

## MEMORANDUM

To: Dean Deidre Keller  
From: Barry Currier  
Date: March 28, 2022  
Re: Summary and review of consulting activities

I was engaged to assist you in a comprehensive review of FAMU Law's academic and non-academic functions to identify areas of strength for further development and areas of weakness which would require retooling, reinvigorating, or reimagining. This review will be used to inform the law school's strategic planning processes. Most immediately, the review would focus on bar passage challenges. Ultimately, the overall review will be utilized as a key element to chart the law school's way forward to a sustainable future in which it is recruiting, enrolling, and supporting to bar and career success, a cohort of students in line with its important access mission as an HBCU institution.

This is an overview and report of the several specific projects you asked me to undertake. I took direction from you, sensitive to spending your money wisely. In addition to consultations over zoom and the telephone about FAMU Law generally, these projects fell into the following areas described below. My conclusions and recommendations are that FAMU Law should: (1) focus initial bar passage improvement efforts on recruiting and retaining highly qualified students in line with the College's mission as one of the six HBCU law schools in the country, specifically including increased resources to support this effort; (2) take a data-driven approach to supporting faculty in their efforts to align curriculum and pedagogy to student success by (a) improving the course evaluation tool and process; (b) deploying LSSSE; and (c) implement the recommendations in prior consultant reports and the data in the BABBRI study to address extant issues; and (3) marshal the resources necessary to provide the level of wrap-around services necessary to support students to success.

I appreciate the opportunity to work with you and your team. I appreciate the role that FAMU Law plays in Florida and the legal profession as one of only six HBCU law schools. Your law school has a distinguished history and an opportunity to build on that history in important ways. I embrace your vision for the school and the specific strategies that you have identified to move it forward. If I can be of further help to you, now or in the future, I hope you will call on me.

### **1. Recruitment and retention of students**

Throughout the period of the consultancy, we discussed facts about the hurdles you face in recruiting and retaining students whose incoming, objective credentials (LSAT score and UGPA) predict an excellent chance of passing the bar examination on the first try. To achieve your goal of an 80 percent first-time bar pass rate, FAMU Law must attract many more such students and enroll fewer students with lower predictors.

Most prominent among your concerns is the lack of resources for financial aid awards. Whether one calls it a “discount” or a “scholarship,” it is a reality in legal education that it is net tuition, not the sticker price that drives a lot of student behavior. Further, human nature being what it is, sometimes students are flattered by a “scholarship” and will chose a school offering it even over another comparable school that, in fact, would be less expensive for the student to attend. FAMU Law has a very competitive sticker price, but that advantage is diminished by very little funding for financial aid awards. I share your concern. For better or worse, financial aid awards is now a basic tool in recruiting students.

Following a January zoom meeting with Trustee and Special Committee Chair Perry and discussions with you, I developed recommendations based on my experience in the ABA accreditation process, as a law school dean and professor (including 19 years in Florida as a professor at the University of Florida College of Law), and my familiarity and understanding of FAMU Law<sup>1</sup> that it seemed to me were necessary to give FAMU Law a good chance at achieving its goal of a sustainable first-time bar pass rate of 80 percent. Achieving the goal would be an accomplishment in and of itself. No doubt it would also result in other steps forward for the law school community, including improving job opportunities for graduates; an overall improvement in the regional and national reputation of the school; and the satisfaction and support of the faculty, staff, and graduates of the school.

While a number of plans could be developed, working with your history,<sup>2</sup> I believe that a plan that provides the law school with \$1 million of funding for student recruitment and retention per entering class, phased in over three years for a total of \$3 million of additional recurring funds for this purpose will give the law school a very good opportunity to move its student recruitment successes to a point where a sustainable first-time bar pass rate of 80 percent is a reasonable expectation.

