

THE 2011 *EDUCATING TOMORROW'S LAWYERS SURVEY*

COMPILED ANALYSES



THE 2011
EDUCATING TOMORROW'S LAWYERS SURVEY:
COMPILED ANALYSES

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INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative solutions to problems in our system in collaboration with the best minds in the country. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

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Educating Tomorrow's Lawyers is an initiative of IAALS dedicated to aligning legal education with the needs of an evolving profession. Working with a Consortium of law schools and a network of leaders from both law schools and the legal profession, *Educating Tomorrow's Lawyers* develops solutions to support effective models of legal education.

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I. INTRODUCTION

In 2011, *Educating Tomorrow's Lawyers* conducted a survey, gathering data about new programs from 118 law schools. The survey intended to determine whether external factors – namely, the economic downturn of 2008 – were catalysts for institutional changes or whether schools acted following the Carnegie Report. The survey asked law school deans about substantial institutional initiatives in three broad areas: curriculum, faculty development related to teaching and learning, and the incentive structure for faculty professional activity. What follows are IAALS blog posts spanning four years, addressing the results and impact of the survey. The following posts can be found at [IAALS Online](#).

II. INNOVATION IS IN THE AIR, BUT WHAT IS IT AND WHAT DIFFERENCE DOES IT MAKE?

Bill Sullivan
Posted August 18, 2011

The legal academy is giving increased attention to the question of the education needed to appropriately equip today's students to serve the needs of clients, employers, and society at large. Schools are experimenting with a wide array of innovations. It is important to the larger enterprise of legal education to know what sorts of innovation are actually emerging, how they are working, and what might we learn from these experiments.

With this post, *Educating Tomorrow's Lawyers* begins a series of reports on legal education: the what, who, and how of innovation. These reports will document the range of current innovations in the areas of curriculum, teaching and learning, faculty, and assessment. They will draw on a number of sources of data, including the American Bar Association/Law School Admissions Council (ABA/LSAC) *Official Guide*, but the primary source will be the results of *Educating Tomorrow's Lawyers*' new survey of innovations currently underway.

The survey's purpose is to provide information not previously available about what is happening to reshape the experience of legal education. We sent the survey to the deans of all law schools in the U.S. and to Anglophone Canadian law schools. The survey asks schools to tell us about what has changed during the past decade in the areas of curriculum; the practices of teaching and learning; faculty development; professional identity formation; and assessment. The instrument also invites responding schools to tell us about innovations they think especially noteworthy or important. We intend to follow up as many of these reports from the deans as we can in order to document and publicize the many emerging new approaches to legal education. These posts are intended to provide an overview and interpretation of the results of the survey as they unfold. In subsequent posts we will draw on these responses to provide more detailed looks into topics of general interest within the broad areas mentioned above.

To date, the survey has received 73 replies, a response rate of 34%, which represents a strong level of response so far. At this preliminary stage, however, it is already clear that the ferment in many law schools has passed beyond the phase of discussion into active experimentation in the reshaping of the substance and experience of legal education. For instance, for those schools in our survey indicating a curricular initiative to increase their emphasis on lawyering and skills, 41% said they were more than half way to the full implementation of their plan and another 43% said their plan was already fully implemented. With regard to integrative approaches linking doctrine and practical experience, 32% said they were more than half way to the full implementation of their plan with another 45% at full implementation.

At this stage of our exploration, five areas of activity already stand out:

1. In **curriculum**, there is interest in **interdisciplinary** teaching both within law schools and between law and other disciplines. A number of schools offer joint degrees (e.g., JD/PhD or JD/MBA) or interdisciplinary certificate programs. One school is actively encouraging its students to take classes outside of the law school as well as encouraging non-law students to take classes in the law school. Another is building into certain classes a perspective that emphasizes the social context in which law actually operates. Still others are including more international themes.
2. In **teaching and learning**, there is evidence of **integration** into new or existing courses of simulated experiences of **practice** of various kinds as a part of teaching **legal doctrine**. One school has developed a program that replicates for the student the experience of being an associate in a law firm handling a wide variety of matters. Starting with the first year and continuing throughout the law school experience another school focuses on practice-oriented skills including law office management along with professional skills.
3. In the **first year**, a number of new programs provide an **integrated introduction to legal reasoning** through experiences that use legal **writing** and **research** in conjunction with methods of **practice simulation** that include small teaching sections and new forms of **assessment**. For instance, one school has developed an entire first-year program that places students in collaborative groups that function like law offices and has them handle particular kinds of legal matters along with learning basic legal research and writing and exposure to issues of ethics and professional identity.
4. In the **second** and **third** years, a number of schools now provide expanded opportunities for **clinical-legal** experience, including an **expanded range of clinical subject areas**. Of the schools responding to our survey so far, 82% report initiatives that have or are in the process of adding new clinics. The range of new clinics is quite broad and includes clinics that focus on transactional work as well as the more traditional litigation-based clinics. One particularly interesting transactional clinic works with small businesses and entrepreneurs particularly in small towns. It has the added benefit of students working in underserved rural areas. Other schools have started clinics that focus on the special needs of the elderly
5. An additional phenomenon we find especially interesting is evidence from a number of schools of a **comprehensive approach** to innovation rather than just small-scale adjustments. Schools are looking at their programs holistically – not just the first year, for instance, but the entire curriculum along with faculty development and even assessment. One school recently adopted a first-ever mission statement for its curriculum and goals. It involves both the program itself (they are beginning with the first-year curriculum) and the pedagogical approaches used. In addition it includes a major investment in faculty development (among the interesting things they will be using are teaching rounds) and new guidelines for promotion, tenure, and evaluation that include teaching effectiveness. Such developments are not limited to so-called upper tier schools. Promising innovations are appearing across the law school spectrum. We should view these efforts as experiments from which we all can learn.

Future survey posts in this space will explore each of these areas in more detail, providing examples of courses and programs. They will also present **resources** which various schools are providing to enable **faculty** to **enhance their teaching**. Additionally, later posts will present other findings concerning ways schools are using the resources of **learning theory** to enhance legal education, how schools are deepening the teaching of **legal ethics** and **professionalism**, and how schools are rethinking **assessment** in light of changing programs. We hope you will find these posts of interest and use in advancing the cause of legal education. Post Number Two will explore the curriculum in more detail.

