

MEMORANDUM

To: Robert C. Holub, Provost

From: John L. Sobieski, Jr., Interim Dean, College of Law

Re: Budget Narrative

Date: February 13, 2008

Progress Report

Over the last year, the College of Law made significant progress in several areas.

National Ranking. In the rankings by U.S. News and World Report, the College of Law moved up to 53rd among all accredited law schools from 60th the year before. The College's clinical program was ranked 17th, making it the highest ranked clinical program in the southeast, ahead of Duke, Vanderbilt, Texas, Georgia, and the University of North Carolina. No ranking system is perfect. Nor should any law school's educational program be driven simply to enhance its ranking. Still, the College of Law's upward move is a positive development.

Faculty Scholarship. Last year the College of Law moved into the top ranks of faculties whose scholarship is most frequently downloaded from the Social Science Research Network. Over the last twelve months, UT ranks first in the number of downloads per paper and 15th in total downloads. The total downloads ranking places UT just behind Berkeley and Vanderbilt and ahead of Duke, Northwestern, Michigan, and Virginia, to name just a few.

Administrative Positions. This year, the College has filled several key leadership positions. After a national search, Katrice Morgan was offered and accepted the position of Assistant Dean of Student Affairs. Likewise, Associate Professor Penny White accepted the position of Director of the Center of Advocacy and Dispute Resolution, and Associate Professor Ben Barton accepted the position of Director of Clinical Programs. As a result, all the leadership positions of the College have been filled on a permanent basis except for the Dean and Associate Dean of Academic Affairs.

Faculty Positions. The College conducted national searches for two faculty positions. One of those searches sought to add a faculty member with a teaching interest in federal taxation. The College has extended an offer to Professor Howard Abrams, who currently is a full professor at Emory University School of Law. Professor Abrams enjoys an outstanding national reputation in his field and has interviewed only one other law school, the University of California Berkeley School of Law, where he previously visited. Adding Professor Abrams to the faculty would be a highly visible and significant achievement.

The College also searched for a faculty member whose primary teaching interest is in

clinical education. The College has extended an offer to Karla McKanders, who currently is a visiting Reuschlein Teaching Fellow at Villanova University School of Law. Adding Ms. McKanders to the clinical faculty not only would restore a faculty position the Legal Clinic lost when Doug Blaze assumed the position of Interim Associate Dean of Academic Affairs, but also would further diversify the faculty. The College's offer to Ms. McKanders was for \$7,000 less in salary and \$10,000 less in summer research support than an offer she received from another southeastern law school (LSU).

First Year Class. The College of Law received over 1,400 applications for the current first-year class. A total of 171 students matriculated, 20+ more than the typical class size of 150. The median grade point average of the first-year class is 3.6 and the median LSAT score is 160 (81st percentile). Although the median LSAT scores of this year's class is slightly higher than last year (159), the scores are lower than those of the other higher ranked schools.

Larger Planning and Budget Concerns

Fiscal 2009-10

Additional Faculty. The College of Law should search in fiscal year 2009 for three additional faculty to meet its curricular needs. Searching for these positions will be possible only if additional funding is provided in fiscal 2010.

When the University conducted its Academic Program Review in 2002, the College of Law had 37 faculty (including the dean, associate dean, and a resident scholar, whose position reverts back to another college upon retirement). Today, the College has 33 faculty. If the outstanding offers to Professor Abrams and Ms. McKanders are accepted, the size of the faculty will be 35, still two below the 2002 level. Significantly, the 2002 Program Review Team concluded that the College of Law faculty was too small and recommended that the College be provided additional funding for 3 new lines, resulting in a faculty of 40. The College never has been provided funding for those additional lines.

The searches the College seeks to undertake in the coming fiscal year would meet three curricular needs. The first is in Family Law. The only faculty member who teaches in the core area of Family Law currently is on personal leave at another law school and is unlikely to return. That same faculty member also helped to supervise the College's domestic violence clinic. Given the fundamental importance of this area of the law, the College must hire a replacement.

In addition, the College needs to hire a faculty member whose primary teaching interests lie in the area of legal writing. The Legal Writing Program is a vital curricular initiative, but is overly dependent on adjunct faculty. In the first semester, adjunct faculty typically teach seven or eight of the ten sections of Legal Process I and adjunct faculty teach all nine sections of the second semester Legal Process II. As a result, the Director of the Legal Writing Program devotes very significant time to program administration and the hiring and supervising of the adjunct faculty. Time taken away from other aspects of program development and scholarship in

the field. The best legal writing programs use a very different staffing model. Most of the top 10 legal writing programs identified by the U.S. News rankings staff their first-year program exclusively with full-time faculty, and the remaining few have a core of at least five full-time faculty.

The College also needs a faculty member to teach in the College=s curricular concentration in advocacy and dispute resolution. Like the Legal Writing Program, the curricular concentration relies excessively on adjunct faculty. Indeed, many advocacy courses are taught exclusively by adjunct faculty. In the current academic year, adjunct faculty taught thirty-six advocacy classes. And, the only person responsible for recruiting and supervising the adjunct faculty and otherwise supporting their needs is the Director of the Center for Advocacy and Dispute Resolution, who also teaches full time and is responsible for the Center=s programming and publications.

