

**Increasing Diversity in the Legal Profession:
A Model for Collaboration
with
Schools of Law, Education, Liberal Arts and High Schools
and
Bench, Bar and Corporate Counsel¹**

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INTRODUCTION

Over the past three years we have been working on a variety of projects to consider the causes of the lack of proportional diversity in the American bench and bar and in the law schools that produce their membership. This paper discusses some of the issues we have identified and describes in brief an example of a program developed at the University of the Pacific to work along the educational pipeline from preschool to professional school to help to address these concerns. It is a work in progress.

The questions considered include:

- Whether law schools are producing the graduates needed by the 21st century legal profession here in the United States and abroad?

¹ Portions of this paper were also presented by Dean Parker at the ABA conference, *Embracing the Opportunities for Increasing Diversity Into the Legal Profession: Collaborating To Expand The Pipeline* (November 2005 Houston, TX).

² This paper is a joint effort by Professor Sarah Redfield, Pierce Law Center, Concord, New Hampshire and Elizabeth Rindskopf Parker, Dean, University of the Pacific McGeorge School of Law, Sacramento, CA. They can be reached either at sredfield@pacific.edu or Elizabeth@pacific.edu. Both would be happy to provide additional information on the work of the University of the Pacific's "Pacific Pathways Project" at the School of Law and Public Service at Sacramento High School or on their work with a national consortium to expand the work of law schools with others along the educational pipeline. The paper is background for the presentation made at the Education Law Association by Professor Redfield and Professor Brett Scharffs about the mentoring work done at Pacific McGeorge with Sacramento High School and at J. Reuben Clark Law School, Brigham Young University with neighboring schools. Professor Scharffs' work is described in *Starting a Law School Youth Mentoring Program* 2002 BYU EDUC. & L.J. 233. Professor Scharffs can be reached at scharffsb@lawgate.byu.edu.

- If not, what problems must law schools address to ensure the vitality and credibility of our legal profession?
- What are the opportunities for law schools to collaborate with bench, bar, corporate counsel and the educational community as a whole to achieve these goals of an effective legal profession and a robust legal system?

THE SITUATION OF LAW SCHOOLS

Are law schools producing the graduates we need for the legal profession of the future?

Like all other professions, the 21st century legal profession – and all of the educational institutions which contribute to it, in particular schools of law – share a critical need: student diversity. Our communities tell us this, our business leaders tell us this. We know this.

Diversity is particularly important for our law schools for they produce the leaders of the future – all of our judges, over half of our U.S. Senators, nearly half of our governors, a third of our representatives to Congress, and about one fifth of our state legislators have graduated from law school.³ The impact of legal training on corporate America is similar. Still, the bar today remains 90.3% non diverse.⁴

Simply put, those trained to manage and protect the legal system of our increasingly diverse nation are not representative of those they must serve. Yet unless all parts of our legal system and its leadership are broadly representative, the system will not work. The reason is simple. Unless all parts of our society enjoy “ownership” of our legal system, it cannot function as traditionally it has – uniting us with a shared core legal culture. Beyond this, globalization has created additional demands on both our diverse and non-diverse populations. Every one of us must learn to work together across ethnic, racial, economic and geographic boundaries if we – individually and as a nation – are to be

³ See Elizabeth Rindskopf Parker & Sarah E. Redfield, *Law Schools Cannot Be Effective in Isolation*, 1 *BYU Education Law Journal* Vol. 2005) at n. 8 and references cited therein. (*Not Effective in Isolation*).

⁴ Elizabeth Chambliss, *Miles to Go: Progress of Minorities in the Legal Profession*, American Bar Association Commission on Racial and Ethnic Diversity in the Legal Profession 2004, at 2 and Table 1 (*Miles to Go 2004*).

successful. Law school is one of the most important places for this learning to take place; if we have not learned to value and manage diversity there, we may not have the opportunity to do so later. As the ABA has reported,

If a vast democratic republic as diverse – and at times divided – as late twentieth-century America is to survive and flourish, it must cultivate some common spaces where citizens from every corner of society can come together to learn how others live, how others think, how others feel. If not in universities, where? If not young adulthood, when? If not in law schools, why not?⁵

In this context, the number of minorities in the legal profession is fewer than in other professions.⁶ And while some progress has been made in increasing the diversity of the bar, the progress has slowed and minority admissions to law school have dropped.⁷ Thus, the answer to this first question is clearly that law schools are not producing the diverse graduates our nation needs; they are not doing their job to prepare the 21st century legal profession.

