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John Nussbaumer

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THE DISTURBING CORRELATION BETWEEN ABA ACCREDITATION REVIEW AND DECLINING AFRICAN-AMERICAN LAW SCHOOL ENROLLMENT

JOHN NUSSBAUMER[†]

INTRODUCTION

In issue 80.1 of the *St. John's Law Review*, I presented two statistical case studies which showed the disparate impact of current American Bar Association ("ABA") accreditation practices on African-American enrollment at law schools that admit students with lower Law School Admission Test ("LSAT") scores.¹ Those studies were limited because of the inability, at that time, to identify additional schools under review by the ABA Section of Legal Education Accreditation Committee and Council.

Since then, an approach has been developed using the annual reports published by the ABA Section of Legal Education to identify schools that are under review by the Section's Accreditation Committee and Council. This article presents a more comprehensive analysis of the impact of the ABA's current accreditation practices on schools that admit students with lower LSAT scores. All information was taken from the publicly

[†] Professor and Associate Dean, Thomas M. Cooley Law School at Oakland University, member of the National Bar Association Law Professors Division, and member of the ABA Section of Legal Education Diversity Committee. I would like to thank Cooley student Andrew Meier and the *St. John's Law Review* for their help with this Article. I would also like to thank Dr. William Arnold (Ph.D.), Cooley Law School's Director of Enrollment and Student Services, for his assistance with the statistical analysis in Part III of this Article.

¹ John Nussbaumer, *Misuse of the Law School Admissions Test, Racial Discrimination, and the De Facto Quota System for Restricting African-American Access to the Legal Profession*, 80 ST. JOHN'S L. REV. 167, 176-79 (2006) (highlighting American Bar Association policies that pressure schools, during their initial accreditation and periodic inspection processes, to raise their average 25th percentile LSAT score).

available data found in the 2004 and 2007 editions of the *ABA-LSAC Official Guide to ABA-Approved Law Schools*.²

I. THE SCHOOLS

Twenty schools that had 25th percentile LSAT scores of 151³ or less as of Fall 2002 were inspected during the 2002–03, 2003–04, and 2004–05 academic years by teams appointed by the Consultant's Office of the ABA Section of Legal Education on behalf of the ABA Accreditation Committee or Council.⁴ Those twenty schools are profiled in Table 1 of the Appendix.

Geographically, these twenty schools are located in thirteen different jurisdictions—California, Connecticut, the District of Columbia, Florida, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, New York, Texas, and Virginia—representing almost all sections of the country.⁵

In terms of size, five of these schools have enrollments in the 0–500 student range, ten have enrollments in the 501–1,000 student range, and five have enrollments in the 1,001+ range.⁶

The two factors shared by all twenty of these schools are that they began the study period with 25th percentile LSAT scores at or below the approximate national median and that they were subject to review by the ABA Accreditation Committee and Council during the period studied.⁷

² LAW SCHOOL ADMISSION COUNCIL & AMERICAN BAR ASSOCIATION, *ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS: 2007 EDITION* (Wendy Margolis et al. eds., 2006) [hereinafter 2007 LAW SCHOOL GUIDE]; LAW SCHOOL ADMISSION COUNCIL & AMERICAN BAR ASSOCIATION, *ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS: 2004 EDITION* (Wendy Margolis et al. eds., 2003) [hereinafter 2004 LAW SCHOOL GUIDE]. Each edition reports data for the fall two years before the date of the edition. For example, the 2007 edition reports data provided in Fall 2005 and the 2004 edition reports data provided in Fall 2002. See 2007 LAW SCHOOL GUIDE, *supra* at 56–65; 2004 LAW SCHOOL GUIDE, *supra* at 64–73.

³ The national median was approximately 151.

⁴ OFFICE OF THE CONSULTANT ON LEGAL EDUCATION, AMERICAN BAR ASSOCIATION, *ANNUAL REPORT OF THE CONSULTANT ON LEGAL EDUCATION TO THE AMERICAN BAR ASSOCIATION: 2004–2005 EDITION* (2005) [hereinafter CONSULTANT ANNUAL REPORT].

