9 Steps on Giving Constructive Feedback Across Differences

By Natalie Runyon & Ann Jenrette-Thomas

WHITE PAPER
Today, a lot of legal organizations report that they are working on creating a culture of feedback by teaching supervisors how to give more effective feedback.

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A July 2018 study of 234 organizations conducted by USC’s Center for Effective Organizations and the Institute for Corporate Productivity, “shows that the key to performance management effectiveness is creating a performance feedback culture.”¹

In the era of #MeToo and heightened political divides outside of the workplace, there is a lot of fear around providing feedback, especially if it is provided across racial, gender, and other differences. Indeed, as this case study with Stinson shows, “some partners were afraid to provide feedback because they did not want to be viewed as biased.”

At the same time, most negatively perceived situations involving feedback occur when there has been a misalignment of expectations. For example, when two lawyers are engaged in an interpersonal relationship about a task, there is an assigner of the assignment and the one that must complete the assignment. They both have agreed to offer something of value in that relationship, and as a result are expecting something in return. In these situations, most instances of dissatisfaction are caused by:

• an expectation not being met.
• difficult or non-existent conversations about the perceived failure.
• interpretation of the feedback as a personal attack, and, in a worst-case scenario, triggering questions of whether a person is a good lawyer or worthy of another’s respect.

The good news is that there are effective solutions that can be employed to neutralize the negatives of these situations. For the purpose of this white paper, we will explore how using a coaching approach is an effective way to give feedback across differences, even in a low-trust environment.

Reflect on your own journey

It’s not uncommon for seasoned attorneys to fail to remember their own professional development. This can create unrealistic expectations of what a more junior lawyer can accomplish, resulting in harsher criticism of the junior lawyer.

For example, imagine this scenario: A partner at a large firm was ready to write-off an associate of color. On several occasions, the partner had called this associate into his office to discuss the associate’s shortcomings. After being asked by the firm’s diversity professional to reflect on how the partner received feedback when he was a young associate, the partner realized that it was easier for him to receive feedback because his mentors had first made it clear that they cared about him by investing time to get to know him, socializing with him, and learning about him as a whole person.

When asked to imagine what would have happened if the partner’s mentors only gave him feedback in their offices and did not otherwise show an interest in him, the partner realized that, had he received feedback without the benefit of a meaningful relationship — similar to what he was now providing to the associate lawyer of color — the feedback would have been devastating and undermined his confidence. Unfortunately, this scenario too often repeats itself among attorneys of color and other diverse attorneys.

Build trust before giving feedback

Before embarking on any situation involving the delivery of feedback, it is important to build a connection — the first basic building block to trust.

Also, it is important to assume positive intent, which goes a long way in establishing trust because it is given before it is earned. The highly skeptical construct of the “lawyer brain” can make giving others the benefit of the doubt more challenging, and it can be exacerbated by stereotypes and unconscious biases.

For receivers of feedback with multiple diverse identities — such as women of color — it can result in double-barreled bias, which “rears its ugly head via a myriad of tired tropes and stereotypes,” according to Kristen Hardy, legal counsel at a Fortune 1000 manufacturing corporation. “For example, Black or African-American women are regularly pegged as angry or shrill when they become expressive; Latinas are similarly stereotyped as quick-tempered and excitable; and Asian women are viewed as passive or invisible.”

However, with some focus, building trust can be done because the more exposure we have to people who are different from us, the less we allow ourselves to be impacted by stereotypes, as outlined in the intergroup contact theory.

Chatting over a cup of coffee with the intention of learning about the other person is a low-stakes, key step in building trust. And the more positive connections we experience, the more trust we show. As a feedback-giver, look to learn more about the full person and be willing to share your own humanness and show vulnerability.

Ask open-ended questions to find what you have in common. For example, here are some great “break-the-ice” questions to initiate a conversation:

- “What do you care about outside of work?"
- “What is your proudest accomplishment?"
- “What drew you to the law?"

The idea behind these questions is to trick the brain into using the affinity bias, which is the unconscious tendency to get along with others who are like us, in a positive manner. For example, if we are of different races and genders, but we love the same music, then it creates something worth bonding over.
3. **Ask questions to enable lawyers to find their own answers**

Once you establish a connection with the lawyers you supervise, you have put a good down payment on trust between the two of you.

As your working relationship progresses, however, your conversations will naturally transition to focus on the work and tasks at hand. At this point, the ongoing use of the coaching modality of asking questions is an effective tool.

By asking questions, you are instilling a growth mindset in young talent because you are helping them discover the answers themselves instead of simply giving them the answers. Open-ended questions, such as “What did you learn?”, “What aspect of the task did you most enjoy?”, or “How do you think you performed on the task?” enables you to continue building trust and understand younger lawyers’ strengths and weaknesses professionally.

