

STEPPING ASIDE AS DEAN

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“Nothing in her Deanship Became Her Like the Leaving It.”¹

ALL good things must come to an end—even a law school deanship. As I return to the full-time faculty after seventeen years as dean at two law schools, I offer this brief Essay on leaving a deanship.² Indeed, planning my departure as dean has caused me to think that, even before accepting my current deanship, I probably should have addressed decanal departure issues such as the length and terms of a post-decanal sabbatical and the details of my return to full-time teaching.

I write this Essay as a dean who is stepping aside to become a full-time faculty member at the law school that he has served as dean.³ Perhaps realizing that this would be their last opportunity to contribute an essay to these very helpful Deans’ Leadership in Legal Education Symposia, several other deans have written generally on this topic.⁴ Even before these symposium articles, Dean Paul Carrington addressed the topic of Why Deans Quit.⁵ Carrington’s

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1. With apologies to William Shakespeare and *Macbeth*.

2. My suspicion that there may be some interest in this topic stems in part from responses I received from other deans upon sending an email to the law school deans’ listserv announcing that 2011-2012 would be my last year as dean. I quickly received several calls and emails from individuals who revealed that they, themselves, were seriously thinking about stepping aside as dean in the near future. These deans not only raised the general question, “How are you doing this?,” but also asked much more specific questions about sabbaticals, plans for life after deaning, and strategies for notifying faculty, alumni, and others of one’s plans.

3. On the question of whether one steps up or down upon one’s departure as dean, see David E. Shipley, *Resigning as Dean: Stepping Down or Stepping Up?*, 35 U. TOL. L. REV. 189 (2003). These departures are probably some of both, which causes me to use the phrase “stepping aside” rather than either “stepping down” or “stepping up.”

4. See Nancy B. Rapoport, *Not Quite “Them,” Not Quite “Us”*: *Why It’s Difficult for Former Deans to Go Home Again*, 38 U. TOL. L. REV. 581 (2007); H. Reese Hansen, *Some Thoughts on Stepping Down After a Long Term of Deaning*, 36 U. TOL. L. REV. 69 (2004); Shipley, *supra* note 3.

5. Paul D. Carrington, *Afterword: Why Deans Quit*, 1987 DUKE L.J. 342. After devoting a page and one-half to “The Dean’s Rewards,” Dean Carrington devotes ten and one-half pages to “The Dean’s Constituents” (which is the bulk of his essay and which sets forth in great detail the personal and professional costs of deaning). Concluding that “[i]t is time that the difficulties of being a law school dean were analyzed by someone who found it a fulfilling and pleasurable experience,” Michael Kelly, who served as dean of the University of Maryland Law School for over sixteen years, responded to Dean Carrington in *Afterword: Why Deans Stay*, 51 MD. L. REV.

article, and the major response to it, discuss the relative merits of deaning and when the burdens of a deanship outweigh its benefits.

In this Essay, though, I write not about the joys and burdens of service or the personal reasons why one might decide to step aside as dean. Instead, I write about the institutional factors that deans should consider as they make their decisions, time their departures, and determine how to most effectively help their institutions after announcing the decision to resign as dean.⁶

I. WHAT INSTITUTIONAL FACTORS SHOULD THE DEAN CONSIDER IN TIMING HER DEPARTURE?⁷

As with much else in deaning, the timing of one's departure as dean will depend upon the context in which one serves as dean.⁸ For instance, prior to my current deanship, I served for seven years as dean at another law school and announced in the winter of my seventh year as dean that I had accepted another deanship. I previously told my provost that I was interviewing at other law schools, but the timing of my departure made it necessary for an interim dean to be appointed. There was an excellent candidate available to perform this service, and the five months between my announcement and my departure allowed sufficient time for a smooth decanal transition.

