RESOLVED, That the American Bar Association encourages the Council of the Section of Legal Education and Admissions to the Bar to mandate through the ABA Standards for the Approval of Law Schools enhanced financial counseling for students (prospective and current) on student loans and repayment programs.

FURTHER RESOLVED, That the American Bar Association urges all participants in the student loan business and process, including law schools, to develop and publish easily understood versions of the terms of various loan and repayment programs.

FURTHER RESOLVED, That the American Bar Association encourages the Council of the Section of Legal Education and Admissions to the Bar to return to collecting expenditure, revenue, and financial aid data annually for each law school.

FURTHER RESOLVED, That the American Bar Association encourages the Council of the Section of Legal Education and Admissions to the Bar to make public the information on legal education it currently maintains and information it collects going forward.

FURTHER RESOLVED, That the American Bar Association encourages law schools to be innovative in developing ways to balance responsible curricula, cost effectiveness, and new revenue streams.
REPORT

I. The Task Force and Its Charge

The Task Force on the Financing of Legal Education was created by American Bar Association (ABA) President James Silkenat on May 6, 2014, in the wake of the Report of American Bar Association Task Force on the Future of Legal Education. Among the earlier Task Force’s recommendations was the establishment of a task force to “examine and recommend reforms concerning the price and financing of law school education,” an issue not addressed in detail by that Task Force.

This is a critical time for legal education as schools face declining enrollments and revenues, and their students face increasing tuition and debt along with a job market that has seen only modest recovery. Then ABA President James Silkenat charged this Task Force with addressing these timely and important issues, and its work has been encouraged and supported by his successor as ABA President – William Hubbard. The Task Force undertook this work with an acute awareness of the significance of the legal profession to individual clients as well as to the larger society.

The Task Force on the Financing of Legal Education has now completed its work, which this report sets out. The report’s recommendations and conclusions begin on page 36 of this document. These recommendations and conclusions are further reflected in the resolutions that the Task Force is proposing to the American Bar Association House of Delegates for its consideration at the 2015 ABA Annual Meeting in August in Chicago, Illinois. The resolutions proposed, along with the recommendations and conclusions in the report, are supported and explained by the detailed sections of this report. Those sections examine matters related to the cost of legal education for students and how law schools operate and are financed.

Dennis W. Archer, a former president of the American Bar Association, chaired the Task Force on the Financing of Legal Education and was joined by fourteen distinguished members, including lawyers, deans, young lawyers, and others active in business and consulting related to financing legal education. Dr. Stephen Daniels, Senior Research Professor at the American Bar

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2 The Members of the Task Force are:
   DENNIS W. ARCHER, Chairman Emeritus, Dickinson Wright, Detroit MI [Chair]
   LUKE BIERMAN, Dean & Professor of Law, Elon University School of Law, Greensboro NC
   CHRISTOPHER P. CHAPMAN, President & CEO, Access Group, West Chester PA
   WILLIAM J. CURRY, Partner, Sullivan & Worcester, Boston MA
   HEATHER JARVIS, Student Loan Advisor, askheatherjarvis.com, Wilmington NC
   HON. GOODWIN H. LIU, Justice, California Supreme Court, San Francisco CA
   RACHEL F. MORAN, Dean and Michael J. Connell Distinguished Professor of Law, UCLA School of Law, Los Angeles CA
   LUCIAN T. PERA, Partner, Adams and Reese LLP, Memphis TN
   ERIKA D. ROBINSON, Associate, Gregory, Doyle, Calhoun & Rogers, Smyrna GA
Foundation, served as Consultant to the Task Force. Barry Currier, Managing Director of Accreditation and Legal Education at the ABA, provided staff support.

The Task Force held four meetings and additional conference calls over the last year as it completed its work. Two of those meetings were two-day public hearings, one at the 2014 American Bar Association Annual Meeting in Boston, Massachusetts, and the other at the 2015 American Bar Association Midyear Meeting in Houston, Texas. In seeking a broad array of viewpoints, the Task Force sent letters of invitation to a wide range of interested parties who might have insights and opinions on the issues the Task Force was considering. Among the invitees were the President of the United States, who had made a statement on the structure of law school programs and the expense of law school; student leaders of the American Bar Association Law Student Division, who offered testimony to the Task Force; members of the United States Supreme Court; state Supreme Court justices; and leaders of the bar and bar organizations, including the American Bar Association.

Further, the Task Force heard from law school deans and faculty members, and received testimony from writers and commentators on the state of legal education. The Task Force expresses thanks to the many who took time to prepare written comments and to testify before it. Its work is better for their ideas, observations, and data. Additionally, since the Task Force was to conduct as much research as possible on the issues at the heart of its charge, Managing Director Currier provided to the Task Force Consultant access on a confidential basis to material not publicly available from the annual questionnaires submitted to the ABA Section of Legal Education by ABA-approved law schools.

The Task Force’s charge included a broad range of issues and key among them were: the cost of legal education for students; the financing of and business models for law schools; student loans and educational debt; and law school practices regarding tuition discounting, merit-based grants/scholarships, and need-based grants/scholarships. Dollars and cents are the clear focus of these issues and their connections to the current criticisms of and challenges facing legal education – both those from within legal education3 and those from without4 – are also clear.

Among the prominent dollars and cents concerns the Task Force heard about at its public meetings were claims about: the current availability of loans contributing to the increasing price of legal education; the heavy debt burden for students making law school inaccessible and

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3 See Brian Tamanaha, *Failing Law Schools* (Chicago: University of Chicago Press, 2012)
affecting career and life choices; and tuition discounting based on merit which tends to benefit those students who are more likely to have financial resources entering law school or better economic outcomes after graduation. The Task Force also heard much about the perverse effects of law school ranking schemes, with the race for higher rankings contributing to the increasing price of legal education. The Task Force heard about certain proposals for change such as imposing caps on student loans or even eliminating the current federal student loan program altogether (as one presenter argued). These are all relevant issues for continued discussion and inquiry.

It is important to note that many of the most critical commentaries and most drastic solutions proposed came at the nadir of the recent economic downturn, when anxieties about the job market ran high and the realities showed fewer opportunities for new law school graduates and lay-offs for recent graduates. Since then there have been important market corrections, many of which are still underway. As this report will later show, law school enrollments have significantly declined, the rate of increase for tuition has slowed, and the amount of tuition discounting has increased. Some even see glimpses of improvement in the job market. Noting this timing is not meant as a way to minimize the challenges facing legal education, but as a caution about against responding too reflexively.

The Task Force’s charge also included deeper and even more fundamental concerns – the challenges posed by such dollars and cents issues to the unique role the legal profession plays in our political system and in maintaining and fostering the rule of law. As the preamble to the ABA’s Model Rules of Professional Conduct begins, “A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.” Without a robust system of legal education that is open to and accessible by all segments of American society, the profession withers and looks less and less like society itself. Consequently, its ability to play its unique role becomes increasingly problematic.

The opening line of Alfred Reed’s now almost century-old, groundbreaking study of legal education still resonates today regarding the broader importance of legal education beyond any private gain on the part of an individual law student: “Our contemporary American system of legal education, although it contains elements of great value, is generally recognized to be defective in many ways. Efforts to improve it cannot accomplish their full purpose unless certain fundamental considerations are borne in mind.” He continues:

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Foremost among these determining factors is the position that lawyers occupy in the state. Whatever incidental purposes are cherished by particular law schools, the main end of legal education is to qualify students to engage in the professional practice of the law. This is a public function, in a sense that the practice of other professions … is not. Practicing lawyers do not merely render to the community a social service, which the community is interested in having them render well. They are part of the governing mechanism of the state. Their functions are in a broad sense political … [and spring] … fundamentally from the fact, early discovered, that private individuals cannot secure justice without the aid of a special professional order to represent and advise them. To this end lawyers are instituted, as a body of public servants, essential to the maintenance of private rights.8

This same idea of the practice of law as a public good is echoed in the report of the Task Force on the Future of Legal Education: “Society has a deep interest in the competence of lawyers, in their availability to serve society and clients, in the broad public role they can play, and in their professional values. This concern reflects the centrality of lawyers in the effective functioning of ordered society.”9

In light of the role played by the legal profession, Reed was also concerned with access to legal education – and especially with the basic principle that now underlies our contemporary efforts to diversify legal education and the legal profession. While perhaps a man of his times, his guiding idea is clear: “Humanitarian and political considerations unite in leading us to approve of efforts to widen the circle of those who are able to study law. The organization of educational machinery especially designed to abolish economic handicaps – intended to place the poor boy (sic), so far as possible, on equal footing with the rich – constitutes one of America’s fundamental ideals. It is particularly important that the opportunity to exercise an essentially governmental function should be open to the mass of our citizens.”10 Today we would say the young person (or, indeed, any person seeking a legal education) of any color or background.

Reed’s views are echoed by a contemporary statement, this one from U.S. Supreme Court Justice Sandra Day O’Connor’s opinion for the Court in Grutter v. Bollinger. Justice O’Connor said:

[U]niversities, and in particular law schools, represent the training ground for a large number of our Nation’s leaders. Sweatt v. Painter, 339 U.S. 629, 634 (1950) (describing law school as a “proving ground for learning and practice”) … In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training. As we have recognized, law schools “cannot be effective in isolation from the individuals and

8 Id.
9 Report and Recommendations, supra note 1 at 6.
10 Id. at 398.
institutions with which law interacts. See *Sweatt v. Painter*, *supra*, at 634. Access to legal education (and thus the legal profession) must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the educational institutions that provide the training and education necessary to succeed in America.\(^\text{11}\)

This statement, like Reed’s, with its pointed emphasis on the fundamental significance of access tells us why the subject of the Task Force’s work is so important.

