

## MEMORANDUM

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To: Ana Mari Cauce, President  
Mark Pagano, Chancellor  
CC: Melissa Lavitt, Executive Vice Chancellor for Academic Affairs  
Josh Knudson, Vice Chancellor for Advancement  
Harlan Patterson, Vice Chancellor for Finance and Administration  
Margaret Shepherd, Chief Strategy Officer, Office of the President & Provost  
Bill Kunz, Professor, School of Interdisciplinary Arts & Sciences  
Elizabeth Bruch, Assistant Professor, School of Interdisciplinary Arts & Sciences  
Tom Cobb, Senior Lecturer, UW Law School  
Date: December 5, 2016  
  
Re: Report on the Feasibility of a UWT Law School

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I was asked to study the feasibility of a potential new law school that would be part of the UWT campus in Tacoma (UWT Law). My conclusion is that UWT Law would likely run at a loss of \$5,503,712 per year starting in 2029, once enrollment has stabilized following full accreditation. Leading up to that point, between 2018 and 2028, UWT Law would likely experience cumulative losses of \$61,947,729. This report explains the analysis supporting these conclusions, and also discusses the non-economic benefits that might flow from UWT Law.

### **Background**

Over the last several years, there have been discussions about two different formats for a UWT-based law school. First, there were discussions about a branch law school that would be linked to the existing UW Law School in Seattle (UWS Law), and thus share accreditation with that law school. When that option appeared unlikely, discussion turned to the possibility of a new, independent law school, still part of the UW system, but with its own accreditation. My study is of the latter option: an independent law school, part of the UW system, with its own accreditation.

### **Framing and Organization**

Fundamentally, economic feasibility depends on two things: (1) projected revenue, and (2) projected expense (the cost of operating the school).

On the revenue side, most law schools' primary source is tuition from the JD program. While a law school might supplement tuition revenue with philanthropy, tax dollars, or subsidies from other parts of its university system, such sources would be highly speculative at this point in the process. Accordingly, my focus was on tuition revenue. And while some law schools have been

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successful at supplementing revenue from the JD program with revenue from other programs (such as LLM or other master's programs), accreditors looking at feasibility focus on the JD program. So my focus is on revenue that might be expected from a JD program at UWT Law.

Tuition revenue depends on student enrollment and the net price paid by students.

Accordingly:

- The first task of this report is to project student enrollment.
- Following that, I will address net price.
- Then, I will turn to projected expenses.
- Finally, I will address the interaction of revenue and expense to project the likely operating margin (profit or loss).

I also examine the demand for law graduates in the employment market. These findings are discussed at the end of the section on revenue, since graduate employment effectively serves as a cap on enrollment and therefore revenue.

The final task in this report will be to discuss non-economic reasons why UW might choose to start a new law school in Tacoma.

Appendix A to this report outlines the processes and timelines for ABA accreditation and for creating a new graduate degree within the UW system.

## **I. Enrollment Projections**

### **Methodology**

To determine likely student enrollment, I worked with a contractor, Campos Research Strategy, and with the Market Research Team at UW Professional and Continuing Education, to gather data that could be used to predict student demand for a potential law school at UWT. Because demand for a law school education is ultimately driven by demand for the school's graduates, we looked at the market for lawyers, as well as the market for law students.

Three studies were performed:

- Campos Research Strategy performed secondary research, gathering data on national and local trends in demand for legal education and demand for lawyers, as well as national and local trends in bar passage.
- Campos Research Strategy performed primary research in the form of a survey given to current 4-year college students and recent 4-year college graduates (up to 10 years after graduation) in the region to gauge their level of interest in a new law school in Tacoma. Campos received a total of 277 responses, which it believed sufficient for the analysis below.
- The Market Research Team at UW Professional and Continuing Education performed additional primary research in the form of a survey given to 6,323 current UW students

and UW alumni, receiving 171 qualified responses. Because of the low response rate, the Market Research Team recommended against relying on this study to make projections. Accordingly, we did not use it in this analysis.

Reports from those three studies accompany this report as Appendices B, C, and D, respectively. (I also conducted focus groups with members of the South Sound legal and business communities, as well members of the Nisqually Tribe. These were not intended to yield quantitative results, but to provide a sense of the level of support for and the benefits that might flow from a new law school in the region. The results are discussed below, following the quantitative analysis.)

The goal was to determine the demand for a school in the South Sound area. Most legal markets have strong local components. As a result, most law schools rely heavily on their local communities, both for student recruiting and graduate placement. The vision for a law school at UWT has been consistent with this insight, focusing on potential ties between such a school and the South Sound community. Accordingly, where possible, these studies looked at local, as well as national, trends in demand.

To project enrollment, it is helpful to conceptualize the enrollment process as a 4-step funnel:

- First, we determine the size of the relevant *JD Applicant Pool*: the number of people in the relevant market who will likely apply to at least one law school.
- Second, we determine the *UWT Applicant Pool*: the number of people from the JD Applicant Pool who would likely apply to a UWT law school if we built one.
- Third, we determine the *UWT Admit Pool*: the number of UWT applicants who would likely be admitted to a UWT law school if we built one.
- Fourth, we determine the *UWT Matriculant Pool*: the number of UWT admits who would likely accept an offer from a UWT law school if we built one. This would be our expected base year enrollment.

The steps above yield a static enrollment projection, that is, a projection for a single, base year. To be useful as a feasibility model, a multi-year projection is required. Accordingly, after determining likely enrollment for the base year, projected growth rates are applied to create a multi-year projection through 2029 (the year in which we anticipate that UWT Law would reach a steady-state level of enrollment).

Each step in this process is set out below, with the resulting projection for each step highlighted at the start of each section. A spreadsheet containing all of the calculations is attached, as well.

### **Step One: Projecting the JD Applicant Pool**

**Projection: The JD Applicant pool will be 914 as of 2015, decreasing at an annual rate of 0.3% through 2020 and then increasing at an annual rate of 1.2% through 2025.**

#### a. Defining the Relevant Market

To determine the JD Applicant pool, we must first identify the relevant market, that is, the population from which we would expect to draw students. We chose Washington State as our focus area. Accordingly, our relevant market consists of 4-year college graduates in Washington State.

In theory, our focus area could have been as broad as the entire world or as narrow as Tacoma. However, because the concept for a law school in Tacoma would be regionally focused, it seems unlikely that we would draw a large number of students from a world-wide or even a nation-wide pool. On the other hand, the regional focus will almost certainly extend beyond Tacoma itself. This would seem to present three potentially realistic options for geographic scope, in order of increasing size:

- The South Sound Region, defined as the 6 nearby counties (King, Kitsap, Lewis, Mason, Pierce, and Thurston);
- Washington State; or
- The Pacific Northwest, defined as Washington, Oregon, and Idaho.

While a UWT law school would likely draw most of its students from the South Sound Region, this seemed like too narrow a focus. Because a UWT law school would be one of only two public law schools in the state, and because of the benefits of in-state tuition, it seems likely that a UWT law school would be of significant interest to potential students from across the state.

On the other hand, the Pacific Northwest seems like too broad of a focus. While it is possible that students from Oregon and Idaho might be interested in such a school, those students have options within their states, some of which would provide them with in-state tuition discounts. And if they are looking for an out-of-state school, while there may be some degree of regional affinity, a UWT law school would provide little that would draw such students more than any other school outside of their own state.

For these reasons, we decided to focus on Washington State as our target market, though with a particular focus on the South Sound Region.

That is not to say that people outside of Washington State might not want to attend UWT Law. (We will account for that possibility in the second part of our analysis, in which we determine the likely UWT Applicant Pool.) Rather, it is to say that UWT Law would be focused on students from this state, and that the lion's share of applicants will likely come from this state.

Although this report will focus on the local market, it will examine national trends, as well as local trends, to provide context and inform its assumptions (particularly where local data is limited).

## b. JD Applicant Pool: National and Local Trends

Trends for the JD Applicant Pool are bad, both nationally and locally. The percentage of college graduates who apply to law school is down, and so is the number of applicants. These figures are not likely to increase significantly over the next 10 years.

