



**Special Called
Meeting**

**Cordell Hull Building
Senate Hearing Room 1**

October 15, 2018

**Tennessee Higher
Education Commission**



TENNESSEE HIGHER EDUCATION COMMISSION
Special Called Meeting
Cordell Hull Building, Senate Hearing Room 1
October 15, 2018, 9:00 am CDT

Agenda

Middle Tennessee State University Letter of Notification: Doctor of Jurisprudence

Roll Call

Adoption of Agenda

I. Agenda Item – Letter of Notification by MTSU

- Review of New Academic Program Approval Process
- Consultant's Report
- Stakeholder Discussion
- Presentation by Middle Tennessee State University
- Deliberation by the Commission

DATE: October 15, 2018

SUBJECT: Middle Tennessee State University
Letter of Notification: Doctor of Jurisprudence

BACKGROUND INFORMATION:

On July 13, 2018, Middle Tennessee State University submitted a Letter of Notification to offer a Doctor of Jurisprudence. This law program is currently housed at Valparaiso University in Valparaiso, Indiana. The establishment of a new academic program at a public university in Tennessee is subject to THEC approval and guided by the Academic Policy A1.0 – *New Academic Programs: Approval Process*. The Academic Policy A1.0 includes the following seven distinctive steps in the program approval process and subsequent monitoring for academic programs in excess of 24 semester credit hours:

- o Letter of Notification (LON);
- o Evaluation of the Letter of Notification;
- o New Academic Program Proposal (NAPP);
- o External Judgment;
- o Post-External Judgement;
- o Institutional Governing Board Action;
- o Commission Action; and
- o Post-Approval Monitoring.

The Academic Policy A1.0 – *New Academic Programs: Approval Process* can be found in Appendix A. This policy provides guidance on the specific criteria that must be considered for the approval of a new academic program. Additionally, the policy underscores the importance of the statutory mandate to minimize duplication or undue proliferation of similar academic programs in the state.

The initial step of the program approval process begins with the submission of the Letter of Notification to the Tennessee Higher Education Commission. The LON must:

- o align the priorities of the institution's academic master plan, institutional and state needs;
- o include a feasibility study that addresses student interest, employer need and demand and program sustainability;
- o provide estimated program costs and revenues; and
- o address related existing programs offered at public and private institutions in Tennessee.

The LON submitted by Middle Tennessee State University for the proposed JD program can be found in Appendix B. Specific to this LON, the non-binding Letter of Intent to Transfer Valparaiso University Law School to MTSU was also transmitted.

The Academic Policy A1.0 requires that all Letters of Notification be evaluated by interested parties and THEC staff. To obtain external evaluation, Letters of Notification are posted on the THEC website for a public comment period of 15 days. The MTSU LON for the Doctor of Jurisprudence was posted from July 16-31, 2018. THEC received 10 written comments during this time – 16 additional comments were received after the July 31st deadline and all are included in Appendix C.

Public comments for the proposed JD program at MTSU were submitted by:

<i>Name</i>	<i>Title</i>	<i>Affiliation</i>	<i>Date Received</i>
1) Mr. Edward L. Brundick, III	President	University of Memphis Law School Alumni Association	July 26, 2018
2) Mr. Everett L. Hixson, III	Attorney	Evans, Harrison & Hackett	July 27, 2018
3) Mr. George T. Lewis	Attorney	Baker Donelson	July 30, 2018
4) Mr. John A. Bobango	Attorney	Farris Bobango Branan PLC	July 31, 2018
5) Ms. Lisa Ramsay Cole	Attorney	Lewis Thomason	July 31, 2018
6) Dr. Wayne T. Davis Dr. David Manderscheid Ms. Melanie D. Wilson	Interim Chancellor Provost & Senior Vice Chancellor Dean and Lindsay Young Distinguished Professor of Law	University of Tennessee Knoxville	July 31, 2018
7) Dr. Joseph DiPietro	President	University of Tennessee	July 31, 2018
8) Ms. Jennifer Vallor Ivy	Attorney	Rainey, Kizer, Reviere & Bell PLC	July 31, 2018
9) Dr. M. David Rudd Ms. Katharine Traylor Schaffzin	President Interim Dean & Professor of Law	University of Memphis	July 31, 2018
10) Mr. Earle Schwarz	President	Memphis Bar Association	July 31, 2018
11) Mr. Dan Street	Attorney	Sullivan County	Aug 8, 2018*
12) Mr. Phillip Trenary	President	Greater Memphis Chamber	Aug 22, 2018*
13) Ms. M. Joy Baxter	Attorney	Ortale Kelley Law Firm	Aug 24, 2018*
14) Dr. Glenda Baskin Glover	President	Tennessee State University	Sept 18, 2018*
15) Speaker Beth Harwell	Speaker of the House	State of Tennessee House of Representatives	Sept 27, 2018*
16) Mr. Mike Sandler	Attorney	Mike Sandler Law, PLC	Oct 2, 2018*
17) Mayor Bill Ketron	Mayor	Rutherford County	Oct 3, 2018*

* Public comment received after July 31, 2018

<i>Name</i>	<i>Title</i>	<i>Affiliation</i>	<i>Date Received</i>
18) Mr. Gregory D. Smith	Attorney	Law Office of Gregory D. Smith	Oct 4, 2018*
19) Mr. Kirk Catron	President	Rutherford & Cannon County Bar Association	Oct 4, 2018*
20) Senator Shane Reeves	Senator	TN District 14	Oct 4, 2018*
21) Mr. Frank Buck	Attorney	Buck & Buck Attorneys-at-Law	Oct 4, 2018*
22) Mr. R. Steven Waldron	Attorney	Waldron, Fann & Parsley	Oct 4, 2018*
23) Honorable Don R. Ash	Senior Judge	Tennessee State Courts	Oct 4, 2018*
24) Mr. Ralph Schulz	President & CEO	Nashville Chamber of Commerce	Oct 4, 2018*
25) Mr. Matt Meyer	Sr. Business Systems Analyst	Community Health Systems	Oct 4, 2018*
26) Mayor Shane McFarland	Mayor	City of Murfreesboro	Oct 4, 2018*

* Public comment received after July 31, 2018

In order to carefully assess the LON for the proposed JD program, THEC staff determined the need to conduct an independent, external review. On August 10th, THEC notified Middle Tennessee State University that Aslanian Market Research had been hired to conduct a market assessment and feasibility study for an additional law school in Tennessee to include market analysis to assess student demand and employment opportunities for law school graduates at the national, regional, and local level. The LON evaluation of the proposed JD program is provided as Appendix D.

Under separate cover, the market assessment and feasibility report will be provided. Dr. Jane Sadd Smalec, *Senior Consultant*, and Scott Jaffe, *Senior Director* of Aslanian Market Research will present the findings of the feasibility study for an additional law school in the State of Tennessee at the Special Called Meeting of the Commission.

Section Title: Academic Policies
Policy Title: New Academic Programs: Approval Process
Policy Number: A 1.0

1.0.1A **Scope and Purpose.** In accordance with Chapter 179 of the Legislative Act creating the Higher Education Commission in 1967, the Commission has the statutory responsibility to review and approve new academic programs, off-campus extensions of existing academic programs, new academic units (divisions, colleges, schools, and departments) and new instructional locations for public institutions of higher education in the State of Tennessee. These responsibilities shall be exercised so as to:

- promote academic quality;
- maximize cost effectiveness and efficiency to ensure that the benefits to the state outweigh the costs and that existing programs are adequately supported;
- fulfill student demand, employer need and societal requirements;
- avoid and eliminate unnecessary duplication to ensure that proposed academic programs cannot be delivered through collaboration or alternative arrangements; and
- encourage cooperation among all institutions, both public and private.

These expectations for program quality and viability are underscored by Tennessee Code Annotated §49-7-202 as amended by Chapter 3, Acts of 2010 (1st Extraordinary Session). This Act directs public higher education to:

- address the state's economic development, workforce development and research needs;
- ensure increased degree production within the state's capacity to support higher education; and
- use institutional mission differentiation to realize statewide efficiencies through institutional collaboration and minimized redundancy in degree offerings, instructional locations, and competitive research.

1.0.2A1 **Criteria for Review.** The Commission strenuously considers the following criteria in order to maximize state resources in evaluating academic programs:

- Alignment with state master plan and institutional mission - Evidence that the proposed academic program aligns with the state's economic development, workforce development and research needs using institutional mission differentiation to realize statewide efficiency of degree offerings, instructional locations, and competitive research.
- Need - Supporting documentation of program need that justifies institutional allocation/reallocation of state resources.
- Sustainable Demand - Supporting documentation that employment opportunities for future graduates will exist.
- Program Costs/Revenues - Supporting documentation that program costs will be met from internal reallocation or from other sources such as grants and gifts. Institutional commitment should be consistent with the centrality and level of priority as described in the academic program proposal and estimated on THEC Financial Projection Form.
- Institutional capacity to deliver the proposed academic program - Supporting documentation that the institution can deliver the proposed program within existing and projected resources.

1.0.2A2 **No Unnecessary Duplication.** The THEC Academic Program Inventory provides the initial indication of apparent duplication or undue proliferation of programs in the state. When other similarly titled existing programs may serve the same potential student population, institutions seeking to develop potentially duplicative programs should consult THEC with evidence to demonstrate that a newly proposed academic program is:

- in accord with the institution's distinct mission as approved by the Commission;
- sufficiently different from all related existing programs in the geographical region (list degree level of similar programs and names of public/private institutions) in quality and/or rigor, costs of degree completion, student success and completion rates, etc.; and

- more cost effective or otherwise in the best interests of the State to initiate a new academic program rather than meet the demand through other arrangements (e.g., collaborative means with other institutions, distance education technologies, Academic Common Market, and consortia).

1.0.3A **Schedule.** The Commission will normally consider proposals for new academic programs at each regularly scheduled Commission meeting.

1.0.4A **Action.** Commission action on a given academic program must follow approval by the governing or institutional governing board and may take one of four actions:

- approval
- disapproval
- conditional approval
- deferral

Conditional approval may be granted in special cases. This type of approval is reserved for academic programs for which the need is temporary. Conditional approvals will identify a date that the academic program must be terminated.

1.0.5A **Steps to Establish A New Academic Program in Excess of 24 Semester Credit Hours (SCH).** The process in developing a new academic program in excess of 24 SCH is multi-staged and includes the following essential steps:

- (1) Letter of Notification (LON)
- (2) Evaluation of LON
- (3) New Academic Program Proposal (NAPP)
- (4) External Judgment
- (5) Post-External Judgment
- (6) Institutional Governing Board Action
- (7) Commission Action

1.0.6A **Letter of Notification (LON).** Upon consideration by an institution to develop a new academic program in excess of 24 SCH and notification to the institutional governing board, the institution may submit a LON to THEC.

The LON must address the criteria for review as outlined previously in Sections 1.0.2A1 and 1.0.2A2. The LON should clearly provide supporting documentation that the proposed academic program

contributes to meeting the priorities/goals of the institution's academic or master plan, why the institution needs the academic program, and why the state needs graduates from that particular academic program. The submission of the LON must also include a letter of support from the President/Chancellor signifying institutional governing board or system office support for development; timeline for development and implementation of proposed academic program; and THEC Financial Projection Form. Evidence of internal funding reallocation and other sources such as grants and gifts should be provided. Grants and gifts which are pending are not considered as evidence of funding. THEC will approve no special start-up funding.

The LON submission must include a feasibility study that addresses the following criteria:

- Student Interest - Normally, student interest is addressed in the following ways: a survey of potentially interested students, a report of informational meetings held to gauge interest, a list of contacts of prospective enrollees, and/or enrollment data for related academic programs at the institution.
- Local and Regional Need/Demand - Postsecondary institutions bear a responsibility for preparing students to meet the State's workforce needs. Workforce demand projections serve as one indication of the need for a proposed academic program. The need for the number of persons trained in any given field and the number of job openings in that field must remain in reasonable balance.
- Employer Need/Demand - Employer need/demand normally in the form of anticipated opening in an appropriate service area (may be local, regional or national), in relation to existing production of graduates for that service area should be provided. Evidence may include the results of a needs assessment, employer surveys, current labor market analyses, future workforce projections, and letters from regional employers claiming need for larger applicant pool. Where appropriate, evidence should also demonstrate societal need and employers' preference for graduates of a proposed academic program over persons having alternative existing credentials and employers' valuing of the proposed credential.

- Future Sustainable Need/Demand - Supporting documentation of sufficient employer demand/need for the proposed academic program that covers a reasonable period in the future beyond the anticipated date of graduation of the first program graduates.

1.0.7A

Evaluation of Letter of Notification. Evaluation of the LON will be conducted by interested parties and THEC staff. The LON will be posted on the THEC website for a 15 day period of comment by interested parties. At the close of the 15 calendar day comment period, THEC will review all comments and documents in order to identify issues relative to criteria identified in Sections 1.0.2A1 and 1.0.2A2.

Based on the assessment of the LON both internally and in relation to external comments, THEC will make one of the following determinations and notify the institution within 30 days of initial receipt of the LON to:

- support,
- not to support, or
- defer a decision based on revision of the LON.

All approved Letters of Notification are valid for a two-year time period and will be posted on the THEC website. If the Commission has not approved the academic program for implementation within two years, the LON is no longer valid.

1.0.8A

New Academic Program Proposal (NAPP). Institutions are responsible for quality academic program development and THEC encourages the use of external consultants in development. The NAPP is to be submitted in entirety to THEC at the time the campus seeks to request an external review and should complement the LON by addressing the following criteria explained further in the NAPP checklist located on the THEC website:

- Curriculum
- Academic Standards
- Program Enrollment and Graduates
- Diversity
- Administrative Structure
- Faculty Resources
- Library and Information Technology Resources
- Support Resources
- Facilities and Equipment
- Marketing and Recruitment

- Assessment/Evaluation
- Accreditation
- Funding

1.0.9A

External Judgment. External reviewers will be required to serve as expert evaluators for all proposed academic programs. External reviewers will not normally be required for certificate programs, but there may be exceptions in cases of large cost or marked departure from existing programs. For doctoral programs, two external reviewers will be required to evaluate the proposed academic program.

THEC will select reviewers from the proposed institutional external reviewer list. Individuals used in the development stage as external consultants may not serve as external reviewers. In keeping with the SACSCOC's *Ethical Obligations of Evaluators* policy statement, external reviewers should ideally:

- be a subject matter expert in the proposed field;
- be a tenured faculty member with associate or higher academic rank, teaching and a record of research experience;
- no prior relationship with either the institution or close personal or familial relationship with the potential faculty involved in the proposed academic program;
- not be employed within the state of Tennessee;
- not have been a consultant or a board member at the institution within the last ten years;
- not have been a candidate for employment at the institution within the last seven years;
- not be a graduate of the institution; and
- not have any other relationship that could serve as an impediment to rendering an impartial, objective professional judgment regarding the merits of the proposed academic program.

In the event no external reviewers proposed by the institution are available or acceptable, THEC reserves the right to approve an exception or propose alternative external reviewers and may opt, when appropriate, to authorize a paper review of the proposed academic program rather than a visit to the campus by the external reviewer.

The institution or governing board will be notified of the selected reviewers, the review modality, dates of availability of THEC (if relevant) and provided a list of questions for the external reviewer to address during the course of the review. Institutions may add additional questions to the THEC review questions. The external reviewer must

provide a written report in response to the questions concurrently to the institution/governing board and THEC within 30 calendar days of the conclusion of the external reviewer's visit.

The institution will be responsible for inviting the external reviewer(s), all scheduling, expenses and contracting with the external reviewers. THEC will provide a summary of the required agenda sessions for the external reviewer's visit.

1.0.10A

Post-External Judgment. Within 30 calendar days of receipt of the external reviewer's report, the institution must propose to THEC solutions in keeping with best practices for all issues identified by the reviewer. Based upon the proposed revisions, THEC may opt to take one of three determinations:

- Support - The institution may seek approval from its governing or institutional governing board and subsequently request to be placed on the Commission quarterly meeting for approval.
- Not Support - The rationale to not support will be provided in writing to the institution within 15 calendar days. The institution must appeal the determination by responding to all identified issues within 15 calendar days of receiving notification of THEC's determination for denying support. THEC will make a final determination within 15 calendar days of the receipt of the institutional appeal and notify the institution whether the proposed changes are sufficient for a support determination. If the institution does not respond within 15 calendar days, the determination to not support the proposed academic program for implementation is final.
- Defer Support - The rationale to defer support will be provided in writing to the institution within 15 calendar days of receipt of the institution's response to the external report. The institution may choose to submit a revision of the proposed academic program within 60 days and seek further external review or rescind the proposed academic program.

1.0.11A

Institutional Governing Board Action. Upon determination by THEC that a proposed academic program will be supported for approval by the Commission, the institutional governing board must act to determine if it will support the approval of the proposed academic program. The institution must provide documentation of board approval to THEC and submit a request to the Executive Director that the proposed academic program be placed on the Commission agenda at the earliest possible scheduled meeting.