In addressing contemporary concerns, no matter how urgent they may seem, we cannot and should not lose sight of the fundamentals. If we do, they may be undermined in dealing with more immediate issues, even with the best of intentions. This Task Force has a special obligation to set a tone for acting and doing so responsibly. Financing legal education, like financing higher education generally, does not admit to simple definitions of a problem or to simple solutions. One law school dean when asked by a Task Force member what’s the problem facing legal education could only answer, after thinking for a minute, “it’s a nuanced question.” Real change is needed and will require a concerted effort. Acting responsibly means recognizing the complexities of the legal (and higher) education enterprise and the nuance and then moving forward with this in mind.

The next section will summarize in outline form the Task Force’s main findings. The following section will describe those findings in detail. After that will be a consideration of some matters of context shaping the issues, possible solutions, and the interpretation of the findings. The concluding section will present a summary and recommendations – short-term and longer-term, some of which form the basis for the resolutions the Task Force is presenting to the House of Delegates.

II. Outline of the Task Force’s Main Findings

This section describes the data that the Task Force gathered to inform its work, the limits of those data, and the key findings that emerged from the analyses. These findings focus on enrollments, the job market, tuition increases, increased reliance on tuition discounting, student borrowing and debt, and law school expenditures.

1. Bringing Information to Bear

Because of the importance of the issues at the heart of this Task Force’s charges – and in light of the lament of the Task Force on the Future of Legal Education at not being able to conduct the kind of research needed\(^\text{12}\) – the members approached those issues with the idea of bringing to bear what research they could. This was also an idea urged on the Task Force by some of those who testified before it. One long-time observer who is very concerned about the


\(^{12}\) *Report and Recommendations*, *supra* note 1 at 3.
financing of legal education told the Task Force at one of its meetings that so much of the debate is emotional and based on inaccurate information that even basic information is needed. Another concerned observer said that one important thing the Task Force could do is to “shed light” on the issues by gathering data and sharing it, especially mining the available data.

The Task Force invited a number of commentators to present their research findings and/or submit written materials. Among other things, the Task Force received information related to tuition increases, student debt, employment prospects, curricular innovations, and factors that may drive costs. In addition, the Task Force consultant conducted a substantial amount of research and analysis using the available materials related to the Task Force’s charges. The Task Force took seriously the idea that mining and analyzing the available data was itself an important service that would help move the discussion forward in constructive ways as well as inform the Task Force’s work.

The Task Force discovered how frustrating this effort could be. It found that systematic and reliable information needed to assess the claims and criticisms about the financing of legal education – or to just to get a good working sense of what is going on in legal education – is scarce. One Task Force member even called the situation appalling given the importance of the issues to be addressed. In light of the Task Force’s timetable and resources, exploiting the best available information was the only practical course. Most (but not all) of what the Task Force utilized is from the American Bar Association’s Section of Legal Education and Admissions to the Bar, which operates the ABA law school accreditation process separately and independently of the ABA itself. The primary data come from the annual surveys accredited schools are required to complete. These data, of course, are collected and managed for the purpose of operating an effective accreditation process and do not have as a primary goal the gathering of information necessary to conduct an effective institutional research program about legal education. Some of the detailed material presented to the Task Force orally or in writing relied on publicly available ABA information.

Much of this information is not in easily useable form and requires a substantial investment of time to categorize for any kind of analysis. Additionally, the material collected by the ABA has changed over time and some important material is no longer collected (such as data on school expenditures, the amount of grants/scholarship monies, and their allocation for need v. merit, among others). At best only a partial picture of the current state of affairs is possible, but given the importance of the issues this is valuable in moving forward.

2. The Outline

The outline of findings below is divided into six broad areas with more statements about key findings within each area. Some of the findings may seem obvious. Nonetheless it is important to document them as a part of the context needed to move forward on financing legal education. Again, the next section will provide the details.
A. Enrollment

Enrollments are declining. Between AY2009-10 (AY means Academic Year) and AY2014-15, 30% fewer people entered a private law school; and 18% fewer entered a public law school. With fewer people attending law school there are fewer tuition dollars to help run a school’s operations.

Overall, minority enrollment (in raw numbers) has not yet declined in the face of the overall enrollment decline. There are signs that enrollment is declining for some classifications within the category. Regardless of the current numbers, people of color remain significantly under-represented in law school and in the legal profession.

B. Jobs and the Future

The near-term job market for new law school graduates appears far from robust, although some see signs of at least modest improvement. For the public law school class of 2013, 63% landed a permanent, full-time, bar passage-required job; for the private law school class of 2013 the figure was 57%.

Despite the cost, the best available evidence suggests a significant lifetime income premium for those with a law degree compared to those with a bachelor’s degree.

C. Tuition

Law schools are JD tuition-dependent for their revenues, and some are heavily – if not exclusively – tuition-dependent. Looking at all law schools, the average was 69% of revenue in AY2012-13, with 25% of schools receiving at least 88% of their revenue from tuition.

Inflation-adjusted tuition has consistently increased over time. This is true whether viewed in terms of an inflation adjustment made on the basis of the cost of doing business or the price to the consumer. Using the higher education price index (referred to as HEPI) private law school tuition increased 29% between AY1999-00 and AY2014-15, and public law school in-state tuition increased 104%. Using the familiar consumer price index (referred to as CPI) the increases were 46% and 132%, respectively. Importantly, one must keep in mind that the increases in public law school tuition, in all likelihood, reflected declines in state funding during this period.

13 The Commonfund Institute has created the specialized price index designed for higher education’s cost of doing business – the Higher Education Price Index (HEPI). HEPI is built around the major cost drivers for higher education. Since there does not appear to be a price index specifically for legal education, the Commonfund’s HEPI is the most appropriate alternative for use when looking at the cost of doing business. The CPI remains the best calculator to use in terms of the consumer buying the service. See https://www.commonfund.org/CommonfundInstitute/HEPI/Pages/default.aspx.
D. Discounting and Net Tuition

Stated tuition price is not, however, the whole story. Tuition discounting through grants and scholarships occurs, is widespread, and is generally increasing. For private schools, the net tuition in AY1999-00 meant a discount of 16% in inflation-adjusted dollars (CPI). In AY2013-14 the discount had increased to 25%. For public schools the discount in AY1999-00 was 22% and it increased to 28%.

With increased discounting, fewer students are paying full tuition. The percentage paying full tuition in private law schools declined from 57% in AY1999-00 to 38% in AY2013-14. For public law schools the figures are 58% and 40%.

With respect to the allocation of discounts, more money goes to pure merit (i.e., solely on LSAT scores) than to pure, demonstrated financial need. While money for pure need has not disappeared, the trend is less money being deployed for this purpose and more going to pure merit and to need plus other factors. Generally speaking, compared to private schools, public law schools devote a larger percent of their grant/scholarship monies to need and need plus other factors and less to pure merit.

While the percentage of students paying full tuition has decreased and the discount rate increased, inflation-adjusted net tuition itself has not always followed suit. Full tuition prices have increased at a greater rate than discounts. In inflation-adjusted dollars (CPI) private law school students saw net tuition increase 29% from 1999-00 to 2013-14. Most of this increase, however, came between AY1999-00 and AY2009-10 – a 28% increase. Public law school students saw net tuition increase by 102% between AY1999-00 and AY2013-14. Again, the greatest increase came between AY1999-00 and AY2009-10, when net tuition increased by 84%.

E. Student Borrowing and Debt

Despite the deeper discounting and the smaller percentage of students paying full tuition, most students still borrow to help finance their legal educations – almost 90%.

Because law schools are tuition-dependent for revenue and nearly all students use student loans to pay tuition, law schools are also student loan-dependent for revenue.

The amount borrowed by students has increased substantially in recent years even after adjusting for inflation, reflecting the inflation-adjusted increase in tuition and the accessibility of loan funds. Using inflation-adjusted (CPI) 2014$, the average debt for private law school students increased from $102,000 in AY2005-06 to $127,000 in AY2012-13; for public law school students the figures are $66,000 and $88,000.

The current student loan programs assist students in financing their education and provide repayment options and plans that assure broad access to legal training. True need-based programs that could enhance access because they do not require repayment are, of course, another matter.
Greater loan accessibility has come as the federal government became the lender for graduate school and professional school students through Grad Plus, which offers both high approval rates due to minimal credit underwriting requirements and a variety of borrower-friendly repayment programs, some of which take income into account.

Among those federal loan repayment programs is the Public Service Loan Forgiveness program for graduates who go into lower-paying public service positions. For law graduates this program is especially important in supporting not only access to legal education but also access to justice itself.

Greater loan accessibility and variety put a premium on financial counseling. Evidence suggests that students do not always take advantage of the services law schools offer for financial counseling related to borrowing and long-term debt, and that some of the students who do take advantage of these services are not that satisfied with them.

F. Increasing Law School Expenditures as the Cost Driver

An immediate driver for tuition increases is the inflation-adjusted increase in law school expenditures per full-time equivalent (FTE) student. Three areas of expenditure stand out and together they account for one-half of the total per FTE: instructional salaries, administrative salaries, and grants/scholarships. All increased, but the greatest percentage increase came in grants/scholarships to use in discounting tuition. Between AY2004-05 and AY2012-13 the average increase for public law school grants/scholarships expenditures was 99%, while for private law schools the average increase was 44%.

III. Matters of Context Shaping the Issues, Possible Solutions, and the Interpretation of the Findings

In pursuing its work the Task Force confronted a number of broad factors that will shape and influence any efforts moving forward.

