



# Law Student **Division**

## Assembly Resolutions and Reports

August 6, 2011  
ABA Annual Meeting  
Toronto, Ontario, Canada

# Assembly

- Agenda
  - Minutes – 2010 Assembly
  - Voting & Credentials Procedure
  - Voting Floor Instructions
  - Roberts Rules Motion Chart
  - Assembly Standing Rules
  - Resolutions Summary
  - Resolutions Detail
    - Report 11-3\*
    - Report 11-08-01
    - Report 11/08-02
    - Report 102\*
    - Report 111A\*
    - Report 111B\*
- \* Pending before the ABA House of Delegates*
- National Award Nominees

**American Bar Association  
Law Student Division**

**2011 Assembly Agenda**

- I. Opening of Assembly** **1:30 pm**  
A. Call to Order  
B. National Anthem
- II. Purpose and Mission of the Assembly**  
(Introductions of officers, delegates, parliamentarian, and director)
- III. Address by Representatives of the American Bar Association**  
A. ABA President, Stephen N. Zack  
B. ABA President-Elect, William T. Robinson
- IV. Adoption of the Reports to Organize as a Delegate Assembly**  
A. Credentials Report  
    – Elections Committee Co-Chair, Micah Ascano  
B. Assembly Standing Rules  
    – Division Delegate, Eric Cavanaugh  
C. Adoption of Assembly Agenda  
    --Resolutions Committee Co-Chair, Adam Little
- V. Report of the Officers and Committees**  
A. Annual Elections Committee Report  
    - Elections Committee Co-Chair, Bryan Rogers  
B. Standing Committee on Resolutions  
    - Resolutions Co-Chair, Josh Goodrich  
C. Approval of 2010 Assembly Minutes  
    - Chair, Kevin Johnson
- VI. General Orders**

**Report 11-3\*** - Sponsored by ABA Law Student Division. Amends §7.2 of the ABA Constitution and various other sections of the ABA Bylaws to change the Law Student member-at-large (Division Representative to the ABA Board of Governors) from a non-voting member of the ABA Board of Governors to a voting member.

**Report 11/08-01** - Sponsored by AnnMichelle Hart, Law Student Division Secretary-Treasurer. Amends Section §4.4.4 of the Law Student Division bylaws to implement an efficient and clear succession process for the circuit governor position in the event a governor cannot or is unable to complete his/her term of office. Provides for the Executive Lt. Governor to succeed the Governor in the event of a vacancy.

D. Recognition of Newspaper Award Recipient  
- Matt Gorney, Student Editor, Student Lawyer

E. Recognition of the Henry J. Ramsey, Jr. Diversity Award Recipient  
- Roy Wilson, 6<sup>th</sup> Governor and Diversity Committee Chair

**Report 11/08-02** - Sponsored by Tommy Preston, Jr., Law Student Division Representative to the ABA Board of Governors. Adopts an amendment to Article 6 of the Law Student Division bylaws to create an Advisory Committee of ABA leaders to advise the Law Student Division's Board of Governors and to strengthen collaboration between the Division and the overall Association.

**Report 102\*** - Sponsored by National Native American Bar Association, ABA Center for Racial and Ethnic Diversity, and ABA Commission on Mental and Physical Disability Law. Urges the Law School Admissions Council and ABA-approved law schools to require additional information, including Tribal citizenship, Tribal affiliation or enrollment number, and/or a "heritage statement", from individuals who indicate on their applications for testing or admission that they are Native American.

F. Recognition of the Judy M. Weightman Memorial Public Interest Award Recipient.  
- Jonathan Long, 3rd Circuit Governor and Public Interest Committee Co-Chair

G. Recognition of the Volunteer Income Tax Assistance Program Award Recipient  
- Laura Dugas, 5<sup>th</sup> Circuit Governor and Public Interest Committee Co-Chair

H. Recognition of the Membership and Activity Award Recipient  
- Stephanie McCoy Loquvam, Vice Chair and Membership Committee Chair

**Report 111A\*** Sponsored by ABA Young Lawyers Division. Urges Congress to enact, and the Executive Branch to support, passage of legislation that assists individuals who are experiencing financial hardship due to excessive levels of student loan debt but are not covered by the provisions of the student loan overhaul passed into law on March 30, 2010.

**Report 111B\*** Sponsored by ABA Young Lawyers Division. Urges all ABA-approved law schools to report employment data that identifies whether graduates have obtained full-time or part-time employment within the legal profession, whether in the private and public sector, or whether in alternative professions and whether such employment is permanent or temporary

I. Recognition of the Division Liaison Award Recipients

- Tiffany Colbert, Division Delegate and Liaison Coordinator

J. Recognition of the Student Bar Association and Student Bar Association President Award Recipients

- Carter Alleman, Vice Chair-SBA and SBA Committee Chair

**VII. State of the Division Address**

Kevin Johnson, Chair

**VIII. Presentation of Awards to Outgoing Officers and Delegates**

Kevin Johnson, Chair

**IX. Announcement of Election Results**

A. Vice Chair-SBA Election

- \_\_\_\_\_ – Elections Committee Co-Chair

B. Division Delegates Election

- \_\_\_\_\_ -Elections Committee Co-Chair

**X. Installation of 2011-2012 Division Officers and Delegates**

**XI. Announcements**

**XII. New Business**

**XIII. Adjourn Sine Die**

**5:30 pm**

**American Bar Association  
Law Student Division Assembly**

**Saturday, August 7, 2010  
San Francisco Marriott Hotel – San Francisco, California  
2:00 pm – 5:30 pm**

**Minutes**

- I. Opening and Introductory Remarks.....2:00 pm**
- a. Call to Order (*James Borkman, Chair, Law Student Division*)
  - b. Presentation of the Colors (*University of California Berkeley, Air Force ROTC*)
  - c. National Anthem
  - d. Explanation of Purpose and Mission of the Assembly
  - e. Introduction of Division Officers and Delegates
  - f. Adoption of Reports to Organize as a Delegate Assembly
    - i. Credentials Report (*Stephanie Diemer, 2<sup>nd</sup> Circuit Governor and Elections Committee Co-Chair*)
      - 1. 117 ABA Approved law schools are represented
      - 2. 199 Certified Delegates
      - 3. Moved by: Stephanie Diemer (Second: Yasmin Gabriel)
      - 4. Unanimously adopted
    - g. Adoption of Assembly Rules
      - i. Report by Cassandra Fava, 15<sup>th</sup> Circuit Governor
      - ii. Moved by Cassandra Fava (Second: Micah Ascano)
      - iii. Unanimously adopted
    - h. Adoption of Assembly Agenda (*Shawn Yancy, 10<sup>th</sup> Circuit Governor and Resolutions Committee Co-Chair*)
      - i. Moved by: Shawn Yancy
        - 1. Pass.
    - i. Annual Elections Committee Progress Report (*Paul Edger, 3<sup>rd</sup> Circuit Governor and Elections Committee Chair*)
      - i. Polls closed at 11 am this morning. Division Director reports valid election.
      - ii. Vice Chair-SBA Election
        - 1. Candidate automatically elected
      - iii. Delegates Election
        - 1. 158 votes cast
      - iv. Election results will be announced later in the agenda.
    - j. Resolutions Committee Report (*Garylene Javier, 4<sup>th</sup> Circuit Governor and Resolutions Committee Co-Chair*)
      - i. Committee certified 4 resolutions. Moving to consider under General Orders.
      - ii. So moved by Resolutions Committee
    - k. Approval of 2009 Assembly Minutes (Approved by our Board of Governors on October 31, 2009)

**II. Debate and Presentations.....2:35 pm**

- a. Debate
  - i. Report 11-5 (Sponsored by: ABA Section of Legal Education and Admissions to the Bar)
    - 1. Amends Sections 45.9 (a) and (b) of the ABA House Rules of Procedure regarding the role of the House of Delegates in the law school accreditation process in order to comply with Department of Education regulations.
    - 2. Presenter: Justice Ruth McGregor, ABA Section of Legal Education
    - 3. BOG Report: Sara Hawkins, *6<sup>th</sup> Circuit Governor*
      - a. Recommends 11-5 be adopted.
    - 4. Discussion: none
    - 5. Voice vote to accept the resolution
      - a. Resolution passes.
- b. Presentations
  - i. Recognition of Newspaper Award Recipient (*presented by Tonnya Kennedy Kohn, Student Editor, Student Lawyer*)
    - 1. George Washington University Law School
  - ii. Recognition of the Henry J. Ramsey, Jr. Diversity Award Recipient (*presented by Janice Dantes, 7<sup>th</sup> Circuit Governor and Diversity Committee Chair*)
    - 1. University of San Francisco School of Law - SBA Diversity Committee
- c. Debate
  - i. Report 110 (Sponsored by: ABA Standing Committee on Public Education)
    - 1. Encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history.
    - 2. Presenter: Elizabeth Bailey, *1<sup>st</sup> Circuit Governor*
    - 3. BOG Report: Adam Landstrom, *8<sup>th</sup> Circuit Governor*
      - a. Recommends Report 110 be adopted
  - ii. Motion to Table Report 110: Webster Ye, *SBA President, George Mason University School of Law*
    - 1. Move to postpone indefinitely for 3 reasons:
    - 2. Against motion to postpone: Tommy Preston, *Division Delegate to the ABA BOG-Elect*
    - 3. Against Motion to postpone: Brandon Sherr, *Division Delegate to the ABA BOG*
    - 4. Motion to end debate for the previous question: Motion Carries
  - iii. Motion to postpone indefinitely:
    - 1. Motion fails
  - iv. Motion to call the previous question: Rene Carballo, *American University* (Second: Brandon Sherr)
    - 1. Motion carries
  - v. Vote on resolution
    - 1. Chair is in doubt regarding voice vote. Rising vote is taken.
    - 2. Report 110 is adopted. (Vote count: 102-35)
- d. Presentations
  - i. Law Student Division's Work-A-Day for 2010-11: presented by Trevor Hall, *Public Interest Committee, 13<sup>th</sup> Circuit Governor*

**III. Special Order of Business**.....3:15 pm

- a. Address by Carolyn B. Lamm, *President, American Bar Association*
- b. Presentation of the *Friend of the Division Award* to President Lamm

**IV. Debate and Presentations (continued)**

- a. Presentations
  - i. Recognition of the Judy M. Weightman Memorial Public Interest Award Recipient (*presented by Ethan Ashley, 11<sup>th</sup> Circuit Governor and Public Interest Committee Chair*)
    - 1. Honorable Mention: George Mason University School of Law
    - 2. Honorable Mention: University of Memphis: C. Humphrey School of Law
    - 3. Winner: Florida State University College of Law
  - ii. Recognition of Volunteer Income Tax Assistance Program Award Recipient (*presented by Ron Morris, 5th Circuit Governor and Public Interest Committee Member*)
    - 1. Honorable Mention: Loyola University College School of Law
    - 2. Winner: Barry University
  - iii. Award Presentation: Dean Rosenblatt, *Dean, Mississippi College School of Law* – for support and participation--100% of students enrolled in the ABA

**V. Special Order of Business (continued)**

- a. Address by Stephen N. Zack, *President-Elect, American Bar Association*

**VI. Debate and Presentations (continued)**

- a. Debate
  - i. Report 10/08-01 (Sponsored by: Daniel Thies, *Division Liaison to the ABA Section of Legal Education and Admissions to the Bar*)
    - 1. Urges the ABA Law Student Division to oppose improper attempts by persons, institutions, or governmental bodies outside law schools to interfere in the ongoing activities of law school clinical programs and courses, and to support the efforts of the American Bar Association and the ABA Section of Legal Education and Admissions to the Bar to assist law schools in preserving the independence of law school clinical programs and courses.
    - 2. Presenter: Daniel Thies, *Liaison to the Section of Legal Education and Admissions to the Bar*
    - 3. BOG Report: Nakul Patel, *14<sup>th</sup> Circuit Governor*
      - a. Recommend that 10/08-01 be adopted
    - 4. In Favor: Justin Pruett, *SBA President, Roger Williams University School of Law*
    - 5. Main motion to move to the previous question: Brandon Sherr
    - 6. Motion to amend: Micah Ascano, Franklin Pierce Law Center – opposition to the previous motion.
      - a. Strike “any persons or individuals”
      - b. (Second: Webster Ye)
    - 7. In opposition to the motion to amend: Daniel Thies
    - 8. In opposition to motion: Scott Goldin, SBA President, Tulane Law School
      - a. Need the word persons to be in there to keep it broad.
    - 9. In favor of motion to amend: Micah Ascano

10. In favor of motion to amend: Webster Ye
  11. Motion to close debate/call to question: Rene Carballo, American University (Second: Shanika Hinkins). Debate closed.
  12. Motion to amend fails by voice vote.
  13. Motion to the previous question to adopt resolution:
    - a. Call for Division: Elizabeth Bailey
      - i. Vote count: 119-12
      - ii. Resolution is adopted.
- b. Presentations
- i. *Gold Key of the Division* presented to Daniel Thies, *Liaison to the Section of Legal Education and Admission to the Bar*
  - ii. Recognition of Membership and Activity Award Recipient (*presented by Stephanie Loquvam, Vice Chair-Elect and Membership Committee Chair-Elect*)
    1. Chapman University School of Law
  - iii. Recognition of the Division Liaison Award Recipients (*presented by James Borkman, Chair Law Student Division*)
    1. Jessica Chiappone, Liaison to the Criminal Justice Section - Committee on Juvenile Justice
    2. Marisa Francini, Liaison to the Section on Health Law
    3. Hillary Jaffe, Liaison to the Forum on Affordable Housing and Community Development
    4. Christopher Shelton, Liaison to the Torts Trial Insurance Practice Section
    5. Justin Silber, Liaison to the General Practice Solo Section
- c. Debate
- i. Report 10/08-02 (Sponsored by: Mark Pascua, Division Secretary-Treasurer and Chair, Division Bylaws Committee)
    1. Revises the Law Student Division bylaws to reflect current Division practices and current Division leadership positions and their roles, updates the language without altering the meaning, and reorganizes information for clarity.
    2. Presenter: Mark Pascua, *Secretary-Treasurer, Chair of the Bylaws Committee*
    3. BOG Report: Ryan Mansfield, *12<sup>th</sup> Circuit Governor*
      - a. Recommend that 10/08-02 be adopted
    4. Motion to amend: Brandon Sherr – Section 9.1
      - a. Language would read: “subject to such rules or review as the Assembly or Division BOG prescribes, the Chair for the current Association year, or Chair Elect for the succeeding Association year shall appoint...”
    5. Motion to amend: Brandon Sherr – Section 9.1 “subject” after “prescribes”
    6. Point of information: Jessica Williams
    7. Point of information: David Westrom, University of Colorado
    8. Point of information: James Heinz
    9. Point of information: Chair Borkman - because this would be a substantive change, this motion is out of order.
    10. Move to the previous question:
      - a. Vote count: 121-9
      - b. Resolution passes.
    11. Against motion to amend: David Rozen
    12. Against motion to amend: Amanda Evanson, *Vice Chair*

