



January 3, 2008

Hulett H. Askew, Esq.
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American Bar Association
321 N. Clark Street
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Dear Mr. Askew:

Herewith our response to the report of the ABA/AALS site evaluation team. It contains a number of corrections and additions, some required because of ordinary (mostly minor) mistakes and some others because of changed circumstances on account of the passage of time (it has been nine months now since the team was here).

Above all, the record would be incomplete without a very clear statement of our gratitude to Chairman Burke and the other members of the team. We took the process with great seriousness, as was noted in the team's report, and the team fully reciprocated. We have profited from their diligence and their many thoughtful comments made both in the report proper and in the course of their visit here. Our entire program is in their debt.

George Mason is in full compliance with ABA Standards. In Part I of our response, we will spell out this point in some detail with respect to issues about which the site evaluation team's report appears to raise some question, and which were also raised after the 2000 site visit. (The many helpful suggestions offered in the site evaluation team's report do not, of course, provide a basis for concluding that we are not in compliance with the Standards.) In Part II, we correct specific errors in the site evaluation team's report, and offer updated information concerning some of the developments that have occurred since the site visit.

As a preliminary matter, however, I must express a grave concern. It arises from the manner in which accreditation issues pertaining to Standard 211 (as it was then written) were handled by the ABA after the 2000 site evaluation. I offer these comments with the greatest respect.

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As you know, the Accreditation Committee refused for several years after that site visit to conclude that George Mason was in compliance with Standard 211. After repeated fruitless efforts on our part to satisfy the Committee,¹ our Dean and the President of our university were finally summoned to appear at a show cause hearing, and we were threatened with being placed on probation or disaccredited.² After another long series of attempts by George Mason to satisfy the ABA,³ the ABA eventually did conclude that we had demonstrated compliance with Standard 211 on February 1, 2006.⁴ This, of course, was just in time for us to begin the process of demonstrating our compliance yet again for the 2007 site evaluation.

At no point during this six-year period did the Committee or any other office of the ABA ever explain how we had failed to demonstrate compliance, or state what more was required in order to demonstrate our compliance. What did become quite clear to us during this ordeal was that our efforts to attract minority students would never satisfy the Committee until they produced some unspecified increase in minority enrollment, especially of certain groups. But we were never told how many students of which races and ethnicities we had to enroll in order to satisfy the ABA. Nor were we ever told what steps we were required to take in order to satisfy whatever implicit quotas the ABA was seeking to impose upon us.

With all deference, this process was unfair to us, as well as to some of the students whom we were pressured to admit, and who later failed out of the law school at great cost to them in terms of time, money, and emotional distress. It also fails to live up to the ABA's own commitment to principles of justice and due process. In any case, there must be no repetition of this adjudicatory opacity in connection with the current accreditation cycle. We have demonstrated – and will again demonstrate below – full compliance with the Standards. If, somehow and for whatever reason, the Committee does not agree with this conclusion, there must be no more guessing games. The ABA must tell us in plain language what we must do in order to demonstrate compliance. I can assure you – and I am confident that you are well aware – that the undersigned is very far from the only law dean to hold this point of view.

¹ See GMU response letter, May 10, 2001; ABA action letter, July 11, 2001; GMU response letter, May 3, 2002; ABA action letter, July 16, 2002; GMU response letter, May 1, 2003.

² ABA action letter of July 28, 2003.

³ See GMU response letter, Nov. 14, 2003; ABA action letter, Feb. 25, 2004; GMU response letter, Sept. 14, 2004; ABA action letter, Dec. 15, 2004; GMU response letter, Sept. 23, 2005.

⁴ ABA action letter, Feb. 1, 2006.

I. Compliance with ABA Standards

A. Standards 211 and 212

The information already provided to the ABA in the SEQ and the 2007 self study establishes that George Mason is in full compliance with Standards 211 and 212. This information will be summarized and supplemented below.

1. *Issues raised in the 2007 report of the site evaluation team*

The site evaluation team report states, with respect to recruitment of minority students, that “the efforts are apparently made but the positive results do not appear to occur” (p. 63). A theory is offered for this observation: there may be what the report calls a “reverse symbiotic” relationship between what were characterized as “faculty imbalances” (p. 53) or a “lack of diversity on the faculty” (p. 50), and “drops in the percentages of women and minorities that actually enrolled in the school” (p. 53). The idea seems to be that minorities and women who would otherwise enroll at George Mason decline to do so because of a paucity of what the report calls “role models” (p. 50; see also p. 53). A related theory advanced in the report is that George Mason is plagued by “the lack of a critical mass of minorities in the school preventing new applicants from feeling compatible in a population largely devoid of their minority peers” (p. 63).

We know of no basis for the theory offered above. Indeed, so far as appears, the only evidence the site evaluation team offered for it consists of an assertion by one student that the only female instructor she had at George Mason was a 3L writing fellow (p. 50), and a report that some unspecified number of unidentified students complained that they did not like the racial and gender composition of the faculty (p. 53). Such anecdotes cannot possibly justify a finding that we have failed to comply with the applicable ABA Standards. There is no evidence that minorities or women fail to apply to George Mason, or reject our offers of admission, based on the racial or gender composition of our faculty or student body. There is, however, considerable evidence that minority applicants whom we admit generally prefer to attend other schools with higher *U.S. News* rankings and greater financial resources than we possess – in other words, that they behave no differently from other applicants.

A second issue raised in the site evaluation team’s report is captured in this statement: “The enrollment statistics, even though they appear to suggest that George Mason is ‘keeping up’ with the other Virginia based law schools in its percentage of minority enrollments, also establish that they do not match the percentages shown by other D.C. area law schools” (p. 63).

As a preliminary matter, we note that it is *not* the case that the ABA Standards require us to “match” *anybody’s* percentages or “keep up” with *anybody*. That sort of thing is nothing but a racial quota by description rather than by name and is plainly inconsistent with Standard 212 and Interpretation 212-3. Even assuming, however, that comparisons of our enrollment figures with that of other schools might have some

relevance to our compliance with the ABA Standards, the other Virginia law schools provide a far more relevant comparator. We are not only a Virginia law school, but a Virginia *public* law school. A high percentage of our students are Virginia residents, and many are no doubt attracted by the tuition discount available to Virginia residents. The fact that our minority enrollments are comparable to the other public schools in our state—the University of Virginia and William & Mary—is really quite remarkable when one considers that both of those schools outrank us in the *U.S. News* derby – in UVA’s case by a very large margin – and that both of those schools have scholarship and financial aid resources that are multiples of ours.

Private law schools in the District of Columbia are an inappropriate point of comparison. The report notes the obvious fact that our campus in Arlington is near the District of Columbia and on the Metro line, but there was no evidence offered that this location could be expected, without accompanying financial aid resources, to enable us to recruit more qualified minority students than we do recruit. It is one thing to imagine that a prospective student from DC might choose to attend Georgetown rather than the University of Virginia because of that school’s location. But *no* minority student that we are aware of has *ever* chosen to attend George Mason rather than the University of Virginia because of our location.

