

# THE CHRONICLE

of Higher Education

## Students

[Home](#) [News](#) [Administration](#) [Students](#)



September 5, 2003

### In Search of Diversity on Law Reviews

By *KATHERINE S. MANGAN*

The journals debate ways to make sure more minority students are selected

Amy DeVaudreuil knew she had her work cut out for her when she was named

---

#### ALSO SEE:

Colloquy: Join an online discussion on whether student-run law reviews, which are overwhelmingly white, should change their selection criteria to attract more minority participants.

---

diversity editor of the California Law Review, the flagship law journal of the University of California at Berkeley. Over the past four years, the highly selective journal has had only six black or Hispanic students among the 180 it has chosen.

But Ms. DeVaudreuil, who is white, says she was unprepared for the battle that followed -- and that prompted her and two other editors to resign from the publication in protest last year.

"The journal liked the idea of having a diversity editor -- it looked good on the masthead," says Ms. DeVaudreuil, who graduated in May. "But when it came to actually talking about diversity and trying to do something about it, people were very resistant to change."

The journal's members voted this year to eliminate the position of diversity editor, an indication, perhaps, of how weary they were of debating a question that has confounded their peers around the country: How can law reviews increase the number of minority students on their staffs without compromising the applicants' anonymity or the journal's academic standards?

While many law schools have, through affirmative action and aggressive recruiting, made modest gains in their minority-student enrollments over the past decade, relatively few minority students are making it onto law-review boards -- positions that serve as springboards to judicial clerkships and other top jobs.

"Once you move out of the most elite schools, if you don't have law

review on your résumé, many firms won't even look at you," says Maraleen Shields, who was the first black student accepted by the University of Pittsburgh School of Law's law review in 13 years when she was named to the review two years ago.

She and Ms. DeVaudreuil agree that having a diverse staff serves a broader purpose. Says Ms. Shields, "The law review should represent the entire law school, and the more perspectives and viewpoints you have, the better product you'll be able to offer."

But others argue just as passionately that membership in the law review is, above all, an honor that should be reserved for those who have distinguished themselves academically.

"One of the strengths of the law review is its focus on scholarship, and the way that's measured in law school is through grades and writing," says Shawn R. Johnson, who graduated in May from the Vanderbilt University Law School.

He thinks it would be a bad idea to reserve slots on the journal for members of minority groups or to even consider a person's race as a factor in admission. Grades, he argues, are an objective, easily quantifiable indicator of merit that puts everyone on an equal footing.

"There's a lot of value in having diverse views, but we have to make sure the competition is fair to everyone," he says.

### Weighing Diversity

While some law reviews have adopted affirmative-action plans, students are usually selected based on a combination of their grades and their performance in a writing and editing competition held at the end of their first year. A typical editing test might require a student to clean up a portion of a legal article, replete with botched footnotes and legal citations.

Law reviews vary in how much weight they put on grades and writing. Some automatically accept students whose first-year grades place them at the top of the class, and some require a minimum class rank in order to try out for the writing portion. Many others judge all applicants on both grades and writing. The California Law Review selects students based solely on a writing and editing competition, as well as a personal statement, and doesn't factor in grades at all.

All law reviews remove the names from applications and replace them with numbers before the applications are assessed by student

editors, who make the final selections without knowing the applicants' identities or, in most cases, their races.

Because black and Hispanic students, on average, have lower first-year grades, many don't fare well in that portion of the contest. That became painfully obvious at Vanderbilt last year when no black or Hispanic editors were named to any of Vanderbilt's three student journals, even though the student body is about 14 percent black and 6 percent Hispanic.

Last year, all three journals conducted a joint competition, which included a 20-page writing assignment that students had 17 days to complete. The Vanderbilt Law Review selected 5 of the 30 students based solely on their performance in the writing competition, with the other 25 chosen by giving equal weight to their first-year grades and their writing scores.

Still, not a single black or Hispanic student was selected for the prestigious Vanderbilt Law Review this summer.

"When a law school is able to get an influx, or even a critical mass, of minority students, but none of these students ends up showing up in law review, that reinforces the perception that these students aren't as qualified," says Ms. Shields.

The law school's dean, Kent D. Syverud, says he has been reluctant to intervene in the workings of a student-run publication, but that he considers the lack of minority representation on any of the journals "one of the biggest challenges I've faced as dean."

"Serving on a law journal is one of the most valuable learning experiences a student can have during law school, and this opportunity appeared to be unavailable to a large proportion of our students," he says. "That created a crisis that became an opportunity to re-evaluate our selection criteria."

After months of debate, the editors of the Vanderbilt Law Review rejected the idea of creating an affirmative-action policy.

By allowing five students to qualify on the basis of their writing, they hoped to attract more minority candidates. But even the writing contests, which take place just as students are recovering from final exams and are about to head off to summer jobs, can seem particularly daunting for black and Hispanic students who look at their law review's masthead and imagine a sea of white faces.

"When you look at the statistics, it's easy to become discouraged and figure you don't have much chance of making it," says Sisera Dowdy,

the outgoing president of Vanderbilt's Black Law Students Association.

Even though Ms. Dowdy tried out, unsuccessfully, for the law review, she believes that "a lot of students figure it's not worth the effort."