- 13. Motion to amend: Jeffrey Anderson: to reinsert original language of Section 1.2: Purpose
  - a. Insert original language of “to promote full and equal participation in the profession by minorities, and then add to “and promote diversity and equal opportunity within the profession”
- 14. Division’s BOG
- 15. Vote Count: 121-9
  - a. Resolution passes with greater than 2/3rds. Revised bylaws are adopted.

d. Presentations

- i. Recognition of Student Bar Association Award Recipient (*presented by Kent Lloyd, Vice Chair-SBA and SBA Committee Chair*)
  - 1. John Marshall Law School
- ii. State of the Division Address (*James Borkman, Chair, Law Student Division*)
- iii. Division Chair Awards (*James Borkman, Chair, Law Student Division*)
  - 1. Gold Key of the Division: Vice Chair Amanda Evanson
  - 2. Gold Key: Secretary-Treasurer Mark Pascua
- iv. Announcement of Election Results (*Vice Chair-SBA & Division Delegates to the ABA House of Delegates*)
  - 1. Vice Chair – SBA: Carter Alleman
  - 2. Delegates: Tiffany Colbert, Eric Cavanaugh, Richard Manhattan
- v. Installation of 2010-2011 National Officers and Division Delegates
- vi. Point of Personal Privilege by Chair Elect Johnson
  - 1. Recognize the outgoing Chair for service, dedication and commitment to Division and to Association as a whole
  - 2. *Gold Key* of the Division Award presented to Chair James Borkman
- vii. Chair’s Closing Remarks and Announcements
- viii. Motion to Adjourn: Governor Ronald Morris (Second: Stephanie Diemer)
  - 1. Motion carries

**VII. Adjournment *Sine Die*.....5:30 pm**

**American Bar Association  
Law Student Division**

**Voting and Credentials Procedures**

The following credentials procedures will be used for certifying voting delegates at the Assembly session of the 2011 Annual Meeting in Toronto, Ontario, Canada. These procedures are in place to ensure the legitimacy of the voting process.

The Law Student Division Assembly is the principal voice of all accredited law schools in the country. When appropriate, resolutions that are passed by the Division Assembly are brought before the ABA House of Delegates. If adopted, the resolution becomes Association policy. Legislative issues may then be lobbied before Congress.

Section 3.4 of the Law Student Division Bylaws states, "Each law school may send two delegates, one the SBA president, or his or her proxy, and the other the ABA representative, or his or her proxy, to its circuit meetings and the Assembly. The Assembly or the Division Board of Governors may regulate voting by proxy. **Only a member in good standing is eligible to be a delegate.**" Section 102.3 of the Assembly Standing Rules describes the credentials process. The outline below ensures smooth check-in and alleviates unnecessary delay at each Assembly session. The Division's Credentials Committee shall certify voting delegates according to the following policies:

**1. ABA Representatives and SBA Presidents**

Current ABA Representatives and SBA Presidents must show proof of office if they are not on the current list provided by the Chicago office. This may be accomplished by any of the following means:

- \* a letter on SBA letterhead if a president;
- \* a letter from the Dean on law school letterhead for either a representative or a president; or
- \* recognition by the circuit governor or another member of the Board of Governors who can personally vouch for the claimant's status.

**2. Proxies**

If an ABA Representative or SBA President is unable to attend the Annual Meeting, he or she may send a proxy from the same law school to vote in his or her place. The Proxy must be a current member in good standing of the ABA Law Student Division. Proxies may register as voting delegates by any of the following means:

- \* signed written authorization, preferably on law school letterhead, from the ABA Representative or SBA President;
- \* written authorization from the Dean on law school letterhead if acting as proxy for the ABA Representative or SBA President;
- \* written notification prior to the meeting to the circuit governor of the proxy appointment (written notification must be presented to the Delegate Certification Desk personnel); or

- \* an electronically transmitted proxy sent from the email address the ABA has on record for the SBA President or ABA Representative (based on ABA Reporting Form data submitted or membership record) or from a verifiable email address (such as the SBA President's/ABA Representative's email address issued to them by their law school).

A proxy letter can be faxed to the ABA Law Student Division (312.988.6033) provided that it is received before 12:00 noon CDT, Tuesday, August 2. A proxy letter may also be emailed to the ABA Law Student Division ([abalsd@americanbar.org](mailto:abalsd@americanbar.org)).

#### Sample Proxy Letter Language

*I, {principal delegate's name}, {title: ABA Representative or SBA President} of the {official law school name} and a principal delegate in the Assembly of the American Bar Association Law Student Division, in accordance with ABA Law Student Division Governing Rules, hereby designate as my proxy {name of student to whom proxy is given}, to cast my vote(s) at the Annual Meeting, in Toronto, Ontario, Canada, to be held August 4-9, 2011.*

*{Signature and date}*

### **3. One Delegate-Two Votes**

If only one person from a law school is attending the Assembly, he or she may cast both votes only if he or she is certified for each vote. For example, an ABA Representative may register his/her own vote if he/she is on the current list mentioned above (#1) and register as a proxy for the SBA President by presenting a signed letter as mentioned above (#2).

### **4. Proof of Membership**

Membership status of all prospective delegates will be verified through the ABA master membership list. All delegates should be prepared to furnish proof of current Law Student Division membership (e.g., membership card, cancelled check) before being certified. Anyone not listed on the ABA master membership list or unable to show proof of membership in good standing must enroll as a Division member by filling out an application and paying the \$25 annual fee at the registration desk. In the event this results in a duplicate payment/membership, the \$25 fee will be refunded.

### **5. Additional information**

The Credentials Committee may request additional information if necessary to establish a delegate's credentials. The claimant, and any competing claimant, may offer relevant information to affirm or deny certification, and appeal any failure of certification to the Board of Governors or the Assembly. To avoid any problem, written certification is required.

### **6. Nonvoting students**

All law students are welcome to attend the Assembly, including students from non-approved law schools. There will be an area in the Assembly hall where nonvoting attendees may observe the sessions. The only people allowed on the voting floor, however, will be each school's two delegates, a resolution author when moving his or her resolution, members of the

Board of Governors, and other persons with privilege of the floor under rule 103.1 of the Assembly Standing Rules. *Delegates to the Assembly may proxy their vote to another student from their law school who is present, (such as a Lt. Governor), who must also be a member of the ABA Law Student Division, provided the proxy is in writing and presented to the Chair of the Credentials Committee. Such proxies are revocable at any time by the principal delegate. See the Assembly Standing Rules or your Circuit Governor for complete details.*

# American Bar Association Law Student Division

## Assembly

### Voting Floor Instructions

Certified Assembly Delegates (ABA Representatives and SBA Presidents, or their proxies, from each ABA-approved law school who are also members of the ABA) may vote on resolutions brought before the Assembly.

Please note that there is a specific procedure to enter and exit the voting floor of the Assembly. This procedure ensures that only certified Assembly Delegates receive a voting card(s), which in turn protects the integrity of the votes.

- Certified Assembly Delegates, identified by black delegate or pink proxy ribbon, will receive a voting card at the entrance of the voting floor.
- If the Assembly Delegate is also serving as a proxy, the Assembly Delegate will receive an additional voting card. In 2011 the voting cards are yellow.
- Members of the Law Student Division Board of Governors and Division Liaisons are also permitted on the floor, with the right to make or debate motions, but shall not vote unless a certified Assembly Delegate.
- Assembly Delegates who wish to temporarily exit the voting floor must turn in their voting card(s) for an equal number of pass card(s). The pass card(s) will be exchanged for an equal number of voting card(s) once the Assembly Delegate returns to the floor. In 2011 the pass cards are blue.

#### **Notes about Obtaining Certification**

Assembly Delegates receive their black and/or pink ribbons at the Delegate Certification counter once they are certified. The Delegate Certification counter is adjacent to the Division's registration desk.

#### **Delegate Certification Hours**

Certification of Assembly Delegates will take place at the Division's Registration Desk during the following hours:

Thursday, August 4	8:00 am – 6:00 pm
Friday, August 5	8:00 am – 6:00 pm
Saturday, August 6	8:00 am – 12:00 noon

## Robert's Rules of Order

The motions below are listed in order of precedence. Any motion can be introduced if it is higher on the chart than the pending motion.

If You Want To:	You Say:	Interrupt?	2nd?	Debate?	Amend?	Vote?*
Close meeting	I move to adjourn	No	Yes	No	No	Majority
Take break	I move to recess for	No	Yes	No	Yes	Majority
Register complaint	I rise to a question of privilege	Yes	No	No	No	None
Make follow agenda	I call the orders of the day	Yes	No	No	No	None
Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
Close debate	I move the previous question	No	Yes	No	No	2/3
Limit or extend debate	I move that debate be limited to...	No	Yes	No	Yes	2/3
Postpone to a certain time	I move to postpone the motion to...	No	Yes	Yes	Yes	Majority
Refer to a committee	I move to refer the motion to a committee	No	Yes	Yes	Yes	Majority
Modify wording of motion	I move to amend the motion by...	No	Yes	Yes	Yes	Majority
Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
Bring business before assembly (a main motion)	I move that [or "to"]...	No	Yes	Yes	Yes	Majority

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\* Majority means more than ½ of the votes cast; 2/3 means at least 2/3 of the votes cast

**Incidental Motions** - no order of precedence. Arise incidentally and decided immediately.

<b>If You Want To:</b>	<b>You Say:</b>	<b>Interrupt?</b>	<b>2nd?</b>	<b>Debate?</b>	<b>Amend?</b>	<b>Vote?</b>
Enforce rules	Point of order	Yes	No	No	No	None
Submit matter to assembly	I appeal from the decision of the Chair	Yes	Yes	Varies	No	Majority
Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
Demand rising vote	I call for a division	Yes	No	No	No	None
Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
Request for information	Point of information	Yes	No	No	No	None

**Motions That Bring a Question Again Before the Assembly** – no order of precedence. Introduce only when nothing else pending.

<b>If You Want To:</b>	<b>You Say:</b>	<b>Interrupt?</b>	<b>2nd?</b>	<b>Debate?</b>	<b>Amend?</b>	<b>Vote?</b>
Take matter from table	I move to take from the table	No	Yes	No	No	Majority
Cancel previous action	I move to rescind	No	Yes	Yes	Yes	M or 2/3**
Reconsider motion ***	I move to reconsider...	No	Yes	Varies	No	Majority

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\*\* Majority if previous notice; 2/3 without such notice

\*\*\* Can only be made by one who voted on the prevailing side of the motion to be reconsidered

**American Bar Association**  
Law Student Division

*ASSEMBLY STANDING RULES*

**See the Assembly Standing Rules at**

[www.americanbar.org/content/dam/aba/administrative/law\\_students/stg-rules.pdf](http://www.americanbar.org/content/dam/aba/administrative/law_students/stg-rules.pdf)

**Rule 101 - General Provisions**

§ 106.3 Agenda

§ 101.1 Proceedings Governed

§ 101.2 Bylaws Incorporate

§ 106.4 Reports and Programs

§ 106.5 Consent Calendar

§ 106.6 Late Resolutions

§ 106.7 Previous Notice

§ 106.8 New Business

**Rule 102 - Credentials**

§ 102.1 Credentials Committee

§ 102.2 Delegate Defined

§ 102.3 Certification

§ 102.4 Rules

§ 102.5 Appeal

§ 102.6 Proxies

§ 107.4 Committee Reports

**Rule 107 - Debate**

§ 107.1 Debate Generally

§ 107.2 Main Motions

§ 107.3 Speeches

§ 107.5 Secondary Motions

**Rule 103 - The Floor**

§ 103.1 Privilege of the Floor

§ 103.2 Recognition

**Rule 108 - Motions**

§ 108.1 Motions Generally

§ 108.2 Amendment

§ 108.3 Limit Debate; Previous  
Question

§ 108.4 Extend Limits of Debate

§ 108.5 Lay on the Table

§ 108.6 Division of the Assembly

§ 108.7 Point of Information

§ 108.8 Order of Business

**Rule 104 - Decorum**

§ 104.1 Attire

§ 104.2 Promptness

§ 104.3 Conversation

§ 104.4 No Smoking

**Rule 105 - Quorum**

§ 105.1 Quorum Defined

§ 105.2 Quorumlessness

**Rule 109 - Adjournment**

**Rule 106 - Order of Business**

§ 106.1 Resolutions Committee

§ 106.2 Orders of the Day

**Rule 110 - Amendment and Suspension**

§ 110.1 Amendment

§ 110.2 Suspension

**See the Assembly Standing Rules at**

[www.americanbar.org/content/dam/aba/administrative/law\\_students/stg-rules.pdf](http://www.americanbar.org/content/dam/aba/administrative/law_students/stg-rules.pdf)

American Bar Association  
Law Student Division

**2011 Annual Meeting of the  
Law Student Division Assembly**

**Resolutions Summary**

\*Resolution pending before the ABA House of Delegates

**Report 11-3\***

**Sponsored by:** ABA Law Student Division

Amends §7.2 of the ABA Constitution and various other sections of the ABA Bylaws to change the Law Student member-at-large (Division Representative to the ABA Board of Governors) from a non-voting member of the ABA Board of Governors to a voting member.

**Report 11/08-01**

**Sponsored by:** AnnMichelle G. Hart, Law Student Division Secretary-Treasurer

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**Report 11/08-02**

**Sponsored by:** Tommy Preston, Jr., Law Student Division Representative to the ABA Board of Governors

Adopts an amendment to Article 6 of the Law Student Division bylaws to create an Advisory Committee of ABA leaders to advise the Law Student Division's Board of Governors and to strengthen collaboration between the Division and the overall Association.