Obviously, more work needs to be done to put together a specific plan. However, you can zero in on what might be necessary by looking at recent UGPA and LSAT data available from law schools’ annual reports to the ABA Section of Legal Education. Recent FAMU Law UGPA/LSAT and predicted bar pass data are:

	<u>UGPA</u>	<u>LSAT</u>	<u>Predicted Bar Pass</u>
75 <sup>th</sup> percentile	3.64	152	84%
Median	3.42	149	72%
25 <sup>th</sup> percentile	3.15	147	56%

The challenge of recruiting students who predict an 80 percent first-time pass rate is obvious. There is a lot more room for error on the downside than the upside of that 80 percent figure. This is particularly so if you simply look at other Florida SUS law schools, all of which have lower average net tuition figures than FAMU Law, at the 25th percentile:

	<u>UGPA</u>	<u>LSAT</u>	<u>Predicted bar pass at FAMU</u>
FIU 25 <sup>th</sup> percentile, 2021	3.6	161	94%
FSU 25 <sup>th</sup> percentile, 2021	3.5	158	91%
UF 25 <sup>th</sup> percentile, 2021	3.4	158	89%

---

<sup>1</sup> This includes seeing the law school through several ABA accreditation reviews and processes, beginning with a visit to the school as it restarted its program Orlando in the early 2000s.

<sup>2</sup> See slide 7 of your most recent report to the Board Special Committee on the Law School.

This data says that a student that is in the lower quarter of the entering class at other Florida SUS schools all have LSATs significantly higher than the top quarter of the entering class at FAMU, and we know that even though financial aid likely varies with credentials, on average it will be significantly less expensive for a student who would be toward the top of FAMU's entering class credentials to go another SUS law school, where the chances of them passing the bar equal or exceed the chances that the student would have at FAMU. The character of FAMU Law as an HBCU will matter to some, and the Orlando location will matter to others. There will be a variety of individual reasons that may cause students to choose FAMU Law over one or more of the other SUS law schools (and other competitors). The reality is that to get from a sustainable 65-70 percent first-time pass rate to a sustainable 80 percent rate, one likely needs to do something like double the number of 1L enrollees who now predict in the top quarter of FAMU's entering class and accept many fewer of the students who now predict at or below the median.

To make the competition fairer – to allow FAMU Law to use its history and status as an HBCU law school, to enable the law school to leverage its location in Orlando, and all of its other advantages – the comparative financial considerations have to be made more equal or, for a while at least, tipped to FAMU Law's advantage.

The law school does not need to make an 80 percent or higher first-time pass rate “the” or “one of the” goals<sup>3</sup> around which to organize its resources – financial and human – of the law school. The accreditation standards do not require it. It is a worthy goal, however. If a plan is built to achieve it, then the best and fastest way to get there is to attract and keep more highly credentialed students.

No doubt, changing and improving the curriculum, teaching, and support for students at the law school would help move the school toward that goal. No doubt, there will be students with lower predictors who will outperform them. No doubt the school can focus more on UGPA, if it is a slightly stronger predictor. At the end of the day, however, the substantiality of the challenge means that the school must dedicate itself to finding resources to be more competitive for students, and particularly for students of color where the market is highly competitive.

Improving the credentials of the 1L classes is almost completely a matter of resources, in light of the faculty and program already in place. It would be a mistake to believe that spending more time and money to identify those students who will outperform their credential predictors or on faculty development to improve outcomes. You have a program and colleagues capable of delivering the result you seek if the student profile can be changed. The faster the resources are made available to the school and the greater they are, the faster and more likely it is that the bar passage goal will be achieved. The incremental improvements that would result from fine-tuning the admissions process and enhancing faculty development should not be the immediate focus of the effort.

## **2. Academic success programs for students**

In connection with your goal of assuring that students have the wraparound academic service and support they need to succeed in law school and in the profession, you asked me to review three external

---

<sup>3</sup> I understand and appreciate that as one of a very few HBCU law schools in the United States a parallel goal is to maintain the character and culture of the law school as an HBCU institution.

and one internal report of the school's Legal Research and Writing (LRW) and Academic Success and Bar Exam Support (ASBP) programs and to advise you on whether further external review should take place. We had a zoom/telephonic meeting with you and members of your team about this matter. You asked whether additional consultations would be helpful and for my analysis of those programs and reports.

