

Dialogue

Missing Missions: Further Reflections on Institutional Pluralism(or its Absence)

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Editors' note: With the publication of “Missing Missions: Further Reflections on Institutional Pluralism (or its Absence),” we inaugurate a new occasional feature, “Dialogue,” offering scholars the opportunity to respond to research published in a recent issue of the *Journal of Legal Education*. The Editors welcome short submissions that expand upon that research—for instance, asking new questions or applying findings in new contexts.

For many years, Standard 202 of the American Bar Association’s Standards for Approval of Law Schools has required each school undergoing accreditation to “develop a written self-study, which shall include a mission statement.”¹ As part of that self-study, the ABA expects a law school to “evaluate [its] strengths and weaknesses...in light of the school’s mission.”² Given

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1. 2009–2010 ABA Standards for Approval of Law Schools Standard 202, Self Study, <http://www.abanet.org/legaled/standards/2009-2010%20StandardswebContent/Chapter2.pdf> (last visited May 11, 2010). The Standards Review Committee presently is considering amending the standards to move toward outcome measures. The most recent draft of Standard 202 states that law schools “shall engage in a regular planning and assessment process, including ongoing assessment of the school’s effectiveness in achieving its mission and realizing its established goals, and when appropriate in light of the school’s assessment of its effectiveness, periodic revision of plans, goals or mission.” See <http://www.abanet.org/legaled/committees/comstandards.html> (with link to Standards 202 and 203 under the Meeting Date: April 25, 2010 link) (last visited April 22, 2010). Therefore, while the draft standards do not contain the explicit requirement that the self-study “shall include a mission statement,” the draft standards do explicitly reference the expectation that each law school will be assessing whether it is “achieving its mission,” which clearly contemplates that each law school develop a mission statement.
2. 2009–2010 ABA Standards for Approval of Law Schools Standard 202.

that directive, one might imagine that faculty and administrators at each law school have spent a fair amount of time refining their school's mission and reflecting carefully on how that mission serves that institution's educational goals. At least one commentator, however, has suggested that this would not be an accurate description of law school reality.³

During his term as President of the Association of American Law Schools, Dean John Garvey of Boston College Law School focused on the theme of institutional pluralism, making that one of the plenary panels at the 2009 AALS Annual meeting.⁴ In his article discussing institutional pluralism, Dean Garvey highlighted four types of law schools that reflect somewhat distinctive missions—religiously-affiliated law schools,⁵ law schools at historically black colleges and universities,⁶ schools with a unique point of view or special subject-matter emphasis,⁷ and state law schools.⁸

With this as background, I thought it would be interesting to explore how law schools have defined their missions as a way to gauge the extent to which these missions reflect distinctive approaches to legal education. Are there common missions among public law schools? Among private law schools? Among religiously-affiliated law schools? Among independent, free-standing law schools? How do the self-professed missions of public law schools differ, if at all, from those of private law schools? How do the self-professed missions

3. Gordon T. Butler, *The Law School Mission Statement: A Survival Guide for the Twenty-First Century*, 50 *J. Legal Educ.* 240, 242 (2000) (asserting that not every law school has a mission statement and that even those that have a mission statement seldom revisit those statements between accreditation visits).
4. Several of the papers presented at the AALS Annual Meeting were recently published in the August 2009 issue of the *Journal of Legal Education*. See John Garvey, *Introduction: AALS Symposium on Institutional Pluralism: The Role of Religiously Affiliated Law Schools*, 59 *J. Legal Educ.* 1, 125 (2009); Kent Greenawalt, *Religious Law Schools: Tension between Conscience and Academic Freedom*, 59 *J. Legal Educ.* 1, 131 (2009); Michael Herz, *The Role of One Religiously Affiliated Law School*, 59 *J. Legal Educ.* 1, 136 (2009); James D. Gordon III, *Religiously Affiliated Law Schools, Values, and Professionalism*, 59 *J. Legal Educ.* 1, 151 (2009); Bradley J.B. Toben, *The Added Value and Prerogatives of Law Schools with a Faith Mission*, 59 *J. Legal Educ.* 1, 158 (2009).
5. Dean Garvey identifies forty-eight AALS and fee-paid schools that are religiously affiliated law schools. See Garvey, *supra* note 4, at 126.
6. Dean Garvey emphasizes Howard Law School, but also mentions North Carolina Central University and Texas Southern University, and could have included Florida A & M as well (which opened its law school in 2002 and was granted full ABA accreditation in July 2009). See Garvey, *supra* note 4, at 126.
7. Dean Garvey highlighted the law and economics emphasis at George Mason, but also discussed schools with areas of specialization, such as Vermont Law School and Lewis and Clark Law School (two of a number of schools with an emphasis on environmental law) and The Franklin Pierce Law Center (with an emphasis on intellectual property). *Id.* at 126–27.
8. Dean Garvey notes that there are more than fifty public law schools that, to some extent, serve the population of their respective states. *Id.* at 127.

