Analyzing Carnegie's Reach: The Contingent Nature of Innovation

Stephen Daniels, Martin Katz and William Sullivan

I. Introduction: A Broader Perspective

Needless to say, all is not well in the world of legal education. As exemplified by Brian Tamanaha's recent book *Failing Law Schools*, the criticisms can be withering.[1] Change may indeed be needed, but the complexities involved in bringing about large-scale change in legal education—or any long-standing institution—counsel against making bold claims or predictions in favor (or not) of any particular change. Perhaps the most important contribution of Tamanaha's book is its focus—relentless at times—on the institutional context that characterizes the legal academy. It reminds us that even though there is a long-standing and justified concern about curricular change, more is involved if innovation is to succeed. We also need to change complex organizations

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1.   Brian Z. Tamanaha, Failing Law Schools (Univ. of Chicago Press 2012); David Segal wrote a series of trenchant articles in the New York Times in 2011–2012 on the challenges facing the legal academy, among them: David Segal, Is Law School a Losing Game?, N.Y. Times, Jan. 9, 2011, *available at* http://query.nytimes.com/gst/fullpage.html?res=9C02E6DE143DF93AA3 5752C0A9679D8B63&ref=davidsegal; David Segal, Law School Economics: Ka-Ching!, N.Y. Times, July 17, 2011, *available at* http://query.nytimes.com/gst/fullpage.html?res=9A0CE0DC 1E3DF934A25754C0A9679D8B63&ref=davidsegal; David Segal, What They Don't Teach Law Students: Lawyering, N.Y. Times, Nov. 11, 2011, *available at* http://www.nytimes.com/2011/11/20/ business/after-law-school-associates-learn-to-be-lawyers.html?ref=davidsegal; David Segal, For 2nd Year, a Sharp Drop in Law School Entrance Tests, N.Y. Times, March 19, 2012, *available at* http://www.nytimes.com/2012/03/20/business/for-lsat-sharp-drop-in-popularity-for-second-year.html?ref=davidsegal. *See also* William D. Henderson & Rachel M. Zahorsky, The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills?, ABA Journal, Jan. 1, 2012, *available at* http://www.abajournal.com/magazine/article/ the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/.

and deeply established, entrenched ways of doing things. Unfortunately, the history of legal education suggests that inertia often wins out.[2]

Our focus is curricular innovation—in terms of both substance and pedagogy. There has long been an interest in mapping law school curricula.[3] While complementing such efforts, our work is different. First, it is more focused in analyzing the reach of the kind of curricular innovations recommended by the 2007 report of the Carnegie Foundation for the Advancement of Teaching—*Educating Lawyers: Preparation for the Profession of Law*.[4] Additionally, at the same time our interest is broader. To be successful, any meaningful curricular innovation involves changing entrenched ways of doing things and making needed investments. Regardless of whether one agrees with some or all of Tamanaha's critique in *Failing Law Schools*, his focus on institutional context confronts us with the fact that looking only at curriculum is not enough.

Ultimately, it is about putting your money where your mouth is. There must be a significant institutional investment in innovation. Among other things, this means a commitment to faculty development—investing in a school's human capital. Related, and perhaps even more important, is a commitment to developing appropriate incentive structures for faculty that recognize and encourage professional activity that supports innovation.[5] We are interested not only in the curricular innovations that may have been initiated, but also in whether there have been concomitant investments in faculty development and changes in incentive structures.

Finally, our interest is broader in one additional way. We are curious as to what might explain the changes we uncover. Students of organizational behavior remind us that even the best ideas are unlikely to succeed simply on

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2.   In Tamanaha's words, "reforms will not pass easily. Path dependence, inertia, and entrenched economic interests, especially on the part of law professors and law schools, will conspire against them." Tamanaha, *supra* note 1, at 176.

3.   *See* Catherine L. Carpenter, ABA, A Survey of Law School Curricula: 2002-2010 (2012), *available at* http://www.americanbar.org/content/dam/aba/publications/misc/legal_ education/2012_survey_of_law_school_curricula_2002_2010_executive_summary. authcheckdam.pdf [hereinafter Carpenter I]; Catherine L. Carpenter, ABA, A Survey of Law School Curricula: 1992-2002 (2004), *available at* http://www.americanbar.org/content/ dam/aba/migrated/2011_build/legal_education/curriculum_survey.authcheckdam.pdf [hereinafter Carpenter II]; Franklin A. Gevurtz, Report on Nationwide Survey of Changes in the Law School Curriculum, Curriculum Survey Results (2011); Bryant G. Garth, From MacCrate to Carnegie: Very Different Movements for Curricular Reform, 17 Legal Writing 262 (2012).

4.   William Sullivan et al., Educating Lawyers: Preparation for the Profession of Law (Jossey-Bass 2007) [hereinafter Educating Lawyers]. The basic argument of Educating Lawyers is well known and there is no need to repeat it here. The Center for Excellence in Teaching at Albany Law School describes it as among the handful of publications "widely considered cornerstones of the contemporary reform movement." Reform Initiatives, Albany Law School, *available at* http://www.albanylaw.edu/celt/reform/Pages/reform-initatives.aspx.

5.   *See* Martin J. Katz, Facilitating Better Law Teaching—Now, 62 Emory L. J. 823 (2013).

their merits alone.[6] Consequently, any practical discussion of reform requires some understanding of what might help in explaining change. Are higher ranked schools leading the way?[7] Are different types of schools—private v. public or those with part-time programs or not—more open to innovation? Alternatively, has the external environment—the marketplace and the recent economic downturn with its impact on the job prospects for new lawyers—encouraged schools to pursue innovation regardless of rank or type of school?

Tamanaha argues that change in the legal academy—no matter how forceful or persuasive the recommendations—is far from a foregone conclusion. The picture he presents is reminiscent of a classic article on organizational dynamics. In that piece Michael Cohen, James March, and Johan Olsen characterized universities as organizational anarchies. In their words, organizational anarchies are not "vehicles for solving well-defined problems."[8] The process is not a rational one. They note that while "it may be convenient to imagine that choice opportunities lead first to the generation of decision alternatives, then to an examination of their consequences, then to an evaluation of those consequences in terms of objectives, and finally to a decision, this type of model is often a poor description of what actually happens."[9] Instead, Cohen, et al. see the process of policy-making within organizational anarchies as involving "a collection of . . . solutions looking for issues to which they might be the answer."[10] A host of factors, including timing and external events, will determine whether a given solution is able to gain sufficient attention and support to successfully connect itself to a problem or issue. Change, then, is contingent rather than a certainty.

In an analysis of agenda setting in Congress, political scientist John Kingdon built upon the insights of Cohen et al. and emphasized the importance of timing and the concomitant idea of contingency.[11] Crucially, Kingdon emphasized windows of opportunity along with the importance of policy entrepreneurs who devise and advocate new proposals (like the recommendations in *Educating Lawyers*). In his words, "Solutions [policy proposals] become joined to problems . . . This coupling is most likely when a policy window—an opportunity to push pet proposals or one's conception of problems—is open . . . Policy windows are opened either by the appearance of compelling problems or by the happenings in the political stream."[12] Policy entrepreneurs and advocates for a particular proposal will work assiduously at

6.   *See* Michael D. Cohen, James G. March & Johan P. Olsen, A Garbage Can Model of Organizational Choice, 17 Admin. Sci. Q. 1 (1972); and Tamanaha, *supra* note 2, passim.