⁵ See 2007 LAW SCHOOL GUIDE, *supra* note 2, at 56–65.

⁶ See *id.*

⁷ See CONSULTANT ANNUAL REPORT, *supra* note 4.

II. THE STUDY

For each school, Table 1 profiles the school's 25th percentile LSAT score at the beginning of the three-year study period in Fall 2002, the number and percentage of African-American students enrolled at the school in Fall 2002, the school's 25th percentile LSAT score at the end of the study period in Fall 2005, the number and percentage of African-American students enrolled at the school in Fall 2005, and the net change in the number of African-American students over this three-year period. In addition, totals for all twenty schools were calculated to show the overall figures for the entire group of twenty schools.

III. THE RESULTS

The results are striking and disturbing to any objective observer and confirm the thesis presented in the previous St. John's study—that being subject to review by the ABA Accreditation Committee and Council is hazardous to African-American law school enrollment.⁸ Table 1 shows that:

- One hundred percent of the schools studied (20/20) raised their 25th percentile LSAT scores during the period they were under review by the Accreditation Committee and Council.
- The average increase in the 25th percentile LSAT scores for these twenty schools was 3.30 points during the period they were under review.
- Ninety-five percent of the schools studied (19/20) suffered a decline in the percentage of African-American students enrolled during the period they were under review.
- Sixty-five percent of the schools (13/20) also suffered a decline in the number of African-American students enrolled during the period they were under review.
- The average decline suffered by these schools in the number of African-American students enrolled was 34% during the period they were under review.
- During the three-year period studied, total enrollment at these twenty schools increased by 24%, from 14,255 students to 17,638 students.

⁸ See Nussbaumer, *supra* note 1, at 176.

- Nationwide, during the same three-year period, African-American applicants to law school increased by 3% from 9,700 in Fall 2002 to 10,010 in Fall 2005.⁹
- But, during the same three-year period, African-American enrollment at the twenty schools under review decreased by 8%, from 1,824 students to 1,680 students.

The harm to African-American enrollment occurred despite the United States Supreme Court's landmark decision in *Grutter v. Bollinger*,¹⁰ which permits the consideration of diversity in law school admissions decisions.¹¹ It also occurred despite the fact that none of the twenty schools studied are public institutions subject to any state law restrictions, such as California Proposition 209,¹² that prohibit the consideration of race in university admissions. In other words, all twenty of these schools were free to consider diversity in their admissions process to the full extent permitted by law, but many of them still suffered significant declines in African-American enrollment.

Statistical analysis of the changes in the 25th percentile LSAT scores and the number of African-American students enrolled indicates a negative relationship ($r = -.58$), meaning that as the 25th percentile scores increase, the number of African-American students enrolled decreases. This correlation is significant at the $p = .01$ level, meaning that the probability that this happened by chance was just 1%, or one chance out of 100.

The impact of this relationship becomes more visible if the schools are grouped according to the amount of the increase in 25th percentile LSAT scores. The schools that experienced the largest increases in their 25th percentile LSAT score, five points or more, had an average decrease of thirty-five African-American students, while the schools that experienced the smallest increases, two points or less, had an average decrease of less than one student.

⁹ See LAW SCHOOL ADMISSION COUNCIL, VOLUME SUMMARY APPLICANTS BY ETHNIC & GENDER GROUP (2005), <http://www.lsacnet.org/data/volume-summary-ethnic-gender-app.htm> [hereinafter APPLICANT SUMMARY].

¹⁰ 539 U.S. 306 (2003).

¹¹ *Id.* at 325 (“[S]tudent body diversity is a compelling state interest that can justify the use of race in university admissions.”).

¹² See *infra* note 19.