⁵ ABA, *American Bar Association Resource Guide: Programs to Advance Racial and Ethnic Diversity in the Legal Profession*, <http://www.abanet.org/leadership/divres1.pdf> (accessed Oct. 23, 2004) (quoting Deputy Attorney General Eric H. Holder). See also Gary Orfield & Dean Whitla, *Diversity and Legal Education: Student Experiences in Leading Law Schools* in Gary Orfield & Michael Kurlaender, eds., *Diversity Challenged: Evidence on the Impact of Affirmative Action*, <http://www.civilrightsproject.harvard.edu/research/lawmichigan/civilrightsproject.harvard.edu/research/lawmichigan/DiversityandLegalEducation.pdf> (accessed Oct. 18, 2004) (reporting as to Yale Law School: “In this relatively small school that produces presidents, Supreme Court justices, and other leaders of the bar and politics, a very talented and sophisticated group of students reported major effects of diversity on their understanding and views of important social and legal issues.”)

⁶ *Miles to Go 2004*, *supra* n. 4 at 7.

⁷ *Id.* at 2

If law schools are not producing the graduates we need, what problems must be solved so that our legal profession is broadly representative, able to support our globalizing legal system and to serve as the common culture that binds our nation’s powerful diversity together?

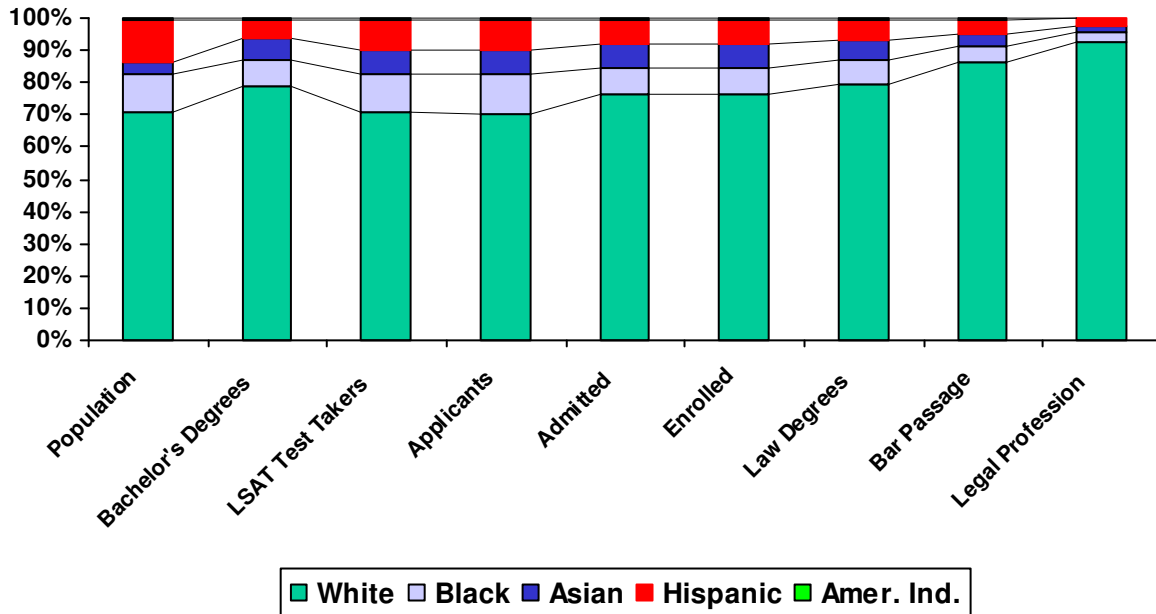
With a bar that is over 90% non-minority and does not show “full and equal participation” at all levels of the legal workplace,⁸ we need to recognize that work we have done in the past to encourage diversity, while extremely important, has not been sufficient. The reasons for the disproportionate diversity representation in law school are easily documented all along the education pipeline as it leads first into law school and then into the profession, resulting in a pool of applicants that is limited:

- Insufficient aspiration and knowledge of the possibilities offered by a legal career among minority groups.
- Limited numbers of students staying in school through high school and college.
- High school and college preparation that is inadequate for law school entrance and success.
- Low LSAT scores.
- Poor performance in law school—a lack of persistence.
- Low minority bar passage rates.⁹

⁸ *Id.* at 4.