7.   Despite the frustrations with law school rankings, they are the best available summary indicator for a host of key variables that differentiate schools.

8.   Cohen, *supra* note 6, at 2.

9.   *Id*.

10.   *Id*.

11.   John Kingdon, Agendas, Alternatives, and Public Policies (Harper Collins, 2d ed. 1995).

12.   *Id*. at 204.

laying a foundation while waiting for a window to open. Without their efforts, a potential window may wind up as an opportunity lost.

A key question, then, is whether the recent changes in the external environment have provided such a window for the kinds of recommendations found in *Educating Lawyers*. In other words, have external forces undermined—at least to a degree—the inertia on which much of Tamanaha's critique is built? As we explain in the next section, the survey we conducted was designed with this in mind.

II. The Survey

Through the spring and summer of 2011, we sent a survey to the deans of all law schools then accredited by the American Bar Association, with four exceptions.[13] A total of 195 received the survey and 118 completed it for a response rate of 60.5 percent. Elsewhere we reported on possible non-respondent bias and showed that the responding schools do not differ significantly from the non-responding schools on a host of schools' characteristics.[14] This means we can have confidence in what the survey findings tell us about the general picture regarding what is happening in legal education.

The survey sought information about new initiatives made at the institutional level since 2001, with an emphasis on their alignment with the key recommendations of *Educating Lawyers* (especially the idea of integration—of linking doctrine, practice, and professionalism).[15] We chose 2001 as the starting point in order to capture changes that pre-dated both the recent economic downturn and the publication of *Educating Lawyers*. We assume that at least some schools were experimenting with the kinds of innovative teaching and curricular matters at the heart of *Educating Lawyers* before the downturn and before the report's publication. In fact, the report describes noteworthy efforts that were uncovered during the underlying research for that report (which was done in the early 2000s); and many of the report's ideas circulated in the law school world prior to publication. Specifically, we asked the year (2001 through 2010) in which changes were initiated as a way to explore the possible influence of the changing external environment.

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13. The exceptions were: the U.S. Army Judge Advocate General's School and the three law schools in Puerto Rico.

14. *See* Stephen Daniels, Going Public with Innovation: Comparing Survey Respondents to All Law Schools and Non-Respondents?, IAALS Online, Oct. 6, 2011, *available at* http://online. iaals.du.edu/2011/10/06/going-public-with-innovation-comparing-survey-respondents-to-all-law-school/ (Educating Tomorrow's Lawyers blog post). The specific characteristics are: percent of Caucasian enrollment; total enrollment; faculty ratio; median LSAT score; geographic location using U.S. Census Bureau regions; rank; whether a school is public or private; and whether a school has a part-time program. That post reported on the absence of non-respondent bias for the 113 schools that had responded by that time. Repeating the analysis with the five additional respondents does not change the results.

15. The survey was ably administered by the Butler Institute for Families at the University of Denver Graduate School of Social Work using Qualtrics Online Survey Software.

Among other things, the survey asked about substantial institutional initiatives in three broad areas: curriculum; faculty development related to teaching and learning; and the incentive structure for faculty professional activity related to teaching and learning (the latter two being indicators of institutional investment in innovation). If the responding dean answered affirmatively to a general question about any changes in any of these areas, the survey then asked a series of questions about new initiatives among a list of more specific topics within that area. Again, it also asked in what year consideration of an initiative began (between 2001 and 2010).

For curriculum, the possible initiatives ranged from changes in each of the three years of matriculation, to changes involving clinics and certificate programs, to changes involving lawyering or other skills courses, to changes involving professional identity or ethics. Perhaps most importantly in light of *Educating Lawyers*' recommendations, the survey specifically asked about changes involving lawyering/practical skills, professionalism, and integrative approaches that link doctrine and practical experience.

For faculty development related to teaching and learning, the survey asked about organized workshops or conferences at the responding school related to teaching and learning generally, and about workshops or conferences related to integrative approaches specifically. It also asked about the availability of faculty grants or support to aid in the development of innovative approaches to teaching generally and integrative approaches specifically. Additionally, the survey asked about faculty development programs for adjuncts—the instructors most likely to be involved in the actual practice of law.

Finally, for faculty professional activity related to teaching and learning, the issue is whether such activity is valued and rewarded, since without appropriate incentives it is hard to see how innovation can succeed. The survey asked about the role of professional activity related to teaching and learning in faculty hiring decisions, in decisions about promotion and tenure, and in other merit decisions (raise and/or bonus). Each of these questions reveals aspects of a school's internal incentive structures and what these structures effectively foster or inhibit.

III. General Findings

A. General Patterns Related to Innovation

The first and most general question is whether a school had any new initiatives in each of the areas since 2001. Not surprisingly, all responding schools reported starting at least one new curricular initiative. This is consistent with recent surveys by the American Bar Association and the American Association of Law Schools, which show law schools continually making changes—from big to small—in their curricula.[16] As we will see later, however,

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16.   *See generally* Carpenter I, *supra* note 3; Carpenter II, *supra* note 3; Gevurtz, *supra* note 3.

looking at initiatives involving curricular matters in more detail reveals that not all schools are active to the same degree or in the same way.

While all of the responding schools report starting at least some kind of curricular initiative during our study period, we must remember that sustained reform also requires an institutional commitment to faculty development (e.g., workshops and grants) and changes in the kinds of professional activity by faculty that will be encouraged and rewarded (e.g., those related to teaching and learning). A substantial proportion of schools have at least one initiative in the faculty development area (78 percent). A smaller percentage, but just over one-half, reports an initiative in the faculty professional activity area (57 percent). Just over one-half (52 percent) of responding schools indicate having at least one initiative in all of the three broad areas that interest us here. Because we are relying on self-reports, a certain degree of skepticism is warranted at this point. The more detailed analyses in sections IV through VI are more telling.

B. Possible Explanatory Factors: Basic School Characteristics

There is, of course, the question of what may be driving the kinds and levels of activity the survey uncovered. An obvious place to look is at the schools themselves, especially their eminence or *U.S. News & World Report* rank (using four tiers).[17] Innovation may simply be a function of law school quality with elite schools leading the way. Since all respondents report some kind of initiative related to curriculum, eminence is apparently not relevant at this most general level. In the faculty development area, 77 percent of the responding tier 1 schools report initiating at least one effort since 2001, 81 percent of tier 2 schools did so, as do 84 percent of tier 3 schools and 68 percent of tier 4 schools. While a somewhat higher percentage of schools in the middle two tiers are active in this area (perhaps schools striving for greater eminence), the pattern by rank is not statistically significant.[18] For the faculty professional activity area, 46 percent of the responding tier 1 schools report initiating at least one effort since 2001, as do 58 percent of tier 2 schools, 61 percent of tier 3 schools, and 57 percent of tier 4 schools. Again, the pattern across ranks is not statistically significant. Finally, for curriculum, faculty development and professional activity together (the optimal pattern for *Educating Lawyers*), 38 percent of tier 1 schools indicate initiating at least one effort in each since 2001, as do 55 percent of tier 2 schools, 58 percent of tier 3 schools, and 50 percent

17.   Using the U.S. News ranks we created four tiers as equal in percentage as possible by dividing 190 (five schools to which the survey was sent are unranked) by four and then fitting the schools by rank into one of the four tiers. The number of ties—schools with the same rank—makes it impossible to divide schools into exactly equal groups.

