

SALT STATEMENT IN SUPPORT OF *U.S. NEWS & WORLD REPORT* BOYCOTT
Issued May 21, 2010

We write this statement on behalf of the Society of American Law Teachers—SALT—to urge your support of the actions of Dean Alfredo Garcia (St. Thomas University School of Law, Miami Gardens, FL) in refusing to participate in the *U.S. News & World Report* rankings. As you well know, the rankings exert enormous pressure on deans and faculties to reshape admissions practices and divert scarce resources. While we understand the pressures that lead most law schools to participate in the rankings while criticizing the methodology, we also know that a concerted effort by deans and faculty members could dramatically reduce if not eliminate the many pernicious effects of the rankings.

Chief among the rankings' ill effects is their impact on admissions decisions in general, and on diversity in admissions in particular. Because LSAT scores figure so prominently into the computation of a school's rank,¹ few schools are willing to compromise their ranking by accepting "nontraditional" students whose merit is measured in ways other than a single test score. Admissions officers from around the country consistently report that the rankings constrain their ability to accept deserving and otherwise qualified students with relatively low LSAT scores. Instead of admitting students with promising undergraduate records and diverse life experiences, these admissions officers must all too often strategically choose the student whose LSAT score helps to maintain or improve the school's ranking.²

The *U.S. News* rankings' emphasis on LSAT scores directly undercuts a school's ability to admit a diverse class.³ "The greater the emphasis on test scores, the more costly it seems to admit racially and economically diverse students."⁴ Given the well documented but little understood performance gap on standardized tests, the emphasis on LSAT scores necessarily impacts members of groups who under-perform on such tests. Indeed, the recent report of the ABA's Presidential Initiative Committee on Diversity recommends de-emphasizing the rankings because of their adverse impact on applicants of color.⁵ Further, given the correlation between family income and test scores, over-reliance on the LSAT also necessarily favors admitting students from affluent

¹ "Selectivity" is one of four indicators of a school's ranking and represents 25% of the overall ranking. The other three indicators are reputation, placement and faculty resources. Selectivity is widely considered to be the indicator most easily influenced by a law school trying to increase its rankings. LSAT scores count for 50% of the selectivity ranking.

² For a more thorough critique of law schools' over-reliance on the LSAT, see Society of American Law Teachers Statement on the LSAT, available at http://www.saltlaw.org/userfiles/file/2003_StatementLSATBrochure.pdf. Law schools' over-reliance on the LSAT contravenes LSAC's own instructions for its use. See Law School Admissions Council Fairness Procedures available at <http://www.lsac.org/AboutLSAC/LSAT-Fairness-Procedures.asp>.

³ Phoebe Haddon & Deborah Post, *Misuse and Abuse of the LSAT: Making the Case for Alternative Evaluative Efforts and a Redefinition of Merit*, 80 ST. JOHN'S L. REV. 41 (2006); Alex M. Johnson, Jr., *The Destruction of the Holistic Approach to Admissions: The Pernicious Effects of Rankings*, 81 IND. L. J. 309 (2006).

⁴ Wendy Espeland & Michael Sauder, *Rankings and Diversity*, 18 S. CAL. L. & SOC. JUST. 587, 599 (2009).

⁵ American Bar Association Presidential Initiative Commission on Diversity, *DIVERSITY IN THE LEGAL PROFESSION: THE NEXT STEPS: REPORT AND RECOMMENDATIONS*, p. 22, April 2010.

backgrounds. The rankings' emphasis on the LSAT thus serves to homogenize the entering class and ultimately the profession.⁶

The *U.S. News* rankings' emphasis on the LSAT also affects how law schools conceptualize merit in determining which of their applicants will be successful and proficient lawyers. Although the LSAT correlates to some small degree with first year performance in law school, neither the LSAT nor undergraduate GPA are indicators of ultimate success in the profession. Recent research reveals that there are alternate ways of assessing who is likely to be a successful attorney. Marjorie Schultz and Sheldon Zedeck have identified twenty-six factors, none measured by the LSAT, that correlate with effective lawyering. These factors include practical judgment, creativity and innovation, passion and engagement, ability to see the world through the eyes of others, networking and business development, diligence, integrity, and honesty.⁷ As Professor Jeffrey Stake convincingly argues:

