

AGENDA ITEM

January 162

DATE: December 10, 2010

TO: Members, Stakeholder Relations Committee
Members, Board of Governors

FROM: Craig Holden, Chair, Council on Access & Fairness
Teri Cannon, Vice Chair, Council on Access & Fairness
Patricia Lee, Special Assistant for Diversity & Bar Relations

SUBJECT: Recommendations re: US News and World Report – Law School Rankings

EXECUTIVE SUMMARY

The State Bar Council on Access & Fairness (COAF) is charged with reporting on the status of attorneys from diverse backgrounds in the legal profession and providing recommendations to the Board of Governors on barriers directly related to access opportunities within the profession for individuals from diverse backgrounds.

For the past two years the COAF has been studying in detail the impact and implications of the US News & World Report Law School Rankings on law school admissions policies, the diversity pipeline and resulting diversity in the legal profession.

Attached for your review are draft comments developed by the COAF re: proposed modifications to the methodology and criteria used by USNWR for law school rankings.

The COAF requests authorization to submit the comments to USNWR and to engage in follow up dialogue with USNWR to implement the proposals.

BACKGROUND

In 2008, the State Bar Council on Access & Fairness identified the US News & World Report Law School Rankings of ABA accredited law schools as a significant source of concern among diversity stakeholders re: challenges to the diversity pipeline. Feedback indicated that in order for accredited law schools to place high in the USNWR law school rankings, they needed to configure admissions programs and policies to incorporate criteria and factors ranked highly by USNWR. A study by the Federal GAO documented significant law school expenditures to achieve higher placement among the rankings, which in turn drove tuition fees upward. (See *“GAO Puts Blame on US News*

Rankings for High Law School Tuition” by Debra Cassens Weiss, ABA Journal, October 27, 2009 at

http://www.abajournal.com/news/article/why_you_can_blame_us_news_instead_of_the_aba_for_high_law_school_tuition/.. Other reports indicated the dissatisfaction of law school administrators re the USNWR factors and inability to apply broader admissions policies to expand the diversity among their students, given the efforts to maintain and increase their USNWR rankings. (See “*Research documents the “U.S. News’ effect on law schools”* by Karen Sloan, *The National Law Journal*, December 2, 2009 at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202435994960&slreturn=1&hbxlogin=1>. Other commentaries encourage USNWR to include diversity criteria and to reduce the weight of the LSAT in its overall rankings. (See “*Law schools should embrace diversity”* by Carlos Moreno, Bruce Sewell and Christopher Arriola, *San Jose Mercury News Commentary*, December 28, 2007)

The COAF also learned through initial fact gathering conversations with USNWR that it does not conduct independent research re the criteria evaluated for the rankings. Rather USNWR relies on information provided by the ABA accredited law schools on the annual ABA Accreditation Questionnaire (see Questionnaire on ABA website at <http://www.abanet.org/legaled/questionnaire/questionnairedocuments.html>

The current factors considered by USNWR track information found in the questionnaire. (**See methodology at Attachment 2**). In addition to the criteria gathered and considered from the ABA Questionnaire, USNWR also surveys law schools and members of the profession and judiciary re the reputation of law schools through its Quality Assessment Survey. (**See Survey at Attachment 3**). The survey is sent to various individuals to provide feedback re law schools based on the personal knowledge of the rater. The surveys are subjective in nature and do not provide recipients with a standard rubric for evaluating the law schools. USNWR compiles feedback from the responding parties, regardless of the numbers responding, and factors the responses into the rankings. The Quality Assessment feedback accounts for 40% of the overall ranking.