III. GOING PUBLIC WITH INNOVATION

A. WHAT THE ETL SURVEY AIMS TO DISCOVER

Stephen Daniels
Posted September 15, 2011

In the first blog for *Educating Tomorrow's Lawyers*, Bill Sullivan argued that legal education is more than meritocracy – that while academic merit is essential in the training of lawyers as professionals it is not enough. It is necessary, but not alone sufficient for professional excellence. This is the basic argument of *Educating Lawyers*, the 2007 report of the Carnegie Foundation for the Advancement of Teaching, of which Bill was the primary author. In addition to a mastery of the necessary formal academic knowledge and the technique of legal reasoning, *Educating Lawyers* says training for professional excellence also requires two more things: learning to practice by bridging the gap between the academic and the practical world of lawyers' work; and initiating students, as Bill put it, "into the social roles, ethical standards, and responsibilities that embody the fundamental purposes of the profession of law."

That 2007 report makes a powerful argument about the need to broaden legal education and it comes in a long line of previous critiques of legal education, some going back to the early 20th century. Moving forward in this vein, *Educating Tomorrow's Lawyers* has been formed to foster critical and creative thinking and activity with regard to legal education in light of that powerful argument. A key prerequisite for doing so is having a reasonably accurate understanding of what is happening in legal education, and this is my theme.

In preparing *Educating Lawyers*, Bill and his Carnegie colleagues conducted in-depth analyses – including on-site visits – of programs at 16 very different law schools focusing on teaching and curriculum. Their work provides an unparalleled, critical picture of legal education at the end of the 20th century. It has been a decade since that work was done and it is time to see what the geography of legal education looks like now as we move forward. With this in mind, Bill and I designed an online survey (administered by the University of Denver's Butler Institute) built around the key features of *Educating Lawyers*' recommendations, with a special emphasis on integrative approaches that link doctrine and practical experience. We sent the survey to the deans of every ABA accredited law school in the United States and to the deans of the Anglophone Canadian law schools with common law programs. As of early June over 110 deans have completed or started the survey, and we hope to receive more.

The survey asks about substantial changes or new initiatives since 2001. We chose 2001 as the starting point in order to capture changes or initiatives that pre-dated the publication of *Educating Lawyers*. We assume that at least some schools were experimenting with innovative teaching and curricular matters before the publication of *Educating Lawyers* (in fact, the report describes noteworthy ones that were uncovered in the research). Our interest is in movement toward the kinds of reforms *Educating Lawyers* proposes and whether that movement is sustained and institutionalized. The complexities involved in bringing about large-scale change in legal education counsel against making bold causal claims, but developing a clearer picture of innovation in legal education today provides a resource of previously unavailable knowledge that will extend, and if necessary correct, the findings of the 2007 Carnegie report.

The survey focuses on changes and initiatives at the institutional level in five areas: curriculum; faculty development related to teaching and learning; faculty professional activity related to teaching and learning; assessment of student learning, experience, and performance; and assessment of the success of a law school's educational program. Focusing on the institutional level is important as a starting point because without change and support at this level, the efforts of individual teachers in their classes to innovate may be for naught. Sustained reform in legal education requires an institutional commitment, and we think such a commitment will be reflected in what a school does in each of these areas.

The survey asks each dean if his/her school has been involved with any substantial changes or new initiatives in each of these areas since 2001. If a respondent answers affirmatively, the survey then asks a series of questions about more specific changes within that area. The deans are asked whether there has been a change involving that more specific issue, the year in which consideration of that change began (2001 to 2010), and where they are in the process of implementing that specific change (from mere consideration to full implementation). Again, we want to get a good sense of what the geography of legal education looks like now – including those still in process as well as those already in place.

For example, take the first broad area in the survey—curriculum. If a dean answers affirmatively to the threshold question about substantial changes or new initiatives since 2001, the survey takes the dean to a new page with 11 more specific changes within the area of curriculum. Those possible changes range from curricular 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 involving professional identity or ethics courses. Perhaps most importantly in light of *Educating Lawyers*' recommendations, the survey specifically asks about changes involving integrative approaches that link doctrine and practical experience. For each item to which the dean answers affirmatively, he/she is then asked the year in which consideration of that item began and how far along toward implementation they are.

The second broad area is faculty development related to teaching and learning. Here our interest is in institutional support for innovation in teaching. Looking for support for faculty development on the part of the school makes a public statement about the seriousness of a school's commitment. The survey asks about organized workshops or conferences at a school relating to teaching and learning generally, and about workshops or conferences related to integrative approaches specifically. It also asks about faculty grants or support to aid in the development of innovative approaches to teaching generally and integrative approaches specifically.

The third broad area is faculty professional activity related to teaching and learning. Here our interest is in whether such activity is valued and rewarded since without appropriate incentives it is hard to see how reform can succeed. The survey asks about the role of professional activity related to teaching and learning in faculty hiring decisions, in decisions about promotion and tenure, and other merit decisions. Each of these questions reveals aspects of a school's internal incentive structures and what these structures effectively foster or inhibit.

The remaining two areas of the survey deal with assessment – student and school, respectively. Implementing change successfully requires assessment – evaluating whether a change actually makes any difference. With regard to student assessment the survey asks about new ways (other than the traditional exclusive reliance on the final exam) of assessing student performance in 1st and in 2nd and 3rd year classes as well as in clinic or other experiential programs. The survey asks specifically about assessment within integrative classes or programs. It also asks about any changes or initiatives in assessing the law student experience, including the use of the Law School Survey of Student Engagement. With regard to school assessment the survey asks about new initiatives directed at assessing post-graduate success that are, in turn, linked to an assessment of the school's educational program. This includes the development of feedback mechanisms such as surveys of employers or potential employers of the schools graduates.

Finally, for each of the five broad areas the survey also includes an open-ended question asking each dean to describe briefly one or two changes or initiatives in that area that he/she sees as the most distinctive or important for his/her school. The idea is to capture at least some of the particular things being done that more general questions will necessarily miss. Responses to these questions are giving us a better flavor of what is being done. They also provide an important starting point for the subsequent research efforts we envision. We intend to dig more deeply into each of these five broad areas by following up the responses to our questions with those schools that indicated they are making substantial investments of creativity and educational resources toward improving legal education.

