AND WHAT SURPRISED YOU MOST ABOUT YOUR NEW JOB? REFLECTIONS ON BECOMING A DEAN

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I. MY FIRST AND MOST IMPORTANT LESSON: GUESS WHO GOES DOWN WITH THE SHIP?

I thought my first day as dean had started off pretty well. I hadn't cut myself shaving, and I had even navigated the route from home to work without getting lost. So far, so good. I was even a bit flattered when I saw my two senior administrators waiting at the front entrance to greet me. Perhaps the slightly amused looks on their faces should have been a clue, but it wasn't. Both were retired Navy admirals, and I thought they were simply out to salute the change in command. I couldn't have been more wrong.

Both were exceedingly polite, of course, but they weren't there simply to welcome me. Rather, they were to escort me to our largest classroom to observe the water that was cascading down the steps and creating a beautiful, though highly inappropriately located, reflecting pool. That made me feel bad enough.

It was clear my admirals were conspiring, with some good humor, but also with a typically pointed military method of teaching important lessons, to make me feel even worse. As I observed our own personal Niagra Falls with a look that can only be described as totally dumbstruck, both turned to me with a snappy salute and called me captain. It took me a few minutes to realize that captains, not admirals always go down with the ship.

As bad as that was, the full force of what I had gotten myself into—a real adult's job, as my wife described it, in contrast to my many years as a professor—did not become clear until about an hour later. After we arranged for plumbers to staunch the flow of water and begin the clean up, I repaired to the bathroom to splash water on my face and catch my breath. I noticed there were no paper towels in the towel dispenser. As I had done for the past decade, I muttered under my breath that the dean should fix that. What kind of dean would let that happen, after all, and, in all events, deans certainly did not have anything better or more important to do than ensure all my creature comforts at the precise instant of my need. It was only then that it dawned on me that the worm had really turned. I was, after all, that dean!

It took me about six months finally to work up the appropriate degree of courage, but, in the end, I did the honorable thing. I called all three of my former deans and apologized. I simply apologized for being a faculty member under them. None of the three even asked what I was apologizing for. As I suspect would be true of all deans and former deans, they did not require any additional explanation. They simply politely accepted my apology, smiling all the while, I am sure.

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Despite that inauspicious start, I have come to enjoy this job more than any job I have ever held, and I have had some remarkably fun jobs over the years. To be sure, this isn't to say that there aren't days when I can't believe I left a perfectly good job at Columbia for this. But, with surprising frequency, I find myself laughing out loud at my good fortune in doing something that is so enjoyable.

II. My Second Greatest Pleasure as a Dean

In fact, I have been greatly surprised and delighted by just how much I have come to enjoy what I am doing. A very large part of the enjoyment derives from the opportunity to work closely with five quite different, but remarkably impressive constituencies.

A. The Faculty

First and foremost, I have found the faculty enormously welcoming and engaging. I think most faculty have one of three reactions when a new dean is appointed, especially one from the outside. The largest percentage are mildly to wildly pleased that all the silliness of the dean search process is over and they can now get back to their lives. They are pleased with the new dean, but largely because it is a sign that the search process did not fail and, most important, that they will not have to do this again for a few years. They then proceed to go quietly (or noisily, whatever is their wont) about their business, business to which they—and a wise dean—fully understand is largely unrelated to whatever plans the new dean has up his sleeve.

A second group, smaller, but not insignificant in number, believe this the perfect occasion to try out on the new dean all the requests and ideas that the old dean was wise enough to reject out of hand. The stream of faculty who visit early in one's deanship with enormously imaginative and sometimes completely loopy ideas isn't necessarily very large, but they more than make up in intensity and zaniness what they lack in shear numbers. This ritual is inescapable, I suspect, because it is a rare dean that does not give away at least part of the store before he has a chance to catch his breath and find out just what he has done.

But, by and large, these two groups of faculty are great fun to work with. Their primary concern is that you do your job well and generally leave them alone, or, to the extent you engage them at all, you do so in a way that makes their lives better. Since they don't have many expectations one way or another in this regard—often because they have seen a number of deans come and go—deep down all they really want to know is whether you are one of them, whether you are a real academic, committed to the teaching and scholarly enterprise. They want to know if you have ever had an idea and the capacity to commit it to paper. If you show even the slightest inclination in this direction, happily, they accept you as one of their own and welcome you with open arms. It has been precisely that reception I have enjoyed so much.