1. The Higher Education Context

Institutionally, law schools are deeply rooted in higher education and share not only a number of higher education’s challenges but many of its key characteristics as well. Cost, student debt, teaching loads, scholarly research, diversity, discounting, rankings, and value – matters on the list of challenges facing legal education – are all on the list of challenges facing higher education generally.14 Perhaps one of the most important general challenges is one shared by all public institutions of higher learning, including law schools – the drastic cuts in state support. A 2012 report from the College Board noted, “state appropriations are a major source of revenue for public colleges and universities. Over the decade 1988-99 to 2008-09, the average share of

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revenues coming from state and local appropriations decreased and the average share of revenues coming from net tuition increased for all types of public institutions.”  

State colleges and universities – including their law schools – are finding it harder to remain the site of accessible higher education.

In short, many of the most important criticisms of and challenges facing law schools are not entirely unique to legal education. As one dean told the Task Force, “law schools are just the canary in the coal mine,” and this speaks to the depth of the challenges. Some challenges cannot be adequately defined and addressed by a set of assumptions based on a law-school-only perspective.

This is reinforced by the fact that most law schools (over 90%) are not independent and are instead a part of larger educational institutions. This often limits what they can do on their own. Their relationships with larger institutions are complex and varied, with some schools having little autonomy and others more. Improvements in the financing of legal education must take these relationships into account.

2. The Law School Context

Law schools in the United States are very different from each other, and, consequently, one-size-fits-all solutions may not be constructive. The most obvious difference, but not the only important one, is between public and private schools. The differences in their operating models and sources of revenues can have profound effects on tuition, discounting, student borrowing, and expenditures.

The issue of financing legal education cannot easily be separated from what law schools do, how they structure their curricula, and how curricula may be changing in the face of the shrinking market for students and changes in the legal profession itself. Curricular choices and innovation have budgetary consequences – again, the largest proportion of law school expenditures goes to instructional salaries. Ideally, these inter-connected matters would be examined in an integrated fashion in an effort to find cost-effective ways to innovate. The details of curricular issues, however, were not within this Task Force’s purview, and time and resource constraints prevented the Task Force from expanding the scope of its work.

In testimony and materials reviewed by the Task Force, the issue of law school rankings arose repeatedly. Law school deans acknowledged that pressure to climb the rankings can shape decisions about student financial aid, faculty hiring, and myriad other dimensions of law schools in subtle and not-so-subtle ways. A 2010 ABA special committee reported that the *U.S. News and World Report* ranking methodology tends to increase the cost of legal education for students, to discourage the award of financial aid based upon need, and to reduce incentives to enhance diversity in the legal profession.  

While acknowledging the pressure exerted by rankings, the

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Task Force was not presented with any realistic solution for eliminating the rankings. To the extent such rankings produce incomplete or irrelevant information, the antidote would appear to be the provision of more and better information in the marketplace for students to consider in choosing whether and where to attend law school and how to pay for it.

3. A Dynamic Environment

The Task Force addressed its charge in the midst of a dynamic environment, and this is an especially important matter of context. Schools are looking hard at their curricula and innovations are being planned and/or instituted to meet increasingly important challenges. It is also an environment in which market forces are very much at work and they are starting to exact an unpleasant toll on some schools. As noted, enrollments (and hence revenues) are down in recent years for many schools, and for some significantly so. In the wake of these declines, some schools are facing extinction. Two schools are merging and an independent school recently merged with a university. Another university-based law school was recently purchased outright by a different university that had long been in the market for a law school.

At the same time, schools are trying different ways of delivering the services they provide. William Mitchell College of Law is instituting a hybrid program allowing students to take more classes online. The University of New Hampshire School of Law has an honors program based around a two-year practicum that is designed to give students intensive, hands-on training. The University of Denver’s Sturm College of Law is offering a broader program that allows any student “to spend a full year of their law school career in real or simulated legal practice” and guarantees every student “dynamic, hands-on client interactions outside of the classroom via clinics and externships.”

22 See the University of New Hampshire School of Law’s Daniel Webster Scholar Honors Program, https://law.unh.edu/academics/jd-degree/daniel-webster-scholars.
23 See the University of Denver Sturm College of Law’s Experiential Advantage program, https://www.law.du.edu/index.php/experiential-advantage. The Task Force Consultant spent one year as a visiting professor at the Sturm College of Law, and subsequently assisted (on a volunteer basis) with an internal student survey related to the Experiential Advantage program.
A number of schools have instituted so-called three-plus-three programs that allow qualified students to complete their undergraduate and law degrees in six years instead of seven. The program at the Sturm College of Law even includes an option allowing highly qualified high school seniors to apply for its three-plus-three program as they apply to the university for undergraduate admission. In addition, a number of schools without their own law schools are entering into three-plus-three agreements with nearby law schools. LeMoyne College in Syracuse, New York, for instance, has three-plus-three agreements with law schools at Syracuse University and at Fordham University.

Schools are revising their third-year curricula to better prepare their graduates to compete in a changing employment market. One school has revised its third year to allow for a form of specialization. New York University School of Law has a series of “Faculty-designed Professional Pathways [that] guide students in a focused area of study and skill development in particular areas of law, the bulk of which they will pursue during their 3L year. Pathways are designed to help students who have developed interest in a particular career area and make them highly competitive in the job market for that field.” And the Elon University School of Law now requires its JD students to complete full-time, course connected residencies-in-practice as part of a highly experiential curriculum that is two and one-half years long and 20% less expensive than the average cost of a private law school. Among the best-known third-year innovations is Washington and Lee’s, which is an entirely experiential program. Praised for its innovative nature, the program, however, has not prevented serious enrollment and employment declines along with budgetary deficits. To address these challenges, the law school recently announced a rescue plan – the School of Law Strategic Transition Plan – to return it to a sound footing.

Not to be overlooked are schools that have long built their curricula around what are now seen as innovations. Northeastern University School of Law has its long-standing, individualized

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24 University of Denver, Sturm College of Law, Six-Year Bachelor/JD Program, https://www.law.du.edu/index.php/admissions/learn/6-year-bachelor-jd-program.
co-op approach, and Baylor University Law School has its even longer-standing Practice Court Program, required of all third-year students. Northwestern University School of Law has its Accelerated JD program in which students “complete the same number of credit hours as traditional three-year JD students in five semesters over the course of two calendar years.” And, a number of prominent individuals have called for a true two-year degree, which requires fewer credit hours. Among them are Northwestern Law School Dean Daniel Rodriguez and New York Law School Professor Samuel Estreicher as well as President Barack Obama.

In addition, new schools with differing missions are still opening. For example, the new University of North Texas/Dallas College of Law seeks to provide a low-cost legal education geared to practice-related competencies, with a teaching-focused faculty, and an emphasis on diversity. Belmont University, located in Nashville, Tennessee, has a different vision for its new law school as a part of university that “brings together the best of liberal arts and professional education in a Christian community of learning and service.”

This is not an exhaustive list, but just examples. They – and others – are important because, in many respects, they are natural experiments in which different kinds of schools are trying to devise ways of responding to changes in the world around them. In short, they are market-driven experiments that can include important curricular and pedagogical innovations. They must be watched closely and analyzed, since they are likely to have much to add to the discussion of financing legal education and its relationship to curriculum. They are the incubators of new directions and an exacting market proving ground. Moving forward such experiments may well be the source of possible solutions and models, allowing others to see what can be done, how, and with what success. They can also show what may not work, and this is equally important. Recognizing this diversity of approaches, the Task Force looked skeptically upon inflexible mandates or one-size-fits-all solutions that would constrain innovation and experimentation at a time when they are most needed.

4. The Scarcity of Data

As noted earlier, the scarcity of systematic, reliable, and detailed information needed to address the issues at hand is a particular frustration. In light of the Task Force’s timetable and resources, exploiting the best available information was the only practical course. At best only a partial picture of the current state of affairs is possible, but even this – as the observer noted earlier told the Task Force – is important and valuable.

IV. Detailed Overview of Specific Findings

This section presents the details for the findings outlined above in section II and will follow the same organization. Unless otherwise noted, the information underlying the more specific findings in the next section come from ABA sources, and multiple sources were often utilized in reaching a single finding. Some of this information is publicly available from individual law school annual informational (or 509) disclosures available on the ABA website and the Law School Admission Council website’s Official Guide Archives. Most data-driven discussions of legal education also draw from these sources. Additionally, some of the information comes from ABA Takeoff Reports, which are reports derived from annual questionnaires that ABA-approved law schools are required to file as part of the ABA law school accreditation process. Much of this information is not publicly available. In recognition of the fact that not all law schools are the same, the discussion of the specific findings will regularly distinguish between private and public schools.

Because of the differences within each type – public or private – the discussion will in some instances make further distinctions among groups of schools within each. This is important because there are key differences among schools that are relevant to the issues surrounding the financing of legal education. Rather than relying on any existing scheme, we have divided schools (public and private together) into five groups based upon the average of a school’s median LSAT (Law School Admission Test) score for full-time students for the years 2000 to 2010. The groups will be designated simply as G1 through G5, with G1 schools having the lowest LSAT scores and G5 schools the highest.

To briefly illustrate the differences among the groups, G1 schools (public or private) tend to have the lowest tuition, to admit the largest percentage of applicants, and to have lower employment rates for their graduates. In contrast, G5 schools (public or private) tend to have the highest tuition, to admit the lowest percentage of applicants, and to have the highest employment

39 The cut-offs for the five groups are: Group 1 – <152.0; Group 2 – 152.0-154.39; Group 3 – 154.4-157.5; Group 4 – 157.6-161.5; Group 5 – >161.5. The number of schools per group changed marginally over time as new schools came on line. For 2010, the numbers – going from Group 1 to Group 5 – are: 41, 40, 39, 41, and 35. Not included are the three law schools in Puerto Rico and the Judge Advocate General’s school. See Stephen Daniels, “Exploring Longitudinal Patterns in LSSSE Data,” presentation at the LSSSE Symposium, St. Louis University Law School, November 6-7, 2014. The number of G5 schools was too small to include them in the analysis of the LSSSE data.
rates for their graduates. More differences among the groups will become evident as the discussion proceeds, and they are important for understanding the current state of affairs. These differences are among the kinds of information that should be more widely available to prospective law students in making a decision on whether to attend law school and, if so, which school to attend.