- 1.0.12A** **Commission Action.** Proposed academic programs supported by THEC and approved by the institutional governing board will be presented to the Commission for action at the earliest possible scheduled meeting.
- In keeping with the Southern Association of Colleges and Schools Commission on Colleges' principles and federal requirements for truth-in-advertising, students may not be admitted to any program nor may any program be advertised by any public institution prior to approval by the Commission to implement.
- 1.0.13A** **Post-Approval Monitoring.** Performance of the academic program based on goals established in documentation submitted at the time of approval will be evaluated by THEC. The monitoring period will be three years for pre-baccalaureate programs, five years for baccalaureate and Master's programs, and seven years for doctoral programs. A summary of the summative evaluation which may include, but is not limited to, enrollment and graduation numbers, program cost, progress toward disciplinary accreditation, library acquisitions, student performance, and other goals set by the institution will be presented to the Commission annually. As a result of this evaluation, if the academic program is deficient, the Commission may recommend to the President/Chancellor that the program be terminated. Copies of such recommendations will be forwarded to the Education Committees of the General Assembly. THEC may choose to extend this period if additional time is needed and requested by the institution. At the January THEC meeting the Commission will review post approval reports on academic programs that are currently being monitored.
- 1.0.14A** **Delegated Authority for Final Approval of New Community College Programs (Associates and Certificates) to the Tennessee Board of Regents.** Tennessee Code Annotated §49-8-101 as amended by Public Chapter 3, Acts of 2010 (1st Extraordinary Session) directs that "the board of regents, in consultation with the Tennessee Higher Education Commission, shall establish a comprehensive statewide community college system of coordinated programs and services to be known as the Tennessee community college system." Notwithstanding anything in this policy to the contrary, THEC in accord with Chapter 3 and toward the establishment of the unified and comprehensive community college system, delegates authority to the Tennessee Board of Regents (TBR) for final approval of new community college associate degrees and certificates. THEC delegates final approval authority to TBR for the replication of a certificate or associate program approved for one community college (after August 1, 2011) at other TBR community colleges. TBR final approval is subject to the following conditions:

- (1) The criteria for review and accountability (especially justification of need and documented sufficiency of resources and faculty to support the program) set forth in Section 1.0.2A1 and Sections 1.0.8A of this policy must be the basis for the TBR review and approval of new and replicated certificates and associate programs.
- (2) TBR will provide a monthly summary report to THEC of all community college program actions approved by the TBR, including community college Letters of Notification for proposed academic programs.
- (3) TBR will provide academic program proposals and financial projection forms for all TBR approved associate and certificate programs as baseline data for THEC Post-Approval Monitoring.
- (4) THEC will list all TBR-approved community college associate and certificate programs and reported changes on the State Inventory of Academic Programs.

1.0.15A

THEC Authority for Post-Approval Monitoring of All Community College Programs. THEC expressly does not delegate to the TBR the authority for the post-approval review of community college associate and certificate programs set forth in Section 1.0.12 of this policy. All TBR community college programs listed on the THEC Inventory of Academic Programs will be subject to the following THEC monitoring and evaluation:

- Community college associate degree programs and certificates are subject to THEC annual reporting through Post Approval Monitoring of programs for the first three years after implementation and annual productivity evaluations of programs in operation more than three years.
- Community colleges will participate in all components of the THEC Quality Assurance Funding Program, and associate and certificate programs will be evaluated according to Quality Assurance program review standards.

1.0.16A

Policy will be reviewed every five years unless changes in the evaluation process are warranted.

Sources: THEC Meetings: April 22, 1988; January 29, 1997; November 14, 2002; January 27, 2011; July 28, 2011; January 29, 2015; and January 26, 2017.

Office of the President

Middle Tennessee State University
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July 6, 2018

Betty Dandridge-Johnson
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Re: Doctor of Jurisprudence in Law

Dear Betty:

Consistent with THEC Policy A1.0 (section 1.06A) which states that "the submission of a Letter of Notification must also include a letter of support from the President/Chancellor signifying institutional governing board or system office support for development", please note that I support the development of an academic program proposal to establish a J.D. degree at MTSU as part of the transfer of the Valparaiso University School of Law to MTSU. As noted in my letter to Executive Director Krause (May 31, 2018), MTSU and Valparaiso University have entered into a non-binding Letter of Intent to transfer its American Bar Association-accredited law school to our Murfreesboro campus, subject to approval of governing boards of each institution; approval by the Tennessee Higher Education Commission; and, continuing ABA accreditation following the transfer of control to MTSU. Members of the MTSU Board of Trustees have been informed of this proposal and share my enthusiasm about this opportunity to establish the only accredited public law school in middle Tennessee.

We look forward to working with your office in the establishment of the college of law, the development of the associated New Academic Program Proposal (NAPP), and the implementation of this degree.

Sincerely,

A handwritten signature in black ink, appearing to read "Sidney A. McPhee".

Sidney A. McPhee
President

c: Stephen B. Smith – Chair, MTSU Board of Trustees

Letter of Notification to Develop a New Academic Program:

Doctor of Jurisprudence

**Submitted to the
Tennessee Higher Education Commission**

**By
Middle Tennessee State University**

July, 2018

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Proposed Program Name:

Law

Proposed Degree Designation:

Doctor of Jurisprudence (J.D.)

Proposed CIP Code:

22.0101 - Law

Definition: A program that prepares individuals for the independent professional practice of law, for taking state and national bar examinations, and for advanced research in jurisprudence. Includes instruction in the theory and practice of the legal system, including the statutory, administrative, and judicial components of civil and criminal law.

Proposed implementation date:

Fall 2019

Academic Program Liaison (APL) name and contact information:

Dr. Peter H. Cunningham
Vice Provost for Academic Programs
Middle Tennessee State University
Cope Administration Building, 111
Murfreesboro, TN 37132
Office: 615-494-7611
Email: Peter.Cunningham@mtsu.edu

Purpose and Nature of Program:

We propose offering an American Bar Association (ABA)-accredited program of study in law that leads to a Doctor of Jurisprudence (J.D.). This program, established in 1879 and continuously accredited since 1929, is currently housed at Valparaiso University, Valparaiso, Indiana. It is the 38th oldest ABA-accredited law program in the United States and will be the only accredited law program in middle Tennessee. MTSU's new academic offering will both build on the program's heritage, which embraces law as a calling to leadership and service, and develop unique focus areas to align with MTSU's strengths and Tennessee's needs.

Alignment with state master plan and institutional mission:

The Master Plan for Tennessee Postsecondary Education 2015-2025¹ calls for a statewide strategic development of higher education programs that increases the educational attainment levels of Tennesseans; addresses the state's economic development, workforce development, and research needs; and calls for institutional mission differentiation to realize statewide efficiencies through institutional collaboration, minimized redundancy, a focus on location, and research.

The proposed J.D. degree addresses the state master plan in a number of ways.

- It will *increase the educational attainment levels of Tennesseans*. This degree program will provide an opportunity for residents of Tennessee, particularly those in the middle Tennessee region, to attain a professional doctorate from an accredited law school, offering an opportunity to pursue licensure to practice law in Tennessee as well as in other states.
- The proposed J.D. degree, which will provide Tennesseans with the opportunity to prepare for careers in and be part of a growing and sustained workforce, will *address the state's economic development and workforce development needs*. Contrary to the popular characterization that “the world doesn’t need any more lawyers,” the fact is that relative to other states and the District of Columbia, Tennessee ranks 46th in the concentration of lawyers within the state. In addition, Tennessee (the 20th most densely populated state in the U.S.) ranks 50th among all the states in the number of lawyers and legal occupations per capita.²
- The State Master Plan calls for *a focus on location*. An analysis of population density and growth based on U.S. Census data and conducted by the University of Tennessee³ showed that in 2016 the 10 fastest growing counties in Tennessee were either within or bordering the Nashville-Murfreesboro-Franklin Metropolitan Statistical Area (MSA). Tennessee as a whole and the middle Tennessee region in particular are projected to continue to exceed national averages for population growth in future years, yet there are only two public law schools in Tennessee, separated geographically by roughly 400 miles and located in opposite ends of the state. Offering a J.D. degree program at Middle Tennessee State University would place an affordable, accredited, public law school in the geographic and population center of Tennessee, roughly equidistant from the two existing public institutions. Moreover, while the Nashville-Murfreesboro-Franklin (MSA) is the seventh fastest-growing metro area in the country, it is farther from an accredited public law school than any of the other 50 largest metro areas in the U.S. This proposal clearly meets the state's intent to make graduate and professional education accessible to all its citizens.

The proposed law degree also aligns with the mission of Middle Tennessee State University as expressed in the goals of the our Academic Master Plan.⁴

- *MTSU will advance academic quality through excellence in teaching, scholarship, and service and the celebration of MTSU's strengths:*

MTSU ranks fourth among all Tennessee colleges and universities in the number of its graduates applying to law school and had approximately 140 undergraduate students enrolled in our pre-law concentration in the department of Political Science in fall 2017. MTSU sponsors nationally recognized student teams in Moot Court, Mock Trial, and Mock Mediation. The university's Mock Trial team regularly places in the top 10 in national competitions. The transfer of the J.D. degree program from Valparaiso University will complement and add to the strength of these undergraduate programs. The J.D. degree also directly supports MTSU's focus on developing innovative undergraduate and graduate programs by implementing a program of legal education that was named a top 20 "most innovative" program by *preLaw Magazine* in 2017.⁵

- *Promote student success and individual responsibility for accomplishments through a community dedicated to student-centered learning*

The Reach to Distinction, MTSU's Academic Master Plan, commits the university to access and diversity and to the success of a diverse student body. MTSU enrolls over 6,000 minority students (27% of total enrollment) annually in addition to serving large numbers of adult learners, first generation students, and veterans. The J.D. degree program at Valparaiso University is committed to enrolling a student body that reflects a variety of backgrounds, experiences, and points of views with "*a belief that the legal profession should reflect the ever-increasing diversity of our society.*" This commitment is reflected in the fact that it ranked 22nd among all accredited U.S. law schools for graduating African-Americans in 2015-16. (Vanderbilt is the only other law school in Tennessee to be ranked in the top 50.)⁶ This shared commitment to the success of racially and ethnically diverse students is a foundation of the agreement to transfer the Valparaiso University Law School to MTSU.

With a curriculum that was rated A+ and ranked seventh in the nation for practical training in 2017,⁷ the Valparaiso J.D. degree's emphasis on student access and student success matches the focus on experiential education that is a strength of Middle Tennessee State University and expressed in *The Reach to Distinction*, *The Quest for Student Success*, and *MT Engage*.

- *MTSU will develop purposeful and sustainable partnering relationships and outreach:*

Pro bono service is emphasized throughout the ABA-accredited curriculum, allowing MTSU to grow and extend its program of service to individuals and agencies in the surrounding communities.

The J.D. program at Valparaiso currently operates a law clinic that serves as a licensed law firm for the community in a variety of law practice areas. This clinic will continue to operate and serve the needs of the middle Tennessee region. Additional clinics, such as a dedicated veterans' clinic, will be established to serve the large number of military veterans and their families in the surrounding communities, the only such clinic in a state with over 500,000 military veterans. Rutherford County has recently purchased office space adjacent to the proposed law school building to house its Drug, Juvenile, and Veterans Courts, creating a unique opportunity for law students to integrate course-based instruction with experiential learning through pro bono service and practical application in law clinics.

The J.D. degree program will also provide a resource and location upon which MTSU can build its already strong partnership programs through the delivery of continuing legal education (CLE) programs to the many attorneys in Rutherford and the surrounding middle Tennessee counties. The comprehensive law library will also provide access to legal resources that are currently unavailable to students, attorneys, and the public in middle Tennessee.

Program Feasibility:

Prior to entering into the Letter of Intent, to transfer the Valparaiso University School of Law, MTSU commissioned a comprehensive study of the feasibility of offering a doctor of jurisprudence degree at MTSU. This study, conducted by the MTSU Business and Economic Research Center (BERC), was completed in spring 2018 and is submitted as Attachment C. Pertinent findings are provided below.

Student interest for the proposed academic program.

Student interest in pursuing a law degree is best measured by the number of students who take the Law School Admission Test (LSAT) and the number of law school applications in a given year. Although there was decline in both LSAT takers and law school applications earlier in the past decade this trend has reversed in the past few years with both test takers and law school applications increasing over the past four years. Further evidence of increasing student interest and demand is the estimated 10 percent nationwide increase in applications to both ranked and unranked law schools for fall 2018.^{8,9} Data available through the Law School Admissions Council also reveals that in addition to the 18 percent increase in persons taking the LSAT in Tennessee in 2017-18, every surrounding state also experienced an increase in LSAT test-takers.

Local and regional need/demand for the proposed academic program.

Growth in local interest and demand is substantiated by the increasing number of undergraduate students pursuing pre-law curricula. For example, according to the Higher Education Research Institute at UCLA, 4.1 percent of 2016 MTSU freshmen planned to obtain a J.D. degree. Further, approximately 70 MTSU graduates are admitted to law school each year. While some of these students would not elect to pursue the J.D. degree at MTSU, many might seek to continue their education at their alma mater. Other middle Tennessee residents pursuing undergraduate degrees elsewhere, both in-state and out-of-state at both public and private institutions, might well choose to pursue a J.D. degree close to home.

The Nashville – Murfreesboro – Franklin (MSA) is the seventh fastest growing metro area in the United States. Yet it is farther away from an accredited public law school than any of the other 50 largest metro areas in the U.S. According to Dustman, Gallagher, and Evans¹⁰ the vast majority of entering law students prefer to stay within their home region (about 100 miles) to attend law school with this choice strongest among students attending public law schools. An area the size of the Nashville region would be expected to produce between 260 and 300 law school admits.

Employer need/demand

The Bureau of Labor Statistics projects an eight percent increase in the employment of lawyers over the next ten years (about as fast as the average for all professions) with an overall national increase of 65,000.¹¹ In its last 10 year projection, the state of Tennessee estimated an 8.8 percent increase in lawyers between 2014-2024, and an estimated increase of 430 (4.4%) between 2017-2019. Including retirements and turnover, it expects 620 annual openings a year.¹² Based on these projections, the demand will exceed the total number of individual passing the Tennessee bar each year. It also exceeds the annual total number of graduates of all law schools in Tennessee (excluding Vanderbilt). When considering the employment outlook for law graduates in Tennessee, even with two new private law schools (Belmont University and Lincoln Memorial) and the resulting increase in new JDs and bar exam takers, the rate of job placements did not decline.¹³

National and state-wide data clearly provide broad indications of an increasing need and employer demand for lawyers. However, with the exception elite law firms, most recruitment is regional¹⁴ and graduates of the MTSU College of Law would certainly seek opportunities in the middle Tennessee region. The Nashville-Murfreesboro-Franklin Metropolitan Statistical Area (MSA) was recently ranked eighth on a list of the top 100 places for law school graduates, based on a study that included average salary and available jobs.¹⁵

The combination of growing demand and opportunity, the desire of the overwhelming majority of law school applicants to stay within their home region, and the lack of an accredited public law school between Knoxville, Memphis, Louisville, and Tuscaloosa,

all support the proposal to offer a program of legal education that leads to the J.D. degree at MTSU.

Program Costs/Revenues:

MTSU is not purchasing the Valparaiso University School of Law, which confers the J.D. Valparaiso University has offered to transfer the J.D. degree program to MTSU at no cost with the understanding that MTSU will continue the heritage, mission, and accreditation of the school. This transfer includes the holdings and assets of the VULS Law Library. While this is not a purchase, there are expenses associated with the move of the program to MTSU. These costs include the renovation of portions of the Miller Education Center, a 100,000 square foot facility acquired as a result of a \$10,000,000 gift in 2012, and certain costs related to the move of physical assets as well as to retain key faculty and staff through the transfer. No new state funds are required or requested as part of this transfer. All expenses prior to the official transfer of the J.D. program will come from existing institutional resources. Any expenses in excess of tuition revenues during the start-up period, prior to full enrollment, will also come from institutional funds. (See Attachment A - THEC Financial Projections Form for detailed budget details.)

Existing programs offered at public and private Tennessee institutions:

There is no public law school between Memphis to the west, Knoxville to the east, Louisville, Kentucky to the north, and Tuscaloosa, Alabama to the south. Of the six law schools offering a J.D. degree in Tennessee, the three in Middle Tennessee are all private institutions (Vanderbilt, Belmont, Nashville School of Law), with one (NSL) unaccredited. The two public institutions that offer a J.D. degree in Tennessee (University of Memphis and University of Tennessee-Knoxville) are located at the far western and far eastern ends of the state respectively. Lincoln-Memorial University also established a private law school in Knoxville in 2009.

The six law schools offering the J.D. degree are located at:

- University of Tennessee – Knoxville
- University of Memphis
- Vanderbilt University
- Belmont University
- Lincoln Memorial University – Provisionally Accredited
- Nashville School of Law – Unaccredited

Sources

- ¹ Postsecondary Attainment in the Decade of Decision: The Master Plan for Tennessee Postsecondary Education 2015-2025. Tennessee Higher Education Commission.
- ² Livingston, S. and Arik, M. (2018). “Feasibility for a Law Program at MTSU.”
- ³ Tennessee State Data Center – Boyd Center for Business & Economic Research, University of Tennessee, Knoxville. Accessible at:
<http://tndata.utk.edu/sdcpopulationestimates.htm#2016County%20and%20Metro%20Area>
- ⁴ “The Reach to Distinction: Middle Tennessee State University Academic Master Plan, 2015-2025.”
- ⁵ *preLaw Magazine*, Vol. 21, No. 1. (pp.26 – 33). Accessible at:
https://bluetoad.com/publication/?i=439868&p=&pn=#{%22issue_id%22:439868,%22page%22:32}
- ⁶ *Diverse Issues in Higher Education*, Volume 35, No. 12. (pg. 7).
- ⁷ *prelaw Magazine*, Vol. 21, No. 4 (pp. 34-46). Accessible at:
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- ⁸ Ward, S. F. “LSAC Reports Increase in Law School Applicants,” *ABA Journal*, January 29, 2018. <http://abajournal.com>
- ⁹ U.S. News & World Report as reported in Livingston, S. and Arik, M. (2018). Feasibility for a Law Program at MTSU.
- ¹⁰ Dustman, K., Gallagher, A., and Evans, J. “Location and Law School Matriculation,” *Law School Admission Council Statistical Report*, 16-01, November 2016.
- ¹¹ US Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*.
<http://bls.gov>.
- ¹² <http://www.projectionscentral.com>. This is a website of state government employment predictions.
- ¹³ Livingston, S. and Arik, M. (2018). “Feasibility for a Law Program at MTSU.”
- ¹⁴ Weissman, J. 2013. “The Absolute Worst States for Job-Hunting Law-School Grads,” *The Atlantic* (June).
- ¹⁵ <https://www.goodcall.com/data-center/2016s-best-places-law-school-graduates/>

Tennessee Higher Education Commission
Attachment A: THEC Financial Projections
Middle Tennessee State University
Doctor of Jurisprudence (J.D.)