Some key indicators from the Campos Secondary Research Report include the following (with citations to page numbers in that Report):

- The good news is that the number of graduates from 4-year colleges has been rising. Over the last 15 years and the last 5 years, this number has increased an average of 3.1% per year. (p.3) Moreover, this number is expected to continue to rise at a similar rate over the next 5-10 years. (p.3) This is the population of people who might conceivably go to law school.
- The bad news is that the percentage of college graduates who apply to law school has been falling steadily, and this percentage is not expected to improve significantly any time soon.
  - In 2015, 2.9% of 4-year college graduates applied to law school. This is down from a high of 7.5% in 2003. (p.3)<sup>1</sup>
  - This ratio is expected to fall to 2.8% by 2020 and 2.7% by 2025. (p.3)
- Consistent with this is the fact that the number of people who take the Law School Admission Test (LSAT) is down and not likely to increase significantly.
  - From 2010-2015, the number of LSAT takers has declined by an average of 6.79% per year. (p.2)
  - The number of LSAT takers hit a high of 138,286 in 2009. In 2015, there were 86,178 takers. (p.2)
  - This number is predicted to continue to fall through 2020 to 84,900 per year. By 2025, the number of takers is predicted to increase slightly to 89,994 per year. This would be higher than the 2015 level, but lower than the 2012 level. (p.2)
- Perhaps most importantly, the upshot of all this is that law school applicants are down and not likely to increase significantly.
  - From 2010-2015, the number of applicants fell an average of 9.0% per year. (p.4).
  - The number of applicants hit a high of 100,600 in 2004. In 2015, 54,500 potential students applied. (p.4)
  - The number of law school applicants is predicted to continue to fall through 2020 at an annual rate of 0.3%. (p.4, dividing rows) Between 2021 and 2025,

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<sup>1</sup> This does not mean that these graduates applied to law school in the same year as they graduated. Rather, this is a ratio of the number of law school applicants in a particular year compared to the number of college graduates that year. The applicants are not necessarily that year's graduates.

the number of applicants is predicted to increase slightly, at an annual rate of 1.2% (to a level that would still be below the 2013 level). (p.4, dividing rows)

Local trends have been similar to national ones, with applicants declining. Some key indicators from the Campos Secondary Research Report include:

- LSAT takers from Washington State are down, both in terms of where test was taken (5.63% per year on average over the last 4 years) and in terms of residence of takers (7.13% per year on average over the last 4 years). (p.12)
- The number of applicants from Washington State is down significantly.
  - In 2015, there were 914 applicants from Washington State. (p.13)
  - This is down an average of 10.49% per year between 2011 and 2015. (p.13)
  - Oregon and Idaho have seen similar declines, at 9.22% and 7.39% respectively. (p.13)

Unlike the national figures, we do not have projections for applications at the local law schools for future years. However, there is no reason to believe that their situation will differ appreciably from the national picture. That is, there is no reason to believe that they will see a significant increase in applications over the next 10 years.

#### c. Determining the JD Applicant Pool

As noted above, in 2015, there were 914 law school applicants from Washington State. (p.13) This known data point is likely the best indicator of the JD Applicant Pool. Accordingly, that is the figure we use in our analysis.<sup>2</sup>

Of course, applicants from Washington State might not apply to in-state schools, and even those who do will not necessarily apply to a UWT law school. Conversely, applicants from other states might apply to a UWT law school. Those two issues will be addressed in the next step in the analysis: the determination of how many applicants – both from within and outside of Washington State – would likely apply to a UWT law school.

The question also remains as to whether we expect growth in this JD Applicant pool and, if so, at what rate. As noted above, the number of applicants from Washington State has been falling at an average of 10.49% per year between 2011 and 2015. (p.12) Though there are no forward-looking projections for Washington State, we can look to national projections. As noted above, national projections suggest that the decline in law school applicants will continue

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<sup>2</sup> There is an alternative method of determining the size of the JD Applicant Pool: We could look at the number of new graduates from 4-year colleges in the relevant market and multiply that figure by the proportion who are likely to apply to law school. However, that method requires several assumptions, while using last year's known number requires only one assumption (the projected rate of growth or decline), which would also be required using the alternative method. So the method we use here seems more likely to be reliable.

through 2020 at an annual rate of 0.3%, and then increase through 2025 at an annual rate of 1.2%. (p.4, dividing rows) Accordingly, our model will incorporate those projected rates of change in the national JD Applicant Pool.

It should be noted that it is possible that the existence of a UWT law school might increase the size of the JD Applicant Pool. That is, there may be people who did not apply to any law school in 2015 who would have applied had there been the option of a law school at UWT. We can think of this phenomenon as induced demand. Actually, there are two types of induced demand: pent up induced demand (the product of multiple years of induced demand) and ongoing induced demand. While pent up induced demand is likely larger in magnitude, it would have little effect on our model, since those applicants would likely apply soon after the school opened, and would therefore pay little in tuition. (As discussed more fully below, in the early years, a new law school like UWT Law tends to offer high levels of tuition discount.) Ongoing pent up demand, on the other hand, is likely to be relatively small, and there is no good way to predict its existence or extent. Moreover, counting on such induced demand in our model would be problematic if it did not materialize. Accordingly, we have not included induced demand in our model.

Based on this analysis, we project that the JD Applicant pool will be 914 as of 2015, decreasing at an annual rate of 0.3% through 2020 and then increasing at an annual rate of 1.2% through 2029.

### **Step Two: Projecting the UWT Applicant Pool**

#### **Projection: As of 2015:**

- **A UWT law school that had been fully accredited would receive 379 applications;**
- **A UWT law school that had not yet been fully accredited would receive 117 applications.**

**These figures will likely decrease at an annual rate of 0.3% through 2020 and then increase at an annual rate of 1.2% through 2029.**

#### a. National and Local Trends in Per-School Law School Applications

As noted above, the number of applicants nationwide has been falling. At the same time, the number of law schools has been increasing. Accordingly, the number of applications per school has been falling, and is not expected to rebound significantly.

- The number of applications per school fell from 3,022 to 1,660 between 2010 and 2015, an average decline of 9.0% per year. (p.4)
- By 2020, this number is projected to fall to 1,559. A slight increase to 1,624 is expected by 2025, though this would still be below 2015 numbers. (p.4)

- The number of applicants per school fell from 440 to 266 between 2010 and 2015, an average decline of 7.9% per year. (p.4) The number of applicants is less than the number of applications because most applicants send applications to multiple schools (an average of 6.2 applications per applicant). (p.3)
- By 2020, this number is projected to fall to 258. A slight increase to 266 – the same level as 2015 – is expected by 2025. (p.4)

Applications have fallen significantly at the state level, as well.

- Applications at 6 of the 7 regional schools<sup>3</sup> are significantly down. (UW Law in Seattle is a Top 30 school, which therefore faces a somewhat different market for law students.)  
Between 2010 and 2015:
  - The 7 regional law schools combined faced an average decline in applications of 8.18% per year. (p.19)
  - The 6 regional law schools other than UW (a Top 30 school) combined faced an average decline in applications of 11.72% per year. (p.20)
  - The 3 WA law schools combined faced an average decline in applications of 4.79% per year. (p.20)
  - The 2 WA law schools other than UW (a Top 30 school) combined faced an average decline in applications of 11.22% per year. (p. 21)
  - Seattle University Law School, which draws from a market similar to that expected for UWT Law, faced an average decline in applications of 11.24% per year. (p.17)

b. Projecting UWT Applications

We calculated the UWT Applicant Pool based on survey results from Campos’ primary research.

Campos surveyed current students and recent graduates from 4-year colleges who live in Washington State.<sup>4</sup> They provided a one-paragraph description of the proposed UWT law school and asked the question, “Based on the description above, how likely are you to apply to this program?”

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<sup>3</sup> The 7 law schools in the region are: (1) UW Seattle, (2) Seattle University, (3) Gonzaga, (4) University of Oregon, (5) Lewis & Clark (OR), (6) Willamette (OR), and (7) University of Idaho.

<sup>4</sup> Campos received 277 responses from a demographically and geographically balanced panel of more than 250,000 potential respondents who agree to periodically respond to survey for a small incentive. Of the respondents, 78 were current students in Washington State and 199 were recent graduates (from the last 10 years) of 4-year colleges who currently work in Washington State. (Campos Primary Report, p.2.)

The responses were as follows:

- “Extremely Likely” – 12.58%
- “Very Likely” – 39.77%
- “Somewhat Likely” – 32.95%

(Campos Primary Report, p.16.)

Campos applied standard discounts to each of those rates, since even those who say they will “definitely” do something do not always do it. Adjusted in this way, we would expect:

- 60% of those who responded “Extremely Likely” to apply (for a total of 7.55%);
- 50% of those who responded “Very Likely” to apply (for a total of 19.89%); and
- 30% of those who responded “Somewhat Likely” to apply (for a total of 9.89%).

(Campos Primary Report, p.16.)

So in total, we would expect 37.32% of the JD Applicant Pool to apply to UWT Law. (Campos Primary Report, p.16.) This is the projected UWT Application Rate.

This is in line with benchmarks from Campos’s secondary data sources. In 2015, among law school applicants from Washington State, 51.3% applied to Seattle University Law School and 25.9% applied to Gonzaga – an average of 38.6%. (p.13) Another helpful benchmark is the fact that, among Washington State applicants, 63% applied to at least one of the seven regional law schools. (p.14) If 60% of those Washington State applicants who applied to at least one regional school sent at least one application to UWT (Washington State applicants, on average, file 5.98 applications, p.13), we would expect that UWT would receive an application from 37.8% of them.

Multiplying the projected UWT Application Rate (37.32%) by the Projected 2015 JD Applicant Pool (914), as of 2015 we would project 341 applications from Washington State.