We have a remarkably diverse and intellectually engaged faculty, and they have treated me as one of their own. They actually view me as an academic first and foremost, or at least they are polite and politically savvy enough to make me think they do. Nothing provides more satisfaction than a good faculty workshop and little

makes me happier than a great conference, especially one at which I can present a paper of some real substance. The faculty also has been generous enough to let me both give a faculty workshop and present papers at conferences. Of course, I pay for both, and it is just possible that they haven't figured out how to uninvite me to my own party. But I know that the vast majority of the faculty puts scholarship and teaching first, and I choose to believe they accept me in part because I do too. And this has been enormous fun. This is an absolutely wonderful academic community, and it has been a great privilege to become an accepted part of it. I value this interaction with the faculty above all else, and the promise of more such engagement is part of what keeps me coming to the office with such enthusiasm each day

As a matter of advice to new deans, by the way, I suppose it is also worth emphasizing that I believe this is the principal way in which a dean gains credibility with the faculty. When the final credits roll, most faculty fully understand that in this day and age the dean advances the academic agenda in some measure by devoting unreasonable amounts of time to fund raising. Heaven help the dean who is not successful at it.

At the same time, most faculty want to be sure the dean is, first and foremost, an academic. First, they want to feel that the center of institutional gravity is the intellectual enterprise, and they want a leader who personifies that. Second, they understand, rightly, I believe, that fund raising should be directly linked to strong academic values and that the funds should be raised for, and directed towards, projects and activities that enhance the institution's core enterprise. Someone with strong academic values is, in their minds, more likely to do that than someone for whom the academic enterprise is an inconvenient afterthought. Finally, however, as much as the faculty really wants the dean to raise money and lots of it, most faculty do not want to admit to such a crass agenda. They prefer that the dean continue to portray an image of academic rectitude and then, out of their line of sight, raise the millions necessary to keep the institution moving ahead. I know I certainly felt like that during my years as a faculty member.

There is a third group of faculty with which the dean inevitably must interact. These comprise a small group of faculty members who are highly skeptical or at least wary of any new dean. At first blush, it is easy to discount this wariness because a dean can easily be led to believe these faculty members are only trying to protect their favorite projects and are thus fearful that the new dean will gore their favorite ox.

Thus, a new dean might reason, these are not faculty members with whom one needs to engage seriously. To be sure, an occasional faculty member may have that motive. However, in my limited experience, most of the faculty members who viewed me with suspicion did so not to protect some favorite project or some idiosyncratic vision of the law school, but rather because they feared that I did not understand fully how to protect (or was not fully committed to protecting) the institution from various threats to its institutional integrity. In the minds of these faculty members, these threats may come from the central administration, from faddish new teaching techniques, from excessive deference to political correctness, or from too close (or too distant) relationships with the practicing bar. These professors often viewed themselves as the principal protectors of the institution and were highly uncertain whether I was friend or foe.

Happily, however, even the most suspicious were willing to suspend judgment for at least a year or two and give me time either to dispel or confirm their worst fears. In the end, many of these faculty members have become those with whom I most enjoy working. After all, these faculty members generally have at heart the interests of the institution. In most cases, they have locked horns with prior administrations not because prior deans treated them badly as a personal matter, but rather precisely because they felt—sometimes quite wrongly, but always very strongly—that the prior administration was doing something to undermine the law school that they have grown to love.

This does not always mean that I have agreed with these faculty members or have won them over to my point of view. But, it has meant that virtually all of them have been more than willing to engage me and to work with me. They have not always agreed with me or with everything I have tried to do, but they have come to understand why I do what I do and, even when they disagree with and oppose me, they have done so with intellectual honesty and personal integrity. I fight with this group perhaps more than any other constituency in the law school, but, honestly speaking, this is often the most engaging and interesting part of the job.

B. The Students

The second group who makes it a pleasure to come to work every day is the students. I have always liked working with students, but in prior incarnations they came in much smaller numbers with much more limited agendas, interests, and problems. Now they come with every imaginable issue and concern. And they come in much, much larger numbers.