of first-tier law schools differ, if at all, from the those of fourth-tier law schools? Do religiously-affiliated law schools have missions distinct from those of other private law schools or of public law schools?

To answer these questions, I worked with research assistants to identify and categorize the missions of all ABA-accredited law schools based on how the law schools define themselves on their webpages.⁹ I planned on writing an article that would compare the mission statements of the various schools, looking at common aspects and differences among mission statements of public law schools, private law schools, and religiously-affiliated law schools. That article is still in the works. But in gathering the various mission statements, I discovered something that I found somewhat surprising—a significant number of law schools appear not to have a mission statement.

This brief essay outlines my first set of findings—identifying and analyzing the universe of law schools without a mission statement to determine whether these schools display distinctive features.

I begin with a delineation of the concept of “mission statement” along with a description of the processes used to try to “find” the mission statements for each of the ABA-accredited law schools. The second section then analyzes whether there are trends or distinctive features associated with those law schools without a discernable mission. The conclusion discusses the implications of these findings for legal education given the call for more outcomes assessment around goals derived from each school’s distinctive mission.

I. What is a Mission?

A mission is a shared commitment with both an internal and external focus. Internally, a mission identifies a set of purposes and values that guide an organization and the members of the organization in making decisions and directing resources.¹⁰ Externally, a mission defines the organization for the public, providing a brand identity that attracts various constituents—faculty,

9. I especially want to thank Steve Steffey, Class of 2008, and Nicolet Lyon, Class of 2010, for their exhaustive efforts to try to find mission statements for as many law schools as possible.
10. Stephen Covey, author of *The Seven Habits of Highly Effective People*, among others, believes that mission statements are essential to the success of any organization. “An organizational mission statement—one that truly reflects the deep shared vision and values of everyone within that organization—creates a great unity and tremendous commitment. It creates in people’s hearts and minds a frame of reference, a set of criteria or guidelines, by which they will govern themselves.” Butler, *supra* note 3, at 242 (quoting Stephen Covey, *The Seven Habits of Highly Effective People* 143 (Fireside 1989)).

staff, students, and donors.¹¹ The mission is generally reflected in a mission statement—“a written, easy-to-remember sentence, short list of bullet points, or paragraph illustrating a [law school’s] goals and purpose.”¹²

II. Which Law Schools Lack a Mission?

The mission is generally reflected in a mission statement, a sentence or short statement setting forth the law schools’ goals and purpose. Applying this concept of mission, we looked at law school webpages in search of mission statements. We focused on law school webpages because they are the visible identity of the law school in the Internet age—they are the means by which law schools provide a brand identity for external constituencies. We operated on the assumption that if we could not find a mission statement anywhere on the law school’s webpages, the school has not adopted a mission.

The search process involved several steps. We checked the law school webpage to see if it had a link to “Mission.” We checked the “About” link to see if the description of the law school referenced the school’s mission. We checked the “Dean’s Message” or the “Dean’s Welcome” to try to identify all law schools that clearly highlighted a mission statement. We checked the “Academics” page and the “Admissions” page. We also used the search link on the school’s webpage entering the words “mission” and “strategic plan.”¹³ While many law schools have a “mission” that is clearly defined as a “mission”

11. Colm o’Gormon & Roslyn Doran, *Mission Statements in Small and Medium-Sized Businesses*, 37 *J. Sm. Bus. Mgmt.* 59 (1999); Janet A. Weiss & Sandy Kristin Piderit, *The Value of Mission Statements in Public Agencies*, *J. Pub. Admin. Res. & Theory* 193 (1999).