1. Declining Enrollments Overall

There are preliminary matters that must be noted before directly addressing the financing of legal education. The first is declining enrollment. Fewer people are attending law school generating fewer tuition dollars to run a school’s operations. As Figure 1 below shows, enrollments have declined in the last few years, and especially so for private schools. As we will see later, these schools have higher tuition rates than the in-state tuition rates for public law schools. Comparing AY2014-15 to AY2009-10 (AY means academic year), the decline in Figure 1 for private schools equals a 19% difference in total enrollment. Most important is the decline in new students (designated as 1Ls in Figure 1) entering law school in those academic years – 30% fewer people were starting in a private law school in AY2014-15 compared to AY2009-10. For public schools the overall decline in enrollment between AY2009-10 and AY2014-15 was 13%, with an 18% decline in 1Ls.

![Figure 1. Declines in Law School Enrollment](image)
Among the five different groups of public schools (G1 to G5), the greatest declines in total enrollment were for G4 and G5 schools, the schools with higher full tuition price: down 15% and down 10%, respectively. Declines were lower in the other three groups, but substantial nonetheless. In contrast, among the five private school groups, G4 and G5 schools had the lowest enrollment declines: down 15% and down 5%, respectively. Declines were higher in the other three groups. As we will see later, the private G4 and G5 schools tend to offer the most in financial aid and hence the best discounts from stated tuition among all schools. Discounting will be discussed in detail later.

The question that this Task Force could not answer, but that must be answered, is what role increasing tuition – along with other factors including financial aid, debt, and job prospects – plays in students’ decisions to attend law school, not to attend, or to attend one school rather than another. And there is the subsidiary question of what may happen to diversity and whether law school will be accessible to the socio-economically disadvantaged of any color or background. Affordability is an important, much discussed, but elusive concept when talking about the cost of any kind of professional training. Answering the question about the role of increasing tuition – in combination with those other factors – will help us understand the practical, real-world meaning of affordability and what may be done to enhance it.

One takeaway, however, is that to the extent affordability and, as discussed below, weakness in the job market present a major concern to students considering law school, demand for legal education appears to adjust in response. This, in turn, has prompted some law schools to downsize, close, or merge with other entities, while spurring others to cut costs, reduce tuition, or innovate toward greater efficiency. The ordinary operation of market pressures should induce a measure of caution in considering any regulatory responses to problems in the financing of legal education.

Minority enrollments have not declined in the face of the overall enrollment decline – yet. Yet – because there are signs that it could. Figure 2 shows that the number of law students in public and in private schools identifying themselves as being among one of the minority categories tracked by the ABA has not declined along with the overall enrollment decline (the higher numbers for private law schools in Figure 2 simply reflect the fact that more students attend private schools than public schools).\(^{40}\) The percentage of all students in public law schools identifying themselves as minority has increased from 21% in AY1994-05 to 27% in AY2013-14. However, the percentage increase in the number of minority students has slowed for public schools in recent years. From AY2004-05 to 2009-10 the number increased by 9%, but from 2009-10 to AY2014-15 it increased by only 3%.\(^{41}\)

The pattern for private law schools is similar in that the percentage of students identifying as minority has increased – from 19% in AY1994-95 to 30% in AY2014-15.\(^{42}\)

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\(^{40}\) The figures used here are for all minority categories tracked by the ABA and the discussion here goes beyond 2009. Evidence provided to the Task Force shows statistics essentially the same as those used here; see Michael Simkovic, “Financing a Legal Education,” presentation to the Task Force, August 9, 2014, 20.

\(^{41}\) Some of this may be a result of bans on affirmative action in a number of states.

\(^{42}\) The latter figure may reflect, in part, declines in non-minority students as a part of the overall enrollment decline in private schools.
However, unlike the situation for public law schools, the percentage increase in the number of minority law students in private law schools has not declined, but has stayed relatively stable at 11%-12% in recent years. While these trends appear relatively benign, there still is cause for concern. As one recent commentator noted, the increasing percentages in minority enrollment “is due mostly to deep declines in white law students, and black and Hispanics remain profoundly underrepresented in legal education and the profession.”

Regardless of the current picture of minority enrollment, the concern is whether the trends identified will or can lead to law school student bodies or a legal profession that more closely reflects American society at large. Both now reflect a substantial underrepresentation of people of color. ABA demographic statistics show a profession that is overwhelmingly White/non-Hispanic – well over 80%. U.S. Census figures show the percent of the population

Figure 2. Number of Minority Law Students Over Time

Regardless of the current picture of minority enrollment, the concern is whether the trends identified will or can lead to law school student bodies or a legal profession that more closely reflects American society at large. Both now reflect a substantial underrepresentation of people of color. ABA demographic statistics show a profession that is overwhelmingly White/non-Hispanic – well over 80%. U.S. Census figures show the percent of the population

that is White/non-Hispanic at about 63%. By mid-century that percentage is projected to drop below 50%. And, those same ABA demographic figures show a noticeable gender imbalance with the percentage of females in the profession being well below 50%. Again, the question of what role cost may be playing in driving law school enrollments down is one this Task Force could not answer, but answering is especially important for understanding the future of diversity in legal education and in the legal profession.

The commentator quoted above raises another level of concern regarding minority enrollment in the face of the overall enrollment challenges faced by law schools. His concern is that some schools may be using increased minority enrollment as a “survival strategy” that has potentially disturbing consequences. He found that schools with the lowest median LSAT scores were the ones increasing minority enrollment, especially African-American and Hispanic students. He sees this as a “critical component of the enrollment management calculus for [such] schools … and could very well have saved some of these schools – at least for now.” Enrollments for white and Asian students, in contrast, went down or stayed stable in these schools. At the other end of the spectrum, the percentages of white and Asian students increased at schools with higher LSAT scores, while the percentages of African-American and Hispanics students decreased. The conclusion is blunt: “Put simply, black and Hispanic students have increased their proportions among law schools considered least prestigious while essentially being shut out of the schools considered most prestigious. White and Asian students, on the other hand, have reaped the benefits of the increasingly competitive admissions climate.” Such a trend will have a potentially negative affect on career opportunities for many students of color.

2. The Weak Job Market

The job market for new law school graduates is far from robust, although some see signs of at least modest improvement. The most recent ABA reports on employment show only a very slight increase in the already unexceptional percentage of graduates landing a permanent, full-time, bar passage-required job (the job for which every law school designs its curriculum). For the public law school class of 2013, the figure was 63%; for the class of 2012, 64%; and for the class of 2011, 62%. For the private law school class of 2013, the figure was 57%; for the class of 2012, 56%; and for the class of 2011, 55%. Unfortunately, comparable figures are not

47 Taylor, supra note 43 at 30.
48 For all material and quotations in this paragraph, see id. at 30-31. This a somewhat different concern then one voiced in a 2009 study that looked at the prospect of black and Mexican-American students making up a smaller percentage of the law school population. That study reported a decline in the number of black law students from 3,432 in 1993 to 3,392 in 2008, and a decline in the number of Mexican-American law school students from 710 in 1993 to 673 in 2008. See Conrad Johnson, “A Disturbing Trend in Law School Diversity,” 2009, Lawyering in the Digital Age, Columbia Law School, http://blogs.law.columbia.edu/salt/.
available for earlier years. The ABA instituted more detailed and stringent reporting requirements for schools in light of concerns about the clarity of some the earlier categories.

Figures 3a and 3b show employment figures for the five private school groups and for the five public school groups, respectively. Again, the figures report on the percentage of graduates landing a permanent, full-time, bar passage-required job. The idea here is to present an added level of detail about employment rates and in doing so to illustrate the difference among groups of schools (and why such information is useful, especially for prospective law students). For the public schools and for the private schools, the highest employment rates for the years 2011, 2012, and 2013 for such jobs were for G5 schools. G1 schools – public and private – had the lowest employment rates. Noticeably, the rates for the private G1 schools actually declined from 2011 to 2013, and the rate declined for public G1 schools from 2012 to 2013.

**Figure 3a. Percentage of Private Law School Graduates by Group Employed Full-Time Bar Pass Required**

<table>
<thead>
<tr>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Group 4</th>
<th>Group 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>47%</td>
<td>49%</td>
<td>50%</td>
<td>52%</td>
<td>77%</td>
</tr>
<tr>
<td>45%</td>
<td>51%</td>
<td>50%</td>
<td>52%</td>
<td>80%</td>
</tr>
<tr>
<td>43%</td>
<td>53%</td>
<td>52%</td>
<td>54%</td>
<td>81%</td>
</tr>
</tbody>
</table>

A similar analysis can be done using figures for graduates with full-time, permanent positions classified as JD-advantage: “A position in this category is one for which the employer sought an individual with a JD, and perhaps even required a JD, or for which the JD provided a demonstrable advantage in obtaining or performing the job, but itself does not require bar passage or an active law license or involve practicing law.”\(^{50}\) For private law schools, the highest percentages of graduates landing these kinds of positions increased from 2011 to 2013 for each group of schools, but the percentages were not high. In 2013, they ranged from a high of 13% for G2 schools (also the highest in 2011 – 11%) to a low of 6% for G5 schools (also the lowest in 2011 – 5%).

For public law schools the picture with respect to JD-advantage placements is essentially the same – an increase from 2011 to 2013, except for G5 schools. For them the percentage remained unchanged – 8%. For the other groups the percentage of graduates landing such positions ranged between 9% and 10% and between 11% and 13% in 2013.