As noted above, we would also expect some applicants from outside of Washington State. Assuming that 10% of the school’s applicants came from potential students outside the state (which would be likely for a regional school like UWT Law), that would result in a total of 379 applications as of 2015.

#### c. Adjusting for Pre-Accreditation Status

It is important to note that the question asked in the Campos survey about whether JD Applicants would apply to a UWT law school assumed that the UWT law school was fully accredited. Prior to accreditation, potential applicants might feel differently.

To address this issue, the Campos survey included another question: The extent to which respondents would be deterred by the unaccredited status of a new school. A combined total of 69.0% of respondents said that they would “definitely not apply” (16.0%) or that they would “have to think about it” (53.0%). (Campos Primary Report, p.17.) This would suggest that, prior

to accreditation, we would be able to count upon only 31% of the projected applicants, for a total of 117 applications.

Thus, as of 2015, we would project that:

- A UWT law school that had been fully accredited would receive 379 applications; and
- A UWT law school that had not been fully accredited would receive 117 applications.

### **Step Three: Projecting the UWT Admit Pool**

**Projection: We expect that, as of 2015, the UWT Admit Pool would be:**

- **295 admits per year if the school were accredited; and**
- **91 admits per year prior to accreditation.**

We would not expect that UWT Law would admit every applicant. The question is, what portion of applicants would we expect UWT Law to admit?

Although there are many reasons why a law school might reject a particular applicant, the most common reason would be concern that a particular applicant might not succeed in law school and pass the bar exam. While we would expect UWT Law to do a holistic review of every application to determine the likelihood a particular applicant would succeed, for purposes of this study, we have only one readily available measure for likely success: LSAT scores, which tend to correlate with law school grades and bar pass rates.

The importance of bar passage cannot be overstated. Since 2013, bar passage rates have been falling, both nationwide and in Washington State. (p.43) Commentators have blamed this decline on schools relaxing admissions standards in the face of falling applications.<sup>5</sup> In response, the ABA recently amended its accreditation rule for bar passage, now requiring that 75% of each school's graduates must pass the bar within two years of graduation.<sup>6</sup> (The Washington State pass rate in 2015 was 73%. (p.43)) Moreover, in a signal that it sees admissions standards as a bar passage (and consumer protection) issue, the ABA has recently taken accreditation actions against four schools with low admissions standards: The ABA (1) denied provisional accreditation to the University of North Texas Law School, (2) publicly censured Valparaiso University School of Law, (3) placed Charlotte Law School on accreditation probation, and (4) put Ave Maria Law School on a remedial plan.<sup>7</sup> Each of those schools had

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<sup>5</sup> E.g., <https://www.insidehighered.com/news/2015/01/16/law-schools-compete-students-many-may-not-have-admitted-past>;  
[http://www.slate.com/blogs/moneybox/2015/10/29/law\\_schools\\_are\\_admitting\\_too\\_many\\_poorly\\_qualified\\_students.html](http://www.slate.com/blogs/moneybox/2015/10/29/law_schools_are_admitting_too_many_poorly_qualified_students.html); <https://www.bloomberg.com/view/articles/2016-08-08/crack-down-on-law-schools-that-don-t-pass-the-bar>.

<sup>6</sup> <http://www.law.com/sites/almstaff/2016/10/21/tighter-bar-pass-rule-adopted-by-aba-accrediting-body/>.

<sup>7</sup> [http://www.nxtbook.com/nxtbooks/cypress/prelaw\\_2016fall/#/16](http://www.nxtbook.com/nxtbooks/cypress/prelaw_2016fall/#/16) (North Texas); <http://www.law.com/sites/almstaff/2016/08/12/ave-maria-law-school-in-trouble-with-aba-over-admissions-policies/> (Ave Maria); <http://www.law.com/sites/almstaff/2016/11/16/aba-sanctions-two-more-law-schools-for-lax-admissions/> (Valparaiso and Charlotte).

recently accepted classes with median LSAT scores of 146 or lower.<sup>8</sup> So whatever one might think of the LSAT as a predictor of success, it is important to keep in mind that the ABA sees it as such a predictor.

There is some debate about the level at which low LSAT scores pose an unacceptable risk of failure in law school or on the bar exam. However, most commentators seem to suggest that schools should be extremely careful about accepting students with LSAT scores below 145.<sup>9</sup> To put this in perspective, one study done at Western State College of Law suggested that students with LSAT scores between 145 and 146 had less than a 50% chance of passing the bar (though that study also noted that there is variation between schools in preparing students with these indicators).<sup>10</sup> Accordingly, we posited that a UWT law school would admit few students with LSAT scores lower than 145.

This is not to say that we would expect a UWT law school to reject any applicant with a LSAT score below 145. As noted above, our expectation is that such a school would do a holistic review of every file, which might reveal reasons to believe that a particular applicant with a low LSAT score would nonetheless succeed in law school and on the bar exam. The point is that admissions of applicants with LSAT scores below 145 would likely be rare.

Among Washington State LSAT takers in 2015, 77.8% scored 145 or better. (p.10) So, based on that, we would project an admission rate for a UWT law school of 77.8%.

It is worth noting that there might be reasons other than low LSAT that might cause UWT Law to reject an applicant. For example, an applicant with an LSAT score above 145 may have a low college GPA, or a criminal record that causes concern. Thus, we considered using an admission rate lower than 77.8% to account for these types of rejections. However, as noted above, we expect that a UWT law school would admit some applicants with LSAT scores below 145, in addition to rejecting some applicants with LSAT scores of 145 or greater. Because we assume that these two types of cases will be small in number and will roughly offset each other, we decided to use 77.8% as our projected admission rate.

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<sup>8</sup> <http://www.abarequireddisclosures.org/> (in 2015, Charlotte had a median LSAT of 142 and a 25<sup>th</sup> percentile LSAT of 140 and Valparaiso had a median LSAT of 145 and a 25<sup>th</sup> percentile LSAT of 142); <http://www.law.com/sites/almstaff/2016/08/12/ave-maria-law-school-in-trouble-with-aba-over-admissions-policies/> (in 2014, Ave Maria had a median LSAT of 143 and a 25<sup>th</sup> percentile LSAT of 139); [http://www.nxtbook.com/nxtbooks/cypress/prelaw\\_2016fall/#/16](http://www.nxtbook.com/nxtbooks/cypress/prelaw_2016fall/#/16) (at p. 18) (in 2015, North Texas had a median LSAT of 146).

<sup>9</sup> E.g., <https://www.insidehighered.com/news/2015/01/16/law-schools-compete-students-many-may-not-have-admitted-past> (quoting one commentator: “For me, that 145 – going below that, even 145 itself – should be a no-go zone.”)

<sup>10</sup> [http://www.slate.com/blogs/moneybox/2015/10/29/law\\_schools\\_are\\_admitting\\_too\\_many\\_poorly\\_qualified\\_students.html](http://www.slate.com/blogs/moneybox/2015/10/29/law_schools_are_admitting_too_many_poorly_qualified_students.html). (By way of disclosure, one of the schools in this study, which did a better job preparing students with lower LSAT scores, was the University of Denver, where the author of this report was Dean.)

This is similar to the admission rate nationally in 2015, which was 77.6%. (p.3) Although this rate is higher than the 61.1% admissions rate in 2015 for the two schools in the state other than UW Seattle (p. 21, dividing columns), a higher admission rate would not be uncommon for a new school.

If we multiply the expected UWT Admissions Rate (77.8%) by the number of expected applicants, we would expect that, as of 2015, the UWT Admit Pool would be:

- 295 admits per year if the school were accredited; and
- 91 admits per year prior to accreditation.

#### **Step Four: Projecting UWT Enrollment**

**Projection: We project that, as of 2015, a UWT law school would enroll:**

- **66 students if it were fully accredited; and**
- **20 students prior to accreditation.**

The final question for enrollment is, of those admitted to UWT Law, how many would we expect to matriculate.

##### a. National and Local Trends in Law School Matriculation

The number of students attending law school has been falling, and so have law school yield rates (the percentage of students who accept a school's offer of admission by matriculating). These numbers are not likely to increase significantly over the next 10 years.

Some key indicators from the Campos Secondary Research Report include:

- The number of students who matriculate at law schools is down nationally:
  - The number of students matriculating at law schools has fallen by an average of 6.7% between 2010 and 2015. (p.3)
  - In 2015, 37,058 students matriculated at law schools. This is down from a high of 52,448 in 2010. (p.3) That number is expected to fall to 36,514 in 2020. By 2025, the number is expected to increase to 41,400, which would still be below the level it was in 2012. (p.3)
- Law school matriculants as a percentage college graduates is down nationally:
  - In 2015, law school matriculants equaled 2.0% of that year's graduating college students, down from a high of 3.8% in 2002. (p.3)
  - This ratio is expected to fall to 1.9% by 2020 and return to 2.0% by 2025. (p.3)
- Yield rates are down in Washington State:
  - In 2015, the yield rate for the three Washington schools was 22.2%. (p.20).
  - This represents an average annual decline of 5.73% over the last 5 years. (p.20)

- In 2015, the yield rate for the law schools in the state other than UW Seattle (a Top 30 school) was 22.3%. (p.21)
- This represents an average annual decline of 5.14% over the last 5 years (p.21)
- Seattle University Law School, which draws applicants from a pool that would likely be similar to a UWT law school, had a 2015 yield rate of 22.3% (p.17)
- This represents an average annual decline of 5.37% over the last 5 years. (p.17)
- At the same time, the total percentage of students receiving financial grants and the median amount of those grants have increased significantly. (p.17) In other words, it has cost Seattle University more money for lower yield. Had the school not increased its financial aid, its yield rate would almost certainly have been even lower.

b. Projecting UWT Law Matriculation

Because Seattle University draws applicants from a pool that would likely be similar to a UWT law school, and because its yield rates were similar to other schools in the region, we decided to use the yield rate from that school (22.3%) in our model.

