

ARTICLES

REFLECTIONS ON STEPPING DOWN

*Gail B. Agrawal**

DESPITE occasional grumblings at gatherings of law deans convened under the auspices of the Association of American Law Schools, the American Bar Association Section of Legal Education and Admissions to the Bar, and the American Law Institute, the job of a law dean is worthwhile, rewarding, and often a lot of fun. But it is not a job for life. My goal in this brief essay is to provide some general thoughts for deans who might be thinking of stepping down in the near term as well as guidance for the future to those deans who are just starting out on this wonderful leadership journey. Although I include some of my personal experience in deciding to step aside, as every dean well knows, “it’s not about me,” and this essay is no different. My aim is to offer more general observations that might guide others whose circumstances inevitably will differ from my own.

I. DECIDING WHEN “IT’S TIME”

A dean’s decision to conclude a deanship can be for personal, professional, or institutional reasons—or often some combination of the three. The personal reasons that might lead a dean to step aside are myriad: the dean’s health, the needs of family members, a desire for change, or even a new job. I will not address them here, except to acknowledge the obvious—no matter how important or fulfilling a professional role is, one’s life and family should take precedence. Some deans simply decide quickly that the job is not for them, despite their earlier enthusiasm. While too-short deanships create their own problems,¹ staying in a deanship for too long may also be problematic. Leaders sometimes receive advice with respect to stepping down, “better two years too soon, than two months too late.” One of my personal fears as a dean was staying beyond the time when I brought new ideas and energy to the role and remained effective in leading the institution to which I was committed. To guard against this possibility, early in my tenure in each of the

* F. Wendell Miller Professor of Law and Dean Emerita, University of Iowa College of Law. Formerly served as dean of the University of Iowa College of Law (July 2010-June 2018); University of Kansas Law School (2006-2010), and interim dean University of North Carolina-Chapel Hill Law School (2005-2006).

1. See Paul D. Carrington, *Why Deans Quit*, 1987 DUKE L. J. 342, 359 (deans should be prepared to serve a decade); Kent D. Syverud, *How Deans (and Presidents) Should Quit*, 56 J. LEGAL EDUC. 3, 5-6 (2006) (discussing the “too-short deanship”).

two deanships that I held, I identified a wise and trusted colleague and extracted a promise to tell me when “it was time.” If you are currently a dean and have not already taken this step, I encourage you to consider seriously having a sounding board, either within the institution, a knowledgeable outsider who might be someone familiar with you and the law school, or a professional coach. Having a monitor can help a dean stay objective about his or her continued effectiveness.

Of course, no dean aspires to reach the point of ineffectiveness before making a graceful and well-planned exit. Some deans, as they begin their deanships, set a limit on the number of years they are willing to serve regardless of the circumstances; they might be unwilling to forego an ambitious research agenda for an extended period or to be away from regular classroom teaching for so long that a return would be difficult. For some, this is one term of typically five years. My experience suggests that for most who take this approach, the outside limit is often ten years. I recall one dean in the final year of a decade-old deanship telling me, not entirely in jest, that a dean typically loses the support of 10% of the faculty each year, and by year ten, has no support left and should step aside. Regardless of the length of time, the wise dean will not share this self-imposed time limit prematurely to avoid becoming a “lame duck” before his or her time. While some deans are asked to step down, others take a more “facts and circumstances” approach to the personal decision of when to move on from their deanship. I write this essay for them.

Regardless of the length of a deanship, every leader’s final objective must be to ensure that the institution is in a strong position for its next leader to succeed. Ensuring that goal is achieved takes planning and time. As I entered the mid-way point of my second term in my second deanship—and my 12th year as a dean—I found myself reflecting on the words of Dr. James Moeser, then chancellor of the University of North Carolina at Chapel Hill, that much like a performer, a leader should aim to “leave the stage while the applause is still going on.” Or as the late Justice Lewis Powell was reported by a former law clerk to say, “A person should step down before his colleagues are anxious to see him go.” In my case, goals had been achieved and challenges surmounted. We had recently completed a \$50 million capital campaign, on time and over goal. The president of the Law School Foundation had called me to share his own plan to step aside, declaring the end of the capital campaign was a good time to transition. Although I did not share my thoughts with him at the time, I had the same idea. All the faculty members we hired early in my tenure had secured tenure and promotion, and we had just completed a highly successfully hiring season. Applications for admission had largely rebounded from the downturn, and the news from LSAC about the future was promising. Our job placement numbers were strong, and the “employed at graduation” numbers were returning to near pre-recession rates. A successful site visit from the ABA Section on Legal Education and Admission to the Bar was behind us, and the next scheduled visit was some years in the future. While no one leaves a dean’s desk completely clear at the end of a day or the end of a deanship, the Law School would be recruiting its next dean from a position of strength.