12. As Gordon Butler describes this, “To be sure, all law schools train lawyers and produce scholarship. But there needs to be an overriding purpose to guide these efforts and give a school its particular direction. The school’s existence must have meaning, and that meaning will form the heart of the school’s mission statement.” Butler, *supra* note 3, at 241.

13. ABA Standard 203 states that,
In addition to the self study described in Standard 202, a law school shall demonstrate that it regularly identifies specific goals for improving the law school’s program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

2009-2010 ABA Standards for Approval of Law Schools Standard 203, *Strategic Planning and Assessment*, <http://www.abanet.org/legaled/standards/2009-2010%20StandardsWebContent/Chapter2.pdf> (last visited May 11, 2010). Sometimes the strategic plan references a law school’s mission or purpose in relation to the goals the school sets for itself. For example, the University of Houston Law Center does not have a mission statement available on its webpage, but does have a statement of “Our Mission” in its strategic plan which is available on the web at <http://www.law.uh.edu/news/additional/strategicplan.pdf> (last visited April 22, 2010). The mission statement reads: “The mission of the University of Houston Law Center is to build upon the strengths of the nation’s fourth-largest city by providing an affordable, top-quality legal education to the future leaders of a free society. We will develop the professional lives of students and practicing lawyers through caring and challenging teaching of both theory and practice, cutting-edge research in a wide variety of disciplines, and active participation in the resolution of difficult issues facing the city of Houston, the state of Texas, the nation, and the world.” *Id.* at 6.

or “vision,”¹⁴ others were less explicit, but nonetheless described the school’s “aims” or “purpose” or “commitment,” which we deemed sufficient to qualify as a mission statement.¹⁵ A mere description of the law school or what the law school does or is or what the law school provides students was deemed insufficient to constitute a mission.¹⁶

For the fifty-seven schools set forth below (over one-quarter of the ABA-accredited law schools!), we could not find any “mission statement”—any statement that defined the goals and purpose of the law school. Note that the schools are listed in alphabetical order and I have noted whether they are public, private, or religiously affiliated, as well as their most recent *U.S. News & World Report* ranking (published in April 2010).

1. University of Alabama School of Law (public)—ranked 38
 2. American University Washington College of Law (private)—ranked 48
 3. University of Arkansas-Fayetteville School of Law (public)—ranked 86
 4. Boston University School of Law (private)—ranked 22
 5. Brooklyn Law School (private)—ranked 67
 6. University of California-Berkeley Boalt School of Law (public)—ranked 7
 7. University of California-Hastings School of Law (public)—ranked 42
 8. University of California-Los Angeles School of Law (public)—ranked 15
 9. Case Western Reserve School of Law (private)—ranked 56
14. For example, the University of St. Thomas School of Law has a link on its main webpage to “Our Mission.” That link opens to a page that includes the law school’s mission and vision. The mission statement reads: “The University of St. Thomas School of Law, as a Catholic law school, is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice.” <http://www.stthomas.edu/law/about/mission/default.html> (last visited April 22, 2010). This mission is an organizing principle that guides the law school in everything it does. Similarly, if one clicks on the “About Southwestern” link on the webpage for Southwestern Law School and then clicks on “Mission” and “History,” one opens to a page that contains the Mission Statement for Southwestern: “The mission of Southwestern Law School is to produce highly skilled graduates who are capable of integrating theory and practice to meet the challenges of the twenty-first century. Through excellent faculty committed to promoting the highest level of professionalism, Southwestern seeks to create a vibrant academic community with a student-centered approach to legal education.” <http://www.swlaw.edu/about/hist> (last visited April 22, 2010).
 15. As Gordon Butler notes, while many law schools have mission statements that should “be a central document in the life of the law school, . . . many mission statements sit idly on the coffee table in the dean’s suite, read only by people killing time while waiting to see the dean.” Butler, *supra* note 3, at 242. So while this article highlights those law schools that do not have a discernable mission statement, there are likely many schools that have developed such a statement which nonetheless does not function as a “central document in the life of the law school.” *Id.*
 16. *See, e.g.*, <http://law.uark.edu/prospective/message-from-the-dean.html> (last visited April 24, 2010)(message from the Dean at Arkansas-Fayetteville, describing the law school); <http://www.law.ucla.edu/home/index.asp?page=2> (last visited April 24, 2010) (about UCLA School of Law, describing the law school and opportunities for students).