Seven-year projections are required for doctoral programs.

Five-year projections are required for baccalaureate and Master's degree programs

Three-year projections are required for associate degrees and undergraduate certificates.

Projections should include cost of living increases per year.

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
I. Expenditures								
A. One-time Expenditures								
New/Renovated Space	\$ 3,500,000	\$ 2,950,000	\$ 1,000,000		\$ -	\$ -	\$ -	\$ -
Equipment	-	-	-	-	-	-	-	-
Library	-	-	-	-	-	-	-	-
Consultants	-	-	-	-	-	-	-	-
Travel	-	-	-	-	-	-	-	-
Other	15,000	-	-	1,000,000	1,000,000		-	-
Sub-Total One-time	\$ 3,515,000	\$ 2,950,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ -	\$ -	\$ -
B. Recurring Expenditures								
Personnel								
Administration								
Salary	\$ -	\$ 445,500	\$ 445,500	\$ 445,500	\$ 445,500	\$ 445,500	\$ 445,500	\$ 445,500
Benefits	-	133,650	133,650	133,650	133,650	133,650	133,650	133,650
Sub-Total Administration	\$ -	\$ 579,150	\$ 579,150	\$ 579,150	\$ 579,150	\$ 579,150	\$ 579,150	\$ 579,150
Faculty								
Salary	\$ -	\$ 1,200,000	\$ 2,200,000	\$ 2,700,000	\$ 2,700,000	\$ 2,700,000	\$ 2,700,000	\$ 2,700,000
Benefits	-	360,000	660,000	810,000	810,000	810,000	810,000	810,000
Sub-Total Faculty	\$ -	\$ 1,560,000	\$ 2,860,000	\$ 3,510,000	\$ 3,510,000	\$ 3,510,000	\$ 3,510,000	\$ 3,510,000
Support Staff								
Salary	\$ 161,755	\$ 850,000	\$ 1,150,000	\$ 1,750,000	\$ 1,750,000	\$ 1,750,000	\$ 1,750,000	\$ 1,750,000
Benefits	48,527	255,000	345,000	525,000	525,000	525,000	525,000	525,000
Sub-Total Support Staff	\$ 210,282	\$ 1,105,000	\$ 1,495,000	\$ 2,275,000	\$ 2,275,000	\$ 2,275,000	\$ 2,275,000	\$ 2,275,000
Graduate Assistants								
Salary	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Benefits	-	-	-	-	-	-	-	-
Tuition and Fees* (See Below)	-	-	-	-	-	-	-	-
Sub-Total Graduate Assistants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating								
Travel	\$ 10,000	\$ 25,000	\$ 35,000	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000
Printing	30,000	60,000	75,000	75,000	75,000	75,000	75,000	75,000
Equipment		-	-	-	-	-	-	-
Other	60,000	410,000	410,000	410,000	410,000	410,000	410,000	410,000
Sub-Total Operating	\$ 100,000	\$ 495,000	\$ 520,000	\$ 525,000	\$ 525,000	\$ 525,000	\$ 525,000	\$ 525,000
Total Recurring	\$ 310,282	\$ 3,739,150	\$ 5,454,150	\$ 6,889,150	\$ 6,889,150	\$ 6,889,150	\$ 6,889,150	\$ 6,889,150
TOTAL EXPENDITURES (A + B)	\$ 3,825,282	\$ 6,689,150	\$ 6,454,150	\$ 7,889,150	\$ 7,889,150	\$ 6,889,150	\$ 6,889,150	\$ 6,889,150

***If tuition and fees for Graduate Assistants are included, please provide the following information.**

Base Tuition and Fees Rate	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Number of Graduate Assistants	-	-	-	-	-	-	-	-

II. Revenue

	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Tuition and Fees ¹	-	1,400,000	3,120,000	5,160,000	5,800,000	6,120,000	6,120,000	6,120,000
Institutional Reallocations ²	3,825,282	5,289,150	3,334,150	2,729,150	2,089,150	769,150	769,150	769,150
Federal Grants ³	-	-	-	-	-	-	-	-
Private Grants or Gifts ⁴	-	-	-	-	-	-	-	-
Other ⁵	-	-	-	-	-	-	-	-
BALANCED BUDGET LINE	\$ 3,825,282	\$ 6,689,150	\$ 6,454,150	\$ 7,889,150	\$ 7,889,150	\$ 6,889,150	\$ 6,889,150	\$ 6,889,150

Notes:

(1) In what year is tuition and fee revenue expected to be generated and explain any differential fees. Tuition and fees include maintenance fees, out-of-state tuition, and any applicable earmarked fees for the program.

Year 1: 60 in-state students @ \$19,000 (\$1,140,000) + 10 out-of-state students @ \$26,000 (\$260,000) = \$1,400,000.
 Year 2: 130 in-state students @ \$19,000 (\$2,470,000) + 25 out-of-state students @ \$26,000 (650,000) = \$3,120,000.
 Year 3: 210 in-state students @ \$19,000 (\$3,990,000) + 45 out-of-state students @ \$26,000 (\$1,170,000) = \$5,160,000.
 Year 4: 230 in-state students @ \$19,000 (\$4,370,000) + 55 out-of-state students @ \$26,000 (\$1,430,000) = \$5,800,000.
 Year 5: 240 in-state students @ \$19,000 (\$4,560,000)+ 60 out-of-state students @ \$26,000 (\$1,560,000) = \$6,120,000.
 Year 6: 240 in-state students @ \$19,000 (\$4,560,000)+ 60 out-of-state students @ \$26,000 (\$1,560,000) = \$6,120,000.
 Year 7: 240 in-state students @ \$19,000 (\$4,560,000)+ 60 out-of-state students @ \$26,000 (\$1,560,000) = \$6,120,000.

(2) Please identify the source(s) of the institutional reallocations, and grant matching requirements if applicable.

Institutional reallocations are a combination of reallocation of existing recurring and non-recurring funds and allocation of new funds.

(3) Please provide the source(s) of the Federal Grant including the granting department and CFDA(Catalog of Federal Domestic Assistance) number.

(4) Please provide the name of the organization(s) or individual(s) providing grant(s) or gift(s).

(5) Please provide information regarding other sources of the funding.

Feasibility for a Law Program at MTSU

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and

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Jennings Jones College of Business
Middle Tennessee State University

March 10, 2018

This report considers the likely student interest in obtaining a J.D. at Middle Tennessee State University, and the likely success of these students in gaining employment thereafter.

Preliminaries The state of Tennessee has six existing law schools. Two are fairly new. Belmont University's began in 2011. In 2017 it graduated 78 students. Lincoln Memorial, in Knoxville, began the same year. It remains only provisionally accredited by the American Bar Association. It awarded 17 degrees last year. Two are more established. The University of Memphis issued 99 J.D.s in 2017, while the University of Tennessee awarded 100. A fifth, Vanderbilt, is best termed an elite or national law school. Vanderbilt graduated 188 new J.D.s last year, but less than ten percent were graduates of Tennessee colleges or universities (and half of those were in turn undergraduates at Vanderbilt). The sixth is the Nashville School of Law, which is not ABA accredited. This institution releases virtually no information about its students. But based upon the 2017 Tennessee Bar exams, it appears that about 100 individuals obtained a degree from the Nashville School of Law last year.

Where appropriate this study will incorporate information from Vanderbilt and the Nashville School of Law. But, as atypical bookends among state law schools, we will seldom use them as yardsticks for assessing either student interest or student outcomes in a program at MTSU.

Part I

Student Interest

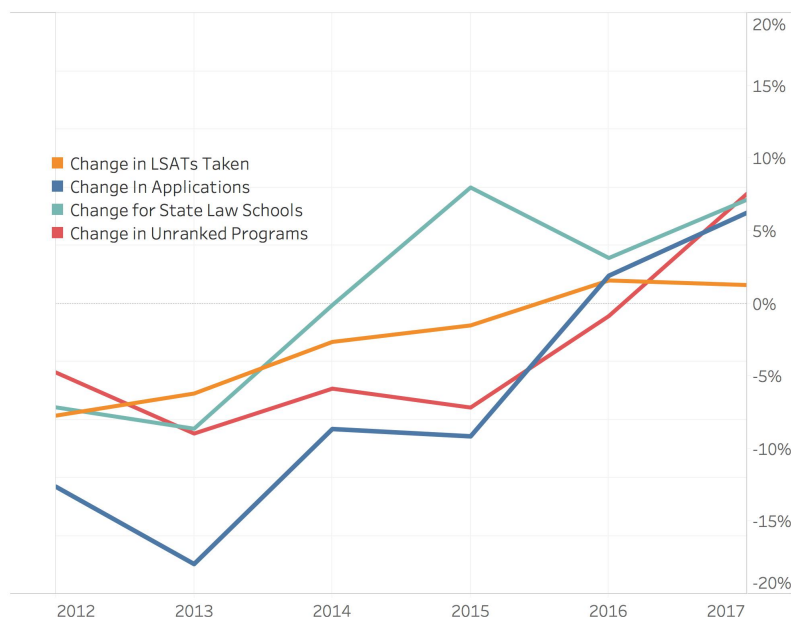
We will investigate student interest using several metrics. To obtain current general interest in law school, we look at LSAT exams and law school applications. To obtain a more local read, we look at the Tennessee LSAT and application numbers. To drill down further, we look at the number of MTSU students recently admitted to law schools and majoring in pre-law. Then we look at the national survey of freshman career goals to observe the likely level of future student interest over the next half-decade.

We further assess local law school environment by observing the experience of the two new state law programs that began this decade. Finally, we look at the impact of geography and tuition.

1 Students Seeking a Law Degree

That applications to law school took a sudden and steep decline this past decade is well known. But in fact, this decline has modestly reversed. As shown in Figure 1, there has been a modest rebound in both the number of students taking the LSATs and in the number of law school applications. This holds for Tennessee schools, where the positive growth rate in applications is higher than that for the nation. Not included in

Figure 1: LSAT and Application Trends



Sources: ABA, <http://www.abarequireddisclosures.org/> and Law School Admission Council, <http://www.lsac.org>.

this chart is the estimated ten percent rise in law school applications for 2018.¹

A possible objection is that this reversal is selective, with students still shunning lower ranked law schools. To observe whether this might be true, we include in Figure 1 a separate measure for those law schools that are not ranked in US News and World Reports annual listing of top law schools.² As we can see, in fact the trend of returning interest extends to all law schools.

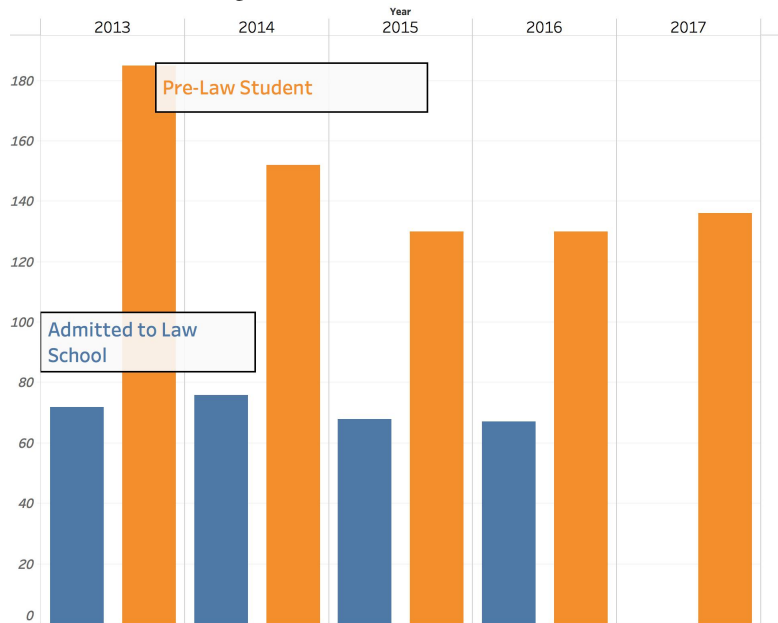
2 Local Student Interest

There are several benchmarks for local interest. One is data from MTSU itself. We can track the number of students concentrating in pre-law and the number of students that, upon obtaining their bachelor's, have been admitted into a law program. (Unfortunately, we do not have data on how many applied to a law program.) This is displayed in Figure 2. Here we see a repeat of the trends seen in the national LSAT and application figures, with falling numbers of pre-law concentrators in the first part of the decade that has then stabilized and risen modestly. The number of MTSU graduates accepted

¹Stephanie Francis Ward, "LSAC Reports Increase in Law School Applicants," *ABA Journal*, January 29, 2018. <http://abajournal.com>

²The magazine lists all ABA accredited institutions. It ranks 148 law schools and does not rank another 54. Valparaiso is unranked.

Figure 2: MTSU Student Interest in Law School



Sources: *The Law School Admission Council, op cit, and the MTSU Department of Political Science.*

Table 1: Percentage of Freshman Planning to Obtain a J.D.

	2010	2011	2012	2013	2014	2015	2016
Expecting to Obtain a JD	4.4%	4.2%	4%	3.9%	3.5%	4.1%	4.1%

Source: *UCLA, HERI, <http://heri.ucla.edu>.*

into law school has remained steady at around 70 students a year. Pre-law concentrators hover around 130 students. Even if the existence of a law school on campus would stimulate no additional interest in a legal career among MTSU students, which seems unlikely, the numbers show that its own student body would likely be a sizable source of applicants to a MTSU law program.

3 Future Students

LSATs and applications measure interest among graduating bachelor's students, while pre-law students capture interest among current students. We can use the freshman student surveys conducted by the Higher Education Research Institute at UCLA to assess future interest in pursuing a legal career. We find the same pattern again. Interest dropped in the mid-decade but has since revived.

4 Experience of Belmont and Lincoln Memorial

The development of the two new JD programs in this state may also speak to student demand for an additional law program in this state. Belmont may be the most relevant as it is the lone non-elite law school in the Nashville area. It received over 400 applications in its first year (2011). After a dip in the two following years, applications have increased steadily to 740 in 2017. Its acceptance rate is now under fifty percent and its annual entering class has grown to be over 100 a year. Interestingly, its applications started rising substantially before the national turnaround.

Lincoln Memorial has had a more difficult history in part because of accreditation issues, but its history is broadly similar. Over 200 students applied in 2011 and this has risen to over 300 in 2017. It accepts somewhat over half of these applicants, and has ramped up its entering class to 94 for 2017-18.³ In short, both schools found very little difficulty in attracting applications or students' acceptances of admission.

5 Locational Factors and Cost

5.1 Geography

The Nashville MSA, with a population of three million, has three law schools. One, Vanderbilt, takes an average of 15 to 25 graduates a year from Tennessee colleges and universities.⁴ Nashville Law School takes about 100 students a year, as does Belmont.

In fact the Nashville metro area is geographically farther from a public law school than any other of America's top fifty metro areas.⁵ This is actually quite important. A recent LSAC study found that the vast majority of entering law students stay within their home region. The median distance from home is about 100 miles.⁶ No public school is that close to Nashville. The authors found that the choice to remain close to home was strongest for those attending public schools (presumably because tuition is a more important factor) and those not attending what the authors termed "dream schools."

An area having the size of the Nashville region's postsecondary population should be expected to produce in the range of 260-300 students per year that are *accepted* into a law school.⁷

³Information on Belmont and Lincoln-Memorial from the ABA's Standard 509 Information, <http://www.abarequireddisclosures.org/>

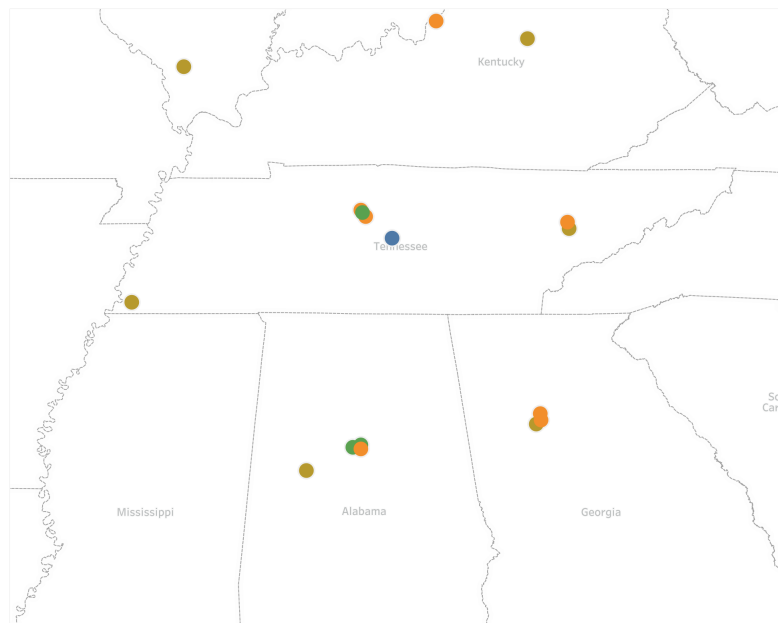
⁴<http://law.vanderbilt.edu>

⁵Our calculations. The closest is 180 miles away (UT/K). The second most remote is Charlotte, 140 miles from the closest public law school.

⁶Kimberly Dustman, Ann Gallagher, and Josiah Evans. "Location and Law School Matriculation," *Law School Admission Council Statistical Report*, 16-01, November 2016.