IV. THE ABA'S FAILURE TO PROVIDE ACCESS TO NEEDED DATA

Despite repeated requests by members the National Bar Association's ("NBA") Law Professors Division, the ABA Section of Legal Education has failed to provide independent access to data regarding these issues. Access to the data that is regularly collected and controlled by the Section would permit additional analysis that would likely provide further confirmation that review by the Accreditation Committee and Council is hazardous to African-American enrollment.

For example, a comparative study of twenty similar schools that were not under review by the Accreditation Committee and Council during the same period would provide a control group to see whether and to what extent those schools increased their 25th percentile LSAT scores and the impact that increase may have had on African-American enrollment.¹³

In other legal contexts, the failure of a party to provide access to relevant information within its control raises a presumption that the information would prove adverse to that party's position.¹⁴ Other data indicates that this is, in fact, the case with the ABA Section of Legal Education.

For example, it was noted in the article *Misuse of the Law School Admissions Test, Racial Discrimination, and the De Facto Quota System for Restricting African-American Access to the Legal Profession*,¹⁵ that of the eighty-four schools studied in the eight largest law school markets, without regard to whether the schools were under review by the Accreditation Committee and Council, only 82% (69/84) raised their 25th percentile LSAT

¹³ Accurately identifying these schools is not possible without access to the Section's records because schools are kept on report or otherwise remain subject to Accreditation Committee review for extended periods of time. The fact that a school was not inspected between 2002 and 2005 thus does not mean that the school was not under review. The only way to determine this is to examine the Committee's records.

¹⁴ See, e.g., Alan Stephens, Annotation, *Adverse Presumption or Inference Based on Party's Failure To Produce or Examine That Party's Attorney—Modern Cases*, 78 A.L.R. 4TH 571, at § 2 (1990).

It is an established rule of evidence that the failure to call an available witness who is within one party's control and has knowledge pertaining to a material issue may, if not satisfactorily explained, lead to an inference or presumption that the witness' testimony would have been adverse to that party

Id. (internal citations omitted).

¹⁵ See Nussbaumer, *supra* note 1.

scores during the period studied.¹⁶ In contrast, 100% (20/20) of the schools studied in this article, all of which were under review, raised their 25th percentile LSAT scores during the period studied.

This one-to-one correlation between being under review by the Accreditation Committee and Council and increased 25th percentile LSAT scores is persuasive proof that a strong correlation does, in fact, exist.

V. THE IMPACT OF INTENSIVE ACCREDITATION REVIEW

To test this thesis further, Table 2 in the Appendix profiles all nineteen fully or provisionally accredited ABA schools in California during the same three-year period. California was chosen to test the thesis because four California schools, Golden Gate, Whittier, Thomas Jefferson, and Western State, were under intensive review by the Accreditation Committee and Council during this time.¹⁷ The study was constructed the same way as the national study described above in Part II.¹⁸

The results, again, are striking and disturbing, and confirm the thesis that being subject to review by the ABA Accreditation Committee and Council is hazardous to African-American law school enrollment. Table 2 shows that:

- The fifteen California schools that were not under intensive review by the Committee and Council raised their 25th percentile LSAT scores by an average of 2.40 points.
- In contrast, the four schools that were under intensive ABA review raised their 25th percentile LSAT scores by an average of 4.25 points, almost double the increase of the schools that were not under intensive review.

¹⁶ See *id.* at 174. Some of these schools were probably under review during this period, which would skew the number and percentage of schools that raised their 25th percentile LSAT scores toward the high side if the thesis is correct.

¹⁷ Golden Gate and Whittier were publicly sanctioned by being placed on probation by the Accreditation Committee and Council, Thomas Jefferson was concerned about its status, and Western State University was publicly stripped of its provisional approval, which was then re-instated by the Committee and Council following successful legal action by Western State in federal district court.

