

from which lawyers are drawn. The average age of students entering law school has increased over time, demonstrating that more and more lawyers are transitioning into law from other careers. These students are more likely than fresh-out-of-college colleagues to have financial commitments such as families and mortgages, which likely require them to continue working while they attend law school. To ensure that the legal profession is constantly invigorated with lawyers from different professional and social backgrounds, it is important that law schools be able to provide alternative programs of study.

Continued adherence to the ABA's stultified standards will only perpetuate these problems, and legal education in America will be increasingly out of step with the modern practice of law. Recent developments in technology have prompted the emergence of some alternative methods of teaching and learning law, but, not surprisingly, the ABA's current standards do not recognise these methods as acceptable.

In addition to the ABA's accreditation system, another impediment to necessary changes in the training and licensing of lawyers is the continued administration of the bar exam in the states. If the purpose of requiring aspiring lawyers to pass a bar exam is to protect the public from incompetence, it is a laudable goal and should be pursued with great vigor. The first step in doing so should be to identify the core competencies that lawyers should have and the minimum level of knowledge required to be judged competent in those subjects. If the bar exam is properly designed, administered and graded, it should not make any difference how applicants acquired their knowledge. Simply put, there is no logical reason to require applicants to have attended ABA-accredited law schools. If the bar exam does not test applicants adequately in the core competencies, perhaps there is no justification at all for requiring aspiring lawyers to take the exam.

Each state — not the federal government or the ABA — exercises control over the requirement for admission to its state bar, including who may take its bar examination. However, most states have blithely deferred to the ABA's standards for decades, requiring graduation from an ABA-accredited law school in order to sit for the bar examination. There is a pressing need for innovative legal education in the rapidly evolving practice of law. Rigid adherence to ABA standards will only perpetuate the ABA's monopoly, and lead to more of the same. Instead, it is time for states to consider which values reflected in the ABA's standards for legal education actually match each state's own values, and to substitute the state's judgment as to what can constitute an effective and sufficient education.

## ASSESSMENT METHODS

### **Calculating rank-in-class numbers: the impact of grading differences among law school teachers**

P T Wangerin

51 *J Legal Educ* 1, 2001, pp 98–117

Everyone who has carefully observed grading practices in higher education knows that the overall grade point averages earned by students in different classes tend to be significantly different. All careful observers know, for example, that teachers in the hard science and mathematics departments generally give significantly lower grades than teachers in the social sciences and humanities departments. What is not so widely known, however, is that differences in mean grades are not the only grading differences that exist among teachers. Some teachers, for example, give virtually all of the students in their classes the same centre-of-the-scale grade and only a handful of students a higher or lower grade. Conversely, some teachers give lots of very low and very high grades, but few grades in the middle of the scale. When these differences occur,

then the variance of these different teachers' grades will be dramatically different.

Despite the grading differences, anecdotal evidence suggests that most people associated with most universities do not see grading differences such as these as being much of a problem.

For years, statisticians and educational researchers have explored grading-differences problems in complex statistical studies of grading data. Unfortunately, there are three problems with the previous studies of grading-differences issues. First, all previous studies have reported information only about the effects of grading differences on overall groups of students. Second, the statistical methods used in previous studies of grading issues — and the reports about the findings — are enormously complex. Third, and perhaps most important, adjustment methods proposed for addressing grading-differences problems in virtually all cases require reference to factors extrinsic to individual students.

The present study addresses those shortcomings of all previous research. The statistical methodology used is extremely basic — a methodology that any university teacher or administrator can readily understand and easily replicate. The adjustment procedure used involves very simple mathematical calculations and no reference to extrinsic factors.

'General Law School', the source of the grading data discussed here, is located in a not-small city in the United States, a city that contains courts and the offices of numerous lawyers and government officials. General Law itself is a moderately large law school. Though General Law School attracts some students nationwide, many of its students come from its own general geographic region. The first year program at General Law is comparable to the first year programs in most US law schools. All entering students take the same required

courses. General Law School, like most US law schools, randomly assigns its entering students to different sections of its entering classes. At the time this study was conducted, grading practices at General Law School were roughly comparable to grading practices at many US law schools.