⁹ For more statistical information and documentation of these various points along the educational pipeline from preschool to law school, see *Not Effective in Isolation supra* n. 3 at n. 94 and following and references cited therein.

The following graph gives a good picture of the extent of the problems we are facing:¹⁰



U.S. Racial-Ethnic Representation along the Pipeline to the Legal Profession

As this illustration suggests, solving these problems, so many of which originate long before law school applications and admissions decisions, has traditionally seemed too remote a concern for a law school's attention. Law schools have not, in consequence, been actively involved in a systematic way to address these systemic problems at their earliest appearance. Rather, efforts have been made at law schools to address the problems of poor preparation and performance just before entrance or after students have gained admission. Of course, by then, it is often too late. Remediation at college has been shown to be problematic, and last minute remediation in the intensely competitive environment of law school is a

¹⁰ Kent Lollis, Presentation, *Diversity in the Pipeline to the Legal Profession*, (Sacramento, Cal., Oct. 25, 2004).

daunting challenge – a challenge not likely to be solved by continuing as we always have.

In contrast, both the bench and bar have been increasingly active in reaching out to students well before law school and even college, designing myriad creative programs to inspire and instruct pre-college students in initiatives often inspired by legal pedagogy and legal content. Still, such efforts, although typically creative and well intentioned, too often lack a systematic approach that continues in a sustained way over time. As a result, much of their potential impact is, in all likelihood, diminished. In fact, without the active participation of law schools, their natural educational partners, the ability of these bench and bar efforts to embed their programs in an effective educational structure that will be long term, consistent in its re-enforcement, and pedagogically sound, is limited. Too often such programs function like fireworks – a burst of light, which quickly dissipates into the surrounding night.

How can law schools collaborate with both other parts of the educational pipeline and the practicing legal profession to achieve the diversity goals we share?

The low participation rates of minorities in law school and the profession are well known, and they are not improving. Nevertheless, law schools have traditionally waited for applications to reach them, hoping that sufficient diversity would somehow appear – as if by magic, perhaps, given the dismal state of national statistics. When, not surprisingly, the supply of diverse applications has proven insufficient, individual law schools compete with one another for a larger share, investing scholarship dollars and devising other stratagems to increase the diversity at their own individual institutions, albeit at the expense of others.

The fundamental problem all law schools face remains an inadequate number of well prepared minority applicants nationally.¹¹ Yet somehow little

¹¹ For more statistics and detail, see *Not Effective in Isolation*, *supra* n. 3 starting at p. 40 and references cited therein. These numbers are illustrative: “in 2003, 63% of white applicants to law school received at least one offer of admission from an ABA-approved law school. Only 34% of black applicants received offers; 50% of Hispanic/Latino and Chicano/Mexican applicants received offers; and 49% of Puerto Rican applicants received offers. Of this group, where the LSAT national average score was a 152.2, 59% of the black applicants had an LSAT score on file below 145. Likewise, of this same group, 35% of Hispanic/Latinos and 30% of Native Americans had scores

thought has been given to increasing the over-all supply of well qualified and diverse students. This is the so-called “P-20 Pipeline Problem” along the continuum from preschool (P) to professional school (20). Despite the significance and size of this problem, no attention has been focused on how all law schools, working together with their educational colleagues at earlier points in the educational continuum, might influence the overall “supply” of well-qualified minority students. That is, until recently.

In the last two years, at the invitation of the Johnson Foundation, several law schools have come together at the Wingspread Conference Center in teams composed of high schools, colleges, and schools of education. Their goal has been to create a “production pipeline” of well-qualified minority students.¹² In doing so, several important things have been learned:

- Law schools and their alumni, while small in number, are disproportionately powerful in the political, business and community leadership they command. Further, such alums, working with their law schools, can encourage and stimulate the aspirations and performance of diverse undergraduate and secondary students, improving their preparation for and participation in the graduate study of law. They are thus well positioned to contribute to addressing both the strategic and the pragmatic day-to-day problems of our educational system.
- While lawyers and law schools may not themselves be expert in secondary education, a collaborative team approach can take advantage of the powerful pedagogy and content of the law, as well as the leadership of law students and practicing lawyers, to enrich, encourage and inform secondary and post-secondary educational programs, guided by the expertise of educators along the pipeline.

