

AGENDA ITEM

164 JULY 2015

DATE: July 2, 2015

TO: Members, Stakeholders and Access to Justice Committee
Members, Board of Trustees

FROM: Hon. Karen Clopton, Chair, Council on Access and Fairness
Patricia Lee, Special Assistant for Diversity & Bar Relations

SUBJECT: Legislative Informational Hearing: Achieving Transparency on the Diversity
Metric for California Consumers

EXECUTIVE SUMMARY

Consumers primarily rely on US News & World Report's Law School Rankings when they apply for law schools. US News determines the rankings based on peer assessment, selectivity, median LSAT scores, median undergraduate GPA and placement success. However, even though US News collects data on diversity, it does not include this factor in its law school rankings. This gap deprives consumers of an important metric in their law school application process. This proposal seeks authorization to coordinate with the State Bar Office of Governmental Affairs to explore a legislative informational hearing¹ in 2016 on how best to integrate the missing diversity element into law school rankings and other resources to maximize consumer information in the law school application process.

BACKGROUND

US News determines law school ranking base on the following factors: peer assessment by law school deans and faculty (0.25); assessment score by lawyers/judges (0.15); selectivity (0.25); median LSAT scores (0.125); median undergraduate GPA (0.10; acceptance rate (0.025); and placement success (0.20). However, US News does not include a factor on law school diversity.

¹ Different from bill and oversight hearings, the Legislature frequently holds informational hearings to air and discuss issues of public interest that may or may not lead to legislative solutions. In 2015, such hearings included topics such as: Title IX; closure of a private college; adult education; student councils; school facilities; local control funding; postsecondary education; teaching in the 21st century; higher education accountability; common core curriculum; UC/CSU and community colleges; making health care affordable for consumers; public health; dental programs; individual health insurance market reform; meeting transportation needs—lessons from other states; housing markets resources and programs; climate change; road to 2020 and beyond, etc. All this depends, however, on the interest and willingness of legislative committees to allocate time to the subject, which is what this item seeks to explore through the State Bar's Office of Governmental Affairs.

To identify law schools where students are most likely to encounter classmates from a different racial or ethnic group, US News has created a separate index based on the total proportion of full and part-time minority law students and the mix of racial and ethnic groups on campus during the academic year. Data for the index is collected from each law school. Students classified as ethnicity unknown or unreported are counted as white.

The US News Diversity “Index” is created ranging from 0.0 to 1.0. The closer a law school’s index value comes to 1.0, the more diverse the student population and the greater the likelihood the students will encounter students from a different ethnic group than their own. However, given the criteria for this diversity index, schools with large groups of diverse students rank low (for instance historically black schools rank very low on the US News Diversity Index despite the large numbers of black students in attendance). . .

Because US News’ Diversity Index is not factored into the overall rankings given to law schools but is presented separately, and because the data does not reflect the metrics that provide objective diversity information, the data is not meaningful or useful to consumers when they select the laws schools to which they apply.

DISCUSSION

Diversity is an important aspect of identifying quality education for consumers interested in applying for law school. In the legal profession, diversity is favored at every stage: law school, legal practice, service to clients and in the courts. Not including diversity in law school rankings represents a weak link in the professional continuum.

Law Schools

“[I]n 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.’” (*Sweatt v. Painter* (1950) 339 U.S. 629, 634.) There is 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. “[A]ttaining a diverse student body is at the heart of the Law School’s proper institutional mission” (*Grutter v. Bollinger* (2003) 539 U.S. 306, 329.)

Law Firms

“[L]aw firms hoping to move the diversity needle must focus on more open-minded and aggressive recruitment strategies, whether it’s shifting the focus of recruitment efforts to law schools with more diverse student populations or pressuring bar organizations to do better about encouraging racial minorities to consider a legal career.” (Diversity Gap A Growing Threat To Big Law Bottom Lines, Law360, May 19, 2015.) “Clients are becoming more and more sophisticated and demanding in the area of diversity, and if you look at our financial institution clients and the teams they field, they’re years ahead on diversity . . . They look at teams of

lawyers across the industry that are all white men and wonder what's going on.” (*Ibid.*) As a result, law firms are competing for diverse talent.

Businesses and Clients

“Diversity is mandatory in order to sustain economic growth, for a country, a sector or even a company. Keeping up with a changing global workforce requires companies, in particular, to examine their needs and adjust their business strategies accordingly.” (Diversity & Inclusion: Unlocking Global Potential, Forbes | Insights, 2012, p. 27.) According to the Forbes survey, 85 percent of respondents agreed that diversity is crucial to gaining the perspectives and ideas that foster innovation. More than three-quarters said their companies will increasingly leverage diversity for their business goals, which include innovation. “Companies have realized that diversity and inclusion are no longer separate from other parts of the business . . . Organizations in the survey understand that different experiences and different perspectives build the foundation necessary to compete on a global scale.” (Why Diversity is Good for Business, Business News Daily, July 14, 2011.)

Administration of Justice

Further, studies show that consumers rank diversity as a priority in the court system, accounting for increased public trust and confidence and the appearance of fairness in the judicial process and legal system (see Judicial Council survey results [Phase 1](#) and [Phase 2](#)).

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

BOARD COMMITTEE RECOMMENDATIONS

The Stakeholders and Access to Justice Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees authorizes the Council on Access & Fairness to coordinate with the State Bar Office of Governmental Affairs to explore a legislative informational hearing in 2016 on how best to integrate the missing diversity element into law school rankings to maximize consumer information.