10. Chapman University School of Law (private, religious)—ranked 93
11. Charleston School of Law (private)—Provisionally accredited, not ranked
12. Columbia University School of Law (private)—ranked 4
13. University of Connecticut School of Law (public)—ranked 54
14. DePaul University College of Law (private, religious)—ranked 98
15. University of Detroit Mercy School of Law (private, religious)—4th Tier
16. Florida Coastal School of Law (private)—4th Tier
17. Florida State University College of Law (public)—ranked 54
18. George Washington University Law School (private)—ranked 20
19. Hofstra University School of Law (private)—ranked 85
20. University of Illinois College of Law (public)—ranked 21
21. Indiana University School of Law Indianapolis (public)—ranked 85
22. University of Iowa School of Law (public)—ranked 26
23. John Marshall College of Law (Chicago) (private)—4th Tier
24. University of Kentucky School of Law (public)—ranked 64
25. Lewis and Clark University Law School (private)—ranked 64
26. Marquette University Law School (private, religious)—3rd Tier
27. University of Memphis Cecil C. Humphreys School of Law (public)—3rd Tier
28. University of Michigan Law School (public)—ranked 9
29. University of Mississippi School of Law (public)—3rd Tier
30. University of Nebraska School of Law (public)—ranked 93
31. New England Law-Boston (private)—4th Tier
32. University at Buffalo Law School (public)—3rd Tier
33. New York University School of Law (private)—ranked 6
34. North Dakota School of Law (public)—4th Tier
35. Ohio Northern University School of Law (private)—3rd Tier
36. Ohio State University Michael E. Moritz College of Law (public)—ranked 34
37. University of Oklahoma School of Law (public)—ranked 72
38. University of Pacific McGeorge School of Law (private)—ranked 98
39. University of Pennsylvania (private)—ranked 7
40. Quinnipiac College School of Law (private)—3rd Tier
41. Rutgers School of Law-Camden (public)—ranked 80
42. St. John's University School of Law (private, religious)—ranked 72
43. St. Mary's University School of Law (private, religious)—4th Tier
44. University of San Diego School of Law (private, religious)—ranked 56

45. Seton Hall Law School (private, religious)—ranked 72
46. University of Southern California (private)—ranked 18
47. Southern Methodist University Dedman School of Law (private, religious)—ranked 48
48. Syracuse University College of Law (private)—ranked 86
49. University of Texas School of Law (public)—ranked 15
50. University of Toledo College of Law (public)—3rd Tier
51. Vanderbilt University Law School (private)—ranked 17
52. Wake Forest School of Law (private)—ranked 38
53. Washburn University School of Law (public)—3rd Tier
54. Western New England College School of Law (private)—4th Tier
55. Western State University College of Law (private)—4th Tier
56. Whittier Law School (private)—4th Tier
57. Yeshiva University Benjamin A. Cardozo School of Law (private, religious)—ranked 52

What do we know about these fifty-seven law schools? At the most basic level, twenty-three are public and thirty-four are private (with ten of the thirty-four private schools being religiously-affiliated). On a proportionate basis, there is not much difference between these sets of schools. Roughly 29 percent of the seventy-eight ABA-accredited public law schools do not have a mission, while roughly 29 percent of the 118 ABA-accredited private law schools (but only 22 percent of the forty-five religiously-affiliated law schools) do not have a mission.¹⁷

Of these schools, a disproportionate number are “prestigious law schools”—law schools in the top 100 of the *U.S. News & World Report* rankings. In total, of the fifty-seven law schools without a mission, thirty-nine are ranked among the top 100, while only eighteen are law schools in the third or fourth tier (or provisionally accredited). This means that more than two-thirds of the law schools without a mission are in the *U.S. News & World Report* top 100, while slightly less than one-third are in the third or fourth tier. (This also means that nearly 40 percent of the top 100 schools do not have a mission, while only approximately 20 percent of the third and fourth tier schools do not have a mission.)

