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Reflections of a Former Dean

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I N S I D E T H E M I N D S

Law School Leadership Strategies

*Top Deans on Benchmarking Success, Incorporating
Feedback from Faculty and Students, and Building
the Endowment*



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Reflections of a Former Dean

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The dean's primary responsibility is to act as a fiduciary to his or her school. The challenge of being a dean lies in balancing the numerous constituencies (faculty, staff, students, alumni, the university, the profession/discipline, and, in a public school, the state legislature). The constituencies' preferences often pull in competing directions; to make matters even more difficult, there are never enough resources to satisfy everyone. Ultimately, the dean must ask what decisions are in the best interests of the school as a whole, letting the answers to that single question guide her. Some of her answers may be wrong, but if the dean is asking the right questions, she is already one step ahead of those who focus on the needs of just one group of constituents.

A law school should be grounded in the intersection between the academic world and the real world. Law schools train students to be professionals, but they also provide their faculty with the luxury of time for research. As a result, we law professors owe the legal profession our best ideas, derived from spending significant time thinking and writing about difficult problems, and we owe our students an understanding of the complexities of representing clients. As lawyers and as academics, we also owe service to our schools, our universities, and our communities. Because we are trained in due process and critical thinking, we can be valuable members of task forces and committees. In my ideal law school, everyone is fully engaged: students are captivated by their studies, professors are always improving their teaching and scholarship (and collaborating with colleagues on works in progress and new teaching ideas), and the administration facilitates the school's vision and connects the alumni and legal/business communities with the school.

Law schools should add to the students' undergraduate education (which we hope is well-rounded, with a solid grounding in the liberal arts and social sciences). Unfortunately, we often leave our students with the impression that their prior lives—their undergraduate majors, their graduate degrees, their work experiences—are not useful in the study of law. Nothing could be further from the truth. The best lawyers use law as a tool, not as an end in itself, and they know how important it is for lawyers to know about business and the social sciences. Lawyers are, first and foremost, counselors, and they need to understand what motivates their clients if they are to advise them well. Business schools often require real-world

experience, and medical schools offer some background in working with clients. Law schools could learn a great deal from the other professions.

When I was the dean of the University of Houston Law Center, I wanted our law school to reflect the strengths and needs of the city of Houston, as well as the state of Texas and other large urban settings. I hoped that we would key our strengths inside the school to Houston's own strengths and needs: in health care, in energy and the environment, in advocacy, in intellectual property (for the energy corridor), and in criminal justice. As a result of the links between the city and the Law Center, the Law Center's institutes and programs provide a strong education, contributing useful and relevant research and reaching out to the city as a whole. Because many of these issues are common to all major urban areas, the Law Center is positioned to help other major metropolitan areas. (For example, thanks to Professor Victor Flatt, our program in energy, environmental law, and natural resources now has links with the city of London, England.) The Law Center's success requires, first and foremost, the commitment of the faculty; without faculty commitment, any of the school's goals would wither with a change of deans. The administration, then, must make sure the faculty's commitment to the law school's success is backed by resources (time and money).

Management Style

Law schools, like most other institutions, don't change easily.¹ Unlike most other institutions, though, law schools have an unusual form of governance. Shared governance, which involves the division of responsibilities and authority between the administration and the faculty, is commonplace in higher education, especially in research universities. The theory underlying shared governance is that those with the most current knowledge and the most hands-on experience should make the decisions. Therefore, the faculty, with its knowledge of its own field and what constitutes a robust education, has primary authority over faculty hiring and promotion, curriculum, and admissions. The administration, with its knowledge of the

¹ See Nancy B. Rapoport, *Eating Our Cake and Having It, Too: Why Real Change Is So Difficult in Law Schools*, 81 Ind. L. J. 359 (2006), and Nancy B. Rapoport, *Not Quite "Them," Not Quite "Us": Why It's Difficult for Former Deans to Go Home Again*, ___ Toledo Law Review ___ (2007) (forthcoming) [hereinafter *Not Quite "Them"*].

components necessary to keep a school running, has primary authority over such matters as budget, space allocation, and facilities maintenance. Shared governance itself is a complicated matter.