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¹² For a report of the first Wingspread meeting see John Nagle & Sarah Redfield, *Renovating the P-20 Pyramid in Education – With the Leadership of Schools of Law*, http://www.mcgeorge.edu/government_law_and_policy/education_law/wingspread/WingspreadReportFinalDraft1031.pdf (accessed Feb. 11, 2005).

- As the “liberal arts professional school,” law schools have a role to play in encouraging the revitalization of our undergraduate liberal arts programs nationwide. These programs need to be rigorous and demanding to ensure that minority students, even if their high school experience has been inadequate, will gain the skills they need in college to succeed on the LSAT, the bar exam, and beyond.
- As the source of a continuous supply of high-performing students and committed alums, law schools can bring together a community capable of working with high school students to inspire their aspirations and academic performance.
- The power of individual programs of the bench, bar, and bar associations, designed to inspire, educate and promote civic education for minority students, in the hope that some will become lawyers, can be enhanced if such programs are part of a structured, systemic, and systematic approach – in short if they fit into an educational structure that can be replicated and evaluated as we move forward.

In sum, the solution to inadequate participation by minorities, particularly African American and Latino students, in legal education and the legal profession must be treated with a comprehensive “pipeline” approach. In writing about lost Latino youth, Professor Alberto Cabrera observed – in an observation surely applicable to other underrepresented youth — “At almost every educational level, Latino youth face uphill struggles. The cumulative result is that educational opportunity is lost for these youth, who must try harder just to keep up with other students. Comprehensive and radical reform of the education of youth from low-income populations is necessary throughout the K-16 system to realize genuine change. (Emphasis supplied).¹³

The legal community Encouragement, support, and preparation must be the business not only of the bench, bar and their associations, but of all parts of the educational continuum from the lower grades through high school, college, and law school. Structures must be created that allow all parts of this continuum to work well together from preschool to the professions. We must also take greater advantage of what has been done in many individual programs across

¹³ Alberto Cabrera et al, *Pathways for Latino Youth*, available at http://www.wcer.wisc.edu/news/coverStories/pathways_for_latino_youth.php (accessed October 1, 2005).

the country; sharing best practices and lessons learned, whenever we can, evaluating and replicating them.

Working together in this collaborative fashion is a new model for law schools. Interestingly, it is not a new model for other professions.¹⁴ Nevertheless, we are beginning to learn that it is possible to envision law schools assuming meaningful organizational and evaluative responsibilities at the center of the project and reaching out to and supporting all of their constituencies — students, alums, university partners (and their students and alums), practicing public and private sector attorneys, corporate counsel, bar associations and other law organizations — in work that will increase diversity and success along the educational pipeline. Such support would first involve the development of a multi-dimensional data base of existing programs, then application of an evaluative approach to help identify replicable best practices, and dissemination of templates, structural advice, and materials for such practices and for ongoing evaluation. An important ongoing function of law schools organizationally would be to assure program communication (to avoid duplication) and to implement systemic and systematic approaches.

Creating such a structured approach will, of course, require some funding. Still, recent experience shows that the costs required for programmatic implementation can be less than might be imagined. A brief review of the features of a program now underway in Sacramento, California at the School of Law and Public Service at Sacramento High School shows why. Over the last two years, a modest array of activities have gradually been designed which now can be seen to have contributed to a dramatic improvement in the results of a group of highly diverse, inner city high school students. Graduation of 96% of these students, with 88% admitted to college, represents a remarkable increase

¹⁴ The health professions, for example, have a decades-long history of this approach. E.g. Assn. of Am. Med. Colleges (AAMC), *Learning From Others: A Literature Review and How-to Guide from the Health Professions Partnership Initiative i*, <https://services.aamc.org/Publications/showfile.cfm?file=version26.pdf&CFID=1426555&CFTOKEN=5831378-ae5e0441-d1fa-488b-a305-158ffa55ac49> (accessed Dec. 3, 2004). . The Sullivan Commission, *Missing Persons: Minorities in the Health Professions: A Report of The Sullivan Commission On Diversity In The Healthcare Workforce* (2004), available at <http://admissions.duhs.duke.edu/sullivancommission/index.cfm> (accessed October 5, 2005).

from two years earlier where less than 50% graduated and only 5% were college qualified.¹⁵

The programmatic support provided by the University of the Pacific team, composed of a school of education, law and undergraduate college and coordinated by a law student “fellow”, included:

- donations of used law books and replaced computers;
- inviting high school students to visit the law school campus for a day of law school classes designed for them and lunch in the law school cafeteria;
- a similar visit to the college campus;
- a weekly one hour law/high school student mentoring program, supported by the School of Education;
- a speakers program, taking advantage of previously scheduled law school events and volunteer alumni presentations;
- periodic receptions and visioning sessions for high school teachers and mentors;
- teacher coaching by the School of Education; and
- a monthly Saturday seminar at local law venues.

