# Changing Views on Partnership

*By Helen Kim, Esq.*

## Associates' Views on Partnership Has Shifted.

Today's associates are not necessarily as interested in making partner as they once were. For some, it seems more unattainable and less desirable than it has been for associates in the past. This is especially true coming out of a recession, when firms are typically electing fewer partners. As a result, there appears to be a definite shift in the goals of some of today's law firm associates.

Increasingly, lawyers are now more focused on using their time at law firms to gain work experience and earn money, without having to commit long term. Associates often leave law firms before they can even be considered for partner, either by moving in-house or out of the profession entirely. In fact, we've met some associates who go to law firms without any intention of staying there long enough to be made partner. Law firms do not always discourage such attitudes because economically, they can't make everyone partner.

There are many reasons why associates quit, including poor performance reviews, the pressure of billable hour requirements, and family obligations. Another very common reason why associates leave their firms is the lack of perceived opportunity for advancement. Especially in extremely large law firms, associates believe making partner is out of their grasp. And for many, it is true. The bar is certainly higher to become an equity partner. The saying "If you work hard and pay your dues, you will make partner" no longer always applies. Partnership is not just about a well-developed skill set or technical expertise in a practice area, but also the associate's potential to be a savvy business developer.

## Road to Partnership Is Getting Longer

The fast track at top law firms is slowing down. Major law firms are sometimes prolonging the period leading up to partnership because of the desire for more experienced associates, an active market for lateral partners, and greater pressure to improve profitability. At firms where an associate's first shot at partnership once came around 7 years after law school graduation, it can now come around 10 years after, or longer.

Partners want associates to have more experience. However, at the same time, clients are demanding leaner staffing on matters, thereby resulting in fewer opportunities for associates to gain experience. And in a down economy, there are fewer deals where associates can build their skills. Also, **lateral hiring** of partners with business results in a large pool of homegrown senior associates who have to wait for partnership consideration. Further, there is another pool of lateral senior associate hires who usually have to face a prolonged wait for partnership as well, especially because firms often take their time to reach a high comfort level with associates who were trained elsewhere. Finally, because low partnership numbers drive up profits per partner, firms may be wary of making a large number of well-qualified associates partners.

## What Is Left for Those Who Do Not Make Equity Partner

Inevitably, there remains a plethora of senior-level associates who start to feel alienated and, unless the firm gives them effective feedback on the prospects of partnership, will most likely opt to quit the firm.

One method firms have been using to deal with this situation has been the institution of non-equity partnership tiers. In fact, over the years, many changes have occurred in the traditional partner-associate structure. Permanent associates, temporary attorneys, staff or contract lawyers, of counsel, and non-equity partners (NEPs) have all been added to the mix.

Non-equity partnerships have long been utilized by large law firms, but the use of this alternative is on the rise. In fact, most large law firms have created some form of NEPs. Even smaller firms are following the trend. The popularity of this structure continues to grow to the extent that the number of non-equity partners in many firms is increasing more rapidly than the number of equity partners.

## NEPs - Reasons for the Rise.

There are at least five reasons more firms are creating an NEP tier:
to lengthen the equity partnership track in order to give younger lawyers more time to build their skills and their business;
to postpone having to decide who deserves to make partner;
to avoid reducing profits per partner, particularly when profits are down;
to try to retain associates who may not, or will not, become equity partners and might otherwise leave the firm; and
to accommodate the many young lawyers today who don't want to become equity partners because they don't want to assume the responsibilities associated with partnership, and a non-equity partnership will provide this middle ground.

## Types of NEPs.

There are two types of NEPs: temporary and permanent.

**Temporary status**. In firms where NEP status is defined as temporary, or simply an additional step to full partnership, associates (or laterals) are elected NEPs for a designated period, usually not more than two to three years. The additional time before consideration for equity status enables them to gain more legal and client-service experience, develop areas of expertise, and develop more business. It also gives the firm more time to evaluate the lawyers.

**Permanent status**. In firms where the category is defined as permanent, NEPs will generally not then be considered for equity partnership-although there can be exceptions. In order to retain these lawyers, the firm designates them as partners to the public without defining their NEP status.

## The Advantages of NEPs.

NEP status has advantages for both lawyers and law firms. For one, while the lawyers are considered to be full partners to the public, they gain additional time to develop before facing the possibility of not being elected to full partnership. And lawyers who don't wish to assume the financial obligations and time commitments required of equity partners can still become partners. From the firm's perspective, the tier allows them to buy time and hold on to valuable lawyers without having to make them full equity partner.

## Other Alternatives

Non-equity partnership is not the only alternative for a firm. Other options include creating a permanent category of "senior associate," "senior lawyer," or "special counsel" or designating certain associates as "senior associates" and giving them substantial bonuses. This usually indicates the firm's strong commitment to making these associates equity partners once they complete the normal partnership track. Of course, there is always the option to just let go of senior associates without allowing them to achieve partnership.

## Conclusion.

Just because the prospect of equity partnership is not as easy to come by or may take longer than in the past does not mean that you cannot have a long, stable career with a law firm. At the very least, you should know that there are other options available for lawyers at law firms besides straight equity partnership. Perhaps a non-equity partnership arrangement may even work out better for your career goals. If your current law firm is not in a position to offer you partnership, an attractive alternative to partnership, or even go into discussions about your prospects for partnership, don't be discouraged. There is no need to feel that there is no longer a place for you within the realm of a law firm. Perhaps it's just time to go into discussions about joining another law firm.