There are reasons to think that the yield rate at a UWT law school might be lower than the yield rate at Seattle University. For example, Seattle University is an established law school in a city that has proven attractive to young professionals. On the other hand, there is at least one reason to think that the yield rate at a UWT law school might be higher than the yield rate at Seattle University: As a state school, the cost of tuition at a UWT law school would be substantially lower than that at Seattle University (as would the cost of living while attending law school). Additionally, during the time that a UWT law school was in its start-up phase and proving itself, the plan is to discount tuition even more than the basic in-state tuition level. For these reasons, we were comfortable using a 22.3% yield rate, similar to that at Seattle University, in our model.

We do not have available projections for future trends in yield rates. As noted above, yield rates at the local schools have been falling. There is no indication that this decline will reverse itself soon. On the other hand, the decline in yield rates appears to be slowing. Accordingly, in our model, we assumed that the yield rate at a UWT law school would remain constant at 22.3% through 2029.

Applying that yield rate to the projected number of admits, we would project that, as of 2015, a UWT law school would enroll:

- 66 students if it were fully accredited; and
- 20 students prior to accreditation.

### Step Five: Projecting Beyond the Base Year

**Projection: Based on projected growth from the 2015 base year, if a UWT law school were to open its doors in the fall of 2019, the enrollment in its first class would be 20 students. Assuming full accreditation in 2026, enrollment in that year’s entering class would be 69 students.**

The projection above is for a hypothetical base year of 2015. That is, it is a projection of what would have happened in 2015 if a UWT law school had been open and admitting students that year. However, an actual UWT law school would likely open in 2019. There are two trends that we expect will affect enrollment in 2019 and beyond.

First is the projected decline and then growth in the JD Applicant Pool. As discussed above, it is projected that the JD Applicant pool will shrink at a rate of 0.3% between 2015 and 2020, and then increase at a rate of 1.2% through 2025. As also discussed above, the other factors that affect application rates, admit rates, and enrollment are projected to remain largely stable through that time. Therefore, the size of the UWT Applicant pool should vary based solely on the slight variations projected in the size of the JD Applicant Pool discussed: an annual decrease of 0.3% through 2020 and then an annual increase of 1.2% through 2025. There are no available projections beyond 2025. Yet, we need to model through 2029.<sup>11</sup> We therefore assume that growth between 2025 and 2029 will continue at 1.2%.

Second, the accreditation status of a new UWT law school would likely change. The school would likely get provisional accreditation in 2021 (two years after opening), thereby allowing its graduates to sit for the bar exam. And it would likely obtain full accreditation sometime between 2024 and 2026 (three to five years after provisional accreditation). So the question is what effect would the passage of time and these milestones have on enrollment.

As noted above, Campos asked a question about the negative effect that pre-accreditation status would have on respondents’ likelihood of applying to a new UWT law school. That question allows us to distinguish in our projections between pre- and post-accreditation application behavior. However, the Campos question asked only about pre-accreditation versus post-accreditation. It did not ask about provisional accreditation. Thus, for purposes of these projections, we assume that only half of those who responded negatively (“definitely not apply” or “have to think about it”) would have that negative reaction once the school received provisional accreditation (which we project will occur before the new class enters in 2022).

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<sup>11</sup> We need a model that captures a new school’s enrollment once it has stabilized following full accreditation, when the newness of the school has a relatively small effect on enrollment. We can think of this as the “steady-state” phase of enrollment. Because total enrollment at any time is the product of three full-time cohorts and four part-time cohorts, we need to look four years beyond full accreditation to see steady-state enrollment – a time when all of the full- and part-time cohorts were admitted after accreditation. Because we assume full accreditation in 2026, we need a model that extends through 2029 to reach a steady-state.

If we apply those rates to our projections, we would expect the following enrollment figures:

	<b>Projected</b>	
<b>Year</b>	<b>Enrollment</b>	<b>Notes</b>
2019	20	Open
2020	20	
2021	20	
2022	43	Provisional Accred.
2023	44	
2024	44	
2025	45	
2026	70	Full Accred.
2027	70	
2028	71	
2029	72	

A spreadsheet showing these calculations is attached.

Note that this model assumes full accreditation in 2026, seven years after opening and five years after obtaining provisional accreditation. Although the earliest that a school can get provisional accreditation is two years after opening, it is possible to get full accreditation as early as three years following provisional accreditation. (The details of the ABA accreditation process and timeline are set forth in Appendix A.) Thus, if the school opened in 2019, it could conceivably get full accreditation by 2024. However, many new schools take longer than this to receive full accreditation, and the ABA seems to be scrutinizing new schools with particular care. So, for the sake of conservatism, the projection above assumes that a UWT law school would not be fully accredited until seven years after opening.

**II. Demand for Lawyers**

**Projection: Based on projected new job openings for lawyers, a UWT law school:**

- **Could comfortably enroll the 70 new students per year projected upon full accreditation in 2026. There should be sufficient jobs for those graduates.**
- **Could comfortably enroll as many as 79 new students per year (assuming that it could attract that many students). There should be sufficient jobs for those graduates.**

The feasibility of a new law school depends not just on student demand for the education it provides, but also on the demand for its graduates. As a moral matter, it would be problematic to build a school if there were not sufficient demand for its graduates. And as an economic matter, doing so would almost certainly be self-defeating in terms of student enrollment, and thus financial feasibility. If a school’s graduates have high rates of unemployment or underemployment, fewer potential students will want to attend.

Campos' secondary research addresses several aspects of the demand for lawyers, both nationally and locally. In this report, I will focus on the ones most likely to affect demand for lawyers from a potential UWT law school.

a. National and Local Employment Trends

Between 2007 and 2013, the national employment rate for lawyers slipped from 91.9% to 84.5%. (p.22) That rate then increased to 86.7% in 2015, and is expected to increase further to 88.1% in 2020 and 88.6% in 2025. (p.22)

Looking at employment rates for recent law school graduates is less encouraging. Most commentators evaluate law schools' employment outcomes by looking at the percentage of their graduates who, 10 months following graduation, held full-time, long-term jobs that either require bar passage (Bar Pass Required jobs) or for which holding a JD is an advantage (JD Advantage jobs).<sup>12</sup> I will refer to this as the 10-month employment rate. In 2015, the 10-month employment rate for the nation's law graduates was only 70.1%. (p.24, adding bars) This suggests that 29.9% were either unemployed or underemployed.

There is some uncertainty as to whether this figure is likely to improve. However, recent increases in starting salaries over the last few years suggests that demand for new lawyers may be starting to increase. (p.26)

Local trends are slightly worse. In 2015:

- The three Washington State law schools combined had a 10-month employment rate of 64.8%. This suggests an un/under-employment rate of 35.2%.
- The two Washington State law schools other than UW Seattle (a Top 30 school) had a combined 10-month employment rate of 58.8%. This suggests an un/under-employment rate of 41.2%.
- Seattle University had a 10-month employment rate of 53.9%. This suggests an un/under-employment rate of 46.1%.

(p.25)

As with national salaries, there have been modest gains in starting salaries for lawyers in Washington State over the last few years, possibly suggesting increasing demand. (p.37). However, until there is clearer evidence of increasing demand, these 10-month employment numbers suggest caution when contemplating building a new law school – and thus putting more law school graduates into this legal economy – at least in the short term.

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<sup>12</sup> This is not to say that other types of jobs may not be valuable to certain graduates. However, most commentators consider these the most valuable jobs for graduates, and the types of jobs that most students hope to obtain when they make the decision to go to law school.

## b. National Projections of Demand for Lawyers

The U.S. Bureau of Labor Statistics (BLS) projects that, between 2014 and 2024, there will be 15,800 lawyer job openings per year (new jobs and jobs from turnover). (p.28) If this is correct, it would paint a grim picture, since the nation's law schools are producing significantly more graduates than this number of jobs. For example, in 2016, even after reductions in enrollment, the nation's law schools produced approximately 36,000 new graduates – more than twice the number of projected lawyer job openings.<sup>13</sup>

There are three reasons to believe that the national picture is not as grim as that painted by the BLS statistics. First, the ABA has noted that “data collected since 2011 shows an average of 29,000 law grads find positions requiring bar passage each year, and that doesn't include grads who clerk or take other jobs who later find JD-required positions.”<sup>14</sup> This is nearly double the number of lawyer jobs predicted by the BLS.