B. COMPARING SURVEY RESPONDENTS TO ALL LAW SCHOOLS AND NON-RESPONDENTS

Stephen Daniels
Posted October 6, 2011

As described in an earlier post, Educating Tomorrow's Lawyers initiated a unique, far-reaching survey of 210 U.S. and Canadian law schools. Now completed, the survey has a 58% response rate. Before presenting the findings in a series of future posts, we face a key prior task – describing the responding schools and seeing how closely they resemble all schools and the non-responding schools. These comparisons are important because they tell us how much confidence we can have in the survey's findings with regard to patterns and changes in legal education generally. With this in mind we compared schools on a broad array of characteristics: public v. private; part-time v. no part-time (as well as percentage of enrollment part-time for those with such a program); percent Caucasian enrollment; AALS membership; geographic location; faculty ratio; total enrollment; acceptance rate; median LSAT score; tuition; and rank (based on *U.S. News* data). Using these characteristics and commonly accepted statistical tests, the responding schools prove to be quite similar to all schools and no significant differences between the responding and non-responding schools appear.

IV. GETTING BEYOND THE RHETORIC: FINDINGS FROM THE ETL SURVEY ON CURRICULAR INITIATIVES

Stephen Daniels and Bill Sullivan
Posted March 15, 2012

In the wake of the recent economic downturn and its aftermath, law schools and legal education are again the focus of intense scrutiny. Unfortunately, there is often more rhetoric than constructive discussion. A key prerequisite for fostering any kind of critical and creative thinking *and* activity is having a reasonably accurate understanding of what is happening in legal education. While some empirical evidence exists (the ABA and AALS have conducted surveys of law schools in recent years), it seldom finds its way into the discussion. One major consequence of the rhetoric overload is the implicit – if not explicit – assumption that little or nothing promising is or has been happening in the world of legal education. Or more bluntly, damn the lot of them!

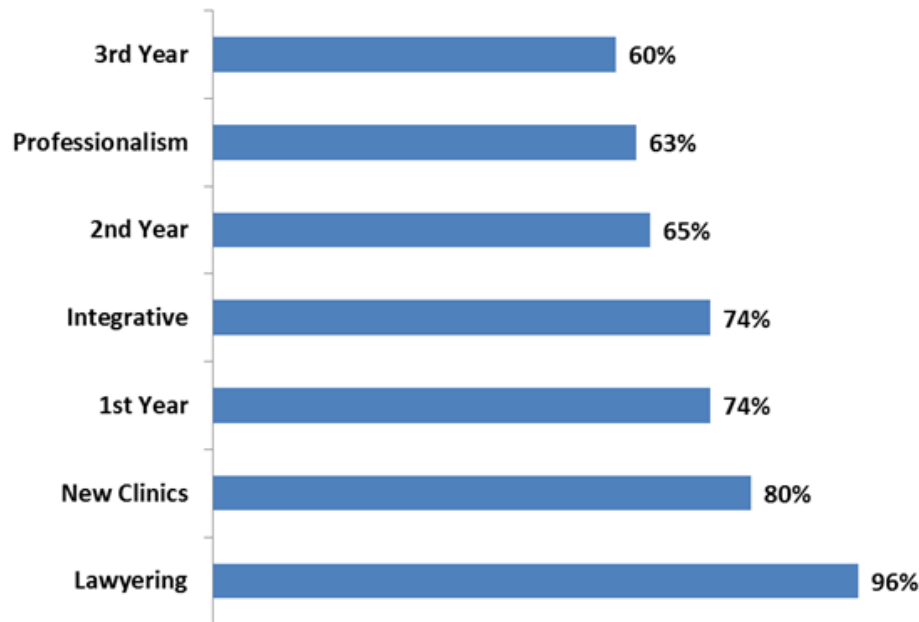
The empirical evidence shows differently. And it shows that innovation is not the exclusive province of any particular class of school. A range of law schools have instituted a variety of innovations. The particulars are geared to the markets within which their graduates are likely to work. We can look at the efforts of schools who been rethinking what they do and how they do it as a series of experiments that may offer insights for a constructive discussion of legal education moving forward. Because all law schools are not the same this means, of course, that there are likely to be a variety of useful models. It is not a literal matter of one size fits all. We are under no illusions that all is well in legal education or that all law schools are pursuing groundbreaking initiatives in their educational. We do, however, believe there is much to be learned by leaving the rhetoric behind and looking at what is actually happening on the ground.

In previous posts we described our recent law school survey. It was designed to elicit information on the variety of things law schools may be doing in an array of areas. Chief among them is curriculum, and every responding law

school reported some kind of new initiative in this area.¹ Not all, however, pursued the same initiatives. We asked about 11 different kinds of initiatives, and Figure 1 below shows the seven for which at least one-half of the responding schools reported activity (the other four are: initiatives involving individual first year classes – 48%; addition of new certificate programs – 47%; revision of existing clinics – 39%; and revision of existing certificate programs – 22%).

Figure 1.

Percent of US Respondents with New Initiatives in Selected Curriculum Areas since 2001.



What may be driving these changes? Two obvious – but quite different – possibilities are the economic downturn and its effects on the legal marketplace, and a school’s rank. To address the first possibility, we asked about changes started since 2001 (the survey was fielded in the spring of 2011) in each of the 11 curricular areas — and we asked the year of the start. A full 75% of curricular reform efforts started before calendar year 2009, and 88% started before calendar year 2010. In short, we cannot say that activity with regard to curriculum is simply a response to the effects of the economic downturn and the concomitant attack on legal education.

The second possibility is that whatever is happening with regard to curricular matters, it is the elite – or at least the higher ranked – schools that are innovating with the rest languishing. To assess this possibility, we looked at the connection between a new initiative in each of the 11 curricular areas and the responding school’s tier (using four tiers based on the most recent *U.S. News* rankings). Only one statistically significant difference emerged — a relatively weak relationship between tier and changes in the second year curriculum such that lower tier schools are more likely to have initiatives in this area.

¹ The other areas are: faculty development related to teaching and learning; faculty professional activity related to teaching and learning; assessment of student learning, experience, and performance; and assessment of the success of a law school’s educational program. We chose these areas because one of our main interests is in exploring movement toward the kinds of reforms proposed by the 2007 Carnegie report *Educating Lawyers: Preparation for the Profession of Law*.