⁷We calculate this number as follows. The Law School Admission Council uses the HERI data to calculate law school applications. It finds that about ten percent of respondents stating they would apply to law school actually do. About one and a half times as many students did not report an interest in going to law school but ultimately did so. The HERI survey does not include community college students. Because law school applicants have to be found to be of higher socio-economic status than non-applicants, we would presume that the percentage of community college students that transferred to a university and graduated would be lower than among those that entered a four-year institution as freshman, but would not be zero. If we project from the number of students graduating from colleges and universities in the middle Tennessee

Figure 3: Nashville and the Geography of Law Schools



Public schools = olive

Private schools = orange

Unaccredited schools = green

If this research is correct, most of these students would prefer to remain in the area. And their number is larger than the currently existing supply of spaces in regional law schools.

5.2 Tuition

The high price of private law schools is well-known. Table 2 shows the tuition of the law schools closest to the Nashville metro area. The gap between public and private (or out-of-state) is substantial. It is very hard to believe this gap would not influence student decisions over which law school to attend. Unfortunately we know of no way to estimate the number of students for whom tuition would be a primary or a very serious factor in their choice of law school, but it must be significant.

Only MTSU has the combination of a Nashville metro location and a public school tuition.

region, we arrive at this estimate. See Anne M Gallagher and Phil Handwerk, *Behind the Data, Comparing Law School Applicants to All College Freshman*. LSAC, 2012.

Table 2: Cost of Law School

Institution	Tuition
Alabama	\$40,670
Atlanta - John Marshall	\$40,248
Belmont	\$40,900
Georgia State	\$36,456
Kentucky	\$44,320
Lincoln Memorial	\$35,340
Louisville	\$39,598
Memphis	\$18,763
Samford - Cumberland	\$38,448
Southern Illinois	\$43,922
Tennessee	\$19,308
Nashville School of Law	\$8,322*

*Nashville School of Law is a 4-year program. To be consistent, its tuition is re-expressed over a three year period.

Two other non-accredited programs, Birmingham School of Law and Miles School of Law, are also in the region. Note that these are non-resident tuitions for the schools outside of Tennessee.

6 Summary

Nationally, interest in attending law school is reviving. This is true for elite and non-elite programs alike. The Tennessee experience bears out the ability of new law programs to rather quickly increase applicants and competitiveness, suggesting the depth of the pool of would-be Tennessee law students. An MTSU program would, additionally, have two powerful attractions. It would be the only public law school in the Nashville area, from which several hundred students a year wish to go to law school. Many of these students want to stay close to home. And MTSU would offer by far a lower tuition than its metro competition (excepting the Nashville School of Law, which in turn has the weakness of not being accredited). This account leads to the conclusion that the supply of individuals wishing to enter law school in the Nashville area is sizable, and that an MTSU program should be very attractive to them.

Part II

The Job Market for Law School Graduates

Assessing the job market for new JDs is not easy because of several complexities. Given the expense of obtaining a JD, should obtaining a position outside of the legal profession be considered a success or not? Many new JDs do find employment in positions for which the degree is not necessary, or in not a few cases, not even considered

an advantage. Some are likely happy with this outcome, others less so.

A second issue is the level of employment necessary to be considered successfully “placed.” The ABA considers holders of part-time and temporary jobs as being “employed” in its employment statistics. This produces employment rates of ten percent or so for newly minted JDs. It is, however, hard to imagine that the holders of many of these part-time or temporary positions are pleased with the results of their job searches.

Third, research indicates that the vast majority of JDs do, over the course of their working careers, gain from having a law degree. Simkovic and McIntyre (2014) find that for even the nearly half of JDs that do not practice law, incomes are typically \$30,000 to \$60,000 a year higher than they would otherwise be. The longitudinal study performed by the NALP (2014) finds that even among graduates of lower ranked law schools, incomes are usually above \$100,000 per year twelve years after graduation.⁸ These studies could be read as indicating that most JDs will land on their feet, even if they do not immediately obtain a position.⁹ In this light, debt rather than career outcomes may be the bigger problem for many law students.

Nevertheless, we investigate the likely employment environment facing new JDs. We adopt a stricter definition of employment for this analysis than that of the ABA. We only consider JDs gaining full-time, long-term positions as successful in their job search.

7 Government Employment Projections

The Bureau of Labor Statistics anticipates that the employment of lawyers will increase by eight percent over the next ten years. This is about the same rate as the average for all occupations. The result will be an increase of 65,000 lawyers from 2016 to 2026. The BLS, though, also believes that competition for these jobs will be stiff because of a surfeit of law school graduates over this period.¹⁰ The BLS doesn’t attempt to project employment for JDs in non-legal positions.

The state of Tennessee estimates a 430 increase in lawyers from 2017-2019. That is a 4.4% change over the period. Including retirements and turnover, it expects 620 annual openings a year. Its last ten-year projection (2014-2024) expected an 8.8 percent increase in lawyers, yielding average annual openings of 200 per year. The 2017 Tennessee count of lawyers is actually higher than the number expected at the end date (2024) for the decade-long projection.¹¹ This suggests that either the number of lawyers in Tennessee in fact is growing faster than expected or that there is some methodological issue between these two time frames. The latest THEC study includes the law as neither an occupation in high demand nor one that is over supplied.¹²

⁸Michael Simkovic and Frank McIntyre. 2014. “The Economic Value of a Law Degree,” *Journal of Legal Studies* (43); the NALP Foundation for Law Career Research and Education. 2014. *After the JDIII: Third Results from a National Study of Legal Careers*.

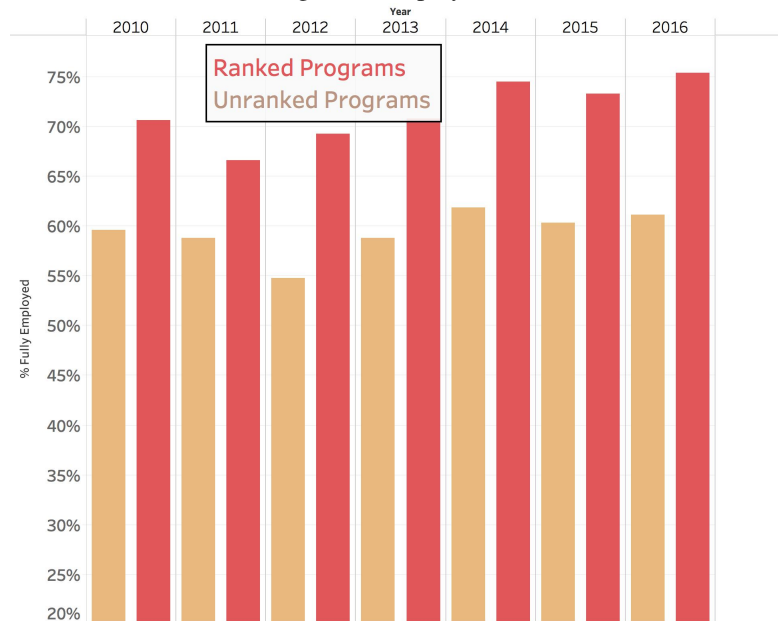
⁹But to be fair, these studies use data from before the recession of 2009.

¹⁰US Department of Labor, Bureau of Labor Statistics, *Occupational Employment Handbook*. <http://bls.gov>. Note, however, that the BLS has sharply revised downward the number of expected new positions from its 2104-2024 estimates.

¹¹<http://www.projectionscentral.com>. This is a website of state government employment predictions.

¹²Tennessee Higher Education Commission, *Academic Supply and Occupational Demand in Tennessee*,

Figure 4: Employment of New J.D.s



Government projections then, are for a sizable though not overwhelming number of new legal positions in coming years. The Tennessee 2017-2019 demand projections in fact exceed the number of individuals passing the Tennessee bar each year or the number graduating from all state law schools (if we exclude Vanderbilt). There seem to be significant numbers of new positions that will be available, the real issue is more likely the number of new JDs seeking those positions.

8 Recent Law School Placement Experience

Using our stiffer definition of employment, we examine the success of new JDs in obtaining jobs over the past several years. Again, because one could wonder if the experience is different between ranked and less prestigious institutions, we break them out. From Figure 4 we see that, yes, not surprisingly graduates from higher-ranked programs do better. But there does not appear to be a trend towards decreasing employment for either category of school, nor is the employment gap between them increasing.

Annual Report, January 15, 2018.

9 Tennessee Supply and Demand

About eighty percent of new JDs from accredited Tennessee school laws obtain jobs in their first year of search. This is higher than for most of the nation. If we look at all JDs from accredited programs across the nation that pass the Tennessee bar exam, about sixty percent find a job as a lawyer.¹³ There has been no apparent trend to these patterns over the past several years. A wildcard is the Nashville School of Law which reports no employment statistics. About fifty of its graduates pass the bar exam each year, but their professional fate is unknown.

There is an important caveat here. Beginning in 2014, the numbers of Tennessee new JDs and bar exam takers rose because of the advent of the two new programs. Yet the rate of job placement did not decline, despite this increased supply. This indicates there is some fungibility in the market. There must be positions that are not being filled, positions that are being tailored to individual graduates, or some other mechanism by which the demand for lawyers reacts positively to an increase in supply.

9.1 Nashville and Employment of J.D.s

One can't help but notice that the placement record of Belmont, an unranked program, matches or exceeds that of the University of Tennessee. The reason is very likely their different locations. As noted by Weissman in a 2013 *Atlantic* article, "law is many ways still a geographically bound profession."¹⁴ He makes the point that except at elite law firms, recruitment is regional. Most firms look to area law schools from which to hire. As we have seen, there is a dearth of such schools in middle Tennessee. Yet almost all the growth in Tennessee's legal profession is occurring in the Nashville area. While the number of lawyers remains flat across much of Tennessee, Nashville has added over 1,000 new legal positions over the past six years. In fact, the University of Tennessee has touted its closeness to Nashville as a reason to enroll in its program!¹⁵ Over one-fifth of UT/K JDs find employment in Nashville. If recruitment is local, then local law schools in areas that feature an increasing number of lawyers have an advantage. We draw the conclusion that law graduates coming out of the Nashville metro area have a significant tail-wind assisting their job prospects.

9.2 Summary

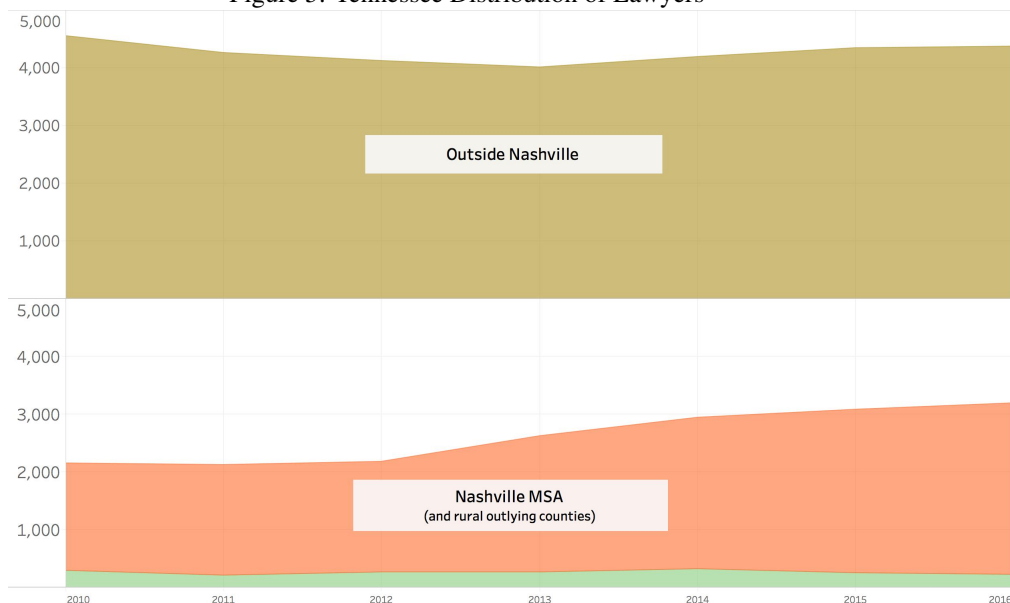
The various options available to a law school graduate make it somewhat difficult to assess the likely success of new graduates of a law program at MTSU. The broad conclusions are that while the golden age of multiple offers of desirable positions has perhaps passed, most law school grads do find careers with credible salaries. There is

¹³This is calculated by taking the number of reported placements in Tennessee from the ABA employment statistics divided by the number of first-time takers passing the Tennessee Bar Exam. For the latter, see <http://www.tnble.org>.

¹⁴Jordan Weissman. 2013. "The Absolute Worst States for Job-Hunting Law-School Grads," *The Atlantic* (June).

¹⁵<http://law.utk.edu/2016/09/08/nashville-law-school-grads/>

Figure 5: Tennessee Distribution of Lawyers



no clear downward trajectory to employment patterns. This is true for elite and non-elite law schools. For legal careers *per se*, the problem is not the disappearance of positions, but the sizable number of graduates seeking those positions.

MTSU would appear to have some advantages in this market. Tennessee projects between 200 and 600 new lawyer positions a year. This is a wide range. At the higher end of the range, the state should provide plenty of opportunities for JDs from a newly located program. But even at a lower number (and recent years have seen about 300 annual placements, excluding the Nashville School of Law) geographical location should well position MTSU graduates to compete for those jobs. The growth of legal jobs in Tennessee is concentrated in the Nashville region.¹⁶ The number of lawyers in this region is increasing by some 200 a year, thus with turnover the region is generating on the order of 300 new positions annually. Most legal hiring is local, and Belmont is the only other program in middle Tennessee that would produce comparable graduates. Three hundred positions is far larger than the number of Belmont JDs that graduate annually.

¹⁶The location quotient for Nashville lawyers has risen by ten percent in the past decade. This statistic measures the intensity of an occupation in a community compared to the national average. A rising location quotient means that the occupation is concentrating in the community at higher rate than the rest of the nation.

Part III

Conclusion

The short-term expectation is that the job market will remain a tough one for new JDs. However, student interest in entering a law program has steadied in recent years and has again begun to rise. Actual legal positions are also in fact rising, while employment outcomes for graduates appear to be more or less steady. In short, the demographic environment has improved in tandem with the economy over the past several years. Today's biggest challenge is simply digesting the large number of JD graduates that enter the job market each year. Obviously poor macroeconomic conditions could undo this improving situation. But absent them, there is every reason to expect sizable interest in a law career to continue and to expect JDs to do well in the job market, even if not spectacularly so.

Within this larger picture, MTSU possesses several advantages. It is in a large metropolitan area in which it would compete with no other public law school and with but one other private law school that is accredited. Its substantially lower tuition would make it extremely competitive with that private school. The competitive advantage of MTSU over the region's non-accredited law school also would seem substantial. In addition, the metro area is experiencing strong growth in the number of new lawyers. As we have noted, recruitment patterns favor nearby law schools to take advantage of this growth.

Set against MTSU's advantages are few obvious disadvantages. No doubt it takes time to network into the hiring community, but the experience of Belmont (and Lincoln-Memorial) suggest that this can happen rather quickly. The major threats instead would likely be a coincidental collapse in the American economy that would reduce jobs and discourage student applications, or some problem internal to the administration of the program that would undercut its attractions. If we assume that these threats are not immediate, likely, or unduly severe, we have to conclude that the prospects for success for an MTSU law program are quite good.

F E A S I B I L I T Y F O R A
Law Program at MTSU
APPENDIX



July 6, 2018

Murat Arik, Ph.D.

Appendix to Feasibility for a Law Program at MTSU

This appendix answers several questions about bringing a law school to MTSU.

Questions

1. What is the typical methodology for a feasibility study?
2. Are there too many lawyers in Tennessee?
3. What are the opportunities for lawyers?
4. Where did Tennessee lawyers come from?
5. How much does it cost to build a law school from scratch?

Answers

1. What is the typical methodology for a feasibility study?

A typical methodology for a feasibility study includes (a) enrollment projections to sustain a law school (national and local), (b) demand for lawyers in the service area (national and local projections), (c) revenue projections for the school, (d) projected expenditures, (e) various sensitivity analyses, and (f) non-financial reasons for a law school. MTSU's feasibility study addresses all of the components of a required feasibility study for a law school.

2. Are there too many lawyers in Tennessee?

The common objection to law schools across the country is simply: "There are too many lawyers in the area; why do we need another law school?" Almost all new school attempts we reviewed faced such an argument. To answer this question, BERC employed a commonly used metric, the location quotient (LQ), in evaluating occupational employment data from the U.S. Bureau of Labor Statistics (www.bls.gov). The LQ value for a given occupation measures its concentration in a given geography relative to the U.S. Any value smaller than 1 suggests a relatively lower concentration of that occupation in that region. That is, there is a room for that occupation to grow. LQ is defined as:

$$LQ = \frac{\frac{\text{Number of Lawyers in a Region}}{\text{Total Number of All Occupations in a Region}}}{\frac{\text{Number of Lawyers in the U.S.}}{\text{Total Number of All Occupations in the U.S.}}}$$

If $LQ > 1$, the region is relatively more concentrated than the U.S. (it has relatively more lawyers).

If $LQ = 1$, the region has relatively the same concentration as the U.S. (it has relatively the same level of representation).

If $LQ < 1$, the region is relatively less concentrated than the U.S. (it has relatively fewer lawyers).

Based on the LQ values for the occupational group of lawyers (Standard Occupational Classification 231011), Tennessee ranks 46th among the 50 states plus the District of Columbia (DC) with an LQ value of 0.59, suggesting that, relatively speaking, this occupational category has more room to grow in Tennessee. Similarly, the LQ value for a broader occupational group of Legal Occupations (SOC 230000) is 0.61, which ranks Tennessee 50th out of 50 states plus DC.

Employing a second commonly used method, BERC calculated and ranked the states using the number of people per legal occupation and per lawyer. The results suggest that on a per capita basis, Tennessee has fewer lawyers and legal occupations compared with the 50 states plus DC. Tennessee ranks 45th for the number of people per lawyer and 50th for the number of people per legal occupation.