Paul Helms, departing editor in chief of the Vanderbilt Law Review, would like to see faculty members and administrators step in and start a discussion about the appropriate role for the law review. Should it be primarily an honor society that rewards students who have the highest grades, or should it be viewed as an educational tool that reflects the diversity of students at the law school?

"We're so busy ranking people by their grades that we don't take the time to consider the educational purpose of the law review," says Mr. Helms, who graduated this year. "Students learn from having a diversity of viewpoints."

#### Pressing for Change

Some law reviews allow students to write a personal statement as part of their application that, without identifying them, gives the journal staff an idea of how the applicant might bring a different perspective to the publication.

"We value any diversity they bring to the table, whether it's work experience, upbringing, race, whatever," says Jenny Tran, managing editor of the University of Pennsylvania Law Review, which adopted a new policy aimed at increasing diversity that was applied to the students selected this summer. Applicants are required to submit personal statements of up to two pages.

Although the selection criteria vary from year to year, generally about 40 percent of the new editors at Penn are chosen based primarily on their grades, another 40 percent based primarily on their writing, and the remaining 20 percent based on a composite score that includes their personal statement.

When Penn's Journal of International Economic Law instituted a more explicit affirmative-action policy in 1996, however, a second-year student resigned from the staff, saying the policy amounted to discrimination against white students.

But it was the lack of an explicit affirmative-action plan that prompted three editors of Berkeley's premier law journal to quit last year. They argued that the journal wasn't doing enough to boost the numbers of minority students, who over the past four years made up

10 to 13 percent of the law school's student body but only 3 percent of the journal's staff members.

In an article that appeared in the July issue of the California Law Review, Ms. DeVaudreuil lambasted the publication for perpetuating what she calls its "history of institutional racism."

Ms. DeVaudreuil quit the journal in November after an internal newsletter was distributed to the staff that she believes belittled her efforts to diversify the group. The newsletter, which the authors said was meant to be humorous, drew attention to the fact that the journal's diversity editor was white and that she hadn't delivered a report the day it was due. The newsletter, which also poked fun at other editors, included a cartoon of Ms. DeVaudreuil botching simple office tasks.

The newsletter resulted in one of the authors being suspended from the publication's staff and another demoted. It also led to a bitter split between those who felt that Ms. DeVaudreuil and her allies were being overly sensitive and too pushy in their demands and those who agreed with her that diversity efforts were being ignored.

In addition to Ms. DeVaudreuil, two Asian-American students, Donna Maeda and Janet Tung, who also pushed for greater diversity, quit in the aftermath of the newsletter controversy.

Ms. Maeda, who took a three-year leave from her job as an associate professor of religious studies at Occidental College to get her law degree, says she was fed up with the journal's inaction on the diversity issue. "Anyone who pushed for more diversity was seen as having a political agenda or trying to take over," she says.

No one knows that better than Gabriela A. Gallegos, last year's editor in chief of the California Law Review.

Ms. Gallegos, the first Hispanic editor of the law review in its 91-year history, says she ran for the position on a promise to help create a more diverse journal. And while she believes most staff members support that goal in theory, getting them to acknowledge that diversity was a serious issue that deserved immediate attention was another matter.

"It's hard to talk about these issues that are very important to you in a room full of white people," she says, adding that her critics on the staff repeatedly referred to her efforts to promote the work of Ms. DeVaudreuil and other diversity supporters as a "coup."

Complex Factors

But some students say the problem is more complex than white people feeling threatened by policies that appear to give an edge to minority applicants. They say that some promising minority students are being siphoned off by some of the school's nine other, less-competitive journals, which select their editors earlier in the academic year.

The journals include the African-American Law and Policy Report and the Berkeley La Raza Law Journal, which focuses on legal issues facing Hispanics.

In addition, this year's editor in chief of the California Law Review, Jean Galbraith, points out that there have been fewer minority students in the law school since the passage of Proposition 209, the 1996 California law that banned the use of affirmative action by colleges.

"Berkeley's hands are particularly tied by Proposition 209," she says. She is seeking legal advice on whether the law review, as a nonprofit entity, is bound by that measure's restrictions.

The journal's editors have also compared notes with their counterparts at other law schools to see how they are dealing with the problem. One of the more aggressive campaigns to diversify is being mounted by the New York University Law Review. It explicitly spells out its commitment to diversity on its Web page, which states that "grades and writing scores alone do not fully indicate an individual's achievements or ability to contribute effectively to the journal."

Of the approximately 42 students invited to participate in NYU's law review, the first 32 or so are chosen based on their grades and writing scores. The remaining 10 to 12 are selected through the publication's affirmative-action plan, which is open to any remaining applicants who score in the top 50 percent based on their grades and writing. Personal statements submitted by the applicants are also considered.

Matthew W. Howard, who will enter his third year at NYU this fall, is one of seven black students on its law journal. Mr. Howard, an articles editor who also serves on the diversity committee, says the journal's policy of actively seeking diverse candidates appears to be working: "Many students who may have felt that they didn't have a chance of getting on the law review are throwing their hats in the ring."

---

<http://chronicle.com> Section: Students Volume 50, Issue 2, Page

A45

Copyright 2012. All rights reserved.

The Chronicle of Higher Education 1255 Twenty-Third St, N.W. Washington, D.C. 20037