Looking at all eleven curricular areas, we can safely say that changes in these areas are not the exclusive province of either higher or lower ranked schools. This means that we should look across the spectrum of law schools to get a good sense of what is happening on the ground and to look for experiments to explore. Otherwise we will have an incomplete picture, with potential opportunities for positive innovation lost. To illustrate this idea we would like to highlight a few different examples drawn from the respondents to our survey – Stanford, Baylor, and St. Thomas in Minnesota.

Stanford Law School “announced the completion of the first phase of comprehensive reforms to its legal curriculum that began in November 2006 – successfully transforming its traditional law degree into a multi-dimensional JD, which combines the study of other disciplines with team-oriented, problem-solving techniques together with expanded clinical training that enables students to represent clients and litigate cases while in law school.”² The program’s emphasis is on the second and third years and emphasizes the broadening of students’ training beyond just the courses offered by the law school to those in other schools and departments in the university, especially those with an international dimension. This is geared to the kinds of jobs Stanford’s graduates are likely to enter.

Very different, though no less interesting, is **Baylor Law School**’s Practice Court Program. Known for its emphasis on advocacy, Baylor Law School’s curriculum has for many years integrated practical skills, professionalism, and substantive law within that emphasis. In the third year all students are required to take Practice Court. It is

a series of four classes taught over two quarters and required for all students. During this six-month program, students learn the fundamentals of evidence and procedural law. These classes require students to draw upon all of their experiences in the first and second years of curriculum... So while Practice Court’s focus on the practical use of rules and courtroom procedure benefit those students planning to become trial lawyers, students learn lawyering skills crucial to all types of practice.

The initial exposure to advocacy, however, comes earlier. At the end of the first year, all students are required to participate in an intra-school moot court competition. Because most of its graduates practice in Texas, the entire curriculum gives a special place to Texas jurisprudence.

Since its opening in 2001, **The University of St. Thomas School of Law** has required all students to participate in its Mentor Externship Program, which was described for the survey:

“Each year of law study, students are paired with a respected lawyer or judge in the community. Mentors introduce students to a range of legal tasks and activities such as depositions, client meetings or appellate arguments. Beyond introducing students to foundational lawyering responsibilities, mentors share the traditions, ideals and skills necessary for a successful law career. Mentors also help students understand professionalism in ways that traditional classroom lecture cannot capture ... Upper level students participate in a classroom component designed to integrate students’ mentor experiences and better prepare students for the practice of law by introducing them to topics that include marketing, networking, leadership skills, understanding the economic realities of practice, work/life balance, time management skills and client service.”³

² *Stanford Law School Advances New Model for Legal Education*, STANFORD L. SCH. NEWS BLOG (Feb. 13, 2012), <http://blogs.law.stanford.edu/newsfeed/2012/02/13/stanford-law-school-advances-new-model-for-legal-education/>.

³ University of St. Thomas School of Law: Mentor Externship – About the Program,

The program draws heavily from theories of experiential learning and among other purposes, [“it fosters the development of each student’s moral compass.”](#)

Of course, there is much more to these three very different schools’ programs than such short excerpts can show. Still, they remind us that serious thought and experimentation in legal education has been going on for some time, and we should be examining these already-running experiments for what they can contribute to critical and creative thinking *and* activity moving forward.

V. AREAS OF INNOVATION AT THE ETL CONSORTIUM SCHOOLS

Bill Sullivan and Stephen Daniels
Posted May 2, 2012

The *Educating Tomorrow’s Lawyers* survey, carried out last year, provides an unparalleled overview of what is happening in legal education today, giving an update of the findings of the 2007 Carnegie Foundation report, *Educating Lawyers*. In previous posts, we have reported on aspects of the survey. For example we have noted that the 118 North American law schools that responded to the survey represent a reliable cross-section of legal education. We have singled out the areas of the curriculum in which innovation is most common. And we have provided illustrations of how some schools are now tailoring their curricula to particular institutional missions and markets.

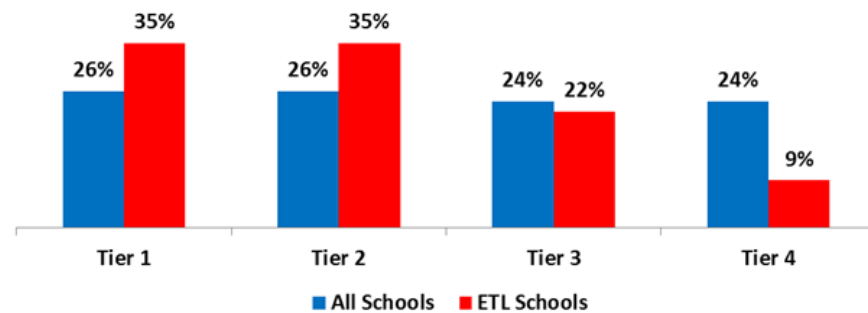
A key feature of the *Educating Tomorrow’s Lawyers* initiative is the Consortium of 23 law schools committed to innovation in the spirit of the Carnegie Report. What are these schools like compared to law schools as a whole? This post will take up this question, looking at three issues: 1. What are the ETL consortium schools like as to the types of institution they represent, their tier in school rankings, and where are they located? 2. What kinds of innovation are they engaged in, particularly in the area of curriculum? 3. How do they look on these measures when compared to other schools?

First, what is the profile of the ETL consortium schools? The 23 schools are a self-selected group sharing a strong commitment to innovation in legal education. There are both some similarities and differences between ETL schools and all schools. ETL members are much less likely to be public schools than all law schools. They are also less likely to have part-time programs. ETL members are a bit more selective with a lower acceptance rate. They are only slightly less diverse in their student body. In addition, ETL members are on average larger in terms of enrollment, with a mean enrollment of 842 students compared to a mean of 751 for all schools. However, they have a slightly lower faculty ratio on average – 13.0 v. 14.1. Consistent with their lower acceptance rate, ETL members have a higher median LSAT score – 160 v. 158.

In regard to law school rank, as Figure 2 below shows, there are higher percentages of ETL schools in the two top ranks and a lower percent in the bottom rank.

