

HOW CAN AN ASSOCIATION OF LAW SCHOOLS PROMOTE QUALITY LEGAL EDUCATION?

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The Association of American Law Schools (AALS) is the voluntary membership organization for United States law schools, with 162 member schools. The AALS was founded in 1900, with the stated mission of “the improvement of the legal profession through legal education”. At that time the great majority of lawyers in the United States had not been educated in law schools, but rather in lawyer’s offices as apprentices. While some lawyers devoted serious attention to training their apprentices, others either did not take their obligation seriously or simply did not have adequate skills to train their apprentices properly, and even in the best apprenticeships there was little theoretical training. Those attorneys who urged the creation of the AALS believed that the quality of education in a law school was generally much better than the inconsistent quality of apprenticeship education in law offices; they also believed that a new organization, separate from the American Bar Association, was necessary to achieve their goal of quality legal education in a law school. The AALS thus provided the “credential” of membership only to law schools. It was the first organization to establish quality standards for United States law schools.

A law school may have several sources for standards of excellence or achievement related to the primary pursuits of teaching and research. The law school itself should establish goals that it should maintain or strive to attain. If the law school is part of a larger college or university, the parent institution may set expectations for the law school in a variety of areas related to the educational mission of the larger body. The law school may also be subject to mandatory requirements imposed by an accrediting authority in order to receive accreditation. And finally, the law school may voluntarily join an association of similar schools, like the AALS, which collectively establish quality goals that are necessary to acquire and maintain membership.

The AALS attempts to accomplish its mission both by establishing and enforcing membership requirements for law schools seeking membership and by engaging in activities designed to help law teachers become better teachers and scholars. Some attacked the Association’s membership requirements, with their focus on formal training in law schools, as “elitist”, but today virtually all lawyers have been trained in law schools and almost 90% of law schools accredited by the American Bar Association have also met the membership requirements of the AALS. Our paper will discuss how membership requirements and professional development activities for law school teachers and administrators contribute to achieving the Association’s mission.

Membership Requirements

When the AALS was founded in 1900, there were only four membership requirements: 1) students admitted to law study had to have completed a high school course of study or equivalent; 2) the law school course of study had to cover at least two years of 30

weeks per year; 3) law schools had to establish some method for examining students to determine their competence prior to their graduation from law school; and 4) the law school had to have convenient access to a law library. As the AALS has grown, and as legal education has advanced, the membership standards have also developed to address more areas of a school's academic program. When considered together, all of the membership requirements are designed to achieve the same objective – that all of the Association's member schools will offer quality instruction and support legal scholarship in an intellectually vibrant environment that is free from discrimination on improper grounds and that protects academic freedom.

The essence of a voluntary membership organization is that the members consent to abide by group decisions concerning appropriate conduct and levels of excellence. The membership standards should fall within a range of those that are to be aspired to by the members but are not beyond reasonable attainment. At the same time, the standards should be continuously reviewed by the association to ensure that members are urged to move toward a more advanced level as schools become more capable of reaching that level. For example, the increased availability of new technology may alter many aspects of legal education, including how classes are taught and how teachers conduct research. As norms advance, member schools should be expected to adopt more effective methods.

The standards of a voluntary membership organization should have some measure of flexibility so that the varying missions and capabilities of member schools factor into what is expected of each school. More specifically, some law schools may adopt a primary mission of preparing lawyers for traditional law practice while others may emphasize the social science aspects of legal education. Schools may also have differing levels of capabilities based on available financial resources. The membership standards should recognize and allow for these types of diversity among member schools as long as core values of memberships are satisfied.

The six core values identified by AALS member schools are teaching; research; maintaining an intellectual community (including intellectual and cultural diversity); assuring academic freedom; establishing a sound governance structure; and sustaining a commitment to justice and public service. Secondary concerns include those that relate to sustaining the academic enterprise through maintenance of a sound infrastructure (personnel, library support, physical facilities, financial support). To pursue effectively the core membership requirements, a school must have physical facilities, library resources, and a faculty that are adequate to pursue its teaching and research missions. The schools must apply standards for admission which will produce students capable of successfully completing the academic program and the school's operations must be free of discrimination on impermissible grounds.

Maintaining membership standards requires some mechanism to assess whether member schools are complying with those standards. A critical component of that mechanism is self-assessment or self-study. A member school should periodically evaluate whether it is effectively pursuing its own mission and meeting the membership standards of the association. Such self-study should cover all aspects of the educational program, and involve all constituencies of the law school, particularly faculty, students, and administrators. Self-criticism is inherently difficult, but it is essential to improve the quality of the academic program. The institutional ability to make those

improvements can often be undermined by factors such as financial limitations, but externally imposed membership standards should nevertheless require some base level of achievement, and a process for continual improvement.