Indeed, during the last two admissions cycles, a total of 101 students were accepted at both George Mason and the University of Virginia, and chose to attend one of those schools or the other. Of those 101 students, 100 chose to attend UVA and only one chose to attend George Mason. During the last two cycles, moreover, from a total of 18 African-Americans who chose between George Mason and the University of Virginia, *every single one* of them chose to attend school in Charlottesville rather than here in the Washington metropolitan area. The William & Mary numbers, though not quite as stark, are similar. In this respect, minority students have behaved just like everybody else.

The idea that George Mason’s location near the District of Columbia implies that we should be able to attract more qualified minority students than more prestigious and far wealthier Virginia state law schools is unsubstantiated, to say the least. Where would these applicants come from? There is a finite number of them. There is simply no evidence for the idea that there is some vast (or even minuscule) untapped pool of qualified minority candidates in the Washington area who would rather attend school in Arlington than at a higher ranked and wealthier school in some other part of Virginia.

A third issue raised by the site evaluation team’s report is the departure of our director of diversity services, who left to pursue graduate studies in Colorado, where his partner lives. The site evaluation team put special emphasis on this personnel matter (see pp. 54, 63), and we are happy to report that we have hired a highly qualified and motivated individual, Richard Fields, to fill this position. We have every reason to expect that our new director will match or exceed the accomplishments of his predecessor.

The report implies that our director of diversity services has been the primary cause of the increase in minority enrollments at George Mason in recent years (see pp.

54, 63). What the evidence establishes is that the recruiting efforts of the director of diversity services and others in the admissions office have resulted in our receiving some number of applications from minority individuals who might not otherwise have applied to George Mason. The facts available to us, however, do not support the conclusion that this increase in applications has significantly increased the number of minority *matriculants*. So far as we have been able to determine, increases in the number of minority matriculants have been caused overwhelmingly by the fact that we have lowered our admissions criteria for minority applicants.

2. *Faculty Diversity Efforts*

Because the site evaluation team's report does not present a full picture of the data on our faculty diversity efforts, we call attention here to the following facts from our SEQ and 2007 self study that establish that we have dramatically increased our female and minority faculty.⁵

During 2004-2005, we conducted initial interviews, primarily but not exclusively at the AALS recruitment meeting in Washington, D.C., with 41 candidates; among these candidates, 16 (39%) were female, 10 (24%) were African-American, and 1 (2%) was Asian. From among this group and a number of additional candidates whose resumes we reviewed, 21 candidates were invited to present a paper to the faculty at a workshop and to have a full day of interviews at the law school; among these candidates, 5 (24%) were female, 2 (10%) were African-American, and one (5%) was Asian. Three candidates, including one female and one Asian, withdrew their candidacies after we extended our invitation to give a workshop.

During 2004-2005, the faculty voted to authorize tenured or tenure-track positions in the law school to nine candidates, one of whom was already a visiting professor; of these candidates, two (22%) were female. Visiting appointments were authorized for 13 candidates; of these candidates, seven (54%) were female and two (15%) were African-American.

During the 2004-2005 recruiting season, George Mason hired one new tenure track professor, a white male who had been a visiting assistant professor that year, and four candidates for tenured or tenure-track positions were hired as visiting professors, one (25%) of whom was female, and two (50%) of whom were African-American.

During 2005-2006, we conducted initial interviews, primarily but not exclusively at the AALS recruitment meeting in Washington, D.C., with 25 candidates; among these candidates, 14 (56%) were female, four (16%) were African-American, three (12%) were Hispanic or Chicano, and two (8%) were Asian. From among this group and a number of additional candidates whose resumes we reviewed, 21 candidates were invited to present a paper to the faculty at a workshop and to have a full day of interviews at the law school;

⁵ Except as specifically noted, we have not attempted to update the statistics used in our 2007 self study, but have made other adjustments in the narrative where appropriate.

among these candidates, 11 (52%) were female, one (5%) was African-American, and one (5%) was Asian.

During 2005-2006, the faculty voted to authorize tenured or tenure-track positions in the law school to 14 candidates; seven (50%) of these were female, and one (7%) was African-American. Visiting offers were authorized for four candidates; three (75%) of these were female, and one (25%) was Asian.

During the 2005-2006 recruiting season, George Mason hired five new tenured or tenure-track professors; three (60%) of these were female, one (20%) was African-American, and one (20%) was Asian. Two candidates for tenure-track positions were hired as visiting professors; of these, one (50%) was female and Asian.

As a result of the efforts of its faculty and administration, George Mason has dramatically increased the number of its minority and female faculty. During the summer of 2006, we lost one tenured African-American professor, who died unexpectedly, and one tenured female professor, who was appointed by the President to the United States Court of Appeals for the Federal Circuit. Notwithstanding these departures, which the school could obviously have done nothing to avoid, we now have substantial numbers of female and minority professors.

We now have 22 tenured faculty members; of these, two (9%) are female, one (5%) is African-American, and one (5%) is Asian. (Six of these individuals, including one female, are on leave from the law school or serving in administrative positions during part or all of the 2006-2007 academic year.) We have nine tenure-track faculty; of these, three (33%) are female and one (11%) is Asian. (Three of these individuals, including one female, are on leave from the law school during part or all of the 2006-2007 academic year.) We have four visiting professors, two (50%) of whom are female, one of whom (25%) is African-American, and one of whom (25%) is Asian.

In sum: Of these 35 members of our faculty, seven (20%) are female, and five (14%) are minority. Of the 26 faculty members from this group who are serving as full-time teachers for all of this year, five (19%) are female, and five (19%) are minority.

Using an alternative manner of describing the diversity of our faculty (namely the method used in preparing the faculty profiles for the ABA Annual Questionnaire) our “full-time teaching resources” during the Fall 2006 semester were 20.0% female and 14.3% minority.⁶ Judging by the most recent statistics available to us, our faculty is in one or both respects more diverse than such other law schools as Harvard (25.0% female, 13.4% minority), University of Michigan (24.1% female, 8.6% minority), University of Virginia (23.9% female, 8.5% minority), UCLA (23.2% female, 8.7% minority), Yale

⁶ During the Fall 2007 semester our “full-time teaching resources” were 24.24% female and 15.15% minority, and during the Spring 2008 semester they will be 27.03% female and 16.22% minority.

(21.1% female, 13.6% minority), University of Pennsylvania (18.9% female, 9.4% minority), Duke (18.6% female, 9.3% minority), University of Chicago (13.7% female, 7.8% minority), and many others besides.

The ABA cannot find that George Mason is out of compliance with respect to faculty diversity unless it is prepared to make the same finding against Harvard, Yale, Chicago, and other programs which are at the top of the professional status ladder and which can in many cases approach a “cost is no object” policy with regard to hiring female and minority faculty candidates if they choose to do so.