This time, however, I thought it was important to avoid an interim dean if possible. I therefore gave my provost one year's notice so he would have time to conduct a thorough national search. The timing also made sense because our

483, 484 (1992). The final words on this debate are Dean Carrington's: "Almost everyone I know who has tried it likes being a former dean. A lot." Paul D. Carrington, *Why Deans Stay: A Quitter's Response*, 51 MD. L. REV. 505, 506 (1992).

6. My topic is not dissimilar from that addressed in Dean Kent Syverud's 2006 article *How Deans (and Presidents) Should Quit*, 56 J. LEGAL EDUC. 3 (2006). A portion of Dean Syverud's article deals with "how" topics such as the departure process, notice, publicity, and "the lame duck period." *Id.* at 12-17. Most significantly, Dean Syverud and I agree on the guiding premise that "[h]ow deans should quit is largely a function of what is in the school's best interests, not the dean's best interests." *Id.* at 4.

7. Twenty-five years ago, Dean Paul Carrington suggested that "one ought to be prepared to remain on the job [as dean] for about a decade." Carrington, *Why Deans Quit*, *supra* note 5, at 359. See also Carrington, *Why Deans Stay*, *supra* note 5, at 506 ("[M]ost deans do quit after tenures too brief to be of positive consequence."); Kelly, *supra* note 5, at 494 (1992); Kenneth C. Randall, *Longevity*, 37 U. TOL. L. REV. 127 (2005).

More recently, Dean Kent Syverud similarly decried the "[t]oo-short Deanship," suggesting a deanship of at least "the term of the initial contract" (which he states to be typically five years). Syverud, *supra* note 6, at 5. This seems about right, and my discussion of timing presumes that, absent special circumstances, the dean should serve at least five years by the end of her deanship. See also Timothy J. Heinsz, *Deaning Today: A Worthwhile Endeavor—If You Have the Time*, 31 U. TOL. L. REV. 615 (2000); Gerald T. McLaughlin, *The Role of the Law School Dean as Institutional Veteran*, 31 U. TOL. L. REV. 675 (2000).

8. Timing also depends on a myriad of personal factors, including the health of the dean and her family, the personal situation of family members, relationships with the chancellor, provost, and faculty, and the dean's sense that "the time is right." Because these factors are personal to each dean, I only address in this Essay the institutional factors that the dean should consider in determining the timing of her departure as dean.

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ABA/AALS site inspection was scheduled for the coming year, and I thought it best to serve as dean through that process so that the new dean could write on a clean slate. In addition, we had recently finished a major development campaign, and a new campaign would begin in a few years. It therefore seemed like a natural break point for my law school and university, and the timing worked well for me personally.

The last year of my deanship confirmed that my decision to give a full year's notice of my resignation as dean was the appropriate course. The university had sufficient time to conduct a national search, which reached a successful conclusion in the Spring. While there have been a few decisions, especially concerning strategic planning, that were deferred pending the arrival of our new dean, we were able this past year to move forward institutionally as we simultaneously searched for a new dean.

After leaving my first deanship, I was not present for the search for the new dean. At both law schools I have served as dean, I made an effort to steer clear of the process through which my successor was chosen. This is much easier to do, and to ensure the appearance of doing, if you are not still at the school that you served as dean. On balance, though, I believe it was best for my law school that I served as dean for one final year as the dean search process proceeded.⁹

II. WHAT INFORMATION SHOULD THE DEAN HAVE IN WORKING OUT THE TERMS OF HER DEPARTURE?

As I contemplated telling our provost that this would be my last year as dean, I realized that there were several matters that would have to be decided concerning my move to the full-time faculty. These issues included the appropriate sabbatical after a decade of deaning, the details of that sabbatical, my salary during the sabbatical year, my salary in my first year as a full-time faculty member, and summer research opportunities and retirement contributions after I moved from a 12-month to a 9-month contract.

