2000s, most higher education institutions, including law schools, had subtly shifted to an outcome-oriented model of helping students learn. This is not to say that students are no longer taught to think critically or employ intuition and judgment. They are, however, given the framework within which such actions should take place. Directions are more detailed, discrete tasks within assignments are given unique values, the end product is always in sight and clearly defined, and tasks are broken into digestible segments that are meant to be completed in order. Knowing this about the population that comprises your associate and even junior partner pools may help you think more critically about the appropriateness of employing a competency-based approach. Remember that a competency is an outcome. Performance criteria or standards and benchmarks are the road maps for reaching the desired outcome.

If you are considering joining this movement, you have some work ahead of you. First you must define your goals.

- What do you want to achieve by creating a new system for defining competencies

for practices, seniority levels, and/or positions?

Then you need to gather information and assess the practical realities of what will be required to develop and implement a new approach at your firm.

- How great are the differences between this approach and the one currently in use at your firm?
- Are there aspects of the existing approach that you don't want to lose?
- Who will need to be involved in investigating and making decisions about what constitutes competency in your firm?
- To what level of specificity do you want to define competencies, benchmarks, and performance standards or criteria?
- How will all of these factors be used to support developing lawyers in the firm?
- What will be the impact on other lawyer development supports such as orientation programs, work coordination, mentoring programs, training curricula, performance appraisal practices, and promotion criteria?
- What obstacles do you see ahead when considering your people, policies, and processes?
- Is there a core group of firm lawyers and administrators who will be willing to work on and “sell” this to others in the firm?
- Will firm leadership actively support a shift?

Once you have answered these questions to your satisfaction, you can enter the active phase of planning and implementation. Your primary need is a team of committed individuals who will examine all the information gathered, make decisions regarding what to adopt and how it should be implemented, and design the actual competencies, benchmarks, and performance standards that will

ultimately be used as the foundation of the firm's performance management system.

Of course then the real work begins — monitoring uses and applications, adapting to new practice realities, getting feedback from the developing lawyers you are trying to assist, and continuing to find linkages with elements of the firm's professional development tools. Before committing to the process, you may want to take a look at some examples of benchmarks and competencies. See Figure 1 on the next page for concrete ideas of what your final product might resemble.

Whatever you decide, make certain you have fully explored what it will require to gain lawyer, practice group, and firm support for this type of performance management approach. While a system like this can be tremendously effective, it requires regular attention and updating in order to remain relevant.

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*See Figure 1 on the following page.*

## Figure 1. Examples of Core Competencies

The most explicit competencies define performance factors specific to the seniority of the attorney. The examples below show how factors might be described as they evolve for developing attorneys. Generally, assessment factors would include core legal skills such as writing, practice skills such as project management, and work behaviors such as work ethic.

Performance Factor	1st to 2nd Year Benchmark	3rd to 5th Year Benchmark	6th Year and Above Benchmark
<b>Writing</b>	Draft documents that are as free from errors of grammar, usage, and spelling as possible; present ideas and fact patterns clearly and concisely; employ formatting appropriate to the document; apply thought to the sequence of ideas presented; and demonstrate a thorough grasp of the research and/or facts of the matter.	Draft documents that require very little editing; apply creativity and original thought to written work; present ideas and fact patterns in a manner that is persuasive and that furthers the team's overall strategy; make the best use of research and fact patterns; and supervise others in the production of sections of drafts.	Supervise more junior attorneys in the development of initial drafts, editing their work and helping them improve their skills; personally draft the highest quality documents; and apply the highest level of mastery to crafting arguments and marshalling the facts.
<b>Project/ Practice Management</b>	Organize and complete work in a timely and efficient manner; produce an optimal work product and meet senior attorney needs; manage priorities and multiple commitments effectively; and manage time and meet interim and final deadlines.	Manage discrete aspects of significant matters and produce work in a timely and efficient manner; determine which elements of assignments should be delegated and manage the process effectively; and manage the project timelines for themselves and others.	Take lead responsibility for significant matters; delegate effectively, with an eye toward professional development; lead teams of attorneys in the production of the highest quality of work product; and coordinate the activities of the team with the lead attorney on the matter.
<b>Work Ethic</b>	Reach out for new assignments as others are completed; put forth a level of effort necessary to produce an optimal product and satisfy the demands of the supervising attorney; monitor progress toward goals for billable hours on a monthly basis.	Demonstrate a willingness to do what is necessary to satisfy the client and the demands of the matter; take the initiative to keep busy and manage goals for billable hours.	Act as a role model for juniors and team members by putting forth the highest level of effort on every matter; manage your caseload efficiently.

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