<http://www.stthomas.edu/law/currentstudents/mentorexternship/abouttheprogram/> (last visited Jan. 22, 2015).

Figure 2.
Percentages of Schools in Different Tier Rankings.



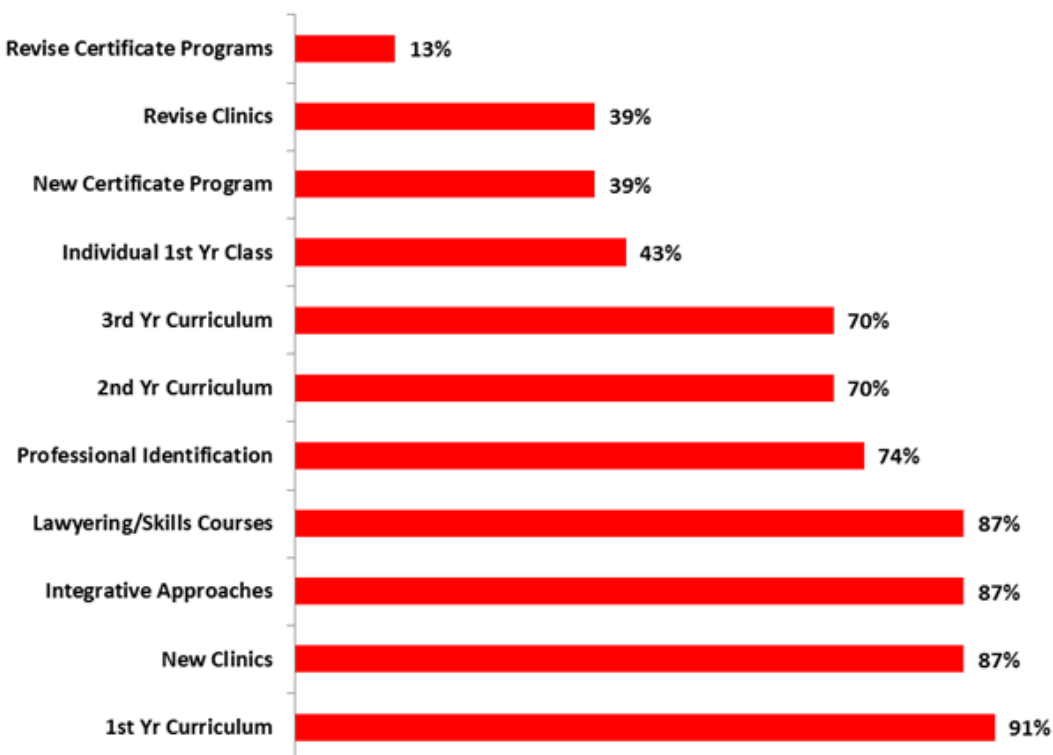
The geographic profile for ETL members is also different from that for all schools. The Northeast and the West (especially the Northeast) are heavily represented among ETL members. So, to date, the South and the Midwest are underrepresented among the consortium schools, though this may well change as more schools become consortium members.

Second, what kinds of innovation are going on at consortium schools? The ETL survey asked about substantial institutional initiatives since 2001 in five broad areas: curriculum; faculty development related to teaching and learning; faculty professional activity related to teaching and learning; assessment of student learning, experience, and performance; and assessment of the success of a law school's educational program.

To take the first area, curriculum, the survey results show that a substantial proportion of ETL members have at least started an initiative in each of four specific areas: 1st Year Curriculum, New Clinics, Integrative Approaches; and Lawyering/Skills Courses. The percentages for non-ETL schools are lower for the first three areas just noted: 71%, 78%, and 71%, respectively. However, the percentage for Lawyering/Skills Courses is higher for non-ETL members – 98%.

Figure 3.

ETL Members: Responses to Specific Curriculum Questions



A somewhat lower but still large percentage of ETL members have at least started an initiative involving Professional Identification, the 2nd Year Curriculum, or the 3rd Year Curriculum. Here the pattern for non-ETL members is similar, but at a lower level of activity: 61%, 64%, and 58%, for each of these specific areas respectively. For the remaining four areas – Individual 1st Year Classes, New Certificate Programs, Revising Clinics, and Revising Certificate Programs – a higher percentage of non-ETL schools have been active in all but Revising Clinics, and here the percentages are almost identical (ETL members 39% and non-ETL schools 37%).

Overall, then, it is clear that the consortium is made up of schools that are more engaged in curricular innovation, across many aspects of curriculum, than the typical law school. The consortium schools are engaged broadly in developing their offerings to students across many areas of the curriculum. This first analysis provides a benchmark against which ETL will be able to track further curricular evolution among its member schools. However, a key principle enunciated in *Educating Lawyers* is the value of integrating or linking doctrinal instruction with experiential learning and the formation of professional identity. Subsequent posts will look further into the consortium schools, as well as non-member schools, in such important areas of innovation as integrative approaches, the development of lawyering courses, professional identity formation, and support for faculty engagement in the improvement of teaching and learning.

A. FACULTY DEVELOPMENT INITIATIVES

Stephen Daniels
Posted June 18, 2012

Previously, we have drawn from the Educating Tomorrow's Lawyers' survey to describe the 23 ETL Consortium schools, explore the kinds of curricular innovations in which they may be engaged, and see how they compare to law schools more generally. This post continues our description by looking at support for faculty engagement in the improvement of teaching and learning among the ETL Consortium schools. We do so because curricular innovation alone is insufficient. Success also requires a broader institutional commitment to faculty development. With this in mind, the survey asked generally about new faculty development initiatives since 2001 involving teaching and learning, and then asked a series of questions about specific kinds of initiatives since 2001. This post reports on the responses of the ETL Consortium schools to these questions in comparison to non-ETL schools.

Of the total 118 U.S. law school respondents to the survey, all respondents reported an initiative about curricular innovations since 2001, but only 78% responded that they had started some kind of *faculty development* initiative related to teaching and learning since 2001. There is not much difference between ETL and non-ETL members at this most general level. For ETL members, 74% started a faculty development initiative since 2001; this compares to 80% for non-ETL members. The percentages for ETL and non-ETL schools alike decrease when we look at the more specific initiatives the survey asked about. While there is simply less activity in this area compared to curriculum, ETL members do come out ahead in some crucial ways.