¹⁸ All information was taken from the publicly available data found in the 2004 and 2007 editions of the *ABA-LSAC Official Guide to ABA-Approved Law Schools*. See 2007 LAW SCHOOL GUIDE, *supra* note 2, at 56–65; 2004 LAW SCHOOL GUIDE, *supra* note 2, at 64–73.

- The fifteen schools that were not under intensive review saw their overall enrollment increase by 6.8%, from 11,702 students to 12,493 students, and saw their African-American enrollment decrease by 3.5%, from 515 students to 497 students, resulting in a net difference of just 10.3% between the increase in overall enrollment and the decrease in African-American enrollment.
- In contrast, the four schools that were under intensive ABA review saw their overall enrollment increase by 17.6%, from 2,562 students to 3,014 students, and saw their African-American enrollment decrease by 44%, from 170 to 96 students, resulting in a net difference of 61.6%, almost six times the difference of the schools that were not under intensive review.

Only eight of the fifteen schools that were not under intensive review experienced a decline in the number of African-American students enrolled, with an average decline of 21%. In contrast, as mentioned above, all four of the schools that were under intensive ABA review experienced a decline in the number of African-American students enrolled, with an average decline of 44%, more than double the average decline experienced by the schools that were not under intensive review.

This difference occurred despite the fact that none of the four schools that were under intensive ABA review are public institutions limited by Proposition 209's restrictions on the use of race in university admissions.¹⁹

VI. LSAT CUT-OFF SCORES

A related phenomenon is the extent to which accreditation practices may pressure schools to avoid admitting too many lower-LSAT score students in order to stay below the radar screen of accrediting authorities.

¹⁹ See 2007 LAW SCHOOL GUIDE, *supra* note 2, at 310, 718, 794, 798 (listing Golden Gate, Thomas Jefferson, Western State, and Whittier law schools as private educational institutions). Proposition 209 was enacted as Article I, section 31 of the California Constitution. See *Connerly v. State Pers. Bd.*, 129 P.3d 1, 2 (Cal. 2006). Article I, section 31 reads as follows: "The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting." CAL. CONST. art. 1, § 31.

The Law School Admission Council's cautionary policies strongly and explicitly discourage cut-off scores below which no applicants will be considered, in part because of the disparate impact such cut-off scores can have on minority applicants.²⁰

The ABA Section of Legal Education claims that it does not have any minimum LSAT cut-off scores for determining compliance with its accreditation standards.²¹ Critics of the Section claim that it has an unwritten, *de facto* cut-off score of 141, and that schools that admit more than a few applicants below that score risk intensive scrutiny and potential loss of their accreditation.²²

The *ABA-LSAC Official Guide (Searchable Edition)*²³ allows law school applicants to predict their chances of gaining admission to 181 participating law schools based on their LSAT scores and undergraduate grade point averages ("UGPAs").²⁴ Searches of this database reveal the following information:

- Applicants with LSAT scores of 140 would not fall within the 25th–75th percentile LSAT range of any fully or provisionally accredited American law school.²⁵
- Applicants with LSAT scores of 140 and UGPAs of 3.00 would only have a 0%–10% chance of obtaining admission at 164 of 181 fully or provisionally accredited schools (90.6%), would only have a 25%–49% chance at 1 of 181

²⁰ See LAW SCHOOL ADMISSION COUNCIL, CAUTIONARY POLICIES CONCERNING LSAT SCORES AND RELATED SERVICES (2005), available at <http://www.lsacnet.org/publications/CautionaryPolicies.pdf>.

²¹ See SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, AMERICAN BAR ASSOCIATION, STANDARDS: RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS: 2005–2006, Standard 503 (2005) (stating that there is no "particular weight" that should be given to the LSAT and that other factors are important in the law school admissions process).

²² See George B. Sheperd, *No African-American Lawyers Allowed: The Inefficient Racism of the ABA's Accreditation of Law Schools*, 53 J. LEGAL EDUC. 103, 114–15 (2003).