By and large, the students with whom I have worked have been engaged and engaging. They have brought to me issues that I have been able to address and, in the bargain, make life better for the students. On other occasions they have come to me with concerns, and I have been able to convince them that their concerns are either misguided or that their proffered solution would create more problems than it would solve. In those cases, they have become among my biggest advocates within the student body. In the vast majority of cases, they are earnest, well intentioned, highly motivated, extraordinarily bright, and imbued with appreciably better judgment than I had at their age. Not every single encounter has been a pleasure, of course, but, by and large, my encounters with students have been one of the real high points of the job.

Of course, to some extent, one of the greatest disappointments of this job has been students who have concerns, but who prefer simply to complain out of earshot or who are simply unwilling to engage in good faith. I take solace, however, in the realization that this approach to life often derives from a curable condition—immaturity—and that even these students will probably turn into better lawyers, citizens and people than they were members of our community. Of course, even if that is not true, at least they will graduate and take their unproductive kibitzing out of earshot.

C. The Alumni

But, our students do graduate, and then they join that group of people with whom I enjoy working as much as any other, namely, our alumni. Simply put, alumni are endlessly fascinating. Professors, both at my school and others, often ask how I can spend so much time with alumni. They often ask whether it isn't difficult to meet with so many alumni and to let their interests drive my agenda. But nothing could be further from my experience.

Our alumni occupy every imaginable professional position and have had virtually every type of professional experience. They range from Senators and Congressmen to managing partners of major firms, from government officials to solo practitioners, from federal and state judges to professors, from CEOs of major corporations to public interest lawyers. Many still use their legal training, but in jobs that are not necessarily considered the exclusive province of lawyers. We have sports agents, best selling authors, heads of major public interest organizations, high tech entrepreneurs, and everything in between.

I have met hundreds of these alumni in visits to over thirty cities around the country and have been enormously impressed with the good will they hold toward the school and their willingness to share with me their thoughts and insights into how we can improve legal education and how we can make our scholarship relevant and important to the policy debates currently raging around the country. Given the range of experience and position represented by our alumni, I inevitably learn a remarkable amount every time I am with them.

Indeed, I cannot stress enough how enjoyable and important this part of the job has been. I also do not think I am alone in this regard. Virtually every dean with whom I speak emphasizes how much he or she enjoys working with alumni and how important they are to their schools. Alumni are the lifeblood of the institution and, contrary to the perception our faculties sometimes hold, their contribution goes well beyond merely financial. If approached correctly and properly engaged, they can be almost as important an intellectual asset to the school as the faculty.

D. The Staff

During my brief tenure as dean, I also have learned just how important the administrative staff is to the school's well-being. Most of our staff is enormously well intentioned and works harder than I ever would have imagined. I came in with a simple theory of service to our students. I told the staff that I do not believe in micro-managing (indeed, as I have amply demonstrated, I hardly believe in managing), so I wanted them to operate against the backdrop of one simple rule. I wanted them to understand that from their very first encounter with a student—indeed, a prospective student—that student was a potential alumni and should be treated with all the dignity and respect that they would accord our most successful (and wealthy) alumni. From the moment a prospective student requests an application until that student graduates, they are to be treated just as we would treat one of our alumni who serves in the Congress or on the bench.

We are, of course, a very large school and I can't say that we always achieve that goal, but, for the most part, it is not because our staff is not trying and trying very hard. I have been amazed at the things they can accomplish when they are turned loose with a little bit of money. Our admissions system, our registration, our student services, our library—all of these are close to state of the art because of the dedication of staff who take pride in their jobs that continues to surprise me on almost a daily basis.

I stress this point because before becoming dean, I had no idea just how complicated a law school was. The amount of "stuff" that simply must get done every day, every week, every month, every year, is staggering. Most of this takes place well below the faculty's sight line. I know I certainly was not aware of it when I was at my prior school. I have now come to appreciate just how much work it takes to run a law school and stand in awe of those who do their jobs so well, often with only the thinnest of resources and under the most challenging conditions. The professionalism and dedication of most of those who work at a law school is vastly underappreciated by both faculty and students, but it is what makes the place run. Observing that and working with these people is an enormous pleasure, as I suspect every dean in the country will attest.