4. **The strengths-based technique to build confidence**

Another important principle in sharing feedback across differences is to engage in a strengths-based approach by sharing positive feedback often.

Indeed, this practice continues to enhance trust and make the lawyers that you supervise feel like you are invested in their development. “Cultivating strengths is one of the best approaches to behavioral improvement,” says Dr. Larry Richard, CEO of LawyerBrain. “Within law firms, the most common developmental approach is the “fix your deficiencies” strategy, which emerging scientific research shows is usually a mediocre strategy,” he adds.

In practice, Betsy Miller and Tory Nugent, co-chairs of the Public Client Interest practice at Cohen Milstein, see success using the strength-based methodology. Doing so helps young lawyers replicate their best work, learn their strengths, and create trust with the feedback-giver, because when critical feedback comes up, they know they are supported. For both Miller and Nugent, it is so easy to say: “I think you handled that client call really deftly. You did a wonderful job answering their questions. You were very direct.” The key to a strengths-based approach is providing specific feedback about what went well. Instead of just saying, “Good job,” provide details on why it was a job well done. Doing this helps create concrete, positive feedback that is essential to building the resilience needed for tougher conversations.

This strength-based approach also helps to mitigate impostor syndrome, which is the internalized pattern in which one doubts one’s own accomplishments as authentic and has a persistent fear of being exposed as a fraud. “Because one of the insidious lingering effects of racism and implicit biases, is the notion that we, as lawyers of color, are perpetual outsiders,” writes Ann Jenrette-Thomas, Chief D&I Officer at Stinson, in her article on *Mastering the Art of Self-Promotion*. “Unfortunately, many of us internalize this message and believe that we don’t belong.”
5. **Make expectations explicit**

Once you get to the interactions about assigning tasks, it’s important to ensure expectations for the task and deliverable are explicitly understood. “Most resentment comes from failure to make a ‘clear’ request,” according to Cohen Milstein’s Miller. “Clear requests make expectations and the details of the deliverable explicit and actionable.”

For example, when a partner has assigned a brief to a junior lawyer, the partner is expecting a final draft of the brief that is client-ready, fully polished and without any errors before the junior lawyer goes home that day — but all the partner requested was “a draft later today.” The lack of clarity leads to a perception of unfair expectations by the junior lawyer, and this is the key reason to ask questions to ensure both the assigner of a task and the junior lawyer completing it are on the same page. Questions that you, as the task-assigner, could ask for this purpose, include:

- “Tell me in your own words what you think I have asked you to do for the assignment.” (Make sure to correct them if what they say is inaccurate. It is also helpful to have the associate draft a few quick bullet points about what they understand the assignment to be so that there is a record. Sometimes partners forget what they said, and the associate usually gets the short-end of the stick in those situations.)
- “What level of quality do you think I am expecting?”
- “If you need guidance or have clarifying questions for how to do something, what will you do? Who will you go to?”

6. **Check on your emotional state before giving tough feedback**

Sharing constructive feedback in a hurried way or when you and the team are under a stressful deadline is not the ideal manner and time to do so. Alternatively, it is best to deliver negative feedback in a private and low-stress environment.

Before doing either, however, it is ideal to engage in some self-awareness about your own mood and attitude at that moment. Check in with yourself to see if you are holding in any irritation or frustration about this situation or another work-related issue. If you are, hold off — because having empathy for the junior lawyer from a diverse background who is on the receiving end of the feedback is a best practice. Try to take a few deep, slow breaths before engaging in the conversation to ensure you are in the proper mental state.

Similarly, if you find that you are withholding feedback from a lawyer from a diverse background you should reflect on what is preventing you from providing the necessary feedback and what you can do differently.

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7. Give context for feedback

After an assignment is submitted for review, it is important to sit down with the lawyers to discuss your feedback and the context for it. “Too often, people assume that lawyers of color or first-generation lawyers are going to automatically understand the why part of the equation as well as the unwritten business norms, even if they have no background in the area,” notes Jill Louis, a partner in the corporate practice at K&L Gates. “I want my associates to be self-aware of their development,” Louis explains. “Therefore, I explain why they are doing the work that they are doing, and how it is foundational to their next steps in development. I also provide the context of their assignments in terms of what the client is going to want because of the dynamics that the client is facing.”

8. Make feedback digestible and actionable

When feedback needs to be given, it is important to make it specific, digestible, and actionable by using the Situation-Behavior-Impact (SBI) tool, which is taught by the Center for Creative Leadership.

To make the SBI tactic work, focus on the Situation first by providing the time, place, and circumstances in which you observed the behavior on which you are about to provide feedback. This brings the feedback recipient back to the situation and allows him to recall what happened. Next, focus on the Behavior by sharing specific facts, including what was said and what actions were taken during the specific sequence of moments. Finally, focus on the Impact of the observed behaviors, including the effect on you and others, and your perception of the results (positive or negative) of the behavior.