The four reports were: (a) 2017 report on FAMU Law's LRW program by Professor Lindsey Gustafson of the University of Arkansas at Little Rock Law; (b) a 2019 report from the Law School Admission Council (LSAC) of FAMU Law's ASBP program<sup>4</sup>; (c) a departmental report for the 2019-2020 academic year from the LRW program by then Interim Director Caroleen Dineen, who has since left FAMU Law; and (d) a 2020 report by Laurie Zimet of the UC Hastings College of Law, on institutional efforts to improve bar passage, which thoroughly analyzed both the LRW and ASBP programs at FAMU Law.

LSAC is a leading legal education organization with expertise that ranges beyond its core mission of developing and offering the LSAT. Gustafson and Zimet are two leaders in the legal writing/academic support/bar passage community. Professor Zimet's report was completed in January 2020 and based on a two-day visit to the law school in November 2019. Her visit and report were completed shortly before your appointment as Dean and your arrival in the summer of 2020. Of course, the COVID-19 crisis exploded in the Spring 2020 and has had impacts on program development and planning at FAMU Law and throughout the legal education and higher education communities that we are just beginning to fully comprehend.

Additionally, BARBRI completed a comprehensive analytical review based on a substantial amount of data about student performance at the law school and on the bar examination. Its report was presented to the law school and to the Board's Special Committee on the Law School. As discussed above in section 1 of this memorandum, there is much more that it or another similar enterprise can do to identify strengths and weaknesses in the curriculum and the faculty.

The fundamental structure of the curriculum and staffing related to bar passage remain much as they were when Professor Zimet visited. The amount of staffing, the number of credits required/offered, and the overall curricular design is standard and appropriate for law schools like FAMU Law. Although you will continue to refine these programs and adjust the staffing as you see needs and opportunities, I have no recommendations for substantial change. The solution to the issue about which you are most concerned – first-time bar passage rates – lies elsewhere, as discussed below. Further, given that Professor Zimet's visit was recent and her report thorough, and the fact that the school has had two other consultants visit in the last few years, I see little value in yet another visit at this point in time, whether by me or someone else. I recommend that you, your administrative team, and the faculty continue to follow through on the Professor Zimet's recommendations. The program and staffing levels that you have in place are more than adequate to allow the school to achieve its bar passage goals if the changes you seek to make in the recruitment and retention of students come to pass.

### **3. Review of teaching evaluations**

In connection with your goal of developing a faculty environment and structure that supports the best practices for student success, you asked me to undertake a review of the student evaluation of teaching process – both the process itself and the recent outcomes of that process. I reviewed the student

---

<sup>4</sup> The report was not attributed to any particular author(s).

evaluation data for the period Fall 2015 through Spring 2020 and the process that is in place to gather that data. This review was completed during the Spring 2021 semester. I prepared the report, reprised below, in June 2021.

My conclusions were: (1) the teaching evaluation instrument is weak; (2) the process for collecting the evaluations does not suggest to students that their views are taken seriously; (3) the data is not used by the law school administration or the faculty to identify problems or generate meaningful discussion about how teaching could contribute more to student success. Overall, while it may be that continuing to collect these evaluations is something that you will be required to do, the current process is not particularly useful to you or the faculty.

The data I reviewed covered 26,581 enrollments in 1,046 course sections at FAMU Law over the five-year period, broken down as follows:

<b>Academic year</b>	<b>Fall Sections</b>	<b>Spring Sections</b>	<b>Total Sections</b>
2015-2016	91	83	174
2016-2017	80	84	164
2017-2018	87	76	163
2018-2019	79	202	281
2019-2020	88	176	264
Total	425	621	1,046

The survey questions and aggregate results for the data set were:

<b>Question #</b>	<b>Question</b>	<b>Average</b>	<b>Median</b>
1	Description of course objectives/assignments	4.41	4.53
2	Communication of ideas and information	4.37	4.50
3	Expression of expectation for performance	4.39	4.50
4	Availability to assist students in or out of class	4.38	4.51
5	Respect and concern for students	4.49	4.67
6	Stimulation of interest in course	4.37	4.50
7	Facilitation of learning	4.35	4.50
8	Overall rating of instructor	4.39	4.54

The average of the 1,046 sections' average scores on the eight factors surveyed was 4.39. The median of the averages was 4.51. The students evaluated the faculty most highly on the question about showing respect and concern for students (4.49 average / 4.67 median), which is noteworthy. For the other seven questions, the averages and medians were remarkably consistent, only .06 and .04 of a point separating the average and median outcome on each question.