**Report 102\***

**Sponsored by:** National Native American Bar Association, ABA Center for Racial and Ethnic Diversity, and ABA Commission on Mental and Physical Disability Law

Urges the Law School Admissions Council and ABA-approved law schools to require additional information, including Tribal citizenship, Tribal affiliation or enrollment number, and/or a "heritage statement", from individuals who indicate on their applications for testing or admission that they are Native American.

**Report 111A\***

**Sponsored by:** ABA Young Lawyers Division

Urges Congress to enact, and the Executive Branch to support, passage of legislation that assists individuals who are experiencing financial hardship due to excessive levels of student loan debt but are not covered by the provisions of the student loan overhaul passed into law on March 30, 2010.

**Report 111B\***

**Sponsored by:** ABA Young Lawyers Division

Urges all ABA-approved law schools to report employment data that identifies whether graduates have obtained full-time or part-time employment within the legal profession, whether in the private and public sector, or whether in alternative professions and whether such employment is permanent or temporary.

**SPONSORS:** Kevin R. Johnson, Stephanie McCoy Loquvam, Tommy Preston, Jr., Carter Alleman, AnnMichelle Hart, J. Eric Cavanaugh, Tiffany V. Colbert, Robert J. Grey, Jr., Alice E. Richmond, Robert Edward Hirshon, Carolyn B. Lamm, H. Thomas Wells, Jr., William H. Neukom, Michael S. Greco, Karen J. Mathis, William G. Paul, William C. Hubbard, Lauren Stiller Rikleen

**PROPOSAL:** Amends §7.2 of the Constitution and §§21.7(b)(2) and 26.1(c) of the Bylaws to change the Law Student Division member-at-large from a non-voting member of the ABA Board of Governors to a voting member.

**Amends §7.2 of the Constitution and §§21.7(b)(2) and 26.1 (c) of the Bylaws to read as follows:**

1           **§7.2 By Number and Composition.** Except as hereinafter provided, the Board of  
2           Governors is composed of 38 members of the Association. The House of Delegates shall  
3           elect one member from each of the eighteen districts, six sections members-at-large, one  
4           judicial member-at-large, two young lawyer members-at-large, one law student member-  
5           at-large, and until the conclusion of the annual meeting in 2015, two women members-at-  
6           large and two minority members-at-large. The President, the Chair of the House of  
7           Delegates, the President-Elect, the immediate past President, the Secretary and the  
8           Treasurer shall serve as *ex-officio* members. In every third year, as provided in §8.2 (c),  
9           the board of Governors is composed of 40 members of the Association and shall include  
10          as additional *ex-officio* members the Secretary-Elect and the Treasurer-Elect.

11  
12           **§21.7 Law Student Members.**

13           ...

14  
15           (b) A law student member:

- 16                   (1)    may not participate in electing a State Delegate for a Delegate-at-  
17                            Large.  
18                   (2)    may not participate in nominating a member of the Board or an  
19                            officer of the Association, and may not serve as an officer of the  
20                            Association;  
21                   (3)    may not vote in Association elections other than while serving as a  
22                            delegate in the House;  
23                   (4)    may not sign a petition for or vote in an Association referendum;  
24                            and  
25                   (5)    may participate in other activities of the Association as authorized  
26                            by the House.

27           ...

28

29           **§26.1 Terms and Election.**

30           ...

31

32           (c) In 1985 two section members-at-large shall be elected for a one-year term, two  
 33 section members-at-large shall be elected for a two-year term, and two section members-  
 34 at-large shall be elected for a three-year term. In 1985 and each succeeding third year, a  
 35 young lawyer member-at-large and the judicial member-at-large shall be elected for a  
 36 three-year term. In 1986 and each succeeding third year, two section members-at-large  
 37 shall be elected. In 1987 and each succeeding third year, two section members-at-large  
 38 and a young lawyer member-at-large shall be elected. In 1988 and each succeeding third  
 39 year, two section members-at-large, a young lawyer member-at-large, and the judicial  
 40 member-at-large shall be elected. In 2012 and in each succeeding year, a law student  
 41 member-at-large shall be elected to serve a one-year term.

42

43           ...

44

**(Legislative Draft – Additions underlined; deletions struck-through)**

**§7.2 By Number and Composition.** Except as hereinafter provided, the Board of Governors is composed of 38 members of the Association. The House of Delegates shall elect one member from each of the eighteen districts, six sections members-at-large, one judicial member-at-large, two young lawyer members-at-large, one ~~non-voting-law~~ student member-at-large, and until the conclusion of the annual meeting in 2015, two women members-at-large and two minority members-at-large. The President, the Chair of the House of Delegates, the President-Elect, the immediate past President, the Secretary and the Treasurer shall serve as *ex-officio* members. In every third year, as provided in 8.2 (c), the board of Governors is composed of 40 members of the Association and shall include as additional *ex-officio* members the Secretary-Elect and the Treasurer-Elect.

**§21.7 Law Student Members.**

...

(b) A law student member:

- (1) may not participate in electing a State Delegate or a Delegate-at-Large.
- (2) may not participate in nominating a member of the Board or an officer of the Association, and may not serve as ~~a voting member of the Board~~ or an officer of the Association;
- (3) may not vote in Association elections other than while serving as a delegate in the House;
- (4) may not sign a petition for or vote in an Association referendum; and
- (5) may participate in other activities of the Association as authorized by the House.

...

## 26.1 Terms and Election.

...

(c) In 1985 two section members-at-large shall be elected for a one-year term, two section members-at-large shall be elected for a two-year term, and two section members-at-large shall be elected for a three-year term. In 1985 and each succeeding third year, a young lawyer member-at-large and the judicial member-at-large shall be elected for a three-year term. In 1986 and each succeeding third year, two section members-at-large shall be elected. In 1987 and each succeeding third year, two section members-at-large and a young lawyer member-at-large shall be elected. In 1988 and each succeeding third year, two section members-at-large, a young lawyer member-at-large, and the judicial member-at-large shall be elected. In ~~2005~~ 2012 and in each succeeding year, a law student member-at-large shall be elected to serve a ~~non-voting~~ one-year term.

...

## REPORT

With 43,000 dues-paying members, the Law Student Division makes up one tenth of the ABA's total membership. Modeled after the ABA governance structure, the Division governs itself through a 23-member Board of Governors and a 398-member Assembly consisting of two delegates from each of the 199 ABA-approved law schools. The Division actively participates in the governance of the ABA with three voting delegates in the ABA House of Delegates, a voting member of the ABA Section of Legal Education and Admissions to the Bar Council, and a voting member of the Young Lawyers Division Council and Assembly. In addition, the Division has liaisons serving in more than 60 ABA entities, several as voting members of those entities. However, although the Law Student Division comprises a significant percentage of the ABA's total membership and is represented in nearly every ABA entity, the Division's Representative to the ABA Board of Governors is currently a non-voting member.

In August 2005, the House of Delegates approved the inaugural seat on the ABA Board of Governors for a non-voting Law Student Division Representative. At the request of the ABA Board of Governors, the Division created a nominating committee to identify the most qualified candidates from the Law Student Division ranks for this representative position. Five dedicated law students have successfully served in this position and have effectively advocated for policies that affect legal education, the well-being of law students, and the profession. The Division Representative is considered a full member of the ABA Board of Governors, participates in all committee and general board meetings, and has received additional board responsibilities over the tenure of the position, including ABA Presidential liaison appointments to various entities. This year, President Stephen N. Zack appointed the current Division Representative to serve as a liaison to the ABA Commission on Civics Education and to the ABA Task Force on the Preservation of the Justice System.

As a student member of the Board, the Division Representative serves as a direct link between law student members and ABA leaders. The Division Representative routinely facilitates student participation in discussions with ABA leadership and senior staff on issues ranging from increasing student membership to federal student-debt relief legislation. Thus the Division Representative serves a dual role, both as a student liaison to the Board and as a Board liaison to students.

In addition to the Division Representative being an asset to the ABA, the Association has benefited greatly from the Law Student Division's overall involvement, commitment, and contributions. The Law Student Division plays a unique grassroots role in membership recruitment and retention that contributes to the overall membership numbers of the Association. The Division's network of 199 ABA Representatives is essential to promoting the relevancy of the ABA and its benefits in law schools—communicating to law students that the ABA values them and considers them important members, and gives them a voice in the Association.

Law students have made an investment in the Association, actively joining and paying dues to the Law Student Division, and participating in ABA sections and their programs and activities. As of February 28, 2011, law student enrollments make up 33% of all ABA section memberships. In fact, 13 of the 32 entities have higher law student section enrollments than lawyer enrollments. The Law Student Division, as a whole, also invests in the overall Association – annually contributing its own dues revenue to the following ABA programs and initiatives: the ABA Legal Opportunity Scholarship Fund, the ABA Commission on Women in the Profession, the ABA Commission on Racial and Ethnic Diversity, the Section of Litigation Judicial Internship Opportunity Program, and the Section Officers Law Student Outreach Committee, among others.

Likely the most significant reward the ABA reaps from the Division is the 43,000 law student enrollments that the ABA counts as part of the Association's overall membership numbers. While ABA membership numbers overall have declined, student memberships have been on the rise. ABA studies have shown that students who join the ABA in law school are 35% more likely to retain their membership over the years. Thus, involving law students in the ABA is important to the vitality of the Association.

Due to the importance the ABA has placed on the Division Representative position, the increasing impact of the Law Student Division on the success of the ABA, and the fact that students are dues-paying members of the Association, the Division respectfully requests that the Law Student Division Representative be made a voting member of the ABA Board of Governors. This action is appropriate based upon the level of commitment that the Division Representative and the Law Student Division have demonstrated to the Association over the years. A voting position would also bring the ABA in line with organizations such as the American Medical Association, which reserves a student voting position on its 20-member governing body.

Since 1967, the Law Student Division has been a proud supporter of the ABA. Thousands of law students have participated in numerous facets of the Association, and have remained active members of the Association for many years. Students are invested in the ABA and recognize its many efforts to improve the profession they aspire to join. These students dedicate their time to providing a fresh contemporary perspective on the issues important to the profession and help to ensure that law student and legal education issues and concerns are conveyed to the top leaders of the Association.

Providing the Law Student Division with a vote on the ABA Board of Governors will send a bold message to the nation's law students, that the Association not only values their membership and dues revenue, but also values their voice. We believe that this will be a great selling point as the Association develops an increased presence in law schools across the country and recruits the next generation of ABA members and leaders.

Respectfully submitted,

*Law Student Division Officers and Delegates*

Kevin R. Johnson, Chair  
 Stephanie McCoy Loquvam, Vice Chair  
 Carter Alleman, Vice Chair-SBA  
 AnnMichelle Hart, Secretary-Treasurer  
 Tommy Preston, Jr. ABA Board of Governors Rep.  
 J. Eric Cavanaugh, Division Delegate  
 Tiffany V. Colbert, Division Delegate

Robert J. Grey, Jr.  
 Alice E. Richmond  
 Robert Edward Hirshon  
 Carolyn B. Lamm  
 H. Thomas Wells, Jr.  
 William H. Neukom  
 Michael S. Greco  
 Karen J. Mathis  
 William G. Paul  
 William C. Hubbard  
 Lauren Stiller Rikleen

**This resolution has not been approved by the House of Delegates, Board of Governors, the Law Student Division, or the Law Student Division Board of Governors and, until approved, does not constitute the policy of the American Bar Association/Law Student Division.**

**No. 11/08-01**

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
ASSEMBLY**

**RESOLUTION  
GOVERNOR SUCCESSION**

**RECOMMENDATION**

**BE IT RESOLVED** that the Law Student Division (the “Division”), by and through its Assembly, hereby amends the Governor Vacancy language of the Bylaws, section §4.4.4, to implement an efficient and clear succession process for the circuit governor position in the event a governor cannot or is unable to complete his/her term of office. The proposed bylaw change is as follows:

§ 4.4.4 Governor Succession. When a Circuit Governor position becomes vacant, the governor’s Executive Lieutenant Governor shall become Circuit Governor. If an Executive Lieutenant Governor has not been appointed, or is unwilling to assume the office of Governor, the Chair shall direct the Board Elections Committee chair to conduct a special election in accordance with the Election Code.

~~§ 4.4.4 Vacancy. The Assembly of the law schools within a given Circuit shall declare who shall act as circuit governor if the office is vacant, until a circuit governor is elected to fill the vacancy. Governor Succession.~~  
When a Circuit Governor position becomes vacant, the governor’s Executive Lieutenant Governor shall become Circuit Governor. If an Executive Lieutenant Governor has not been appointed, or is unwilling to assume the office of Governor, the Chair shall direct the Board Elections Committee chair to conduct a special election in accordance with the Election Code.

## **REPORT**

The current language of the Bylaws does not have an efficient process for immediately filling a circuit Governor's office if that office becomes vacant before the end of the current term of office. It matters not whether the office becomes vacant by voluntary or involuntary action. The vacant office needs to be filled to continue administration of the circuit and for giving students in the circuit a voice with the Law Student Division Board of Governors.

The proposed bylaw revision allows the appointed Executive Lieutenant Governor to become Circuit Governor in the event of a vacancy. If there is no Executive Lieutenant Governor, the circuit's ABA Representatives and SBA Presidents will elect an individual to fill the vacancy via a special election.

Governors appoint a team of Lt. Governors to assist them in administering circuit business, with one appointed as the Executive Lt. Governor and serving as the head Lt. Governor. The Governor appoints an Executive Lt. Governor as second in command to assist with oversight of the circuit. In appointing an Executive Lt. Governor, the Governor selects an individual who would be able to take over if the Governor is unable to fulfill his or her term of office. There is an understanding among the circuit leadership that if the Governor is unable or unwilling to fulfill his or her term of office, the Executive Lt. Governor is the preferred person to complete the Governor's plan of action for the year. If there is no Executive Lieutenant Governor, the circuit's ABA Representatives and SBA Presidents will elect an individual to fill the vacancy via a special election.

Passage of this resolution means there will now be a seamless transfer of power from the Governor who is unable to continue in office to the Executive Lt. Governor. The new process will mitigate the uncertainty and dysfunction of the current process, and will expedite the overall process.

## **FINANCIAL REPORT**

The adoption of this Resolution does not entail a direct financial obligation from the Division.

Respectfully submitted,

**AnnMichelle G. Hart**

Law Student Division Secretary Treasurer

University of the Pacific, McGeorge School of Law

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206-261-5101

Considered by the Resolutions Committee of the ABA/LSD.