Based on these commonly used metrics, BERC concludes that Tennessee is relatively underserved by these two occupational categories. Some of the states with a high level of concentration of legal occupations are New York, Florida, New Jersey, Illinois, and Colorado. Tennessee is nowhere close to these states (relatively speaking) in the categories of legal occupations.

When we look at the top 50 metropolitan areas (MSAs) by population size, the results are similar to our findings for the states. For example, the Nashville MSA and Memphis MSA rank 46th ($LQ = 0.68$) and 47th ($LQ = 0.69$), respectively, in terms of the relative concentration of lawyers as an occupational group. For the legal occupations, the results are similar: Memphis ranks 49th with an LQ of 0.65 and Nashville 47th with an LQ of 0.72.

At the regional level, the LQ values suggest the Nashville MSA is relatively less represented by lawyers and other legal occupations (see details below).

Concentration of Legal Occupations by State						
State	Population	Total	Legal Occupations (230000)		Lawyers (231011)	
		Employment	Employment	Location Quotient	Employment	Location Quotient
District of Columbia	693,972	708,220	39,520	7.26	32,090	10.28
New York	19,849,399	9,207,870	111,100	1.57	73,560	1.81
Florida	20,984,400	8,419,030	86,580	1.34	47,630	1.28
Delaware	961,939	442,690	4,900	1.44	2,410	1.24
New Jersey	9,005,644	4,007,470	33,630	1.09	20,730	1.17
Illinois	12,802,023	5,927,860	47,490	1.04	30,170	1.15
Massachusetts	6,859,819	3,528,070	29,460	1.09	17,820	1.15
California	39,536,653	16,695,010	129,420	1.01	79,980	1.09
Colorado	5,607,154	2,555,300	20,620	1.05	11,450	1.02
Maryland	6,052,177	2,664,330	25,000	1.22	11,900	1.01
Pennsylvania	12,805,537	5,781,610	43,340	0.98	25,470	1.00
Montana	1,050,493	460,740	3,670	1.04	1,980	0.98
Virginia	8,470,020	3,789,910	34,900	1.20	16,330	0.98
Connecticut	3,588,184	1,654,420	13,640	1.07	7,070	0.97
Georgia	10,429,379	4,303,530	30,930	0.94	18,160	0.96
Oklahoma	3,930,864	1,573,000	12,400	1.03	6,280	0.91
Minnesota	5,576,606	2,838,270	19,750	0.91	11,180	0.89
Nevada	2,998,039	1,310,220	8,770	0.87	5,150	0.89
Rhode Island	1,059,639	475,910	3,930	1.07	1,810	0.86
Vermont	623,657	305,110	2,110	0.90	1,140	0.85
New Mexico	2,088,070	801,080	5,770	0.94	2,900	0.82
Texas	28,304,596	11,890,880	81,400	0.89	42,870	0.82
Missouri	6,113,532	2,788,680	17,990	0.84	9,950	0.81
Arizona	7,016,270	2,704,050	18,880	0.91	9,500	0.80
Michigan	9,962,311	4,276,040	26,160	0.80	15,100	0.80
Utah	3,101,833	1,410,670	9,050	0.83	4,990	0.80
West Virginia	1,815,857	688,530	6,000	1.13	2,440	0.80
Louisiana	4,684,333	1,902,060	13,420	0.92	3,590	0.78
Oregon	4,142,776	1,830,790	12,230	0.87	6,260	0.78
Hawaii	1,427,538	632,990	3,880	0.80	2,110	0.76
Washington	7,405,743	3,186,610	20,320	0.83	10,540	0.75
Wyoming	579,315	267,980	1,580	0.77	820	0.70
Nebraska	1,920,076	970,230	5,110	0.69	2,950	0.69
Ohio	11,658,609	5,370,640	31,140	0.75	16,260	0.69
South Carolina	5,024,369	2,009,460	13,150	0.85	6,080	0.69
Alabama	4,874,747	1,922,570	10,080	0.68	5,640	0.67
Alaska	739,795	318,170	2,030	0.83	940	0.67
Kentucky	4,454,189	1,876,430	9,750	0.68	5,540	0.67
Idaho	1,716,943	685,630	3,940	0.75	1,980	0.66
Maine	1,335,907	599,180	3,590	0.78	1,710	0.65
Mississippi	2,984,100	1,119,470	5,820	0.68	3,190	0.65
Indiana	6,666,818	3,018,490	15,040	0.65	8,080	0.61
New Hampshire	1,342,795	649,950	3,270	0.65	1,750	0.61
Wisconsin	5,795,483	2,825,170	14,120	0.65	7,540	0.61
Kansas	2,913,123	1,369,110	7,500	0.71	3,640	0.60
Tennessee	6,715,984	2,915,750	13,590	0.61	7,610	0.59
North Carolina	10,273,419	4,298,390	21,570	0.65	10,830	0.57
Arkansas	3,004,279	1,200,130	6,240	0.68	2,730	0.52
North Dakota	755,393	416,670	2,260	0.71	960	0.52
Iowa	3,145,711	1,535,460	7,930	0.67	3,470	0.51
South Dakota	869,666	419,470	1,810	0.56	870	0.47

Source: Bureau of Labor Statistics (www.bls.gov) and Census Bureau (www.census.gov).

Concentration of Legal Occupations by MSA (2017)						
Area Name	Total		Legal Occupations (230000)		Lawyers (231011)	
	Population	Employment	Employment	Location Quotient	Employment	Location Quotient
Washington-Arlington-Alexandria, DC-VA-MD-WV	6,216,589	2,519,220	62,000	3.20	42,010	3.78
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	6,096,120	904,580	15,710	2.26	9,520	2.39
San Francisco-Oakland-Hayward, CA	4,727,357	1,116,390	15,750	1.84	11,580	2.35
New York-Newark-Jersey City, NY-NJ-PA	20,320,876	6,693,930	84,110	1.63	59,550	2.02
Miami-Fort Lauderdale-West Palm Beach, FL	6,158,824	1,139,100	17,690	2.02	9,860	1.96
Boston-Cambridge-Newton, MA-NH	4,836,531	1,839,740	22,230	1.57	13,460	1.66
Chicago-Naperville-Elgin, IL-IN-WI	9,533,040	3,662,390	35,890	1.27	23,290	1.44
Los Angeles-Long Beach-Anaheim, CA	13,353,907	4,430,840	42,340	1.24	27,210	1.39
Oklahoma City, OK	1,383,737	603,780	6,750	1.45	3,700	1.39
Tampa-St. Petersburg-Clearwater, FL	3,091,399	1,280,170	13,810	1.40	7,560	1.34
Denver-Aurora-Lakewood, CO	2,888,227	1,443,130	14,500	1.31	8,480	1.33
Sacramento--Roseville--Arden-Arcade, CA	2,324,884	960,180	8,600	1.17	5,460	1.29
Austin-Round Rock, TX	2,115,827	996,540	10,340	1.35	5,620	1.28
Atlanta-Sandy Springs-Roswell, GA	5,884,736	2,619,440	23,630	1.17	14,190	1.23
Baltimore-Columbia-Towson, MD	2,808,175	1,360,320	15,000	1.43	7,310	1.22
Hartford-West Hartford-East Hartford, CT	1,210,259	581,750	5,990	1.34	3,050	1.19
Richmond, VA	1,294,204	643,860	6,300	1.27	3,310	1.17
San Diego-Carlsbad, CA	3,337,685	1,433,340	11,910	1.08	7,330	1.16
New Orleans-Metairie, LA	1,275,762	552,840	5,800	1.36	2,810	1.15
San Jose-Sunnyvale-Santa Clara, CA	1,998,463	1,089,070	8,010	0.96	5,470	1.14
Minneapolis-St. Paul-Bloomington, MN-WI	3,600,618	1,932,310	16,640	1.12	9,500	1.12
Kansas City, MO-KS	2,128,912	1,055,320	9,060	1.12	5,190	1.11
Salt Lake City, UT	1,203,105	695,050	5,880	1.10	3,400	1.11
Buffalo-Cheektowaga-Niagara Falls, NY	1,136,856	547,750	4,590	1.09	2,690	1.11
Pittsburgh, PA	2,333,367	1,132,950	9,030	1.04	5,450	1.09
Dallas-Fort Worth-Arlington, TX	7,399,662	2,491,590	19,450	1.02	11,630	1.06
Birmingham-Hoover, AL	1,149,807	504,290	4,310	1.11	2,360	1.06
Raleigh, NC	1,335,079	606,510	4,620	0.99	2,780	1.04
Jacksonville, FL	1,504,980	668,140	5,280	1.03	3,030	1.03
Seattle-Tacoma-Bellevue, WA	3,867,046	1,647,350	12,290	0.97	7,240	1.00
Cleveland-Elyria, OH	2,058,844	1,029,230	8,940	1.13	4,540	1.00
Orlando-Kissimmee-Sanford, FL	2,509,831	1,209,250	10,350	1.11	5,300	0.99
Las Vegas-Henderson-Paradise, NV	2,204,079	962,720	6,770	0.91	4,120	0.97
Houston-The Woodlands-Sugar Land, TX	6,892,427	2,929,400	22,460	1.00	12,450	0.96
Indianapolis-Carmel-Anderson, IN	2,028,614	1,029,390	7,490	0.95	4,290	0.95
Milwaukee-Waukesha-West Allis, WI	1,576,236	841,550	6,350	0.98	3,530	0.95
St. Louis, MO-IL	2,807,338	1,356,630	9,740	0.93	5,440	0.91
Phoenix-Mesa-Scottsdale, AZ	4,737,270	1,980,010	14,800	0.97	7,630	0.87
Detroit-Warren-Dearborn, MI	4,313,002	735,090	4,090	0.72	2,710	0.84
Cincinnati, OH-KY-IN	2,179,082	1,056,680	6,110	0.75	3,870	0.83
Columbus, OH	2,078,725	1,038,240	7,140	0.90	3,690	0.81
San Antonio-New Braunfels, TX	2,473,974	1,003,370	6,600	0.86	3,560	0.80
Portland-Vancouver-Hillsboro, OR-WA	2,453,168	1,157,060	8,140	0.91	4,100	0.80
Charlotte-Concord-Gastonia, NC-SC	2,525,305	1,186,840	7,600	0.83	3,960	0.76
Providence-Warwick, RI-MA	1,621,122	567,620	4,030	0.92	1,870	0.75
Memphis, TN-MS-AR	1,348,260	617,990	3,110	0.65	1,880	0.69
Nashville-Davidson--Murfreesboro--Franklin, TN	1,903,045	940,810	5,240	0.72	2,840	0.68
Louisville/Jefferson County, KY-IN	1,293,953	646,670	3,640	0.73	1,950	0.68
Virginia Beach-Norfolk-Newport News, VA-NC	1,725,246	743,960	4,320	0.76	2,090	0.64
Riverside-San Bernardino-Ontario, CA	4,580,670	1,435,200	5,630	0.51	2,730	0.43

Source: Bureau of Labor Statistics (www.bls.gov) and Census Bureau (www.census.gov)

3. What are the opportunities for lawyers?

There are many opportunities for law school graduates: they are not simply involved in the direct provision of legal services for hire. According to 2017 law school graduate employment data (www.americanbar.org), only 69 percent of law school graduate employment positions requiring bar passage. According to the American Bar Association, 11.8 percent of law school graduates in 2017 accepted job offers that are JD advantage positions, meaning the job description specifies that a Juris Doctor degree, but not a state license, is required or preferred.

In terms of the type of industries, we see significant variations: for example, in 2017, 12.2 percent of law school graduates started working in business and industry, 12.0 percent in government, about 5 percent for public interest, 9.3 percent in clerkships (federal, state, other), and 1.4 percent in education.

When we use the sectoral employment data for legal services (North American Industry Classification System 5411), NAICS 5411 had 14,550 private jobs in 2017, according to BLS data. Measuring location quotient (LQ) for sectoral employment rather than occupational employment, we still get an LQ score of 0.63 in 2017.

Tennessee Employment- NAICS 5411- Legal			Total	Location
Year	Services	Covered	Quotient (LQ)	
2007	15,458	2,745,099	0.65	
2008	15,032	2,721,990	0.64	
2009	14,639	2,565,288	0.65	
2010	14,311	2,558,438	0.64	
2011	13,988	2,602,604	0.62	
2012	13,971	2,653,392	0.62	
2013	13,964	2,694,288	0.61	
2014	14,108	2,750,032	0.63	
2015	14,185	2,820,198	0.63	
2016	14,401	2,887,754	0.63	
2017	14,550	2,930,815	0.63	
Source: Quarterly Census of Employment and Wages (www.bls.gov)				

As suggested above, not all law school graduates are employed by the legal services sector (NAICS 5411). Many have jobs in other industries. Using American Community Survey data for 2016, BERC estimated that only 65.68 percent of legal services occupations are in the legal services sector (NAICS 5411). Law school graduates find employment opportunities across industries including healthcare, music and entertainment, manufacturing, financial institutions, professional services, transportation, and many others (see below).

Legal Services Occupations (SOC 2310XX)- Age Cohort 25-65 Years Old	
	Legal Services (SOC 2310XX)
Manufacturing	1.09%
Management of Companies and Enterprises	0.37%
Transportation	1.21%
Hospitals	0.62%
Performing Arts	1.41%
Administration of Human Resource Programs	3.52%
Sounds Recording Industries	0.89%
Business Support Services	0.40%
Elementary and Secondary Schools	0.64%
Financial Institutions	2.19%
Legal Services	65.68%
Accounting and Tax Preparations	0.49%
Computer System Design and Other Services	0.68%
Universities and Colleges	2.99%
Other Health Care Services	0.46%
Individual and Family Services	0.88%
Other personal Services	0.41%
Administration- Public Finance	0.69%
Administration- Executive Office and Legislative Bodies	2.59%
Military- U.S. Army	0.92%
Administration- Administration of Environmental Quality and Housing Programs	0.79%
Administration- Administration of Economic Programs	0.80%
Administration- Justice, Public Order, and Safety Activities	10.27%
Source: American Community Survey PUMS (2016) (www.census.gov)	

Middle Tennessee State University has more than 140 majors covering a variety of sectoral needs across the state. A law school may be a perfect addition to the already existing foundation to feed the increasing population and growing sectors in the middle Tennessee region. Some areas that are growing in the region and at MTSU include:

- Mechatronics and advanced engineering
- Health care and behavioral health
- Music and recording industry

- Education
- Finance/real estate/construction
- Computational science/computer information systems
- All business disciplines
- All basic and applied sciences

A law school that builds on these foundations is likely to serve the growing community in the region.

4. Where did Tennessee Lawyers Come From?

Not all Tennessee lawyers are from schools located in Tennessee. According to the American Community Survey PUMS data (www.census.gov), about five percent of those in the legal services occupations moved to Tennessee from other states in 2016. This is limited information that does not suggest that only five percent of those in the legal services occupations obtained their degrees from law schools other than those in Tennessee.

Legal Services Occupation (2310XX) - Residency in Previous Year (2016)	Percent
Tennessee/TN	95.01%
California/CA	0.37%
District of Columbia/DC	0.20%
Florida/FL	0.46%
Mississippi/MS	2.58%
Texas/TX	0.46%
Washington/WA	0.92%
Source: American Community Survey PUMS (census.gov)	

5. How much does it cost to build a law school from scratch?

Based on BERC's review of other feasibility studies, if a new law school is built from scratch, the estimated cost will be in the neighborhood of \$20,000,000. This figure is for a medium-sized law school that includes all necessary requirements for American Bar Association accreditation. In addition to this capital cost, BERC's estimates suggest that an accredited law school has an annual operating cost of about \$4,000,000.

A Medium-Sized Accredited Law School: A Ballpark Estimate from Publicly Available Sources

Capital Investment

Space: 40,000 sq. feet	\$15,200,000
Computers, data networks and other technology	\$760,000
Furniture	\$456,000
Library	\$1,140,000
Overhead	\$2,280,000
Total	\$19,836,000

Operating \$3,845,600

www.washburnlaw.edu

Washburn University School of Law

www.mun.ca

Memorial University Law School (Canada)

www.tacoma.uw.edu

University of Washington Tacoma Law School

Additional Notes:

(1) Texas A&M University spent \$73 million in 2013 to acquire a private law school in Fort Worth

To conclude, MTSU's bid for a law school through the transfer of the ABA-accredited program would be a welcome addition to the already strong academic programs at MTSU and a growing diversified economy in the region. When strategically aligned, this new law school will fill the needs in niche markets spanning from artificial intelligence to advanced manufacturing.

Letter of Intent Valparaiso University and Middle Tennessee State University Cooperative Educational Agreement

This Letter of Intent (“LOI”), entered into on the 9th day of May, 2018, describes the understanding between The Lutheran University Association, Inc. d/b/a Valparaiso University (“VU”), a private university located in Valparaiso, Indiana, incorporated in the state of Indiana, and Middle Tennessee State University (“MTSU”), a public university in the state of Tennessee with a principal campus in Murfreesboro, Tennessee (each of VU and MTSU are referred to as a “Party” and collectively as the “Parties”). This Agreement is subject to the Nondisclosure Agreement, executed between the Parties on or about the 22nd day of February, 2018 (the “NDA”).

The Parties intend to negotiate in good faith with the goal of entering into a legally binding definitive agreement that achieves the objectives, terms, and conditions on mutually acceptable terms described in this LOI.