Figure 4 compares the percentage of non-ETL and ETL members who indicated starting an initiative since 2001, in each of five faculty development areas related to teaching and learning. The survey asked about organized workshops or conferences at a school relating to teaching and learning generally, and about workshops or conferences related to integrative approaches specifically. It also asked about faculty grants or support to aid in the development of innovative approaches to teaching generally and integrative approaches specifically. Because integration is at the heart of the recommendations found in *Educating Lawyers*, the survey also asked specifically about initiatives related to integrative approaches. Additionally, the survey asked about faculty development programs for adjuncts – the instructors who might be the closest to the actual practice of law.

Figure 4.

Non-ETL and ETL Members: Responses to Specific Faculty Development Questions

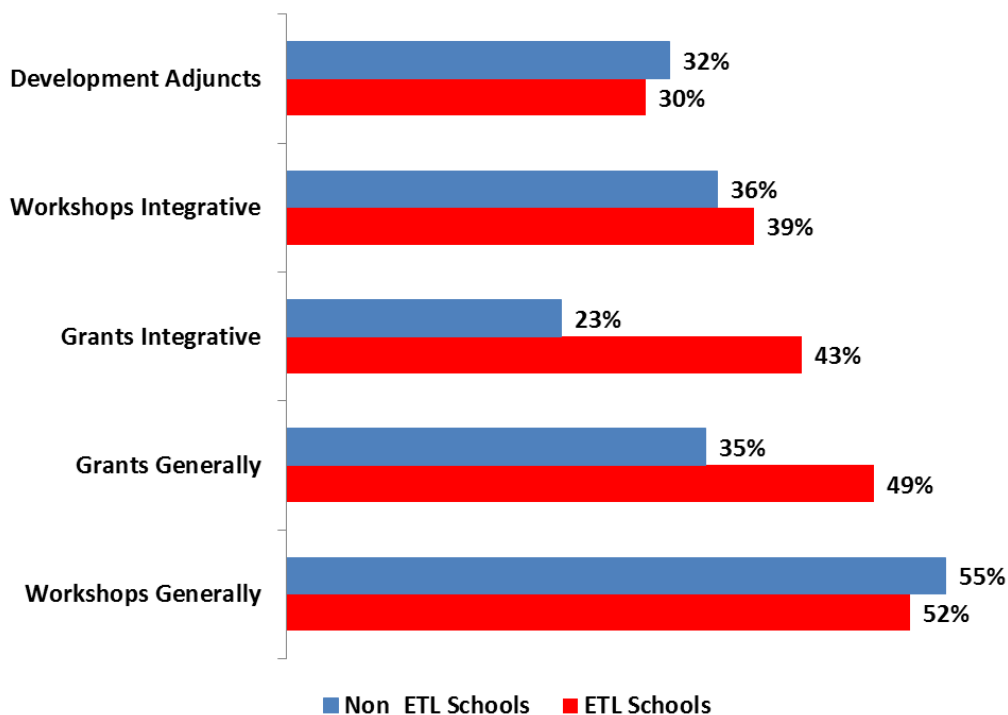


Figure 4 shows that most activity for both non-ETL and ETL members is taking place at the more general level—that is, activity related to teaching and learning generally. Of the five faculty development areas, just over one-half of both ETL and non-ETL schools have started an initiative involving workshops devoted to teaching and learning generally. The most notable differences between ETL members and non-ETL schools involve grants. ETL members are more likely to put money on the table, so to speak, and make the investment. Most importantly, they are more likely to invest in faculty grants to promote integrative approaches. As Figure 4 shows, this is where the greatest disparity between the two groups of schools is found. ETL schools are also more likely to invest in faculty grants with regard to teaching and learning generally, and this is where the second greatest disparity is found. Then, there is no real disparity when it comes to workshops devoted to integrative approaches and programs for adjuncts, although the percentages are not that high for either group of schools. Therefore, there is room for improvement, especially with regard to development programs for adjuncts.

The willingness to invest resources in integrative approaches—through workshops and grants—provides at least one possible link to the curriculum area. It is worth exploring that possibility. For ETL members, twenty (87%) responded that they had at least started a curricular initiative with regard to integrative approaches linking doctrine and practical experience. Eight of those twenty (40%) have also organized faculty workshops on integrative approaches and nine of the twenty (45%) have grants to support the development of integrative approaches. Five of the twenty (25%) have both. In contrast, the comparable percentages for the non-ETL schools show that only 71% had started at least one curricular initiative involving integrative approaches, 42% had workshops, 27% had grants, and 21% had both. Even with these differences for the two groups of schools, the figures suggest something important—a link between curricular initiatives involving integrative approaches and initiatives involving faculty development grants to support integrative approaches. This is the kind of coordinated effort needed for successful innovation, and ETL members are slightly ahead in this regard.

Subsequent posts will further explore this idea of coordinated efforts involving curricular and other initiatives, including those related to faculty professional activity related to teaching and learning. Along with an institutional commitment to faculty development, successful innovation also requires an incentive structure that appropriately recognizes and rewards professional activity related to teaching and learning.

B. THE INCENTIVE STRUCTURE

Stephen Daniels
Posted July 19, 2012

Previously, we have drawn from the *Educating Tomorrow's Lawyers* (ETL) survey to describe the 23 ETL Consortium schools, explore the kinds of curricular innovations currently in place, and look at their support for faculty engagement in the improvement of teaching and learning. This post continues those analyses by looking at what schools are doing with respect to faculty professional activity related to teaching and learning. Along with an institutional commitment to faculty development, successful innovation also requires an incentive structure that appropriately recognizes and rewards professional activity related to teaching and learning. And creating such an incentive structure may be the toughest challenge.

Because of the importance of the incentive structure, the ETL survey asked a general question about any new initiatives since 2001 that recognize the importance of such professional activity. In addition to this question, it also asked about initiatives in four specific areas that mark key decision points at the heart of the personnel process—decisions involving hiring, promotion, tenure, and merit pay. Initiatives involving the place of faculty professional activity related to teaching and learning reflect a supportive incentive structure for faculty that will help allow innovation to thrive. This post reports on the responses of the ETL Consortium schools to these questions in comparison to non-ETL schools.