**This resolution has not been approved by the House of Delegates, Board of Governors, the Law Student Division, or the Law Student Division Board of Governors and, until approved, does not constitute the policy of the American Bar Association/Law Student Division.**

**No. 11/08-02**

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
BOARD OF GOVERNORS**

**RESOLUTION  
ADVISORY COMMITTEE OF ABA LEADERS**

**RECOMMENDATION**

**BE IT RESOLVED** that the Law Student Division (the “Division”), by and through its Board, hereby adopts the attached amendment to Article 6 of the Division’s bylaws to create an Advisory Committee of American Bar Association Leaders to advise the Division’s Board of Governors and strengthen collaboration between the Division and the rest of the ABA.

**§ 6.4 Law Student Division Advisory Committee**

- (a) At the Direction of the Law Student Division Board of Governors, the Division Advisory Committee’s mission is to provide advice and guidance, support for, and advocacy on behalf of the Division. The Committee’s role is advisory to the Law Student Division Board of Governors, particularly the nationally elected Division officers. The Committee is also responsible for strengthening relationships between the Division and the rest of the Association, and working with Division leaders to expand opportunities for student involvement in the Association.
- (b) Members of the Advisory Committee shall consist of the following and shall not exceed more than thirteen (13) individuals; Three being Immediate Past Officers of the Division, Two At-Large members selected by the Division’s Board of Governors, and the rest selected by the participating entities.
  - 1. Two Non-Student At-Large Members selected by the Division’s Board of Governors
  - 2. Immediate Past Chair of the Law Student Division
  - 3. Immediate Past Vice-Chair of the Law Student Division
  - 4. Immediate Past Student Representative to the ABA Board of Governors
  - 5. ABA Board of Governors Liaison to the Division

6. Liaison from the Young Lawyers Division
  7. Liaison from the Section Officers Conference
  8. Liaison from the Standing Committee on Membership (SCOM)
  9. Liaison from the Council for Racial and Ethnic Diversity in the Educational Pipeline
  10. Liaison from the Section on Legal Education and Admissions to the Bar
  11. Two Liaisons from the House of Delegates (Chosen by the House Chair)
- (c) Beginning in 2011, the Liaison from the Young Lawyer's Division, the Liaison from the Standing Committee on Membership, and one (1) Liaison from the House of Delegates will service a one (1) year term. Beginning in 2012, and going forward, these members will be appointed for a three (3) year term. Beginning in 2011, the Liaison from the Council for Racial and Ethnic Diversity in the Educational Pipeline, and the Liaison from the Section Officer's Conference will serve a two year term. Beginning in 2013, and going forward, these members will serve for a three (3) year term. Beginning in 2011, the ABA Board of Governors Liaison to the Division, the Liaison from the Section on Legal Education and Admissions to the Bar and one (1) Liaison from the House of Delegates will service a three (3) year term. Beginning in 2014, each member of the Advisory Committee except the three (3) Immediate Past Division Officers and the two (2) At-Large Members shall serve a term of three (3) years with appointments staggered so that no more than three members exit the board in any given year. After the conclusion of a member's term, the participating ABA entity may appoint that individual for one additional term. No member shall serve more than two consecutive termson the Advisory Committee.
- (d) The three Immediate Past Division Officers shall only serve for one year after the completion of their terms in office. However, they may be appointed to represent one of the participating ABA entities upon the competition of their year of service.
- (e) The Division's Board of Governors selects two non-student At-Large members of the Committee to serve for one year. Any member of the Division's Board of Governors can make a recommendation of an individual to serve in this position by submitting a written statement to the Division Chair. At-large members will be voted by the Division Board of Governors prior to the ABA Annual Meeting.
- (f) Any vacancy on the Committee may be remedied by the participating ABA entity appointing a replacement member to fill the vacancy. An individual appointed to fill a vacancy shall be appointed for the unexpired term of the predecessor. Should one of the three Immediate Past Division Officers vacate the Committee, the position shall remain vacant. Should one of the At-Large members vacate the Committee, the Division Board of Governors shall select a replacement to serve for the unexpired term of the member.
- (g) The Immediate Past Division Chair shall serve as the Chair of the Committee. The Committee Chair shall preside over all Committee meetings and serve as the principal representative of the Committee. Should the Immediate Past Division Chair resign from the Committee or choose not to serve as Chair, the Immediate Past Division Vice-Chair shall chair the Committee. Should the Immediate Past Division Vice-Chair resign from the Committee or choose not to serve as Chair, the Immediate Past Division Representative to the ABA Board of Governors shall chair the Committee.
- (h) The Committee Chair will work with the Division Officers to create the agenda for each meeting. The national Division Officers and Delegates shall attend all meetings of the Advisory Committee. The Division Chair and Committee Chair have the discretion to invite others to participate in the meetings.
- (i) The Committee shall also elect a Secretary who will be responsible for keeping accurate minutes of the meetings and working with the Division staff to see that members receive notices of meetings and meeting materials prior to the meeting, and performing any additional duties necessary for the Committee to perform its designated responsibilities.
- (j) The Advisory Committee shall meet four times a year; two times in person at the ABA's Midyear Meeting and Annual Meeting and twice by conference call. However, the Division Chair has the authority to convene additional conference calls of the Advisory Committee as necessary. Additionally, a special conference call meeting can be called if four (4) members request the call. Members of the Committee who cannot attend in-person meetings may participate via accepted forms of communication. The Committee and/or the Division Chair may invite other individuals to participate in meetings to help the Committee adequately support the Division's needs. All meetings shall be led by the Committee Chair.

## **REPORT**

The proposed amendment to the Bylaws is the addition of Section 6.4 to the end of Article 6. See attached for how Article 6 of the Bylaws would appear if this amendment is approved by the Division's Board of Governors.

The recruitment and retention of law student members is a vital component of the ABA's membership growth. Both the Division and ABA leadership have engaged in many discussions about what can and should be done to help students see the short and long-term value of the ABA. At law schools around the country, ABA representatives are constantly asked, "What can the ABA do for me as a law student?"

Currently, the Division consists of over 43,000 law student members from around the country who join the ABA for educational and advancement opportunities to help them excel in law school and to lay the groundwork for their professional life.

Many law student members expect the Division to assist them in navigating through the many channels of the ABA to meet legal professionals from around the nation who may provide mentorship experiences or employment opportunities. Additionally, these students members expect the Division to serve as the direct link between law students and the more 30 ABA members groups that focus on specific areas of law.

While the ABA has a number of benefits to offer students, the leadership of the Division believes that better communication and collaboration between the Division and ABA leaders is needed to enhance the experience of law students in the ABA.

Some Division leaders have said that they feel as if the Division is "an island in the middle of a vast ocean" with most of the work on behalf of students coming from the student officers and Division staff, and not much interaction with the rest of the ABA. Some students have even completed their involvement in the Division saying that even after having served in various student leadership positions in the ABA, they still did not have an understanding of how the Division fit into the greater Association or felt that they were unable to build relationships with long-serving ABA leaders and members.

ABA leaders, especially the national ABA officers and members of the Board of Governors and House of Delegates, frequently report that they do not know much about the work of the Division beyond understanding that it consists of law students. Some of these ABA leaders have stated that they would enjoy opportunities to interact with law students and the Division in general, but do not know the route to take within the ABA to facilitate this interaction.

President Stephen N. Zack and Executive Director Jack Rives have stated that law students are the future of the ABA, and as a result, it is important to capture their interests in the Association at this early juncture. Additionally, studies conducted by the ABA have shown that individuals who join the ABA as students are much more likely to remain as members of the ABA throughout their lives.

The most effective way to increase collaboration and communication between the Division and the ABA, and to better connect the over 43,000 student members with the rest of the ABA, is to have a permanent group dedicated to helping advise the Division leaders on ways to expand opportunities for students in the ABA, and to help Division leaders fully understand how the ABA works. This group would consist of leaders from various facets of the ABA who would serve as a resource to the Division Board of Governors throughout their tenures

in office. The Committee would ensure that the Division has a consistent, organized, and effective way to utilize the advice and talents of leaders within the ABA.

## **FINANCIAL REPORT**

The adoption of this Resolution would possibly require minimal financial contribution from the Division to cover administrative costs for Advisory Committee meetings. Additionally, the Division Officers are currently working with the Office of the ABA Executive Director to secure funding to expand the efforts of the Advisory Committee. These efforts to secure additional funding do not affect the committee in its current form.

Respectfully submitted,

**Tommy Preston, Jr.**

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Considered by the Resolutions Committee of the ABA/LSD.

# Attachment: Bylaw Amendment

## Article 6 Board of Governors

### § 6.1 Function

The general executive and administrative authority resides in the Board of Governors. Between meetings of the Assembly, the Board of Governors may perform, consistent with the action taken by the Assembly during the last three Annual meetings, the functions the Assembly itself may perform except—

- (a) electing any officer of whom the election is vested in the Assembly; or
- (b) amending these bylaws.

### § 6.2 Composition and Voting

§ 6.2.1 Voting membership. The Board shall consist of the—

- (a) Chair;
- (b) Vice Chair;
- (c) Vice Chair-SBA;
- (d) Secretary-Treasurer;
- (e) Division Delegates;
- (f) Division Representative to the Association Board of Governors;
- (g) Circuit Governors.

§ 6.2.2 Non-voting membership. The national officers-elect and division delegate-elects shall be nonvoting members. The Division Board of Governors may create other nonvoting memberships provided that the cost of all such memberships does not exceed that of four voting memberships.

§ 6.2.3 The Chair shall preside and the Secretary-Treasurer shall record the proceedings.

### § 6.3 Meetings

(a) The Division Board of Governors shall meet three times a year—during the Annual Meeting, in the fall, and in the spring at the call of the Chair. The Board shall otherwise meet as ordered by a majority of its membership.

(b) The Division Board of Governors may provide for voting by mail, e-mail, telephone, or proxy. A Board member may only proxy his or her vote to another voting Board member.

### § 6.4 Law Student Division Advisory Committee

(a) At the Direction of the Law Student Division Board of Governors, the Division Advisory Committee's mission is to provide advice and guidance, support for, and advocacy on behalf of the Division. The Committee's role is advisory to the Law Student Division Board of Governors, particularly the nationally elected Division officers. The Committee is also responsible for strengthening relationships between the Division and the rest of the Association, and working with Division leaders to expand opportunities for student involvement in the Association.

(b) Members of the Advisory Committee shall consist of the following and shall not exceed more than thirteen (13) individuals; Three being Immediate Past Officers of the Division, Two At-Large members selected by the Division's Board of Governors, and the rest selected by the participating entities.

- 12. Two Non-Student At-Large Members selected by the Division's Board of Governors
- 13. Immediate Past Chair of the Law Student Division
- 14. Immediate Past Vice-Chair of the Law Student Division
- 15. Immediate Past Student Representative to the ABA Board of Governors
- 16. ABA Board of Governors Liaison to the Division

17. Liaison from the Young Lawyers Division
18. Liaison from the Section Officers Conference
19. Liaison from the Standing Committee on Membership (SCOM)
20. Liaison from the Council for Racial and Ethnic Diversity in the Educational Pipeline
21. Liaison from the Section on Legal Education and Admissions to the Bar
22. Two Liaisons from the House of Delegates (Chosen by the House Chair)

- (c) Beginning in 2011, the Liaison from the Young Lawyer's Division, the Liaison from the Standing Committee on Membership, and one (1) Liaison from the House of Delegates will service a one (1) year term. Beginning in 2012, and going forward, these members will be appointed for a three (3) year term. Beginning in 2011, the Liaison from the Council for Racial and Ethnic Diversity in the Educational Pipeline, and the Liaison from the Section Officer's Conference will serve a two year term. Beginning in 2013, and going forward, these members will serve for a three (3) year term. Beginning in 2011, the ABA Board of Governors Liaison to the Division, the Liaison from the Section on Legal Education and Admissions to the Bar and one (1) Liaison from the House of Delegates will service a three (3) year term. Beginning in 2014, each member of the Advisory Committee except the three (3) Immediate Past Division Officers and the two (2) At-Large Members shall serve a term of three (3) years with appointments staggered so that no more than three members exit the board in any given year. After the conclusion of a member's term, the participating ABA entity may appoint that individual for one additional term. No member shall serve more than two consecutive terms on the Advisory Committee.
- (d) The three Immediate Past Division Officers shall only serve for one year after the completion of their terms in office. However, they may be appointed to represent one of the participating ABA entities upon the competition of their year of service.
- (e) The Division's Board of Governors selects two non-student At-Large members of the Committee to serve for one year. Any member of the Division's Board of Governors can make a recommendation of an individual to serve in this position by submitting a written statement to the Division Chair. At-large members will be voted by the Division Board of Governors prior to the ABA Annual Meeting.
- (f) Any vacancy on the Committee may be remedied by the participating ABA entity appointing a replacement member to fill the vacancy. An individual appointed to fill a vacancy shall be appointed for the unexpired term of the predecessor. Should one of the three Immediate Past Division Officers vacate the Committee, the position shall remain vacant. Should one of the At-Large members vacate the Committee, the Division Board of Governors shall select a replacement to serve for the unexpired term of the member.
- (g) The Immediate Past Division Chair shall serve as the Chair of the Committee. The Committee Chair shall preside over all Committee meetings and serve as the principal representative of the Committee. Should the Immediate Past Division Chair resign from the Committee or choose not to serve as Chair, the Immediate Past Division Vice-Chair shall chair the Committee. Should the Immediate Past Division Vice-Chair resign from the Committee or choose not to serve as Chair, the Immediate Past Division Representative to the ABA Board of Governors shall chair the Committee.
- (h) The Committee Chair will work with the Division Officers to create the agenda for each meeting. The national Division Officers and Delegates shall attend all meetings of the Advisory Committee. The Division Chair and Committee Chair have the discretion to invite others to participate in the meetings.
- (i) The Committee shall also elect a Secretary who will be responsible for keeping accurate minutes of the meetings and working with the Division staff to see that members receive notices of meetings and meeting materials prior to the meeting, and performing any additional duties necessary for the Committee to perform its designated responsibilities.
- (j) The Advisory Committee shall meet four times a year; two times in person at the ABA's Midyear Meeting and Annual Meeting and twice by conference call. However, the Division Chair has the authority to convene additional conference calls of the Advisory Committee as necessary. Additionally, a special conference call meeting can be called if four (4) members request the call. Members of the Committee who cannot attend in-person meetings may participate via accepted forms of communication. The Committee and/or the Division Chair may invite other individuals to participate in meetings to help the Committee adequately support the Division's needs. All meetings shall be led by the Committee Chair.

