



Association of American Law Schools

President

Lauren K. Robel  
Indiana University -  
Bloomington

December 5, 2012

President-Elect

Leo P. Martinez  
University of California-  
Hastings

**Memorandum 12-22**

TO: Deans of Member Schools

Immediate Past President

Michael A. Olivas  
University of Houston

FROM: Susan Westerberg Prager, Executive Director

SUBJECT: Public Announcement of Sanctions

Serving through 2012

Ann C. Shalleck  
American University

Although communications related to the Association's consideration of an individual school's membership are usually treated confidentially, the AALS Bylaws provide that when the Association imposes sanctions on a member law school, that action becomes public and all member schools should be advised (see Bylaw 7-1(c)).

Serving through 2013

Pat K. Chew  
University of Pittsburgh

Even knowing the dimensions of the demands on your time, I do ask that you read the attached letter in its entirety. It is a public document. It will be the only statement made by the Association about this action. The letter will also appear in the first AALS newsletter of 2013 and on the AALS website. The Law School will post the letter on its website for a period of two years.

Paul Marcus

College of William & Mary

I transmit this action to you with both sadness and resolve.

Serving through 2014

Blake D. Morant  
Wake Forest University

Kellye Y. Testy

University of Washington

Attachment: *Letter of November 28, 2012, from AALS to Villanova University School of Law*

Executive Director

Chief Executive Officer  
Susan Westerberg Prager

cc: Executive Committee

Managing Director

Jane M. La Barbera

Associate Director

Linda D. Jellum

Assistant Director

Rachel A. Wilson



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November 28, 2012

The Reverend Peter M. Donohue  
President  
Villanova University  
800 E. Lancaster Avenue  
Villanova, PA 19085

John Y. Gotanda, Dean  
Villanova University  
School of Law - Garey Hall  
299 North Spring Mill Road  
Villanova, PA 19085

Dear President Donohue and Dean Gotanda:

The purpose of this letter is to communicate the action of the Executive Committee of the Association of American Law Schools relating to decisions that were made at Villanova University School of Law by the prior law school administration, specifically the purposeful reporting of false admissions data.

*Because this letter is intended to be a public document, I would like to preface it with remarks that provide some important context for the benefit of a wider readership.*

*Some readers may note a considerable time lag between the action of the American Bar Association and this, more recent, action of the Association of American Law Schools. This apparent delay stems from several factors, including differences in the decision-making structures and calendars of the two organizations. The primary factor, however, was the nature of the issue itself. The AALS had no precedent for responding to conduct of this kind by a member school, and the Association wished to ensure that its deliberations were as comprehensive as possible and were undertaken with the highest level of care. For this reason, the deliberative process extended well beyond the typical membership review cycle.*

*Secondly, when in June 2012 the AALS first communicated with the Law School about the conclusions of the Executive Committee and the imposition of sanctions, the Dean requested time for a full consultation with his faculty. We agreed that such discussion was important, especially in light of the AALS'*

*conception of law school governance. After the faculty met in late August 2012, I decided to allow additional time for faculty discussion.*

*Finally, we would like to underscore that the AALS is not an accreditor. Rather, we are a voluntary association of member law schools, mutually committed to core values which are intended to further the quality of legal education. It is in that spirit that we now formally communicate the decision of the Executive Committee as follows:*

At the outset the Executive Committee wants to emphasize that it is difficult for any of us to imagine a more decisive, forthright, fact-based and vigorous approach to the Law School's discovery of shocking, deeply unethical behavior. Without question, the conduct of then new Dean Gotanda, the University's General Counsel, and President Donohue, has been at all times admirable and exemplary. The depth and quality of the School and University actions had a significant bearing on the conclusions reached by the Executive Committee.

Much to the credit of the University, the relevant facts have never been in dispute. Villanova University School of Law has acknowledged that since at least 2002 and through 2009, a small group of administrators and staff at the Law School intentionally created and placed in the public domain false admissions data. In correspondence with the AALS, the Law School acknowledged that these actions were "wrong," "inexcusable," and "inconsistent with fundamental values shared by the Law School and the Association of American Law Schools."

In its deliberations, the Executive Committee took into account important facts regarding the discovery of the unethical behavior and the University's response. The Law School discovered the information on its own, initially because a faculty committee, attempting to pursue a task assigned by the interim administration, found that something was wrong with the admissions data they had before them. The committee chair quickly reported this discovery to the new Dean. The Dean immediately notified the University's General Counsel, and together they quickly acted to protect all records and to identify outside investigators who then engaged in a thorough investigation. With results in hand showing that four Law School employees were responsible, the University acted decisively. Three employees who were still in the University's employ were dismissed (one of whom was a tenured member of the faculty). The former Dean, who had directed the misrepresentations, had been previously separated from the University over unrelated conduct. (The misrepresentations did not recur after his departure.) Upon the discovery of the misrepresentations, the University fully and publicly disclosed the misconduct to all relevant constituencies. The Law School also voluntarily put into place procedures that will assure the AALS and the general public that future data submissions will be accurate.

