



THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA

OFFICE OF ADMISSIONS

180 HOWARD STREET • SAN FRANCISCO, CALIFORNIA 94105-1639 • (415) 538-2303

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July 31, 2007

Richard Sander, Ph.D., Professor
University of California
Los Angeles School of Law
405 Hilgard Avenue
Los Angeles, CA 90095-1476

William Henderson, Professor
Office 255
Indiana University School of Law
211 South Indiana Avenue
Bloomington, IN 474405-7001

Dear Dr. Sander and Professor Henderson:

The Committee of Bar Examiners (Committee) considered the "Proposal for Analyses of State Bar Data" dated September 5, 2006 during its September 29 and 30, 2006 meeting. Dr. Sander and Dr. Stephen Klein were present at that meeting and were permitted to make a presentation to the Committee on the proposal. Following the presentation, the proposed study was discussed by the Committee and it was determined to defer action on the request for use of applicant data pending further study and consultation with the Law School Council.

The Law School Council met in October 2006, and the proposed study was on the agenda. Substantive concerns were raised by several of the deans who were present regarding the proposed study and release of data by the Committee. These concerns were shared with Dr. Sander, and as a result, the memorandum dated November 19, 2006, from you and Doug Williams was submitted for the Committee's consideration. On November 20, 2006, a conference call meeting with you, Vice-Chair Alan Yochelson and Office of Admissions staff was also held to discuss the proposed study.

It also should be noted that several letters of support, and opposition, were received by the Committee relative to the proposed study and the release of applicant bar examination data.

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This matter was placed on the Committee's February 2 and 3, 2007 Subcommittee on Examinations' agenda for further consideration. Both of you and Steve Klein were in attendance at that meeting and participated in the discussion. The proposed study and the updated information that were provided since September 2006 were discussed. The Committee deferred taking final action on the request until after its May 2007 Planning Meeting, pending a discussion of psychometric studies that had been completed, and might be contemplated in the future.

After the May meeting, it was decided that the Committee should take final action on the proposal during its June 29 and 30, 2007 meeting since there was no reason to believe that more time for consideration of the proposal was needed. Sufficient information had been received to make a decision and additional presentations from the parties involved were not contemplated.

After discussing the matter during the meeting of the Subcommittee on Examinations, and also after permitting Dr. Sander to make his final comments to the full Committee on June 30, 2007, a majority of the Committee members present voted to deny your request for use of bar examination applicant data.

While there were, I am sure, individual considerations that contributed toward a Committee member voting to grant or deny the request, there were several general concerns that continued to exist with regard to the proposed study and the use of data provided by the Committee, which were relayed to you, previously and during the Committee's most recent meeting.

While you and your colleagues have made assurances that the identities of individual test takers and law schools would be protected, there remains the possibility that this information could be "data mined" by someone with the technical/professional savvy to do so. One of the primary reasons, however, for denying your request for use of the data is that the data was not collected from the applicants for use by third parties nor for the purpose for which you proposed to use it.

Applicants are advised that gender and racial/ethnic data are collected for the purpose of studies conducted by the Committee as it determines are necessary to ensure the validity and reliability of the examination process. Applicants are not informed that the personal information they provide may be shared with others for purposes unrelated to the bar examination, such as assessing the effects of affirmative action programs.

As you note, over the years, the Committee has published many studies and statistics, which can be used by others to support individual hypotheses relative to a law school ed-

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ucation, the bar examination process and similarly related issues. The studies expressly authorized by the Committee, conducted by contracted psychometricians, and the statistics provided by the Committee, will continue to be the extent of bar examination applicant data released.

I understand you are disappointed by the Committee's action, but please keep it in mind that it was only after serious study of the matter, and all the information submitted, including letters from others who are in support and against the proposal, and debate over a period of nine months that the Committee made its decision.

Sincerely,



Gayle E. Murphy
Senior Executive, Admissions

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cc: Whitnie Henderson, Chair
Alan Yochelson, Vice-Chair
Judy Johnson, State Bar Executive Director
Dean Barbieri, Director, Examinations
Stephen P. Klein, Consultant