

## Feedback Based on Science Not Grade School

By Blane R. Prescott, of MesaFive, LLC

Feedback between in-house counsel and law firms is obviously critical to a long term, effective relationship. But as the head of a Fortune 200 law department said to us recently: *“We in-house types get tired of talking about law firm feedback with not much traction. It’s as important a topic as ever.”*

Over the last decade many in-house departments have experimented with giving outside counsel an annual or semi-annual Report Card as a means of providing more structured feedback. This tool has helped bring regularity to the process and prompts in-house counsel to think and communicate methodically about how their law firms are performing.

But like almost every feedback process there are challenges that routinely undermine the system. Four of the most common problems are:

1. Grade inflation, whereby everyone is rated “above average” regardless of actual performance. Grade inflation is a common human tendency but one that undermines the value of feedback, making it dramatically less useful.
2. Most humans tend to avoid difficult, unpleasant conversations (which is understandable when you need to give less-than-glowing feedback to people who are paid to argue for a living). This is one reason it is so easy for people to skip a feedback session.
3. It is easy to describe your conclusion that you are not satisfied with someone else’s performance but providing understandable, actionable advice is infinitely more complicated. And that is especially true when constructive criticism may require the recipient to change lifelong, or even just career-long, ingrained behaviors.
4. The person or firm receiving the feedback doesn’t want it and/or has no interest in changing.

While Report Cards have been helpful, especially when compared to the complete lack of any feedback so many firms experience, we still hear that in-house counsel are frustrated with the results. And likewise, many law firms say that they aren’t sure how to respond even after receiving their grades in a Report Card. A major source of the problem is that most people/organizations rely on the same grading methods they experienced in grade school even if those methods don’t produce meaningful feedback, results or change.

There is an effective system based on the science of human behavior that addresses many of the common problems with feedback: Instead of giving a grade or score against a hypothetical or ideal standard a more effective means is to use a Relativity-based scoring system.

Most people are familiar with two common forms of grading: **Absolute Grades** (or scores), and **Relativity Grades** (often called “grading on a curve” in schools). The problem with absolute grades is that they can be accurate, but they are just as often subject to grade inflation, conflict

avoidance, and fail the test of providing constructive feedback. After all, it is easy for outside counsel to get a “B” and just think to themselves, “we are doing pretty well.”

There is a unique form of relativity grading that has helped address some of the common feedback problems because it provides context and routinely leads to a discussion of, “here is precisely why we prefer working with these other lawyers/firms.”

To use an example in the context of in-house counsel providing feedback to outside counsel, this means that for every performance criterion the scoring basis is one of the four following grades:

1. Your performance is below that of the majority of outside counsel we use.
2. Your performance is typical of the majority of outside counsel we use.
3. Your performance is better than the majority of outside counsel we use.
4. Your performance is unique and unmatched by any other firm we use.

Why is this form of feedback proving more effective than absolute grades? There are a multitude of reasons, but it is probably best for our purposes here to just point to experience:

- In-house counsel find it easier and more productive to compare and judge performance of law firms relative to one another than they do by assigning absolute grades.
- The system has proven to produce more consistent, accurate grades even from disparate people within the same organization.
- Lawyers/law firms appear to respond better when their performance is stated in context to their direct competitors, especially when they can hear specific examples to emulate.
- Relativity grading shifts the focus from “here is a grade” to “here is how satisfied we are with you/your service relative to other firms we use, and which could replace you.”

Most importantly, when relativity grading has been substituted for traditional absolute grades there is a significant tendency to create a follow-on discussion: “What do those other firms do that you perceive better than the way we service your business?” **And it is that interactive discussion which forms the basis of great feedback, not just the delivery of a grade.**

Is this system foolproof? No, there is still a tendency for some people to inflate grades, but it seems to be dramatically reduced relative to absolute grades.

Participants have described the results of this process as transformative, prompting both real understanding and rapid, constructive changes in performance/behavior. More importantly, that discussion quickly focuses on tangible examples of what in-house counsel like and prefer in other law firms and enables them to describe what outside counsel should emulate.

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