All of the incentives in shared governance² favor the tried-and-true over the experimental and innovative. Professors are so focused on the changes within their own specialties that they often lack the time to see the changes in higher education or in the legal profession as a whole. Deans are privileged to have a bird's-eye view of higher education and the legal profession, and so we probably see changes coming before many of the professors do. Shared governance, though, makes change a very long, drawn-out process. The good news is that shared governance prevents law schools from capitulating to trends; the bad news is that it also prevents law schools from acting on many important changes in anything approaching timeliness.

Building the Team

Each of the key players for the law school administrative team has a different area of responsibility—budget, library, students, faculty, media/public relations, alumni/development, information technology—but they all must be willing to confront the dean with any disagreements. Without that honesty, nothing else works, because deans get most of their information filtered and polished beyond recognition. No dean needs yes-men. In selecting team members, most deans look for honesty, dedication, and a deep understanding of his or her field.

Measuring Success

I measure success by engagement. Are the students learning? Is the faculty talking about its teaching and research inside and outside the school? Are the alumni donating their time and money to facilitate the vision of the school? The more engagement deans see, the more successful the school—no matter what the rankings say.

To help schools reach this level of engagement, deans are the consummate facilitators. Often, the issue is resources—people and projects. Every

² See *Not Quite "Them," supra* n.1).

meeting is an opportunity to make a connection that could lead to finding the right people or a link between someone's interests and a program or potential program at the school.

The dean is the classic middle-manager, owing attention to his or her school, to the university at large, and to the profession. I often joke that the two best training grounds for deans are (1) having grown up as an only child (with people attaching far too much importance to every word or action) and (2) having been a Chapter 11 bankruptcy lawyer (with too many constituents and not enough resources). The only way to juggle everything is to remember that the dean is the fiduciary for the school and not for any particular constituent, and by having a sense of humor and people with whom to share that sense of humor. The dean also needs a vision for the school and a good support system inside the school (faculty, staff, students, and alumni) and at home (friends and family).

The Dean's Challenges

Probably the most difficult situations that arise for a dean are personnel situations. These are always tricky, because the other party involved in a personnel issue has complete freedom to talk about what happened, and the dean doesn't. We can't—and shouldn't—talk about private matters, and we sometimes get blamed for situations that are quite different from how they are being described.

Probably the single biggest misconception about the deanship is that the dean has the power to tell the faculty what to do. Most people outside academia—and many within its ivy-covered walls—fail to understand the role of the dean in shared governance. Deans are not really the “boss” of the faculty in the conventional sense, although they do determine raises and provide other perks. Deans have the authority to decide administrative matters, but the faculty has the authority to decide academic matters such as faculty hiring, admissions policy, and curriculum development. Most governance issues involve both administrative and faculty issues, so the dean's power tends to stem more from the bully pulpit than from any direct authority.

“Maintaining an Even Strain” (as the Astronauts Say)

One of the best parts about being a law dean is that colleague deans of other law schools are always there to talk about issues, share stories, and provide emotional support. Deans from other disciplines can also be very helpful. But support from others can only go so far. Deans must also make sure that they take time for themselves and their loved ones. As Sarah Weddington³ always says, it’s important to put the oxygen mask on yourself before you put one on anyone else. Without regular stress relief (exercise, vacations, etc.), a dean can’t handle the twenty-four/seven life the job requires.

Another way deans grow is through constructive feedback. No one has the corner on good ideas, and good advice often keeps deans from making boneheaded mistakes. I have also seen very non-constructive feedback: malicious and demoralizing comments disguised as “constructive” ideas. If the dean is being reviewed, it’s important for the reviewer to sort out the honest criticism from the camouflaged attacks. And constructive criticism can only go so far, because people (like institutions) are often reluctant to change. I’ve found that most people accomplish more by working on their strengths than by trying to correct their weaknesses. To me, the best way to deal with weaknesses is to work with others whose strengths set off one’s own weaknesses. No one can be all things to all people.