E. The President, Especially Mine

Finally, in what may come as a surprise to many of my colleagues, I must stress just how much I have enjoyed working with our University's President. I have no doubt that university presidents are generally an interesting lot, with characteristics and antics that are constant fodder for lunch table conversations. But even among that eclectic crowd, our President, Stephen Joel Trachtenberg, stands out. He has been a president at two different universities now for over a quarter of a century That, coupled with his enormous success at both institutions, gives him a justifiable confidence in his views and judgments about higher education in general and our university in particular.

That hardly does justice to what figure he cuts at the University and in Washington in general. After all, how many university presidents have purchased a thousand pound metal statue of a hippopotamus in Europe (after an evening of sampling some of Europe's finest wines, his wife confided to me at a recent gathering), placed it on the campus and then enlivened it with a sign that tries to persuade unsuspecting students and tourists that this "River Horse" was a native of Foggy Bottom until well into George and Martha Washington's time.

Antics aside, President Trachtenberg has done remarkable things for the University, especially for the undergraduate school. It has risen significantly in academic reputation and stature. It has become extremely selective in admissions. Over 80% of its students now live on campus. He has expanded the campus to two additional sites, one in Northwest Washington and the other in Loudon County, Virginia. Its library has now achieved the lofty rank of a Category I University Research Library. The number of endowed professorships has increased significantly. The campus itself has taken on a definite shape and form that makes it one of the more pleasant urban campuses in the country. And this is just the beginning of a series of enormously impressive accomplishments.

At the same time, it is almost inevitable that any time the rest of the university is doing well, the law school suspects that it has become the principal paymaster for the improvements. Frankly, law schools are often not entirely wrong in this perception. In fact, when I came into this job it is fair to say that there was some concern on that score by part of the law school faculty and many of our alumni. A rather raucous ABA Accreditation process in the mid-90s had pitted the law school students and many faculty against the central university administration, with accusations, demonstrations, and lawsuits flying fast and furious. I still rarely encounter alumni from that period who do not have stories to tell, and tell them they do!

I suspected there was some fence mending to do, as well, perhaps, as some hard bargaining over finances ahead of me. While I won't opine on what happened in the past, I think it is fair to say that the central administration and the law school are now in the middle of a lovefest. Building on the good work of my predecessors, we have reached financial understandings with the university that seem acceptable to all.

Moreover, the university has been generous with the law school in ways that go well beyond money. A severe lack of space has been one of our most serious constraints, for example. The University responded to our well-made case for additional space by giving us a series of buildings adjoining the buildings we currently occupy. It even contributed significantly to the cost of connecting those buildings and their renovation. It has housed almost a hundred of our faculty and staff in an adjacent building while we have undertaken the construction necessary to renovate our current space and complete construction on the new space. In short, it is an era of sweetness and light for the law school and the University.

Most of that goodwill comes from the President's office, of course. He recognizes the quality of the law school and its contribution to the University's overall reputation. He is also a man of enormous energy and great imagination.

At the same time, I believe the law school has taken steps that have helped the situation. In the first place, it did not take me long to realize that the University President was the law school's largest donor. Sometimes we forget that. We fawn over someone who makes a ten thousand dollar donation, and then fight tooth and nail with someone who is making a \$35 or \$40 million donation year after year.

Of course, we tend to think of the matter in precisely opposite terms. It is all our money, we reason, not the University's. Thus, the University President is not giving us \$40 million, but is, rather, stealing \$10 million from us. But let me assure you that the Board of Trustees hardly ever sees it quite that way. Let me also assure you that viewing the matter from that perspective, however emotionally satisfying, is almost always a recipe for disaster. So, simply put, I began to view the President as a major donor with whom to work closely and in good faith, rather than a pickpocket who is out to steal from me every dime he can.

Second, I discovered that our President is a man of impressive vision and hundreds of ideas. Of course, like all of us, some of those ideas are absolutely loopy. But I have also found that he never minds someone disagreeing honestly and on principle. In fact, he is from New York and actually seems to welcome a good fight. I also have discovered, however, that he will take a refusal to accept one of his ideas with much more equanimity if he is persuaded that I understand the

underlying objective he hopes to accomplish and—this "and" is very important—I am prepared to offer some ideas of my own to accomplish that objective. In other words, he is a pleasure to work with, as long as he believes that I share his concern for the improvement of the institution. A simple "no" does not bother him, as long as he believes I am working as hard as he is to improve the institution and accomplish the goals that we share.