VU and MTSU will collaborate on the relocation of the VU Law School (“VULS”) to Murfreesboro, Tennessee to allow its continued operation under the governance of MTSU. The definitive agreement will include, but not be limited to, the relationship of the Parties, (including the relationship of the VULS and MTSU to VU), the name of the law school, the transfer and continued employment of necessary and desirable VULS employees, including an appropriate number of faculty, and the transfer of certain assets by VU. These assets include, but are not limited to, the VULS intellectual property, including the VULS curriculum and the know-how to operate an American Bar Association (“ABA”) accredited law school, with the goal that the VULS full accreditation with the ABA would continue throughout the relocation, consistent with the required acquiescence of the ABA Council on Legal Education and Admissions to the Bar, and the VULS library (collectively the “Institutional Assets”). Fair and reasonable costs and considerations will be borne by MTSU to accomplish the aforementioned objectives, terms, and conditions.

In particular, the parties have agreed to the following terms and/or objectives in principle:

1. The definitive agreement will permit the VULS’s character, curriculum, and best practices of legal education to be relocated and integrated with the character and best practices of MTSU. It will be a condition to the obligations of the parties that a sufficient number of VULS faculty and staff will relocate to MTSU to allow for the successful transfer of the intellectual property, including the character of legal education currently offered by the VULS in Valparaiso, Indiana, to permit approval by accrediting bodies. The character of the relocated law school will include, but will not be limited to, the VULS mission which embraces law as a calling to leadership and service.
2. The Parties will work diligently to maintain full accreditation of the VULS accrediting bodies throughout the transfer process. The Parties recognize the definitive agreement is subject to approval by such accrediting bodies.

3. MTSU will provide facilities and operating liquidity to successfully relocate the ongoing activities of an ABA accredited law school in Murfreesboro, Tennessee.
4. If it is required by accreditors or desirable to the Parties that the VULS name or some derivative of the name continue to be used for a transition term or an extended term, the Parties will enter into a licensing agreement for use of the VULS name.
5. The Parties will establish an advisory committee to oversee the law school's transition on which VU will serve a prominent role. The advisory committee will meet as required but not less than twice per year. VU will continue to have representation on the advisory committee for a time period from the effective date of the definitive agreement to allow sufficient time for the first graduating class to finish their education and for the student success to be reported to the ABA.
6. VULS faculty and staff who transfer to MTSU will be provided terms and conditions of employment no less favorable than their current terms and conditions. Any benefits or prerequisites which accrued while employed at VU will be the responsibility of VU. MTSU will provide transferring Valpo employees a reasonable relocation stipend. The Parties recognize a sufficient number of VULS faculty and staff will need to relocate to Murfreesboro, Tennessee to allow for the successful transfer of intellectual property, including the character of legal education currently offered by VULS in Valparaiso Indiana.
7. The Parties agree a definitive agreement must be agreed to within a timeframe to permit the relocated law school to admit a first year class for the fall of 2019. The Parties intend to enter into the definitive agreement by May 31, 2018, and the only condition requisite to closing being the approval by any necessary accrediting bodies.
8. VU will retain all assets (including its student records) except the assets scheduled as Institutional Assets in the definitive agreement.
9. MTSU will assume certain liabilities of VU to transfer and maintain the operations of the VULS in Murfreesboro, Tennessee. VU shall be solely responsible for any and all other liabilities, known or unknown, which accrued prior to the effective date of the definitive agreement, or which arise out of events or actions or omissions of VU Board of Directors members, officers, employees, or agents that occur prior to the effective date of the agreement, related solely to the operation of the VULS in Valparaiso, Indiana.
10. The definitive agreement will contain representations and warranties by the Parties as customary in a definitive agreement of this type.
11. The definitive agreement to be entered by the Parties will include provisions for transition and operations support to include, for example, the completion of providing legal education in Valparaiso, Indiana for any students who do not choose to transfer or to move to Murfreesboro with the law school, operational assistance on the integration of

the law school specific services, systems and software at MTSU, etc. The Parties agree that transition costs and costs for employees will be allocated between the Parties based on the beneficiary of such services.

12. As consideration and reimbursement for possible transition expenses to VU, MTSU will compensate VU a sum not to exceed \$2,000,000 (two million dollars). The definitive agreement will determine the timing and method of payment or payments. The Parties agree the entire payment or payments will not be due until a mutually agreed date after signing the definitive agreement.

This LOI is not intended to be and shall not be construed by the Parties to be legally binding on the Parties, nor does it constitute or represent a comprehensive summary of the academic, educational, financial, legal, business, programmatic, contractual, technical, commercial or other goals of the Parties. The Parties understand that a legally binding agreement may or will require the approval or acquiescence of each Parties' governing boards, the American Bar Association, the Higher Learning Commission, the Southern Association of Colleges and Schools Commission on Colleges, the Tennessee Higher Education Commission, and/or other entities. At any time, either Party may terminate the LOI upon electronic notice delivered to the other at the email addresses contained herein. Upon termination of the LOI, no Party shall have any liability or further obligation to the other Party, other than any obligations between the Parties that derive from the NDA previously executed between the Parties.

By signing below, I hereby acknowledge and accept on behalf of my Party the foregoing provisions of this LOI.

By:



Dr. Mark A. Heckler
President, Valparaiso University
Mark.Heckler@Valpo.edu

5-9-18

Date

By:



Dr. Sidney A. McPhee
President, Middle Tennessee State University
sidney.mcphee@mtsu.edu

5/9/2018

Date

May 31, 2018

Mr. Mike Krause
Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Mr. Krause,

I write to inform you that Middle Tennessee State University has entered into a non-binding letter of intent with a higher education institution located in another state to transfer its American Bar Association-accredited law school to our Murfreesboro campus. Among the conditions cited in this letter of intent are the requirements of approval by the governing boards of each institution; approval by the Tennessee Higher Education Commission; and, continuing ABA accreditation following the transfer of control to MTSU.

After first being approached with this opportunity, but before we explored it further, we felt it prudent to conduct a preliminary feasibility study to determine if a need existed for a public law school in middle Tennessee and whether graduates of such a school would have adequate employment opportunities. Per THEC Academic Policy A1.0 – New Academic Programs, we entered into a contract with the MTSU Business and Economic Research Center (BERC) for this study. The staff of BERC has extensive experience conducting business and economic feasibility studies for public and private entities and has completed similar academic program feasibility studies for THEC in the past. While the feasibility study noted the market challenges facing law schools and aspiring lawyers in recent years, the overall conclusion was quite positive. The study noted that the Nashville metro area is geographically farther from a public law school than any other of America's top 50 metro areas and stated that "there is every reason to expect sizeable interest in a law career to continue and to expect JDs to do well in the job market ...we have to conclude that the prospects for success for an MTSU law program are quite good." To further assist Commission members in their consideration of this matter, we will work with Commission staff to identify and engage an external consultant to assess the need for an accredited public law school in the middle Tennessee region, along with employment opportunities for graduates.

We have an exceptional opportunity to provide the citizens of Tennessee with the option to attend an accredited public law school with a long and distinguished history of public service and a demonstrated commitment to diversity. Attached is a copy of the preliminary feasibility study prepared by BERC. I look forward to working with you and your staff as we pursue this exciting opportunity.

Sincerely,



Sidney A. McPhee
President

Letter of Notification (LON) Public Comments Received

Institution	Middle Tennessee State University
Proposed Academic Program	Doctor of Jurisprudence (J.D.)
Proposed Implementation Date	Fall 2019
Letter of Notification (LON) Submission Date	July 13, 2018
Posted Date on THEC Website	July 16, 2018
Public Comment Period	July 16 – July 31, 2018

<i>Name</i>	<i>Title</i>	<i>Affiliation</i>	<i>Date Received</i>
1) Mr. Edward L. Brundick, III	President	UofM Law School Alumni Assoc.	July 26, 2018
2) Mr. Everett L. Hixson, III	Attorney	Evans, Harrison & Hackett	July 27, 2018
3) Mr. George T. Lewis	Attorney	Baker Donelson	July 30, 2018
4) Mr. John A. Bobango	Attorney	Farris Bobango Branan PLC	July 31, 2018
5) Ms. Lisa Ramsay Cole	Attorney	Lewis Thomason	July 31, 2018
6) Dr. Wayne T. Davis Dr. David Manderscheid Ms. Melanie D. Wilson	Interim Chancellor Provost & Senior Vice Chancellor Dean	University of Tennessee Knoxville	July 31, 2018
7) Dr. Joseph DiPietro	President	University of Tennessee	July 31, 2018
8) Ms. Jennifer Vallor Ivy	Attorney	Rainey, Kizer, Reviere & Bell	July 31, 2018
9) Dr. M. David Rudd Ms. Katharine Traylor Schaffzin	President Interim Dean & Professor of Law	University of Memphis	July 31, 2018
10) Mr. Earle Schwarz	President	Memphis Bar Association	July 31, 2018
11) Mr. Dan Street	Attorney	Sullivan County	Aug 8, 2018
12) Mr. Phillip Trenary	President	Greater Memphis Chamber	Aug 22, 2018
13) Ms. M. Joy Baxter	Attorney	Ortale Kelley Law Firm	Aug 24, 2018
14) Dr. Glenda Baskin Glover	President	Tennessee State University	Sept 18, 2018
15) Speaker Beth Harwell	Speaker of the House	State of Tennessee House of Representatives	Sept 27, 2018
16) Mr. Mike Sandler	Attorney	Mike Sandler Law	Oct 2, 2018
17) Mayor Bill Ketron	Mayor	Rutherford County	Oct 3, 2018
18) Mr. Gregory D. Smith	Attorney	Law Office of Gregory D. Smith	Oct 4, 2018
19) Mr. Kirk Catron	President	Rutherford & Cannon County Bar Association	Oct 4, 2018
20) Senator Shane Reeves	Senator	District 14	Oct 4, 2018
21) Mr. Frank Buck	Attorney	Buck & Buck Attorneys-at-Law	Oct 4, 2018
22) Mr. R. Steven Waldron	Attorney	Waldron, Fann & Parsley	Oct 4, 2018
23) Honorable Don R. Ash	Senior Judge	Tennessee State Courts	Oct 4, 2018
24) Mr. Ralph Schulz	President & CEO	Nashville Chamber of Commerce	Oct 4, 2018
25) Mr. Matt Meyer	Sr. Business Systems Analyst	Community Health Systems	Oct 4, 2018
26) Mayor Shane McFarland	Mayor	City of Murfreesboro	Oct 4, 2018

July 26, 2018

Mr. Evan Cope
Chairman, Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Edward L. Brundick, III
President, University of Memphis
Law School Alumni Association
Glassman, Wyatt, Tuttle & Cox. P. C.
26 N. Second Street
Memphis, TN 38103

Re: Middle Tennessee State University / Valparaiso School of Law

Mr. Cope,

I am writing to you on behalf of the University of Memphis Law School Alumni Association. As its President, a practicing attorney in Memphis, and as a graduate of the Cecil C. Humphreys School of Law, I understand how the ill formed plan of Middle Tennessee State University to add a tax payer funded seventh law school will negatively affect the overall health of all six previously establish law schools in Tennessee. Specifically, if allowed to proceed, MTSU would dilute a finite set of valuable state resources currently funding the law schools at the University of Memphis and the University of Tennessee, while offering nothing needed or new to the State. This is not in the best interest of the State or the residents of Tennessee. The Tennessee Higher Education Commission should deny MTSU's application.

Law School Applicants

Nationally the market for law schools is oversaturated. Overextended law schools are closing (i.e. Valparaiso). Applications to UT and Memphis Law from Tennessee residents have been declining. The existing six law schools in Tennessee already admit every qualified Tennessee resident who applies, with capacity for more. If there were additional applications from qualified Tennessee residents, the existing law schools in Tennessee have sufficient capacity to serve these students and would love to have them. There are zero untapped potential law students in the State who are not currently served.

Nashville Market

Half of Tennessee law schools are located in Nashville and every demographic of law student is currently being served by the existing Nashville law schools. Additionally, a new law school in Nashville would face formidable hurdles, including competing with three other Nashville law schools for a limited number of qualified students, and finding employment for their students following graduation in a city where its legal needs are

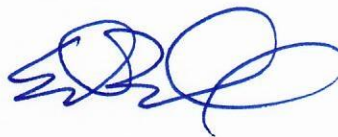
already being met. Moving the Valparaiso law school to Nashville will only add to an already oversaturated market.

American Bar Association

The transfer of Valparaiso's assets to MTSU would constitute a "Major Change" under the ABA's Standard 105(a)(3), (6)-(8), and (11). If the ABA considered this action the creation of a new or different law school, MTSU would then have to apply for provisional accreditation; this is the equivalent of starting from scratch in seeking accreditation.

It is clear to me that the addition of another law school in Tennessee is bad for the State, unneeded by its residents, and harmful to the existing six law schools. I respectfully request that the Tennessee Higher Education Commission deny the application of Middle Tennessee State University.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed Brundick', with a stylized, cursive flourish.

Ed Brundick



ATTORNEYS AT LAW

Everett L. Hixson III
Direct 423-693-2206
rhixson@ehhlaw.com

July 27, 2018

Mike Krause
Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Re: MTSU/Valparaiso Law School

Dear Director Krause:

I am concerned about Middle Tennessee State University's plan to acquire Valparaiso University Law School. I believe the acquisition of Valparaiso's law school is wholly unnecessary and will not serve the best interests of Tennessee.

As you may know, there are currently **six** law schools in Tennessee. Both the University of Tennessee and University of Memphis are currently below their capacity for students. As such, qualified Tennessee residents can already attend established and accredited law schools with a history of successful post-graduate placement. After all, the standard path after graduating law school is to pass the bar exam and find a job. All this new law school will do is insert more law school graduates into an already crowded job market.

I currently practice in an eleven-person firm in Chattanooga, and I am the only associate. It is a tough job market and law-school graduates need all the help they get to find jobs. That help can only be provided through long-established, successful law schools with strong career-placement offices. An upstart law school simply cannot compete on that level.

Thank you for your attention to this matter.

Sincerely,

Everett L. Hixson III

GEORGE T. LEWIS
2000 FIRST TENNESSEE BUILDING
165 MADISON AVENUE
MEMPHIS, TENNESSEE 38103

Direct Dial: 901.577.2256
Direct Fax: 901.577.0749
E-Mail Address: blewis@bakerdonelson.com

July 30, 2018

Betty Dandridge Johnson
Tennessee Higher Education Commission
404 James Robertson Parkway
Suite 1900
Nashville, TN 37243

Re: Middle Tennessee State University

Dear Ms. Johnson:

Middle Tennessee State University (MTSU) has filed a Letter of Notification with the Tennessee Higher Education Commission seeking approval to create a new academic program, a J.D., which “prepares individuals for the independent professional practice of law, for taking state and national bar examinations, and for advanced research in jurisprudence.” MTSU Letter of Notification submitted July 13, 2018.

Tennessee does not need seven law schools. The State of Tennessee already has six law schools, five of which (Belmont, LMU, Memphis, Tennessee and Vanderbilt) prepare students to take state and national bar examinations, and a sixth (the Nashville School of Law) that prepares students to take the bar examination in Tennessee. Two of the current five Tennessee law schools are state schools within an easy drive of Middle Tennessee, where MTSU is located. Belmont is a forty-five minute drive away.

I served on Baker Donelson's recruiting committee for over 35 years. We continue to have scores of applicants for each position. I have never heard any colleague, inside or outside my firm, complain that they did not have plenty of applicants for each of their job postings.

Since the 2008 recession, and because of changes in the practice of law since then, the market for lawyers has become saturated. It is very competitive and difficult for new graduates to find meaningful employment practicing law or in positions where the J.D. is valued. Moreover, there is capacity in our existing law schools to admit more students.

July 30, 2018

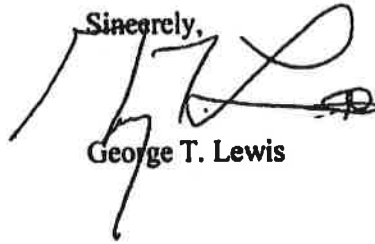
Page 2

Many law students incur significant debt on the way to earning a J.D. At the end of their three year journey, they find themselves in significant debt and unable to find a job in their chosen profession. It is heartbreaking.

From the Letter of Notification, it does not appear that MTSU plans to offer any unique mission or programs unavailable at many of the other fine law schools in Tennessee. Moreover, as I understand it, Valparaiso was censured by the American Bar Association in 2016. Even if we needed seven law schools in Tennessee, this is certainly not the way to go about it.

This proposal simply defies the obvious point that Tennessee does not need seven law schools.

Sincerely,

A handwritten signature in black ink, appearing to be "GTL", written over the printed name "George T. Lewis".

George T. Lewis

GTL:mek

FARRIS BOBANGO BRANAN PLC

ATTORNEYS AT LAW

999 S. Shady Grove Road, Suite 500 / Memphis, TN 38120
901-259-7100 / Fax 901-259-7150
www.farrisbobango.com

July 31, 2018

Tennessee Higher Education Commission
404 James Robertson Parkway
Suite 1900
Nashville, TN 37243

Dear THEC,

RE: Concern with merger of Valparaiso Law School into Middle Tennessee State University

I am writing this letter to express reservation over Middle Tennessee State University's intention to acquire Valparaiso Law School. I applaud every higher education institution in Tennessee which seeks to expand its education curriculum, but we need to look for new areas of education, not those that already exist throughout the state. A few concerns I want to specifically bring to the Commission's attention include the reduction in state resources that are allocated between public law schools, the saturation of state and local law school markets caused by declining Tennessee applications in a market that is already operating below capacity, and ABA accreditation obstacles.

First, the addition of another public law school in Tennessee will dilute the enrollment of the two existing public law schools—University of Tennessee and University of Memphis—without serving any additional Tennessee residents than those who can currently be served. Tennessee applications are declining and University of Tennessee and University of Memphis would admit additional qualified applicants if they existed. It is highly unlikely that a third law school could serve a greater number of Tennessee residents than those currently served. Valparaiso Law School is already closing its doors because it is located in an oversaturated market and cannot enroll enough students to keep its doors open. Moving to Nashville will leave Valparaiso Law School in the same situation because of the three Tennessee's law schools that are already located in Nashville. Instead of two currently underfunded public law schools competing for state resources, the State would be spreading its resources among three schools.