Evaluations by faculty and administrators from peer schools provide a means for external assessment of compliance with membership standards. The evaluation team can first review reported information about the school's students, faculty, information resources, curriculum, and other aspects of the educational program. The team should also visit the school to obtain additional information about the school and acquire perspectives on the reported information that can only be acquired by direct observation of the school in operation. The visit to the campus also serves the purpose of allowing informal discussions between visiting team members and the faculty of the visited school; this dialogue should be mutually beneficial to the school and the site visitors.

Ultimately, the site evaluation team or another body within the association should make formal findings about whether the visited school is meeting the standards of membership. One purpose of these formal findings is to identify whether there are serious deficiencies at the visited school that could negatively impact the quality of education. The danger could arise from a matter as basic as inadequate facilities or could be found in a more intellectual aspect such as lack of intellectual diversity or quality of teaching. When serious deficiencies are identified, the visited school should be required to take affirmative corrective steps. The formal findings should also identify other significant, but less critical, areas where improvement might be made. This type of finding need not require a particular response from the school but may be very valuable peer advice that will assist in identifying areas for potential improvement.

Membership in a voluntary association serves to keep a law school well informed about prevailing educational standards and creates important opportunities for objective evaluation of a school's program. Voluntary membership standards differ from compulsory accreditation rules in that noncompliance results only in the loss of membership and its benefits, not in the loss of the ability of the school's graduates to take the bar examination and be admitted to practice law. If a school believes that the standards of membership are no longer relevant to its mission, the school is free to drop its membership in the association. In the United States, however, such a decision would seriously jeopardize the prestige of all but the most elite law schools because lack of AALS membership is viewed as a serious deficiency by most applicants to law school, faculty candidates, and employers.

Graduation from a law school accredited by the American Bar Association (ABA) is required by about 45 of the 50 state supreme courts as a condition for taking the bar examination and being admitted to the bar. The ABA Standards are established by an ABA Council which includes academics, practitioners, bar examiners, and judges; those standards emphasize what schools should offer to produce competent lawyers. Although AALS membership requirements and ABA accreditation standards are very similar, the AALS establishes standards that are occasionally different and more rigorous. Because the AALS is the sole representative for law faculty in groups like the American Council of Learned Societies and Consortium of Social Science Associations, it generally requires member schools to have a somewhat stronger commitment to faculty research and scholarship than the ABA requires.

The AALS membership includes 162 law schools of the 182 that are accredited by the ABA, so all but twenty ABA accredited law schools have achieved AALS membership. Law schools that satisfy the ABA standards must generally continue to improve their academic programs before being successful in achieving AALS membership. Attaining AALS membership gives a law school an important badge of quality and also permits its faculty to participate fully as leaders in shaping the direction of legal education through the work of the AALS.

Professional Development

Providing professional development opportunities is critical to improving the quality of legal education. Although enforcement of membership requirements helps, there are limitations inherent in that process. Schools are “re-accredited” only once every seven years based upon a site-visit that is little more than an “audit” of compliance with both ABA accreditation standards and AALS membership requirements. Thus, providing faculty and administrators with voluntary opportunities for professional growth is a critical component of the AALS’s work.

Immediately upon its founding, the Association established its first professional development activity: an Annual Meeting at which professors gathered to discuss scholarship and teaching issues. In the early years when there were only 30 law schools that were members, with probably no more than 150 full-time faculty members, those few faculty who attended the Annual Meeting would gather as a single group and hold “Roundtable” discussions on various topics. Today the Association’s annual meeting brings together over 3,000 law faculty for 3 ½ days of programs offered by the 80 sections of the Association. There is only one plenary session at the Meeting so most of the professional development activity takes place in section programs, with about twelve sections holding their programs simultaneously. Although there are always a few law teachers from countries outside the United States at the Annual Meeting, it is largely a gathering of full-time law teachers and administrators from the United States. Because the cornerstone of the Annual Meeting is section programs, it is important to understand the role of sections in the Association.

Sections are of three general types, with some sections that would fit into more than one category: subject matter sections for faculty teaching the same subject; sections for various types of law school administrators; and “affinity group” sections for law professors who share a common interest other than in the subject matter they teach. About 75% of the sections are of the first type. Sections for law school administrators include the Sections for the Law School Dean; Student Services Professionals; and Law Librarians. “Affinity group” sections include Sections for Minority Law Professors, and Women Legal Educators.