Students rated only 2.3% (24 of the 1,046 sections) at a median score of less than 3.0, the midpoint on the scale, and only 2.5% (26 of 1,046) of sections at less than an average score of 3.0. Meanwhile, students evaluated 236 (22.6%) and 167 (16%) of the sections evaluated at a median and average of 5.0, respectively. Negative evaluations focused on a few professors, some of whom are no longer members of the faculty.

While everyone can feel good about the high scores given by the students, they do not square with the school's much more modest bar passage rates over the years. If student evaluations are intended to help identify problem areas or opportunities to improve outcomes like the bar passage rate, then the evaluation instrument needs to be improved. Further, the way in which evaluations are administered, and the way in which the outcomes are communicated and used needs to be revamped to make it clear that this is a serious process that matters. At present, this process, from the evaluation instrument to how the outcomes impact performance reviews have little practical value for the school.

Diving into the data more deeply, I note the following:

*The rate of return is low.* The return rate on the evaluations was 36% (9,584 responses/ 26,561 enrollments). I understand that the distribution is done at the campus level and students get emails inviting them to evaluate their instructors for a term. It is not clear what the time period for responses is or what the follow-up messaging is. Neither the instructor nor the administration can see return rates in real time. The return rate would likely improve with a distribution/collection system based more in the law school, including messaging to students, but faculty as well, about the importance of this process. A low participation rate suggests that students do not believe that the process matters.

*Narrative comments are few.* The evaluation form has space for narrative comments. There were just 3,339 comments from the 26,561 enrollments in these classes (13%). Of the 1,046 sections in this data set, more than half (583) had zero comments. Just 61 sections (6%) had 10 or more comments. The aggregate report of the outcomes that was made available to me simply listed all comments made for a section; the comments were not tied to the ratings that the commenter gave the instructor.

While there were some thoughtful suggestions and critiques of the course – coverage, teaching skills, etc. – most comments were of the “loved/didn’t like” variety and did not offer constructive suggestions or comments that would help professors, or the administration understand how well or poorly the course went and what might be done to improve it. Almost no comments related to the depth or breadth of the coverage in the course, the instructor’s adherence or not to the syllabus, the instructor’s efforts to focus in on concepts that might be unclear to a number of students in the class, and many other similar remarks that I have seen students make that relate directly to the teaching/learning that occurs during the term.

There is nothing magic about sorting responses by the number of sections where there were more than 10, as I did. Obviously, the number of comments is a function of the number of evaluations submitted, which a function of the size of the class. That said, the concentration of the comments in a small percentage of the sections covered, the fact that a majority of the classes had zero comments, and a modest overall participation rate of 36% suggest that this information is of limited utility.

*The forms provide too little context about the evaluators (students).* To the best of my knowledge, information about the student’s attendance, LGPA, level of preparation for class, and the like is completely missing. There is no way to sort the evaluations based on those that are likely to be keeping up with the coursework and those who may be coasting through the

term. Information of this sort can be extremely helpful to the faculty and the administration in reviewing the instruction that students are receiving at the school.

*The way in which the forms are distributed does not convey the seriousness of the endeavor.* The process for collecting the evaluations is that students receive an email from the central administration – not the faculty member, the dean, or the associate dean of the law school - several weeks before the end of each term. Some faculty may spend a few minutes in class emphasizing the importance of students taking the evaluation process seriously, but many may not. It is not clear that the administration of the law school persistently encourages students to complete these evaluations. The process for collecting the data is not one that is likely to maximize student participation; it is not designed to encourage substantial and serious narrative comments.