18.   Although we will note whether relationships are significant or not (<.05), we will only report the statistics for the significant ones. For them we will report the strength of the relationship as well as the level of significance using Cramer's V. This statistic measures the strength of a relationship between two nominal-level or categorical variables. It varies from 0 to 1.0, with 1.0 indicating a perfect relationship.

of tier 4 schools. Once again, this pattern is not statistically significant.[19] Eminence, at least at this most general level, does not appear to be the key factor in fostering innovation.

Perhaps some other school characteristic is more useful. Two of the most basic are whether a school is public or private and whether it has a part-time program or not.[20] The possible effects of these characteristics are worth examining independently. There are significant, but weak, differences between those schools with part-time programs and those without with regard to faculty development and professional activity initiatives individually, but not when we look at having both initiatives together.[21] Eighty-four percent of the responding schools with a part-time program report starting an initiative involving faculty development during our study period compared to 72 percent of those without; and 66 percent of those with a part-time program report starting at least one initiative involving professional activity area compared to 48 percent without.

There is no significant relationship between public and private schools with regard to faculty development or between public and private schools and faculty development and professional activity initiatives together. There is, however, a weak significant relationship between private and public schools with regard to faculty professional activity. Private schools in our respondent pool are more likely than the public schools to report starting at least one initiative in this area (65 percent) compared to public schools (45 percent).[22]

These findings provide a mixed picture at best as to whether basic school characteristics offer much—if any—explanatory power regarding when and where such initiatives occur. With regard to curricular matters generally, there is no variation to explain since all responding schools undertook some type of initiative during the study period. For faculty development and faculty professional activity there is some, but not much, variation to explain. Most schools have done something in each area. More important and revealing, however, are the specific changes schools actually make. We would expect more variation with regard to specific kinds of changes. In sections IV through VI we will explore more specific innovations. But before we do so,

19. For each of the three patterns—rank and faculty development, rank and faculty professional activity, and rank and the two together—the results would not change if we used four tiers based on median LSAT.

20. Being public or private is significantly, but not strongly, related to having a part-time program or not (Cramer's V=.255, sig=.000). However, as we will see, such a relationship does not mean that each set of schools responded to the questions in our survey with the same answers.

21. For the relationship between faculty development and part-time/no part-time, Cramer's V=.155, sig=.047. For the relationship between professional activity and part-time/no part-time, Cramer's V=.173, sig=.016. .

22. For the relationship between professional activity and public v. private, Cramer's V=.199 sig=.016.

we need to explore the possible influence of an alternative factor—the external environment.

C. A Possible Alternative: The External Environment

As we noted earlier, change may be a matter of reaction and timing. Schools may be making quick changes simply as a response to current marketplace pressures and declining opportunities for new graduates, and/or as a response to the growing criticisms of legal education in the press, by politicians, and by others.[23] On the other hand, real innovation might have started earlier and have little or nothing to do with recent external pressures (the legal academy's critics would be highly skeptical of this possibility). The survey was designed with such timing effects in mind, asking about changes started between 2001 and 2010, as well as asking the year in which a change was first begun.

For curricular matters, we asked about initiatives in 11 specific areas and the year in which consideration of each started. We can easily calculate for each responding school the total number of starts across all 11 curricular areas in a given year as well as the total for the entire time period. We can then aggregate these individual school totals—for changes in a given year and for the entire time period—across all responding schools to assess the general impact of the changes in the external environment.[24] Simply put, we can use the responses to reject or accept the hypothesis that starts in the aggregate are equally distributed over time—meaning that the changes in the external environment are not a major factor when we look at all responding schools.[25] If we cannot reject that hypothesis, we must then ask whether the survey results reflect a general pattern that is consistent with the possible influence of the recent changes in the external environment.

To look at the aggregate pattern over time, we grouped the years into three time periods—2002-04, 2005-07, and 2008-10—and let 2001 stand alone. Doing so shows that starts for curricular matters are not evenly distributed over time. The largest percentage of starts occurred in the 2008-10 time period, but this accounts for less than one-half of all of the starts (45 percent). Using the same approach, we looked at the pattern of starts for a range of more specific initiatives involving faculty development (detailed in Part V). The largest percentage of starts occurred in the 2008-10 time period, but again,

23. *See* Segal, *supra* note 1 (all articles); Press Release, Senator Barbara Boxer, Coburn, Boxer Call for Department of Education to Examine Questions of Law School Transparency, Oct. 14, 2011, *available at* http://boxer.senate.gov/en/press/releases/101411. cfm; Mark Hansen, Sen. Grassley Questions ABA's Law School Accreditation Process, ABA Journal, Jul. 13, 2011, *available at* http://www.abajournal.com/news/article/grassley_seeks_answers_on_abas_law_school_accreditation_process/.

24. While not covering all possible changes, the range of areas is broad covering changes for each of the three years of matriculation to changes involving clinics and certificate programs to changes involving lawyering or other skills courses to changes reflecting Educating Lawyers' recommendations. The array is broad enough for this purpose.

25. Of course, this does not mean that the external environment was without influence for a given school.

this accounts for less than one-half of all starts (43 percent). We also examined the patterns for starts involving the incentive structure for faculty professional activity (detailed in Part VI). Both the 2005–07 and 2008–10 time periods saw the same percentage of starts (22 percent each).

In short, we cannot say that the external environment is without some likely impact on new initiatives involving curriculum, faculty development, and incentive structure. On the other hand, we also cannot say that activity with regard to any of the three broad areas is simply a quick response to the economic downturn and the concomitant challenges facing law schools. It may be that recent pressures played a role in reinforcing the need for reform and in accelerating its pace. In other words, those pressures may have provided an opportunity for innovation and we will explore this possibility as a part of the discussion in the next three sections.

## IV. Curriculum

A. More Specific Areas of Activity

If a dean responded affirmatively to the general question about substantial initiatives for curriculum since 2001, he/she was then asked for more specific information on these changes. The specifics covered a range of areas in which we might expect there to be substantial initiatives, such as the curricula for each year of matriculation and clinics. In addition, we included questions on matters at the heart of the recommendations in *Educating Lawyers*—initiatives involving lawyering and practical skills, professional identity and ethics, and integrative approaches linking doctrine, practical experience, and professionalism.

Figure 1 shows the percentage of responding schools that indicated starting a substantial initiative since 2001 in each of seven specific areas.[26] Not all schools pursed the same kinds of initiatives in each area. There has been substantial interest in classes dedicated to practical skills. "Lawyering" received the highest level of response, with nearly all respondents saying their school's initiatives include an effort in this area. The second most frequently cited initiative is the creation of new clinics.[27] The other two areas identified by *Educating Lawyers* as important—professionalism and integrative approaches, received less, but still substantial attention.

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26. We also asked about four additional areas: revising clinics; revising certificate programs; new certificates; and initiatives involving individual first year classes without a more general first year initiative. Since fewer than 50 percent of the respondents answered affirmatively for each of these four, we are leaving them out of the present discussion.

27. It is possible that activity in these two areas can be traced to the influence of earlier reform efforts such as the the ABA's MacCrate Report (ABA, The Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (1992)); or the Clinical Legal Education Association's "best practices" project (Roy Stuckey & Others, Best Practices for Legal Education: A Vision and a Road Map (CLEA 2007)). In short, multiple sources have been arguing for changes regarding training in practical skills for at least the past 20 years.