3. *Student Diversity Efforts*

This section rehearses the analysis of student diversity on which we believe we should be judged, as offered to the site evaluation team.⁷ The analysis must begin with a recognition that the diversity of the student body has been a serious concern of both the ABA and the law school. The school’s September 23, 2005, letter to Stephen T. Yandle recounts in detail the steps the school has taken to address this concern. The school is continuing to follow the affirmative action program described in that letter, which was approved by the ABA in the February 1, 2006 action letter from John A. Sebert.

As we indicated in the 2007 self study, we increased minority enrollment by 60% in recent years, and it then stood at 16.3% of our student body. This is comparable to the numbers (according to the latest statistics then available to us) at the University of Virginia (17.0%), William and Mary (14.5%), and Washington and Lee (14.8%), and much higher than those at the University of Richmond (8.7%). For the current year (2007), minority enrollment has risen to 17.1%, notwithstanding a substantial increase in the size of the student body from 751 to 788.

In an effort to increase the diversity of our student body, George Mason has made substantial efforts and substantial expenditures. For two years in a row the law school asked the University’s Board of Visitors to increase tuition beyond what was proposed by the University, in order to generate \$375,000 in additional scholarship support. The law school has more than doubled total scholarship support over the past five years. These extra dollars have helped us to recruit minority students more intensively.

The law school has had an active and energetic director of diversity services, who was recently succeeded by an equally promising appointee. Among the initiatives pursued have been recruiting trips all over the country, the establishment of strong working relationships with attorneys and judges, and with historically African-American colleges and universities, both in Virginia and outside Virginia. The director advises our current students and helps with our academic support program. He advises our many minority student groups. He works with our Career, Academic and Alumni Services

⁷ Except as specifically noted, we have not attempted to update the statistics used in our 2007 self study, but have made other adjustments in the narrative where appropriate.

Office to send our minority students to targeted recruiting events and to place our minority students in challenging and rewarding positions.

The law school sends thousands of invitations to apply, along with application fee waivers, to LSAT-takers, including LSDAS-identified minority prospects. The law school is a strong supporter of CLEO. We contribute \$5,000 every year to CLEO, and encouraged Dean Jackson's lecture services to CLEO programs.

We have expanded our academic support program. It assigns each first-year minority student an alumni mentor and a student mentor. We hold academic support sessions on weekends during school for students who need help. The director of diversity services works closely with the Director of Student Academic Affairs and with the Director of Legal Research, Writing and Analysis to ensure that our minority students get individualized academic support in addition to more formal academic support sessions.

We also have a Minority Recruitment Council, which comprises alumni of George Mason and respected friends from the legal community. The Council provides invaluable advice to the Dean about how to improve and expand our many diversity initiatives.

The law school continues to expand its print and web diversity campaign. It maintains an up-to-date web site—<http://www.law.gmu.edu/students/diversity.html>—which serves as a focal point for our diversity initiatives. We produce a variety of printed materials, including our “Who We Are” and “Where will you go from here” brochures, which explain George Mason's commitment to diversity and provide concrete examples of the kind of diversity we foster at George Mason. Additionally, the law school has been offering \$1,000 Colors of Justice Diversity Scholarships to its students, and we pay for minority students to attend national job fairs.

Some aspects of this diversity program are being pursued at considerable cost, and thus at the expense of other important aspects of our program of legal education. Even if these costs were disregarded, however, the following point must still be acknowledged: holding our resource base constant, it is impossible to increase student body diversity beyond certain limits without imposing unacceptable adverse consequences on the putative beneficiaries of the diversity policies.

We admit virtually every African-American applicant whose academic record is anywhere near the level normally required for admission to George Mason. This policy entails a substantial lowering of our normal admission requirements, as illustrated in Charts 1 and 2. Notwithstanding these relaxed standards, the African-American applicants we admit overwhelmingly choose to attend other schools (see Chart 3).

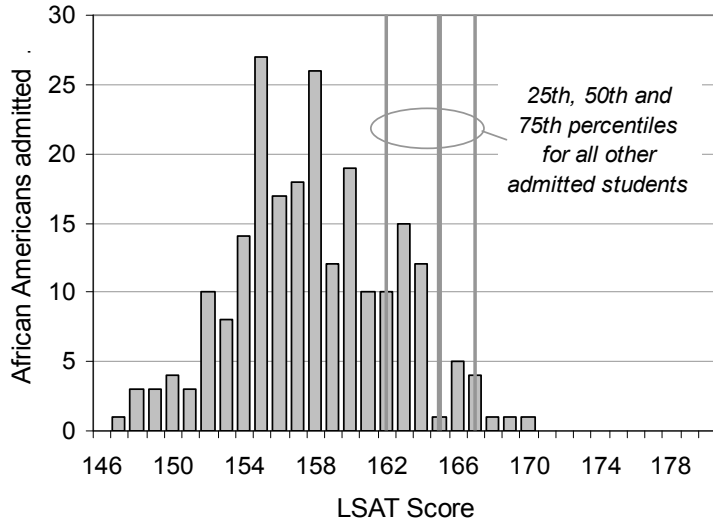


Chart 1. A high proportion of African-Americans admitted by George Mason during the period 2004-2006 had LSAT scores well below the normal range for admitted students of other races. The standard deviation of the LSAT is slightly less than ten points.

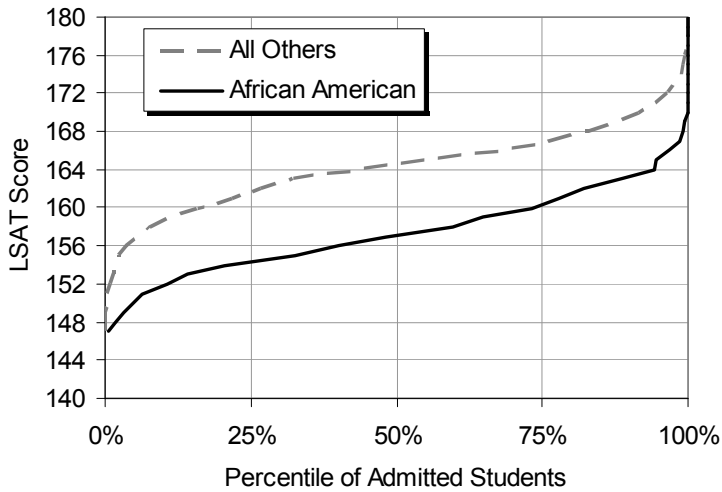


Chart 2. The LSAT gap between African-American admittees and those of other races during the period 2004-2006 has been substantial.