²³ LAW SCHOOL ADMISSION COUNCIL & AMERICAN BAR ASSOCIATION, ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS: 2007 SEARCHABLE EDITION (2006), <http://officialguide.lsac.org/docs/cgi-bin/home.asp> [hereinafter SEARCHABLE LAW SCHOOL GUIDE].

²⁴ See *id.* (follow "LSAC Data Search" hyperlink).

²⁵ See *id.* (follow "ABA Data Detailed Search" hyperlink; then follow "Admission" hyperlink; select "25th percentile LSAT—FT <155"; then click "Search Now" button).

schools (<1%), and would only have a 50% or better chance at 2 of 181 schools (1.1%).²⁶

This *de facto* LSAT cut-off score has a disparate impact on African-American law school applicants whose LSAT scores on average are approximately ten points less than their White counterparts.²⁷

VII. THE PIPELINE IS NOT THE PROBLEM

Discussions of these issues often raise arguments by defenders of the Section of Legal Education that the best way to address declining African-American enrollment is to increase the number of African-American applicants in the pipeline to law school.²⁸ While these pipeline efforts are well-intentioned and certainly have a place in any comprehensive solution, they cannot solve the problem of declining African-American enrollment because of the LSAT-based blockage that currently exists at the front door of America's law schools.

This blockage can be seen by examining and comparing the number of African-American law school applicants to the number actually admitted to at least one school during the same three-year period used in Tables 1 and 2 discussed above. That comparison shows the following:

- For the Fall 2002 entering class, a total of 9,700 African-American applicants submitted applications to law school,²⁹ and 3,770 (39%) were admitted to at least one school.³⁰

²⁶ See *id.* (follow "LSAC Data Search" hyperlink; then type "140" in the "Your LSAT Score" window and type "3.00" in the "Your UGPA" window; then click "Search" button).

²⁷ See Alex M. Johnson, Jr., *The Destruction of the Holistic Approach to Admissions: The Pernicious Effects of Rankings*, 81 IND. L.J. 309, 332 (2006) ("African-American test-takers score on average ten points less (143 versus 153) than White test-takers on this all-important standardized test."); William C. Kidder, *Does the LSAT Mirror or Magnify Racial and Ethnic Difference in Educational Attainment?: A Study of Equally Achieving "Elite" College Students*, Comment, 89 CAL. L. REV. 1055, 1074 (2001) (noting that there is a 9.2-point gap between the LSAT test scores of African-American and White students).

²⁸ See Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot be Effective in Isolation*, 2005 BYU EDUC. & L.J. 1, 78 (2005) (noting that law schools need to be involved in preparing students earlier in their education to pursue a career in law).

²⁹ APPLICANT SUMMARY, *supra* note 9.

³⁰ LAW SCHOOL ADMISSION COUNCIL, VOLUME SUMMARY ADMITTED APPLICANTS BY ETHNIC AND GENDER GROUP (2005), <http://www.lsacnet.org/data/Volume-Summary-Ethnic-Gender-Admits.htm> [hereinafter ADMITTED APPLICANTS

- For the Fall 2005 entering class, a total of 10,010 African-American applicants submitted applications to law school,³¹ and 3,660 (37%) were admitted to at least one school.³²
- As African-American applicants increased by 3.2% from 9,700 applicants for the Fall 2002 class to 10,010 applicants for the Fall 2005 class, the number and percentage of African-American applicants who were accepted to at least one school both decreased, from 3,770 and 39% for the Fall 2002 class to 3,660 and 37% for the Fall 2005 class.