Changes

Over the past five to ten years, it has become clear that successful deans must bring in more of everything: more new professors, more new programs, more good students, more new resources. Certainly, state support for public institutions is in decline as states find themselves with other pressing demands, such as funding for K–12 education, health care, and criminal justice. The role of the dean is therefore no longer a one-person role. Therefore, deans must prioritize and delegate other tasks to trusted associates.

³ Sarah Weddington was the lawyer who, before age thirty, argued *Roe v. Wade* in front of the U.S. Supreme Court, and she was in the Texas legislature and in the Clinton White House.

The three golden rules of being a dean for a law school are:

1. Don't be a dean unless you get your jollies from helping other people succeed. Deans are facilitators, and their rewards really stem from others' successes.
2. Don't be a dean unless you enjoy interacting with other people, because the job is a very public one.
3. Don't be only a dean: remember that deans are people first. Cherish friends and family (and take time for yourself), and continue to stay connected with your academic field.

Thriving in the Educational Marketplace

Law schools must strike the balance between cultivating intellectual growth and being profitable. One of my favorite lines from the movie *Apollo 13* is, "No bucks, no Buck Rogers." Non-profit institutions still have to pay for overhead and raise even more funds in order to grow their institutions. Deans need money to hire and retain talented people and to build and maintain the school's programs, so a dean must spend significant amounts of time doing fundraising. As important as fundraising is the hiring and retention of faculty members who will be collegial and excited about enhancing the intellectual life of the school. To the extent that the dean can be part of the intellectual life of the school—by being a scholar and by encouraging scholarship in others—the dean can help set the intellectual tone for the school. But the faculty also must work to maintain that intellectual tone over time.

In general, law schools that are part of a university earn money from three sources: tuition and fees (both at the law school and—depending on how much tuition the law school can charge and keep—at the university), fundraising, and research grants. Public law schools may receive additional support from the legislature, either through state budget line items or from support that flows to the university as a whole and then flows from the university to the school. Ancillary income might come from continuing legal education or from other types of for-profit outreach to the bar and the community. Unfortunately, continuing legal education's market share has dropped dramatically in the past several years, with the advent of Internet continuing legal education and continuing legal education provided by law

firms. Law schools need to come up with new ways of raising income. Personally, I'd like to see more law schools enter the executive education business, especially in concert with business schools.

Money is crucial, because law schools have numerous expenses. Law schools are like "mini" liberal arts colleges. They have their own libraries, admissions, advising, and career services staff, and their own registrar. They also have the normal overhead, including salaries (and benefits) for faculty and staff, facilities maintenance and upgrades, marketing and public relations, and information technology. Very little of a law school's budget is flexible: most of the budget is captured by salaries, then by library expenses (including the maintenance of the library collection).

Tuition goes up to keep pace with such issues as competitive salaries, smaller class sizes (which require more teachers), hands-on experience in clinical settings, and increases in facility needs, information technology, and library collections. In my experience, tuition doesn't go down, but the size of a school's endowment can offset the rate of increase.

Building the endowment is also crucial. Fundraising is almost a full-time job for deans these days, and it is an art, not a science. People donate when they have their interests matched with the school's needs and vision, and when they trust the person who's leading the institution. When a donor's interests don't match the school's vision or needs, the donor doesn't give. If the donor doesn't believe the person leading the school will use the donation wisely, the donor doesn't give. Some donors will give to the annual fund, which gives the dean flexibility in using the donations; others will give to scholarships, or professorships, or prizes for achievement. Still others will give to the endowment, typically for a specific project such as a named chair or professorship. Endowments enable schools to plan for the medium- to long-term vision of the school.

Traditionally, endowments are invested in a reasonably secure mixture of stocks, bonds, and cash, and most schools only use about 4 to 5 percent of the interest income of an endowment (typically based on a rolling three-year average) for the school's current needs. Using too little of the endowment shortchanges current needs. Using too much shortchanges future needs.