**AMERICAN BAR ASSOCIATION**

**NATIONAL NATIVE AMERICAN BAR ASSOCIATION  
CENTER FOR RACIAL AND ETHNIC DIVERSITY**

**REPORT TO THE HOUSE OF DELEGATES**

**RESOLUTION**

1 RESOLVED, That the American Bar Association urges the Law School Admissions Council and  
2 ABA-approved law schools to require additional information from individuals who indicate on  
3 their applications for testing or admission that they are Native American including Tribal  
4 citizenship, Tribal affiliation or enrollment number, and/or a “heritage statement.”

## REPORT

The American Bar Association (ABA) shares many concerns with bar associations of color, such as increasing the number of minority lawyers and judges. There is a large systemic problem, however, that seems to be unique to the American Indian community: providing false information about being Native American on law school applications or testing applications. While few people would indicate they were Asian-American or African-American on a law school application unless it was a part of their identity, for some reason there is a wide level of comfort about self-identifying as Native American even though they are not in fact Native American. This is particularly disconcerting given that being Native American is not just an ethnic identity, but is an actual citizenship in an Indian tribe or Nation which carries with it a formal tribal enrollment number, not unlike a social security number.

Current statistics do not accurately reflect the number of Native Americans who attend or graduate law school. To highlight this issue, one only need compare Native American graduation rates with census data. From 1990-2000, ABA-accredited law schools reported graduating over 2,600 Native Americans.<sup>1</sup> During the same time period, the U.S. Census only reported an increase of just over 200 Native American attorneys (from 1,502 to 1,730).<sup>2</sup> In 2007, the National Native American Bar Association (NNABA) joined with the Coalition of Bar Associations of Color (CBAC) and passed a resolution condemning the “large percentage of individuals in law school who identified themselves on their law school application as Native American, [who] were not of Native American heritage and in fact had no affiliation either politically, racially, or culturally with the Native American community.”<sup>3</sup> The resolution calls upon law schools to not “perpetuate this academic ethnic fraud by not requiring sufficient documentation of Native American citizenship and refusing to enforce academic fraud, despite decades of requests by the Native American legal community.”<sup>4</sup> Best practices in this area for a law school is to require an applicant to report whether he or she is an enrolled member of a federally recognized tribe and to provide any applicable tribal enrollment number. If an applicant does not so report, the law school should not include the applicant as a member of the category “American Indian/Alaska Native.”

### **I. NATIVE AMERICAN STATUS UNDER FEDERAL AND TRIBAL LAW**

There are over 560 independent Native American Tribes located within the United States. Much like any other nation, each of these Tribes determines the qualifications for its own citizenship through the adoption of constitutions and the enactment of laws. Tribal citizenship, or “membership” (the terms are used interchangeably), is not unlike any other citizenship, and with this citizenship comes certain rights and responsibilities, including but not limited to, the right to vote, the right to own land, the responsibility to serve on juries and pay tribal taxes.

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<sup>1</sup> See *Minority Degrees Awarded 1990-2004*, at <http://www.abanet.org/legaled/statistics/mindegrees.html>.

<sup>2</sup> U.S. Census Bureau, *Census 2000 special tabulation*, available at <http://www.abanet.org/minorities/links/2000census.html>.

<sup>3</sup> Coalition of Bar Associations of Color (CBAC) Resolution: *Academic Application Ethnicity Fraud* (2007).

<sup>4</sup> *Id.*

It is a complex and imperfect story as to how the current status of Tribal citizenship came to exist. The federal government was instrumental in creating the current structure for its own identification purposes. During the 1800s, U.S. officials engaged in the creation of “tribal rolls” to help the federal government identify the members of particular tribes for the implementation of certain federal treaty and trust responsibilities. In particular, in 1887, with the passage of the General Allotment Act (also known as the Dawes Act),<sup>5</sup> the creation of tribal rolls was hastened in order to determine who was entitled to land allocations for Native Americans.

In 1934, the Indian Reorganization Act (“IRA”)<sup>6</sup> codified that tribal governments had the inherent authority to determine their citizenship (membership), and these standards were to be delineated in the tribe’s constitution.

The Bureau of Indian Affairs then formulated a model constitution that included blood quantum requirements and a relationship to the federal “tribal rolls” of the 1800s. Many tribes adopted this model constitution. Some have kept that model, but many have amended it. As a result of this 1934 law, however, each tribe’s constitution, including the citizenship provisions at discussion in this resolution, are reviewed by and filed with the federal government.

Today, most federal programs, laws and regulations rely on tribal citizenship for the definition of “Native American” for all federal governmental purposes. For example, the 1978 Indian Child Welfare Act<sup>7</sup> which provides for adoption rules references Tribal membership. And, in order to receive federal Indian Health Services and to partake in federal land trust programs, tribal membership also is referenced.

Tribal Constitutions provide the requirements for membership. For instance, the Nez Perce Tribal Constitution, Article IV provides at least two avenues in order to become a member: (1) a listing on the 1956 Nez Perce Tribal Membership Roll “as corrected by any action of the Secretary of Interior;” or (2) children possessing a minimum of ¼ degree Nez Perce ancestry with a parent who is a member of the tribe and filing an application before the age of eighteen years...<sup>8</sup>

In sum, Native American tribal identity is not an amorphous, ill-defined concept. It is a very concrete citizenship requirement, detailed and well-defined in tribal constitutions and laws, and recognized by the federal government.

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<sup>5</sup> 25 U.S.C. §§ 331-358.

<sup>6</sup> Indian Reorganization Act of 1934, 48 Stat. 984 (codified as amended at 25 U.S.C. §§ 461-79 (1983)).

<sup>7</sup> 25 U.S.C. § 1903(3).

<sup>8</sup> See 1999 Revised Constitution and Bylaws of the Nez Perce Tribe Art. IV (A) and (B).

### III. SUPREME COURT RECOGNITION OF POLITICAL STATUS OF NATIVE AMERICAN TRIBAL CITIZENSHIP

The Supreme Court recognizes the political status of Native citizenship. In 1974, the U.S. Supreme Court held, in *Morton v. Mancari*,<sup>9</sup> that individual Indians enjoy their rights not as a race, but as members of a political entity: a federally recognized tribe. In *Mancari*, non-Indian employees of the Bureau of Indian Affairs (BIA) unsuccessfully challenged the Indian preference in hiring and promotion policies.<sup>10</sup> The Supreme Court traced the origins of the Indian preference policy back to 1834 and found that the preference arose from the “Government’s trust obligation toward the Indian tribes; and to reduce the negative effect of having non-Indians administer matters that affect Indian tribal life.”<sup>11</sup> The Court went on to hold that the Indian preference policy did not constitute racial discrimination as it was “not even a ‘racial’ preference.”<sup>12</sup> In the most important pronouncement of the case, the Court explained that the preference applied to members of federally recognized tribes and, therefore, was “political rather than racial in nature.”<sup>13</sup>

In 1978, the Supreme Court again touched on the issue of the inherent political and cultural grounds of tribal membership, in *Santa Clara Pueblo v. Martinez*.<sup>14</sup> In *Martinez*, Julia Martinez charged the Santa Clara Pueblo with gender discrimination because its 1939 ordinance denied Pueblo membership to the children of female members who married outside the tribe, but not to similarly situated children of male members who married non-members.<sup>15</sup> Martinez claimed the ordinance violated the Indian Civil Rights Act (ICRA) of 1968,<sup>16</sup> which has the dual goal of protecting persons subject to the authority of tribal governments with most of the basic constitutional rights and of protecting the autonomy of tribal governments to exercise their authority in accordance with their customs and culture.<sup>17</sup>

In *Martinez*, the Supreme Court held that tribes were “separate sovereigns pre-existing the [U.S.] Constitution” and, therefore, were not subject to the constitutional restraints placed upon federal and state governments.<sup>18</sup> In reviewing the ICRA, the Court emphasized that Congress had drafted the statute so as “not to intrude needlessly on tribal self-government.”<sup>19</sup> The Court characterized tribal membership decisions as dependent on tribal custom and tradition, leading to the conclusion that tribal courts were the proper forums for review of such matters. In framing tribal membership decisions as central to tribal sovereignty, the Court stated:

A tribe’s right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community. Given the often vast gulf between tribal traditions and those with which federal courts are more intimately

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<sup>9</sup> 417 U.S. 535 (1974).

<sup>10</sup> *Id.* at 555.

<sup>11</sup> *Id.* at 541-42.

<sup>12</sup> *Id.* at 553.

<sup>13</sup> *Id.* at 553 n. 24.

<sup>14</sup> 436 U.S. 49 (1978).

<sup>15</sup> *Id.* at 52.

<sup>16</sup> 25 U.S.C. §§ 1301-1303.

<sup>17</sup> See *Santa Clara Pueblo v. Martinez*, 436 U.S. at 62.

<sup>18</sup> 436 U.S. at 56.

<sup>19</sup> *Id.* at 71.

familiar, the judiciary should not rush to create causes of action that would intrude on these delicate matters.<sup>20</sup>

The U.S. Supreme Court recognizes that tribal membership confers a political status. When a person is an enrolled member of a federally-recognized tribe, then that person is considered an “Indian” and a tribal citizen under both federal and tribal law.

#### **IV. APPLICATION OF FEDERAL LAW AND SUPREME COURT JURISPRUDENCE TO THE LAW SCHOOL ADMISSIONS CONTEXT**

As set forth above, being “Native American” is not solely an ethnicity; it is an actual citizenship. As the Supreme Court held in *Morton v. Mancari*, the designation of Native American is a political status similar to individuals who are citizens of states, the United States, or foreign nations. As such, Native Americans are citizens of their tribes.

In general, a tribal government’s constitution outlines eligibility for citizenship, and it is an intensive citizenship enrollment process, usually more stringent than even U.S. citizenship. Citizenship requirements vary from tribe to tribe, but usually include factors such as lineage; place of birth or residence; cultural and linguistic knowledge; and community relationship. Each tribal citizen receives a tribal “enrollment number” much like a social security number or passport number.

Honesty in the identification of Native Americans has more than just academic implications; it has broad legal implications. Just as other citizens must qualify for rights and entitlements, such as residents or citizens of the fifty states receive in-state tuition or vote in local elections, Native American tribal citizens can claim the political identity, participation, and program entitlements only if they have tribal citizenship. For example, one must have tribal citizenship to qualify to vote in tribal elections, own land, or run for elected tribal office.

Nonetheless, there are exceptions and variations on this general rule of “enrolled tribal citizenship,” and many Native American communities include descendants of tribal citizens and non-citizen (or “non-enrolled”) individuals who are native by ethnicity and active in the community. However, generally the Native community does not consider it appropriate to self-identify as “Native American” for official academic and legal purposes, if an individual has only a very loose and tenuous affiliation with a very distant, unconfirmed, and unidentifiable Native American ancestor; combined with no current Tribal membership or citizenship; and/or no ethnic, cultural, community, or personal affiliation.

Distant relations are appropriately considered a part, and encouraged to be included in, one’s family story and personal ancestry. But distant ancestry is unlikely to be a part of a person’s current ethnic identity, or qualify one for tribal citizenship.

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<sup>20</sup> *Id.* at 72, n. 32 (citations omitted).

## V. PROBLEM PRECIPITATING THIS RESOLUTION: “BOX-CHECKING”

The fraudulent self-identification as Native American on applications for higher education is particularly pervasive among law school applicants. Anecdotally, it is well-documented within the Native American legal community that a large percentage of individuals in law school who identified themselves on their law school application as “Native American”, were not of Native American heritage and have had no affiliation either politically, racially, or culturally with the Native American community. This phenomenon is so pervasive it is commonly understood and referred to within the Native American community as “box-checking.”

Because of this problem, the actual number of actual Native American law students and lawyers is dramatically less than that as self-reported by ABA accredited law schools. The 1990 Census report shows 1,502 American Indian lawyers. In 2000, that number increases to 1,730.<sup>21</sup> An increase in American Indian lawyers of only 228 in ten years. That is an overall growth of 15%. Nonetheless, during the same time period between 1990 and 2000, ABA-accredited law schools claimed to have graduated approximately 2,610 Native American lawyers.<sup>22</sup> Even controlling for a variety of factors, there is a vast disparity between 2,610 and 228.

## VI. RECOMMENDED LANGUAGE FOR ENTITIES REQUESTING SELF-IDENTIFICATION INFORMATION FROM NATIVE AMERICANS

The Native American legal community is respectful of the expertise of the individuals involved in the law school admissions context, and it is not the intent to interfere with that process or to try to impose a burdensome solution on law schools. Rather, the purpose is to ensure that there is also a respect and recognition of the legal status of Native Americans. In addition, the goal is to ensure that the statistics regarding Native American law school applicants and lawyers are as accurate as possible.

The solution urged by NNABA is to amend law school applications to require more information from applicants claiming to be Native American, such as tribal affiliation and/or membership numbers or a short heritage statement setting forth an applicant’s affiliation with an American Indian or Alaska Native community. This solution would at least put an additional minimal burden on a law school applicant claiming to be Native American and provide at least some deterrent to an applicant who seeks to misrepresent his or her race or ethnicity.

Some law schools already include these additional questions on their applications, including the University of Tulsa<sup>23</sup> and the University of New Mexico. And, the U.S. Census

<sup>21</sup> U.S. Census Bureau, Census 2000 special tabulation, *available at* <http://www.abanet.org/minorities/links/2000census.html>.

<sup>22</sup> See *Minority Degrees Awarded 1990-2004*, at <http://www.abanet.org/legaled/statistics/mindegrees.html>.

<sup>23</sup> See <https://secureweb.utulsa.edu/law/application/>. See also Mary L. Smith, *Striving for More Accurate Statistics for Native Americans in Law School Admissions*, AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR SYLLABUS, Vol. 41 No. 1 (Fall 2009).

also asks participants checking the “American Indian or Alaska Native” box to add the name of the person’s enrolled or principal tribe underneath the box.<sup>24</sup>

The language below is recommended by NNABA for all entities and applications requesting self-identification information from Natives, including, but not limited to: (1) LSAC applications and (2) law school applications:

- **CITIZENSHIP SECTION (OR ETHNICITY SECTION)**

- American Indian/Native Alaskan**

Tribe/Village \_\_\_\_\_

Are you an enrolled member (or eligible for enrollment)?  Yes  No

Enrollment number/CDIB \_\_\_\_\_

Respectfully submitted,

Patty Ferguson, President  
National Native American Bar Association  
August 2011

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<sup>24</sup> See Question 9 on the Informational Copy of the 2010 Census Questionnaire, available at [http://www.census.gov/schools/pdf/2010form\\_info/pdf](http://www.census.gov/schools/pdf/2010form_info/pdf). See Question 8 on the Informational Copy of the 2000 Census Questionnaire, available at <http://www.census.gov/dmd/www/pdf/d61a.pdf>.