*The way in which the evaluation data is digested and used by the faculty and staff does not suggest that student views are important.* It is not clear how the outcomes of the surveys are disseminated: whether and when faculty members get the outcomes for their courses; when the dean gets this information; whether some summary of the evaluations is available to students; how the outcomes are discussed among the faculty members or between the dean and the faculty member; and what role the evaluation plays in a faculty member's annual evaluation, compensation, and future course assignments. A meaningful and useful evaluation system would be clear about all of these matters.

Clearly, the evaluations submitted by students rate the teaching faculty at FAMU Law very highly. That is, of course, a good thing. However, one would expect that excellence in teaching would translate into better outcomes, on the bar examinations for example, than the law school experiences. Unless the process is redesigned, it is doubtful that either the administration or the faculty will derive much useful information from the current process.

Much could be done, with some effort but modest expense, to improve the current process: redesign the form; change the distribution/collection process in ways that convey that the school considers the evaluations important; share at least some data faculty-wide and discuss as a group what the evaluations suggest the school should do to improve how well student achieve the learning objectives.

Beyond reforming this process, I encourage you to consider at least two additional steps: (1) Follow-up on the recent report from BARBRI on student performance on the bar exam and consider the extent to which data analytics will provide you more and better actionable information than traditional student evaluations;<sup>5</sup> and (2) participate in the annual Law School Survey of Student Engagement [LSSSE] and take advantage of the opportunity to get LSSSE's expertise on how engaged students are at the law school. For a modest annual investment, you get a much more sophisticated instrument, the ability to compare your results to other schools, and the advice/insights of the LSSSE staff.

#### **4. Survey of services and expenses for law schools remote from their universities**

As part of your continuing efforts to assess whether the law school has the infrastructure, facilities, and staff to support and sustain a successful program of legal education at FAMU Law, you asked me to survey how schools similarly situated to FAMU Law manage the provision of certain services at their

---

<sup>5</sup> BARBRI Study Report, slides 111-113.

schools and the budget arrangements that are in place to pay for them. I conducted that survey during the Fall 2021 semester, and the results of that work are reprinted below.

I identified nine law schools that are similarly situated to FAMU Law in that they are law schools that are university-affiliated (not “freestanding” or independent) but not located on or near their university’s main campus. I created a brief questionnaire on topics and matters that were of interest to you and contacted the deans of those schools to solicit their participation in the survey. Eight of the nine agreed to participate. Given the sensitivity a few deans had about responding, and in order to maximize participation, I agreed to keep the schools’ identities confidential for purposes of this written report. I presented a report to you in October.

To maximize participation and respect the time of the deans, the survey was very brief and high-level. It is attached as Appendix A. The school responses are reported and aggregated in Appendix B. Several respondents provided comments and additional information, either on their written responses or in calls with me. We understood that the survey was basic and that it would be hard to give yes/no responses to some of the questions. The respondents include both public and private law schools, ranging in size from approximately 300 to 700 J.D. students. Eight of the nine schools contacted submitted responses and I had follow-up conversations with a number of them.

The survey sought information about how services that are often available to the law school and its students and faculty when the law school is located on or very near the university’s main campus are provided, if at all, and funded when the law school is located at a distance from that campus. Further, some information was sought about how staff who provide such services are managed.

On most of the matters covered by the survey, there was surprising (to me), substantial agreement across the responding schools. The details were, as the saying goes, in the details. Reviewing the responses, I noted:

*Parking.* All eight schools provide parking, either in a law school parking lot/area or in nearby commercial structures. In some cases, parking is subsidized by the law school.

*Health Care.* The substantial majority of the responding schools do not provide health care or emergency services in-house or through an arrangement with a nearby provider. A majority of the schools make a university health insurance plan available to students, though it is likely the case that a majority of students in those schools otherwise obtain health insurance, often by continuing to be covered under a parent’s plan. One school responded that it provides some basic health care services on site, and one other indicated that students could get services on the main campus which is a 30-minute drive from the law school.