In the summer before I decided to step down, as I did every summer that I served as dean, I reflected on the ups and downs of the previous year and attempted to predict the next year’s challenges. I found this exercise useful, and I commend

it to those continuing to serve as deans. Do you still enjoy the trust and confidence of the faculty and university leadership? To be successful in the shared governance of an institution, academic leaders have to enjoy the enthusiastic support of the faculty. While securing the agreement of the entire faculty to each decision is an unrealistic (and probably undesirable) goal for any dean, the question whether the faculty as a whole continues to have confidence and trust in the dean and the direction of the law school is one worth asking as a dean assesses whether "it's time." "Walking the halls" can convey a good sense of the pulse of the faculty, and it is a worthwhile activity regardless whether the dean is contemplating stepping down. Trusted associate deans can provide valuable insights when they enjoy the faculty's trust. Objective measures might also be available through employment satisfaction surveys conducted by human resources departments. While faculty support tends to wax and wane as a result of external factors, like the state of the school's budget or of legal education generally, deans should be attuned to evidence of loss of confidence and support when considering whether to continue to lead or shift to a new role.

A key role of the dean is to serve as an effective advocate for the law school in the hierarchy of the university. Accordingly, the dean should regularly assess whether he or she continues to be an effective member of the university leadership team. Has the number of important assignments started to wane? Is the dean "on the same page" on issues important to the university's leadership with the chancellor or president and the provost? Although usually less visible inside the law school, staying attuned to the campus climate, and the dean's status within it, is a significant consideration in deciding when to stay and when to go.

Deans are sometimes said to be hired "for a reason" or "for a season," typically to address the most pressing problems confronting the institution at the time the dean is appointed. Hence, the intense focus of those of us who have served as deans and on search committees on the "right fit," a person whose skill set, experience, and interests match the needs of the institution at the time of the search. The tasks confronting a new dean can range from creating a new vision for an evolving institution to confronting everyday difficulties with faculty hiring, student recruitment, and placement of the budget. A successful dean will move beyond the reasons he or she was hired, sometimes well before the end of the first term, and move on to new opportunities and previously unforeseen challenges. Are the challenges on the horizon ones for which the dean is the best-suited leader? At the start of each academic season, a leader should consider reflecting on whether he or she truly has the energy, the drive, and the excitement to lead the institution's combined efforts to address the upcoming challenges. The demands on deans can be relentless, and deans should be comfortable acknowledging when a short break will suffice and when they have had enough. Although good counsel is useful, there is no real substitute for self-awareness. When a dean's answer to any of the key questions of institutional support and personal enthusiasm is "no," a transition might be in order.

II. COMMUNICATING THE DECISION

Under ordinary circumstances, when the dean's departure is entirely voluntary and not the unplanned result of illness or crises, communicating the decision should begin with a scheduled, one-on-one, in-person conversation with the person to whom the dean reports, typically the provost. If the dean's decision corresponds to the end of a contractual term, this conversation will occur in the ordinary course; for institutions that conduct decanal reviews, a timely decision not to stand for another term can save considerable effort by many people. It is often useful for the dean to communicate the decision to step aside at the end or beginning of an academic year to allow time to plan before any announcement has to be made and search instituted.

The provost will have crucial decisions to make following the conversation with a dean who has decided to step aside to facilitate a smooth leadership change. Effective leadership transitions can take many forms, and an institution's individual circumstances, rather than an artificial template, should guide the process. The dean's notice period could be as much as an academic year—but, in my opinion, rarely if ever longer—or a much shorter period, perhaps tied to the start of the next semester or some other logical transition time. In the initial conversation with the provost, the dean should be prepared to discuss how long she or he is willing (or perhaps able) to stay on, to share personal thoughts on any benefits or risks associated with the provost's naming of interim leadership, and to offer the identities and positive and negative aspects of possible interim dean candidates should the provost be inclined to shift leadership before a dean search can be instituted or completed. The dean and the provost share the goals of managing the transition, limiting the risk of negative consequences for the law school or the university, and creating an environment for a successful search for and transition to new leadership.

