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## U.S. NEWS' VIEWS ON INCLUDING DIVERSITY IN OUR BEST LAW SCHOOLS RANKING

ROBERT MORSE\*

The current U.S. News Diversity Index identifies law schools where law students are most and least likely to encounter classmates from a different racial or ethnic group. The greater the diversity index value, the higher likelihood each person a student meets on campus will be from a different ethnic group than his own. A lower index value means it's less likely the ethnic group will be different than his own.

The current Diversity Index was created during the 2010-2011 academic year and is based on ethnicity data collected by *U.S. News* from each law school. The Index is based on the total of full and part-time J.D. students (excluding international students) and each ethnic group's percentage representation on campus. The diversity formula produces a diversity index that can range from 0.0 to 0.86. The closer a law school's diversity index comes to 0.86, the more diverse is that law school's JD student body. The maximum diversity index attainable will be less than 1.0, since an equally divided student body will have a diversity index of 0.86.

Each school's diversity index is computed in three steps. The first step is the total full time (FT) plus part-time (PT) J.D. enrollment less total international students (INT'L) equals modified total FT and PT J.D. enrollment ( $FT + PT - INT'L = \text{Modified FT \& PT Enrollment}$ ). The second step is to calculate the percentage enrollment for each ethnic group using the calculation from the first step as the denominator. The third and last step reports the diversity index. The formula for the third step is  $1 - (\text{White} + \text{Unknown}\% + \text{Black}\% + \text{Asian}\% + \text{Hispanic}\% + \text{American Indian}\% + \text{Pacific Islander}\% + \text{Multi-racial}\%)$ . This number is the school's Diversity Index. The methodology used to compute the index was

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based on a 1992 article by Philip Meyer and Shawn McIntosh in *The International Journal of Public Opinion Research*.

According to the latest diversity index results, The University of Hawaii—Manoa ranked the most diverse with an index of 0.73, with Asian-Americans ranking as the largest minority group on campus comprising of 31 percent of campus. (See Chart 1.). The school with received the lowest Diversity Index was Duquesne University, which received a 0.11 index, where African-Americans comprised the largest minority group with three percent. (See Chart 2.)

CHART 1: DIVERSITY INDEX—THE TOP 5

School	Diversity Index	Largest Minority Group	Percentage Enrolled
University of Hawaii—Manoa (Richardson)	0.73	Asian-American	31%
Texas Southern University (Marshall)	0.68	African-American	45%
Florida International University	0.64	Hispanic	40%
University of the District of Columbia (Clarke)	0.64	African-American	31%
Florida A&M University	0.64	African-American	42%

CHART 2: DIVERSITY INDEX—THE BOTTOM 5

School	Diversity Index	Largest Minority Group	Percentage Enrolled
West Virginia University	0.16	African-American	6%
Campbell University	0.16	African-American	3%

(Wiggin)			
University of Nebraska—Lincoln	0.14	African-American	2%
University of Wyoming	0.13	Asian-American	3%
Duquesne University	0.11	African-American	3%

### I. STRENGTHS & WEAKNESSES OF THE CURRENT U.S. NEWS DIVERSITY INDEX

*U.S. News* believes that law school diversity is very important, which is why it publishes the separate law school diversity index rating and a separate ethnic breakdown of students at each law school on usnews.com and in print. It believes the current Diversity Index is the only such law school diversity rating measure published for all law schools by the mass media. The Index does not measure how successful schools are at meeting diversity goals at the state, local or national level. Furthermore, the Diversity Index does not measure how successful law schools are at meeting diversity goals which may have been internally set or are part of a law school's or university's mission. The current index gives law schools enrolling a large proportion of students from any one ethnic group a low index value even though that school may be matching diversity in that state or enrolling a large proportion of one ethnic group could be part of a school's mission in the case of HBCUs (Historically Black Colleges and Universities).

### II. SHOULD DIVERSITY RANKINGS BE INCLUDED IN "U.S. NEWS & WORLD REPORT'S" RANKINGS?

Diversity is *not* included as a factor in the overall law school rankings. This is done for several reasons. First, law schools are not in agreement on a definition of diversity. Second, there is also not an agreement or consensus among law schools on how diversity should be measured. Also, according to *U.S. News*, there is also not an agreement or consensus among the law schools that achieving diversity adds to the academic quality of law schools. *U.S. News* also believes that diversity is a separate issue from developing indicators to be used to determine which are the best law

schools.

*U.S. News* has not wanted the rankings to be part of the ongoing public policy debate of how to achieve diversity goals in schools. Based on all the commentary over the years about how some law schools react to and target *U.S. News* ranking variables, if diversity was added to the Best Law Schools ranking formula it would seem likely it would change law school behavior, and we would arguably be social engineering. If diversity is added into the law school ranking model, it would likely set a precedent for all the other *U.S. News* education rankings. With diversity added to the law school rankings, some may argue it should be added into all the other education rankings, like Best Colleges or Best Graduate Schools.

If some measure of diversity is added to the rankings, the question remains how should diversity be defined or measured or added to the formula. Is diversity just ethnic diversity? Should it include economic diversity? Geographic diversity? Age diversity? Gender and GLBT diversity? In term of ethnic diversity, would the ethnicity benchmark be based on population at the state level for public schools and at the national level for private institutions? What age group range of the population should be used for the population benchmark? Would it be college age versus total population versus some other age choice?

Many questions remain over incorporating diversity in to the formula. If diversity is really more than just ethnic diversity, what standard should be used for economic diversity—i.e. individual income or family income? What standard should be used for geographic diversity—i.e. state, region, country, city, rural, urban? How should HBCUs be handled in terms of diversity? Should religion be a factor if the school has a religious orientation, and it's a factor in admissions? How should the concept of underrepresented minorities be taken into account? Should Asian-Americans be considered a minority?

#### CLOSING THOUGHTS

*U.S. News* has an open offer to start an official advisory group with any of the many law school associations like ABA, AALS, NALP, LSAC. As of November 2011, *U.S. News* hasn't received any acceptances to this offer. *U.S. News* is also open to starting an advisory group, independent of law school associations, with a cross-section of interested law school academics and law school administrators. One main reason for the advisory group would be to have open and ongoing communications between *U.S. News* and the law schools. *U.S. News* accepts as a key stipulation of a Law

School/*U.S. News* advisory group that participation would not mean that any member would in anyway be agreeing with the *U.S. News* law school rankings, with any *U.S. News* policy or would have to stop criticizing *U.S. News* publicly. *U.S. News* will discuss with those interested in being part of such a group some ideas on how it could be formed and organized.

