



THE STATE BAR
OF CALIFORNIA

Attachment A

Council on Access & Fairness

180 Howard Street, San Francisco, California 94105

Telephone (415) 538-2240

May 10, 2014

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

Dear Bob:

Thank you for your response following our online meeting between representatives of our Council on Access & Fairness (COAF), you, your editorial staff, Communications Director and General Counsel.

At the close of that meeting you provided a positive response regarding U.S. News' commitment to diversity and your willingness to consider the creation of an Advisory Group to assist you with the creation of diversity metrics to be incorporated into the overall Best Law School Rankings.

Following a number of attempts to discuss details for the creation of an advisory group and options for diversity metrics, you ultimately advised us that U.S. News is not considering forming an advisory group of any kind for the Best Law Schools Rankings, but if you do begin to think about creating a law school ranking advisory group, you will reach out to the State Bar of California Council on Access & Fairness, as well as other interested parties in legal education, so all points of view are represented.

You indicated that you understand COAF's interest in some form of diversity. However, you responded that it would be difficult to arrive at a set of criteria, as there is no agreement among legal educators on the definition of diversity, standards on how diversity should be measured and what benchmarks should be used for comparison between institutions. We have advised that we are aware of the difficulty in creating numeric criteria, and have suggested other criteria that could be applied objectively to all law schools, regardless of numbers of diverse students, access to (or lack of access to) large numbers of potential students from diverse backgrounds, and/or geographic location.

You have also indicated that you would not want to consider diversity metrics in the overall rankings if they would have a negative impact on the current top law school rankings. We have reviewed the diversity efforts of these top law schools and they all appear to have robust diversity programs. It is unlikely that their rankings would be adversely affected by any diversity metrics that would be proposed by COAF.

We have observed the ability of U.S. News to modify or create new criteria quickly and to incorporate them into the rankings methodology for law schools and other institutions of higher education. For example, the modification of the rankings methodology to increase an emphasis on employment of graduates was completed very quickly and was incorporated into the methodology for the next rankings cycle. We understand that U.S. News has its own set of priorities for the rankings and can only conclude at this time that despite the data we provided about the importance of diversity to the legal profession and the public and our offer to provide diversity metrics for your consideration, that diversity as a factor is not among the priorities for U.S. News.

We note your separate diversity index for law schools, but find this to be an inadequate and misleading measure of diversity. The index provides lower ratings to schools with a higher concentration of single racial/ethnic groups (for example historically black law schools), as opposed to providing a higher index rating to schools with greater overall numbers of racial, ethnic and other diversity groups among the student body.

You indicated you were awaiting the decision in *Fisher v. Texas* to determine any bearing on your decision to include diversity metrics. We note the Supreme Court decision in *Fisher v. Texas* did not overturn existing decisions supporting the use of affirmative action criteria by schools, thus continuing to support the importance of diversity as a factor to be considered in law school admissions.

At this time the State Bar Council on Access & Fairness will continue its review of the U.S. News Law School Rankings and will engage in dialogue with others in the legal profession to address not only the significant subjectivity and lack of concrete diversity metrics in the U.S. News Law School Rankings, but also the lack of recognition of diversity as critical to the administration of justice and public trust and confidence in the judicial system.

When U.S. News is in a position to focus on diversity metrics for the Law School Rankings, we would be happy to participate in the discussion and offer our suggestions.

Thank you.

Sincerely,

Hon. Cynthia Loo, Chair
Council on Access & Fairness

W. Davis Smith, Chair
College and Law School Committee,
Council on Access & Fairness