In deciding whether the dean should continue until the next dean is in place or an interim dean should be appointed, the provost might consider whether a faculty needs time to reflect on what the college needs in its next dean without its prior leader affecting the discussion, even unintentionally, simply by his or her presence and habit. Interim deans can be helpful after an exceptionally long deanship, or in the case of a particularly beloved dean or a very contentious one, when a transition will allow the law school to move on and to refine what it is seeking in its next dean. Factors at the university-level might favor, or disfavor, interim leadership: an upcoming provost search, the number of interim leaders already in place across the campus, or the number of other high level searches ongoing, to list a few examples. An interim dean is not optional if the dean is not able to continue in the role during the transition period. In that circumstance, the provost will likely want to consult with the law school community before making a decision on interim leadership. Having served as an interim dean earlier in my career when the dean left for a new position, I recognized the contributions interim leadership can make to prepare the institution for its next dean, and I encouraged consideration of interim leadership in my transition, although the provost ultimately had a different preference. The provost will often want to take some time to reflect on the options, and perhaps to discuss them with other university

leaders, before making a decision. During this period, the dean should be cautious about sharing the decision to step aside with anyone other than the provost. Despite everyone's best intentions, news of this nature can spread before its time and become disruptive to the orderly process.

Messages within the institution and to external constituents should be well planned and intended to signal that the shift is part of a natural progression and that the law school is well positioned for its leadership change. The provost and the dean might find it useful to involve the strategic communications staff as they plan their messages to their constituents. If the local media tend to report on leadership changes at the university, deciding before the announcement who will talk with the media can be helpful. In this age of instant communication, the provost and the dean will probably want to time their communications, first to the law school and very soon thereafter to the university community. The provost generally includes positive statements about the contributions of the departing dean and will sometimes ask for a recounting of any achievements the dean wants to highlight. The provost's communication should outline the plan for moving forward, including whether an interim dean will be named and the timing for the selection of the dean search committee. The dean should be mindful of the natural tendency to fear change, and be prepared to indicate that he or she is taking a deliberate and strategic approach to the ending of the deanship and has unqualified confidence in the bright future of the law school.

After the provost and the dean have decided on timing and the content of the communication, the dean faces the often painful task of informing the law school staff, faculty, and students. As with the transition itself, I know of no handy template to handle this discussion. Some deans decide to tell select individuals first, perhaps their leadership teams, their personal assistant, or their associate deans, or maybe the colleague they have tapped to advise them about when it was time to step down. Some deans write individual letters.² Other deans might decide on sharing the news at a faculty or town hall meeting to avoid any appearance of "favorites" or an "in-group" with special access to the dean's thoughts. In the dean's messaging, careful consideration should be given to communications with staff and untenured faculty members to signal that the law school is on firm footing and that their positions remain secure and stable; these conversations are probably best handled in person after the news has been shared more widely. While the dean must take care not to commit his or her successor, the last thing a law school needs is a mass exodus at a time when it is seeking a new dean. As soon as the dean shares the decision internally, he or she should begin to call key external constituents and should send a written communication to the larger community of law alumni and other friends of the law school. The development staff will appreciate being consulted about individuals who should receive personal calls from the dean.

The principal message to alumni and friends should be one of thanks for their support and confidence about the law school's future with their continued help and involvement. Rumors are almost inevitable, but getting ahead of them with a reassuring explanation of the basis for the dean's decision can help control the false

2. R. Lawrence Dessem, *Stepping Aside as Dean*, 44 U. Tol. L. Rev. 327, 330 (2013).

narratives.³ When communicating the decision, the dean should be mindful that email communications will be forwarded beyond the intended audience; despite having experience with this phenomenon, I was surprised by how quickly this occurred. The dean should be prepared for a lot of phone calls, voicemail messages, drop-in visits, and email messages, and should not plan on having time for much beyond managing the communications for a couple of days after the public announcement.

III. MANAGING THROUGH THE SEARCH PROCESS

The oft-stated common wisdom is that the outgoing dean should have no role in the search for his or her successor. In contrast, in the world of business and commerce, leaders are expected to have succession plans to identify and prepare others within the organization to lead in the future. When the leader's decision to step down is communicated, the succession plan often signals, overtly or covertly, the identity of the person who will ultimately succeed him or her in the C-Suite. Although the academy could do a better job of preparing individual faculty members for future leadership roles, this type of succession planning is not the norm within law schools, perhaps because deanships are often filled with external candidates. Assuming the outgoing dean will be in office during the search process, the actual role for the outgoing dean often falls somewhere in between the common wisdom of total hands-off and the practice of intentional hand off that occurs outside the academy.