Despite the cost, the best available evidence suggests a significant lifetime income premium for those with a law degree compared to those with a bachelor’s degree.\(^{51}\) This holds for those who graduate in a down job market and for those whose earnings place them at the 25th

\(^{50}\) American Bar Association Section of Legal Education and Admissions to the Bar, 2015 Employment Questionnaire (For 2014 Graduates): Definitions & Instructions, 2; http://employmentsummary.abaquestionnaire.org.

percentiles of the income distribution. Debt, however, can diminish the degree of premium for all
law school graduates and so remains a factor to contend with. Still, even with the focus on debt
by many commentators, the question is ultimately one of long-term value – and that value is
significant.

3. Tuition Dependency

Law schools are tuition-dependent for their revenues, and some are heavily – if not
exclusively – tuition-dependent. This is the final preliminary matter. Looking at all law schools,
the average was 69% of revenue in AY2012-13 (the last year for which information is available),
with 25% of schools receiving at least 88% of their revenue from tuition.

There are important differences among schools in the degree of dependence. Schools
with the lower tuitions (which are those in the lower groupings for both public and private
schools) are more tuition-dependent, and those with higher tuitions (which are those in the higher
groupings) are less dependent. Private G1 schools are by far the most tuition-dependent (the
same schools noted above for their low employment rates). In AY2012-13 the average was 95%
of revenue. Clearly, anything that disrupts the flow of tuition dollars could put some schools in a
very precarious position, and private G1 schools had some of the greater declines in enrollment
(and these are the schools, as noted above, trying to increase minority enrollment).

Tuition is at the heart of the concern surrounding the financing of legal education, and
even viewed in terms of inflation-adjusted dollars tuition has consistently increased over time.
This is true whether viewed in terms of an inflation adjustment made on the basis of the cost of
doing business (using the higher education price index, referred to as HEPI), or the price to the
consumer (using the consumer price index, referred to as CPI). 52

Using inflation-adjusted dollars is important because it shows how much costs have
increased beyond what may be expected because of inflation alone. Using nominal dollars – not
adjusting for increases due to inflation alone – gives a distorted view of changes over time that
can adversely affect responses to those changes. Figures 4a and 4b show the difference the
inflation adjustment can make. The two figures present material on trends in law school tuition
for private schools and for public schools using three different measures. The first uses nominal
dollars for both sets of schools and shows truly dramatic increases for both. For private schools,
tuition increased by 109% between AY1999-00 and AY2014-15, and it increased by 231% for
public schools (in-state tuition).

52 See supra note 13 on the use of HEPI and CPI.
The second measure – the middle bars in each figure – uses the consumer price index with 1983 dollars as its base (using an older year as a starting point works well for examining
trends over an extended period of time). This measure speaks to the consumer’s cost and ability to pay for the service. If CPI tuition increases it means that the consumer’s ability to pay for the service is not keeping up and the service functionally is costing more than in the past.

What is important in Figures 4a and 4b is the amount of change over time in tuition, keeping in mind that those increases are not because of inflation. The figures show that CPI tuition did not increase as sharply as nominal tuition, but the increases are still quite substantial. CPI tuition increased 46% for private schools between AY1999-00 and AY2014-15, and 132% for public schools. Even taking consumer inflation into account, tuition has become much more expensive. By way of perspective, inflation-adjusted per capita income in the United States actually declined by 6% between 1999 and 2013 (with a noticeable drop between 2008 and 2009).

The third measure – the far right-hand bars in each figure – uses the higher education price index with 1983 as its base. This measure speaks to the schools’ cost of doing business and takes into consideration inflation in the key cost factors for higher education. If HEPI tuition increases it means tuition is increasing faster than inflation in those cost factors. The figures show that HEPI tuition did not increase as sharply as either nominal tuition or CPI tuition, but it still increases markedly. HEPI tuition for private schools increased by 29% between AY1999-00 and AY2014-15, and increased by 104% for public schools (again, decreases in state funding need to be kept in mind). And in light of CPI tuition and per capita income, this only reinforces the concern that law school – public or private – has become increasingly expensive.

Generally speaking and using either version of inflation-adjustment, private and public school tuition increases going from G1 schools to G5 schools. G1 schools have the lowest tuitions and G5 schools have the highest. All groups of schools have steadily increasing inflation-adjusted tuition over time, as the consumer’s ability to pay has not kept pace.

4. Discounting and Full Tuition Price

Full price tuition, however, is not the whole story. Tuition discounting occurs, is widespread, and is generally increasing for both private and public schools. A school’s net tuition is the figure that counts – it is a concise figure that allows for schools to be compared in a meaningful way with regard to the price for their service. School-level net tuition takes into consideration the typical amount of grants/scholarships (financial aid that requires no repayment) as well as the percentage of students receiving grants/scholarships money and the percentage still paying full price. Figures 5a and 5b use the same three measures in Figures 4a and 4b to show

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53 Id.

54 The higher education literature offers a number of possibilities, but they are typically designed for undergraduate institutions and may not be transfer well to law schools. One recent approach by a long-time scholar of higher education is intended to be more straightforward and generally applicable. See Robert Zemsky and Susan Shaman, “It’s Still a Market,” Working Paper 9-15-2104, The Consumer-Based Institutional Market Segmentation Project, The Alliance for Higher Education And Democracy, University of Pennsylvania. With a very minor revision – based on the availability of data for law schools – it can be used for law schools. Its strength is including in its formula both those receiving free money and those receiving none. As used it works in three steps:
trends in net tuition and they show net tuition increasing for both private and public schools. But care must be taken in interpreting the increases. Even though net tuition (using net 1983 CPI) increased between AY1999-00 and AY2013-14 – 29% for private schools and 94% for public schools – there is something else important going on.\textsuperscript{55}

The increase itself will be addressed later. What is important here is net tuition’s percentage of the stated tuition because it allows us to easily calculate a figure that demonstrates the magnitude of the discount (simply subtract from 100% the net tuition’s percentage of sticker price).\textsuperscript{56} The magnitude of discounting has been increasing, meaning that discounts have become deeper. For private schools, the net tuition in AY1990-00 meant a discount of 16% in inflation-adjusted dollars (CPI). In AY2013-14 the discount had increased to 25%. For public schools the discount in AY1999-00 was 22% and it increased to 28%. One dean testifying before the Task Force said his school’s discount rate was about 10-15% when started his deanship and is now at 40%.

Generally speaking, the discounts have been greater for private schools because of their higher tuitions. For each of the five groups of private schools the trend over time has been one of deeper discounts. The deepest discount for private schools in 2013-14 was for G4 schools – a 31% discount. The smallest discount for private schools in 2013-14 was for G1 schools at 21% – again, the schools most tuition-dependent, with the lowest employment rates, and some of the greater enrollment declines. For public schools, G3 schools had the deepest discount in 2013-14 – 29%.

\begin{itemize}
\item First, subtract the median award from the sticker price and multiple that figure by the percentage of full-time students receiving free money.
\item Second, multiply the sticker price by the percentage of students paying sticker price. Finally, to get a school’s overall net price add together the figures from the first two steps.
\end{itemize}

\textsuperscript{55} It is especially important to note, again, that the increases in public in-state tuition – even net tuition – came as state governments were cutting their appropriations to institutions of higher education. See Ma and Baum, supra note 15. If net 1983 HEPI is used the increases are 15% and 80%, respectively.

\textsuperscript{56} For example, take a sticker price of $500 and a net tuition of $350 – the net tuition is 70% of the sticker price, and subtracting 70% from 100% yields a discount of 30%; alternatively the formula can be (sticker – net)/sticker.
Figure 5a. Trends in Private School Net Tuition: Average for Nominal$ and Inflation-Adjusted$

Figure 5b. Trends in Public School In-State Net Tuition: Average for Nominal$ and Inflation-Adjusted$
With increased discounting, fewer students in both public and private schools are paying full tuition than in the recent past. As Figure 6 shows, that percentage steadily declined for private schools from 57% in AY1999-00 to 38% in AY2013-14. Looking more closely, the percentage of students paying full price declined in each of the five private school groups. Generally speaking, G4 and G5 schools – which had the highest full tuition prices – had lower percentages of student paying full price, and those in the other groups somewhat higher percentages. For public schools Figure 6 again shows a steadily declining percentage of students paying full price –58% in AY1999-00 to 40% in AY2013-14. Again, those schools in the higher groups with the higher tuitions have lower percentages of students paying full price.

**Figure 6. Trends in Percent of Students Paying Full Tuition**

While the percentage of students paying full price has decreased and the discount rate increased, inflation-adjusted net tuition itself has not always followed suit. Figures 5a and 5b above presented inflation-adjusted figures for CPI net tuition and they show that the actual amount of money schools expect students to pay, in many situations, has still increased. Simply put, stated tuition prices have increased at a greater rate than discounts.

In inflation-adjusted dollars (CPI) private law school students saw their schools’ net tuition increase 29% from 1999-00 to 2013-14. Most of this increase, however, came between AY1999-00 and AY2009-10 – a 28% increase. There was very little change from 2009 to 2014 (a mere 1%). Generally speaking, the patterns for net tuition follow the grouping of private law schools. G1 schools are the least expensive having the lowest inflation-adjusted net tuition at each point in time. G5 schools are the most expensive having the highest at each point in time. For G3 and G4 schools net tuition actually declined slightly between 2009-10 and 2013-14 (-2%
and –1%, respectively), and for the other three groups the increase was 4% or less. Whether this may reflect a permanent bend in the cost curve remains to be seen.

For public law schools inflation-adjusted (CPI) net tuition is lower, but it increased more dramatically than net tuition for private schools (again, importantly, this reflects the declines in state appropriations). Public law school students saw their schools’ net tuition increase by 102% between AY1999-00 and AY2013-14. Again, the greatest increase came between AY1999-00 and AY2009-10, when net tuition increased by 84%. As was the case with the private schools, G1 public schools were consistently the least expensive having the lowest net tuition at each point in time. G5 public schools were the most expensive having the highest net tuition. No public law school group saw a decline in net tuition.