**Figure 1: Responses for Seven Specific Curriculum Areas
(% of responding schools reporting a new initiative)**
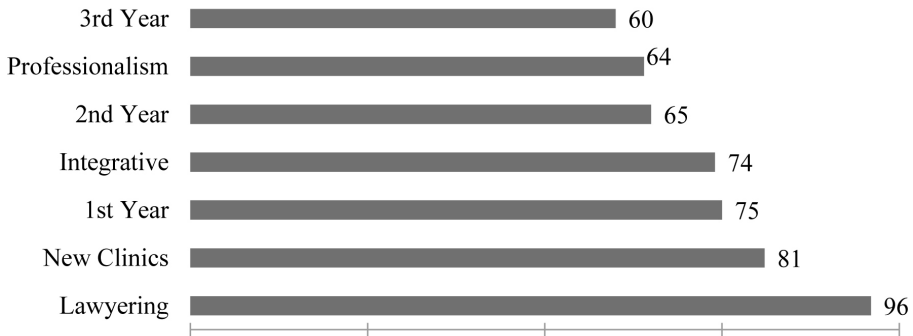
Important for our purposes is the question of how many schools have an initiative in each of the three areas at the heart of the recommendations found in *Educating Lawyers*—lawyering, professionalism, and integration. *Educating Lawyers* sees these areas as essential parts of a coordinated whole (best exemplified by the idea of integration). It does not appear that schools are necessarily approaching their efforts in this way. There is a moderate, significant relationship between starting an initiative involving professionalism and one involving integrative approaches.[28] However, there is not a significant relationship either between professionalism and lawyering or between lawyering and integrative approaches.

While there appears to be something of a piecemeal approach with regard to the interests of *Educating Lawyers*, there is some evidence of possible coordination with regard to other curricular matters. There is a significant, but not strong, relationship between initiatives involving the curricula for the 1st and 2nd years—70 percent of those with an initiative involving the 1st year also have one involving the 2nd year, while 50 percent of those without a 1st year initiative have a 2nd year initiative.[29] There is, however, a relatively strong and significant relationship between initiatives involving the curricula for the 2nd and 3rd years. Eighty-six percent of those with a 2nd year initiative also have a 3rd year initiative, while only 14 percent of those without a 2nd year initiative have a 3rd year initiative.[30] There is not a significant relationship between the curricula for the 1st and 3rd years. Sixty-four percent of those with a 1st year initiative also have a 3rd year initiative and 50 percent of those without a 1st year initiative report having a 3rd year initiative.

These patterns suggest that as a motivator for change, *Educating Lawyers* is not the only game in town. There are coordinated efforts to reform curriculum

28.   For professionalism and integration together Cramer's V=.308, sig=.001.

29.   For 1st and 2nd Year together Cramer's V=.187, sig.=.042.

30.   For 2nd and 3rd together Cramer's V=.715, sig.=.000.

that are not fully aligned with the recommendations of *Educating Lawyers*, although parts are still evident. There is evidence that schools are including in their curricular initiatives an interest in professionalism. There is a moderate and significant relationship between an initiative involving professionalism and initiatives involving both the 2nd year and 3rd year curricula.[31] We found a significant relationship between integrative approaches and initiatives involving the 1st year curriculum.[32] Though weak, the relationship suggests the kind of innovation at the heart of *Educating Lawyers*.

B. Eminence—Or the Importance of Rank

Table 1 allows us to look at the seven areas of curricular change set out in Figure 1 by school rank (again using four tiers). Starting with the core interests of *Educating Lawyers*, as we would expect lawyering is spread relatively evenly across the tiers; almost all schools report an initiative. Initiatives involving integrative approaches are somewhat more likely to be found among higher ranked schools, but the difference is not statistically significant. The pattern for initiatives involving professionalism is less clear. Table 1 shows that most of this is driven by the particularly high percentage of tier 3 schools having started a professionalism initiative (a particularly high percentage in light of the low percentage for tier 4 schools). Nonetheless, there is not a significant difference across the tiers. Nor is there a significant difference for schools that have instituted an initiative in both integrative approaches and professionalism.[33]

More generally, Table 1 shows a number of other tendencies. Tier 3 schools appear to be particularly active having the highest percentage for six of the seven areas; but the differences are not especially large. Only one relationship between initiatives by area and school ranking is significant—an initiative involving the 2nd year curriculum—and the strength of the relationship is moderate.[34] In short, rank does not explain the patterns among schools with regard to these seven specific areas, and this should not be surprising given that a relatively high percentage of schools in each tier were active.

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31.   For 2nd and 3rd year together plus professionalism Cramer's V=.392, sig=.000.

32.   For 1st year and integration Cramer's V=.226, sig=.014.

33.   If we collapse the four tiers into two, the results do not change.

34.   For 2nd year and four tiers Cramer's V=.308, sig=.012; for two tiers Cramer's v=.194, sig=.037.

Table 1: Initiatives in Curriculum Areas by Four Tiers
(% of responding schools in each tier reporting a new initiative)

	Tier 1	Tier 2	Tier 3	Tier 4
Lawyering	92	97	97	96
New Clinics	77	77	87	82
1st Year	77	71	81	71
Integrative	73	84	71	64
2nd Year*	46	65	88	61
Professionalism	65	58	81	46
3rd Year	46	65	71	57

(* Significant at <.05)

C. School Type

Type of school does not offer an adequate explanation for variations in patterns of curriculum change or innovation either. There are very few significant relationships between any of the seven curricular areas and whether a law school is public or private, or between those seven areas and whether a school has a part-time program. For the three core innovations for *Educating Lawyers*, there is only one significant individual relationship. Seventy-two percent of the schools without a part-time program report having a professionalism initiative compared to 55 percent with a part-time program. While this difference is significant, the relationship is not strong.[35] Schools having initiatives involving both professionalism and integration are somewhat more likely to be public (66 percent of public schools) than private (45 percent of private schools); but again, while the difference is statistically significant, the relationship is not strong.[36] In keeping with that pattern, schools without a part-time program are somewhat more likely to have initiatives in both of these areas (62 percent of these schools compared to 45 percent of schools with a part-time program); again with the difference being significant, but not strong.[37] These patterns should not be surprising for many of the areas since a relatively high percentage of schools—public and private—were active.

D. Environment

Fifty-five percent of curricular reform efforts generally started before calendar year 2008. If we look at the seven specific areas of curricular activity in Figure 1, for each of them between 50 percent and 63 percent of the starts

35.   For part-time/no part-time and professionalism Cramer's v=.171, sig=.032.

36.   For public/private and professionalism and integration together Cramer's V=.205, sig=.016.

37.   For part-time/no part-time and professionalism and integration together Cramer's V=.169, sig=016.

occurred before 2008. For the three key initiatives for *Educating Lawyers*, most starts occurred before 2008: professionalism, 54 percent; integrative approaches, 60 percent; and lawyering, 63 percent.

Taken together, these figures show, first, that more specific curricular changes have been an ongoing phenomena and not just a quick response to the economic downturn and its effects on the legal profession (or a response to some other recent external factor). Second, they also suggest that the pace of change accelerated after 2007, suggesting a potential window of opportunity for innovation. Taking the same approach we used earlier to explore patterns over time, we might expect starts for substantial curricular initiatives to be distributed evenly across the three time periods covered (2002-04, 2005-07, and 2008-10). They are not. We find that for each of the seven specific areas in Figure 1 the lowest percentage of starts is in 2002-04 (ranging from 13 percent to 24 percent of the starts) and the highest percentage is in 2008-10 (ranging from 40 percent to 51 percent of the starts).

