

# DRAFT

Robert Morse, Editor  
USNWR

Dear Bob:

We are writing to follow up on our prior discussion, held in July 2008, concerning the USNWR 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.

As a result of our review, we find particularly relevant the recent comments made by Professor Bill Henderson pointing out the shortcomings of the current rankings system. He rightly notes that the role of law schools is to prepare students to solve societal problems. 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. As Professor Henderson so succinctly pointed out, 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 that result in less diverse student populations and provide no support for other diversity initiatives.

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 provide an objective system of metrics and evaluation, which will more accurately reflect a meaningful and effective law school education.

We have the following observations and suggestions about the formula for and content of the rankings related to Quality Assessment, Diversity Criteria and Overall Methodology as follows.

## **I. PROPOSED REVISIONS TO "QUALITY ASSESSMENT" (Reputation Survey)**

The current Quality Assessment accounts for 40 percent of the overall score and includes a Peer Assessment (25 percent) and an Assessment by Lawyers/Judges (15 percent).

**Peer Assessment:** As we understand it, the **Peer Assessment** is sent to the law school dean, dean of academic affairs, chair of the faculty appointments, and the most recently tenured faculty member of each school. They are asked to rate the academic quality of the JD programs for the schools with which they are familiar.

Although we question the validity of data that are collected from law school representatives, who are not disinterested evaluators, we are primarily advocating revisions to the questionnaire so that it yields more objective, reliable and accurate data.

As currently constructed, we find that the questionnaire is not designed to produce objective and useful data. It is too dependent on subjective opinions that are given without clear guidelines or criteria. In addition, because the persons who are being asked to provide ratings are not disinterested parties, this lack of guidance about the factors that make up “quality” invites subjective and potentially biased responses.

In order to construct a more valid and reliable survey, we suggest that a rubric with objective criteria and a rating scale be provided to the raters. (***See Attachment A for examples.***)

**Quality Assessment by Lawyers/Judges:** As we understand it, the current **Quality Assessment by Lawyers/Judges** is sent to attorneys and judges in the geographical area surrounding the law school. Recipients are asked to rate the schools with which they are familiar on the excellence of the school’s J.D. program. Suggested factors are the same as in the Peer Review survey above: curriculum, record of scholarship, quality of faculty and level of professional preparedness shown by graduates. Again there are no objective criteria or parameters provided to guide respondents in their ratings. Further it seems unlikely that attorneys and judges would have sufficient breadth of objective knowledge about all of these areas for all of the law schools in the region, but may feel compelled to respond, resulting in biased, uninformed and subjective judgments.

We recommend that the areas to be evaluated by attorneys and judges should be limited to those with which they would have some knowledge, namely professionalism and preparedness to practice law. (***See Attachment B for proposed objective criteria.***)

## **II. PROPOSED ADDITION OF DIVERSITY CRITERIA**

We urge USNWR to add a component to the **Peer Assessment and the Lawyer/Judges Assessment** for the diversity of law schools’ faculty, staff and students and the support provided by the law school for diversity through programs and the allocation of resources. Also, we propose that diversity be incorporated into the overall weighted sections of the Rankings Survey as noted below.

We acknowledge USNWR’s 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 we are not advocating a purely numerical criterion without information that provides context for the numbers. In fact, diversity assessments should not be limited to admissions and student body demographics. Instead 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.

## **Peer Review and Attorney/Judge Review:**

For the **Peer Review and Attorney/Judge Review**, diversity should be an added factor for consideration in the overall response, with specific diversity components to be ranked by responding attorneys and judges. (*See Attachment C for proposed criteria.*)

## **Overall Rankings Factors:**

For the **Overall Rankings Factors**, we recommend that the criteria be aligned with the requirements included in the ABA Accreditation Standards on Diversity (Standard 212), which have a listing of diversity programs (i.e., “concrete actions”) that demonstrate a commitment to diversity. There is sufficient information provided by the law schools in the ABA Accreditation Questionnaire to allow USNWR to review the data and incorporate the results of this review into its overall rankings process. (*See Attachment D for proposed diversity factors.*)

### **III. PROPOSED MODIFICATIONS TO OVERALL METHODOLOGY**

To incorporate the above proposed diversity factors into the overall rankings and to improve the objectivity, reliability and validity of the results, we recommend that the current weighted factors be modified. The following is our recommendation:

#### **Diversity** (new category: 15%)

This new category would include programs and actions that contribute to diversity and could incorporate examples of “concrete actions” in ABA Standard 212, for example:

- Participation in job fairs and similar programs matching diverse students with employers
- Intensifying law school recruitment of diverse applicants
- 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
- Creating a positive law school environment for students from diverse backgrounds
- Developing and expanding programs to assist law graduates from diverse backgrounds
- Supporting programs that enable students from underrepresented groups to attend law school
- Developing and implementing specific plans to increase faculty diversity