Second, merging Valparaiso Law School into Middle Tennessee State University will saturate the law school and legal hiring markets on a state and local level. As stated above, applications to the University of Tennessee and the University of Memphis from Tennessee residents have been declining. Every qualified Tennessee resident who applies to one of the existing six law schools in Tennessee is admitted. Both the University of Tennessee and the University of Memphis are below their respective capacities of 160 students and are able and willing to accept additional



qualified Tennessee residents if the need arises. Currently, there are no untapped potential law students in Tennessee who are not currently served.

Nashville is home to half of the Tennessee law schools. The Nashville market cannot absorb additional law students without lowering admissions standards. The lowering of admissions standards has a direct correlation to a law school's risk of graduating students who cannot pass the bar examination and obtain legal employment. The ABA recently increased its expectations concerning bar passage and now requires that 75% of graduates taking the bar exam must pass. Low bar passage rates place a law school's accreditation in jeopardy and will prevent accreditation of a new law school. The ABA is skeptical about accrediting new law schools and is raising accreditation issues with schools with low admissions standards and low bar passage rates. The ABA's primary concerns are the ability of graduates to pass the bar and obtain legal employment.

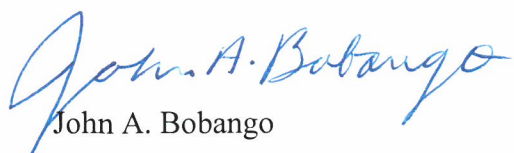
Lastly, ABA accreditation issues will arise if attempts are made to merge Valparaiso Law School into Middle Tennessee State University. Middle Tennessee State University's acquisition of Valparaiso Law School's assets would constitute a "Major Change" under the ABA's Standards. Valparaiso Law School would be required to apply for the ABA's acquiescence to the transfer, which would be granted "only if the law school demonstrates that the change will not detract from the law school's ability to remain in compliance with the Standards." An application for acquiescence must satisfy the ABA accreditation Committee that the major change is not so significant to constitute the creation of a "new or different law school." If the ABA Accreditation Committee finds it is the equivalent of a new law school, Valparaiso Law School would have to apply for provisional accreditation; this is the equivalent of starting de novo in seeking accreditation.

In considering whether a merger creates a "new or different law school," the ABA Accreditation Committee will consider factors such as the "overall composition of the faculty and staff at the law school . . . and . . . the location or physical facilities of the law school." Since 1995, only two law school mergers have avoided a finding that the major change created a new or different law school requiring provisional accreditation. In both instances, the mergers remained within the same state. Valparaiso Law School will need to be relocated from Indiana.

For the reasons stated above, please consider the ramifications to the existing underfunded law programs in the State of Tennessee and the positive that may come from allowing Valparaiso Law School to relocate. In this instance, the harm to the citizens of Tennessee, the future law students, and the State budget far outweighs the good to a few.

Thank you for considering all facts and circumstances in this matter and the long-term impact.

Very truly yours,



John A. Bobango



LEWIS THOMASON

LEWIS THOMASON
424 Church Street, Suite 2500
P.O. Box 198615
Nashville, TN 37219-8615
T: (615) 259-1366 F: (615) 259-1389

Lisa Ramsay Cole
DL: (615) 259-1374
lcole@lewisthomason.com

July 30, 2018

Ms. Betty Dandridge Johnson
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

RE: **MTSU Letter of Notification**

Dear Ms. Johnson:

Middle Tennessee State University (MTSU) has filed a Letter of Notification with the Tennessee Higher Education Commission seeking approval to create a new academic program, a J.D., "that "prepares individuals for the independent professional practice of law, for taking state and national bar examinations, and for advanced research in jurisprudence." (MTSU Letter of Notification submitted July 13, 2018.)

The State of Tennessee already has six law schools, five of which (Belmont University, Lincoln Memorial University, University of Memphis, University of Tennessee and Vanderbilt University) prepare students to take state and national bar examinations, and a sixth (the Nashville School of Law) that prepares students to take the bar examination in Tennessee. Two of the five Tennessee law schools are state schools within an easy drive of Middle Tennessee, where MTSU is located.

As the president and managing partner of one of the largest law firms in Tennessee, and a participant in over two decades of hiring for my firm, I can say without any reservation or hesitation, that Tennessee does not need another law school.

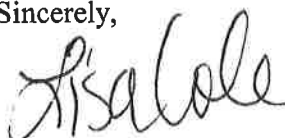
Since the 2008 recession, and because of changes in the practice of law since then, the market for lawyers is saturated. It is very competitive and difficult for new graduates to find meaningful employment practicing law or in positions where the J.D. is valued. In addition, many law students incur significant debt on the way to earning a J.D.

It's my understanding in order to respond to the changes in market, most, if not all, of the law schools in the State of Tennessee have reduced the size of their student bodies. Only this reduction has protected the schools' graduates from unemployment. It is also my understanding from my extensive interaction with the University of Tennessee College of Law as a member of the dean's advisory group, there is capacity, at least at the two public law schools in our state – Tennessee and Memphis – to enroll more students, should the legal market improve.

Ms. Betty Dandridge Johnson
July 31, 2018
Page 2

In a state of approximately 6.7 million people, we simply do not need another law school at this time. From the Letter of Notification, it does not appear that MTSU plans to offer any unique mission or programs unavailable at many of the other fine law schools in Tennessee. And, as I understand it, Valparaiso is not the type of education that we want to offer in Tennessee, as that school has recently been censured by the American Bar Association for admitting students who did not have a reasonable likelihood of graduating and passing the bar exam in the state where Valparaiso is located.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Ramsay Cole".

Lisa Ramsay Cole

LRC/tjf



July 31, 2018

Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243
c/o Betty Dandridge Johnson
Email: betty.dandridge.johnson@tn.gov

Dear Commissioners:

The University of Tennessee, Knoxville, and The University of Tennessee College of Law do not support Middle Tennessee State University's petition for a law school on its campus in Murfreesboro. As explained more fully in UT Law's Public Comment regarding the proposed new program, which accompanies this cover letter, we are concerned about excessive duplication and undue proliferation of juris doctor programs in the State of Tennessee.

We urge the Commission to deny approval of a new law school program at MTSU.

Sincerely,

Wayne T. Davis
Interim Chancellor

David Manderscheid
Provost and Senior Vice Chancellor

Melanie D. Wilson
Dean and Lindsay Young Distinguished Professor of Law

MDW/jo
Attachments

Office of the Chancellor
527 Andy Holt Tower Knoxville TN 37996-0184
865-974-3265 fax 865-974-4811 chancellor@utk.edu

BIG ORANGE. BIG IDEAS.

11

Public Comment of the University of Tennessee College of Law Regarding the Proposed New Doctor of Jurisprudence Program at Middle Tennessee State University

The University of Tennessee College of Law (UT Law) submits the following comment in response to Middle Tennessee State University (MTSU)'s proposed new Juris Doctor program.

Introduction

This Commission is statutorily tasked with reviewing and approving new academic programs for public institutions of higher education in Tennessee.¹ The review is designed to “promote academic quality” and to “avoid and eliminate unnecessary duplication” or “undue proliferation” of programs in the State.² An institution seeking to establish a new academic program must demonstrate a need justifying allocation/reallocation of State resources and a sustained demand for the program, including employment opportunities for future graduates.³

There are currently six law schools spread across the three Grand Divisions of Tennessee. MTSU proposes to open the seventh law school in the state. MTSU's Letter of Notification says that, if approved, its new law school would be “the only accredited law program in Middle Tennessee.”⁴ In fact, there are already two ABA-accredited law schools in Middle Tennessee (Vanderbilt and Belmont) and a third accredited by the Tennessee Board of Law Examiners (the Nashville School of Law). Thus, there are three law schools in Middle Tennessee that produce graduates who are eligible to practice law in the State of Tennessee upon passing the bar exam. In addition, there are two well-established, ABA-accredited public law schools (UT Law and Memphis) within easy driving distance from Middle Tennessee.⁵ Both public law schools maintain capacity to accept additional qualified students.⁶ Finally, there is an ABA provisionally-accredited private law school (Lincoln Memorial (LMU)) in Knoxville. Collectively, the schools in Nashville enrolled almost 400 new students for the 2017-18 academic year. UT Law, Memphis Law, and LMU enrolled another 325 students. So, the current law schools in Tennessee enrolled over 700 new students and maintain capacity to accept additional qualified students.

¹ THEC Academic Policy No. A1, Section 1.0.1A (Revised Jan. 2017).

² *Id.* at 1.0.1A and 1.0.2A2.

³ *Id.* at 1.0.2A1.

⁴ See MTSU's Letter of Notification to Develop a New Academic Program, p. 1.

⁵ UT Law, which offers a well-respected legal education for less than \$20,000/year, enrolled 122 new students last year. Between 25% and 30% of UT Law's in-state applications are from residents of Middle Tennessee. The University of Memphis School of Law (Memphis Law) also offers a well-respected legal education for less than \$20,000 per year. Memphis Law enrolled 103 new students last year.

⁶ UT Law's student body has dropped from 486 in 2011 to 350 students in 2017. Memphis Law's student body has declined from 432 students in 2011 to 312 in 2017. Thus, UT Law and Memphis Law can accommodate an additional 256 qualified students without expanding their programs. Vanderbilt's student body size has also declined—from 586 in 2011 to 557 in 2017. This information is available on each school's website as part of the ABA Standard 509 Disclosures.

I. Background on the Current State of the Legal Profession and Legal Education

To fully appreciate MTSU's proposal, some background on the current state of the legal profession, legal education, and the legal job market is necessary.

A. Changes in the Legal Profession Have Stalled Employment Opportunities for Graduates with a J.D.

The 2008 recession along with advances in technology since then have impacted the legal profession in significant and lasting ways. Following the recession, clients and traditional law firms engaged in drastic cost-cutting measures that prompted a re-evaluation of how legal services are delivered. The result is a new normal in the legal profession. According to Internal Revenue Service data, solo practitioners now earn roughly one-third less on average in real dollars than they did a generation ago.⁷ Business clients are hiring law firms less frequently, and law firms "have turned to contract lawyers for certain types of work and shed administrative staffers or moved them to lower-cost regions."⁸ Lawyers are billing fewer hours than they did 11 years ago.⁹ "Figures from the U.S. Bureau of Labor Statistics, tracking the overall legal services industry, show that employment still has not caught up with the pre-recession peak of 1.18 million jobs. Recent job growth is still less than half of a percentage point a year."¹⁰ As explained by one economist, "As a share of total employment, [job growth in the legal field] is shrinking."¹¹

The shrinking employment market for lawyers is further demonstrated by the data from the National Association for Law Placement (NALP).¹² As explained by James G. Leipold, the executive director of NALP, "[f]or the third year in a row the employment rate is shaped by a smaller number of jobs and a smaller graduating class size, with graduates benefitting from slightly less competition for the jobs that exist. *The employment rate has risen because the falloff in the size of the graduating class has been larger than the falloff in the number of jobs secured.*"¹³

MTSU's feasibility study notes the uncertainty of the future job market for lawyers. MTSU's study acknowledges that, "the short-term expectation is that the job market will remain a tough one for new JDs."¹⁴ The study further states, "Today's biggest challenge is simply digesting the large number of JD graduates that enter the job

⁷ BENJAMIN H. BARTON, GLASS HALF FULL (2015), p. 47.

⁸ Dan Packel, *Will Law Firms Be Ready When the Next Recession Hits?*, THE AMERICAN LAWYER, May 22, 2018, available at <https://www.law.com/americanlawyer/2018/05/22/will-law-firms-be-ready-when-the-next-recession-hits/>

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Employment Rate for New Law School Graduates Rise*, JD Journal, Aug. 2, 2017, available at jdjournal.com/2017/08/02/employment-rate-for-new-law-school-graduates-rise/. (NALP is the non-profit organization that compiles and disseminates information on law school employment outcomes and trends).

¹³ *Id.* (emphasis added).

¹⁴ Feasibility for Law Program at MTSU, p. 12 (March 10, 2018).

market each year.”¹⁵ Nevertheless, MTSU concludes that “[t]here seem to be significant numbers of new [law] positions that will be available...”¹⁶ That conclusion is unsupported by the actual number of law jobs obtained by new J.D. graduates in recent years and the number of law jobs secured by graduates of the five ABA accredited law schools in Tennessee. As Exhibit A, attached hereto, demonstrates, the total number of law jobs obtained by recent law school graduates nationwide has decreased from 35,457 for 2013 graduates to 28,116 for graduates of 2017. Likewise, the total number of J.D. graduates who obtained jobs in Tennessee has fallen over time—from a high of 483 for 2014 graduates to 438 for 2016 graduates.

B. Law Schools are Closing for Lack of Applicants.

Ten years after the 2008 recession, law schools continue to face challenging times. Between 2008 and 2016, the average number of applicants to law schools fell 52.3% at schools ranked below the top 14.¹⁷ As a result of declining law school applications, nearly every law school in the country has been forced to choose between (a) maintaining academic standards and accepting fewer students or (b) lowering academic standards and maintaining historical enrollment numbers.

For example, the University of Minnesota Law School has traditionally been ranked as a top 20 law school. By 2014, applications to the school had dropped by almost half. The school made the decision to maintain its admissions standards. To do that, it had to cut its class size by a third, make nearly \$7 million in budget cuts, and to rely upon nearly \$25 million in subsidies.¹⁸ Other schools have made the opposite choice and attempted to maintain existing enrollment numbers by admitting students with lower academic predictors.¹⁹ The result in many instances has been dramatically declining bar passage rates.²⁰

¹⁵ *Id.*; see also *id.* p. 8 (“The BLS [Bureau of Labor Statistics] though also believes that competition for [law] jobs will be stiff because of a surfeit of law school graduates.”)

¹⁶ *Id.* at 9.

¹⁷ Ilana Kowarski, *Less Competitive Law School Admissions a Boon for Applicants*, U.S. NEWS & WORLD REPORT, Aug. 8, 2017, available at <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2017-08-08/law-school-admissions-less-competitive-than-2008>.

¹⁸ Maura Lerner, *University of Minnesota Law School Seeks Subsidies to Maintain Top Ranking*, STAR TRIBUNE, May 28, 2018, available at <http://www.startribune.com/university-of-minnesota-law-school-seeks-subsidies-to-maintain-top-ranking/483829781/>

¹⁹ Elizabeth Olson, *Study Cites Lower Standards in Law School Admissions*, N.Y. TIMES, Oct. 26, 2015, available at <https://www.nytimes.com/2015/10/27/business/dealbook/study-cites-lower-standards-in-law-school-admissions.html>.

²⁰ Cheryl Miller, *Pass Rate for California's February Bar Exam Sinks to All-Time Low*, THE RECORDER, May 18, 2018 (detailing all-time low bar passage rate in California for February 2018 bar exam), available at <https://www.law.com/therecorder/2018/05/18/pass-rate-for-californias-february-bar-exam-sinks-to-all-time-low/>; Debra Cassens Weiss, *Drop in Nationwide Bar Exam Scores is Likely Due to 'Less Able' Test Takers*, MEMO SAYS, ABA JOURNAL, Nov. 11, 2014 (quoting the National Conference of Bar Examiners as attributing to the low bar passage rate to the fact “that the group that sat in July 2014 was less able than the group that sat in July 2013”).

Some well-established schools have been forced to lay off staff.²¹ Others – like Whittier – have been forced to shut their doors in this changing environment.²² Indeed, the law school that MTSU seeks to acquire, Valparaiso, was publicly censured by the American Bar Association for admitting students who were unlikely to pass the bar exam.²³ Faced with dramatically declining enrollment (including an incoming class of 29 full-time students) and very low median entering admissions test scores,²⁴ last year, Valparaiso announced its intent to stop admitting new students.²⁵ All told, five law schools have made the decision to shut their doors in just the past year.²⁶

Most of the law schools that have opened in the past 12-15 years have also struggled to maintain a reasonable enrollment,²⁷ faced accreditation problems based on concerns that they are admitting students who are unlikely to pass the bar exam,²⁸ or been forced to close their doors (even in cities the size of Charlotte and Savannah).²⁹

²¹ See, e.g., Noel K. Gallagher, *UMaine Law School Cuts Three Library Positions*, PORTLAND PRESS HERALD, April 8, 2014, available at

<https://www.pressherald.com/2014/04/08/umaine-law-school-cuts-three-library-positions/>

²² See, e.g., Sonali Kohli, Rosanna Xia and Teresa Watanabe, *Whittier Law School is Closing, Due in Part to Low Student Achievement*, LA TIMES, April 20, 2017, available at

<http://www.latimes.com/local/education/la-me-edu-whittier-law-school-closing-20170420-story.html>;

Elisabeth Olson, *For-Profit Charlotte School of Law Closes*, THE NEW YORK TIMES, Aug. 15, 2017.

²³ Debra Cassens Weiss, *ABA Puts One Law School on Probation and Censures Another*, ABA JOURNAL, November 17, 2016, available at

<http://www.abajournal.com/news/article/aba-puts-one-law-school-on-probation-and-censures-another>

²⁴ See ABA Required Disclosures by Valparaiso, available at <https://www.valpo.edu/law/prospective-students/p-applying-to-valparaiso/p-discover/p-about-our-students/entering-class> (reporting 147 and 3.02 medians for the 2016 entering class).

²⁵ Sara Randazzo, *Valparaiso Law School Suspends Admissions*, THE WALL STREET JOURNAL, Nov. 17, 2017, available at <https://www.wsj.com/articles/valparaiso-law-school-to-close-citing-plummeting-enrollment-1510860102>; see also Staci Zaretsky, *University Tries to Give Away Troubled Law School as "Gift,"* ABOVE THE LAW (JUN. 27, 2018), available at <https://abovethelaw.com/2018/06/university-tries-to-give-away-troubled-law-school-as-gift/> (detailing Valparaiso's efforts to move current students to other schools and affiliate with another law school or relocate after the ABA censure).