There remains the question of time and school characteristics. For instance, are starts evenly distributed across the three time periods for each rank and specific curricular area? As can be seen in Tables 2a and 2b, this is not the case.[38] For each of the four tiers, the tables present the percentage of all starts for each of the seven curricular areas that occurred in the 2002–04 and 2008-10 periods, respectively. The percentages for 2005-07 can be determined for any tier and curricular area by adding together the appropriate percentages found in Tables 2a and 2b and then subtracting from 100 percent.

**Table 2a: Curricular Initiatives
Percentage of ALL Starts (2002-2010)
Occurring in 2002-04 for Each of Four Tiers**

	1st Yr	2nd Yr	3rd Yr	Clinics	Professionalism	Lawyering	Integrative
Tier 1	0	0	10	15	8	6	8
Tier 2	31	29	25	24	17	38	18
Tier 3	15	12	35	12	17	19	14
Tier 4	6	31	17	0	13	21	9

38. We looked for any significant relationships between rank and in which of three time periods schools started that activity. There are no significant relationships for any of the seven areas using either four ranks or two ranks.

Table 2b: Curricular Initiatives
Percentage of ALL Starts (2002-2010)
Occurring in 2008-10 for Each of Four Tiers

	1st Yr	2nd Yr	3rd Yr	Clinics	Professionalism	Lawyering	Integrative
Tier 1	56	58	50	38	62	56	46
Tier 2	44	50	50	41	33	33	35
Tier 3	50	46	40	47	56	43	43
Tier 4	56	38	50	53	50	26	64

Table 2a shows, generally, a much smaller percentage of starts occurred in the 2002–04 period than we would expect if starts were evenly distributed over time. This holds true regardless of tier. With the exception of initiatives related to new clinics, tier 1 schools were the least likely to have starts during 2002–2004, suggesting that these schools were not the early innovators. Schools in the middle two tiers were the early innovators, especially those in tier 2. Table 2b shows a very different pattern. A comparatively high percentage of starts occurred during the 2008-10 period. In only two situations—tier 2 with professionalism and tier 4 for lawyering—did as much as 50 percent of starts occur in 2005-07. All tiers were quite active during 2008–2010, with tier 1 schools being especially active (reinforcing the idea that these schools are more followers than leaders). The idea of the external environment providing a window of opportunity for innovation appears to apply across tiers.

Are there any significant patterns for the starts of particular curricular activities by public/private status or part-time/no part-time? There is one moderate, significant relationship. For public/private status, public schools are far more likely to have started an initiative involving the 2nd year curriculum in the 2008–2010 period (71 percent of public schools).[39] Overall, regardless of status, more than 33 percent of starts for each of the seven curricular areas took place in the 2008–2010 time period, with public schools having a higher percentage of starts in this time period than private schools for each of the seven areas. There were no significant differences for schools with part-time programs compared to those without. Like rank, more than 33 percent of starts for each of the seven curricular areas took place in the 2008–2010 time period. In short, the external environment appears to have provided a window of opportunity for schools regardless of their status as public v. private or part-time v. no part-time.

39. For public/private and time period for 2nd year initiative Cramer's V=.356, sig=.004.

V. Faculty Development

A. More Specific Areas of Activity

Just over three-quarters of the responding schools (78 percent) reported starting at least one initiative involving faculty development since 2001. The deans for these schools were asked about more specific actions regarding faculty development. As Figure 2 shows, the questions covered a range of possible activities. Most activity is taking place at the more general level—here meaning activity related to teaching and learning generally. Workshops devoted to teaching and learning generally are the most prominent activity, followed by grants related to teaching and learning generally. The drop-off from workshops to the actual investment of money, however, is substantial, as is the drop-off to both workshops and grants devoted to integrative approaches—the key concern of *Educating Lawyers*.

Figure 2: Responses for Specific Faculty Development Areas (% of responding schools reporting a new initiative)
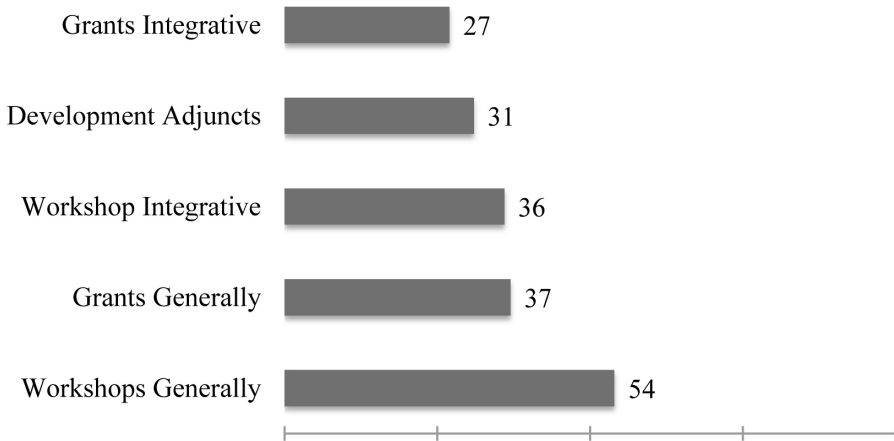
In examining the possible relationships among the activities shown in Figure 2, we find that all of the activities are significantly related. This suggests something of a coordinated effort by schools. The strength of the relationships, however, varies from relatively weak to relatively strong. The weakest relationships are between workshops focusing on integrative approaches and grants for teaching and learning generally, and between workshops on teaching and learning generally and grants for integrative approaches.[40] The strongest relationships are between grants for teaching and learning generally and grants for integrative approaches, and between workshops on teaching

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40. For workshop integrative and grants generally Cramer's V=.254, sig=.006; and for workshops generally and grants integrative Cramer's V=.292, sig=.001.

and learning generally and workshops on integrative approaches.[41] There is a moderate and significant relationship between workshops integrative and grants integrative, and a moderate significant relationship between workshops generally and grants generally.[42] If schools are doing anything at all with regard to faculty development, this suggests that they may be choosing among a variety of strategies in mixing different kinds of workshops and grants. As we will see later, the strategies may become clearer when faculty development initiatives and curricular initiatives are considered together.

B. Eminence

The discussion of curricular initiatives showed that rank was not a significant factor in understanding the patterns in Table 1. Rank is also not a significant factor for understanding the patterns for faculty development activities. The organization of Table 3 mimics that of Table 1, and it presents the percentage of schools in each tier that responded affirmatively with regard to starting an initiative since 2001 involving each of the faculty development areas in Figure 2. While none of the relationships in either table are statistically significant, there are some very general patterns. Schools in tier 1 and tier 4 are least likely to be active. As was the case with curricular initiatives, the middle tiers—especially tier 3—stand out as particularly active. There are no significant relationships if we collapse rank into two tiers.

Table 3: Initiatives in Faculty Development Areas by Four Tiers
(% of responding schools in each tier reporting a new initiative)

	Tier 1	Tier 2	Tier 3	Tier 4
Workshops Generally	35	61	68	50
Workshops Integrative	27	32	52	36
Grants General	35	39	52	21
Grants Integrative	23	32	39	14
Adjuncts	27	42	32	21

(None are significant)

C. School Type

There are some very general patterns involving public as compared to private schools with regard to faculty development initiatives. Public schools are somewhat more likely to have activities in the areas of workshops integrative (43 percent of public v. 32 percent of private), grants generally (43 percent v.