With respect to discounting, more money goes to pure merit (i.e., for LSAT scores and no consideration of other factors) than to pure need (i.e., need demonstrated by financial aid materials submitted by the student with no consideration of other factors). While money for pure need has not disappeared, the trend is less money being used for this purpose and more going to pure merit and to a third, mixed category of need plus other factors (such as prior public service activities or an interest in such work).

Using the only data available, Figures 7a and 7b show this pattern quite clearly in comparing AY2004-05 and AY2009-10 (the ABA stopped collecting this information in 2011). Both public and private schools devoted less to need in AY2009-10 than in AY2004-05 and more to merit, but there were important differences as well. Most obviously, the two figures show that private schools devote a much larger share of grant/scholarship money to merit. And public schools devote larger shares to need and need plus other factors.
Figure 7a. Distribution of Grant/Scholarship Monies by Private Law Schools: Need, Merit, Need-Plus

AY2004-05 | AY2009-10
---|---
% to Need | 20% | 15%
% to Merit | 60% | 64%
% to Need-Plus | 21% | 20%

Figure 7b. Distribution of Grant/Scholarship Monies by Public Law Schools: Need, Merit, Need-Plus

AY2004-05 | AY2009-10
---|---
% to Need | 28% | 21%
% to Merit | 37% | 42%
% to Need-Plus | 34% | 37%
Although the patterns are not always entirely clear, G5 schools – both public and private – devoted less grant/scholarship money to pure merit and more to pure need and to need-plus. Again, these are the schools with the highest tuitions. In 2009-10, private G5 schools devoted between 27% and 37% to each of the need categories. For the other private school groups pure merit was much more important, ranging from 83% of grant/scholarship money for G1 schools to 67% for G4 schools. For the public schools, the 2009-10 pattern for pure merit is quite clear – the percentage of money devoted to merit consistently declines from 75% in G1 schools to 27% in G5 schools. Need-plus consistently increases from 10% in G1 schools to 49% in G4 schools and then drops to 37% in G5 schools (G5 schools had the largest percentage devoted to pure need at 35%.)

Figure 8 looks at grant/scholarship money in a different way. Figures 7a and 7b show the percentage allocation among the three categories – merit, need, and need-plus – for the two points in time. Figure 8 shows the inflation-adjusted (CPI) percent increase from AY2004-05 to AY2009-10 in the amount of money devoted to each of those three categories for both types of schools. Schools are clearly investing more money in grants/scholarships. For private schools, the total amount of money devoted to grants/scholarships increased by 43%, but with a mere 2% increase in money for pure need. The substantial increases went to merit and especially to need-plus. For public schools, the total amount of money devoted to grants/scholarships also increased – by 49%. Again, pure need saw less of an increase while the other two categories saw substantial increases. The Task Force heard testimony from law school deans that is consistent with this finding. One noted that pursuing the best students in a competitive market leads his school and others to offer the most money to high-achieving students rather than those with the most need. Another spoke of a “merit scholarship arms race.”
5. Student Borrowing Increasing

Despite the increases in grant/scholarship money, the deeper discounting, and the smaller percentage of students paying full price, most students still borrow to help finance their legal educations. The average student debt by school in 2014 dollars is in excess of $127,000 for private schools and in excess of $88,000 for public schools (the ABA collects information on the average student debt by school, not the average individual student debt). In the face of these levels of debt, evidence presented to the Task Force indicates that law students rarely default on their student loans – a 2-year cohort default rate below 2%. This is lower than the rate for masters/doctoral/professional students generally and a rate lower than for bachelor degree students and below. A recent survey suggests that most practicing attorneys feel their incomes have justified the cost of their legal education and that most law students see good value in their legal education even with the money borrowed.

The amount borrowed in inflation-adjusted dollars has increased. That increase in student borrowing reflects the growth in tuition even adjusting for inflation and the accessibility of loan funds. As Figure 9 shows, these figures represent an increase over the amount of student debt by school in the recent past. In inflation-adjusted dollars, private school debt increased by 25%}

57 See Simkovic, supra note 40 at 44. The 2-year cohort default rate the percentage of borrowers who enter repayment during a federal fiscal year and default prior to the end of the next one to two fiscal years; cf. a lifetime cohort default rate, which measure the lifetime default of a given cohort.
between AY2005-06 (the first year for which data are available) and AY2012-13 (the most recent year for which data are available), and public school debt increased by 34%. Periodic surveys of individual students by the U.S. Department of Education show that individual law student debt – adjusting for inflation – increased by 56% from 2004 to 2012. Cumulative debt – undergraduate plus law school – increased by 44%. \(^{59}\) And, figures from the annual Law Student Survey of Student Engagement (LSSSE) show that few 3rd and 4th year students, perhaps less than 15%, expect to graduate with no law school debt. \(^{60}\)

![Figure 9. Trends in Student Debt in Inflation-Adjusted Dollars (2014$)](image)

While the amount borrowed is higher in private schools because of the higher tuitions, the inflation-adjusted amount borrowed increased more for public law schools as their tuitions increased (again, perhaps a result of tuition increases that came in the wake of reduced state support). The greatest increase for public schools came between 2009-10 and 2012-13 – a 21% increase compared to a 15% increase for all private schools. And during this time period, for both public and private schools the increases in borrowing were the greatest for students in G1 schools (22% increase for G1 private and 30% for G1 public), but these were still the schools with the lowest amount borrowed and the lowest tuitions.

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\(^{60}\) See Daniels, *supra* note 39, using data from a sample of 59 schools that participated consistently in LSSSE between 2005 and 2013, and all respondents within that sample of 59 schools – a total of 134,000-plus respondents.
With programs first instituted in 2006-07, the federal government has become the lender for graduate school and professional school through Grad Plus. Students can borrow the full cost of attendance – tuition plus a school’s stated living expenses. There are a variety of borrower-friendly repayment programs, some of which take income into account. The details of the various options, however, can be complex. The complexities are so great that the Young Lawyers Division presented a resolution and report to the House of Delegates at the 2015 ABA Midyear Meeting – which was adopted – calling for “comprehensive debt counseling and debt management education” on the part of law schools and bar associations.61

Access Group62 staffs a free loan repayment assistance call center available to law students and graduates and has recently published a comprehensive guide to the various programs – *Federal Student Loans: Repayment 101*.63 The current student loan programs assist students in financing their education and provide repayment options and plans that assure broad access to legal training. True need-based programs that could enhance access because they do not require repayment are, of course, another matter.

Among those federal loan programs is the Public Service Loan Forgiveness Program for graduates who go into lower-paying public service positions. For aspiring law students and graduates this program supports not only access to legal education but also access to justice itself. This program “is intended to encourage individuals to enter and continue to work full-time in public service jobs. Under this program, borrowers may qualify for forgiveness of the remaining balance of their Direct Loans after they have made 120 [ten years’ worth of] qualifying payments on those loans while employed full time by certain public service employers.”64

Echoing the concerns of the Young Lawyers Division, evidence suggests that students do not always take advantage of the services law schools offer for financial counseling and that some of the students who do are not satisfied with the service. This is particularly important in light of the potential consequences of incurring long-term debt as a means of paying for one’s legal education. Annual LSSSE surveys from AY2004-05, AY2009-10, and AY2012-13 show that about one-fifth of 3rd and 4th year students in a sample of 59 schools did not even use the services available (this sample did not include any G5 schools). Of those who did use the

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61 American Bar Association Young Lawyers Division, Report to the House of Delegates, Resolution 106, 2015 Midyear Meeting, Houston, TX.
62 “Founded in 1983, Access Group is a nonprofit membership organization comprised of 197 nonprofit and State-affiliated ABA-approved law schools. Access Group works to further access, affordability and the value of legal education through research, policy advocacy, and direct member and student educational services.” [https://www.accessgroup.org/about-us](https://www.accessgroup.org/about-us). Christopher Chapman, president and CEO of Access Group, is a member of this Task Force.
63 Also available at: [https://www.accessgroup.org/federal-student-loans-repayment-101](https://www.accessgroup.org/federal-student-loans-repayment-101). See the Access Group’s website for other user-friendly tools explaining the federal loan programs that include calculators to estimate the cost of borrowing and payments under the various options: [https://www.accessgroup.org](https://www.accessgroup.org).
services in those years, the surveys show that around one-third in each year said they were unsatisfied or very unsatisfied with the services.65

Increased student borrowing can be seen in another way, one that speaks to the importance of tuition as a source of revenue for law schools and to the importance of loans to pay that tuition. While a crude measure, it still sends an important message about schools’ – not just students’ – reliance on loans. Looking at the most recent figures – for AY2012-13 (well after the federal loan programs were firmly established) – as a percentage of all tuition collected, loans accounted for 123% for public schools and 86% for private schools. The figure can exceed 100% because the current federal loan programs allow students to borrow for living expenses as well as tuition. The higher percentage for public schools may reflect, along with more loan accessibility, sharper tuition increases that outpaced discounting. The percentage of tuition and living expenses that is covered by student loans increases going from G1 schools to G5 schools. The pattern holds for both public and private schools, with G1 schools having the highest percentage and G5 schools the lowest. In other words, both private and public G1 schools are not only the most tuition-dependent schools, but the most loan-dependent as well.

6. Increasing Law School Expenditures as the Cost Driver

Tuition has increased more than would be expected simply because of the effects of inflation on the cost of doing business for law schools. The immediate driver for the inflation-adjusted increase is the growth in law school expenditures.