Second, recent lawyer employment rates suggest that there is more than one job for every two graduates. As noted above, the employment rate for all lawyers in 2015 was 86.7% in 2015 (p.22), and the 10-month employment rate for new law school graduates was 70.1%. (p.24, adding bars) While this figure is not completely encouraging, it does suggest that there were more than 15,800 jobs for the nation's roughly 40,000 graduates that year.

Third, the BLS recently changed its methodology for projecting job openings. Although the BLS has not yet released projections using its new methodology, Campos estimates that, had the new methodology been used in the BLS' 2014-2024 projections, the BLS would have projected 41,200 job openings per year (new jobs and jobs from turnover). (p.28) As might be imagined, there are critics who believe that the BLS's new methodology paints a picture that is too optimistic.<sup>15</sup> But at the very least, the ABA's data and the recent 10-month employment data suggests that the BLS's old method may have been too pessimistic.

## c. Local Projections of Demand for Lawyers

Given that the employment market for graduates from a UWT law school would likely be local, rather than national, the more important projections are local ones.

Washington State's Economic Security Department (ESD) projects that, between 2019 and 2024, there will be 460 lawyer job openings per year in the state (new jobs and jobs from

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<sup>13</sup>

[http://www.abajournal.com/news/article/are\\_2016\\_law\\_grads\\_in\\_luck\\_new\\_stats\\_say\\_lawyer\\_jobs\\_will\\_exceed\\_graduates/?utm\\_campaign=weekly\\_email&utm\\_source=maestro&job\\_id=141119AS&utm\\_medium=email](http://www.abajournal.com/news/article/are_2016_law_grads_in_luck_new_stats_say_lawyer_jobs_will_exceed_graduates/?utm_campaign=weekly_email&utm_source=maestro&job_id=141119AS&utm_medium=email)

<sup>14</sup>

[http://www.abajournal.com/news/article/are\\_2016\\_law\\_grads\\_in\\_luck\\_new\\_stats\\_say\\_lawyer\\_jobs\\_will\\_exceed\\_graduates/?utm\\_campaign=weekly\\_email&utm\\_source=maestro&job\\_id=141119AS&utm\\_medium=email](http://www.abajournal.com/news/article/are_2016_law_grads_in_luck_new_stats_say_lawyer_jobs_will_exceed_graduates/?utm_campaign=weekly_email&utm_source=maestro&job_id=141119AS&utm_medium=email)

<sup>15</sup> <http://abovethelaw.com/2014/11/will-there-be-more-lawyer-jobs-than-grads-in-2016/>.

turnover). (p.38) In 2015, the state's three law schools combined produced 579 new graduates.<sup>16</sup> So even just looking at job openings compared to new graduates in the state, the local situation appears better than the national one.

Of the 460 lawyer job openings, the ESD projects that:

- 30 will be in Pierce County;
- 30 will be in Kitsap, Lewis, and Thurston Counties;
- 266 will be in King County;
- 33 will be in Snohomish County; and
- 101 will be outside of these counties

(p.38, adding columns)

We assume that graduates of a UWT law school would have the greatest competitive advantage in Pierce County (which contains Tacoma). They would likely have made strong connections in this area, through externships, relationships with adjunct professors, and local bar association activities. As they move farther away from this area, we would expect their competitive advantage to decrease.

While King County is relatively close, there are two reasons to expect that graduates from a law school at UWT would not dominate that job market. First, there are already two established law schools in that market: UWS Law and Seattle University. Between them, these two schools graduated 458 students in 2015. Just as we would expect UWT students to have a competitive advantage in the Tacoma area, we would expect graduates of UWS Law and Seattle University to have a competitive advantage in King County. Second, there is significant national competition for jobs in King County, a location that is nationally known as a desirable place to live. Because of this, competition for most job openings there includes recent graduates from several top schools, as well as experienced lawyers, from across the country.

If we assume that graduates from a law school at UWT could capture:

- 40% of the lawyer job openings in Pierce County;
- 30% of the lawyer job openings in Kitsap, Lewis, and Thurston Counties;
- 10% of the lawyer job openings in King and Snohomish Counties, and
- 10% of the lawyer job openings in other parts of Washington State,

then we would expect the school's graduates to be able to find approximately 61 lawyer jobs per year in the state.

This calculation allows us to project a maximum level of enrollment with which UWT Law could feel comfortable in terms of its graduates' ability to find jobs. To determine that maximum enrollment level, we can reason as follows:

- If we assume that 10% of the school's graduates would not seek jobs as a lawyer or would seek jobs out of state, this would suggest that the school could comfortably

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<sup>16</sup> This number is based on data provided by the schools to the ABA.

graduate 68 students. Of those 68 graduates, 61 would seek a job as a lawyer – the number of lawyer jobs we would expect them to be able to obtain.

- If we assume a non-graduation (attrition) rate of 14.3%, which is the national average (p.46), we could enroll 79 students, expecting that 68 would graduate – the number of graduates we would expect for 61 lawyer jobs.<sup>17</sup>

This suggests that, if our enrollment projections above are correct, we should feel comfortable enrolling the 70 new students per year that would be expected once the school is fully accredited.

But it also suggests that UWT Law might hesitate to enroll more than 79 new students per year (even if it could attract those extra students). Beyond that level, the school's graduates might face significant difficulty in finding jobs. In other words, if these projections are correct, UWT Law might consider an enrollment cap at 79 new students per year (assuming it could attract that many).

There is an argument to be made that these employment projections are too conservative. In the projections discussed above, the Washington State ESD relies on the old methodology used by the United States Bureau of Labor Statistics (BLS). As noted above, the BLS plans to change its methodology starting this year, and the new methodology will likely yield higher projections for the available number of lawyer jobs. If, as is likely, the ESD adopts the new BLS method, its projections will likely increase, as well. Campos estimates that, using the new methodology, ESD would have projected 1,199 new lawyer job openings in the state, distributed as follows:

- 78 in Pierce County;
- 78 in Kitsap, Lewis, and Thurston Counties;
- 694 in King County;
- 86 in Snohomish County; and
- 263 outside of these counties

(p.39, adding columns)

Using these Campos-revised ESD figures, the calculations above would suggest:

- UWT Law graduates could capture 159 new lawyer jobs in Washington per year;
- UWT Law could comfortably graduate 177 students per year into this job market; and UWT Law could comfortably enroll 206 new students per year in such a job market.

In other words, if the Campos-revised ESD figures and the assumptions above proved correct, UWT Law might consider capping enrollment at 206 students per year (assuming it could attract that many students).

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<sup>17</sup> We do not consider transfers in this calculation, since any student admitted who transferred to another law school in Washington State (which would likely be the case for most transfers) would likely still compete for one of these jobs.

However, there are two potential problems with assuming an enrollment cap of 206 new students per year. First, as noted above, the new BLS methodology is at least somewhat controversial. Critics of that method would argue that we should be hesitant to rely on it.

Second, given the current employment experience of Washington State law graduates in the region, it is hard to believe that there are really 1,199 new jobs per year in the state. As noted above, in 2015, the three Washington State law schools combined had a 10-month employment rate of 64.8%. And Seattle University had a 10-month employment rate of 53.9%. (p.25) These rates seem more consistent with an economy with 460 new lawyer job openings per year (the current ESD projection) than an economy with 1,199 new lawyer job openings per year (the Campos estimate, assuming that the ESD adopted the new BLS methodology).

Moreover, it is important to remember that, even if UWT Law felt comfortable with an enrollment cap of 206 new students per year, the enrollment projections above suggest that there is no reason to think UWT Law would actually be able to attract that many students. Those projections suggest that UWT Law could reasonably expect to attract 70 new students per year by 2026.

It is also important to remember that this job-openings analysis includes a number of assumptions, some of which may turn out to be incorrect. The point is to have in mind a ballpark figure for maximum responsible enrollment for two reasons. First, it should give us some comfort that, if we are correct about our projected enrollment (70 students at full accreditation), those students will likely be able to find jobs. Second, in the event that enrollment exceeds that projection, it suggests a cap on enrollment that would affect the school's economic feasibility.

### **III. Revenue Projections**

As noted above, revenue is calculated by multiplying student headcount (enrollment) by the net tuition paid by those students.

To model net tuition, I worked with people in the UWT budget office to determine system-wide norms for tuition and university-funded scholarship discounts for graduate professional schools on the UWT campus (particularly the business school). Based on these discussions, we assumed:

- 90% of students would be Washington State residents, while 10% would be out of state residents.
- An out-of-state tuition differential of 1.63.
- A 2016 in-state tuition rate of \$21,462 per year for Autumn, Winter, and Spring Quarters. This rate is based on the rate for the MBA program at the Milgard School of Business at UWT.
- No revenue for Summer Quarter. Though students might take courses during Summer Quarter, which might result in additional tuition revenue, the experience at UWS Law

has been that students who take summer courses do so in order to graduate a quarter early, which effectively offsets Summer Quarter revenue. Accordingly, we do not include Summer Quarter revenue in our model.