While efforts to increase the number of African-American applicants in the pipeline should be pursued, the real problem is that schools are unable or unwilling to give these applicants a chance to prove through performance that their LSAT scores are not an accurate predictor of their potential to graduate from law school, pass the bar examination, and become competent and contributing members of the legal profession. As the Law School Admission Council argued in its amicus curiae brief before the United States Supreme Court in *Grutter*:

The LSAT . . . was never intended to serve as a measure of “merit[.]” . . . [and] “measures only a limited set of skills.” . . . It does not . . . assess writing ability, effectiveness of advocacy, negotiating ability, leadership potential, or a number of other skills and attributes integrally related to success in law school and the legal profession. Nor does the LSAT evaluate important personal characteristics—such as motivation, perseverance, personal integrity, courage, social skills, and passion—that play a crucial role in determining success in law school and in a legal career.³³

VIII. OTHER VOICES

The National Bar Association is the “nation’s oldest and largest association of predominantly African-American lawyers and judges.”³⁴ It was founded in 1925, when African-American

SUMMARY].

³¹ APPLICANT SUMMARY, *supra* note 9.

³² ADMITTED APPLICANTS SUMMARY, *supra* note 30.

³³ Brief of the Law School Admission Council as Amicus Curiae in Support of Respondents at 20, *Grutter v. Bollinger*, 539 U.S. 306 (2003) (No. 02-241), 2003 WL 399229.

³⁴ See NBA: The Association, History of the National Bar Association, <http://www.nationalbar.org/about/index.shtml#history> (last visited July 26, 2006) (discussing the history of the National Bar Association).

lawyers were excluded from membership in the American Bar Association based on their race.³⁵ Today, the NBA represents over 20,000 lawyers, judges, legal scholars, and law students both here in the United States and internationally.³⁶

In January of 2006, the NBA enacted a resolution on law school diversity that highlighted the disparate impact of current accreditation practices, stating that “some law schools have been required by the ABA to raise their minimum LSAT requirements, and have seen their African-American enrollment decrease substantially as a result.”³⁷ The resolution called upon the Council of the Section of Legal Education to justify these practices with “published studies correlating those practices with increased professional competence.”³⁸ The same resolution also called on the Council to increase the transparency of these practices “by making the basis for those practices public and providing public access to the data and studies supporting those practices.”³⁹

In his *President's Report on Law School Diversity*, NBA President Reginald M. Turner summed up a letter he wrote to the editor of the *The Chronicle of Higher Education* as follows:

The disturbing reality in American legal education today is that . . . schools that want to increase the diversity of the profession by reducing the significance of the LSAT in race-blind admissions policies are being forced to choose between diversity and compliance with accreditation requirements that have not been justified with valid and reliable studies correlating these requirements with increased professional competence.⁴⁰

IX. THE DAMAGES OF CONTINUING TO IGNORE THIS PROBLEM

In other fields, disparate impact statistics such as those in this article would subject those responsible for the practices to legal action for race discrimination.⁴¹ Those responsible would

³⁵ *See id.*

³⁶ *See id.*

³⁷ REGINALD M. TURNER, JR., PRESIDENT'S REPORT ON LAW SCHOOL DIVERSITY (2006), <http://www.nationalbar.org/about/turnersreport.shtml>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*; see also Reginald M. Turner, Jr., Letter to the Editor, *Law Schools and Diversity*, CHRON. HIGHER EDUC., Apr. 28, 2006, at 63.

⁴¹ See Joseph J. Ward, Note, *A Call for Price Waterhouse II: The Legacy of*

have the burden of justifying their practices or face the prospect of paying substantial monetary damage awards to compensate the victims of those practices for the discrimination they have suffered.⁴²

The victims in this case are African-American law school applicants who have been denied admission to law school because schools subject to the accreditation practices of the ABA Accreditation Committee and Council have been unwilling to risk their accreditation in order to provide these students with the chance to prove through performance that they have the ability to graduate from law school, pass the bar examination, and become competent and contributing members of the legal profession. The monetary damages include, but are not limited to, the lost income over a lifetime that these applicants could have earned as members of the bar.

The more serious, long-term, societal damage is the failure to create a sufficiently large leadership class of lawyers of color who can serve the needs of an increasingly diverse society. Most long-range demographic projections for the United States indicate that it is only a matter of time before people of color become the majority in American society.⁴³ When that happens, we face the disturbing prospect of a White-dominated lawyer class in control of a civil and criminal justice system whose users are predominantly people of color.