If law firms and general counsels’ offices and their organizations join forces with law schools in simple efforts such as these, improvements can be achieved without any one partner being overburdened. If the bar volunteers time and provides modest financial support, law schools, the essential partners in this endeavor, will be enabled to manage and support programs capable of motivating and supporting a far better prepared and more diverse group of applicants for college and later, the professions. Law schools are essential in this effort, but they must also have the support of their educational colleagues along the educational pipeline: high schools, schools of education and liberal arts. Together they are the “means of production” necessary to create the new generation of diverse and well-prepared law graduates which the legal profession needs and wants.

¹⁵ Personal interview with Shelly Gorman, Guidance Counselor, Sacramento High School School of Law and Public Service

THE CALL TO ACTION



CALL TO ACTION

Renovating the P-20 Pyramid in Education With the Leadership of Schools of Law

To work collaboratively to maximize educational aspirations and opportunities for students who are disproportionately under-represented in colleges and universities and in professional schools, particularly law schools.

Overview

If law schools and other professional schools are to continue to train our future civic leaders, and if colleges and universities are to retain their important place as educators in our democracy, the answer must lie in improving the pipeline and substantially increasing the numbers of minority and economically disadvantaged students who have, and who recognize, opportunities to move from P to 20.

It is no longer sufficient for law schools to sit atop the P-20 pyramid in education and wait for those who apply. Nor is it sufficient for law schools to engage in remedial programs for admitted students, or even for potential applicants at the college level. Law schools, which have remained largely aloof from the P-12 school reform agenda, need to reach across the pipeline and involve themselves in the preparation of students along the way. Similarly, colleges and universities must devote themselves to stronger collaborations with both P-12 educators and grade 13-20 educators. And P-12 educators must push for and engage in activities that will close both the gaps in alignment between them and grades 13-20 and the gaps in opportunities among racially and socioeconomically diverse students.

The Genesis of the Call

This Call originated as the result of work at a Wingspread Conference held in June of 2004. The Wingspread Conference involved teams of educators from law, education, and liberal arts schools together with K12 educators, as well as a national array of education leaders and experts.

Five Recommended Actions:

1. Law schools should take a leadership role in establishing themselves as partners with schools of education and colleges of liberal arts and sciences in

their universities and with P-12 educators in their communities, locally, regionally, nationally, and internationally.

Law schools should mobilize their faculty, students, and alumni (who are especially steeped in the concepts of due process, justice, and civic engagement), and they should involve themselves in education across the full spectrum of young people throughout the educational pipeline. This involvement can take the form of street law initiatives; mock trial programs; mentor programs involving law students as well as the bench and bar; programmatic, pedagogical, and curricular development around law-related education and civic engagement; and joint appointments and programming within their universities.

Law schools should consider their own curriculum offerings in terms of educating future legislators and leaders about civic engagement and educational policy so that they are prepared to play a constructive role in the P-20 arena.

2. Colleges and universities should likewise commit themselves to establishing or strengthening partnerships with neighboring law schools and with their P-12 communities.

Colleges and universities should involve themselves in P-20 school reform initiatives (a) by recommitting themselves to teaching and learning for civic engagement and social responsibility and (b) by aligning expectations and education to facilitate access and opportunity along the pipeline.

College and university involvement could take the form of mentor programs for college students, particularly would-be teachers; training and mentor programs and exchanges for P-20 teachers; curricular and methodological development and sharing around civic engagement; joint appointments with their area law schools; and exchange appointments with their P-12 colleagues.

3. All higher education institutions should commit themselves to review, and revise if appropriate, their current policies on promotion and tenure (including academic credit for student projects) in order to assure that recognition is provided for those working and researching public education and public service agendas.

