

[ALDA Letterhead]

[date]

Professor Mark Tushnet
President
Association of American Law Schools
1201 Connecticut Avenue, N.W.
Washington, D.C.
20036-2605

Dear Mark:

We write to you in our individual capacities as deans of our law schools. Each of us is a current or past member of the Executive Committee of the American Law Dean's Association ("ALDA").

We compliment you on your efforts as President this year of the American Association of Law Schools (the "AALS") to enhance the scholarly aspects of the AALS' meetings. As you pointed out in your speech to the AALS House of Representatives in January, the AALS meetings would benefit from more presentations of research work along the model of similar associations in other disciplines. We see a need for a stronger scholarly association in the legal academy. We praise your vision and leadership in this area.

Your efforts open the door to a set of related topics that have been discussed in the past by ALDA and its membership. As you note in your speech, the AALS is odd relative to other similar organizations in that while it is functionally a "scholarly association for law professors", it is formally and financially an "association whose members are law schools." We would like to see the AALS move toward an organizational form that reflects its functional role in the legal academy

Membership and Membership Review

We understand that the AALS has studied its membership procedures and is adopting a "core values" approach in which the sabbatical membership review will be used to determine if a member law school sufficiently adheres to the core values of the AALS (which are in the process of being specified). That approach and the continued idea of the AALS being a membership organization of law schools rather than law faculty strike us as inconsistent with your vision.

The continuation of the current membership review process (even as modified by this core values approach) seems to replicate much of the accreditation process of the American Bar Association (the “ABA”). Moreover, membership review in a number of recent cases has required extra steps (such as regular report backs) by member schools on issues that we believe are tangential to the purpose of the AALS. Most importantly, however, the current membership review process does precious little to facilitate and improve scholarship among faculty and to serve members of our faculty. There is no need for member law schools to be “accredited” by two separate organizations. The role of the AALS should be distinct from that of the ABA.

More generally, we believe that the AALS should be an organization like other scholarly associations whose members are the faculty in the discipline rather than institutions (the AALS could also include administrative deans and directors as members). The AALS should charge its costs on to those members directly, and its programs should be tested by whether they provide services that individual members choose to purchase. This is likely to lead to better programs and much wider participation among law faculty than currently occurs. Certainly, the AALS could also provide services directly to member schools (and their faculty and administrators) on a fee-for-service model. The AALS Faculty Recruitment Conference is a perfect candidate for this type of service. A number of us feel strongly about this and there has been discussion among individual schools of their phasing out their direct support (annual dues) in order to move the AALS to a faculty membership model. Each of us realizes that we are likely to continue to provide resources to individual faculty to pay individual dues to the AALS.

Proposals for Discussion

We would like to discuss with you, through the Executive Committee of ALDA, the following two alternative proposals on these issues:

Open Membership: Membership in the AALS should be open to any law school that is accredited by the ABA. There would be no test of whether a school meets other membership requirements and no membership review process. Under this model, the member school would continue to pay dues as a school to the AALS in order to have access AALS services.

Faculty Membership: The AALS should be converted to a membership organization of law faculty. Individual law faculty would join the AALS and pay dues (in most cases, of course, the law schools would reimburse those faculty who join as they do for memberships in other appropriate organizations). As a transitional matter to allow the AALS to move to the new member model, current member schools will phase out direct dues support over a 5-year period with dues starting in 2004 to be reduced from current levels each year by 1/5.

Members of the Executive Committee would like to discuss these ideas with you at your earliest convenience. We would like to meet with you during the upcoming annual meeting of the AALS. All of us wish to work with you to enhance the role that the

AALS plays in improving scholarship in legal education. We believe that the above proposals might facilitate movement in that direction.

cc: Carl C. Monk

Sincerely,

Ron Cass, Boston University
Michael Fitts, University of Pennsylvania
James Huffman, Lewis & Clark University
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David Leebron, Columbia University
Saul Levmore, University of Chicago
Daniel Rodriguez, University of San Diego
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