All of these issues were easily worked out, although quirks in our university's defined-benefit retirement plan required some calculations from our university benefits office. There is a well-established tradition at our university of deans receiving a sabbatical after their tenure as dean, giving the provost and me good precedents on this issue. However, it would have been much simpler to have reached agreement on these post-deaning details before I reached the final decision to step aside as dean. Such matters often are included in the initial hiring contract of many deans, and that is the best time to reach such agreements. Even if not reached until the dean's decision to step aside is conveyed to the provost, the terms of the dean's departure and transition to full-time faculty status should be memorialized in writing.¹⁰

9. Former House Speaker Tip O'Neill reminded us that "[a]ll politics is local," and any dean can tell you that "[a]ll deaning is local" as well. Despite the need to respect local traditions and expectations, however, I agree with Dean Kent Syverud that any more than one year's notice of stepping aside as dean is too long. Syverud, *supra* note 6, at 9.

10. *Id.* at 12-13.

If the dean will become a full-time professor at the law school, her teaching package must be determined, but that typically involves a conversation within the law school (usually with the academic dean) rather than with the provost. There may be obvious courses for the dean to teach, especially if she has been able to teach and write during her deanship. The dean also may be interested in courses involving the legal profession or higher education, based upon experiences during her deanship. Some deans teach or produce serious scholarship during their deanships to establish their credibility with their faculty colleagues. It usually will be even more important for the dean to be seriously engaged in the teaching and scholarly mission of the law school upon the conclusion of her deanship.

III. WITH WHOM SHOULD THE DEAN SHARE HER DECISION—AND IN WHAT ORDER?

Once an agreement on resignation has been reached with the provost, the dean will wish to personally tell some people of that decision. These individuals may include one's personal assistant, other co-workers in the dean's office, other administrators at the law school and across campus, individuals with whom the dean has a personal bond, key alumni and friends of the law school, and perhaps deans at other law schools. Because such news will travel quickly, the dean should determine which people she would like to notify personally of her decision and then contact them in a predetermined order. Even if some people cannot be reached immediately, they will appreciate that the dean made an effort to contact them before a general announcement was made concerning the dean's decision.

I did not notify our faculty and staff of my decision by email, but instead I personally signed letters to all faculty and staff informing them of my decision. Not only did this preclude people from immediately forwarding emails to others, but I believed that I owed my colleagues something more than a mass email.

Key alumni will appreciate receiving a personal call from the dean, and these individuals also will spread the word among their own colleagues and friends. In the event there will be media interest in the dean's decision, a few alumni can be asked if they would be willing to talk to interested reporters about the dean. The university's or law school's media relations office presumably will issue a media release about the dean's decision, the impending dean search, and the law school, and it is important to have that document ready to release to the media as soon as possible.

IV. WHO MAY BE PARTICULARLY CONCERNED ABOUT THE DEAN'S DECISION TO STEP ASIDE?

Reactions to the decision to step aside as dean will vary from individual to individual within the law school. There typically is a direct relationship between an individual's concern about the prospect of a change in deans and the extent to which the individual's employment situation might be changed by the new dean. The spectrum of interest and concern will vary from senior, chaired professors

(whose lives probably will be impacted the least by a new dean), to untenured faculty (who probably were recruited to the law school by the current dean), to senior administrators (especially those without tenure), to individuals such as the dean's own administrative assistant (who may serve at the pleasure of the dean).

The current dean can make no commitments on behalf of any future deans, and it would be problematic to attempt to do so. However, the dean should recognize that some of her colleagues will be a bit nervous about the change in leadership, and she should attempt to reassure those individuals about the impending change. If nothing else, the dean can agree to share with her successor why she believes that the individual has been a good contributor to the law school. If written performance reviews of staff members are done by the dean, attention to these documents may prove helpful in introducing these individuals to the new dean.

V. HOW CAN THE DEAN BEST USE THE REMAINDER OF HER DEANSHIP TO HELP HER LAW SCHOOL?

Conversations with the provost, senior administrators, and faculty may be helpful as the dean determines the projects on which she can most effectively spend the remainder of her term as dean. Even without such discussions, the dean herself will know what remaining law school business realistically can be completed in the final year (or months) of her decanal tenure. Once a new dean is named, the dean-designate should be informed of any significant actions. But too much is happening within legal education these days to put a law school on hold pending the arrival of the new dean.

