



THE STATE BAR  
OF CALIFORNIA

Council on Access & Fairness

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March 28, 2011

Robert Morse, Editor  
US News and World Report  
1050 Thomas Jefferson Street NW  
Washington, DC 20007

Re: USNWR Law School Rankings

Dear Bob:

We are writing to follow up on our prior discussion, held in July 2008, concerning the USNWR law school rankings and ways in which they can be improved by incorporating factors that relate to diversity. We appreciate your sharing information regarding the approach used to develop the rankings and your expression of openness to making improvements. Since those earlier discussions, we have reviewed the USNWR rankings methodology, examined the ABA Accreditation Standards and data reported by law schools to the ABA, and have held in-depth discussions with a number of stakeholders both within and outside the State Bar of California about our efforts to include diversity criteria in the overall rankings. Numerous organizations have expressed their strong support for these efforts and will be forwarding their comments separately.

There is a broad consensus among law school deans and professors that diversity greatly enhances the educational experience of law students. Exposure to and an understanding of diversity better prepares students to practice in an increasingly diverse setting and to respond to the needs of the global economy, making it even more important that diversity be included as a factor in the rankings.

This point was recognized and confirmed in the US Supreme Court decision in *Grutter v. Bollinger*, as follows:

"...numerous studies show that student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals. These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints" *Grutter v. Bollinger* 539 U.S. 306, 309 (2003).

Further, the importance of diversity in law schools was emphasized by the *Grutter* Court as critical in developing the future leadership of our country:

“in order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training. As we have recognized, law schools ‘cannot be effective in isolation from the individuals and institutions with which the law interacts.’ (*citing Sweatt v. Painter*, 339 U.S. 629 at 634 (1950))”

Finally, in reviewing information provided to the public by the USNWR top ten ranked law schools, we note that these schools emphasize the value of diversity and consider it important to provide information on their websites re: student demographics, as well as student affinity programs and resources.

Among the challenges we face as a nation is the impact of our increasingly diverse population, persistent educational and economic achievement gaps among different groups, and the related need for more diversity in the legal profession. The current rankings don’t capture metrics related to these important aspects of legal education. Instead, the rankings encourage law school policies and actions that are calculated to help the law schools achieve higher rankings, which in turn results in less diverse student populations.

Despite these aspects of the rankings, we acknowledge that the US News rankings are unlikely to cease or to diminish in impact so we are determined to work closely with you to effect changes that will provide students and the public with a more meaningful way to assess a given school’s commitment to diversity and to recognize law schools that make conscious efforts to contribute to a more diverse legal profession. Quite simply, given the influence the USNWR rankings have on the profession, consumers deserve this information as part of the rankings to help them best evaluate the educational experience they will get in different schools. Having a separate diversity ranking (as USNWR currently does) trivializes the importance of diversity and presents a misleading picture of diversity as not integral to a student’s learning experience in law school and preparation for the successful practice of law.

With these goals in mind, we offer the following suggestions on how to meaningfully incorporate diversity into the USNWR rankings. Specifically, we propose that the USNWR include a new “Diversity” category for inclusion into the overall USNWR rankings.

We acknowledge that in the past USNWR has taken the position that it might be unfair to compare schools in ethnically diverse states such as California and Florida against those in less diverse states such as Maine and Kansas. But this is no different from

other categories that USNWR chooses to include. Almost every factor that USNWR uses advantages some schools and disadvantages others. There is no reason to treat diversity differently. Yet even if this concern is acknowledged, there are tools that USNWR could use to mitigate this difficulty. For instance, USNWR could compare a school's data on the diversity of its student body with state-wide demographic data to determine how a school compares to the community in which it is located.

Even with these expanded measurements, diversity assessments should not be limited to admissions and student body demographics, as there are also non-numerical criteria by which to evaluate a school's diversity efforts. That is, diversity should also be measured by the support and resources provided by the institution to foster an inclusive culture and climate in which students from diverse backgrounds can excel. The support and resources should be proportionate to the overall diversity of the student population. Thus a school from California and a school from Maine can both be evaluated on the same criteria. We recommend that the criteria for this proposed non-numeric ranking factor be aligned with the requirements in the ABA Accreditation Standards on Diversity (Standard 212), which refer to "concrete actions" that demonstrate a commitment to diversity. These "concrete actions" could include programs and activities such as:

- Intensifying law school recruitment of diverse applicants
- Supporting programs that enable students from underrepresented groups to attend law school
- Participating in high school and college programs that identify and support diverse students
- Expanding admissions criteria to consider factors accounting for the successful practice of law
- Providing needs-based financial support to attract economically disadvantaged students
- Creating a positive law school environment for students from diverse backgrounds
- Developing and expanding programs to assist law graduates from diverse backgrounds
- Participation in job fairs and similar programs matching diverse students with employers
- Developing and implementing specific plans to increase faculty diversity

There is sufficient information provided by the law schools in the ABA Accreditation Questionnaire regarding concrete actions to allow USNWR to incorporate these data into the rankings. Additionally, as part of this new category, USNWR could poll diversity professionals at law schools on diversity reputation and/or explicitly include diversity as a category in the existing surveys it sends out for Peer Assessment and Assessment by Lawyers/Judges, the latter being an approach with which you agreed in our prior conversations.

Our recommendation would be that this new category be allotted 15% of a school's total score. This percentage could be obtained by reducing the existing Quality Assessment and selectivity categories, which generate subjective and less reliable and valid feedback and which currently account for an inappropriately large proportion of the overall rankings (at 40 percent).

Thank you for your ongoing willingness to discuss these issues with us. We look forward to your feedback on our proposals and welcome the opportunity for continued dialogue and collaboration on these issues. Please feel free to contact me at 213-599-7818 or CHolden@lbbslaw.com so that we can discuss this matter further.

Sincerely,

*Craig E. Holden*

Craig E. Holden, Chair  
Council on Access & Fairness

cc:

**State Bar of California:** Board of Governors; Committee of Bar Examiners; Law School Council, OGC; Executive Director

**American Bar Association:** Center on Racial and Ethnic Diversity; Council on Racial and Ethnic Diversity in the Education Pipeline; Section on Legal Education and Admissions; Standards Review Committee; Accreditation Committee; House of Delegates

**National Conference of Bar Presidents**

**National Association of Bar Executives**

**Leadership Council on Legal Diversity (LCLD)**

**Association of American Law Schools (AALS)**

**California ABA-Accredited Law School Deans**

**California Bar Associations:** Local Bar Associations, Statewide and Local Minority and Diversity Bar Associations; Specialty Bar Associations, Minority Bar Coalition; Multi-Cultural Bar Alliance; Sacramento County Unity Bar ; East Bay Diversity Bar Coalition; San Diego Diversity Bar Associations..

**Bar Association Staff Diversity Directors Network (The Diversity Network)**