The most appropriate way to look at expenditures is to normalize them using inflation-adjusted (HEPI) expenditure per full-time equivalent (FTE) enrollment, since raw expenditures will be higher or lower due to higher or lower enrollments. Doing so shows that total inflation-adjusted expenditures per FTE have increased for both public and private schools, but more so in public schools. The greatest increase for public schools came between AY2004-05 and AY2009-10 – at 20%, with an additional 8% increase between AY2009-10 and AY2012-13. For private schools the increase was 11% for each time period (11% plus another 11%).

Figures 10a and 10b break down total expenditures and report on the three areas of expenditure that accounted for the largest proportions of the total in each of the time periods covered by the figures: instructional salaries (which would take into account faculty/student ratio and teaching load), administrative salaries, and grants/scholarships in each time period.66 Since the figures for instructional salaries cannot be disaggregated (they include all instructors and not just full-time, tenure-line faculty), no conclusions can or should be drawn from them regarding


66 Data are available for fringe benefits only for 2012-13. They make up 10% of budget for private law schools and 11% for public law schools.
full-time, tenure-line faculty salaries as a significant cause. Detailed data on these professors’ salaries are not available. On the other hand, student/faculty ratios have decreased, meaning more instructors per student – something generally seen as good, but that increase costs.

Together instructional salaries, administrative salaries, and grants/scholarships consistently made up one-half of the total inflation-adjusted expenditures for both public and private schools. Generally speaking, instructional salaries and administrative salaries each made up a larger proportion of total expenditures in public schools compared to private schools and grant/scholarship money a smaller proportion.

The percentage of total expenditures for each of these three areas did not change significantly for private law schools, as Figure 10a shows – with only a slight decrease for instructional salaries and a slight increase for grant/scholarship money. For public law schools, Figure 10b shows a somewhat greater and consistent decrease in the percentage of total expenditures going to instructional salaries and a consistent increase of total expenditures going to grant/scholarship money. With few exceptions, for both public and private schools inflation-adjusted total expenditures per FTE were highest for G4 and G5 schools (the schools with higher tuitions).

67 Although there have been anecdotal reports of high salaries for a small number of full-time, tenure-line law professors at some schools, evidence presented to the Task Force using Bureau of Labor Statistics data on salaries show that inflation-adjusted median salaries for post-secondary law instructors (a category that includes law professors as well those teaching in other venues) have not increased; see Simkovic, supra note 40 at 27.

68 See Simkovic, supra note 40 at 24.
The amount of inflation-adjusted expenditure per FTE has increased for both public and private schools, 30% and 23%, respectively as Figure 11 shows. The greatest increases in the amount of inflation-adjusted expenditure per FTE were for grant/scholarship money, especially for public law schools. Among public schools the smallest increase in grants/scholarships was 45% for G3 schools, the largest 77% for G4 schools. But in terms of absolute spending, G5 schools spent the most on grant/scholarship money. For private schools, G4 schools spent the most on grant/scholarship money. The next largest increase in expenditure was for administrative salaries for both public and private schools.
The best available data on expenditures per FTE are for AY2012-13. A statistical analysis, which includes all areas of expenditure per FTE that accounted for at least 5% of total expenditures per FTE for both public and private schools, allows for at least a sense of the relative importance of each area for the total. Such an analysis (stepwise regression) shows how much of the variance in expenditures per FTE among schools is explained by any factor while controlling for the effect of other factors. In doing so, this method can tell us whether adding the effects of additional variable actually helps to explain more of the variance in total expenditure.

For public schools, the analysis shows the most important areas to be, in order, instructional salaries (again which take into account teaching load and faculty ratio), grant/scholarship money, and administrative salaries. Instructional salaries alone explain 68% of the variance among schools in total expenditures per FTE for all public schools. Adding grant/scholarship money explains a total of 86% of the variance, and adding administrative salaries brings the amount explained to 89%. For private schools the order is different – instructional salaries alone explain 84% of the variance, adding administrative salaries explains 87%, and adding grant/scholarship money explains 89%. In short, to effect meaningful change in total expenditures it would be necessary to make changes in one or more of these three areas. Doing so would obviously involve hard, and potentially painful, choices.
V. Conclusion and Recommendations

1. Summary

As noted at the start of this report the charge of the Task Force on the Financing of Legal Education includes a broad range of issues. Key among them are: the cost of legal education for students; the financing of and business model for law schools; student loans and educational debt; and law school practices regarding tuition discounting, merit-based grants/scholarships, and need-based grants/scholarships. These are important matters that cannot be ignored and that charge covers not only the examination of these issues but also, where possible, the development of constructive recommendations – some of which would be resolutions to the American Bar Association’s House of Delegates.

Through its hearings, meetings, and research efforts the Task Force has examined these and related issues. Its findings are clear. Tuition costs have increased beyond what would be expected from inflation, whether viewed in terms of an inflation adjustment made on the basis of the cost of doing business or the price to the consumer. (Again, for public schools we must keep in mind the decreases in state support.) Full tuition prices are not, however, the whole story. Tuition discounting may mitigate those increases. Discounting does occur, it is widespread, and it is increasing. This means fewer students are paying full tuition, with increasing monies going to students for merit rather than need.

Despite the increasing use of discounting, students are still paying more because inflation-adjusted net tuition (tuition taking the discount into account) has still been growing. Simply put, full tuition prices have increased at a greater rate than discounts. As a result, most students still borrow to help finance their legal education. And, the amount borrowed in inflation-adjusted dollars is increasing. That increase reflects the growth in inflation-adjusted net tuition and the accessibility of loan funds.

The current student loan programs assist students in financing their education and provide repayment options and plans that assure broad access to legal training. The federal government has become the lender for graduate school and professional school students through Grad Plus, which offers a variety of borrower-friendly repayment programs, some of which take income into account. Still, deciphering and successfully navigating those programs is a daunting process that can undermine a student’s ability to take advantage of the benefits available.

The implications of these findings may lead people to gravitate toward some of the changes proposed to the Task Force by those who appeared before it. Among them are capping law student loans, requiring law schools to have “skin in the game” by being responsible for loan repayment in certain situations, and even scrapping the current federal student loan program altogether (as one presenter urged). The hope with such proposals is that a kind of fiscal tough love will force schools to become more financially responsible and reduce cost. Proposals such as these deserve careful and serious analysis. But such analyses were beyond the time and resources of the Task Force, if for no other reason than the fact that these proposals involve the cost and financing of higher education more generally and not just legal education. Other
proposed changes go in a different direction, like cutting the cost to the student by allowing a true two-year program with reduced credit hour requirements or by three-plus-three programs that allow students to enroll in law school after three years of college.

The implications of the Task Force’s findings strongly suggest, moving forward, the need to look beyond the usual changes proffered and to reconsider law school business models themselves in light of their relationship to the curriculum, its cost, its increasing reliance on discounting, its even heavier reliance on student loans for revenue, and the resultant student debt. In reality, there seems to be little need to impose the kind of tough love some want because the market is already doing it – in some instances brutally. Enrollments are declining and not just marginally. With those declines come the declines in the tuition dollars that fuel law school operations, and this is occurring at a time of more limited job prospects for many graduates. Some may not be surprised if schools seen as marginal by the “cognoscenti” start to teeter on the edge, but schools of all kinds are facing the challenge and many are grappling with the possible ways forward. Such a reconsideration will need to be a broad one including stakeholders in legal education, in the profession, and beyond.

A start on this reconsideration has already begun with the natural experiments already underway, and experimentation should be encouraged and fostered. As noted earlier, these are market-driven experiments that can include important curricular and pedagogical innovations. They are the incubators of new directions and an exacting market proving ground. Moving forward such experiments may well be the source of practical solutions and models, allowing others to see what can be done, how, and with what success. They can also show what may not work, and this is equally important.

The experiments must be watched closely and analyzed if they are to play a constructive role. Analyzing and evaluating these experiments must be done independently and outside of the ABA, and this might mean the development of one or more ongoing entities to research, share information, and regularly report on legal education. Importantly, the experiments, analyses, and evaluations must not lose track of the unique role played by the legal profession and the importance of access and diversity to that role.

2. Recommendations

From its work, the Task Force sees short-term and longer-term strategies moving forward.

A. Short-Term

Short-term strategies address more immediate issues. The first ones deal with the federal loan programs, which are the key to access to legal education.

It is obviously important that students who borrow student loans to fund their legal education be informed consumers. The United States Department of Education requires accrediting agencies it recognizes to require institutions that they accredit provide debt
counseling at the outset of the program and again at graduation. The Council of the ABA Section of Legal Education and Admissions to the Bar, which is the recognized accreditor of J.D. programs, requires that counseling in its Standards (see ABA Standard 507). The Task Force understands that the counseling required is the minimum required by the rules.

In light of the complexities in the federal student loan program, the responsibilities students accept in borrowing for their education, and the amount of borrowing that students do to fund their legal educations, the Task Force recommends that the ABA encourage the Council to develop and adopt Standards requiring more of accredited law schools than the minimum debt counseling required by the U.S. Department of Education’s requirements. An enhanced standard could require more of schools at the stage that students are applying for admission to law school, and ongoing efforts throughout a student’s law school career.

Further, given the complexities of the loans and the various repayment programs that are in effect, the Task Force urges all actors in the student loan business, including law schools, to produce “plain English” versions of the terms and conditions of these programs in a user-friendly format.

Finally, the report has considered the importance of the Public Service Loan Forgiveness (PSLF) program as a means of encouraging and supporting students who elect to work in the public interest sector after graduation. There is no need for the Task Force to recommend a resolution on this matter. There is existing ABA policy supporting these PSLF programs. The Task Force does encourage others – bar associations and educators – to continue to this program, as well. This is an important access to justice issue.