The dean's first contribution is to assist the provost in the naming of the search committee. Often the provost will have limited knowledge about the individuals within the law school who might be well suited to serve on the search committee. Therefore, after providing guidance on the desired size and make-up of the committee, the provost might ask the dean for suggestions for search committee members. If this occurs, the dean should consider asking for expressions of interest and consulting the faculty and staff for their ideas before submitting his or her own suggestions to the provost. After it is named, the search committee will take the leading role in engaging the law school community in the search, identifying candidates, convening the faculty discussions and town hall meetings, and presenting eventual finalists to campus.

I was not surprised to be asked to provide suggestions to the provost on faculty, staff, and students to serve on the search committee. However, I was initially surprised when the provost asked whether I would be willing to make myself available as a consultant to the committee if the committee requested my input. I accepted, and we agreed that I would limit my communication to the co-chairs of the search committee upon their request. As the search progressed and questions came my way, I realized I had information about the needs of the law school and the state of the university that could be helpful as the search committee worked with the law school community to identify the challenges that would

3. I found the process of communicating my decision extremely emotional, perhaps an indication of how much I loved my job, my colleagues, and our students. I am especially grateful to the staff and faculty who helped me through those first difficult days.

confront the next dean and, therefore, the experience and skills that would be useful for candidates to possess. Like most deans who have served for a while, I also knew faculty members, associate deans, deans, and former deans who would be strong candidates for the role. On occasion, the search committee chairs asked for my suggestions or insights. I also agreed to speak with any potential candidates who expressed an interest in talking with me, and several did as they were deciding whether to become candidates, or after becoming finalists, as they were preparing for campus visits. Beyond that defined and circumscribed role, the search proceeded without any involvement from me until the final candidates came to campus when I met with them to answer questions they might have about the law school, the university, or the role. I followed the usual practice of not attending the candidates' presentations or participating in faculty discussions.

The work of the law school and the challenges confronting it continue unabated during the search process, and the dean-in-office must continue to fulfill the obligations of the office until the next dean arrives. The law school will need leadership during the transition period, and a dean should strive to stay focused during the final year on managing the ongoing needs of the law school and any new crises, as well as on issues that can be resolved to smooth the transition for the next dean. For example, the final year is a good time to visit with major donors and attempt to close gifts that have been the subject of ongoing discussions; it is probably not as good a time to initiate new potential donor relationships. New relationships should be formed with a dean who will be in office when future gifts can be put to use. Time-consuming tasks that tend to be overlooked in a busy schedule like updating or formalizing unwritten policies and procedures can be checked off the dean's to-do list before leaving office. The search will go more smoothly if the law school community does not perceive itself as floundering during what often seems a long transition. In this final stage of a deanship, a dean has to strike a delicate balance to lead and manage the issues of the day without limiting the options of the next dean. Your successor will thank you if you get it even mostly right.

Conveying excitement about the opportunities for the law school that come with the fresh look of a newcomer's eyes can be reassuring to those who will be most affected by a change in leadership. An outgoing dean can foster the sense of looking forward to new leadership by encouraging his or her leadership team to plan actively for the arrival of the new dean. What will the new dean need to know about each person's area of responsibility? Each department leader should reflect on recent achievements, challenges, and goals, and compile written materials for the next dean's transition. This assignment is less crucial if the next dean will be selected from among the current faculty, and in some searches, whether internal candidates are involved will be known fairly early in the search. A new dean from outside the law school, however, will need historical information that sometimes resides in collective memory but not in writing. Getting a head start on memorializing such material will be useful to the dean when he or she arrives and to the staff who want to be helpful and make a strong first impression on their new leader. In addition, asking the staff to identify and gather or create materials about the operations and budget of the law school that dean finalists will want to review can be a great help to the search committee. Deciding what information to share at

what stage of the search process is an often overlooked question that the outgoing dean will want to consider and about which the current dean and the search committee will want to confer before the search begins and throughout its progress.

The faculty can be actively engaged in planning for the arrival of the new dean as well. The dean can charge standing committees with forward-looking assignments. Ad hoc faculty committees can be charged to begin a strategic planning process for the next dean's arrival or engage in a thorough informal process mirroring the formalized self-study process formerly associated with accreditation site visits. The assessment and planning steps can avoid loss of momentum as the next dean settles into the role. Many faculties do not engage in new faculty appointments while they are seeking a new dean, but an outgoing dean can name a forward-focused faculty appointments committee to prepare for the new dean's arrival with an assessment of future faculty hiring needs. The outgoing dean should resist the temptation to attempt to influence the outcome of these faculty activities.