- A tuition rate for part-time students of 75% the rate paid by full-time students, with 33.3% of the school’s students in the part-time division.
- Tuition increases of 2% per year.
- A financial aid (discount) rate of 90% for the first year of operation, 75% for the second year, 50% for the third year, and 25% for the fourth year. This type of deep discounting has been the model are most recently-opened law schools, and appears necessary to attract students to an unknown school that would initially be unaccredited and then would be only provisionally accredited.
- A subsequent financial aid (discount) rate after the fourth year of 10%.
- Students would take 135 quarter credit hours to graduate. Full-time students would take an average of 45 quarter credit hours per year over 3 years.
- An attrition rate (students washing out or quitting) of 5% per year. This is similar to Seattle University (14.4% over three years), as well as the national attrition rate (14.3% over three years).<sup>18</sup> (p.46)
- A net outbound student transfer rate of 2% per year. The combined 2015 net outbound transfer rate for the University of Seattle and Gonzaga is 3.4% relative to that year’s incoming class. (p.47) However, most transfers occur after a student’s first year. Accordingly, we assume a regular annual net transfer-out rate of 2%.

Based on these assumptions, and the enrollment projections discussed above, we project annual tuition revenue before overhead as follows:<sup>19</sup>

<b>Projected Tuition Revenue (before Overhead)</b>	
2018	\$0
2019	\$43,516
2020	\$212,141
2021	\$620,954
2022	\$1,419,876
2023	\$2,203,628
2024	\$2,680,800
2025	\$2,879,538
2026	\$3,524,629
2027	\$4,137,177
2028	\$4,734,529
2029	\$4,998,082

<sup>18</sup> Most attrition occurs after the first year. However, to simplify the model, we assumed steady attrition across three years for full-time students and four years for part-time students.

<sup>19</sup> Note that these projections include only revenue from tuition. They do not include any revenue from the state or any revenue from philanthropy.

A pro forma detailing these calculations is attached.

Because of the way that the University of Washington budget process works, overhead costs are calculated based on gross (before discount) revenue. For this purpose, we assume:

- UWT Overhead cost of 46% of Gross Revenue (before Discount)
- UWS Overhead cost of 10% of Gross Revenue (before Discount)

Based on these assumptions, and the tuition revenue projections discussed above, we project annual tuition revenue after overhead as follows:

<b>Projected Tuition Revenue (after Overhead)</b>	
2018	(\$121,845)
2019	(\$200,174)
2020	(\$263,055)
2021	(\$74,514)
2022	\$359,702
2023	\$832,482
2024	\$1,012,747
2025	\$1,087,825
2026	\$1,331,526
2027	\$1,562,934
2028	\$1,788,600
2029	\$1,888,164

A pro forma detailing these calculations is attached.

**IV. Expense Projections**

On the cost side, I worked with people in the UWT budget office to develop a pro forma for the cost structure of a new law school. This work was informed both by my experience as a law school dean and by the UWT budget officers’ experience with budgeting in the UW system.

We also discussed ways that the curriculum at such a new law school might be tailored to needs in the South Sound area and to the needs of potentially non-traditional students in that area. For example, it was clear that there was significant interest in a part-time evening or weekend program. So we included such a program in the financial pro forma, even though it increases expense (by requiring additional resources). However, while other potential innovations might be of interest, such as a significant level of online programming, the views of accreditors on such innovations are unclear and potentially in flux. For that reason, the financial model that we used included more traditional aspects of legal education that would might be required as part of the accreditation process.

Our assumptions included:

- Expense inflation of 3%
- A faculty comprised of:<sup>20</sup>
  - 6 junior tenure-line faculty
  - 3 mid-career tenure-line faculty
  - 5 full-time contract faculty (2 legal writing instructors, 2 clinicians, and a library director)<sup>21</sup>
  - 12 adjunct faculty members from the community, as we are lucky enough to have numerous talented lawyers in the community who say they would welcome the opportunity to teach UWT law students.<sup>22</sup>
  - A dean and associate dean
- A relatively lean staff, focused heavily on student services.
- A relatively lean library, with acquisition focused on licenses for on-line materials.
- Benefits costs of
  - 24.3% for faculty
  - 30.5% for professional staff
  - 39.4% for classified staff
- Real estate needs that can be met through refurbishing of existing space on the current UWT campus.

Note that our pro forma budget tries to anticipate expenses that would be required both to provide a strong legal education and to satisfy the ABA accreditors. However, it is difficult to predict exactly what the ABA might request of a new school during the accreditation process.

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<sup>20</sup> Note that, at projected enrollment rates, this would yield a student-faculty ratio of roughly 15: 1 (assuming that 33.3% of students enroll in the part-time program). Elite schools and those that are highly focused on experiential learning tend to operate with student-faculty ratios nearer to 10:1. However, doing so creates significant upward pressure on tuition. And the relatively lean staffing in our model, with enhancement from local adjunct faculty (who do not count in student-faculty ratios under ABA rules) should be adequate. But it is worth noting that, given course coverage needs, it would be difficult to reduce the faculty significantly below this size.

<sup>21</sup> The pro forma also assumes staff members, as opposed to faculty members would run the externship program. It might make sense to have faculty members run this program. But the costs would be similar.

<sup>22</sup> Using the full-time and adjunct faculty numbers from the pro forma, and assuming that each adjunct would teach one class, adjuncts would teach 27% of the courses. Depending on the credit hours and student load in these courses, we would need to be careful about meeting requirements for full-time teaching load from the Association of American Law Schools (AALS), but should be able to meet these requirements.

Based on these assumptions, we project annual operating expenses as follows:

<b>Projected Expenses</b>	
2018	\$3,147,857
2019	\$3,673,202
2020	\$4,927,311
2021	\$5,908,393
2022	\$6,010,272
2023	\$6,190,580
2024	\$6,376,297
2025	\$6,567,586
2026	\$6,764,614
2027	\$6,967,552
2028	\$7,226,579
2029	\$7,391,876

A pro forma detailing these calculations is attached.

**V. Net Operating Margin Projections**

Based on the above, and assuming no state or philanthropic support, we project net operating margin as follows:

<b>Projected Operating Margin</b>		
	<b>Annual</b>	<b>Cumulative</b>
2018	(\$3,269,702)	(\$3,269,702)
2019	(\$3,873,376)	(\$7,143,078)
2020	(\$5,190,366)	(\$12,333,445)
2021	(\$5,982,907)	(\$18,316,352)
2022	(\$5,650,570)	(\$23,966,922)
2023	(\$5,358,098)	(\$29,325,020)
2024	(\$5,363,551)	(\$34,688,571)
2025	(\$5,479,761)	(\$40,168,332)
2026	(\$5,433,088)	(\$45,601,420)
2027	(\$5,404,619)	(\$51,006,038)
2028	(\$5,437,979)	(\$56,444,017)
2029	(\$5,503,712)	(\$61,947,729)

A pro forma detailing these calculations is attached.

**VI. Sensitivity Analysis**

The analysis above is based on a particular, projected enrollment. Specifically, it is based on the projection that enrollment will start at 20 new students in 2019 and increase to 70 new students by 2026, growing only slightly (at a rate of 1.2% annually) after that.

The question remains: If enrollment were different, how would that affect the financial picture. To answer this question, here is a sensitivity analysis for six possible 2026 (full-accreditation) 1L enrollments:<sup>23</sup>

<b>2026 Enrollment</b>	<b>Notes</b>	<b>2029 Projected Operating Gain/(Loss)</b>
35	If fall short of projection	(\$6,439,327)
70	Projected enrollment	(\$5,503,712)
79	Max. for current ESD job projection	(\$5,241,836)
150		(\$3,309,522)
206	Max. for aggressive job projection	(\$1,785,443)
272	Break-even	\$10,793

This analysis helps to understand the magnitude of 1L enrollment that would be required to reduce the projected operating loss. However, two things should be kept in mind. First, it is possible that our projections have overestimated likely enrollment. The experience of Indiana Tech’s new law school, which recently announced it would be closing following major shortfalls in actual as opposed to projected enrollment, demonstrates the difficulty that can occur in this event. Second, even if our projections underestimated enrollment, or if we could somehow drive enrollment beyond these projections, current 10-year job estimates suggest an effective cap on class size at 79 students per class. Above this, we would expect that our graduates would have particular difficulty finding jobs in the region.

**VII. Potential Non-Financial Reasons to Open a New Law School at UWT**

Based on the above analysis, it seems likely that any new law school at UWT would operate at a loss, at least for the next decade. Although the financial picture might improve after the end of the projection period, there is no good way to know this (and no evidence to support such a prediction).