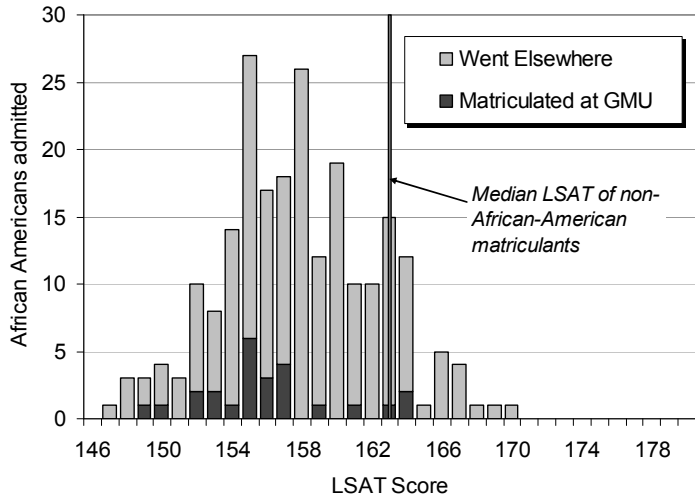


Chart 3. The African-American applicants admitted to George Mason during the period 2004-2006 overwhelmingly chose to attend other schools.

Similar, albeit somewhat less dramatic, gaps exist with respect to the other principal academic credential, namely undergraduate GPA. See charts 4-6. (It should be noted that these charts rely on raw GPA, without any adjustment for the quality or rigor of the program from which the student graduated. Thus, for example, these charts treat a B+ in an advanced calculus course at MIT as equivalent to a B+ in the least rigorous course at the least rigorous institution in the nation. This may have affected the size of the gap shown in the charts.)

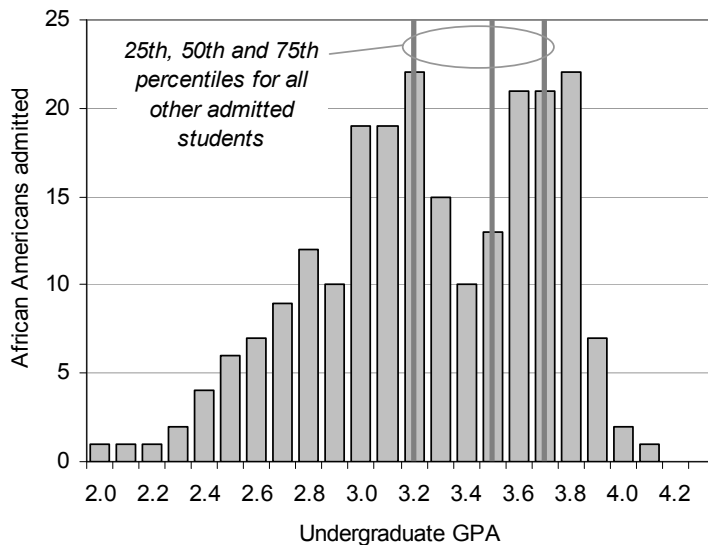


Chart 4. A high proportion of African-Americans admitted by George Mason during the period 2004-2006 have had undergraduate GPAs below the normal range for admitted students of other races.

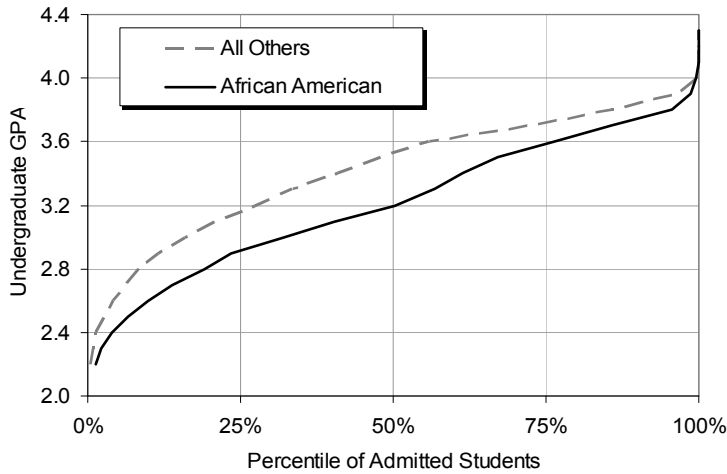


Chart 5. The undergraduate GPA gap between African-American admittees and those of other races during the period 2004-2006 has been substantial.

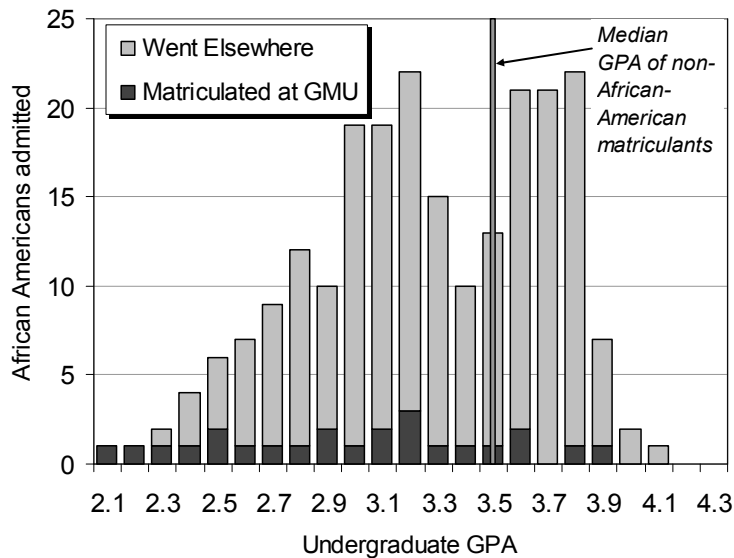


Chart 6. The African-American applicants admitted to George Mason during the period 2004-2006 overwhelmingly chose to attend other schools.

There is no mystery about the reason for the large credentials gap described above. So long as other law schools with much greater financial resources and higher rankings in *U.S. News & World Report* continue with their aggressive use of racially preferential admissions policies, very few African-American students with credentials

approaching George Mason norms will, in fact, matriculate here.⁸ There is simply nothing we can do to change this.

It follows from this fact that any diversity program that produces substantial results will also lead to a substantial racial credentials gap. Specifically, a very high proportion of the African-American applicants whom we are able to persuade to matriculate at George Mason have possessed, and will continue under our affirmative action program to possess, academic records that are weaker, and in many cases far weaker, than the great majority of their classmates. This credentials gap is illustrated in Charts 7 and 8.

