

Mid-Atlantic People of Color Legal Scholarship Conference

“Thinking About Diversity in Law School Admissions”

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University of Virginia

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I. Good Evening – I am thrilled to be here at the conclusion of this year’s Mid-Atlantic People of Color Legal Scholarship Conference.

- **15 years ago, I gave the keynote address at the *2nd Annual Northeaster People of Color Legal Scholarship Conference*. Examining our role in expanding inclusion of people of color in legal education, I asked a provocative question: *who should be our students? What kinds of students do we seek to reach and teach? Who should we educate?***

Today, legal education today is navigating a changing landscape.

- **Financial strain**
- **Shrinking job market for graduates**
- **Soaring cost of legal education**

But this same question has new urgency given recent data about the lack of progress in the work of expanding access to legal education to students of color.

- **Every law school faces new challenges in this sea of change.**
- **Recent studies and historic Supreme Court rulings have shown a disturbing trend in minority admission to law schools.**

- **During the same time period, the size of law school classes and the total number of law schools have increased, resulting with nearly 3,000 more first-year matriculants. The number of ABA accredited law schools has increased from 176 in 1992 to 200 in 2008.**
- **Yet, according to the study, there has been declining minority enrollment.**
- **The percentage representation of both groups has actually trended downward since 1993. These groups account for a significantly smaller percentage of the 2008 entering class than the 1993 entering class. Indeed, there was a 7.5% decrease in the proportion of African Americans in the 2008 class as compared with the 1993 class. There was a 11.7% decrease in the proportion of Mexican Americans in the 2008 class as compared with the proportion entering law school 15 years ago.**
- **Therefore, over the past 15 years, African American and Mexican American representation in law school has decreased. African Americans and Mexican Americans have captured none of the nearly 3,000 additional seats that became available. Even in real numbers, there are fewer African-American and Mexican-American matriculants in the 2008 class (4,060 combined) than existed in the Fall 1993 class (4,142 combined).**
- **Also...Higher Shut Out Rate & Lost Opportunity Costs: African American and Mexican American applicants have higher shut out rates than Caucasian applicants, which means a higher percentage of applicants in those**

groups are denied acceptance by all the schools to which they apply.

- **When this data was reported in the New York Times, LSAC responded by forwarding an email message to law school deans. The response to the study– comments from Stephen Schreiber, LSAC Executive Vice President (which you can find on the SALT website). Two most important points –**
 - **LSAC states that a significant change in their data-collection methodology in 2000, makes data going forward from Fall 2000 incomparable to prior data prior to that date. *Note: The studies author Conrad Johnson states that (a) the data was given to him directly from LSAC and (b) it contained no caution about its use. LSAC reviewed an earlier 2007 study using the same data and made no inquiries or comments about its accuracy or methodology.***
 - **The rest of LSAC’s response continues to discount Professor Johnson’s findings, stating that there was a 3% increase in the number of matriculants self-identified as a race/ethnicity other than Caucasian/White in the last eight years. *Note: The LSAC response focuses on a comparison between Caucasian students and students “other than Caucasian/White”, citing that enrollment for this group has increased 3% over the period of the study. The LSAC does not take account of the overall decrease in African American and Mexican American students during this period.***

has lowered the quality of their law schools or the quality of students admitted to their schools.

- **ABA Council of the Section of Legal Education and Admissions of the Bar – Standard 211 in February 2006 requires law schools to demonstrate a commitment to diversity by “concrete action.”**

- **The development of organizations such as the Law School Admissions Council, SALT, AALS, the ABA Commission on Racial and Ethnic Diversity in the Profession, along with hundreds of other groups and scholarly articles written by legal educators support remarkable interest in the issue.**

II. Minority representation in the legal profession will continue to be an issue until law schools embrace diversity as a core value. Law schools need to address diversity by implementing a more dynamic admissions review process, despite the decline in national rankings that could result from deemphasizing LSAT scores and GPA.

- **“Thought, study, and action are needed now,” Sandra Day O’Connor & Stewart Schwab essay from new book, *Affirmative Action in Higher Education over the Next Twenty Five Years*.**
 - **“Unless substantial progress is made, higher education will continue to face the dilemma of choosing between educational achievement and diversity ... Our society does not want to be in the same quandary 20 years from now.”**
 - **“Higher education cannot resolve the admissions dilemma on its own, because higher education is powerless to alter the basic profile of its applicant pool.”**
 - **“African Americans face a myriad of challenges that powerfully alter the profile of applications to higher education, including an extraordinarily high**

imprisonment rate among black males and a culture that often discourages academic success.”

- “Unless major changes are made in our k-12 education system, higher education 20 years from now will face the same conflict between educational talent and diversity that it faces today.”**

- **If we start from the ground up and strengthen the educational pipeline, we will be in a better position in ensuring that legal education and the legal profession will not face the same conflict 20 years from now.**
 - **This involves more than having a university work with k-12 schools to mentor minority students, give them campus tours, host summer programs, and instill a value for pursuing higher education.**
 - **Two years ago, AALS and LSAC sought private foundation funding for a dozen pipeline projects to be affiliated with law schools, law firms and nonprofit community-based organizations.**
 - **As Richard McCormick, President of Rutgers argued, we need a long-term approach, a reform, change in culture that “perpetuates academic underachievement.”**
 - **Legal educators should engage in multidisciplinary opportunities to cross traditional boundaries to share knowledge and collaborate to promote social justice. This can include working with other universities, local and state bar associations, legal employers, community colleges, Birth-3/k-12/college programs, parenting organizations, and more. (GAO Report to Congressional Committees)**

- **A broader notion of merit – say one based on job performance, (as suggested by Professors Sturm and Guiner), or on selection criteria other than the LSAT – should be driven by some clearer understanding of students we seek to reach and teach. (Haddon,**

Redefining Our Roles in the Battle for Inclusion of People of Color in Legal Education)

- **Law school concerns about rankings have driven them to overly on LSAT scores and GPA rather than conducting a holistic review to define excellence and merit in the student selection process. Even if law school administration is not too terribly focused on national rankings, other members of law school communities such as alumni, prospective students, and employers tend to look at them as a leading indicator of an institution's quality.**
- **Concerns about LSAT-driven ranking and unspoken assumptions about competency likely steer some faculties away from making a commitment to increase the numbers of students of color, although sometimes it has led faculties to change the socially understood meaning of inclusion. (Haddon, Redefining Our Roles in the Battle for Inclusion of People of Color in Legal Education)**
- **There is cause for optimism – the project by Professors Shutz and Zedeck at Berkeley.**

III. Concluding Remarks: Will legal education be able to explore new terrain for more positive results?

- **Recent studies and court rulings demonstrate how we are not making vital progress. Instead we are falling behind.**
- **Legal education institutions should be encouraged to think more deeply about the benefits of taking leadership in promoting an environment of inclusion.**
- **From my particular vantage point as Dean of the University of Maryland School of Law:**

- **Law faculty and staff agree that it is a mark of excellence in a law school – private or public – to identify and promote diversity as a core value.**
- **The Law School is a national leader in diversity, with a 28% minority representation in the Class of 2012 profile, but there is room for further innovation in our admissions process.**
- **By plotting the course to institutional results through the exploration of innovative practices and alternatives we will be able to reach our desired destination – a nation with a law school student body that more accurately reflects the identity of our changing world.**
- **We have fallen behind the times and will remain lagging until law schools look at students as more than numbers and until law schools are willing to weather the storm of decreased rankings that may likely come with a new approach. Let's not view this as a challenge, but rather an opportunity.**
- **Thank You.**