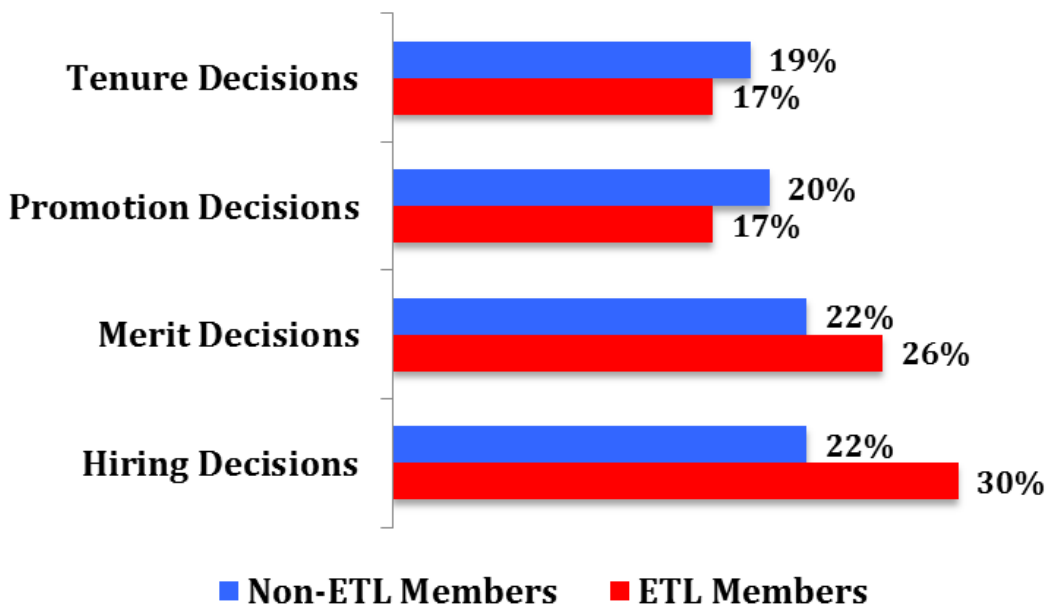
Of the 118 U.S. law schools responding to the ETL survey, 57% had started at least one new initiative since 2001 that recognizes the importance of faculty professional activity related to teaching and learning, of which, 52% of ETL members and 58% of non-ETL members had. While these figures are encouraging, they are significantly lower than those reported in our previous post with respect to faculty *development* initiatives focused on teaching and learning. There we noted that 78% of all schools reported at least one new initiative since 2001 in that area. More specifically, 74% of ETL schools reported such an initiative, as did 80% of non-ETL schools. There is simply less activity when it comes to incentive structures that appropriately recognize and reward professional activity related to teaching and learning than there are for faculty development initiatives.

While it is possible that some schools made adjustments in their personnel processes before 2001 that take this kind of professional activity into account, only three of the survey's 118 respondents indicated that this was the case for them. While these three respondents provided no answers to the questions regarding *initiatives* started in these areas since 2001, their write-in responses indicated that they have long considered professional activity related to teaching and learning in their personnel decisions.

When we look at the figures for initiatives involving those four key decisions points in the personnel process—hiring, promotion, tenure, and merit pay—the levels of activity are even lower. And this overshadows any of the differences between ETL and non-ETL members. Figure 5, which presents the percentages of ETL and non-ETL members who indicated starting an initiative since 2001 in each of those four areas, clearly shows this. It suggests a rather soft commitment to a decisive factor for fostering innovation.

Figure 5.

Non-ETL and ETL Members: Responses to Specific Faculty Professional Activity Questions



Of the four areas in Figure 5, arguably the most important are hiring and tenure – who is admitted to the legal academy and what counts is in determining who gets to stay as a permanent member. Hiring has the highest percentage of affirmative responses for both ETL and non-ETL schools, 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 tenure, the other end of the process, has the smallest percentage of affirmative responses. Relatively few schools (ETL or non-ETL members) have started an initiative in this area. And, it may be the area most resistant to change.

The reason for resistance is not difficult to understand. Giving professional activity related to teaching and learning a meaningful place in the decision to grant tenure represents a fundamental shift in what defines the legal academy and it what it means to be a member of that community of scholars. One key factor in defining the legal academy, in contrast to the practicing legal profession, is a concern with the law as an arena for abstract intellectual endeavor. The legal academy is to be a world apart; one concerned with theory rather than practice, and this is reflected in the problematic place of law school clinicians in the legal academy. A member of the legal academy is one whose professional activities focus on legal theory in some form.

A second key factor in defining the legal academy, in contrast to other academic disciplines, is its approach to teaching. Some form of the Socratic method is held to be the best approach to teaching and is one deeply ingrained the legal academy. It is one that distinguishes the legal academy from other scholarly disciplines in which this approach is not the norm. By definition, recognizing professional activity related to the process of teaching and learning – activity focused on how best to teach law students says that those deeply ingrained ways of doing things may not work all that well. It means encouraging and rewarding a very different kind of professional activity, one that challenges both of those key factors at the heart of the legal academy's sense of itself.

While the proportion of schools with new initiatives that recognize this kind of professional activity may be rather small, there is still reason for optimism. There is evidence of coordinated efforts on the part of those schools that are active. Few of them are simply starting just one initiative in this area. For instance, both ETL and non-ETL members who report an initiative involving the tenure decision are also likely to report an initiative involving the hiring and promotion decisions.

More interesting and important is evidence of coordinated efforts involving initiatives recognizing professional activity related to teaching and learning on the one hand, and initiatives in the areas of faculty development and in the area of curriculum on the other. This is especially so with regard to issues at the heart of the *Educating Lawyers: Preparation for the Profession of Law* (which were discussed in a previous post). There is such evidence for both ETL and non-ETL schools, but somewhat more evidence for the ETL schools.

For those ETL schools starting at least one initiative related to faculty professional activity, 83% of them also report a curricular initiative involving integrative approaches –linking doctrine, practical experience, and professionalism. And 75% of them reported curricular initiatives involving both integrative approaches and professional identity (instilling in students a normative sense of what it means to be a lawyer). For non-ETL schools that reported at least one initiative related to faculty professional activity, the comparable percentages are 73% and 53%, respectively.