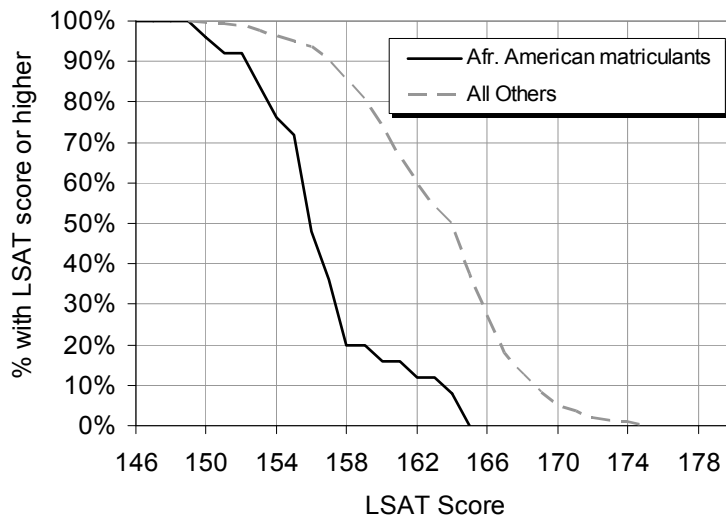


Chart 7. A high proportion of African-American matriculants admitted during the period 2004-2006 had lower LSAT scores than a great majority of their classmates.

⁸ For example, just within the last admissions cycle, an African-American applicant turned down our offer of admission in favor of Harvard University. The applicant had an LSAT score of 154 and received a \$25,000.00 scholarship from Harvard. We are prepared to provide you with many more examples.

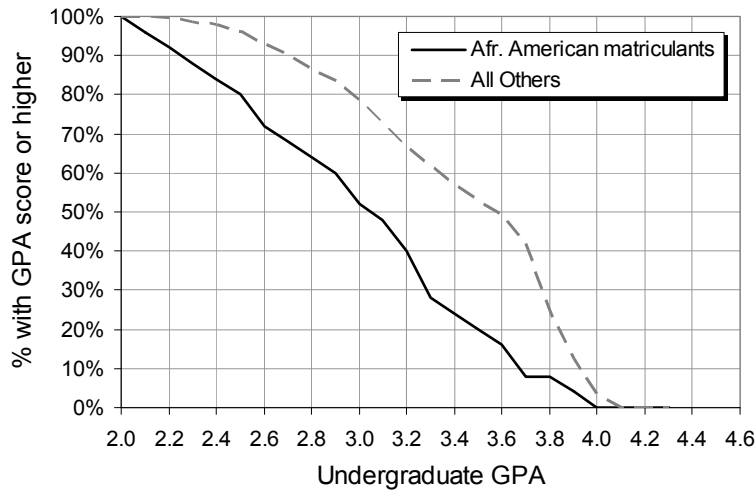


Chart 8. A high proportion of African-American matriculants admitted during the period 2004-2006 had lower undergraduate GPAs than a great majority of their class mates.

And so, for example, 80% of our African-American students in recent years have had LSAT scores of less than 158, whereas only 15% of students from other racial groups have had scores in this low range. Conversely, whereas 37% of students from other racial groups have had LSAT scores above 164, none of our African-American matriculants had a score in this high range. Similarly, whereas 46% of students from other racial groups had undergraduate GPAs of A- (3.66) or better, only 12% of our African-American students had undergraduate grades in this high range.

As George Mason continues to pursue the aggressive ABA-approved affirmative action program outlined in the September 23, 2005 letter to Mr. Yandle, we must remain cognizant of our duty — which is specifically recognized in ABA Standard 501(b) — to refrain from admitting applicants who do not appear capable of satisfactorily completing our educational program and being admitted to the bar. Chart 9 shows that our African-American students, admitted under the substantially lowered admissions standards described above, have experienced much higher rates of academic failure than students from other racial groups.

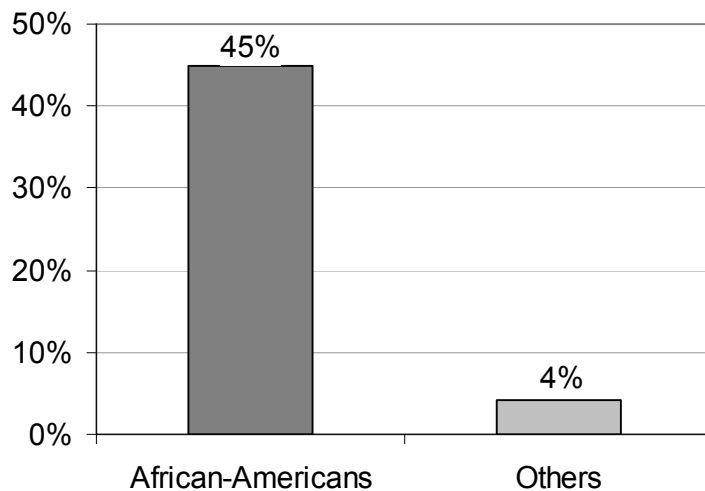


Chart 9. During the 2003-2005 period, George Mason’s African-American students have experienced dramatically higher rates of academic failure (defined in our academic regulations as GPA below 2.15) in the first year of law school.

We have an obligation to refrain from victimizing applicants, regardless of race or color, by admitting them to an educational program in which they appear likely to fail. This obligation is recognized in Standard 501(b) but we believe it exists independently of any ABA regulations. Adhering to this principle is the greatest obstacle to our efforts to increase the diversity of the George Mason student body.

We have pursued and will continue to pursue an aggressive affirmative action program that fully satisfies the requirements of ABA Standards 211 and 212. The ABA, in its turn, must find that we have demonstrated compliance with those Standards, as it has done in the case of other schools with comparable records and resources far greater than any we possess.

B. Standards 601(a) 603(d) Status of Library Director

The site evaluation team expressly raises an issue about compliance with ABA Standards on p. 71 of its report, and makes the following statement on p. 86:

(7) Status of the library director. The library director is an active force in the life of the law school, but the terms of her appointment do not appear to comport with the standards promulgated in the George Mason University Administrative/Professional Handbook: she does not have academic rank and she has an at will appointment.

In fact, the library director’s terms of appointment fully comply with the standards of the university’s Administrative/Professional Handbook : (<http://hr.gmu.edu/policy/AdmHandbook.Final1-1-07.pdf>).

First, the director holds the academic rank of Instructor. This is the default title that all administrative faculty are assigned at the time of appointment. In addition, the Handbook states that faculty rank is awarded to administrative faculty “primarily for state reporting purposes.” Because the academic rank is used primarily for bureaucratic purposes, most administrative faculty at the university and all administrative faculty in the law school hold the rank of instructor. Most administrative faculty are not even aware that they have an academic rank as it has no real impact on their terms of employment.

Second, the law library director’s appointment fully complies with the terms of employment guaranteed to all other administrative/professional faculty by the university’s Handbook. There is an appendix to the Handbook entitled the “Librarians’ Handbook” that covers librarians employed by the general university library. These librarians are part of a non-academic department, the Information Technology Unit, and they report to the vice president for Information Technology. The director of the law library, by way of contrast, reports to the dean of the law school, and her terms of appointment are governed by the standards that are laid out in the main body of the Handbook (see Terms of Appointment beginning at p. 6) and not by the librarians’ appendix.