*Library.* Six of the eight schools reported that they are not charged at all for a share of general university library expenses, or have their assessment adjusted downward. All of the schools reported that they have control and responsibility for their library staff.

*Food Service.* Six of eight schools had some food service on site. Three of them are required to use or choose to use the university food services unit to provide that service. Three schools report that they subsidize the food service operation, believing that it is useful-to-important to have some food service available at the law school site. Some of these schools are in environs



where there are restaurants, coffee shops, and other food options for students, staff, and faculty.

*Basic Overhead/Services.* On the question of how or whether the law school is assessed for the cost of basic services, there is a much less clear view. Many of the respondents, either in writing or in phone calls, discussed their particular arrangements. Only two of the eight schools responded “yes” to the question of whether they were exempt, and one of those also indicated that its charges were “adjusted,” which suggests they are not fully exempt and operating much more like a “tub on its own bottom.” One area that was highlighted by a few schools was the provision of services/staff for disability accommodations. This may be an area in flux. Some schools report that they have a person who reports to a central administrator on disability issues and that person may work at the law school site.

On several of the issues of interest to you, there was more uniformity of response than I would have expected. On major budget items, such as paying for utilities and staffing for matters like the registrar function and the like, the results were less uniform, due no doubt in large part to each school’s particular history and evolution.

## APPENDIX A

### QUESTIONS ON OPERATIONAL EXPENSES AT UNIVERSITY-AFFILIATED LAW SCHOOLS LOCATED AWAY FROM THE MAIN CAMPUS (please circle your response to each question)

#### Basic Services

1. Are you charged directly for the specific cost of basic services, such as utilities, safety, disability services, and the like and exempt from a university overhead charge that includes such services? YES NO
2. If you are not exempt from a university overhead charge, is that charge adjusted to take account of what you provide directly? YES NO
3. Do you have authority and responsibility to manage (including hiring) staff who handle these services at the law school? YES NO

#### Library and Information Resources

4. Are you exempt from a university charge for library materials and services, in full or in part? YES NO
5. Do law library staff report to you directly or primarily? YES NO

#### Health care

6. Do you provide basic health care services on site or at a nearby clinic/hospital? YES NO
7. Do you arrange and pay for them? YES NO
8. Do you provide them free or subsidize the cost to assure their availability and affordability? YES NO
9. Do you, directly or through a university arrangement, make health care insurance available to students? YES NO

#### Parking

10. Do you provide parking at or near the law school either free or at a discounted rate? YES NO

#### Food service

11. Do you provide food services (carts, café) on site? YES NO
12. Are you required to use university food services? YES NO
13. Do you subsidize the cost of these services to help assure their availability and affordability? YES NO

## APPENDIX B

### Summary of Responses

School Q	Pub/Priv	Basic Services						Library				Health Care						Parking		Food Service									
		EXEMPT 1		ADJUST 2		STAFF CONTROL 3		EXEMPT 4		STAFF CONTROL 5		PROVIDE 6		PAY FOR 7		CHARGE STUDENTS 8		INSURANCE 9		10		PROVIDE 11		U. SERVICES 12		SUBSIDIZE/LOSS 13			
		yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no		
*A	Private	1		1		1		1	1					1	1			1	1			1		1	1				
*B	Private		1		1		1		1	1				1	1			1	1			1		1		1	1		
C	Private	1		1			1		1	1				1	1			1	1				1		1		1		
D	Private	1		1			1		1	1				1	1	1		1	1			1		1		1	1		
*E	Public	1		1		1			1	1				1	1			1	1			1		1		1	1		
F	Private	1		1		1		1	1					1	1			1	1			1		1		1	1		
*G	Private	1		1		1			1	1				1	1	1		1	1			1		1		1	1		
H	Public	1		1		1		1	1					1	1			1	1			1		1		1	1		
TOTAL		2	6	4	5	6	2	6	2	8	0			2	6	1	7	3	5	5	3	8	0	7	1	3	5	3	5

\* = provided some flavor