Additionally, there is evidence of coordination involving key areas for faculty development initiatives discussed in the most recent previous post – faculty workshops focused on integrative approaches and faculty grants to support integrative approaches. For those ETL schools with at least one initiative related to faculty professional activity, 58% of them reported an initiative involving faculty development workshops on integration, and 75% had faculty development grants supporting integration. For non-ETL schools the comparable percentages are 47% for workshops focused on integrative approaches and 27% for faculty grants to support integrative approaches.

Such coordinated efforts are the key to innovation, and further exploration of them to follow...

VI. ASSESSING LAW SCHOOL CURRICULUM CHANGES: ARE THEY MAKING A DIFFERENCE?

Stephen Daniels
Posted November 15, 2013

“[Lawyers] who have smaller shops and are looking to take on people out of Baylor because they’re ready to walk into a courtroom. Baylor has that edge of teaching you how to go try cases”

Responses like this are common from Texas plaintiff’s lawyers who went to Baylor Law School and participated in the mandatory trial advocacy program. Such responses highlight two key findings from the *Educating Tomorrow’s Lawyers* (ETL) survey of law schools.

That survey—discussed here in earlier posts—asked law school deans about curricular and other changes that had been put in place at their law schools since 2001. In designing the survey, special interest was given to the kinds of innovations recommended by the 2007 report of the Carnegie Foundation for the Advancement of Teaching, *Educating Lawyers: Preparation for the Profession of Law*. The survey found that many law schools have been making changes in their curricula, and among the prominent areas of change are the curricula in the second and third years of law school and the introduction or expansion of course work focused on practical skills (especially the creation of new clinics and certificate programs).

At Baylor, the Practice Court Program, with its emphasis on skills-based course work, did not evolve out of such recent changes. It is much older, and traces its origins well back into the 20th Century. While few schools may have the history of Baylor's program, Baylor is not alone in having a skills orientation in its curriculum for some time. Northeastern University School of Law comes to mind as another, but one with a very different approach.

The survey's findings on recent curricular activity may appear obvious to some, but they may be surprising to others in light of the hyperbolic, crisis-laden character of much of the recent commentary aimed at the legal academy. It may also seem surprising in light of the amount of attention given to higher-profile schools (like New York University or Washington & Lee) that have recently created new second- and third-year programs that aim to be more skills- or practice-ready in orientation. While these new programs may seem truly new, unique, or path-breaking, as the Baylor example shows, they are not.

For the Baylor graduates I spoke with, the program appears to have been quite successful, but we can't simply take their word for it. This points to the second ETL survey finding I want to highlight, which deals with assessment. The survey asked law school deans about the development and use of feedback mechanisms linked to an assessment of the school's educational program (e.g., surveys of employers or potential employers of the school's graduates). Most respondents indicated that they don't yet have such assessment mechanisms in place.

Programs like Baylor's or Northeastern's are, in effect, natural experiments, which provide unique opportunities for research that can contribute to the current discussions on the future of legal education. We need research that looks at such programs in detail to see what difference, if any, that they make. Care must be taken to ensure that the research is truly independent and not tied to any particular program or position in the debates over legal education. Navigating the politics of such efforts can be treacherous. Additionally, the research needs to be systematic, thorough, and measured; it is unlikely that there is a magic bullet to fix the system, and we should refrain from claiming such. This also means accepting the idea that we are dealing with a diverse set of schools with their own niches. Trial advocacy-focused schools like Baylor are perfect for some law students, but may not be for everyone. There is no reason to assume that law schools are one size fits all. There is likely no single optimal model, and this may mean developing new standards and methods to use in the research.

An important part of this research will include exploring how and why these programs came into existence. Are we talking about quick fix responses to an immediate challenge or a more thorough strategic planning process? This, in turn, will require a fresh look at earlier calls for change in the legal academy, such as (but not limited to) the ABA's 1992 Report of the Task Force on Law Schools and the Profession (known as the "MacCrate Report") and the research underlying it. There is a surprising amount of older work that may have much to tell us, but seems to have been largely forgotten or overlooked. We need to look further back to understand and evaluate the value of such earlier efforts. We simply don't know enough about their longer-term influence, if any.

Finally, we need to find ways of linking research related to legal education to research on the legal profession and the actual practice of law. Some of that older work—a fair amount done at the American Bar Foundation—may be helpful.

VII. EDUCATING TOMORROW'S LAWYER SURVEY USED TO ANALYZE RATE OF LAW SCHOOL INNOVATION

Riley Combelic

Posted May 27, 2014

In May 2014, the Journal of Legal Education of Southwestern Law School published an article surveying the landscape of legal education. Authors Stephen Daniels, Martin Katz, and William Sullivan used an Educating Tomorrow's Lawyers survey to discuss changes that have been made by the legal academy and whether these changes were forceful enough to overcome the inertia of traditional legal education. The other aim of the article—and the survey—was to determine whether law schools are making changes that are in line with the 2007 Carnegie Foundation for the Advancement of Teaching report *Educating Lawyers: Preparation for the Profession of Law*.

ETL's survey was conducted in 2011 and gathered data from 118 law schools. The data included information about new initiatives made at the institutional level since 2001. The timeframe of the survey was used to help ETL determine whether external factors—namely, the economic downturn of 2008—were catalysts for institutional changes or whether schools acted following the Carnegie Report. The survey asked law school deans about substantial institutional initiatives in three broad areas: curriculum, faculty development related to teaching and learning, and the incentive structure for faculty professional activity.

The article—and the survey—concluded that there have been substantial changes in law school curriculum by law schools in every tier; the changes have been significant and have occurred in the areas suggested by the Carnegie Report. But, the data does not indicate that the Carnegie Report has been the only motivator for change. Because of this, there are few schools that are implementing all of the Carnegie recommendations or giving them financial support. Based on their analysis, the authors question whether these curriculum changes in and of themselves will be sufficient to make a lasting difference. The article stresses that schools need to “put their money where their mouths are” and fund workshops and training for professors while also hiring and rewarding professors who are successfully implementing change.

It is not all bad news, however. The survey indicated that schools were implementing innovation at a faster rate from 2008-2010 than previously and, if that trend continues, the needed institutional investment in innovation may be closer than many suspect. What is needed next, the authors suggest, is targeted research that studies the process of change within schools—especially those that are using coordinated institutional strategies that foster sustainable innovation.