Finally, as the site evaluation team’s report acknowledges, in June 2001 the Accreditation Committee looked at the status of the director and concluded that “the School has provided sufficient information regarding its compliance with Standards 601(a) and 603(a).” In 2007, the same director is in place, as are the same university policies that govern her terms of employment. The new concerns raised by the site team are unwarranted. The law school is still in compliance with the ABA standards governing the status of the director of the library.

II. Significant Developments and Factual Corrections

We would like to note a few significant developments that have occurred since the site visit some nine months ago and to correct some factual errors in the report of the site evaluation team.

A. New Hires and Appointments

The site evaluation team’s report mentions the departure of three members of the law school administration: Vice Dean Nelson Lund, who returned to full-time teaching at the law school this past summer; Associate Dean Sid Moore, who retired in June 2007; and Darrell (“D.J.”) Jackson, the law school’s Director of Diversity Services, who left to pursue graduate studies in Colorado.

We are pleased to report that new hires and appointments have been made to fill the above-mentioned positions. In addition, the position of Associate Dean for Management and Planning that was vacant during the site team visit has since been filled. Each new member of the law school administration is introduced below.

1. *Director of Diversity Services*

The law school advertised the Director of Diversity Services position in April. Interviews were conducted in April and May, resulting in the employment of Richard Fields, a candidate with demonstrated experience and interest in the success of minorities.

Mr. Fields graduated from the University of Utah College of Law, where he was vice president of the Minority Law Caucus, member of the Trial Advocacy Team and winner of several moot court competitions. Immediately following law school, Mr. Fields clerked for the Honorable Gregory K. Orme of the Utah Court of Appeals.

Mr. Fields came to the law school from the Interfaith Conference of Metropolitan Washington, where he served as the Coordinator for Advancing Justice. He managed multiple interfaith/religious tolerance projects, including public religious diversity training, projects to address hate crimes, and educational programs for law enforcement and government officials focusing on the contemporary issues facing multi-faith communities. Previously, Mr. Fields worked for the United States Department of the Interior, Southeast Regional Solicitor's Office. After completing the Solicitor's Honors Program, Mr. Fields represented the Department in EEO issues and Indian affairs.

Since joining the law school, Mr. Fields has met with the leaders of all the school's diversity-based student organizations; held individual meetings with all of our first year minority students and many of our upper-class minority students; begun establishing relationships with our local bench and bar representatives; accompanied minority students to the Southeast Minority Job Fair; recruited prospective students at the Washington, D.C. Forum, Miami Forum, Florida Gulf Coast University, University of Tampa, Stetson University, Puerto Rican Legal Defense and Education Fund event, Atlanta Forum, University of Georgia, University of Houston, National Black Prelaw Conference, and Howard University; and worked with current minority students to recruit at the historically black colleges.

Mr. Fields has assumed the role of faculty advisor to several of the law school's diversity-based organizations: Asian Pacific American Law Students Association; Black Law Students Association; Gay, Lesbian and Bisexual Law Association; Hispanic Law Students Association; and Muslim Law Students Association. He has attended several events highlighting diversity and opportunities for diverse students, including the U.S. Attorneys' Luncheon and the Boston Lawyers Group Program, and is in the process of planning several events, including the Groom Law Group Program, Virginia State Bar Young Lawyers Diversion Minority Prelaw Conference, and the local bar associations' Colors of Justice Program. Mr. Fields has created a "Student Diversity Leadership Committee" that will bring together the presidents of the diversity-based student organizations to sponsor other programs and activities that promote a sense of community and tolerance at the law school. He is continuing the law school's relationship with and support of the CLEO programs.

2. *Associate Dean for Academic Affairs*

I have appointed Professor Craig Lerner, a tenured faculty member, as Associate Dean for Academic Affairs. Professor Lerner has been with the law school since August 2000 and fills the role previously held by Vice Dean Lund. Professor Lerner is responsible for the full-time instructional faculty and faculty services, and the Director of the Legal Research, Writing, and Analysis Program and the Assistant Dean for Student Records both report to him.

3. *Assistant Dean for Academic Administration*

In April 2007, Annamaria Niels, the law school's former Director of Student Academic Affairs, was promoted to Assistant Dean for Academic Administration to fill the role previously held by Associate Dean Sid Moore.⁹ As Assistant Dean, Ms. Niels is responsible for managing adjunct faculty, scheduling classes, assisting with teaching assignments, and helping to oversee the academic program at Mason Law.

With respect to managing the adjunct faculty, Assistant Dean Niels corresponds regularly with the adjuncts and provides guidance as needed throughout the semester. She provides each adjunct with a comprehensive handbook at the start of each semester detailing the law school's policies and procedures and conducts orientation for new adjunct faculty members. Assistant Dean Niels also monitors the adjunct faculty throughout the school year by visiting classes, talking with students, and reviewing teaching evaluations at the conclusion of each term.

4. *Assistant Dean for Management and Planning*

The most recent addition to the law school administration is Robert Watling, Assistant Dean for Management and Planning. Mr. Watling will join the administration at the start of the spring 2008 semester from Emory University. His primary responsibilities will include strategic planning, facilities management, and oversight of various human resources functions.

B. Additional Pro Bono Opportunities for Students

In fall 2007, the law school created a new student organization, the VBA Pro Bono Society, dedicated to promoting public service among the students and faculty of George Mason. Annamaria Niels, Associate Dean for Academic Administration, is the administrative faculty advisor for the organization.

This past year the VBA Pro Bono Society implemented a partnership with Legal Services of Northern Virginia (LSNV), a non-profit public interest law firm that provides free legal advice to low-income residents in Northern Virginia. The "GMU-LSNV Intake

⁹ A new Director of Student Academic Affairs was hired in September 2007 to replace Ms. Niels.

Initiative” is housed at the law school and operates thirty hours a week providing intake interviews for LSNV clients in the areas of family law, consumer law, bankruptcy law, and housing issues. More than thirty students currently participate in the program, having pledged to fulfill fifty hours of pro bono and other public interest work over the course of the 2007-2008 academic year.

The VBA Pro Bono Society intends to expand its programs in the future and is actively working with Assistant Dean Niels to identify additional pro bono opportunities it may offer to the law school community.

C. Mason Graduates Achieved the Highest Bar Passage Rate in Virginia

Mason Law alumni who sat for the July 2007 Virginia Bar Exam continued the school's recent pattern of passing by a greater percentage than the state average, posting July results that were far and away the best ever for the School of Law's graduates. Nearly 120 Mason Law graduates took the July exam, and the result was the highest pass rate of any Virginia law school.

Among all who took the exam, Mason Law graduates scored nearly 17 percentage points higher than the state average passage rate, with an overall passage rate of 88.8 percent versus a state overall passage rate of 71.9 percent.

Those alumni who took the bar exam for the first time scored higher than the state average passage rate for first-time takers by 15 percentage points. Mason Law alumni taking the exam for the first time passed at a rate of 93.2 percent versus the state's first-time average passage rate of 78.2 percent.