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<sup>23</sup> For simplicity, this sensitivity analysis assumes no growth in faculty size as class size grows (though it does assume growth in enrollment beyond 2026 by 1.2% per year). This may not be realistic since more faculty would likely be required if significantly more students enrolled. If we needed to increase faculty size as class size grows, the break-even class size would be larger.

However, there may be reasons for opening and operating a new law school even if that school were to operate at a loss. These reasons were discussed at a series of focus groups that were conducted with members of the Tacoma legal and business community, and also with members of the Nisqually Tribe. In August 2016, we conducted four separate focus groups for members of the Tacoma law and business community. A total of 35 of people attended. In addition, we did a separate focus group with members of the Nisqually Tribe.

The potential benefits that might flow from the opening of a new law school in Tacoma fall into the following categories:

- 1) Opportunities for potential law students in the region.
- 2) Improved availability of legal talent in the region.
- 3) Help in closing the “justice gap” (the fact that a large number of people who need legal services cannot find or cannot afford those services) in the region.
- 4) Education in subjects that are particularly in demand in the region.
- 5) Opportunities for workforce development in the region.
- 6) Enhancement of intellectual life in the region.
- 7) Enhancement of community reputation.
- 8) Spurring economic development in the region.

Each was discussed at the focus groups in more depth as follows:

- 1) Opportunities for potential students. At one focus group, there were two undergraduate students who were planning to attend law school and expressed interest in a local law school. Additionally, Nisqually Tribe members expressed similar interest.
  - a) Potential access barriers for local students. For potential students, a local school might potentially address four important issues relative to access to law school:
    - i) Geographic access. Potential students discussed issues that made it difficult for them to attend school outside of the South Sound area. For example, some had family obligations in the area. Others had jobs. Moving or commuting outside of the South Sound area – even to Seattle – would present a hardship on them to the point where they might forego law school, even though it was their goal to go to law school.
    - ii) Part-time access. Some attendees thought there might be a need for a part-time law school program so that people who work can attend law school. These attendees noted that, for such students, the commute to Seattle to attend law school would be particularly daunting.
    - iii) Admissions access. Another access issue that attendees discussed was the difficulty of getting into the University of Washington Law School in Seattle. UW Law in Seattle is a Top 30 school with accordingly high admissions standards, requiring

excellent LSAT scores and undergraduate grades for admission. Attendees at our focus group expressed some frustration that UW Law in Seattle might therefore be out of reach for many potential students in the South Sound area. As a new school, it was assumed – likely accurately – that a UWT law school would be less highly ranked than UW Seattle, and less exacting in its admissions standards.

Elitism by students. Notably, however, the two students at our first focus group both said that if they could get into a highly ranked law school like UW Seattle, they would choose such a school over a new school in Tacoma with an unestablished, and likely inferior reputation and ranking.

- iv) Cost. Students who might not be able to gain admissions to UW Seattle might still be able to get into other nearby law schools, such as Seattle University, which has lower admissions standards in terms of LSAT scores and undergraduate grades. However, the cost of tuition at Seattle University Law, a private school, is roughly \$42,000 per year for their full-time program. As a public school and part of the UW system, a new UW law school in Tacoma would be significantly less expensive in terms of tuition cost. (As a point of comparison, we anticipate that a new UWT law school would charge \$21,462.) And being located in Tacoma, rather than Seattle, such a new law school would likely be less expensive in terms of the cost of living while attending school.
  - b) Offering legal education to underserved populations. Related to the access point, described above, some attendees indicated that they thought that a new law school in Tacoma would make legal education available to previously underserved populations, potentially increasing diversity in the local legal community. They observed that the urban-serving UWT campus has increased access for many residents of the region, and believed that a new law school on the UWT campus would have a similar effect. Similarly, members of the Nisqually Tribe expressed the hope that a local law school would provide access to their members and members of other local tribes.
  - c) Access v. demand. As noted above, demand for a new law school in Tacoma would likely be limited: we project that, by 2026, the entering class would contain 70 students. The access issues expressed above do not change that analysis. These narratives from our focus group attendees do not – and were not intended to – shed light on the number of people who might attend a new law school in Tacoma. Rather, they serve to explain some of the reasons why people in the region might want to attend such a school, and thus some of the benefits that might be provided by a new law school.
- 2) Improving the availability of legal talent in the region. Many people expressed concern that it was difficult for them to find legal talent for their offices, and hoped that a new law school in Tacoma might increase the availability of legal talent. This concern seemed to relate to two types of legal talent: interns and permanent hires.

- a) Legal interns. Legal interns are generally law students who work in law offices while they are in school or during the summers. Internship programs are very popular at law schools, particularly law schools focused on experiential education. These programs are also very popular among students. Students work for academic credit or for pay. (Starting this August, a new ABA rule permits students to receive both academic credit and pay if their school permits that.) However, even when interns are paid, the pay is relatively low. Between the low pay and high costs of travel (in time and money), the incentive for students to come from Seattle to Tacoma for internships is low. The attendees believe that a new law school in Tacoma would result in more students willing to take internships in Tacoma and Olympia. The reasons why interns were important to focus group attendees included:
- i) Low cost help. Interns can help perform legal (and non-legal) work at little or no cost.
  - ii) A pipeline of potential employees. Most of the attendees who spoke about interns noted that their preferred method of hiring for long term jobs is to work with someone first as an intern. This “try-before-you-buy” approach allows employers to see the intern’s work first-hand, as well as to get a sense of the intern’s fit within the office, and is very common in small to mid-size firms and government offices.
- b) Permanent employees. A second concern that attendees raised regarding legal talent focused on permanent hires, as opposed to interns. Several attendees expressed the idea that a law school in Tacoma would provide a pool of lawyers who might be good hires. Some sub-themes that emerged included:
- i) Filling vacancies left by retirees. There is a concern that, in the not-too-distant future, there will be a dearth of lawyers in the community. This concern stems from perceptions that the average age of the practicing bar is high, and that a large number of lawyers in the community are approaching retirement age and will need to be replaced. The attendees expressing this concern believed that having a school in Tacoma would make it easier to fill the need for lawyers.
  - ii) Need for new school to fill vacancies unclear. Some attendees questioned whether there is any significant problem filling vacancies for legal positions in the region.
    - (1) None of the attendees indicated that they had significant trouble filling attorney jobs. Some of them indicated that they now receive fewer applications than they did during the height of the recent recession (when they would receive hundreds of applications for a single opening). But they indicated that they still

receive plenty of high-quality applications for most positions they are trying to fill.

- (2) Some attendees wondered whether there is really a need for more law graduates. These attendees pointed to national hiring statistics, which suggest significant unemployment and underemployment among recent law graduates across the country. Other attendees noted that recent graduates from local law schools, including the UW Seattle and particularly Seattle University have had significant trouble finding jobs. As noted above:
  - (a) In 2015, the 10-month employment rate for the nation's law graduates was only 70.1%. This suggests that 29.9% were either unemployed or underemployed.
  - (b) The three Washington State law schools combined had a 10-month employment rate of 64.8%. This suggests an un/under-employment rate of 35.2%.
  - (c) Seattle University had a 10-month employment rate of 53.9%. This suggests an un/under-employment rate of 46.1%.
- (3) Some attendees raised the question of the degree to which Tacoma's legal employment situation might differ from the national situation, or even the situation in Seattle. They therefore questioned the degree to which national hiring statistics or even those from local schools outside of Tacoma are relevant and hypothesized that graduates from a law school in Tacoma might face better employment prospects. However, there are several reasons why we might doubt the hypothesis that there are or will be a disproportionate number of legal job openings in Tacoma.
  - (i) First, and most importantly, the data do not suggest a disproportionate number of legal job openings in Tacoma. The Washington ESD projects only 30 job openings per year (new jobs and jobs from turnover) in Tacoma through 2024. (p.38)
  - (ii) Second, the focus group attendees had no anecdotal evidence to suggest a legal jobs glut in Tacoma. To the contrary, they indicated that they had no trouble filling legal job openings. And at least one attendee indicated he knows of recent law graduates who are having trouble finding a job in Tacoma.
  - (iii) Third, there is no indication of excessive immobility between Tacoma and the regional or national legal job markets. If there were in fact a

disproportionate number of open legal jobs in Tacoma, absent some type of immobility, those jobs would tend to be filled by un- and under-employed graduates and experienced lawyers from outside of Tacoma. There is no evidence of such immobility. In fact, attendees at the focus group indicated that they tended to receive applications from a national pool for open jobs, suggesting no particular insulation from the broader market.

(iv) This is not to say that un- or under-employed attorneys in Seattle or beyond might not prefer to keep looking for work in their home market before taking an open job in Tacoma. Rather, the point is that there is nothing in particular keeping them out of the Tacoma market, and that legal employers in Tacoma seem to be able to fill legal job openings with relative ease.

iii) Other issues regarding hiring

(1) A preference for hiring graduates from a local school? Some of the attendees who hire lawyers in Tacoma also indicated that they would like to hire from a local school. But others indicated that they engage in some elitism in their hiring; that they are impressed by graduates of “name brand” schools. These attendees indicated that they would welcome the opportunity to consider graduates of a new school in Tacoma, but that they would not necessarily hire those graduates over similarly skilled graduates from UW Seattle or other highly-ranked schools.

