

Law Firm Origination Policies: Climbing the Mountain to Equity

The Battle for Origination Credit: Law firm origination policies typically play a significant part in partner compensation levels, although they have an adverse impact on specific groups of attorneys, namely women, racial minorities, and members of the LGBTQ+ community.

Historically, law firm compensation systems and promotion criteria have been based on the production of high-quality work, an ability to relate to clients, and the capability to attract business. Additional considerations have also included collegiality, professional recognition, service to the community, and mentoring of junior lawyers.

The role of business generation in compensation has grown in recent years, as the market for legal services has become more competitive and relationships between law firms and clients have become more attenuated and short-term. In today's economic climate, origination credit has become increasingly essential to many law firms' compensation systems, and the trend does not suggest that it will change any time soon.

Origination credit and personal production based on billable hours tend to be the two main inputs that determine partner compensation in non-lockstep firms (i.e. firms that do not base compensation on seniority). Origination credit is determined based on the dollar value of revenue from clients or matters a partner has brought to a firm, and is awarded to that partner in the compensation process for those clients or matters, regardless of who is currently working on the matter. The most significant component of this compensation factor for our purposes is that it can end after a certain period of time, or it can continue indefinitely as long as the client continues to send work to the firm. But origination has historically come easily for white male attorneys, while it has often come at a price for women, racial minorities, and LGBTQ+ attorneys, who may have actually completed the majority of work on those client matters.

Women partners and partners of color report that racking up originations is more difficult for them for a number of reasons, including 1) having less access to networking and mentoring because their white male colleagues form more meaningful relationships with their white male supervisors, and 2) in the case of women, generally receiving less help from their networks than men. These attorneys also report that they are frequently asked to assist in client pitches to bring a prospective client to the firm, but then do not receive any credit for having brought in the client. Most in-firm committees overseeing compensation have little to no diversity, which makes appealing to management regarding origination conflicts more difficult. What's most shocking is that women and minority attorneys have also reported being intimidated and bullied by male colleagues aggressively pursuing origination credit. Over the years, these behaviors have been the basis for many studies and articles aimed at shedding light on the origination divide, and the resulting compensation divide.

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To view the full article, visit the Law Practice Today website: "Law Firm Origination Policies: Climbing the Mountain to Equity" by Tracey Coates, Eva Juncker and Geoffrey Witherspoon.