These results show a very large and positive change from our performance as of the 2000 Site Visit.

D. Additional Resources Have Been Provided to the Legal Writing Program

In May 2007, the administration provided additional resources to the Legal Research, Writing, and Analysis (LRWA) program, changing the structure of the LRWA program, and adding a full-time Assistant Director and reassigning 20 hours of a full-time reference librarian to provide research training and supervision. The law school provided funding to the law library to hire evening reference librarians to make-up for the loss of the 20 hours of full-time reference assistance.

The Director teaches the first-year LRWA courses and is responsible for the administration and management of the first-year LRWA courses, training and selecting the Writing Fellows, and providing consistency within the program. The Assistant Director teaches in the upper-class LRWA courses and is responsible for the administration and management of upper-class LRWA courses, as well as the training

and selection of adjunct faculty to teach in the program. The reference librarian has primary responsibility for research training in both programs, working closely with the Director and Assistant Director; however, the other librarians continue to participate in research training of the students.

The Assistant Director reports directly to the Director. The Director reports to Professor Craig Lerner, who, as Associate Dean, reports to the Dean. The reference librarian continues to report directly to Deborah Keene, Associate Dean, Library & Technology.

E. Clinics and Externships

Since the beginning of this academic year, the faculty's Committee on Adjuncts, Clinics, Externships, Legal Writing, and Law Reviews has been focused primarily on the staff work necessary to gather data for analysis.

The Records Office recently has completed the compilation of data requested by the faculty committee on the grading and credit hour patterns observed in the clinical or field placement offerings versus the regular courses, with a disaggregation to permit the study of grading patterns in adjunct versus regular faculty courses. The committee intends to use these data to study the need for rationalizing the School's policies or procedures in implementing appropriate distinctions between graded and ungraded credit, and between in-class and out-of-class hours, and to ascertain whether further refinement in the School's overall grading policies are in order.

With these results in hand, the faculty committee plans to address next the problem of rationalizing the award of academic credit for out-of-class activity, including both the clinics and externships programs and the co-curricular activities, such as law reviews and moot court. These activities would be expected to produce a set of recommendations for referral to the Curriculum Committee.

Thereafter, the committee expects to take up the review of the clinics and externships as such, with particular attention to the standards for selecting, training, and supervising field supervisors. The committee then is expected to return to the issue of adjunct faculty monitoring, and, more generally, of enriching the relationship between the law school and its adjunct faculty. The committee will also examine the mix of faculty and administrators deployed in the skills programs, and consider whether further management or instructional resources need to be committed.

The faculty committee's agenda is a large one, and it may not be completed this year. It seems likely that this committee will continue its work for some years to come.

In the meantime, the committee's chair has met with LRWA personnel to discuss the implementation of recent augmentations to the personnel and content of the LRWA program, including the addition of an assistant director of LRWA and the dedication of a portion of one librarian's time to the enrichment of the research component of the first-

year LRWA course. Under a curricular modification approved by the faculty during the Spring of 2007, an additional credit hour was added to LRWA II, with the understanding that most of the additional content would be focused on research skills.

F. Factual Corrections and Additional Updates

The remainder of our response corrects a few inadvertent factual errors in the report of the site evaluation team, and provides related updates.

Review of Site Visit:

p. 2, ¶ 2 The correct titles for the following individuals are: Deborah Keene, Associate Dean, Library & Technology; Ross Davies, Associate Professor of Law (now Professor of Law); Raymond D’Souza, Director of Finance; Victoria Huber, Associate Dean for Career, Academic and Alumni Services; Alison Price, Senior Assistant Dean and Director of Admissions.

LRWA program:

p. 13, ¶ 1 The first-year LRWA break-out sections are limited to 12-14 students per section, and the upper-level LRWA courses are limited to 15 students per section.

p.16, ¶ 1 The student instructors are designated as “Writing Fellows” and as part of their participation in the LRWA program are enrolled in their choice of a two (2) or three (3) credit “Writing Fellows Seminar.” Writing Fellows are also required to take an “Advanced Legal Writing Seminar” for one (1) credit in the spring term before their responsibilities begin in the fall semester.

p. 16, ¶ 3 In the fall 2006 semester, Professor Keith, assisted by two adjunct faculty, taught three large group sections (70-90 students per section) of the LRWA I course to first-year students for the first hour of class. Approximately seven (7) Writing Fellows were assigned to each instructor, and the Writing Fellows led smaller break-out group sessions of 12-14 students in the second hour of class. Professor Keith and the adjunct faculty managed and supervised the Writing Fellows within their large-group section and reviewed the Writing Fellows’ grading of pass-fail student work throughout the fall semester. However, Professor Keith and the adjunct faculty were directly responsible for grading the final student memoranda in the large-group sections and assigning final grades within their large-group section. In the spring 2007 semester, Professor Keith, assisted by one adjunct faculty, taught three large-group sections of the first-year LRWA II course, with the Writing Fellows leading smaller break-out sessions. The LRWA II course was restructured in spring 2007 to address concerns about delays and uniformity in instruction and

grading. During the spring semester, the Writing Fellows assumed primary grading responsibilities, with close supervision and direction from Professor Keith and the other adjunct faculty. To address concerns about grading, Professor Keith devised the following methodology: each Writing Fellow was required to submit the “best” and “worst” project from their break-out section to their respective instructor. Professor Keith and the other adjunct faculty then commented on and graded these two (2) papers from each Writing Fellow section and established the grade range for each Writing Fellow section of 12-14 students to maintain grade consistency within each large-group section. This grading methodology worked well and addressed student concerns about grading delays and uniformity.

Professional Skills Instruction:

- p. 21, ¶ 1 Professor Kyndra Rotunda is listed as a Full-time Professional Skills Teacher with 405(c) Contract Tenure Status.
- p. 23, ¶ 1 The Academic Standing and Student Affairs Committee is not the Honor Council. Additional information about our Honor Committee is available at: <http://www.gmu.edu/org/honorcouncil/>.

Law and Mental Illness Clinic:

- p. 28, ¶ 3 Professor Whitbeck is not listed as “full-time” on the Faculty Profile List. He is listed as teaching “full-time” credit hours (*i.e.*, day-time classes) and holding a part-time adjunct teaching position.
- p. 29, ¶ 3 The two other attorneys involved in the Clinic are with the Fairfax County Public Defender Office, not Professor Whitbeck’s office.

Size and Composition of the Faculty:

- p. 43, ¶ 2 The School reported a student/faculty ratio of 16.06 for the fall semester of 2006 (not 15.57 as cited in the report). Professor Kyndra Rotunda was counted as a 405(c) full-time faculty member because she held a fixed, short-term appointment in an experimental program of limited duration.