**GENERAL INFORMATION FORM**

Submitting Entity: National Native American Bar Association

Submitted By: Patty Ferguson, President

1. Summary of Resolution

The resolution urges the Law School Admissions Council (LSAC) and ABA-approved law schools to require additional information for individuals who indicate on their applications for testing or admission that they are Native American, including requesting their Tribal citizenship, Tribal affiliation or enrollment number, and/or a “heritage statement” in order to avoid ethnic and identification misrepresentation and to provide more accurate statistics regarding “Native American” test takers and applicants for law school admission.

2. Approval by Submitting Entity

The National Native American Bar Association approved the filing of this Report with Resolution during its meeting on April 6, 2011.

3. Has This or a Similar Resolution Been Submitted to the House of Delegates Board of Governors Previously?

No.

4. What Existing Association Policies Are Relevant to this Proposed Resolution and Would They Be Affected by Its Adoption?

This resolution is consistent with the August 2006 Resolution on Minorities in the Pipeline to the Profession, which urges all state, territorial and local bar associations to work with national, state, and territorial bar examiners, law schools, universities and elementary and secondary schools to address significant problems facing minorities within the pipeline to the profession.

5. What Urgency Exists that Requires Action at this Meeting of the House?

In 2007, the National Native American Bar Association (NNABA) joined with the Coalition of Bar Associations of Color (CBAC) and passed a resolution condemning the “large percentage of individuals in law school who identified themselves on their law school application as Native American, [who] were not of Native American heritage and in fact had no affiliation either politically, racially, or culturally with the Native American community.” That resolution calls upon law schools to not “perpetuate this academic ethnic fraud by not requiring sufficient documentation of Native American citizenship and refusing to enforce academic fraud, despite decades of requests by the Native American legal community.” Since that time, NNABA has been working with the ABA’s Section of Legal Education and Admissions to the Bar and the Law School Admissions Council. It was ultimately determined that a resolution proposed by NNABA could not be mandated by the ABA’s accreditation process. Simultaneously, NNABA reached out to a few law schools to request that their law school applications be changed to request tribal affiliation for any applicant indicating that he or she is Native American. For instance, after reviewing NNABA’s correspondence on box-checking during the summer of 2010, Dean Martha Minow has notified NNABA that Harvard Law School recently has updated

its application to ask Native American applicants to specify a tribal affiliation. While this resolution was not drafted as the result of an immediate triggering event, but rather as the result of years of neglect, it is urgent to pass this resolution so that the American Bar Association can add its voice to this issue given the ABA's interest in pipeline issues, diversity in the legal profession, and accurate statistics regarding law school applicants and graduates.

6. Status of Legislation.

N/A

7. Cost to the Association. (Both Direct and Indirect Costs).

None.

8. Disclosure of Interest.

There are no known conflicts of interest.

9. Referrals

By copy of this form, the Report with Resolution will be referred to the following additional entities, including all Sections and Divisions:

Tribal Courts Council of the Judicial Division  
 Section of Administrative Law and Regulatory Practice  
 Section of Antitrust Law  
 Section of Business Law  
 Criminal Justice Section  
 Section of Dispute Resolution  
 Section of Environment, Energy, and Resources  
 Section of Family Law  
 General Practice, Solo and Small Firm Section  
 Government and Public Sector Lawyers Division  
 Section of Intellectual Property Law  
 Section of International Law and Practice  
 Section of Labor and Employment Law  
 Law Practice Management Section  
 Section of Legal Education and Admissions to the Bar  
 Section of Litigation  
 Section of Public Contract Law  
 Section of Public Utility, Communications and Transportation Law  
 Section of Real Property, Probate and Trust Law  
 Section of Science and Technology Law  
 Section of State and Local Government Law  
 Section of Taxation  
 Tort and Insurance Practice Section  
 Judicial Division

Law Student Division  
Senior Lawyers Division  
Young Lawyers Division  
Commission on Domestic Violence  
Commission on Homelessness and Poverty  
Commission on Law and Aging  
Commission on Mental and Physical Disability Law  
Commission on Women in the Profession  
Center for Racial and Ethnic Diversity  
Council for Racial and Ethnic Diversity in the Educational Pipeline  
Commission on Racial and Ethnic Diversity in the Profession  
Coalition of Racial and Ethnic Justice  
Commission on Sexual Orientation and Gender Identity  
Commission on Youth at Risk

10. Contact Person (Prior to Meeting)

Mary L. Smith  
17533 Maple Drive  
Lansing, IL 60438  
Cell: (202) 236-0339  
Email: [marysmith828@hotmail.com](mailto:marysmith828@hotmail.com)

11. Contact Person (Who Will Present the Report to the House)

Mary L. Smith  
17533 Maple Drive  
Lansing, IL 60438  
Cell: (202) 236-0339  
Email: [marysmith828@hotmail.com](mailto:marysmith828@hotmail.com)

## EXECUTIVE SUMMARY

### 1. Summary of the Resolution

The resolution urges the Law School Admissions Council and ABA-approved law schools to require additional information for individuals who indicate on their applications for testing or admission that they are Native American, including requesting their Tribal citizenship, Tribal affiliation or enrollment number, and/or a “heritage statement” in order to avoid ethnic and identification misrepresentation and to provide more accurate statistics regarding “Native American” test takers and applicants for law school admission.

### 2. Summary of the Issue that the Resolution Addresses

It is widely believed within the Native American legal community that a large percentage of individuals in law school who identified themselves on their law school application as “Native American”, are not of Native American heritage and have no affiliation either politically, racially, or culturally with the Native American community. This phenomenon is so pervasive it is commonly understood and referred to within the Native American community as “box-checking.”

Because of this problem, the number of actual Native American law students and lawyers is likely dramatically less than that as self-reported by ABA accredited law schools. The 1990 Census report shows 1,502 American Indian lawyers. In 2000, that number increases to 1,730.<sup>25</sup> An increase in American Indian lawyers of only 228 in ten years. That is an overall growth of 15%. Nonetheless, during the same time period between 1990 and 2000, ABA-accredited law schools claimed to have graduated approximately 2,610 Native American lawyers.<sup>26</sup> Even controlling for a variety of factors, there is a vast disparity between 2,610 and 228.

The difference between the ABA graduation rate and the Census numbers, *i.e.*, the grads to growth rate, is about 8.7% for Native Americans. With respect to the grads-to-growth rates for other racial groups, these rates are so far out of line with the rate for Native Americans that it makes the statistical case even more compelling. This is comparable to disparate impact cases in employment discrimination cases whereby courts have held that sometimes the statistical disparity is so overwhelming that the statistics alone prove discrimination.

### 3. Please Explain How the Proposed Policy Position will address the issue

The resolution urges the Law School Admissions Council and ABA-approved law schools to require additional information for individuals who indicate on their applications for testing or admission that they are Native American, including requesting their Tribal citizenship, Tribal affiliation or enrollment number, and/or a “heritage statement” in order to avoid ethnic and identification misrepresentation and to provide more accurate statistics regarding “Native American” test takers and applicants for law school admission.

### 4. Summary of Minority Views

None.

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<sup>25</sup> U.S. Census Bureau, Census 2000 special tabulation, available at <http://www.abanet.org/minorities/links/2000census.html>.

<sup>26</sup> See Minority Degrees Awarded 1990-2004, at <http://www.abanet.org/legaled/statistics/midegrees.html>.

**AMERICAN BAR ASSOCIATION**  
**YOUNG LAWYERS DIVISION**  
**REPORT TO THE HOUSE OF DELEGATES**

**RESOLUTION**

1 RESOLVED, That the American Bar Association urges Congress to enact legislation that assists  
2 individuals who are experiencing financial hardship due to excessive levels of student loan debt  
3 but are not covered by the provisions of the student loan overhaul passed into law on March 30,  
4 2010, by:

- 5
- 6 (1) Extending federal student-loan repayment terms and federal student-loan programs to  
7 individuals who borrowed from commercial lenders to fund their education in whole or in  
8 part;
- 9 (2) Establishing repayment terms for federal student loans that allow individuals to qualify  
10 for income-based repayment, consolidation, and other forms of loan repayment  
11 assistance;
- 12 (3) Creating loan forgiveness programs for public service lawyers similar to the Direct Loan  
13 Public Service Loan Forgiveness Program authorized by Congress for health care  
14 professionals in the Higher Education Opportunity Act (P.L. 110-315); and
- 15 (4) Raising or eliminating the income level associated with the federal income tax deduction  
16 for interest paid on qualifying student loans.

17

18 FURTHER RESOLVED, That the American Bar Association urges Commercial Lenders to  
19 assist individuals experiencing financial hardship due to excessive levels of student loan debt, by  
20 developing and implementing programs that:

- 21
- 22 (1) Extend federal student-loan repayment terms and federal student-loan programs (or  
23 comparable programs with comparable terms) to individuals who borrowed from  
24 commercial lenders to fund their education in whole or in part;
- 25 (2) Develop repayment terms for federal student loans that allow individuals to qualify for  
26 income-based repayment, consolidation, and other forms of loan repayment assistance;
- 27
- 28 (3) Provide loan forgiveness to public service lawyers similar to the Direct Loan Public  
29 Service Loan Forgiveness Program authorized by Congress for health care professionals  
30 in the Higher Education Opportunity Act (P.L. 110-315).

**REPORT****I. Resolution 111A: The Beginning of Comprehensive Student Loan Reform**

Over the past couple of decades student loan debt has reached excessive levels as more particularly described below in Section II of this report. Student loan debt now exceeds credit card debt in the United States. It is alarming that student loan debt has outpaced credit card debt especially considering that student loan debt is incurred almost exclusively by a young student population whereas credit cards are generally utilized by all segments and ages of the population. For student loan debt to have out-paced credit card debt when the population receiving student loans is significantly more limited than the general population as a whole is remarkable. The increased levels of student loan debt have a profound and negative impact on students.

Resolution 111A seeks to start the process of student loan reform. One way Resolution 111A seeks to minimize significant student loan debt is to require the ABA to lobby Congress to enact laws that require all federal student loans to allow income based repayment terms, multiple opportunities for consolidation and any other type of loan repayment assistance that would minimize the heavy student loan debt load for students, including but not limited to, creating a loan forgiveness program for public service lawyers similar to those available to healthcare professionals through the Higher Education Opportunities Act (P.L.110-215). The Resolution also encourages the ABA to lobby Congress to raise or eliminate income levels associated with the federal income tax deduction for all interest paid on student loans thereby providing additional tax benefits to students with student loans.

Moreover, Resolution 111A requires the ABA to devote resources to reforming the private student loan market by negotiating directly with commercial lenders to encourage these lenders to provide more favorable student loan terms for private loans. Resolution 111A requires that the ABA negotiate directly with and encourage private student lenders to adopt more favorable loan terms similar to those student loan repayment terms contained in federally guaranteed student loans. The Resolution also encourages the ABA to negotiate directly with commercial lenders to develop repayment terms that include, but are not limited to, income based repayment options, consolidation of student loans and refinancing opportunities, other forms of loan repayment assistance and loan forgiveness programs for public service lawyers.

Providing meaningful student loan reform will not be easy and there is no silver bullet that will solve the student loan problem. Student loan reform will require meaningful action by the ABA over several years and it will likely take significant pressure from the ABA to reform the student loan system. Resolution 111A starts the student loan reform process.

**II. The Heavy Burden of Student Loan Debt**

Over the past thirty years the cost of obtaining a legal education has outstripped inflation and become prohibitive. Even the cost of college has increased almost twice as quickly as inflation.<sup>27</sup> “Over the past three decades, law school tuition has gone up at between double and triple the general rate of inflation, both for private and public law schools. In some years and at many schools tuition went up at even more than triple the inflation rate.”<sup>28</sup> Inflation rose 25% for the time period of 1992 to 2002. For the same time period, tuition for

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<sup>27</sup> The ABA Commission on Loan Repayment and Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service* (Chicago 2003) “Lifting the Burden”

<sup>28</sup> Maimon Schwarzschild, *The Ethics and Economics of American Legal Education Today*, Legal Research Paper Series, Research Paper No. 08-032 (July 2008)

public law schools rose 134% for residents and 100% for non-residents while private law schools increased by 76%.<sup>29</sup>

The average cost of tuition for undergraduate studies in the 1960s was \$300 to \$3,300 per year depending on the institution. In 1980, the national average cost of tuition including room and board for an undergraduate was \$5,000 to \$6,000 per year.<sup>30</sup> In 1985 the median law school tuition was: \$7,385 (private law school), \$4,876 (non-resident public law school) and \$1,792 (resident public law school).<sup>31</sup> In 1995, tuition rose to: \$16,930, \$11,656 and \$4,879 respectively.<sup>32</sup> In 2002 tuition continued to rise to: \$24,920, \$18,131 and \$9,252 respectively.<sup>33</sup> Studies show that for 2010-11 out-of-state tuition fees at a public four-year college and/or university averaged \$28,130, up 6% from 2009-10, and \$36,993 at private non-profit facilities, up 4.3%.<sup>34</sup> Today, a student that attends a private undergraduate college for four years can expect to pay \$109,000 on average, excluding room and board.<sup>35</sup> Therefore, many students can expect to have expended over six figures worth of debt before they even step through the doors of law school.

Meanwhile, the amount of law school graduates and the number of schools has been rising. Many of these potential law students do not fully grasp the employment picture upon graduation from law schools and have little understanding of the realities of the heavy debt load they plan to incur to attend law school. Even the increasing tuition at private and public law schools has not reduced the number of students seeking law degrees. In 2009 an estimated 43,000 degrees were handed out, 11% more than a decade ago.<sup>36</sup> Additionally, the number of law schools is on the rise. Nine new ones have opened in the last ten years and there are five more seeking approval to open in the future.<sup>37</sup> Essentially law schools and law students are increasing in number while legal employment opportunities are decreasing further exacerbating the ability of these students to repay their student loans.

