

FIT

*Paul A. LeBel**

I. INTRODUCTION

NO factor contributes more to the likelihood of a dean's success than the fit between a law school's character and needs and a prospective dean's talents and interests. A good fit benefits both the school and the individual. A poor fit inevitably leads to individual dissatisfaction and institutional drift.

My experience over the years of being a dean, a dean candidate, and an observer of others occupying both of those roles suggests that the surest recipe for disaster is a candidacy that molds the individual to conform to the perceived desires of the school conducting the search. It is difficult to imagine a less promising approach to an administrative position than an attitude of "what do you want your dean to be? I can be that!" Fit is a product of mutual exploration and discovery, not a product that is tailored to meet the market. However successful "you want blue, I can get you blue" may be in selling carpet, it is a strategy fraught with peril in the high-stakes enterprise of leadership in legal education.

In legal academia today, a person considering a move into a deanship will encounter a wide array of choices among institutions conducting searches. The reality is that the number of law schools and the average length of a deanship are such that at any given moment a search is underway for a job that has characteristics that would be a good fit for just about any plausible dean candidate.¹ Learning enough about a school in the relatively brief period of a search to reach an informed decision about whether a particular position offers a good fit can be the most difficult part of determining fit. This essay offers thoughts about a series of factors to consider.

II. PUBLIC VERSUS PRIVATE

Having spent all but one of my thirty-four consecutive years in legal education in public law schools, I leave to others the pros and cons of academic

* Dean and Professor of Law, University of North Dakota School of Law. Interim Provost and Vice President for Academic Affairs, University of North Dakota.

1. A side issue—not for this essay—is a listing of all the bad reasons one might seek a deanship, as contrasted with the only good reason: a belief that what you bring to the position creates an opportunity to make a positive difference in the life of the institution. Also excluded from this essay is any consideration of the insider/outsider choice presented to most schools at the time of a transition in leadership.

leadership in private schools. I can say, however, there are certain attributes of public university administration that ought to be given careful consideration when looking for a good fit. One of the first questions is whether the special mission of a public school is something a dean candidate “gets,” let alone buys into. If a mission to directly serve and be responsible to the public is not part of the emotional appeal of the job, then odds are that the pragmatic challenges of law school administration in a public setting can become sufficiently frustrating to interfere with effectiveness.

The most significant of those challenges is the surrender of control over vital funding issues to public policymakers who, in all but the rarest situations, are responsive to so many competing influences that the law school’s needs are not even on the radar. Added to the uncertainty and contingency of funding are the vagaries of the political process that affect public law schools. In such circumstances, effective administration needs to draw on the same talents as effective teaching: a clear understanding of the objective, patience in bringing others to that objective, the sensitivity to recognize and capitalize on the opportunities presented by the unexpected, and a fundamental respect for both the process itself and the individuals engaged in that process.

All of us who are privileged to hold deanships rely on the support of critical external constituencies and have to be able to mobilize that support when it matters most. When those constituencies are located in the public sector, the willingness and ability to participate in the “small-p” political process are only the minimal demands of a deanship. The chances of success in this realm are improved when one brings a genuine and observable commitment to establishing and expanding the role that the law school plays in improving life within the state. A compelling account of that role, not coincidentally, can be a central theme for private fundraising, which has gone from providing the margin for excellence to keeping the public education enterprise from sliding into mediocrity.

A variation on the public law school’s special responsibility is present in the states in which there is only a single law school. This situation creates opportunities to participate in the public and professional life of the state that are more significant than when a law school is one of many within the state. The sense of investment in the school’s success can extend beyond alumni, as the profession and the public look at the school in a more meaningful way—as “our law school.” Along with that investment is a broad base of constituents to whom the school and its dean are accountable. The solo law school occupies a prominent stage, but it comes with the heat from all the spotlights being trained on that single performer.

III. INHERITING VERSUS BUILDING A TEAM

While students and faculty are the people to whom you owe the greatest responsibility, the law school administrators are the people who have the greatest influence over your ability to fulfill that responsibility. First impressions of the people who make up the school’s administrative team are important, but it is a

Winter 2009]

FIT

373

two-way evaluation process, as they try to predict whether you are likely to create the room for them to grow and succeed in their respective roles.