Economically, America's law schools will ultimately have to face the reality that the majority of law school applicants will also be people of color. When that day arrives, the continuation of the current accreditation system will result in a crisis that will either force changes in that system or cause the economic collapse of many American law schools.

Justice O'Connor's Direct Evidence Requirement for Mixed-Motive Employment Discrimination Claims, 61 ALB. L. REV. 627, 630–31 (1997) (stating that statistics that show disparate impact can be used to establish a prima facie case of employment discrimination).

⁴² See *id.* at 633 (stating that, once a prima facie case is established, the burden is on the defendants to show that there is a non-discriminatory reason for the disparate statistics).

⁴³ See Hon. Stephen Reinhardt, United States Circuit Judge for the Ninth Circuit Court of Appeals, Millennium Speech (Mar. 4, 2000), in 9 J.L. & POL'Y 435, 443 (2001) (discussing statistics that show that minorities will make up nearly half of the population by 2050).

CONCLUSION

We can either face up to, and deal now with, the issues relating to over-reliance on the LSAT, with adequate time to plan for the changes that inevitably will have to be made, or we can wait for the crisis that will come to wake us up to the fact that we cannot continue business as usual any longer.

To date, the Council of the Section of Legal Education has avoided or ignored repeated requests from members of the NBA's Law Professors Division to begin the transition process by permitting access to the data the Council currently controls for the purpose of conducting an independent and comprehensive study of the Council's accreditation practices. This is the first step in identifying the nature and extent of the problem so that solutions can be found.

The Council's avoidance of these requests is to some extent understandable given that it is being asked to examine its own conduct on a sensitive issue that it believes is actually one of its strengths. But the objective facts demonstrate more than probable cause to believe that the ABA's practices are a significant part of the problem, not part of the solution.

If the Council continues to ignore these requests, it should be called upon to account for its actions either by litigation on behalf of law school applicants with lower LSAT scores who have been denied the chance to become a part of the next generation of America's lawyer class, or by Congress and the U.S. Department of Education through their oversight authority of the Council as the federally-recognized accrediting agency for law schools.

APPENDIX

Table 1: Analysis of Lower LSAT Schools Reviewed By the Accreditation Committee or Council Fall 2002 - Fall 2005
(25th Percentile LSAT Scores and African-American Enrollment)

| School | 25th Percentile LSAT Score (2002) | Number of African- Americans Enrolled (2002) | Percentage of Student Population that was African- American (2002) | 25th Percentile LSAT Score (2005) | Number of African- Americans Enrolled (2005) | Percentage of Student Population that was African- American (2005) | Percentage Change in Number of African-American Students Enrolled 2002-2005 |
|------------------------------|---|--|--|---|--|--|---|
| Appalachian | 143 | 19 | 6.3% | 147 | 9 | 2.5% | -53% |
| Baltimore | 150 | 128 | 13.9% | 152 | 121 | 12.3% | -5% |
| Barry | 145 | 19 | 6.1% | 149 | 32 | 6.0% | 68% |
| Chapman | 151 | 7 | 1.9% | 154 | 4 | 0.7% | -43% |
| Dist. Of Columbia | 145 | 63 | 46.7% | 149 | 71 | 30.6% | 13% |
| Florida Coastal | 149 | 54 | 10.4% | 150 | 71 | 6.6% | 31% |
| Golden Gate | 147 | 46 | 7.4% | 150 | 21 | 2.5% | -54% |
| New England | 147 | 41 | 4.1% | 150 | 25 | 2.3% | -39% |
| N.Y. Law School | 150 | 101 | 6.7% | 153 | 89 | 6.0% | -12% |
| N. Illinois | 151 | 26 | 7.8% | 154 | 28 | 8.4% | 8% |
| N. Kentucky | 150 | 22 | 4.7% | 152 | 26 | 4.5% | 18% |
| Quinnipiac | 148 | 34 | 5.0% | 155 | 10 | 1.8% | -71% |
| St. Thomas (Fl) | 146 | 48 | 9.9% | 147 | 58 | 7.2% | 21% |
| Southern | 143 | 246 | 63.2% | 144 | 295 | 60.6% | 20% |
| Suffolk | 151 | 54 | 3.2% | 154 | 43 | 2.6% | -20% |
| Texas Southern | 141 | 333 | 57.4% | 144 | 326 | 49.6% | -2% |
| Thomas Cooley | 141 | 459 | 22.7% | 146 | 376 | 11.6% | -18% |
| Thomas Jefferson | 148 | 23 | 3.4% | 151 | 13 | 1.6% | -43% |
| Western State | 143 | 46 | 9.1% | 148 | 22 | 4.3% | -52% |
| Whittier | 146 | 55 | 7.4% | 152 | 40 | 4.6% | -27% |
| Totals & Averages | 146.75 | 1,824 | 12.8% | 150 | 1680 | 9.5% | -8% |