The transition period shifts when the dean-designate is named. The law school community will focus on learning more about its new leader, as the outgoing dean prepares for the hand-off of the responsibilities of office to an identified successor. The outgoing dean and the dean-designate will want to work closely together as decisions affecting the new dean's tenure are made. Typically, the dean-designate will not take office for some months after he or she is selected. If the dean-designate was an internal candidate, the outgoing dean and the new dean can begin meeting regularly to plan for the transition, keeping in mind that the dean-designate has classes to teach, exams to write, and papers to grade before the formal transition. If the new dean is external, the outgoing dean should be respectful of the dean-designate's existing responsibilities to the institution he or she is leaving, and should encourage the rest of the law school community to follow the new dean's lead in how engaged he or she can be before the official start date. An early conversation between the deans can help clarify expectations. Even with everyone's sincere efforts not to burden the dean-designate, for some purposes the new dean becomes "dean" the day she or he accepts the job.

For the outgoing dean, the time after the announcement of stepping aside and the arrival of the next dean can be a bittersweet one. Admittedly, there can be unspoken relief in not having to undertake some of the more unpleasant tasks of the job in the future and in knowing that the weeks-long stretches without a day or evening off is soon coming to an end. There can be, in addition to the usual day-to-day demands of the job, a self-imposed pressure to leave a "clean house in good shape" to one's successor, and some pride in doing so. There is an office to be cleaned out, papers to be organized, good-byes to be said, and expectations to be managed about the former dean's relative unavailability, even invisibility, during the first year of the new dean's tenure.

IV. EMBRACING THE ROLE OF A "FORMER DEAN"

Unless the dean has decided to retire fully, "stepping down" from a deanship—or "stepping up" to the faculty, depending on your point of view—does

not mean “stepping away” from the institution that you have served and led.⁴ For the good of the institution and the dean’s personal transition, however, a former dean needs to get out of the way and allow the new leader to lead. As the new leader assumes the responsibilities of the deanship, the former dean will be well served by keeping in mind that there are almost always multiple paths to solving a problem. Resist any temptation to intervene when knotty issues arise; have confidence that the new leadership team will figure them out even if not in the exact same way that you and your team would have done so. One of the benefits of new leadership is the fresh insights and approaches that a different dean can offer.

By the time you have experienced changes in the deanship as a faculty member and served a deanship, you will have undoubtedly realized that the authority you exercised as dean is “by virtue of office,” and not by virtue of unique personal attributes. A faculty member at another institution once told me that the faculty member with the least power in an institution is a former dean. There is some truth to that observation. As a former dean, you will not want to interfere, or be perceived as interfering, in decisions that are left to the wise discretion of the dean. You should not expect to be consulted, but you should strive to be helpful when you are. A former dean can be an invaluable member of a dean’s team as an informed colleague who has an ingrained habit of working hard or a mentor who has relinquished leadership but understands the challenges of the office and can ease the way when assistance is requested. I was fortunate enough to serve as dean with several former deans who remained members of the faculty, and I was very grateful for their wise and confidential counsel. I appreciated their tendency to be first-rate institutional citizens on committees, in classroom assignments, and in all the ways they could ease the burdens on the dean and associate deans. Theirs is an example worth emulating.

As I write this essay, I have just begun my own post-dean journey with a somewhat atypical administrative leave during which I am co-chairing the search for the university’s next provost while trying to keep a low profile in the law school and on campus. While I have not had a lot of time to discover life as a former dean, I have enjoyed reflecting on former Brigham Young University law Dean H. Reese’s Hansen’s essay in an earlier volume of this series in which he shared the aspects he liked and those he missed.⁵ Comparing it with my own very early reactions, I too have not read a budget statement since leaving the office, and I do not miss attending budget meetings—or for that matter, most other meetings. I relish the steep decline in the volume of my daily emails and the relative silence of my phone. This spring, I intend to spend no time at all on concern over the *U.S. News & World Report* rankings of law schools. I miss the day-to-day interaction with staff and faculty that I valued and enjoyed, but I take an observer’s pride in the early days of my wonderful successor’s leadership, and I am grateful that I could leave the law school in such capable hands.

4. See generally David E. Shipley, *Resigning as Dean: Stepping Down or Stepping Up?*, 35 U. Tol. L. Rev. 189 (2003).

5. See H. Reese Hansen, *Some Thoughts on Stepping Down After a Long Term of Deaning*, 36 U. Tol. L. Rev. 69 (2004). See also Shipley, *supra* note 4, at 190-93.