41.   For grants generally and grants integrative Cramer's V=.673, sig=.000; and for workshops generally and workshops integrative Cramer's V=.625, sig=.000.

42.   For workshops integrative and grants integrative Cramer's V=.410, sig=.000; and for workshops generally and grants generally Cramer's V=.462, sig=.000.

34 percent), grants integrative (30 percent v. 25 percent), and programs for adjuncts (34 percent v. 30 percent). The two types of schools are equally as likely to have workshops on teaching and learning generally (55 percent v. 54 percent). None of these differences, however, are statistically significant.

Schools without part-time programs are more likely to have initiatives involving workshops generally (60 percent of schools without compared to 48 percent of schools with), grants generally (45 percent v. 30 percent), grants integrative (33 percent v. 22 percent), and programs for adjuncts (41 percent v. 22 percent). Two of the differences are statistically significant, but the relationships are not strong—grants generally and programs for adjuncts.[43]

D. Curricular Activities and Faculty Development

If schools are taking a coordinated approach to innovation, we might expect there to be some relationship between activity with regard to faculty development and activity with regard to curriculum. As we argued earlier, initiatives involving curricular matters will need to be supported by initiatives involving faulty development. From the perspective of *Educating Lawyers*, we are especially interested in faculty development activities involving integration. Table 4 shows the percentage of schools answering yes to a particular curriculum initiative that also answered yes to a particular faculty development initiative (e.g., 56 percent of those answering affirmatively to the curriculum question on lawyering also answered affirmatively to the faculty development question on workshops for teaching and learning generally).[44]

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43. For part-time v. no part-time and grants generally Cramer's V=.153, sig=.048; and for programs for adjuncts Cramer's V=.212, sig=.011.

44. We did not ask direct questions about possible coordination. Instead, our strategy was to look at responses to apparently unrelated questions. Doing so mitigates, to at least some degree, the problem with self-reports by respondents trying to provide answers that put themselves in the best light.

Table 4: Relationships Between Curriculum and Faulty Development (Table reads left to right: each cell represents percentage of schools answering yes to the curriculum initiative who also answered yes to a particular development initiative)

	Workshops General	Workshops Integrative	Grants General	Grants Integrative	Programs for Adjuncts
Lawyering	56	38	38	27	33
New Clinics	55	34	40	29	34
1st Year	51	38	43*	31	30
Integrative	56	41	41	31	31
2nd Year	61*	43*	49*	38*	34
Professionalism	60	45*	41	35*	36
3rd Year	59	44*	48*	39*	35

(*Significant at <.05)

Generally, Table 4 shows that across the curricular areas, faculty development initiatives involving workshops on teaching and learning generally are undertaken more than workshops integrative and either kind of faculty grant or programs for adjuncts. Grants for efforts related to teaching and learning generally are instituted more often that grants directly specifically to integrative approaches. Grants for integrative efforts and programs for adjunct faculty appear to be the least popular. However, significant relationships between each of the specific areas of faculty development activity and the specific areas of activity for curriculum are few. The lack of significant relationships between the faculty development areas and lawyering, new clinics, 1st year, and integrative approaches may be a result of the more wide-spread activity in these areas—meaning less variation across other factors. In other words, if almost all schools have an initiative involving lawyering, we are not likely to find systematic variations based on the number of schools with initiatives involving workshops or grants of any kind. Having a lawyering initiative is functionally a constant.

Nonetheless, while significant relationships are few, they are telling. There is a clear pattern of significant relationships involving faculty grants for teaching and learning generally and curricular initiatives involving each of the years of matriculation.[45] Perhaps more interesting are the significant relationships involving workshops integrative and grants integrative on the one hand and curricular initiatives involving the 2nd and 3rd years and professionalism on

45. For grants generally and 1st year Cramer's V=.209, sig=.023; for 2nd year Cramer's V=.342, sig=.000; for 3rd year Cramer's V=.269, sig=.003.

the other hand.[46] These patterns suggest the possibility of a strategy focusing on integrating professionalism in the 2nd and 3rd years through an investment in either targeted workshops or grants. There are also significant relationships between schools having all three curricular initiatives together—2nd year, 3rd year, and professionalism—and both workshops integrative and grants integrative respectively.[47]

What makes these relationships particularly interesting with regard to coordination are three key relationships we noted in the earlier discussion of curricular innovations in Part IV. First is the strong, significant relationship between initiatives involving the 2nd and 3rd years, indicating a possible coordinated effort. Second is the moderate, significant set of relationships between curricular initiatives involving professionalism on one hand and each of the 2nd and 3rd years' curricula on the other. This indicates possible efforts to include professionalism in coordinated efforts involving the 2nd and 3rd years' curricula. This possibility is strengthened by the third relationship. There is a significant relationship between professionalism and having initiatives in *both* the 2nd and 3rd years' curricula together (2nd and 3rd together plus professionalism). There are 23 schools that have initiatives involving all three curricular initiatives along with a faculty development initiative involving grants integrative, and 26 schools with all three curricular initiatives and workshops integrative (16 schools overlap). While there is not a significant relationship for either group between these initiatives combined and rank, it is worth noting that tier 3 schools are the most active for each group.

E. Environment

Just over half (51 percent) of faculty development initiatives generally started before 2008. If we look at the five specific areas of activity in Figure 2, none has starts distributed evenly across the three time periods we have used. For both workshops on teaching and learning generally and workshops on integrative approaches, just over half of starts (54 percent and 51 percent, respectively) occurred before 2008-10. For grants on teaching and learning generally, 43 percent of the starts occurred before 2008-10. For grants on innovative approaches the figure is 26 percent. Finally, for faculty development for adjuncts the figure is 44 percent. Nonetheless, the largest percentage of starts for each faculty development area occurred in 2008-10. As with curricular initiatives, taken together these figures show that changes involving faculty development have been an ongoing phenomena and not just a recent

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46. For workshops integrative and 2nd year Cramer's V=.183, sig=.047; for 3rd year Cramer's V=.184, sig=.045; for professionalism Cramer's V=.244, sig=.008. For grants integrative and 2nd year Cramer's V=.325, sig=.000; for 3rd year Cramer's V=.341, sig=.000; and for professionalism Cramer's V=.224, sig=.015. These figures also show that the relationships between faculty grants integrative and 2nd and 3rd year curricula are somewhat stronger than the equivalent relationships for workshops integrative, suggesting a possible preference for the grants.

47. For workshops integrative and 2nd year, 3rd year, and professionalism combined Cramer's V=.237, sig=.010; and for grants integrative and all three combined Cramer's V=.331, sig=.000.

response to the economic downturn. These figures also show that the pace of change accelerated after 2007, especially for grants and programs for adjuncts.

As with curricular initiatives, we need to look at rank and time together for faculty development. Are starts in this area evenly distributed over the three time periods for each rank? The answer is no, as Table 5 illustrates. Table 5 presents the percentage of starts for 2008–10 of the faculty development initiatives for just two tiers (the numbers become too small to be meaningful if four tiers are used). For either tier, well over one-third of all starts occurred in 2008–10, and for a majority of the starts it is over one-half.