However, it is the view of the Executive Committee that the serious nature of the unethical behavior, and the continuing nature of the harm done, calls for a strong response on the part of this Association.

By providing false data on which applicants might have relied to make judgments concerning the Law School, the Law School clearly failed to deal fairly with applicants for

admission, as required by Bylaw 6-2(c). Furthermore, such acts of intentional deception are fundamentally incompatible with concepts of justice, fairness, and integrity that are at the heart of other AALS requirements, including some of the AALS core values. For example, Bylaw 6-1(b) expresses the expectation that member schools will be engaged in the “creation and dissemination of knowledge about law ... and the legal system” and that they will be “devoted to fostering justice.” Intentional acts of deception designed to gain a competitive advantage over other law schools are completely antithetical to any efforts to foster justice or create an accurate understanding of the law and legal systems. Similarly, fulfillment of the requirement that a school report to the AALS the information necessary to determine its compliance with AALS membership requirements (see Executive Committee Regulation 8.1) presupposes that the information will not be altered intentionally. Thus, the Law School’s misconduct not only could have misled potential law school applicants and others who were evaluating the quality of the Law School, it also stood in direct opposition to core values of the AALS and had serious negative ramifications for the reputation of legal education as a whole.

The Law School’s intentional submission of false data over a period of several years therefore constitutes “a material failure to comply with the requirements of [AALS] membership,” warranting sanctions under Bylaw 7-1. The sanctions available to the Executive Committee in such circumstances are censure, probation, suspension, or exclusion from membership. In determining the proper sanction, the Executive Committee took into account the intentional, fraudulent, sustained, and serious nature of the misconduct, as well as the depth and breadth of the injury to prospective students, to other AALS member schools, and to perceptions of legal education and the legal profession.

Because the misconduct was intentional and long-standing, and because it is so fundamentally inconsistent with basic concepts underlying AALS core values and Bylaws, the Executive Committee condemns these actions and places the Law School on probation for a period of two years. As a term of probation, the AALS asks that the Law School undertake an assessment that includes a deliberative process reasonably designed to explore the factors that allowed the conduct to occur and to persist for such a long period of time. The process should involve the faculty, as well as the appropriate members of the University administration. The assessment should be both backward-looking and forward-looking. With respect to the past, it should examine the components of culture, governance, institutional structure, and other factors that may have contributed to the conduct, and it should determine whether, and how, the faculty or the University might have earlier discovered this misconduct. With respect to the future, it should identify any measures, in addition to those already implemented at the School, that will reduce the likelihood of a reoccurrence of this type of misconduct. We urge the School to give more attention to the reinforcement of ethical frameworks, as we believe that the School has already fully developed a costly system of outside checks on internal behavior. The assessment should produce a written report that will be submitted to the AALS by August 2, 2013. As an additional condition of this probation, the School will be required to post this letter in a prominent place on the home page of its website during the term of the probation. The two-year probation period will begin on the date the School posts this letter on its website.

President Donohue and Dean Gotanda  
November 28, 2012

Because the nature of the conduct here was antithetical to the professional ethical conduct inherent in the discipline of law, our analysis might have led us to an even more severe level of sanction than the one the Executive Committee has decided to impose. Even the sanction chosen might have been accompanied by the withdrawal of one or more benefits of AALS membership, such as, for example, excluding the School from the use of the Faculty Recruitment Conference or barring the School's faculty from participation in AALS committees and activities. Indeed, the Executive Committee gave serious consideration to imposing conditions beyond the development of the self assessment described earlier in this letter.

The Executive Committee chose not to impose further probationary conditions for several reasons. These included the quick and thorough actions of the University, and the candor, courage and integrity that President Donohue and Dean Gotanda have consistently exhibited ever since the egregious deceptions were discovered. These facts also influenced the Executive Committee's decision to apply the second level of sanction in our structure, the sanction of probation, rather than an even harsher sanction. Nevertheless, the harm done was and is real. It is the intention of the Executive Committee to convey, through its decision, the grave implications of the behavior that occurred, especially the wide-ranging and ongoing effects these intentional misrepresentations have had and continue to have on the integrity of legal education.

In conclusion, we express our profound regret that we find ourselves in circumstances which call for the imposition of sanctions. We wish you as President and Dean continued strength and resolve, and we express the hope that you can, by working together with the law faculty, move forward in ways that will assure a culture of widespread shared integrity and enable the Villanova School of Law to emerge from this time of adversity.

Sincerely,



Susan Westerberg Prager  
Executive Director  
Chief Executive Officer

*Note: Professor Pat Chew recused herself from the deliberations and vote of the Executive Committee. Dean Kellye Testy was not present at the meeting of the Executive Committee at which these deliberations took place.*

cc: Executive Committee  
Membership Review Committee