Once I began to approach him with those two realizations in mind, it has become a great pleasure—indeed, one of the greatest pleasures of this job—to work with him. Like the job generally, of course, there are moments and days during which I wish he would go back to Europe on another large-mammal-statue hunting trip. I am sure, as well, that he wishes from time to time that I had found New York a more congenial and permanent home. But, all in all, I think working with a university president, especially this one, can be one of the more interesting and certainly one of the more entertaining parts of this job.

III. MY GREATEST PLEASURE AS DEAN—THIS IS AN INTELLECTUAL EXERCISE AFTER ALL

Interestingly, as pleasurable as those five constituencies are to work with, in the end, they are not the most important reason this job has been so immensely satisfying. They are very high on the list; indeed, they are second. But, to my great surprise—and I do mean great—the most fulfilling and pleasurable aspect of this job is just how much I have learned. I assumed I would learn a bit about administration, legal education, and perhaps even a bit about leadership. What I did not anticipate was just how much I would learn and the remarkable breadth of topics about which I would learn, including a vast variety of substantive legal topics.

I have been educated by colleagues and alumni on topics ranging from genetics to business patents, from topics as far removed from each other as jury nullification and prior state of the art in patents. I have been taught church/state relations by two of America's experts and the art of cross-examination by one of this country's premier instructors in trial advocacy. I have learned the challenges new laws and developing technologies present to our traditional concepts of privacy by a path-breaking book by one of my colleagues. I have been instructed in the challenges of multi-jurisdiction litigation by some of this country's most successful practitioners of the art. I have learned of the relationship between multi-disciplinary practice and ethical rules. I have even learned that both Kant and C.S. Lewis actually have something to teach us about international trade rules.

Colleagues have educated me on the inner workings of the Federal Trade Commission and the Congress. I have watched my friends as they wrestled to the ground the fundamental premises underlying the charitable choice debate and then create a paradigm that is defining the discussion on this critical topic. I have learned about myriad ways in which lawyers can organize themselves to provide legal services, as well as the economic and ethical implications of those various structures. I have learned that the First Amendment may well have grown largely out of one of America's first anti-clerical movements. I have learned of the ravages of domestic abuse and the inadequacies of existing rules to check that growing blight. I have learned an entirely new way of thinking about how corporations are

governed and the impact of that thinking on both profit margin and market share. I have learned that notions of self-defense apply much more broadly than I ever would have thought possible and that notions of medically based justification excuses are far less successful than I ever would have thought.

In short, for someone who has spent most of his career thinking about foreign and comparative law, international trade and environmental rules—all topics I recognize to be relatively limited in scope, though there are those who love them—I have been about as broadly educated as I could possibly imagine. I have learned more about the law in my past three years as dean as I ever did in law school, or, for that matter, since.

To be perfectly honest, some substantial part of this education stems from the manner in which I have approached the job. I had a bit of fund raising experience prior to becoming dean. One of the first and certainly among the most important lessons I learned while raising money to fund my Centers for Japanese and Korean Legal Studies at Columbia University was that accepting money for projects and activities that I did not want to undertake was very expensive money indeed. That is, if I accepted money to undertake a project in which I was not genuinely interested or for which I was not particularly well equipped, my life became difficult, complicated, comparatively unproductive, and certainly unenjoyable.

After all, most of us enter academics because we want to do what we want to do. Moreover, in my experience, Judge Harry Edwards notwithstanding, most good academics have a pretty good sense of what is important. Or, put slightly differently (and to take real issue with Judge Edwards), good academics generally understand what kind of work an academic can and should produce to advance our fundamental understanding of critical social, political, and legal issues and the wisdom of various proposed solutions to problems that arise in those areas. It is to do that work that I entered academics. To undertake someone else's agenda, I should get paid not an academic's salary, but that of a practicing lawyer

This is not to say that non-academics do not have good, indeed, often great ideas about how academics can profitably spend their time. I will get to that in a minute. Nor is it to say that people willing to fund academic work cannot be persuaded that their ultimate objective can be advanced best by academic work slightly different than the work they first envisioned. More on that later, as well. But, it important to stress that this is not always the case. Simply put, while making my first attempts at fund raising, I quickly discovered that there are some projects in which I simply do not have enough interest or for which I am not well equipped in terms of background, intellect, skills, or inclination to justify taking money to undertake the enterprise. There are also some projects that are so looney that no one in their right mind would spend any significant amount of time on them.