Law school admissions are decisions with large societal implications. If we were to ask the American public, do you want lawyers in the future to have more cleverness or more integrity, which would they choose? If they would choose integrity, schools are sacrificing the traits the public wants in the quest for higher *U.S. News* rankings. What characteristics should a defendant want in his lawyer when his life is on the line in a capital case? What qualities should citizens want in an official making policy for the government? These are not the attributes being selected for when schools reserve most of their seats for those who are tops in bubble ability, the skill at taking multiple-choice standardized exams. The public interest is not well served when lawyers are those who are good at taking such tests rather than those who are good at written and oral expression. The nation is not strengthened when law schools deemphasize quality of undergraduate school, rigor of courses taken, business and military experience, social intelligence, and interpersonal skills. The effect of *U.S. News* rankings is to give the admissions edge to the applicant with a 163 LSAT who partied hard throughout college over the applicant with a 161 who spent a few years as a soldier and then started a successful business before taking the LSAT. As the influence of *U.S. News* reaches deeper into the admissions process, service to the country through the Marines or Peace Corps, ability to communicate orally with actual human beings, empathy, and a sense of justice will all be forsaken in the pursuit of higher numbers.⁸

⁶ For a more thorough analysis of how the rankings contribute to uniformity within law schools, see Rachel F. Moran, *Of Rankings and Regulation: Are the U.S. News & World Report Rankings Really a Subversive Force in Legal Education?*, 81 IND. L. J. 383 (2006).

⁷ Marjorie M. Shultz, *Expanding the Definition of Merit*, BOALT HALL TRANSCRIPT, Summer 2005, at 25, available at http://www.law.berkeley.edu/alumni/transcript/summer_05/22-27_feat_23_lsat_final.pdf.

⁸ Jeffrey E. Stake, *The Interplay between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L. J. 229, 235 (2006).

There is little question that the rankings also affect how law schools allocate resources. Each year before the rankings are released, law schools spend an inordinate amount of money producing and mailing glossy brochures that tout their achievements in the hope that their school's reputation will be enhanced causing a corresponding bump in the rankings. An even larger chunk of the budget is spent each year on financial aid targeted at high LSAT applicants. As now-Dean Phoebe Haddon and Professor Deborah Waire Post explain:

[L]aw schools “buy” students with high LSAT scores without regard to these students' needs. Given the prohibitive cost of legal education, the debt burden that the least well-off students will have to bear when they graduate, and the limited availability of loan-forgiveness programs for students who accept employment in public interest and social justice jobs, the practice of having LSAT scores drive important policy decisions about how to award financial aid is disturbing. Not only does wealth affect performance on the test, a higher score on the test then diminishes the cost of a legal education to an already privileged test taker.⁹

In this letter, we highlight only a few of the myriad problems associated with the *U.S. News* rankings. There are many others, including the rankings' effect on who gets hired and promoted and what schools value. For example, peer rankings reflect scholarship but ignore teaching. Yet surely the quality of the teaching should figure prominently in any meaningful assessment of the quality of legal education at particular law schools.

We understand the pragmatic issues involved in suggesting law schools boycott the ranking process, yet we believe that deans, with the support of their faculties, have the power to address the many injustices created by the rankings. Thus, we encourage you and your colleagues to confront the influence of the *U.S. News* rankings by working with the ABA to devise a strategy to withhold the release of LSAT scores to *U.S. News*; by working collaboratively to establish alternate sources of consumer education; and by educating colleagues, students and alumni about the specific ways in which the ranking system compromises legal education while threatening the diversity of the profession.¹⁰

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Since 1974, SALT has been an independent organization of law teachers, deans, law librarians, and legal education professionals working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-represented individuals and communities. www.saltlaw.org

⁹ Haddon & Post, *supra* note 3 at 69.

¹⁰ Indeed, educating alumni may be easier now than in the past given the opposition of the organized bar to U.S. News' proposal to rank law firms.