(2) Trust-based hiring. Some attendees suggested that the issue was not the number of applications they might receive for a job opening, or even about the quality of those applications from an objective standpoint (e.g., the ranking of the school the applicant graduated from). Rather, for these attendees, the issue was about getting applications from people that they had some connection with – either through internships or through a local referral network, which they indicated was important to them. Some attendees referred to this as “trust-based” hiring, and noted that it is particularly important for smaller law offices.

iv) Getting employees to move to or stay in South Sound. Another, related, concern among some attendees was that, even though they are getting a sufficient number of applications for job openings, it is sometimes difficult for them to convince people to move to Tacoma or Olympia from out of town, and later to stay. These attendees believed that students who went to law school in Tacoma would know or come to understand the high quality of life in Tacoma and the South Sound, and thus be inclined to stay and build their legal careers there.

- 3) Closing the “justice gap.” Some attendees believed that a new school in Tacoma would help to address the “justice gap” in the South Sound area. The “justice gap” describes a well-demonstrated phenomenon in which a significant number of people who need legal services either cannot find such services or cannot afford them. Several attendees believed that there is a significant justice gap in the South Sound area. These attendees hoped that having a law school in Tacoma would help address the justice gap in the region in six potential ways:
- a) Law school clinics. A Tacoma law school might have law clinics that could serve underrepresented populations. Law clinics allow students, supervised by faculty, to provide representation to clients. Most law school clinics provide such representation to indigent clients or those with modest means. However, it was noted that, while a law school clinic can help some clients, the number of clients they tend to help and the range of topics covered – and thus clinics’ impact on the justice gap – tends to be small. But every bit helps.
  - b) Law school internship program. A Tacoma law school might have an internship program. As discussed above, student interns can work with practicing lawyers while the students are in school. This allows the practicing lawyers to take on more work than they otherwise might. If those practicing lawyers serve low income or modest means clients, that would increase their ability to serve these populations. Again, the total number of incremental cases taken would likely be small. But every bit helps.
  - c) Low-fee work by recent graduates. Some attendees thought a new school in Tacoma might address the justice gap because its graduates might work for low-income or modest means clients. The idea is that new graduates, who might have fewer employment opportunities than more established lawyers, might be willing to charge lower fees, and thus serve low income or modest means clients. In many localities, this has not happened to any significant degree, as recent graduates (even those who are under-employed) have held out for higher paying jobs or higher paying clients. However, some communities (sometimes in partnership with a local law school) have recently built “incubators” for recent graduates that have a low income or modest means client component. It is possible that some of these incubators may help address some portion of the justice gap.
  - d) New graduates in underserved communities. Some attendees hoped that graduates of a new law school in Tacoma might work in underserved communities, including in communities with large minority populations and in smaller towns in the region which they believed had a dearth of lawyers. However, when asked why graduates of a new law school in Tacoma might decide to settle in and serve such communities more than graduates of other law schools, only two suggestions were offered:

- i) Students at a new law school in Tacoma might come from those underserved areas. The idea is that residents from those areas may not have attended law school because of barriers to access at other law schools. If people from those areas were provided access, they might go to law school and then return to those areas to practice law. Access issues will be discussed below. But it should be noted that nationally, in law as well as medicine, it is not clear that graduates who come from underserved communities return to those communities in large numbers.
  - ii) Students might graduate from a new law school in Tacoma with less debt than they might have if they graduated from other schools. Hence, the issue might be about cost, which is discussed immediately below.
- e) Lower-cost legal education. Some attendees believed that the cost of traditional legal education contributes to the justice gap and hoped that, as a public school, a new law school at UWT would be able to provide lower-cost legal education. The suggestion was that, if graduates have to pay hundreds of thousands of dollars for their legal education, they cannot afford to charge low fees for their legal work. The extent that law school costs contribute to the justice gap is debated, and it is not clear that graduates of lower cost law schools disproportionately enter careers serving underrepresented clients. However, most attendees believed that lower cost legal education would be a good in and of itself, irrespective of whether it helps to close the justice gap. And it is hard to imagine that lowering the cost of legal education would hurt the effort to close the justice gap.
- f) LLLT training. The last way attendees thought that a new school might address the justice gap was that it might include a program for training Limited License Legal Technicians (LLLT's), who can be licensed to perform specific legal tasks for the public, and who tend to charge fees significantly lower than full-licensed lawyers. Although the degree to which LLLT's will end up alleviating the justice gap is unknown at this early stage, many commentators are optimistic about the concept. That being said, it should be noted that there are already schools in the area that appear to offer LLLT training, including the Tacoma Community College.<sup>24</sup>
- 4) A new school might enhance subject-specific legal services. Some attendees suggested that a new law school might offer specialty training to students in areas of law that are particularly important in the South Sound region. However, no one indicated that lawyers with these specialties were not readily available. Rather, the discussion was more focused on topics that might be a particular draw to potential students, who would hope to gain

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<sup>24</sup> <https://www.tacomacc.edu/areasofstudy/careertraining/paralegal/llltprogram/>. UW Seattle Law School also provides LLLT training. <https://www.law.uw.edu/apply/special-programs/lllt/>.

skills in a new law school that might be particularly marketable in the local legal economy. Some suggestions for potentially attractive specialty areas included:

- a) Natural resources law
- b) Water rights
- c) Alternative dispute resolution
- d) Tribal law
- e) Military law
- f) Cyber security

- 5) Workforce development. Attendees believed that local employers would benefit from being able to send employees to a new Tacoma law school for legal training. They remarked that in an increasingly complex world, with increasing demands for high-level analytic abilities, legal training is increasingly beneficial for those who do not practice law, as well as for those who do. Such training might involve employees getting JD degrees, or participating in non-JD programs at the law school (which might supplement the revenue from a JD program). These attendees stressed the importance of a part-time program if a law school were built in Tacoma.
- 6) Intellectual activity. Some attendees were interested in the intellectual life that a new law school might bring to Tacoma and the South Sound area. They described the potential benefit as being twofold: continuing legal education (where they thought that a new law school would add little) and lectures and panels that might be of interest to community members.
- 7) Community reputation. Several attendees indicated that they felt that adding a law school to the UWT campus would increase the reputation of the campus and the local community.
- 8) Economic development. Several attendees predicted significant economic development benefits from a new law school in Tacoma. These benefits included:
  - a) Increased economic activity from new faculty, staff and students, as well as markets that might develop to serve those individuals and families.
  - b) Some attendees noted the value that people with legal training provide in the business and political community.
  - c) Some indicated that companies tend to locate in a region if they believe that they will be able to recruit particularly good employees from a local university. The success of the UWT technology program was noted as a success story, with attendees indicating that some companies had moved to the Tacoma area because of the supply of high-quality graduates of that program.

- d) Several attendees pointed to the success that they perceived has resulted from the building of the UWT campus over the last two decades.

## **Conclusions**

The analysis above suggests that, even once it is fully operational, a law school at UWT would not be economically feasible absent significant state or philanthropic support. (The attached pro forma demonstrates levels for such support that would be make such a law school feasible.)

The fundamental reason for this is the small class size that we anticipate. Moreover, as discussed above, even if class size could be increased, the size of any such increase should (and would likely) be limited by the number of jobs that are projected to be available for graduates. Additionally, the low tuition rate that UWT Law would likely charge – an important part of the UWT concept – also limits the economic feasibility of the school.<sup>25</sup>

Another recently started law school, Indiana Tech, may well be a cautionary tale. That school was designed to serve Ft. Wayne, Indiana, a part of the state that many people felt was underserved by the other four law schools in the state. Proponents noted that half of the state's students who attended law school did so out of state. It was projected that the new school would enroll 100 students in its first class in 2013, but the school attracted only 28. In 2016, its total enrollment (in three overlapping entering classes) was 71 students. It has now lost \$20 Million, and has had significant troubles with bar passage. The school just recently announced that it would close (despite threats of legal action from its faculty).<sup>26</sup>

Of course, the situation in Tacoma may be different than the one in Ft. Wayne. And it may be that, had Indiana Tech planned to and been able to weather losses for a longer time, its fortunes might have turned around. But it is certainly a cautionary tale on the economics of starting a new law school in today's environment.

That being said, as noted above, there may well be non-economic reasons to open a law school. The community or the legislature might well believe that those reasons are sufficiently weighty to justify the likely economic cost of operating a new school

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<sup>25</sup> The other limiting factors appear to be the size of the required overhead contributions (46% to UWT and 10% to UWS) and the fact that current UW budgeting incorporates an expense inflation rate (3%) that exceeds the tuition inflation rate (2%).

<sup>26</sup> <http://www.news-sentinel.com/news/local/Indiana-Tech-Law-School-to-close>.