The study was started by selecting the members of the eight groups of students who entered General Law during the fall terms from 1990 through 1997. Out of these eight groups, only students who completed all ten of the first year courses no later than one calendar year from the date that they started school were selected. After all the pertinent grading records were gathered, these were hand-entered into simple computer spreadsheets. After completing confidentiality procedure, various simple statistics were calculated. The data include a raw grade for each studied student in each studied class. These raw grades were expressed in numerical equivalents. The most important calculation was the determination of difference, if any, between the raw ranks and the z-ranks of the individual students.

There were two distinct but related hypotheses. First, that teachers in an individual school or department of the university would not for the most part define letter grades differently. Rather, they would more or less give the same grades, at least in similar classes. Second, that the effects (if any) of grading differences among teachers in the same department or school would for the most part balance themselves out over a period of time and a large number of courses. In other words, even if luck-of-the-draw grading occurred, good grading luck for the most part would tend to balance out bad grading luck, and vice versa.

The data refuted both of these hypotheses. Teachers in a single school in a single university gave wildly different grades, sometimes even within different sections of the same class. Further, teachers in this single school did

this year after year after year, for eight successive years. Clearly, luck-of-the-draw grading was at work here even within a single part of the university. Further, and contrary to the initial hypothesis, grading luck did not balance itself out over time and repeated courses. Rather, at least at this school, and at least during the eight studied years, luck-of-the-draw grading differences produced dramatic and perhaps life-changing consequences for a large number of individual students.

Unfortunately, it is hard to know where to go from here. Obviously, studies similar to the present one must be conducted. They will demonstrate either that General Law School's experiences in connection with grade definition discrepancies are typical or that they are atypical. If the latter, then nothing need be done. But, if the former, then a pressing question arises. What, if anything, should higher education institutions do about grade definition discrepancies? Here, conflicting answers arise. Grading curves, one potential answer, often do not really solve the problem, if only because considerable grade definition discrepancies continue to exist at many schools even if the schools put curves into place. Indeed, grading curves solve the foregoing problems only if they contain very, very tight bands for the individual grades. Which leaves, essentially, the statistical normalisation process used in this study. Admittedly, this process produces only information about relative standings and tells outsiders nothing whatsoever about the objective quality of students' work. And that, of course, is a serious weakness of this process. On the other hand, this process does not require use of extrinsic academic factors and schools that use the process need not go through the political battle of determining which extrinsic factors should be used and how much weight should be given them.

The short of it is this. Because the statistical normalisation process described here does not provide any

information about the objective quality of individual students' work, it surely is not a perfect solution to ranking-discrepancy problems. On the other hand, this normalisation process surely produces better results than most schools' present practice.

## **CURRICULUM**

### **Legal education reform: modest suggestions**

A Watson

51 *J Legal Educ* 1, 2001, pp 91–97

In 1999 and again in 2000 an upper-level course was taught at the University of Georgia titled *The Western Legal Tradition* — a course intended more to explain than to describe the patterns of development of private law. The examination was by an essay selected from a small list of possible titles. One of the essays had the title, 'American legal education is rubbish'. More students chose to write on that topic than on any other.

None of the students had anything good — not one thing — to say about legal education (though they did recognise that some professors were good teachers). More to the point, their criticisms were always the same. First, that first-year legal education was terrifying. Some teachers deliberately set out to intimidate students. More important, the almost universal so-called Socratic method left them with no guidance as to what they were supposed to be doing. They floundered, having no understanding, even after hours of study, of what was expected. Second, during the semester they were given no indication of how well or how badly they were performing. Yet all felt that their first-year grades would have a determinative impact on their early professional careers. These grades would certainly have a marked impact on their summer jobs: they would be the grades most noted by law firms.