As the undergraduate and law school tuition costs increase, so does the need for financial aid. “[T]he intermediate measure of student aid increased by almost the same percentage as did average tuition (28 percent) between 1970 and 1986.”<sup>38</sup> “During the 1980s, rapidly increasing tuition and declining amounts of available student aid caused net prices of education to rise sharply. The average real net price paid by students in 1986 was 19 percent higher than in 1970.”<sup>39</sup> Further, “including all loans and work-study aid, average student aid was 40 percent higher in real terms in 1986 than in 1970; including one-half of loans and work-study aid, average student aid was 25 percent higher in 1986.”<sup>40</sup> Moving into the 1990s in the 1992-93 school year 74.8% of the students attending law school borrowed an average of \$37,637; in the 1999-00 school year 86.4% of the

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<sup>29</sup> A.B.A., American Bar Association Fact Sheet: Stafford Loan Program Increase (Feb. 2004)

<sup>30</sup> Marc R. Hill, CCPS, RFC, CCFC, CAFC, Reduce My College Costs, Special Educational Report “How the Cost of College has Changed – A look at the University of Colorado at Boulder” (2010)

<sup>31</sup> Lifting the Burden at pg. 17

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> The College Board, Trends in College Pricing 2010

<sup>35</sup> Annamaria Andriotis, The Most Affordable Colleges in America, Smart Money (Jan. 10, 2011)

<sup>36</sup> David Segal, New York Times, Is Law School a Losing Game? (Jan. 8, 2011)

<sup>37</sup> Id.

<sup>38</sup> Congressional Budget Office, Staff Working Papers, Trends in College Tuition and Student Aid Since 1970 (Dec. 1988) “Trends in College Tuitions”

<sup>39</sup> Trends in College Tuitions at pg. 21

<sup>40</sup> Trends in College Tuitions at pg. 21

students borrowed \$77,300.<sup>41</sup> “In the year 2001, the amount borrowed by many [law] students exceeded \$80,000.”<sup>42</sup>

In 2003, the ABA analyzed the impact of debt on public service. Using median debt numbers, the ABA developed a demonstrative example of the burden that debt is imposing:<sup>43</sup>

- Ms. Median borrows to attend undergraduate school: **\$16,079**
- Ms. Median attends a private law school for 3 years: **\$68,895**
- Ms. Median’s expenses other than tuition for 3 years: **\$39,218**
- Ms. Median’s total for attending law school: **\$108,113**
- Ms. Median’s total earned income during law school: **\$37,814**  
(providing she works her summers at a 30+ lawyer law firm)
- Ms. Median’s total amount borrowed to attend law school: **\$70,299**
- Ms. Median’s total amount borrowed to attend college and law school: **\$86,378**
- Ms. Median’s monthly loan payment on a standard ten-year plan: **\$1,065**

Studies have shown that most law students need to earn an average of \$65,000 a year to repay their student loans after graduation.<sup>44</sup> However, in the current economy, most law school graduates are unlikely to obtain a salary of \$65,000. In fact, obtaining employment as an attorney after graduation has become more difficult than ever. “Since 2008, some 15,000 attorney and legal-staff jobs at large firms have vanished, according to a Northwestern Law study. Associates have been laid off, partners nudged out the door and recruitment programs have been scaled back or eliminated”.<sup>45</sup>

The issue of student loans is complicated and finding a solution requires careful analysis and cooperation. This Resolution proposes a common sense approach to alleviating the burden facing many law school graduates while permitting them to repay the cost of their education.

Respectfully submitted,

David Wolfe, Chair  
Young Lawyers Division  
August 2011

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<sup>41</sup> Lifting the Burden at pg. 17

<sup>42</sup> Lifting the Burden at pg. 17

<sup>43</sup> Lifting the Burden at pgs. 19-21

<sup>44</sup> David Segal, New York Times, Is Law School a Losing Game? (Jan. 8, 2011)

<sup>45</sup> Id.

GENERAL INFORMATION FORM

Submitting Entity: ABA YLD

Submitted By: David Wolfe, Chair  
Young Lawyers Division

1. Summary of Resolution:

A resolution to move towards a student loan system that provides for more flexible and competitive terms for student loans, income based repayment for public service lawyers, and more favorable tax treatment of student loan interest payments.

2. Approval by Submitting Entity:

The Resolution was approved by the Young Lawyers Division Assembly on February 12, 2011.

3. Has this or a similar resolution been submitted to the House or Board previously?

There have been similar resolutions, including most recently Resolution 301, which was adopted by both the YLD Assembly and the House of Delegates in February 2010, but the issue has not been fully resolved.

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

Resolution 301 (February 2010) provided some relief, but was limited to students and recent law school graduates “experience[ing] financial hardship due to deferred or lack of employment.” This resolution expands ABA policy to include all individuals “experiencing financial hardship due to excessive levels of student loan debt.” We are not aware of any other ABA policies regarding this issue.

5. What urgency exists which requires action at this meeting of the House?

Because this issue will not be resolved until there is meaningful student loan reform for all.

6. Status of Legislation (if applicable)

N/A

7. Cost to the Association

None.

8. Disclosure of Conflict of Interest

None.

9. Referrals

All Sections and Divisions of the Association, Commission on Women in the Profession, Minority Caucus, Commission on Racial and Ethnic Diversity, Council for Racial and Ethnic Diversity in the Educational Pipeline.

10. Contact Person (prior to the meeting)

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11. Contact Person (who will present the report to the House)

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EXECUTIVE SUMMARY

(Please refer to *Instructions for Filing Resolutions with Reports* for completing this form.)

1. Summary of the Resolution

Resolution 2YL focuses on student loan reform and student loan repayment terms for federal student loan programs and private student loan programs. Resolution 2YL seeks to extend federal student loan repayment terms to privately originated student loans. Moreover, Resolution 2YL seeks greater opportunities for income based repayment terms, loan consolidation and other loan repayment assistance for private and federally based student loans. It also encourages loan forgiveness programs for public service lawyers and also encourages the elimination of the income level associated with the federal income tax deduction for interest paid.

2. Summary of the Issue that the Resolution Addresses

Resolution 2YL addresses the underlying problems arising from excessive student loan debt which has plagued law students and former law students for the past ten to fifteen years. Excessive student loan debt has a major impact on graduates from law school. This debt can impact a graduate's ability to enter public service, start a family, meet his or her basic financial needs and can even have an impact on the character and fitness criteria for admission to practice law. The use of student loans to finance education has become so pervasive that there is now more student loan debt than credit card debt in the United States. This debt has an extremely negative impact on a lawyer's life and an overall reform is necessary to correct the situation.

3. Please Explain How the Proposed Policy Position will address the issue

To accomplish these objectives Resolution 2YL encourages the American Bar Association to lobby Congress for federal loan reforms and to work directly with commercial lenders to provide meaningful and comprehensive student loan reform. The student loan system itself is fraught with confusion often resulting in \_\_\_\_\_ terms and obligations on the part of the student. The resolution seeks an opportunity to work with Congress for federal loan reforms and to work directly with commercial lenders to provide reform. The resolution itself makes minimal specific revisions preferring however to allow some room for input to achieve student loan reform from Congress, other stockholders, students and other commercial lenders. The resolution is designed to require that the ABA continue to lobby on student loan issues until a more systematic and meaningful student loan reform is achieved.

4. Summary of Minority Views

The only dissenting opinion the American Bar Association Young Lawyers Division has encountered is concern that Resolution 2YL does not go far enough to solve overall student loan debt issues. Concerns were raised by other ABA YLD members that Resolution 2YL does not address system-wide problems which the minority felt would include, but not be limited to, reforming law school practices concerning student loans, capping law school tuition increases and other related issues which a minority felt were significant contributors to excessive student loan debt. Ultimately it was determined by the ABA YLD that this was a positive step towards meaningful student loan reform that could be accomplished independently of a greater system wide approach.

**AMERICAN BAR ASSOCIATION**  
**YOUNG LAWYERS DIVISION**  
**REPORT TO HOUSE OF DELEGATES**  
**RESOLUTION**

- 1 RESOLVED, That the American Bar Association urges all ABA-Approved Law Schools to  
2 report employment data that identifies whether graduates have obtained full-time or part-time  
3 employment within the legal profession, whether in the private or public sector, or whether in  
4 alternative professions and whether such employment is permanent or temporary.  
5
- 6 FURTHER RESOLVED, That the American Bar Association urges all ABA-Approved Law  
7 Schools to include the above-referenced employment data, data on the actual cost of law school  
8 education on a per credit basis, and data on the average cost of living expenditures incurred  
9 while attending law school on their websites, in their catalogues, and in their acceptance notices  
10 sent to applicants for admission; alternatively, to include in each of these locations a prominently  
11 displayed notice of where one can obtain such data.  
12
- 13 FURTHER RESOLVED, That the American Bar Association urges all ABA-Approved Law  
14 Schools to display data regarding graduates' salaries on their websites that includes the median  
15 salaries for the state and region for graduates of all law schools, in a manner which protects the  
16 privacy of the graduates.  
17
- 18 FURTHER RESOLVED, That the American Bar Association urges the Section of Legal  
19 Education and Admissions to the Bar to consider revising the Standards for Approval of Law  
20 Schools to require law schools to provide on their websites, and in other reasonable methods of  
21 communication, more data on employment and placement of graduates.  
22
- 23 FURTHER RESOLVED, That the American Bar Association urges the Section of Legal  
24 Education and Admissions to the Bar to consider incorporation of the various provisions of this  
25 resolution in the Section's Annual Questionnaires currently distributed to all ABA-Approved  
26 Law Schools.

## REPORT

It is incumbent upon the legal profession and law schools to provide each and every potential and current law student with information that will accurately reflect the employment and financial realities that they will face upon graduation from law school. The American Bar Association Young Lawyers Division (“ABA YLD”), as “the home for young lawyers”, hopes that this resolution is the first step towards achieving that goal. The ABA YLD strongly believes that there is a disconnect between law students’ “perception” of their employment prospects upon completion of their law school education, and the “reality” of what law students will realistically achieve. Those entering our profession should have an accurate understanding of the employment opportunities and salaries available to recent law school graduates. The employment data reported by law schools should accurately identify the employment status of graduates, including whether such employment is full-time or part-time, whether the job is within the legal profession and whether such employment is permanent or temporary. There is a greater need for publicly available, accessible facts for prospective law school students, so that these individuals are able to make an informed decision regarding their futures. This resolution calls for increased transparency in reporting employment data, graduate salaries and the “actual” cost of law school education.

### **Employment Information**

From a historical perspective, in the 2005-06 academic year, 43,883 Juris Doctor degrees were awarded. This number was up from the 37,909 for the 2001-02 academic year.<sup>46</sup> The class of 2009 had a total number of graduates of approximately 44,000, for which information regarding 42,330 graduates were reported to the National Association for Law Placement (“NALP”). The NALP further reported that a total of 192 ABA-accredited law schools participated in a survey, and provided known employment status information on 40,833 graduates, or 92.8% of all graduates from the class of 2009.<sup>47</sup> While the legal profession reflects the current economic times and has not seen significantly more law school graduates over the last several years, there are fewer jobs available to law school graduates.

In the private sector, between 3,200 and 3,700 graduates of the class of 2009, with law firm jobs had their start dates deferred beyond December 1, 2009.<sup>48</sup> A far higher percentage of this class reported employment was temporary. Notably, 41% of all public interest jobs were reported as temporary, 30% of all business jobs were reported as temporary, and 8% of the private practice jobs were reported as temporary.<sup>49</sup> Overall, nearly 25% of all jobs reported to the NALP were temporary, a figure which includes judicial

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<sup>46</sup> Efrati, Amir, “Hard Case: Job Market Wanes for U.S. Lawyers Growth of Legal Sector Lags Broader Economy; Law Schools Proliferate”. September 29, 2007. Available at <http://online.wsj.com/article/SB119040786780835602.html>

<sup>47</sup> NALP, Class of 2009 National Summary Report. Available at <http://www.nalp.org/uploads/NatlSummaryChartClassof09.pdf>

<sup>48</sup> NALP Perspectives on Fall 2009 Law Student Recruiting. Available at <http://www.nalp.org/uploads/PerspectivesonFallRec09.pdf>

<sup>49</sup> NALP, *infra* n.3

clerkships. The number of solo practitioners reported was well over 1,000, and represented more than 5% of law firm jobs reported, which compared to 3.3% for the class of 2008.<sup>50</sup>

Of the 40,833 graduates from the class of 2009, whose employment status was reported, the statistics are as follows:

- 70.8% of graduates (28,901) obtained a job that required bar passage;
- Only 9.2% of graduates (3,751) obtained a job for which a Juris Doctor degree was preferred, or may have even been required, but for which bar passage was not required;
- 7.2% of graduates (2,928) were employed in other professional or non-professional jobs;
- 1.1% of graduates (466) were employed, but the job type was unknown;
- 3.1% of graduates (1,247) were pursuing another degree full-time;
- 6.0% of graduates (2,430) were unemployed and seeking employment; and
- 2.7% of graduates (1,110) were unemployed and not-seeking employment.

The NALP overall employment rate of 88.3% is based on 36,046 employed graduates out of 40,833 for whom employment status was known. Of those employed, 55.9% were in private practice, 13.5% were in business, 10.1% were working for the government, 8.7% were working as judicial clerks, 5.7% were working in a public interest setting, 3.5% were working in an academic setting, 1.4% were working in an unknown setting and 1.3% were working for the military. A total of 8.7% were unemployed.

Given the economic downturn, among other things, it is not surprising that law schools are awarding an increasing number of Juris Doctor degrees, and that fewer law school graduates are finding employment. The TILSE resolution reiterates the importance of ABA-Approved Law Schools continuing to report employment data in a manner that reflects graduates obtaining full-time or part-time employment, whether that employment is within the legal profession, and whether that employment was in alternative professions.