Of all the people you encounter during a dean search, the senior administrators are the only members of the law school community whose futures depend directly on you. While a dean often serves at the pleasure of the president or provost, a tenured faculty member has a strong safety net. People in the key director positions within the law school lack that level of job security, so they deserve a fair opportunity to demonstrate that they, too, can play significant roles in your administration.

Evaluation of the administrative team involves questions of structure and personnel. You may have strong opinions about the fit while evaluating the structure and personnel, but proceeding slowly and judiciously is particularly important. Administrative structures can result from accretion as much as from conscious choice, and positions may end up being held by people who were originally intended to carry out different responsibilities. Deciding on the structure and who should fill important positions ideally should wait until you have had an opportunity to observe people in action. Remember that the administrators have had to adapt to your predecessor's management style and vision. Before concluding that you need to make changes, give your administrative team the chance to demonstrate that they can add value to the team that will enable it to go in the directions to which you are committed.

IV. CHANGE VERSUS CONSOLIDATION

At certain times in its life, a school will be poised for significant change. At other times, the greater need may be for building a cohesive community following unsettling events, one of which might include coming through a rocky period of great change. Over a sufficient length of time, a dean is likely to need the skills involved both in being a successful agent of change and in fostering a sense of confidence in the school's core identity.

Knowing which of those leadership modes is most critical for the school at the outset of a deanship is an important factor in determining whether there is a good fit. Only with that knowledge will it be possible to decide whether that specific role is one that the prospective dean is comfortable taking on from, or more likely before, the first day of the new administration. The psychology of the individual comes into play with this factor, with one of the issues being how satisfied the prospective dean is going to be with the very different senses of accomplishment that are realized by filling those distinct roles.

Maintaining a good fit on this dimension of deaning is important throughout the life cycle of a deanship and of a law school. A mismatch at the outset can lead quickly to disappointment for, and in, the new dean. As a deanship progresses, an inability to perceive the need for a shift in emphasis—and to adapt to that shift—can create new occasions for disappointment. The change agent who cannot understand the need for periods of stability can be as damaging to the school's long-term health as the consolidator who will not nourish change when the conditions are ripe. The prospect of having to make a shift, and the appreciation of how well the other demands fit the dean's talents and desires, call

initially for a careful assessment of the present situation and a fairly high level of prescience in projecting the future of the school in five and ten years. Because fit is a characteristic that can change over time, evaluating fit is a task to which one must return periodically. Whether the deanship has a contractual term that comes up for renewal or a schedule for comprehensive or 360-degree performance reviews, the institution is likely to have built-in predetermined occasions on which the question of fit will be revisited.

V. FACULTY STABILITY VERSUS TURNOVER

Closely related to the need or desire for institutional change is the question of where the deanship falls in the evolution of faculty demographics. The stability-versus-turnover factor is not simply a matter of filling predictable vacancies. It can be just as much a matter of the spirit in which faculty hiring is undertaken. Some faculties begin the appointments process by looking in the mirror to identify the person they want; others approach hiring as a chance to add to the breadth of the faculty.

In judging fit, you need to be conscious not only of how the faculty looks today, but also how it is likely to look after the first few cycles of faculty appointments. When you observe the faculty, do you see a group of people who are predominantly well-established, comfortable, homogenous, and unlikely to move? Will there be opportunities to hire faculty, and if so, can those opportunities be used to expand talents and increase diversity within the school? Will you have the resources to support a faculty's decision to make lateral hires? Is the funding situation such that making competitive entry-level hires creates compression and inequity problems within the faculty salary structure?

A related issue is whether the deanship comes with current personnel challenges. Simple survival instincts demand conducting a careful review of the records of all pre-tenured faculty against the backdrop of the law school and the university policies and actual practices in retention and tenure decisions. Severing a relationship can ultimately be in both the school's and the individual's best interests, but there is probably no other experience that places as much stress and strain on the dean and the dean's relationship with the faculty. The faculty is unlikely to publicly support the termination or a non-renewal of a colleague when the faculty has worked with the departing colleague longer than with the new dean. The stakes are high enough to demand both a critical awareness of whether there are tough personnel decisions that have to be made early in a deanship and a brutally honest self-awareness of one's ability to manage the emotionally draining and relationship-testing experience of making those decisions.