17. For purposes of this analysis, the three ABA-accredited law schools in Puerto Rico were excluded from the analysis, so the universe of ABA-accredited law schools totals 196, 118 private law schools, and 78 public law schools.

III. What Does This Mean? Why Does This Matter?

As noted above, the existing accreditation standards require each law school to have a mission statement, and encourage each law school to contemplate its distinctive mission and identify goals to improve its program of legal education.¹⁸ In light of this existing standard, the fact that fifty-seven law schools include no discernable mission statement on their webpages should be cause for concern because it suggests that the ABA accreditation teams, the Accreditation Committee, and the Council on Legal Education have not focused on the issue of law school “missions” as the standards suggest they should.

But the absence of a mission statement says more about these law schools than it does about the ABA’s accreditation efforts. As Professor Greg Munro has noted,

A law school can best achieve excellence and have the most effective academic program when it possesses a clear mission, a plan to achieve that mission, and the capacity and willingness to measure its success or failure. Absent a defined mission and the identification of attendant student and institutional outcomes, a law school lacks focus and its curriculum becomes a collection of discrete activities without coherence.¹⁹

Based on the listing of law schools without a mission, it would appear that over one-quarter of ABA-accredited law schools have become a “a collection of discrete activities without coherence.” Phrased differently, these law schools function not as a community of scholar-teachers with a shared mission, but as a bunch of independent contractors who share space but have no discernable coalescing purpose or goals.

In his 2000 article, Professor Gordon Butler noted that given “the consensus that organizational change begins with the formulation of a mission statement, a comparison of law school mission statements could provide significant information about the direction of legal education in the United States.”²⁰ This review of law schools without mission statements would suggest that legal education in the United States is largely directionless.

18. *See supra* note 1.

19. Greg S. Munro, *Outcomes Assessment for Law Schools* 3-4 (Gonzaga Univ. Press 2001).

20. Butler, *supra* note 3, at 241.

From a different perspective, this lack of purpose and direction may be evidence of the extent to which law schools have been insulated from market forces as a result of the demand for legal education²¹ and an accreditation process and academic culture that many have described as stifling innovation.²²

With tuition costs increasing dramatically over the last two decades and with the job market in turmoil as a result of the economic crisis, this is not an ideal time for law schools and legal education to be directionless. A sense of self-preservation should motivate law schools to develop a defining mission and sense of purpose because “the times, they are a changing,”²³ and in an increasingly competitive marketplace, schools will have to figure out how to provide greater value at lower cost.²⁴ Law firms are beginning to identify different competencies they want to see in law school graduates—it will not be enough for graduates to be gifted at legal analysis and writing. Increasingly, law firms will be looking for graduates with experience and skill in working with others collaboratively, in understanding how legal problems interact with business concerns or other non-legal concerns, and in building relationships

21. From the 1999–2000 application cycle to the 2008–2009 application cycle, the number of applicants to law school grew from 74,600 to 86,600, while the number of first-year students enrolled in law school grew from 43,500 to 49,400 (as of fall 2008). <http://members.lisac.org/Public/MainPage.aspx?ReturnUrl=%2fPrivate%2fMainPage2.aspx> (last visited May 11, 2010).
22. *See, e.g.*, Donald E. Lively, *The Provisional Approval Experience: Lessons for Legal Education in Darwinian Times*, 52 *J. Leg. Educ.* 397, 400 (2002); Herb D. Vest, *Felling the Giant: Breaking the ABA’s Stranglehold on Legal Education in America*, 50 *J. Leg. Educ.* 494, 499 (2000) (both highlighting how the ABA accreditation standards stifle innovation); *see also* James J. Fishman, *Tenure and its Discontents: The Worst Form of Employment Relationship Save All of the Others*, 21 *Pace L. Rev.* 359, 372 (2000) (noting that academic tenure has stifled curricular innovation by not welcoming clinicians and legal writing professors into the “charmed circle” of tenure); Timothy J. Floyd, *Legal Education and the Vision Thing*, 31 *Ga. L. Rev.* 853, 874–75 (1997) (suggesting that ABA standards are general and allow for innovation but that legal educators resist innovation and prefer the status quo which favors full-time faculty). Others have suggested that the U.S. News Rankings and the AALS Membership requirements also contribute to stifling innovation among law schools. Conversation with Dean Tom Mengler (April 2010).
23. This is the title of Bob Dylan’s third album and one of his most famous songs, which captured the spirit of the 1960s, a time of significant change in society.
24. During a presentation at the Future Ed Conference at New York Law School on April 9, 2010, Chester Paul Beach, Jr., Associate General Counsel at United Technologies Corporation, emphasized that the legal profession and legal education, like any other supplier of goods or services in the marketplace, must continually find ways to provide greater value at lower cost.