Table 5: Faculty Development Initiatives
Percentage of ALL Starts Occurring in 2008-10 for Each of Two Tiers

	Workshops Generally	Workshops Integrative	Grants Generally	Grants Integrative	Programs for Adjuncts
Tiers 1 & 2	45	57	62	82	57
Tiers 3 & 4	43	43	56	67	50

Starts for public v. private schools are not evenly distributed over time. Half or more of the starts for both public and private schools involving programs for adjuncts and grants integrative occurred in the 2008–10 period. More generally, half or more of the starts for public schools occurred in the 2008–10 period for workshops integrative, grants generally, grants integrative, and programs for adjuncts. For grants generally and grants integrative it was over 70 percent in 2008–10 for public schools. For private schools half or more of the starts occurred in the 2008–10 period for workshops generally, grants integrative, and programs for adjuncts. With all of this said, these patterns are not statistically significant.

As with public v. private schools, the patterns across the three time periods for part-time v. no part-time and faculty development initiatives are not evenly distributed. For both those with and without part-time programs, half or more of the starts occurred in the 2008–10 period for grants integrative and programs for adjuncts (80 percent for those without part-time for grants integrative). For those without a part-time program, half or more of the starts occurred in the 2008–10 period for grants general, grants integrative, and programs for adjuncts. For those with part-time programs half or more of the starts occurred in the 2008–10 period for workshops generally, workshops integrative, grants integrative, and programs for adjuncts. In no other time period did as many as 45 percent of the starts for either set of schools occur. Again, none are statistically significant.

VI. Incentives for Faculty Professional Activity

A. More Specific Areas of Activity

While faculty development activity is an indicator of a school's commitment to an investment in innovation, even more important is whether and how it recognizes faculty professional activity related to teaching and learning. Here is where the real investment lies—in the incentive structure shaping what faculty need to do to survive and prosper within the school. Even though the amount of activity in this area is relatively low, here is where we find the most interesting patterns and relationships with regard to the other areas.

Figure 3: Responses for Specific Professional Activity Areas
(% of responding schools reporting a new initiative)

Tenure — 19

Promotion — 20
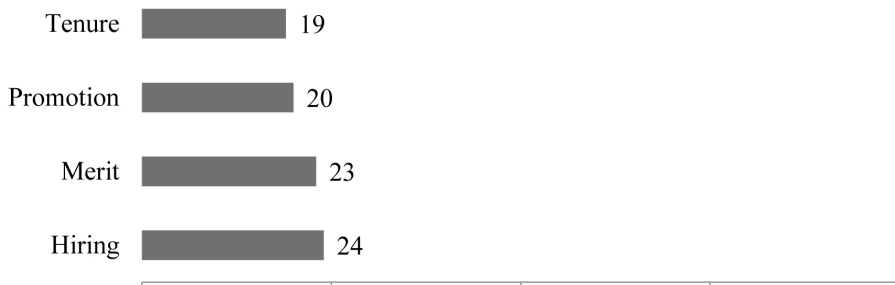
Merit — 23

Hiring — 24

Figure 3 presents information on the responses to questions on four key aspects of a personnel process: decisions involving hiring, promotion, tenure, and merit (raises and bonuses). The percentages in Figure 3 are much lower than those in either Figure 2 or in Figure 1—suggesting much less recent activity and perhaps reflecting less commitment to innovation. Of course, it is possible that most schools had already made adjustments to take this kind of professional activity into account, but we are not willing to simply assume this to be the case. Changing the personnel process poses the greatest challenge to the legal academy because it changes what it means to be a part of the legal academy. Only three respondents who provided no answers to the questions regarding initiatives started in these areas since 2001 used the space provided for additional write-in responses to say that they have long considered professional activity related to teaching and learning in their personnel decisions.

The most important areas are hiring and tenure—who gets in and what is important in determining who gets to stay. Hiring has the highest percentage of affirmative responses, meaning that at least some schools see professional activities related to teaching and learning as important when looking for new members to bring into their faculties. But the figures are still quite low—less than one-quarter of all schools. Tenure has the smallest percentage of

affirmative responses. Relatively few schools have started an initiative in this area and it is probably among the hardest areas for change. Tamanaha would tell us that the reason is simple. In the eyes of many it may mean a shift away from the kind of scholarly activity that has long helped to define what it means to be a member of the legal academy—the idea of scholarship on law itself, to scholarly activity on something completely different. That something involves how students learn rather than just what they learn, and in addition it involves different ways of thinking about what they learn.

While the proportion of schools active in the area of professional activity may be rather small, what is particularly interesting is evidence of coordinated efforts on the part of those schools that are active. Few schools are simply starting just one initiative in this area. Thirty-nine schools reported having an initiative in at least one of the four areas in Figure 3, and two-thirds of them have initiatives in more than just one area. Not surprisingly, since the two decisions often occur simultaneously, the strongest relationship is between promotion and tenure, and it is quite strong.[48] The relationship between promotion and merit is also quite strong.[49] We would expect these relationships to be significant and relatively strong if a school is really serious about providing an appropriate incentive structure. Still, perhaps the most important and telling relationship is between hiring and tenure—the two key ends of a personnel process. This relationship, too, is relatively strong.[50] It is important to emphasize that the relationships among the four faculty professional activity initiatives are much stronger than those for the specific initiatives within the other two broad areas.

B. Eminence, School Type, and Environment

Few schools have been active in this area since 2001, but they seem to have been quite serious about it. Who and what are they? Because the numbers are relatively low we cannot do the kinds of more detailed analysis we could for curricular matters and faculty development. We can do only the most general of analyses and we will combine them into this one section. If activity regarding professional activity and incentive structures are important, then we need to know if there is any connection to a school's eminence, its status as either a public or private, or when the school began its initiatives in this area.

As to rank, when we look at the schools generally in terms of any kind of activity in this area, the active ones are less likely to be tier 1 schools (46 percent of tier 1 schools, with tiers 2 through 4 closely bunched between 57 percent and 61 percent), but the pattern is not statistically significant. Private schools are more likely than public schools to be active in this area. Sixty-five percent of private schools have some kind of activity in this broad area compared to 45 percent of public schools. This difference is significant, but the relationship

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48.   For promotion and tenure Cramer's V=.863, sig=.000.

49.   For promotion and merit Cramer's V=.700, sig.=.000.

50.   For hiring and tenure Cramer's V=.603, sig=.000.

is not strong.[51] Active schools are also more likely to be those with a part-time program (66 percent of those with a part-time program active compared to 48 percent of those without). Again, the relationship is significant, but not strong.[52]

When we look at the four specific areas in Figure 3 individually, the middle two tiers are more active. Tier 2 schools are the most active for hiring (35 percent have an initiative) and merit decisions (32 percent have an initiative). Tier 3 schools are the most active in promotion decisions (29 percent have an initiative) and the all-important tenure decision (32 percent have an initiative). Tier 1 schools are the least active overall. In terms of public v. private schools, the percentages are nearly equal, varying no more than five percentage points for any of the four areas. And for schools with part-time programs and those without the percentages vary by no more than six percentage points.

With regard to external influences, faculty professional activity is different than curriculum and faculty development in one important way. There is not the kind of acceleration that we found with the other two areas. Unlike them, the largest percentage of starts occurred in the very first year for our survey—2001 (45 percent of the starts between 2001 and 2010). Activity in this area, then, does not appear to be a quick reaction to a changing external environment.