VI. RESEMBLANCE TO VERSUS DISTINCTION FROM YOUR PREDECESSOR

Anyone who has been in higher education for any length of time will have observed variations on two distinct mindsets at the beginning of an executive search. On the one hand, an institution can begin a search with the idea that the task is to find a clone of the outgoing administrator. At the other extreme, the

Winter 2009]

FIT

375

school may begin its search with an “anyone but the last one” reaction to the person who has left the position being filled.

Finding an Aristotelian—or a “Goldilocks”—mean on this factor may be difficult in any given school, so a healthy sense of humility will be valuable in determining whether the fit is good. None of us are likely to possess the often romanticized or revisionist-history virtues of the perfect predecessor, but each of us is almost certainly going to say or do something that evokes unpleasant memories of the predecessor whose departure was welcomed by the faculty.

The most significant feature of a deanship with respect to this factor is whether you will have the breathing space to be yourself and to be accepted (and challenged) because of who *you* are and what *you* hold most dear. One of the ways that legal education administration has improved in the last couple of decades is by shifting the accreditation process away from focusing on counting things towards knowing what counts. Both the school and the prospective dean must be completely candid when making each other aware of the equally important distinction between what drives them and what drives them crazy.

VII. LONG TERM VERSUS SHORT TERM

The length of time one is willing to commit to an institution is often directly correlated to the depth of that commitment. No school should be satisfied with a dean who has reached a career plateau and is coasting, but schools also must be wary of a prospective dean who views the job as a necessary stop on a path to a “better” position, whether that better position is a law school higher on the prestige ladder or a position outside of legal education.

This is not to suggest that deans ought to be asked or expected to remain in the position forever. The Trappist monk’s vow of stability in place, which means permanent membership in that particular monastic community,² is not a reasonable demand for a law dean. The reality is that successful deans can be presented with opportunities that result from their success. Similarly, deans need to be perceptive enough to recognize when the school would benefit from a leadership transition and allow that transition to occur. The caution is instead about an attitude that we sometimes see in faculty members: “I am better than this place, and I am just marking time until others realize how good I am.”

A good fit requires a very strong sense of belonging, as well as of its reciprocal—being welcomed. The dean search process, particularly the campus visit, can provide important clues. The people you do *not* meet during a campus visit can be as telling a signal as your reactions to the ones you are able to meet. We would not be in the dean market if risk aversion were a strong character trait, but the risks need to be managed and kept within reasonable bounds. Before committing to a school, you need to form an honest judgment about the level of commitment the school has to you.

2. See Cistercian Order of the Strict Observance (Trappists), Constitution of the Monks, Stability of Place, <http://www.ocso.org/HTM/cst-stat/cc-m-en.htm#The%20Cistercian> (last visited Jan. 16, 2009).

VIII. INSTINCTS MATTER

A final word of advice for those involved in dean searches on both sides of the process: trust your instincts. If warning bells sound during an encounter when both the school and the candidate are most inclined to project a positive image, the situation is unlikely to become better when controversial decisions have to be made and implemented.

A critical intuition is whether warning bells sound in the early impressions of the key university administrators whose support is vital to the candidate's success as a dean. Although I have experienced the worst of reactions in a previous decanal life ("they make my skin crawl"), I have also seen fairly neutral initial impressions become very positive over time. The all-important emphasis in this piece of advice is to trust *your* instincts. *You* are the one who will be accountable to these administrators, and you will be accountable to others for what you can accomplish under their regime. Do not necessarily reject a promising opportunity just because there are questions about your ability to relate well to the most important university administrators—the president, the provost, and the vice president for development (who in some structures may be the CEO of a separate university foundation)—but you cannot afford to assume that things will work out just because *you* are going into the job with the qualifications and the enthusiasm to succeed. Your success requires that you have, at the very least, a solid platform that will not be undermined by the senior administrators.

IX. CONCLUSION

I do not want to leave the reader with a negative impression about deaning. I once served under a commanding officer who said he had held ranks from airman to colonel, and he liked the colonel part best. I have had the world's worst dean job and am blessed to be in what is quite possibly the best. Unsurprisingly, this one is a lot more fun. No job comes without days that test your patience and confidence, but a good indication that the fit is right is the understanding that most of the time you are having more fun than anyone should be allowed to have in a job.

If you see it, grab it.

If you have it, treasure it.

If it seems like the most unattainable of dreams, walk away.