Using the earlier example about the junior lawyer’s work not meeting expectations, feedback using the SBI model might look like:

- **Situation** — “The brief that you provided was not completed in a timely manner in a format that was client ready. What was submitted had content errors and words misspelled.”

- **Behavior** — “You have mentioned that you did not feel that there was enough time to get the brief in a format that was client-ready, and that you had questions during the time that you were working on it. However, you did not communicate proactively that you needed additional time, and you did not stop by or email to ask questions over the course of the day.”

- **Impact** — “The impact resulted in a misinterpretation of expectations. I perceived that you understood the assignment fully and that if you had questions, you would come to me to ask them as the questions arose. Next time, please communicate back to me what you think the assignment is when I give you the task, make sure that we assign another senior associate to answer your questions as they come up during the day in the event that I am not available, and as soon as you think you may need more time, please let me know.”
Debrief to empower learning (again)

By using the coaching modality of asking questions and focusing on strengths, you can set a great foundation for more effectively providing feedback. When giving developmental feedback, it is important to provide it informally and in the moment as much as possible. Equally important is to close a feedback session by coaching the junior lawyer to reflect on what they learned from the assignment and what they will do differently in the future. In our above example, the junior lawyer clearly thought more time was necessary to accommodate the need for further back-and-forth review of the draft. The assigning partner can provide the needed feedback by saying, “We cut it too close to the deadline for my review...” Then, the partner can employ the coaching tool by asking, “Tell me, what could you do differently in the future?” and “How do you think you can improve?”

The Way Toward More Effective Feedback

Utilizing these nine practices will make for better feedback conversations and an increased understanding of what younger lawyers of color need to do to improve and excel within your legal organization and within the profession as a whole.

And when used at scale, these practices will allow your organization to increase the retention of talented attorneys of color overall.
Ann Jenrette-Thomas
Chief Diversity & Inclusion Officer, Stinson

Ann Jenrette-Thomas oversees the implementation of Stinson’s Diversity and Inclusion Action Plan, taking an innovative approach when it comes to addressing challenges within the firm and the profession relating to diversity and inclusion. Her two-pronged approach centers on individual responsibility — equipping people with the knowledge, skills and tools they need to create an inclusive environment — and eradicating the effects of bias through systems and process. She addresses structural bias by continuously evaluating the firm’s policies, practices and norms and identifying unique methods to achieve desired outcomes.

When she noticed that diverse attorneys and law students were often foreclosing opportunities simply because they did not know the “unwritten rules” for success in the profession, Ann created Big Law Success: The Inside Scoop for Law Students and New Lawyers, a five-part podcast that demystifies how to thrive in big law. Ann also led a multi-stop roadshow to law schools in order to educate diverse law students on the importance of a strong personal brand, and has worked with several organizations on diversifying the law school pipeline.

Prior to joining Stinson, Ann was a diversity and inclusion consultant, an attorney at an Am Law 100 firm, a judicial clerk for the U.S. Court of Appeals for the Second Circuit and a legislative attorney for the New York City Council. She was also president and CEO of a nonprofit organization.

She earned her B.A. in Political Science from University of Albany at SUNY and her J.D. from Western New England School of Law. At Georgetown University Law Center, she specialized in courses concerning tax-exempt entities and estate planning. In addition, she is a member of the Hennepin County Bar Association Diversity & Inclusion Committee and a Mentor for TeenSHARP, a youth leadership program that helps low-income, black, and Latino students prepare for higher education and leadership opportunities.

Natalie Runyon
Director of Enterprise Content, Thomson Reuters

Natalie Runyon has more than 20 years of experience working and volunteering for multinational corporations, nonprofits, and the US Government — Thomson Reuters, Goldman Sachs, and the Central Intelligence Agency.

Currently, she is the director of enterprise content for talent, inclusion, and culture within the brand marketing function of Thomson Reuters. Before her current role, she ran the strategy and operations team supporting key account programs within the Legal business, and before that, she ran global security in the Americas for three years. As a volunteer leader, she has led strategic leadership and change initiatives on the global and local levels for business resource groups at Thomson Reuters.

Natalie is a conference speaker and an author of articles for the Legal Executive Institute, The Glass Hammer, Security magazine, and CSO Online. Natalie was named one of the Top 20 under 40 in Security Director News in 2013. She also serves on the board of She Should Run, a non-partisan nonprofit focused on building the pipeline of women to run for elected public office in the US; and the board of Middle Church, a faith institution in the East Village dedicated to nurturing souls, advocating for social justice, and standing up for those within marginalized communities.

She earned her M.B.A from The George Washington University and her B.S. in International Trade and Finance from Louisiana State University. She completed an Organization Development & Leadership certificate from NYU in April 2016 and is a Certified Leadership Coach and Certified Protection Professional.

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