That being true of me as an individual, I was relatively certain it would be true of my faculty as well. Thus, when I became dean, it seemed critically important to me to find out exactly what my faculty wanted to do and what it could do. What were their current and future research interests? What had they done so far? What methodologies did they employ? What were their primary and secondary interests? With enough time (and, of course, money), what would they do in the future? I could think of no other way to learn that, moreover, than by reading a sampling of

the writings of every faculty member and then sitting down with them to discuss their work.

While I undertook this tour de horizon of my faculty for very practical purposes, I was stunned by how much I learned and just how much I enjoyed it. I had told the President of the University that I really did not intend to ask alumni for money for the first year or so because I wanted to determine our precise needs before I started to pick pockets. I wanted to be sure I was asking for money for things we really could do and things we really intended to do. I also wanted to be sure that I had a genuine vision for the school before I went out on the fund raising road. I told him that might take six months to a year. As I began to spend time with my faculty, however, I found myself enjoying it so much that I worried I would never turn my hand to fund raising. I felt like a first year law student all over again, but without the fear, the examinations or the student lockers. It was exhilarating in ways that I can barely describe. I could not imagine a more extraordinary experience.

Indeed, I have enjoyed it so much that I try to read a sampling of every professor's writings every year. I initially aspired to read everything that everyone wrote. But, as it turns out, many on my faculty appear capable of writing faster than I can read (just consider Bob Peroni, Steve Saltzburg, Larry Mitchell, Dick Pierce, Bob Cottrol, Raj Bhala, Charlie Craver, Tom Dienes and Jerry Baron—I defy anyone to read everything that any two of those professors write in a year!), and I am now reduced to a sampling. But what a remarkable and satisfying sampling it is! Reading the work of my colleagues remains one of the extraordinary pleasures of this job, a pleasure I had not fully anticipated, but which has brought me more enjoyment than virtually anything else I have done over the past three years.

Of course, when I finally took our show on the road, I learned just how limited my imagination was and just how much more I had to learn. I enjoyed meeting our alumni every bit as much as our faculty, and the education was, if anything, even more intense and enjoyable. Of course, like most deans, the bulk of my early meetings were with our alumni who were particularly successful. These alumni were particularly interesting. Most of them were successful precisely because they were both smart and had some particular insight on the world, an insight that they had parleyed into a very successful career. They saw the world in a distinctive way and obviously that had paid off.

Happily, the vast majority of these alumni were willing to share their insights with me. They were also willing, moreover, to turn their minds and their energies to thinking about the law school and ways in which it could undertake even more important and useful work. They were enormously generous with their time and patience. They educated me with great care and I was ever the eager student. In the process, I learned more than I ever would have thought possible.

As time went on, I also had many opportunities to meet alumni who were also very successful, but in perhaps more conventional ways, ways that were perhaps not so financially remunerative but that were just as important to the development of the law in the long run. These alumni also patiently educated me and gave me a stunning array of ideas that I was able to bring back to the law school and share with my colleagues. Indeed, a few of my colleagues even think I am smart. I have yet to tell them that I have not had an original idea in three years. Rather, all the great

initiatives I inaugurate are really just ideas I have picked up from imaginative and incredibly foresighted alumni.

The key to a successful deanship, of course, is to combine what the faculty is interested in and capable of doing with those things that really ought to be done, especially as those things are identified (and, if one is lucky, funded) by one's alumni. However, putting that together also turns out to be a remarkably challenging and engaging project. It is like putting together a very complex puzzle, with some of the pieces not even completed yet, much less identified. It is endlessly exciting and challenging. When it does come together, it is extraordinarily satisfying.

In short, while I feared fund raising might be a largely backslapping, hail-fellow, well met exercise, I was delighted to find that it is among the most challenging intellectual exercises I have ever undertaken. One first learns from the faculty; then, from the alumni. You then put it all together in a way that makes the law school the center of the important policy issues that must be debated and resolved. When you get it right, the feeling is truly like none other. It makes even the most unpleasant aspects of the job—like plugging unplanned water fountains in the middle of classrooms and ensuring an adequate supply of towels in the restroom—more than worth it. It truly makes this the most enjoyable job I have ever had and among the most enjoyable I could ever imagine.