One of the areas on which a dean might focus some of her time is on development—making a final attempt to convince alumni and friends that now is the time to make that significant gift about which they have been talking for several years. There also may be unfinished business or good opportunities across campus, such as bringing together law school faculty or administrators with campus colleagues. Most deans work off a “to do” list of some kind, and having established the end-point of one's deanship provides an additional incentive to focus on those areas that would most benefit from the dean's attention.

One of the gifts that a dean can give her successor is to make necessary, but unpopular, decisions in her final year as dean—rather than deferring these decisions for the new dean. This is sometimes not as easy as it at first may seem, especially if some faculty would prefer to “wait and see what the new dean prefers.” There are, however, certain decisions to which there are no clearly right or wrong answers, but which will make some people unhappy no matter what is decided. Better to decide those questions in the final months of your deanship than to punt the matter to the new dean and risk interfering with the honeymoon that all new deans should be able to experience.

VI. SHOULD THE DEAN HAVE ANY ROLE IN THE SEARCH FOR HER SUCCESSOR?

One of the side benefits of leaving a deanship to move to another law school is that the dean is not physically present during the subsequent search process that will choose her successor. But, even if physically present, it is important for her law school that the dean not participate in the dean search process—or even appear to be a participant in the process to choose her successor. Candidates for the deanship will want to talk with the current dean, and this can be arranged by including an interview with the dean for the dean finalists. This interview, though, should be strictly to provide information to the finalists, rather than to provide a basis for the current dean to evaluate her possible successors.

By stepping aside as dean, the dean has signaled that she believes that it is time for a change of leadership at her law school. Whatever the dean search process at her university, the fullest latitude should be given for faculty and staff to express their preferences and for the appointing authority (typically the provost) to make the appointment. If a dean's preference concerning dean candidates were to become known, the new dean could be burdened by being known as either the former dean's choice (with all the baggage that this might bring) or someone whom the former dean had not favored.

Having said that the dean should stay out of the dean search process does not mean that this is easy for any dean to do. After I left my first deanship, I avoided contact with former colleagues that might draw me into conversation concerning possible successors as dean. Still serving as dean during the dean search process is much tougher, as the faculty and staff hold meetings to discuss the qualities and experience they favor in a new dean and consider specific applicants. Because some of these discussions inevitably involve opinions as to how the law school could do things better or differently, the dean search process is always a bit of a referendum on the current dean's tenure. This creates a real urge to at least know about those conversations and about the candidates whom the search committee and faculty are discussing. While it will be tough to stay out of these discussions, do not be drawn into such conversations—whether in formal faculty meetings or hallway conversations.¹¹

VII. HOW CAN THE DEAN BEST HELP AND SUPPORT HER SUCCESSOR?

While the dean should avoid any involvement, real or perceived, in the dean search process, she should offer to be a resource for the new dean. This basically means that, while the dean should gracefully absent herself from the life of the law school as the new dean appears, she should be available to confer with the new dean as requested.

There are important matters that cannot or should not be reduced to writing and about which others at the law school may not know. Sharing information

11. The provost, though, may ask the dean her opinion about potential dean, or interim dean, candidates. I have answered such questions, sharing my views of the pros and cons of each candidate.

with the new dean can prove invaluable to both the new dean and the law school. This can be particularly helpful during the period after which the new dean has been named, but before she begins her service as dean. There also will be ongoing developments at the law school and university (for instance, decisions concerning budget matters or new university leadership) that it will be helpful to share with the new dean before she assumes the deanship.