of trust with clients from different cultures and different life experiences.²⁵ How will law schools respond to a marketplace demanding graduates with a broader set of skills?

Resource questions are mission questions. Without a defining mission, it is very difficult to make coherent resource decisions that function synergistically to improve the organization. If someone gave the law school a \$5 million unrestricted gift generating annual support of \$200,000 for the law school, how should that \$200,000 be invested? If the law school needs to pare \$200,000 from its budget to avoid raising tuition while continuing to provide an excellent legal education, what should get cut or could be done more efficiently to generate savings? Having a mission statement and a sense of purpose helps focus these “investment” decisions so they are not simply ad hoc responses over time with little coherence.

Even though law schools should have enough self-interested reasons to consider embracing a sense of mission, the accreditation process is likely to provide additional incentive. If the Standards Review Committee of the ABA’s Section on Legal Education and Admissions to the Bar continues in its efforts to promulgate revised accreditation standards that emphasize a more outcomes-based approach to setting standards, each law school going through the reaccreditation process will face increased pressure to embrace its own distinctive mission with meaning and vitality.²⁶ If law schools take this mandate seriously and proactively define distinctive missions, we might see a legal education renaissance.

Whether the ABA moves toward accreditation standards that embrace outcomes measures, or whether the economic reality facing the legal profession ultimately does pressure schools to deliver more value for less, schools without a defined mission will be among those struggling the most. They will need to develop meaningful goals for student learning, as well as valid measures for assessing whether they are accomplishing those goals and providing a legal education worth the cost of tuition.

25. See, e.g., Heather Bock and Robert Ruyak, *Constructing Core Competencies: Using Competency Models to Manage Firm Talent* (ABA 2007); Marjorie M. Shultz and Sheldon Zedeck, *Final Report: Identification, Development and Validation of Predictors of Lawyer Success*, (Jan. 30, 2009) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1353554&rec=1&srcabs=1442118 (last visited May 11, 2010).
26. James Podgers, *Sweeping Accreditation Review May Prompt “Sea Change” in Law School Evals*, *ABA Journal* (June 3, 2009), available at http://www.abajournal.com/news/article/review_of_accreditation_standards_likely_to_bring_sea_change_to_how_law_sch/. The Outcome Measures Committee issued its report in July 2008, recommending a transition from input-based standards to outcome measures. See <http://www.abanet.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf> (last visited May 11, 2010). In response, in September 2008, “the Council of the Section of the Legal Education and Admissions to the Bar began a comprehensive review of the ABA Standards and Rules of Procedure for the Approval of Law Schools,” which it expects to take two academic years. <http://www.abanet.org/legaled/committees/comstandards.html> (last visited May 11, 2010).

I prefer to be optimistic. This is a time for introspection and change within legal education. The marketplace of legal services is changing and law schools will have to respond to those changes or risk becoming irrelevant. While some have complained that the existing ABA standards, the AALS Standards, and the *U.S. News & World Report* rankings push schools to a unitary model of legal education that stifles innovation, the outcomes-measures approach the ABA is contemplating should unleash opportunities for creativity and innovation as law schools begin to think about how they can best serve their students, their alumni, and their region through developing a distinctive approach to legal education. While it remains to be seen exactly how the ABA outcomes-measures approach will be phrased and implemented, and whether law schools respond by finding ways to innovate and develop more distinct identities, the fifty-seven schools referenced in this article will have much more work to do than other law schools in responding to those changing standards and the changing legal marketplace. It is extremely difficult to measure whether a law school has accomplished its mission and whether its students have demonstrated competence in the outcomes it values when the law school has no mission.