The COAF addressed the State Bar Law School Assembly in 2008 with an overall presentation re the process and areas of concern. At that time, law school feedback was positive and supportive re: the COAF approach and comments. The attached proposed comments have been circulated to California ABA accredited law schools with the indication that they will be presented to the Board of Governors at the January 6 and 7, 2010 meetings. Status reports have also been provided to the ABA Diversity Center and, in particular, the ABA Council on Racial and Ethnic Diversity in the Education Pipeline (formerly the Presidential Advisory Council on Diversity) re: the ongoing development of these comments. The Council is deferring to the State Bar of California COAF to dialogue with USNWR and will support the COAF efforts. At the last ABA Midyear meeting, the ABA House of Delegates voted to dialogue with USNWR re its plans to develop Law Firm Rankings and also to address the law school rankings. USNWR has since decided not to provide law firm rankings, and the ABA has not pursued the law school rankings issue.

As noted above, the USNWR issues are intricately related to the ABA accreditation process. Through other efforts, the COAF is also monitoring the ABA Section on Law Schools and Admissions overall review and revisions of the Accreditation Standards. The process will take approximately another year or two, and at the end of the process, formal proposed revisions will be issued for public comment. At that time the COAF will develop proposed comments for Board of Governor Review and approval.

The proposed COAF comments re the US News & World Report Law School Ranking appear at **Attachment 1** and include the following:

1. **Changes to the Reputation Survey (Peer Assessment) process and content,** Proposed changes include draft rubrics for law school, attorney and judicial responses to the general questions, as well as an additional draft rubric for attorneys and judges re additional diversity programming.
2. **Addition of Diversity Programming as one of the criteria included in the overall rankings:** Diversity criteria are currently not included in the overall law school rankings. Diversity information appears as a side bar and only addresses the overall diversity of the law school student body. These proposals recommend inclusion of stated diversity criteria in the overall rankings that address the overall law school culture and climate re: inclusion and support for diverse students.
3. **Changes to overall methodology and weighting of specific categories:** Comments propose additional factors and a re-weighting of various factors to place emphasis on criteria that account for overall education experience and preparation of law students for the practice of law.

The Council on Access & Fairness requests that the Board Committee on Stakeholder Relations and the full Board approve the proposed comments and the forwarding of the comments to USNWR on behalf of the COAF. The COAF also requests authorization to conduct ongoing dialogue with USNWR about the proposed comments to achieve eventual changes to the law school rankings methodology and criteria.

FISCAL / PERSONNEL IMPACT:

No State Bar General Funds will be used for this project. State Bar support will be through the COAF volunteer efforts and are covered through funding from voluntary contributions to the Elimination of Bias/Bar Relations Fund.

PERSONNEL IMPACT:

No additional staff will be required. Support will be provided by existing staff funded through the Elimination of Bias/Bar Relations Fund.

ALIGNMENT WITH STRATEGIC PLAN

The project promotes diversity in the legal profession through the building of the diversity pipeline, consistent with the Vision and Goals of the State Bar Strategic Plan.

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

RECOMMENDATION

The Council on Access & Fairness recommends that the Board Committee on Stakeholder Relations recommend that the Board approve the forwarding of the comments appearing in Attachment 1 to USNWR in the name of the Council on Access & Fairness, and that the Council on Access & Fairness be authorized to engage in ongoing dialogue with USNWR to address the proposed comments.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Stakeholder Relations Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Stakeholder Relations Committee recommends that the Board approve the forwarding of the comments appearing in Attachment 1 to USNWR in the name of the Council on Access & Fairness; and it is

FURTHER RESOLVED, that the Council on Access & Fairness be authorized to engage in ongoing dialogue with USNWR to address the proposed comments.

PROPOSED BOARD RESOLUTION:

Should the Board concur with the Stakeholder Relations Committee's recommendation, the following resolutions would be in order:

RESOLVED, that upon the recommendation of the Stakeholder Relations Committee, the Board hereby approves the forwarding of the comments appearing in Attachment 1 to USNWR in the name of the Council on Access & Fairness; and it is

FURTHER RESOLVED, that the Council on Access & Fairness be authorized to engage in ongoing dialogue with USNWR to address the proposed comments.