It also is crucial that the dean signals to alumni and friends outside the university that a great new dean has been selected and that she has the full confidence of the current dean. There may be important ceremonial events after the selection of the new dean, such as alumni or donor dinners, to which the new dean can be invited to be introduced to this crucial portion of the law school community. As the dean meets with alumni and others after the new dean has been named, it is important that the dean's excitement concerning the new dean is shared with these individuals. A smooth transition between deans is in everyone's best interest, most especially the interest of the law school itself.

VIII. WHAT SHOULD THE DEAN DO AFTER STEPPING ASIDE AS DEAN?

While remaining available to the new dean, the former dean should absent herself from the law school and from law school and university events for the length of her sabbatical. In seeking advice on this topic from another former dean, I was told, "I did not darken the doors of the law school for two years." Some deans will be able to visit or otherwise spend time at another law school. While I will remain in town for the first semester of the new dean's tenure, I have secured an office at another school on campus. My departure as dean also was timed so that I will spend the spring semester teaching in a program in London—reachable by email, but suitably out of reach in order to give the new dean plenty of room to establish himself in his new role.

I have told our alumni that I will not be present at law school or university events for the next year, explaining why I believe this is the best course for the new dean and the law school. I also suspect that it will be the best course for me, too, in order to avoid getting inadvertently drawn into law school or campus politics.

Particularly if the dean will resume a full teaching package, there will be new courses to prepare and perhaps an introduction to newer teaching technologies on which the dean had little time to focus during her deanship. To the extent that librarians or others can provide training for the dean on some of these matters during the final weeks of her deanship, there will be less need to return to the law school to receive such help after the new dean is in place.

If my experience is any indication, the dean will receive requests to participate on various committees and in other projects within legal education and the legal profession. When alumni, colleagues, and others learn that the dean will soon leave the deanship, they may equate this with retirement. The assumption is that the dean soon will be without any duties to fill her days, and the dean, too, may be concerned about going from the all-consuming intensity of the deanship to total inactivity. My advice is to consider such opportunities

carefully and not over-commit in the semester or two after stepping aside as dean.¹²

IX. WITH WHOM SHOULD THE DEAN DISCUSS ANY OF THESE ISSUES?

By far the best resource deans share during their deanships are their fellow deans across the country. Whether on questions of budget, dealing with university administrators, seemingly intractable faculty issues, or the other tough issues presented to deans on a regular basis, the best—and often only—individuals with whom a dean can talk candidly will be deans at other law schools.

Although I write this Essay while still in the final weeks of my deanship, I already have greatly profited from the advice of former deans concerning the transition from my deanship. They have been uniformly helpful and candid, and much of their advice has been quite consistent. For instance, they have without exception advised me to physically absent myself from the law school building and they agreed that the decompression after a long deanship takes at least six months. Interestingly, several of these mentor-deans (both male and female) have told me that they lost significant weight after leaving their deanships, are in the best physical shape in quite some time, and are otherwise benefiting from more sleep and more-regular schedules. These are mentors who always have given me good advice in the past, and I look forward to proving them right on these matters as well.

X. WILL FULL TRANSITION TO “FORMER DEAN” GO SMOOTHLY AND QUICKLY?

Former deans without exception tell me that there is a transition period after the completion of a deanship. Just as it is difficult for many to adjust to the title and duties of “dean,” there must be an adjustment to both the title and role of “former dean.” While I anticipate that there will be an adjustment period as I step aside from my current deanship, numerous people already have reached out to help me through this transition process. These individuals include family and friends, as well as other law school deans, former law school deans, and current and former deans at my own university.

I look forward to the many challenges and opportunities of my own time as “former dean.” The past seventeen years have brought both expected and unexpected opportunities and challenges. I thank everyone who has helped me to seize those opportunities and confront those challenges. Although I greatly look forward to returning to full-time faculty service, I am glad that I have been able to serve as dean during such an interesting time for both legal education and the legal profession.

12. I give this advice having not followed it myself. The deans whom I have known over the last seventeen years tend to be both overachievers and workaholics. My guess is therefore that this may be difficult advice to follow for other deans as well.