4. The P-12 community should be involved with university partners throughout the pipeline, and it should expect and push to have the grade 13-20 community actively engaged in their practice and research.

P-12 communities should work to align their programs with the expectations of the higher education communities in order to assure that their students are appropriately trained with high cognitive skills in rigorous

academic environments. P-12 communities should also work to assure that their students are aware of the expectations and requirements for accessing higher education and that they have opportunities and guidance to appropriately credential themselves for future success and leadership.

5. P-12, 13-16, and 17-20 educators should form teams that will work cohesively and collaboratively to put into place local, national, and international initiatives to meet these ends. These teams should in turn reach out to encourage the formation of comparable teams with similar agendas

P-12, 13-16 and 17-20 educators should develop area-specific programs, and they should contribute to forums in which current partnerships between law schools and P-16 educational institutions can be showcased and in which ideas can be exchanged and expanded for further work in law-related education, civic education, and school reform.

Why This Is Important

Education at all levels is the public's agenda. From local school boards to law schools, from philanthropic foundations to federal and state agencies, from legislatures to the Supreme Court, education and the civic mission of schools are crucial societal issues. At the same time, education is now characterized in large part by its relationship and convergence with the nation's legal system, as legislative, administrative, and judicial bodies across the country struggle with increasingly complicated regulatory and constitutional demands for adequate and equitable education.

This context offers a moment ripe for change, for new relationships, and for new vision. Decisions made now will influence the diversity of leaders of the future, just as those decisions will influence the shape and richness of our democratic communities.

This Call to Action acknowledges several significant concerns, including the aspiration and achievement gaps across racial and socioeconomic lines, the general decline in civic engagement among youth, and the lack of cohesive action along the full spectrum of the educational pipeline to address these issues. Simply put, too many of our young people are at risk or lost along the pipeline, and we are losing their potential as leaders and keepers of democratic ideals.

The goal of this Call to Action is to offer a functional, practical approach to improving diversity in the pipeline by recommitting ourselves to the historical public purpose of education and by forging new effective alliances to address our concerns.

The Aspiration and Achievement Gap: As evidenced in lower test scores, lower high school graduation rates, lower college admissions and graduation, lower professional school admissions, and lower representation in various professions (including law), “achievement gap statistics” are troubling and persistent. By way of example, the Urban Institute has recently reported that “barely half of all black, Hispanic, and Native American students who entered U.S. high schools in 2000 will receive diplomas.” Even those students who do graduate will remain under-represented in college, particularly in top-ranked colleges. For those who do go on to college, many will need additional support to survive there, and many will drop out. Similarly, they will be disproportionately represented in graduate schools and in the professions. All along the way African American, Hispanic, and other underrepresented groups will have fewer opportunities to participate in rigorous academic experiences, and they will have lower aspirations about the value of such participation. They may not be exposed to or well-schooled in the critical thinking and writing skills crucial to achievement further along the pipeline, and, thus, the disparities will continue to grow. These failings are not those of the students, but of an infrastructure that fails to provide a continuum of appropriate, consistent, directed, and rigorous guidance and learning experiences.

The Civic Mission: With limited educational aspirations and opportunities has also come civic disengagement. In recent years, the decline in knowledge about the social and political constructs of our democracy has been precipitous, and the cynical disinclination of youth to participate in politics or community institutions endemic. At the same time, our institutions seem to have drifted away from acknowledging their traditional responsibility to engage their diverse communities in the richness of education and society. The call for more schools at all levels to engage in what the Carnegie Commission has called the “civic mission of schools” is strong and necessary.

The Infrastructure Dilemma: While there is now a widely held expectation that meaningful educational reform at secondary and post-secondary levels will require constructive collaboration between secondary schools and colleges and universities, the extent and orientation of the participation of law schools (and other professional schools) in school reform programs are still emerging. The differences of time, pedagogical approach, and mission that separate private and public P-12 schools from our colleges and from our graduate and

professional schools are substantial. Indeed, it is also the case that the distance from our schools of education and colleges of liberal arts and sciences to our law schools is also substantial. We lack meaningful infrastructure for true collaboration along the educational pipeline from P to 20. So too we lack appropriate cohesion in approach and alignment in the pipeline, all to the detriment of students.

More information

More information is available at the University of the Pacific McGeorge Law School website at www.mcgeorge.edu/wingspread or by contacting Professor Sarah Redfield at sredfield@pacific.edu.