*Total enrollment for all schools was 14,255 students.

** Total enrollment for all schools was 17,638 students.

Table 2: Analysis of California Law Schools' 25th Percentile LSAT Scores and African-American Student Enrollment
(Fall 2002-Fall 2005)

| School | 25th Percentile LSAT (2002) | Number of African- American Students Enrolled (2002) | Percentage of Student Population that Was African- American (2002) | 25th Percentile LSAT (2005) | Number of African- American Students Enrolled (2005) | Percentage of Student Population that Was African- American (2005) | Percentage Change in Number of African- American Students Enrolled 2002-2005 |
|------------------------------|--------------------------------------|---|--|--------------------------------------|---|--|--|
| Cal-Berkeley | 161 | 37 | 4.1% | 164 | 39 | 4.5% | 5% |
| Cal-Davis | 157 | 16 | 2.9% | 158 | 10 | 1.8% | -37% |
| Cal-Hastings | 159 | 36 | 2.9% | 160 | 33 | 2.6% | -8% |
| UCLA | 162 | 29 | 3.0% | 162 | 42 | 4.3% | 45% |
| Cal-Western | 147 | 28 | 2.9% | 151 | 26 | 3.0% | -7% |
| Chapman | 151 | 7 | 1.9% | 154 | 4 | 0.7% | -43% |
| Golden Gate | 147 | 46 | 7.4% | 150 | 21 | 2.5% | -54% |
| Loyola | 157 | 68 | 5.0% | 160 | 49 | 3.7% | -28% |
| Pacific | 150 | 26 | 2.6% | 156 | 24 | 2.3% | -9% |
| Pepperdine | 155 | 29 | 4.4% | 157 | 33 | 4.7% | 14% |
| San Diego | 158 | 24 | 2.4% | 160 | 35 | 3.3% | 46% |
| San Francisco | 154 | 30 | 4.5% | 157 | 31 | 4.3% | 3% |
| Santa Clara | 153 | 30 | 3.2% | 157 | 38 | 4.0% | 27% |
| Southern Cal. | 163 | 66 | 10.4% | 164 | 57 | 9.1% | -14% |
| Southwestern | 152 | 49 | 5.1% | 154 | 37 | 4.0% | -24% |
| Stanford | 166 | 40 | 7.3% | 167 | 41 | 7.8% | 3% |
| Thomas Jeff. | 148 | 23 | 3.4% | 151 | 13 | 1.6% | -43% |
| Western State | 143 | 46 | 9.1% | 148 | 22 | 4.5% | -52% |
| Whittier | 146 | 55 | 7.4% | 152 | 40 | 4.6% | -27% |
| Totals & Averages | 154 | 683* | 4.8% | 157 | 595** | 3.8% | -13.0% |

* Total enrollment for all schools was 14,264 students.

** Total enrollment for all schools was 15,507 students.