The second set of short-term recommendations deal with information related to the financing of legal education. In light of the Task Force’s concern with the scarcity of data and in the interest of transparency, accountability, and better understanding of the state of legal education and its challenges, the Task Force recommends that the American Bar Association Section of Legal Education and Admissions to the Bar, which collects and is the custodian of law school accreditation-related data, make that data public, and do so in an easily available spreadsheet format.

To further these purposes, the Task Force also recommends that the ABA Section of Legal Education and Admissions to the Bar return to annually collecting for each law school expenditure data – at the least for institutional salaries, administrative salaries, grants/scholarships, operational expenses like information technology and libraries, and where relevant university charges. The Task Force also recommends a return to collecting information on revenues – at the least JD tuition, non-JD tuition, gifts, endowment income, and where relevant state and/or local government contributions. The Task Force further recommends a return to collecting information on the amount and percentage of financial aid distributed by law schools based on need, merit, and a combination of both criteria.
B. Longer-Term

The longer-term strategies look to the reconsideration of law school business models and experimentation. The Task Force strongly encourages experimentation by law schools. Schools that undertake experimentation are the incubators of new directions that operate in an exacting market proving ground. The Task Force further recommends that schools seek appropriate variances from the Council and Section when needed and that the Council and Section give such requests serious and open-minded consideration.

Experimentation requires analysis and evaluation and the Task Force recommends the independent analysis and evaluation of these experiments by entities and researchers outside of the ABA. This may include the development of one or more ongoing entities to conduct research, share information, and regularly report on legal education. This research, among other things, should focus on what role increasing tuition – along with other factors including financial aid, debt, and job prospects – plays in students’ decisions to attend law school, not to attend, or to attend one school rather another. This research should also include special attention to diversity. The kind of research outlined here can provide a real-world meaning of affordability and what may be done to enhance it.

3. Outline of Recommendations Related to Proposed Resolutions

A. Proposed resolutions on debt counseling:

Encourage the Council of the ABA Section of Legal Education to mandate more than the minimum debt counseling now required by U.S. Department of Education regulation.

Encourage the development and publication of “plain English” disclosures about student loans and repayment options in a user-friendly format.

B. Proposed resolutions on data collection:

Encourage the ABA Section of Legal Education and Admissions to the Bar to make public the information on legal education it currently maintains and collects going forward (including the information below).

Encourage the ABA Section of Legal Education to return to annually collecting:

- Expenditure data for each law school;
- Revenue data for each law school; and
- Information on the amount and percentage of financial aid distributed by law schools based on need, merit, and a combination of both criteria.
C. Proposed resolution on innovation:

The ABA Section of Legal Education and Admissions to the Bar should strongly encourage experimentation by law schools in finding new ways to balance sound curriculum, cost-effectiveness, and new revenue streams.

The ABA Section of Legal Education and Admissions to the Bar should strongly encourage schools to seek appropriate variances from the Council/Section when needed and that the Council/Section should give such requests serious and open-minded consideration.

The ABA Section of Legal Education and Admissions to the Bar should strongly encourage the independent analysis and evaluation of these experiments and this may include the development of one or more ongoing entities to research, share information, and regularly report on legal education.

If such research entities are established, they should pursue research on why students are or are not choosing to attend law school, with a special emphasis on diversity, to help assess the importance of cost, debt, tuition discounting, job prospects on those decisions, and with a special emphasis on diversity.

The Task Force’s findings and conclusions paint a sobering picture and much to the Task Force’s frustration offer no easy answers for the challenges facing legal education. Hopefully, the Task Force has added useful information to help focus and improve the discussion of issues at the heart of legal education’s and the legal profession’s future.

Respectfully submitted,

Dennis W. Archer, Chair
Task Force on the Financing of Legal Education
August 2015
1. **Summary of Resolution(s).**

The Task Force on the Financing of Legal Education offers five resolutions. In light of the complexities in the federal student loan program, the responsibilities students accept in borrowing for their education, and the amount of borrowing that students do to fund their legal educations the first two resolutions deal with loans and repayment programs. One encourages the Council of the Section of Legal Education and Admissions to the Bar to mandate -- through the ABA Standards for the Approval of Law Schools -- enhanced financial counseling for students (prospective and current). The other – in the interest of fuller disclosure – urges the development and dissemination of easily understood (“plain English”) versions of the various loan and repayment programs. This is addressed to all participants in the student loan business and process, including law schools.

The second two resolutions deal with information gathering and dissemination relevant to the financing of legal education. They address the scarcity of needed information and serve the interests of transparency, accountability, and better understanding of the state of legal education and its challenges, One (the third of the five resolutions) simply encourages the Council of the Section of Legal Education and Admissions to the Bar to return to collecting expenditure, revenue, and financial aid data annually for each law school. This information was collected in the past. The other (the fourth of five resolutions) encourages the Council of the Section of Legal Education and Admissions to the Bar to make public, in an easily available spreadsheet format, the information on legal education it currently maintains and collects going forward.

The fifth and final resolution strongly encourages experimentation by law schools in finding innovative ways to balance sound curriculum, cost-effectiveness, and new revenue streams. Schools are the incubators of new directions and an exacting market proving ground.

2. **Approval by Submitting Entity.**

The Task Force approved the resolutions and report at its meeting on April 20 and a series of follow-up email exchanges.
3. **Has this or a similar resolution been submitted to the House or Board previously?**

   No

4. **What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?**

   There are two Association policies/positions related to the Task Force work. Neither would be affected by this Resolution. The first is ABA policy supporting the existing federal Public Service Loan Forgiveness Program, which has been in place for nearly a decade. The second is a resolution passed in February 2015 (Resolution 106) encouraging schools and bar associations to increase the amount of loan counseling and debt management services available to students and young lawyers. This Resolution is addressed to the Council of the Section of Legal Education and Admissions to the Bar and encourages it to adopt new Standards or additional language in the Standards to impose a greater obligation on law schools to provide these programs.

5. **If this is a late report, what urgency exists which requires action at this meeting of the House?**

   Not applicable.

6. **Status of Legislation. (If applicable)**

   Not applicable.

7. **Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.**

   The Task Force will forward its report to the Council of the Section of Legal Education and Admissions to the Bar and request an opportunity to appear before the Council to present the recommendations the Resolution makes that are relevant to the Council’s work.

   The Task Force will publish and circulate the report widely and, through this effort, bring the recommendations in the resolution to the attention of law schools and participants in the student loan business, who are the other parties to whom the Resolution is addressed.

8. **Cost to the Association. (Both direct and indirect costs)**

   There are minimal costs, both direct and indirect, in following up on the recommendations made in the Resolution. There will be some staff time from those who work in the Section of Legal Education and Admissions to the Bar and in the Media and Communications group related to the distribution of the Task Force report. There is no plan to publish hard copies of the report. It will be available on the americanbar.org website and linked to in a number of places.
9. **Disclosure of Interest.** (If applicable)

    Not applicable.

10. **Referrals.**

    The report and Resolution will be referred to ABA Sections, Committee, Forums, and any other relevant group for comments and feedback. The report will be widely distributed to the press and groups/entities within the legal education community.

11. **Contact Name and Address Information.** (Prior to the meeting. Please include name, address, telephone number and e-mail address)

    Barry A. Currier, Managing Director  
    American Bar Association  
    Section of Legal Education and Admissions to the Bar  
    321 N. Clark St., 21st floor  
    Chicago, IL 60654-7598  
    Ph: (312) 988-6744 / Cell: (310) 400-2702  
    Email: barry.currier@americanbar.org

12. **Contact Name and Address Information.** (Who will present the report to the House? Please include name, address, telephone number, cell phone number, and e-mail address.)

    Dennis W. Archer  
    Dennis W Archer PLLC  
    500 Woodward Ave., Ste. 4000  
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EXECUTIVE SUMMARY

1. Summary of the Resolution(s)

The Task Force on the Financing of Legal Education offers five resolutions. In light of the complexities in the federal student loan program, the responsibilities students accept in borrowing for their education, and the amount of borrowing that students do to fund their legal educations the first two resolutions deal with loans and repayment programs. One encourages the Council of the Section of Legal Education and Admissions to the Bar to mandate -- through the ABA Standards for the Approval of Law Schools -- enhanced financial counseling for students (prospective and current). The other – in the interest of fuller disclosure – urges the development and dissemination of easily understood (“plain English”) versions of the various loan and repayment programs. This is addressed to all participants in the student loan business and process, including law schools.

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The fifth and final resolution strongly encourages experimentation by law schools in finding innovative ways to balance sound curriculum, cost-effectiveness, and new revenue streams. Schools are the incubators of new directions and an exacting market proving ground.

2. Summary of the Issue that the Resolution Addresses

The Task Force on the Financing of Legal Education’s charge included a broad range of issues, key among them were: the cost of legal education for students; the financing of and business models for law schools; student loans and educational debt; and law school practices regarding tuition discounting, merit-based grants/scholarships, and need-based grants/scholarships. Dollars and cents are the clear focus of these issues and their connections to the current criticisms of and challenges facing legal education–both those from within legal education and those from without–are also clear.
3. Please Explain How the Proposed Policy Position will address the issue

The Resolution addresses three primary conclusions of the report: (1) for students, the report recommends increased and required counseling and education related to student debt for law school and plain English versions of complex documents to promote wise borrowing; (2) the lack of consistent and sufficient data to permit careful and in-depth study of the financing of law schools will be addressed by encouraging the collection of more data and the public reporting of data; and (3) the need for law schools to be more innovative in program changes and improvements related to the cost of legal education is addressed by encouraging schools to develop new programs and by encouraging the Council of the Section of Legal Education to be receptive to them.

4. Summary of Minority Views

There are two separate statements filed with the report from Task Force members. They generally agree with the recommendations of the report but offer some clarification and elaboration on some of the matters the report addresses.