C. Curriculum, Faculty Development, and Faculty Professional Activity

There is also evidence of possible coordination when we look at activity with regard to faculty professional activity and activity with regard to curriculum and with regard to faculty development. Table 6a allows us to look more closely among the four specific areas involving professional activity and those involving curricular matters. It shows that across each of the relevant curriculum areas, less than one third of the schools had an initiative in one of the faculty professional activity areas. As we noted earlier in looking at the specific faculty development initiatives together with specific curricular initiatives, the high percentage of respondents with certain curricular initiatives means that there will be less variation and hence no significant relationships. Only three of the pairings in Table 6a are significant, but they are noteworthy because all involve schools with a curricular initiative involving integrative approaches.[53] Perhaps more than any other specific curricular initiative, this one goes to the heart of *Educating Lawyers*' interests.

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51.   For public v. private schools Cramer's V=.199, sig=.016.

52.   For part-time v. no part-time Cramer's V=.173, sig=.030.

53.   For integration and hiring Cramer's =.288, sig=.002; for promotion Cramer's V=.196, sig=.033; and for merit Cramer's V=.188, sig=.042.

**Table 6a: Relationships among Curricular Initiatives and Faculty
Professional Activity Initiatives
(Table reads left to right: each cell represents percentage of schools
answering yes to the curricular initiative who also answered yes to a
particular activity initiative)**

	Hiring	Promotion	Tenure	Merit
Lawyering	25	20	19	24
New Clinics	23	19	17	24
1st Year	23	22	19	23
Integrative	31*	24*	22	28*
2nd Year	26	23	22	25
Professionalism	28	24	23	27
3rd Year	30	23	21	25

(*Significant at <.05)

**Table 6b: Relationships among Faculty Development Initiatives and
Faculty Professional Activity Initiatives
(Table reads left to right: each cell represents percentage of schools
answering yes to the development initiative who also answered yes to a
particular activity initiative)**

	Hiring	Promotion	Tenure	Merit
Workshops General	39*	30*	28*	34*
Workshops Integrative	47*	37*	35*	40*
Grants General	34*	32*	30	32
Grants Integrative	41*	32*	27*	31*

(*Significant at <.05)

Table 6b allows us to look more closely at the four specific areas involving
professional activity in combination with those involving faculty development
initiatives.[54] It shows that across each of the faculty development areas, less
than half of the schools also had an initiative in one of the faculty professional
activity areas. Importantly, all but two of the pairings in Table 6b are significant,
suggesting the possibility of coordination where initiatives involving faculty
professional activity do occur. The strongest, consistent relationships are

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54. Programs for adjuncts are left out because the faculty professional activity areas are not
     relevant for adjuncts.

among workshops integrative and each of the four professional activity areas.[55] The patterns in Table 6b suggest that schools that have initiatives rewarding professional activity related to teaching and learning are providing at least some of the resources necessary for faculty who are devoting at least some of their professional energies to teaching and learning—especially with regard to the key issue of integration.

These relationships take on an interesting light when we tie them back to what we found with regard to the significant relationships among certain faculty development initiatives and certain curricular initiatives. There we noted the connections between two different sets of initiatives—2nd year, 3rd year, and professionalism occurring together on the one hand, and initiatives involving workshops integrative and grants integrative on the other. Additional relationships with initiatives that recognize and reward faculty professional activity related to teaching and learning would be the final ingredient needed for sustained and successful reform.

VII. Conclusion

For our primary interest—curricular matters—we found evidence of much activity over the period of our study. Not surprisingly, all of the schools responding to our survey report starting at least one curricular initiative since 2001. What is important is the nature of the activity. Initiatives involving lawyering skills and new clinics are most prominent; and while fewer schools reported initiatives involving professionalism or integrative approaches, a substantial proportion did. Of particular importance are coordinated efforts by the schools rather than just isolated or piecemeal actions with regard to curricular matters, and there is evidence of such coordination. This is especially the case with initiatives involving the 2nd and 3rd year curricula occurring together with an initiative involving professionalism.

Even though curriculum is our primary concern, it is not our only one. To be successful and become fully institutionalized, innovation also requires a commitment to faculty development and to creating and using appropriate incentive structures for faculty. It is about putting your money where your mouth is. Not all respondents report launching a new initiative since 2001 in the broad area of faculty development, but most do. Workshops and faculty grants supporting teaching and learning generally are more prevalent than workshops and grants targeted to integrative approaches. Again there is evidence of coordinated activity with schools choosing among a variety of strategies mixing the different kinds of workshops and grants.

There is less activity when we look at initiatives involving the incentive structure for faculty. As we noted, this is an especially important part of the institutional commitment to innovation because it deals with the kinds of activities that will be valued and rewarded—and in turn, help shape professors'

55.   For workshops integrative and hiring Cramer's V=.406, sig.=.000; for promotion Cramer's V=.339, sig=.000; for tenure Cramer's V=.316, sig.=.000; and for merit Cramer's V=.300, sig.=001.

careers in a particular direction. Just over half of the respondents report a new initiative in this broad area with initiatives involving hiring being the most prevalent and those involving tenure the least. Nonetheless, there is strong evidence of coordination with few of the schools active in this broad area having only one or even two specifics kinds of initiatives alone—and this includes a strong relationship between an initiative involving hiring and one involving tenure (the two key ends of the personnel process). And, where there is activity, most started earlier in our time period—well before the changes in the external environment.

In general and in light of the kinds of recommendations found in *Educating Lawyers*, our findings send a mixed message. While there is much activity in the area of curriculum—including the key matters of lawyering, professionalism, and especially integration—there is much less in the important areas of faculty development and incentive structure. Without an institutional commitment in these areas as well, meaningful change is not likely. With this said, the discussion in section VI provides reason for hope. It shows that for at least a small proportion of respondents, there is evidence of the kind of coordinated activity needed across these three broad areas.

Rank is perhaps the first law school characteristic that comes to mind in looking for an explanation for the patterns emerging from our survey's results. But as we have seen, rank appears to be irrelevant. Alternatively, one might turn to the type of school—public v. private or those with a part-time program v. those without such a program. While one or both may help explain a few things—for instance, public schools are somewhat more likely to have curricular initiatives involving both professionalism and integration as are schools without a part-time program—they cannot explain anywhere near enough of the variation we uncovered.

More interesting is the timing for starting initiatives—our rough indicator for the effects of the external environment. Activity by law schools with regard to curriculum, faculty development, and faculty professional activity is not simply a response to the economic downturn and the subsequent criticisms of legal education. But this does not mean that recent external pressures are not playing a role. They provide a potential window of opportunity and they appear to be reinforcing the need for change and accelerating its pace.

Starts for initiatives involving faculty professional activity tend to occur—generally speaking—somewhat sooner than starts for initiatives for curricular matters or faculty development. Unlike the other two broad areas, the largest percentage of starts in this area did not occur in 2008-10. In light of the significant relationships reported in Tables 6a and 6b, this suggests that schools which already made changes in their personnel systems with regard to professional activity related to teaching and learning may have been more open to investing in faculty development—especially involving workshops and grants for integrative approaches—as the external environment changed. And more importantly, these schools may have been more open to curricular initiatives involving integrative approaches. In other words, inertia may not

always win out. The next question, of course, is what is it about these schools that may have provided fertile ground for rethinking curriculum—including the kinds of reforms found in *Educating Lawyers*—in response to a changing external environment. Neither rank nor type of school provides much real help. Targeted research is needed that looks at the process of change within particular schools, especially with regard to coordinated institutional strategies that foster and sustain innovation.