The College is required at present to use vacant faculty positions to help fund its adjunct faculty needs. In any given academic year, adjunct faculty will teach a total of 70-75 law school classes. This year, the compensation paid to adjunct faculty will exceed \$340,000. The adjunct budget is slightly less than \$56,700. The deficit of over \$283,000 will be covered by vacant faculty positions (\$183,000) and the law school enhancement fee (\$100,000).

The College also funds its summer research awards out of vacant faculty positions and private funds. Summer research awards are provided by law schools throughout the country and are critical in recruiting and retaining outstanding faculty. Over the last few years, the College has awarded entry level faculty a summer research stipend of \$8,000, and more established faculty with records of consistent scholarly productivity \$12,000. The College=s summer research stipend budget is \$40,000. In the summer of 2007, the College awarded research stipends totaling \$213,000, a difference of \$173,000. The College made up the difference by awarding \$125,000 from vacant faculty positions and \$48,000 from restricted accounts.

To search for three additional faculty in the coming fiscal year, meet adjunct faculty needs, and provide summer research support at current levels, the College will reduce, if at all possible, its expenditures for operating, library acquisitions, and scholarships. Even if successful in reducing these expenditures, the College will need additional funding for at least one entry level faculty position.

Fiscal 2008-09

For the next fiscal year, the College requests recurring funding for student access, research, and library acquisitions. The College also requests non-recurring funding for library acquisitions, development, and faculty start up.

Student Access. To assist in its efforts to recruit outstanding students, the College requests five maintenance and tuition waivers (\$48,450). Because law students pay more in maintenance and tuition than graduate students generally, across-the-board increases affect law

students disproportionately. Although the College=s development efforts emphasize scholarships for students, private giving for scholarships cannot keep pace with increases in tuition. Based on current fees, every 1% increase in maintenance and tuition would require the College to raise \$1,000,000 in privately-endowed funds just to keep pace.

Summer Research Stipends. For fiscal year 2008-09, the College requests \$75,000 in recurring funding for summer research stipends. The summer research stipends currently provided by the College are less than those provided by even lower ranked law schools. The requested funds would allow the College to increase summer stipends modestly and would provide stipends for the two new faculty members to whom the College has extended offers.

Law Library Acquisitions. For the coming fiscal year, the College requests \$120,000 in recurring funding to cover anticipated increases in the cost of serials and to provide a modest 5% increase in the serials budget. The College also requests \$25,000 in non-recurring funds (for five years) for monographs.

Like other University libraries, the College of Law Library has faced a significant increase in the cost of library materials. In comparison to the Hodges Library, however, the Law Library has not received a proportionate amount of University support. Overall, from fiscal 2001 to the present, the recurring acquisitions budget of the Hodges Library has increased over \$3.6 million or 65%; during that same period, the recurring acquisitions budget of the Law Library has increased \$128,000 or 13%. This discrepancy is particularly significant because most legal materials Bcase reports, statutes, administrative rulings and regulations, treatises, law reviews, etc.Bare serials. Even after significant cancellation of serials over the last several years, the Law Library still spends 65.8 percent of its budget on serials.

Assistant Director of Development and Director of the Tennessee Law Fund. With the relatively modest investment of \$50,000 in non-recurring funds by the University, the College also would launch an initiative that could provide significant returns over the next few years. More particularly, the College would hire on a limited duration appointment an additional development professional, who would be the director of the law school=s annual fund, the Tennessee Law Fund.

Currently, the College=s Office of Development and Alumni Affairs consists of a director, assistant director, and two development assistants. Through their hard work, the development staff has more than doubled the dollar amount of commitments booked in the last two years, from less than \$1.1 million in 2005 to over \$2.4 million in 2006 and \$2.3 million in 2007. Despite these impressive increases, the College could do a significantly better job in raising private funds by adding another development professional to its staff.

The College=s director and assistant director of development should devote themselves almost exclusively to identifying and cultivating major gift prospects. Instead, however, they are required to spend a meaningful amount of time and effort to the other critical components of the College=s development effort, namely, the annual fund, alumni relations, and stewardship. The

end result is that every aspect of the development effort has suffered.

Adding a development professional who would assume primary responsibility for the annual fund would enhance the College=s development effort in every respect. The director and assistant director would then be able to concentrate on those alumni with greatest giving potential. In turn, the additional development professional would be able to engage all of the College=s alumni, but especially its more recent graduates, and turn the annual fund into a significant source of private giving as it is at other comparable law schools.

Just one example of the potential of a vibrant annual giving program is provided by the University of Georgia School of Law. When Georgia launched its annual giving program in 2000, it received around \$70,000 per year in annual giving. In its most recent alumni magazine, Georgia reported that contributions to its annual fund had grown to over \$630,000--the equivalent of the annual return from a \$12.5 million endowment. Although Georgia is a larger law school, the UT College of Law realistically could grow its annual fund contributions over time to \$400,000.

To make the annual fund a more significant source of private funding, the College requests that the University provide \$50,000 (plus benefits) to fund the salary of the director for one year. After that period of time, the director=s salary will be funded out of the annual fund itself.

Faculty Start Up. Assuming the two current faculty searches are successful, the College requests \$4,000 in start up funds.