#### **Quality Assessment** (reduce to 20%)

- Peer Assessment (reduce to 10%)
- Lawyer/Judge Assessment (reduce to 10%)

#### **Selectivity** (reduce to 20%)

- Median LSAT Scores (reduce to 5%)
- Median undergraduate GPA (10%)
- Acceptance rate (0%)
- Supplementary factors considered (new category: 5%)

**Placement Success (20%)**

- Employment rates (reduce to 15%)
- Bar passage rates (2%)
- Documentation of successful practice of law (**new** 3%)

**Faculty Resources (increase to 20%)**

- Expenditure per student (increase to 15%)
- Student/faculty ratio (4%)
- Library resources (1%)

**Academic and Other Support for Students ( new 5%)**

This new category would include programs and activities designed to support all students to academic and professional achievement, including advising, academic support activities, and bar preparation.

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. Please feel free to contact me at 213-599-7818 or at [cholden@lbbslaw.com](mailto:cholden@lbbslaw.com), so that we can discuss further.

Sincerely,

Craig E. Holden, Chair  
Council on Access & Fairness

cc's: State Bar entities  
ABA entities  
Academia  
Others. . .

**ATTACHMENT A**  
**Quality Assessment Rubric, Criteria and Rating Scale**

School \_\_\_\_\_

Category of Rater:

\_\_\_\_\_ Dean of Law School

\_\_\_\_\_ Academic Affairs Dean:

\_\_\_\_\_ Faculty Appointments Chair

\_\_\_\_\_ Most Recent Tenured Faculty

<b>Curriculum</b>	Outstanding	Strong	Good	Adequate	Marginal	Don't Know
Core curriculum						
Practical/clinical training						
Community or public Service						
Courses related to Diversity						
Diversity issues incorporated into curriculum						

<b>Record of scholarship</b>						
Published articles published on important legal issues in juried journals						
Faculty research and publications about on teaching and learning						
Faculty presentations to appropriate audiences on important issues						
<b>Quality of faculty</b>						
Faculty academic qualifications						
Diversity of the faculty						
Quality of teaching						
<b>Quality of graduates</b>						
Competence of graduates in law practice or teaching						
Degree to which graduates hold important and prominent positions in law or other fields						
Contribution of graduates to the legal profession						
Contribution of graduates to the public/community						

Similar objective criteria should be developed for other factors important to the excellence of the law school.

**ATTACHMENT B**  
**Attorney/Judge Assessment Criteria**

<b>Professionalism</b>	Outstanding	Strong	Good	Adequate	Marginal	Don't Know
Temperament						
Respect for court personnel, parties						
Lack of biased, fairness						
Preparedness of the matter before the court						
Ethical conduct in court						
Candor with the court						

<b>Preparedness for Practice Law</b>	Outstanding	Strong	Good	Adequate	Marginal	Don't Know
Substantive knowledge of law						
Knowledge of procedural rules						
Knowledge of rules of evidence						
Quality of written memoranda, briefs						
Quality of oral presentation and argument						
Awareness of all relevant issues						

**ATTACHMENT C**  
**Diversity Criteria for Attorney/Judge Assessment**

<b>Diversity Criteria</b>	Outstanding	Strong	Good	Adequate	Marginal	Don't Know
Diversity of the student body						
Diversity of the faculty						
Diversity of the administration and staff						
Efforts to conduct outreach and recruit diverse students						
Scholarships for diverse students						
Participation in diversity pipeline programs						
Efforts to recruit and retain a diverse faculty						
Climate regarding diversity						
Academic support programs						
Activities and special programs for diverse students						
Outreach and contacts with local and diversity bar associations						

**ATTACHMENT D**  
**Diversity Factors for Overall Rankings**

<b>Diversity Programming</b>	Outstanding	Strong	Good	Adequate	Marginal	Don't Know
Participation in job fairs that include diverse students						
Expanded outreach and recruitment of diverse applicants						
Participation in high school and other pipeline programs to encourage entry into the legal profession						
Consideration of criteria for admissions beyond the LSAT only						
Substantial needs-based financial assistance						
Expanded recruitment and hiring of diverse faculty in tenure and non tenure tracks						
Summer entry or pre-law school orientation programs						
Academic support programs for all three years						
Bar exam preparation and support						
Supportive law school environment (e.g., mentoring programs, diverse student groups, contacts with diverse lawyers and judges)						
Support for employer diversity, including promoting firm commitment to diversity						
Follow-up of alumni to determine experiences of diverse graduates in specific employment settings						