A dean's external affairs team is vital to the school's success, and the dean really must enjoy fundraising in order to be successful. Even when deans

aren't "on the clock," there are opportunities to begin relationships that might lead to fundraising opportunities. Before a dean can ask for a donation, it's important to know a great deal about the potential donor, and the donor should know a great deal about the dean and his or her vision for the school. Fundraising, then, is extremely time-consuming. Before a dean asks for money, he or she has probably met with the donor five to ten times to get a feel for what might excite that donor. The external affairs team, therefore, must provide good information to the dean, set up several meetings, conduct additional research, draft proposals, and so on. I spent more time with my external affairs team during my time as dean than I did with my friends and family. I'm not sure that, in the long run, that was the right mix.

Most law schools do a good job of educating their students. What distinguishes a school most, then, is its faculty—in particular, its faculty's scholarly reputation. Hiring and retaining professors who are engaged in visible and useful research requires use of the dean's and the faculty's IQ and EQ (emotional intelligence). Hiring and retention also takes resources (time, space, money, and programs).

Technology has also had an effect on legal education. Society in general has suffered from the impersonal nature of electronic communications. People who wouldn't dare make nasty comments face to face often forget e-mail communications can be just as hurtful. Everyone forgets, from time to time, that the tone of an e-mail can differ in the minds of the sender and the recipient.⁴ Technology in the classroom has its good and bad points. I'm not too disturbed about students e-mailing each other in class or playing solitaire, as I think such behavior isn't that different from the note-passing we did when we were students. I do think some students have a tendency to become stenographers in class—writing down everything we say rather than listening for the important points. But skilled teachers can manage both the e-mail/games issue and the stenography issue with some well-placed comments and some movement in and around the classrooms during class.

Deans have to be very sensitive to the difference between trends and permanent changes in higher education and in the legal profession. I still spend a lot of time reading "the trades"—the *Chronicle of Higher Education*, the

⁴ The best way to illustrate the unintended difference in tone is with the story of someone who wants to send a message again to the same person and says, "I resent your e-mail" instead of "I re-sent your e-mail."

American Bar Association Journal, and others. I read *The Wall Street Journal* and *The New York Times* to keep current on legal and business issues. And I talk to a lot of academics and lawyers about what they think the future will bring. Higher education still captivates me.

Nancy B. Rapoport, professor of law at the University of Houston Law Center, served as dean and professor of law from July of 2000 to May of 2006. After receiving her B.A., summa cum laude, from Rice University, and her J.D. from Stanford Law School, she clerked for the Honorable Joseph T. Sneed on the U.S. Court of Appeals for the Ninth Circuit and then practiced law (primarily bankruptcy law) with Morrison & Foerster in San Francisco. She started her academic career at The Ohio State University College of Law in 1991, and she moved from assistant professor to associate professor to associate dean for student affairs and professor in 1998 (just as she left Ohio State to become dean and professor of law at the University of Nebraska College of Law). She served as dean of the University of Nebraska College of Law from 1998 to 2000. Her specialties are bankruptcy ethics, ethics in governance, and law and popular culture. She has taught contracts, sales (Article 2), bankruptcy, Chapter 11 reorganization, legal writing, contract drafting, and professional responsibility.

Among her published works is Enron: Corporate Fiascos and Their Implications (Foundation Press, 2004; co-edited with Professor Bala G. Dharan of Rice University). She also appeared as herself in the Academy Award®-nominated movie, Enron: The Smartest Guys in the Room (Magnolia Pictures, 2005). She is admitted to the bars of the states of California, Ohio, Nebraska, and Texas, and to the U.S. Supreme Court. In 2001, she was elected to membership in the American Law Institute, and in 2002, she received a Distinguished Alumna Award from Rice University. She is a fellow of the American Bar Foundation and of the American College of Bankruptcy.

In her spare time, Professor Rapoport competes, pro-am, in international Latin and standard dance with her teacher, Billy King. In the summer of 2007, Professor Rapoport will become the Gordon & Silver, Ltd., Professor of Law at the Boyd School of Law, University of Nevada, Las Vegas.

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Dedication: *I'd like to dedicate this chapter to Robert Allen, a University of Houston Law Center student, whose life was far too short and whose love for law school was legendary.*



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