The NALP also revealed that law schools were actively trying to mitigate the impact of the recession of their graduates. In fact, 42% of law schools reported that on-campus post-graduate jobs were provided for law students. This could have been the reason for an increase in academic employment from 2.3% for the class of 2008, to 3.5% for the class of 2009. Notably, 69% of all jobs reported in the academic category were reported as being temporary jobs.<sup>51</sup> Law schools also created employment opportunities for their graduates, including bridge programs, fellowships and grant programs for public interest work. For the class of 2009, these programs provided an estimated 800 jobs, which was a full 2 percentage points in the employment rate.<sup>52</sup> Lastly, the NALP expects that the overall employment rate for new law school graduates will continue decline for the class of 2010, and likely for the class of 2011 as well.<sup>53</sup>

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<sup>50</sup> NALP, *infra n.3*

<sup>51</sup> NALP, *infra n. 3.*

<sup>52</sup> NALP, *infra n. 3.*

<sup>53</sup> NALP, *infra n. 3.*

The TILSE resolution urges the Section of Legal Education and Admissions to the bar (the “Section”) to consider revising the Standards for Approval of Law Schools to require law schools to provide this type of information on their websites, and to provide more accessible, and readily available data on employment and placement of law school graduates. This can be accomplished by collecting more specific information through the Section’s Annual Questionnaires that are currently being distributed to all ABA-Approved law schools. Furthermore, the answers to these annual questionnaires should be published by the Section to help educate prospective law students. The TILSE resolution also urges law schools to report whether the graduate’s employment is permanent or temporary, as this data does not appear to be reflected in the class of 2009 data available. Finally, the TILSE resolution urges the Section to consider incorporating the various provisions of this resolution in the Section’s Annual Questionnaires, by working in conjunction with the ABA YLD’s Truth In Law School Education Committee, which is composed of volunteer leaders from within the YLD. As these Annual Questionnaires are already being distributed to all ABA-Approved law schools, only minimal modifications to said Questionnaires will be needed, in order to incorporate the provisions set forth within this resolution.

### **Salary Information**

It has also been discovered that some law schools are reporting wages in an ineffective, misleading manner by citing unrealistic salary averages and full-time employment statistics of their own law school graduates. This salary data is being manipulated to provide a much rosier employment picture to prospective law students, which in turn may account contribute to the increase in law school enrollment.

For the class of 2009, 17,699 of the 28,901 graduates (approximately 61%) who obtained employment where bar passage was required reported salary information to the NALP. The median salary for these graduates was \$77,000, with a mean salary of \$96,330. Notably, the 25<sup>th</sup> percentile salary was \$51,000, and the 75<sup>th</sup> percentile was \$160,000. Many prospective law students focus on the “mean” or “75<sup>th</sup> percentile salaries, and do not believe that they will fall into the “25<sup>th</sup> percentile”. However, very few lawyers actually receive the “median” salary upon graduation.<sup>54</sup>

Furthermore, of the 3,751 graduates from the class of 2009 that were employed in Juris Doctor preferred jobs, only 1,062 (or 28%) reported salary information. The median salary for these graduates was \$52,000, with a mean salary of \$61,755. For other professional jobs and non-professional jobs, the median salaries were reported at \$60,000 and \$39,000, and mean salaries of \$73,306 and \$48,538, respectively.<sup>55</sup> Those law school graduates who obtain “other professional” or “non-professional” jobs could find themselves earning between \$30,000 to \$45,000, after graduation, much less than the “average” of \$48,538 to \$73,306, and much less than required to pay back their law school debt. This information should be made easily available to prospective law students, should be prominently displayed on the websites of law schools and should be included with notices of acceptance to law school.

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<sup>54</sup> NALP, *infra n. 2*.

<sup>55</sup> NALP, *infra n. 2*.

According to the NALP data, those lawyers responding to the survey that earn approximately \$160,000 in salary, represent only 8.37% of their entire graduating class of 2009. Those lawyers earning \$160,000 are typically in the top 10% of the “top 10” law schools. Of the remaining 90% of graduates from law schools outside of the “top 10”, their law school debt could be in excess of \$200,000. The return on investment is very poor, and can significantly affect their quality of life. Law students are graduating with historically high debt, and there are just not enough opportunities for employment that would allow law school graduates to meet their increasing student loan payments.

The TILSE resolution urges all ABA-Approved Law Schools to increase transparency regarding graduates’ salaries. This can be accomplished, for example, by displaying data regarding the salaries on their websites, and including the median salaries for certain types of employment for the state and region for graduates of all law schools, when such disclosure would not violate the confidentiality of graduates’ salary information.

### **Cost of Law School Education**

Additionally, The TILSE resolution urges all ABA-Approved Law Schools to include the actual cost of law school education, on a per credit basis, and the average cost of living expenditures while attending law school, which will assist law students during the decision-making process of applying to law school. The ABA has also addressed this issue in a document entitled The Value Proposition of Attending Law School, which can be found at: <http://www.abanet.org/lcd/legaled/value.pdf>.

Briefly, The Value Proposition of Attending Law School states that, over the last twenty-five years, law school tuition has consistently risen two times as fast as inflation.<sup>56</sup> In addition to the cost of tuition, the cost for books and living expenses should be provided to the prospective law school applicant during the application process. In 2008, the average tuition at private law schools was \$34,298, and in-state tuition for public law schools was \$16,836.<sup>57</sup> The average public law school student borrows \$71,436 for law school, and the average private law school student borrows \$91,506.<sup>58</sup>

The report also indicates that many students borrow in excess of \$100,000, and that the numbers do not include debt that the law student accumulated during their undergraduate studies. Additionally, the report states that most public law schools raised tuition in 2009, by 10-25%.<sup>59</sup> The conclusion reached by this report is that an average student considering enrolling in law school will graduate with debt well in excess of \$100,000. This

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<sup>56</sup> Maimon Schwarzschild, *The Ethics and Economics of American Legal Education Today*, 17 J. CONTEMP. LEGAL ISSUES 3, 5 (2008); *see also* THE ABA COMMISSION ON LOAN REPAYMENT AND FORGIVENESS, LIFTING THE BURDEN: LAW STUDENT DEBT AS A BARRIER TO PUBLIC SERVICE 16 (Chicago 2003).

<sup>57</sup> ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LAW SCHOOL TUITION 1985–2008 (2008), *available at* <http://www.abanet.org/legaled/statistics/charts/stats%20-%205.pdf>.

<sup>58</sup> ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LAW SCHOOL TUITION 1985–2008 (2008), *available at* <http://www.abanet.org/legaled/statistics/charts/stats%20-%205.pdf>.

<sup>59</sup> Karen Sloan, *At Public Law Schools, Tuition Jumps Sharply*, NAT’L L.J., Aug. 3, 2009, *available at* <http://www.law.com/jsp/article.jsp?id=1202432727154>.

is a reality that prospective law students should be made aware of during their consideration of attending law school, and during the application process. This resolution urges all ABA-approved law schools to include this “actual cost” of law school education on their websites, in their catalogues, and in their acceptance notices sent to applicants for admission.

## **Conclusion**

It is vitally important to the future of the legal profession that law schools accurately report employment and salary information of their graduates. It is equally important that prospective law students realize the actual cost of a law school education, and this resolution will help to achieve these goals.

Respectfully submitted,

David B. Wolfe, Chair  
ABA Young Lawyers Division  
August 2011

## GENERAL INFORMATION FORM

Submitting Entity: American Bar Association Young Lawyers Division

Submitted By: David B. Wolfe, Chair

1. Summary of Resolution(s).

The recommended resolution will enable the ABA to continue its long tradition of supporting law students and young lawyers as they enter the legal profession. The resolution will help to facilitate reasonable post-graduate salary expectations and prevent young lawyers from incurring debts they cannot repay timely. The resolution will also increase transparency relative to the reporting of employment data and the actual cost of a law school education.

2. Approval by Submitting Entity.

Approved by ABA YLD on February 12, 2011

3. Has this or a similar recommendation 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?

“Improve our profession”, which is Goal II of the Association’s Goals, is very relevant to this resolution, as adoption of this resolution will help promote the highest quality legal education.

5. What urgency exists which requires action at this meeting of the House?

The existing urgency is primarily based on the absence of specific Association policy that directly addresses the issues set forth in the resolution.

6. Status of Legislation (if applicable).

Not applicable.

7. Cost to the Association.

There will be no cost to minimal cost associated with this resolution. Any minimal cost would be directly related to the incorporation of the provisions of this resolution to the Section of Legal Education and Admissions to the Bar’s Annual Questionnaires that are already currently distributed to all ABA-approved law schools. The ABA YLD intends to use volunteer leaders to work with the Section on revising the Annual Questionnaires.

8. Disclosure of Conflict of Interest (if applicable).

None.

9. Referrals.

At this time, the ABA YLD has referred this resolution to the Section of Legal Education and Admissions to the Bar, the Law Student Division, and the Center for Racial and Ethnic Diversity. The ABA YLD intends to refer this resolution to all other ABA entities.

10. Contact Name and Address Information. (Prior to the meeting)

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## EXECUTIVE SUMMARY

### Summary of the Resolution.

This resolution is the first step towards achieving the goal of having law schools provide each and every potential and current law student with information that will accurately reflect the employment and financial realities that they will face upon graduation from law school. Those individuals entering our profession should have an accurate understanding of the employment opportunities and salaries available to recent law school graduates. There is a greater need for publicly available and accessible facts for prospective law school students, so that these individuals are able to make an informed decision regarding their futures.

### Summary of the Issue(s) that the Resolution Addresses.

The ABA YLD strongly believes that there is a disconnect between law school students' "perception" of their employment prospects upon completion of their law school education, and the "reality" of what law students will realistically achieve. The employment data reported by law schools should accurately identify the employment status of graduates, including whether such employment is full-time or part-time, whether the job is within the legal profession and whether such employment is permanent or temporary. This resolution calls for increased transparency in reporting employment data, graduate salaries and the "actual" cost of law school education, which includes tuition, books and living expenses.

### Please Explain How the Proposed Policy will address the issue(s).

The proposed policy position will address the issues by urging all ABA-approved law schools to provide prospective and current law school students with detailed information regarding employment data, graduate salaries and the "actual" cost of law school education. This information will also be accessible on the law school's website and publications, in addition to being included in acceptance notices sent to applicants for admission. Therefore, any prospective law school student will be able to make an informed decision on their law school education.

The resolution urges the Section of Legal Education and Admissions to the Bar to consider revising the Standards for Approval of Law Schools to require law schools to provide more data on employment, and information on placement of graduates on their websites. The resolution also urges the Section of Legal Education and Admissions to the Bar to incorporate the provisions of this resolution into the Section's Annual Questionnaires currently distributed to all ABA-approved law schools.

### Summary of Minority Views.

The ABA YLD has not identified any minority view or opposition to this resolution.

**American Bar Association  
Law Student Division  
2011 National Award Nominees**

Award winners will be announced during the Assembly

**MEMBERSHIP AND ACTIVITY**

- Chapman University School of Law
- The Florida State University College of Law
- The John Marshall Law School

**STUDENT BAR ASSOCIATION**

- Appalachian School of Law
- University of Arkansas at Little Rock, William H. Bowen School of Law
- The Catholic University of America, Columbus School of Law
- Chapman University School of Law
- University of Connecticut School of Law
- Faulkner University, Thomas Goode Jones School of Law
- The Florida State University College of Law
- The George Washington University Law School
- University of Illinois at Urbana-Champaign
- The John Marshall Law School
- Liberty University School of Law
- Loyola University Chicago School of Law
- Mercer University – Walter F. George School of Law
- University of Miami School of Law
- Mississippi College School of Law
- New England Law/Boston
- St. Mary’s School of Law
- Suffolk University Law School
- Touro College – Jacob D. Fuchsberg Law Center
- Whittier law School
- Widener University School of Law – Harrisburg
- William and Mary Law School

**HENRY J. RAMSEY, JR. DIVERSITY**

- *Campbell Law Hispanic Law Student Association* – Campbell University, Norman Adrian Wiggins School of Law
- *Student Bar Association Diversity Committee* – University of Connecticut School of Law
- *Michael E. Traxinger, Drake University Law School LGBT Organization* – Drake University Law School
- *The Florida State University College of Law* – The Florida State University College of Law
- *Fordham Law School, Latin American Law Students Association (LALSA)* – Fordham University School of Law
- *The John Marshall Law School Student Bar Association Diversity Affairs Committee* – The John Marshall Law School
- *SBA Diversity Week Committee* – Loyola Law School Los Angeles
- *Project Equality* – Mercer University-Walter F. George School of Law
- *University of Miami School of Law* – University of Miami School of Law
- *Andrew Le* – Seattle University School of Law
- *Gay Alliance for Legal Equality (G.A.L.E)* – Southern University Law Center

## National Award Nominees (continued)

### JUDY M. WEIGHTMAN MEMORIAL PUBLIC INTEREST

- *Equal Justice Foundation* – American University Washington College of Law
- *La Raza Law Students Association* – California Western School of Law
- *California Western School of Law Health Law Society* – California Western School of Law
- *California Western School of Law Halloween Auction* – California Western School of Law
- *Campbell Law Innocence Project* – Campbell University, Norman Adrian Wiggins School of Law
- *Cardozo Unemployment Action Center* – Benjamin N. Cardozo School of Law, Yeshiva University
- *Graham Renfro & Charlotte School of Law* – Charlotte School of Law
- *Kale VanBruggen, James Aurther Albert Foundation “Something to Dream About”* – Drake University Law School
- *Student Bar Association* – Faulkner University, Thomas Goode Jones School of Law
- *The Florida State University College of Law* – The Florida State University College of Law
- *Fordham University School of Law’s Latin American Law Students Association* – Fordham University School of Law
- *Public Action Law Society* – The University of Memphis-Cecil C. Humphreys School of Law
- *University of Miami School of Law, HOPE Public Interest Resource Center* – University of Miami School of Law
- *North Carolina Driver’s License Restoration Project (NCDLRP)* – North Carolina Central University School of Law and University of North Carolina School of Law
- *Quinnipiac University School of Law International Human Rights Society* – Quinnipiac University School of Law
- *Association for Public Interest Law (APIL)* – Rutgers-The State University of New Jersey-School of Law-Camden
- *Incarcerated Mother’s Advocacy Project* – Seattle University School of Law
- *Touro Black Law Students Association (BLSA)* – Touro College-Jacob D. Fuchsberg Law Center

### VOLUNTEER INCOME TAX ASSISTANCE

- Appalachian School of Law
- Barry University Dwayne O. Andreas School of Law
- The George Washington University Law School
- The John Marshall Law School
- Liberty University School of Law
- University of Miami School of Law

### LAW SCHOOL NEWSPAPER

- *The Docket* – Case Western Reserve University School of Law
- *The Pillar* – The Thomas M. Cooley Law School
- *The Nota Bene* – The George Washington University Law School
- *The Advocate* – Santa Clara University School of Law
- *The Jeffersonian* – Thomas Jefferson School of Law
- *Virginia Law Weekly* – University of Virginia School of Law