At the Annual Meeting each section produces a program, ranging in duration from about two hours to a full day. The program of subject matter sections is generally focused on recent developments, including case and statutory law, and scholarship about the subject. Most of the programs involve a panel of three or four faculty who speak and then open the discussion to the audience. Between annual meetings most sections produce a Newsletter which typically contains brief articles of interest to section members and occasionally a list of recent publications by section members. Some also include a listing of job opportunities or grant possibilities. Most sections

have now established listservs and a few publish their Newsletter electronically as well as in hard copy.

About fifteen years ago the Association added one day to the Annual Meeting to permit the offering of a few day-long programs that are designed to appeal to professors regardless of what subject they teach. In recent years these daylong programs have included programs on “Teaching with Technology”, “New Strategies for Inner Cities: Academics, Professionals and Communities in Partnership”, “Alternative Dispute Resolution”, and “Work, Workers and Law in the 21st Century”.

Beginning in the late 1960’s the Association also began offering “stand-alone” professional development programs at times and places other than the Annual Meeting. Initially, all of these programs were “teaching clinics” that ranged in length from one week to three weeks and were offered only every three to five years. These “clinics” were designed to help law faculty improve their teaching skills. They involved demonstrations of different teaching methods by professors considered to be among the best teachers, and offered the opportunity for registrants to teach a class to their peers and have it critiqued by them. Registrants could also bring a videotape of an actual class taught at their law school for critique by their colleagues.

In the 1980’s the Association began a much more comprehensive offering of about six or seven stand-alone professional development programs per year, ranging in length from two to five days. These programs were targeted not at professors generally, but at teachers of a particular subject matter or teachers who shared some common interest other than subject matter. These stand-alone programs are typically attended by anywhere from forty to three hundred law professors. Most of the core subjects in the curriculum, such as contracts, torts, and constitutional law have a stand-alone program every five to seven years. More advanced subjects, like International Business Transactions, Intellectual Property, and Environmental Law may have stand-alone workshops only every seven to ten years. A workshop focusing on pedagogy, such as the “New Ideas for Experienced Teachers” workshops are typically offered every three to five years. Two programs however are offered every year – a New Law Teacher’s Workshop and a Workshop for Clinical Legal Educators.

At the New Law Teachers workshop, different teaching methods are demonstrated and new law teachers are offered ideas for how to start their scholarly careers, and a general acclimation to academic life. It is typically attended by 100 – 125 new law professors.

Starting in the 1970’s clinical legal education became a significant force in American legal education. Its development was aided by the AALS’s decision to offer an annual workshop for clinical legal educators. In the early days these were attended by only thirty or forty professors, but attendance is now approximately three hundred every year.

There is a strong desire to offer more programming that relates to globalization of the curriculum. An increasing number of programs in recent years have addressed multi-cultural issues and included faculty from countries outside the United States. Programs of the Sections on International Law, Comparative Law, and International Legal Exchange are prime examples. The Section on North American Cooperation has an explicit objective of providing programming of interest to faculty throughout North

America. The Section on Clinical Legal Education has increasingly involved clinical faculty from other countries in its programs. Two stand-alone programs have been co-sponsored by the American Society of International Law (ASIL), and it is anticipated that additional programs will be co-sponsored with ASIL and other groups with a significant international focus.

Possibilities for Global Cooperation

A major purpose of this Conference is to explore how the AALS can serve as a catalyst for making law teaching a more globally cooperative enterprise. We hope to do this both within the AALS's current structure and organization and by creating new structures and programs with our colleagues throughout the world.

Within our current structure, we plan to include more foreign law professors on section listservs and extend invitations to all professional development programs to faculty from throughout the world. To the extent feasible we would like to cooperate with law schools and associations of law schools outside the United States in offering professional development programs, with the explicit objective of attracting faculty from a wide diversity of countries to those programs. We will reach out to more law schools to encourage them to participate with the AALS as "Foreign-Affiliated" Law Schools (a description of the "Foreign-Affiliated" program is attached). Also, if there are law schools in other regions of the world that would like assistance in forming a law school association for their own country or region, the AALS would be pleased to provide that assistance.

At this Conference all of us should consider whether new programs and structures, such as an "International Association of Law Schools" or an "International Association of Associations of Law Schools" could help improve opportunities for dialogue among faculty throughout the world. Could such an organization help facilitate this dialogue, both through technology and face-to-face international conferences? Any new international association should reflect the global, multi-cultural perspective that motivated the AALS to sponsor this Conference. Thus, governance structures of new organizations, or planning committees for programs, should be truly international in scope. The Association of American Law Schools is anxious to be a cooperative partner with our colleagues from other countries in this important endeavor.