Review of Faculty Performance:

- p. 48, ¶ 6 Please see the discussion in Section II.A.3 regarding Assistant Dean Niels’ monitoring of adjunct faculty members.

Admissions Qualifications and Evaluation of Recent Classes:

- p. 53, ¶ 5 It is not correct that “a number of high-achieving students of George Mason transferred primarily to other neighboring law schools”. A small number of high-achieving students from neighboring law schools, such as Catholic and American, are accepted for transfer in to George Mason. In addition, a number of high-achieving Mason students have transferred out to higher-ranked schools, including University of Chicago, Columbia, University of California Berkley, University of Virginia, and Georgetown, among others.

Admissions Process and Responsibility (PAST information):

- p. 55, ¶¶ 2-3 Typically, 50 applicants receive invitations to participate in the PAST program and approximately 20 will enroll in the PAST program. Of the 20 who enroll, approximately 4 or 5, or 20 to 25% of the program participants, will receive admission to the law school. Thus, approximately, 2% of an enrolled class has gone through the PAST program.

Readmission of Students:

- p. 56, ¶ 6 The readmission process was not handled by the Admissions Office in previous years. It was, and currently is, handled by the faculty’s Academic Standing and Student Affairs Committee.
- p. 57, ¶ 2 There is not a “presumption” that a readmitted student will repeat the first year on probation, although the Academic Standing and Student Affairs Committee may require that readmitted students do so.

Financial Aid:

- p. 58, ¶ 3 The *University’s* loan default rate is 2.1%.

Placement:

- p. 58, ¶ 4 At the time of the Site Visit, the Career, Academic and Alumni Services Office staff included: (1) the Associate Dean for Career, Academic and Alumni Services; (2) three career counselors (one of whom is three-fourths time); (3) one assistant director for alumni services; (4) the Director of Student Academic Affairs (a joint report to Associate Dean Huber and Vice Dean Lund); and (5) one administrative assistant.

An additional full-time career counselor was hired in April 2007 and a new Director of Student Academic Affairs was hired in September 2007 to

replace Annamaria Nields, who was promoted to Assistant Dean for Academic Administration.

p. 60, ¶ 2

The law school has taken and continues to take “ameliorative steps”. Details can be found in the law school’s February 2007 Self Evaluation Questionnaire, Part V, Question 14 (pp. 83-84) and in its answers to Question 5 in the law school’s March 2007 response to the AALS. This does not, of course, pertain to an ABA Standard. However, for your convenience, the AALS’ question, and the text of our answer, are reprinted below:

“Question 5: Please describe additional steps taken by the school to ameliorate the negative effect of the accommodation made to military employers and make the law school a more welcoming environment for all students, including gays and lesbians.

Speakers at the law school’s career services orientation sessions and sessions on fall recruiting, spring recruiting, and judicial clerkships discuss the law school’s Equal Opportunity Policy and encourage students to report any concerns they may have regarding discrimination. Students are encouraged to report concerns by speaking with a counselor directly or by filling out one of the Work Experience Evaluation forms, which can be done anonymously if the student so chooses. In addition, career services makes several informational handouts available to students, including (1) NALP’s *Fair and Effective Interviewing*, (2) NALP’s *To Be Out or Not to Be Out*, (3) NALP’s *Interviewing Tips for Law Students with Disabilities and Employers Who Recruit Them*, and (4) the EEOC’s *Reasonable Accommodations for Attorneys with Disabilities*.

A career counselor is also assigned to our Gay, Lesbian, and Bisexual Law Association (GALLA) to facilitate an open dialogue about equal opportunity in the job market, to identify mentors, and to coordinate events of mutual interest. Career services also pays the Lavender Law Career Fair registration fees for several students.

The law school has hosted several events on laws regarding homosexuality. For example, in March 2005, the law school, in conjunction with our Student Bar Association, American Constitution Society, Federalist Society, and GALLA, hosted a panel on Gays in the Military. In November 2006, the law school, in conjunction with the *Civil Rights Law Journal*, Federalist Society and GALLA hosted a debate regarding “The Virginia Constitution: The Proposed Amendment on Marriage and Its Effect on Other Agreements.” In October 2005, our *Civil Rights Law Journal* hosted a symposium on same sex marriages, which our dean attended.”

Relation of Law Library to Educational Programs of the School:

- p. 68, ¶ 3 All of the librarians participate in teaching legal research in the first year LRWA program, not just the reference librarians.

Adequacy of Computer Technology and Information Resources for the Administration of the School and Its Programs:

- p. 74, ¶ 4 One classified position funded at \$35,000 was moved from the central university to the law school in 2001. The law school had to add additional funding from its own budget to hire a qualified individual for the position. In 2004, a second classified position was created by the law school using funds from the law school and law library.

Law School Budget:

- p. 76 Revenue in Fiscal Year 2005 was \$25.375 million, not \$23.375 million.

Adequacy of Facilities and Technological Capabilities:

- p. 81, ¶ 2 Some additional space in the new seven-story building has been promised to the law school.
- p. 82, ¶ 1 It is not correct that most electrical outlets and data ports in the desks are not connected. Almost all of the seats in the six largest classrooms have active data ports.

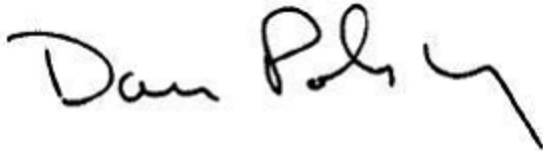
Integration of LRWA and professional skills course into curriculum:

- p. 86, # 5 The law school has already begun efforts to improve integration of its writing program into the overall curriculum. For instance, in creating the spring 2008 Trial Level Writing (LRWA II) problem series, the LRWA director consulted with the first year Contracts professors, and the Contracts professors will be highlighting the problem's issue in their courses at the time the first year writing students are analyzing the issue for their LRWA course. There are future plans for similar coordination with the Civil Procedure professors.

III. Conclusion

George Mason found the 2007 site evaluation visit a constructive experience. In the course of preparing the SEQ and the Self-Study, we learned a great deal about ourselves and how our practices match up with our objectives. And of course we profited from the comments and criticisms of the site evaluation team, which, under Chairman Burke's leadership, approached its mission with commendable professionalism. On the strength of the record now before you, we have set forth a compelling case that we are in full compliance with all applicable Standards. We trust the Committee will so determine. If there are any further questions or required clarifications, please do not hesitate to let me know.

Respectfully submitted,

A handwritten signature in black ink that reads "Dan Polsby". The signature is written in a cursive, slightly slanted style.

Daniel D. Polsby
Dean and Professor of Law

cc: Alan G. Merten, President, George Mason University
Thomas M. Moncure, Jr., University Counsel
David E. Johnson, Deputy Attorney General
Ronald C. Forehand, Senior Assistant Attorney General
Margaret Spellings, U.S. Secretary of Education (c/o Robert Eitel, Dep.
Genl. Counsel)