²⁶ Karen Sloan, *Savannah Law School Is Latest to Shut Down*, DAILY REPORT, March 22, 2018, available at <https://www.law.com/dailyreportonline/2018/03/22/savannah-law-school-is-latest-to-shut-down/> (noting the closing of Indiana Tech, Whittier, Charlotte School of Law, Savannah School of Law, and Valparaiso's decision to no longer accept new students).

²⁷ Stacy Zaretsky, *This Law School's Enrollment Is Down By Almost 80 Percent*, ABOVE THE LAW, Aug. 18, 2015 (detailing declining enrollment at the Appalachian School of Law), available at <https://abovethelaw.com/2015/08/this-law-schools-enrollment-is-down-by-almost-80-percent/>.

²⁸ Stephanie Francis Ward, *Texas Law School Serving At-Risk Students Achieves 59% Bar Pass Rate*, ABA JOURNAL, Nov. 19, 2017, available at

<http://www.abajournal.com/news/article/Texas-law-school-serving-at-risk-students-59-bar-pass-rate?icn=most-read>;

Stephanie Francis Ward, *ABA Puts Arizona Summit School of Law on Probation*, ABA JOURNAL, March 27, 2017, available at

<http://www.abajournal.com/news/article/aba-puts-arizona-summit-school-of-law-on-probation>

²⁹ Elisabeth Olson, *For-Profit Charlotte School of Law Closes*, N.Y. TIMES, Aug. 15, 2017, available at <https://www.nytimes.com/2017/08/15/business/dealbook/for-profit-charlotte-school-of-law-closes.html>;

Debra Cassens Weiss, *Savannah Law School Will Close, Students and Faculty are Told*, ABA JOURNAL, March 22, 2018, available at

<http://www.abajournal.com/news/article/savannah-law-school-will-close-students-and-faculty-are-told>;

Zach Bernard & Lisa Ryan, NORTHEAST INDIANA PUBLIC RADIO, Nov. 1, 2016, *Indiana Tech Law School*

While the number of law school applications has recently begun to increase slightly, the numbers are still well below where they were prior to 2010 when total law school enrollment peaked at 147,525. In 2017 total law school enrollment (taking into account students in all three years of full-time programs) was 110,156, or 25.3% lower than in 2010.³⁰

C. The Employment Opportunities for Law School Graduates Within the State will Be Adversely Impacted by the Creation of a New School.

MTSU's primary justification for the creation of a new law school is that the demand for lawyers in the near future will exceed the number of law school graduates in Tennessee. A closer look at the numbers reveals why this justification is flawed.

The market for jobs for law school graduates that require bar passage, and jobs for which the Juris Doctor degree is an advantage,³¹ has not yet returned to pre-recession numbers. Although the *percentage* of law school graduates who secured law jobs has increased over the last three years, the total *number* of such jobs obtained by law school graduates has fallen. The increased percentage is merely a function of the decreasing number of law school graduates rather than a growth in jobs.³² In other words, as law jobs became scarce, fewer people attended law school. When fewer people attended and graduated from law school, a larger percentage of them were able to obtain employment as lawyers.

For example, although the national employment rate for all graduates from the Class of 2016 was up by almost one full percentage point, to 87.5% of graduates for whom employment status was known (compared with 86.7% for the Class of 2015), *the number of jobs* found by 2016 graduates was down by more than 2,000 compared with 2015.³³ Thus, due to the decline in law school enrollment, the employment rate increased even as the number of jobs decreased.³⁴

In short, the likely effect of establishing a new law school in a state with six existing law schools is that more graduates will be unable to find law jobs, yet be saddled

Closing, Students React, available at <http://wboi.org/post/indiana-tech-law-school-closing-students-react#stream/0>

³⁰ ABA, Section on Legal Education and Admissions to the Bar, *2017 Standard 509 Information Report Data Overview*, available at https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2017_509_enrollment_summary_report.authcheckdam.pdf

³¹ Jobs for which bar passage is a requirement, and jobs for which the Juris Doctor degree is an advantage, are hereinafter referred to as "law jobs."

³² <https://www.jdjournal.com/2017/08/02/employment-rate-for-new-law-school-graduates-rise/>; see also footnote 6 *supra*, noting declining enrollment at UT Law, Memphis Law, and Vanderbilt.

³³ NALP, *Jobs & JDs*, available at <https://www.nalp.org/uploads/SelectedFindingsClassof2016.pdf>

³⁴ *Id.*

with significant student loan debt. Thus, establishing a new law school is not “cost effective or otherwise in the best interests of the State.”³⁵

II. Establishing a New Law School Would Result in Duplication or Undue Proliferation of Law Programs in the State

The State of Tennessee has more law schools per capita than the vast majority of states. In terms of population, Tennessee is the 16th largest state in the country, with a population of approximately 6.7 million people.³⁶ If the new MTSU law school is approved, Tennessee would rank 8th in the country in the number of law schools per capita. When one excludes states with small populations of less than a million, such as Wyoming, Vermont, and North and South Dakota, which typically have only one law school, Tennessee would rank third in the country in the number of law schools per capita. By way of comparison, Florida – a state with a population three times that of Tennessee – has eleven law schools, at least two of which have faced dramatic bar passage challenges and ABA accreditation issues over the past several years.³⁷ Texas – a state with a population of more than four times that of Tennessee – has only 10 law schools, at least two of which have faced ABA accreditation problems based on concerns over the quality of students admitted.³⁸ California has a total of 41 approved law schools.³⁹ Twenty-one of these schools are not accredited by the American Bar Association, thus inflating the numbers somewhat. Many of the accredited law schools in California have faced declining enrollment issues and have exceptionally low bar passage rates.⁴⁰

If MTSU’s proposed law school is approved, Tennessee would have the highest concentration of law schools per capita of any of its bordering states. Alabama has the

³⁵ See THEC Academic Policies, §1.0.2A2

³⁶ All references to population are based on U.S. Census data. More detailed statistical information appears in Exhibit B.

³⁷ Stephanie Francis Ward, *Still Out of Compliance with ABA Standards, Florida Coastal is Investigating a Response*, ABA JOURNAL, April 30, 2018, available at http://www.abajournal.com/news/article/still_out_of_compliance_with_aba_standards_florida_coastal_is_investigating/; Stephanie Francis Ward, *ABA Removes Remedial Actions Requirements for Ave Maria School of Law*, ABA JOURNAL, Feb. 15, 2018, available at http://www.abajournal.com/news/article/aba_removes_remedial_actions_requirements_for_ave_maria_school_of_law/.

³⁸ Stephanie Francis Ward, *Texas Law School Serving At-Risk Students Achieves 59% Bar Pass Rate*, ABA JOURNAL, Nov. 19, 2017 (reporting on North Texas College of Law), available at http://www.abajournal.com/news/article/Texas_law_school_serving_at-risk_students_59_bar_pass_rate?icn=most_read; Joe Patrice, *10 Law Schools Sanctioned by the ABA – More to Come?*, ABOVE THE LAW, Nov. 22, 2017 (listing Thurgood Marshall School of Law at Texas Southern University as school sanctioned by the ABA), available at <https://abovethelaw.com/2017/11/10-law-schools-sanctioned-by-the-aba-more-to-come/>.

³⁹ This number excludes Whittier, which is no longer enrolling students. The State Bar of California, www.calbar.gov/Admissions/Law-School-Regulation/Law-Schools.

⁴⁰ Cheryl Miller, *Pass Rate for California's February Bar Exam Sinks to All-Time Low*, THE RECORDER, May 18, 2018 (detailing all-time low bar passage rate in California for February 2018 bar exam), available at <https://www.law.com/therecorder/2018/05/18/pass-rate-for-californias-february-bar-exam-sinks-to-all-time-low/>.

next highest concentration of law schools, but Alabama is unusual in that it has two non-ABA accredited law schools, one of which – Miles College – has a special mission as a Historically Black College.⁴¹ Virginia is noteworthy for two reasons. First, one of its eight law schools (Appalachian School of Law) has faced huge enrollment problems and is routinely mentioned as a school in danger of being forced to close.⁴² Second, two other schools – Liberty University and Regent University – are faith-based law schools with special missions. Thus, border states with a large number of law schools have schools with distinct missions targeting specific students that do not impact overall demand. None of Tennessee's other border states has anywhere near the number of law schools per capita that Tennessee would have, should MTSU's proposal be approved.⁴³

With only 809 Tennesseans applying to any accredited law school in the country in 2017,⁴⁴ there simply is no demand for another law school in Tennessee at this time. To remain open, MTSU and existing law schools will be forced to either (a) maintain academic standards and seek subsidies or (b) admit students who are at greater risk of failing the bar exam. In short, establishing a new law school would result in duplication or undue proliferation of law programs in the State to the detriment of its residents.

III. There Are No Special Circumstances to Justify a New J.D. Program

Because establishing a new law school would result in duplication and undue proliferation of programs in the State, THEC policies require a showing that the proposed academic program is:

- in accord with the institution's distinct mission as approved by the Commission;
- sufficiently different from all related existing programs in the geographical region (list degree level of similar programs and names of public/private institutions) in quality and/or rigor, costs of degree completion, student success and completion rates, etc.; and
- more cost effective or otherwise in the best interests of the State to initiate a new academic program rather than meet the demand through other arrangements (e.g., collaborative means with other institutions, distance education technologies, Academic Common Market, and consortia).

⁴¹ The two schools are the Birmingham School of Law, <http://www.bsol.com>, and Miles Law School, <https://mlaw.edu>.

⁴² Joe Patrice, *10 Law Schools Sanctioned by the ABA – More to Come?*, ABOVE THE LAW, Nov. 22, 2017 (listing Appalachian School of Law as school sanctioned by the ABA), available at <https://abovethelaw.com/2017/11/10-law-schools-sanctioned-by-the-aba-more-to-come/>; Samantha Kozsey, *The Appalachian School of Law Looks Ahead*, WCYB.com, March 17, 2015 (discussing Appalachian's law enrollment numbers and concerns about its future), available at <https://wcyb.com/news/virginia-news/the-appalachian-school-of-law-looks-ahead>.

⁴³ See attached, Exhibit B.

⁴⁴ See attached, Exhibit C, showing decline in number of Tennesseans applying to law school from 2011 to 2017. Law School Admissions Council, Inc.: <https://www.lsac.org/members/data/applicants-by-state/archive>, <https://www.lsac.org/members/data/applicants-by-state>.

The proposal does not identify any distinct mission furthered by the proposed law school, nor does it identify how the new program would be sufficiently different from existing programs in quality or rigor to justify its creation. UT Law, Vanderbilt, and Memphis Law all operate legal clinics that serve those in need of legal services in their communities. Indeed, UT Law has the longest continually operating clinic in the country. The Nashville School of Law offers an evening program designed specifically for working individuals, and UT Law and LMU both offer part-time/flexible schedule J.D. programs. Each of these schools enrolls students from Middle Tennessee and sends its graduates to serve the Middle Tennessee area. For example, 30% of 2017 UT Law graduates accepted their first job in Middle Tennessee, and 46% of 2018 UT Law graduates identified Middle Tennessee as one of their top two geographical targets for employment. UT Law also recently added a “sixth semester” program in which students in the last semester of their third year attend classes in Nashville and work at government agencies in Nashville.

In addition, establishing another law school at a time when there is already an abundance of law schools in the State and at a time when law schools across the country are struggling to maintain sufficient enrollment would not be more cost effective for students or otherwise in the best interest of the State of Tennessee. *See attached, Exhibit C*, for statistics relating to the number of applicants nationally and the number of Tennessee residents applying to law schools nationally. Indeed, the creation of a new law school is likely to have a detrimental impact on the State.

Conclusion

Law schools across the country are struggling. The number of applicants to law schools has dropped precipitously since before the 2008 recession. While law jobs are available, they are scarcer than they were ten years ago. Tennessee is not immune. We have six law schools already, including two state law schools within an easy drive of Middle Tennessee. At each of the accredited state schools, enrollment has dropped, leaving capacity for additional students. Adding another J.D. program will only duplicate existing programs at the expense of taxpayers and students when the market for law jobs has not yet returned.

[illegible]

Exhibit B

Law Schools Per Capita - All 50 States					
State	Population	# of Law Schools	Law Schools Per Capita		
New Jersey	9,005,644	3	1/3 million		
Nevada	2,998,039	1	1/3 million		
Wisconsin	5,795,483	2	1/2.9 million		
Texas	28,304,596	10	1/2.8 million		
Colorado	5,607,154	2	1/2.8 million		
South Carolina	5,024,369	2	1/2.5 million		
Washington	7,405,743	3	1/2.5 million		
Arizona	7,016,270	3	1/2.3 million		
Indiana	6,666,818	3	1/2.2 million		
Georgia	10,429,379	5	1/2.1 million		
New Mexico	2,088,070	1	1/2.1 million		
Maryland	6,052,177	2	1/2 million		
Michigan	9,962,311	5	1/2 million		
Florida	20,984,400	11	1/1.9 million		
Minnesota	5,576,606	3	1/1.9 million		
West Virginia	1,815,857	1	1/1.8 million		
North Carolina	10,273,419	6	1/1.7 million		
Arkansas	3,004,279	2	1/1.5 million		
Iowa	3,145,711	2	1/1.5 million		
Kansas	2,913,123	2	1/1.5 million		
Kentucky	4,454,189	3	1/1.5 million		
Mississippi	2,984,100	2	1/1.5 million		
Missouri	6,113,532	4	1/1.5 million		
Utah	3,101,833	2	1/1.5 million		
Hawaii	1,427,538	1	1/1.4 million		
Illinois	12,802,023	9	1/1.4 million		
New York	19,849,399	14	1/1.4 million		
Oregon	4,142,776	3	1/1.4 million		
Pennsylvania	12,805,537	9	1/1.4 million		
Maine	1,335,907	1	1/1.3 million		
New Hampshire	1,342,795	1	1/1.3 million		
Ohio	11,658,609	9	1/1.3 million		
Oklahoma	3,930,864	3	1/1.3 million		
Connecticut	3,588,184	3	1/1.2 million		
Louisiana	4,684,333	4	1/1.2 million		
Montana	1,050,493	1	1/1 million		
Rhode Island	1,059,639	1	1/1 million		
Virginia	8,470,020	8	1/1.1 million		
Alabama	4,874,747	5	1/975,000		
California	39,536,653	41	1/964,000		
Delaware	961,939	1	1/962,000		
Nebraska	1,920,076	2	1/960,000		
Tennessee	6,715,984	7	1/959,000		
South Dakota	869,666	1	1/867,000		
Idaho	1,716,943	2	1/858,000		
Massachusetts	6,859,819	8	1/857,000		
North Dakota	755,393	1	1/755,000		
Vermont	623,657	1	1/624,000		
Wyoming	579,315	1	1/579,000		
Alaska	739,795	0	0		

Exhibit C

Fewer Tennessee Residents Have Applied to Any Law School

	2011	2012	2013	2014	2015	2016	2017
Tennessee Applicants to any law school	1112	1037	882	827	879	839	809
Percent Change from Previous Year	-5.6	-6.7	-14.9	-6.2	6.3	-4.5	-3.6

Source: LSAC, <https://www.lsac.org/members/data/applicants-by-state/archive>

Number of Applicants to Law Schools Nationally has Declined

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Final End-of-Year	100,600	95,800	88,700	84,000	83,400	86,600	87,900	78,500	67,900	59,400	55,700	54,500	56,500	56,400

Source: LSAC

Employment for Law School Graduates Has Not Grown

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Graduating Class Size	42,672	43,920	43,518	43,587	44,004	44,258	44,495	46,364	46,776	43,832	39,984	37,124	
Total # of Jobs Reported	35,112	36,465	37,123	36,497	36,046	36,043	36,653	37,538	37,730	36,530	33,469	33,114	

Source: National Association for Law Placement, <http://www.nalp.org>



THE UNIVERSITY of TENNESSEE

KNOXVILLE, CHATTANOOGA, MARTIN, TULLAHOMA, MEMPHIS

PRESIDENT'S OFFICE

July 30, 2018

Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243
c/o Betty Dandridge Johnson
betty.dandridge.johnson@tn.gov

Dear Commissioners:

As President of The University of Tennessee System, I have some concerns over Middle Tennessee State University's petition for a law school on its campus in Murfreesboro. Tennessee currently has six law schools across the state, with three of those located within about 30 miles of MTSU. We are concerned about excessive duplication of juris doctorate programs that this proposal would create.

Law school enrollments have decreased significantly over the past several years. At the University of Tennessee, Knoxville College of Law, total applications (in-state and out-of-state) for admission have declined from 1,408 in 2007 to 1,013 in 2017. Similarly, enrollment over that same time period has declined from 171 to 122. Nationwide, applications to law schools have decreased from 84,000 in 2007 to 56,400 in 2017. And, given that UTK law faculty have not been reduced as a result of the decline in enrollment, capacity is there to accommodate higher enrollment, and efforts are underway to do so.

We are concerned about the impact a new law school in the state would have on employment of law school graduates. Nationally, employment of law school graduates has declined from 37,123 to 33,114 from 2007 to 2017. Currently, approximately 30% of UTK's law graduates gain employment in Nashville and the surrounding area. Adding a new law school in the region would adversely impact placement of UTK graduates, as well as graduates from the Nashville School of Law, Belmont University, and Vanderbilt University.

In the spirit of collegiality, I have shared my concerns with MTSU President Sidney McPhee. I thank you for considering my comments and trust that you will take them into account as you weigh the merits of approving this request. Thank you for your service to THEC and Tennessee public higher education.

Sincerely,

A handwritten signature in blue ink that reads 'J. A. DiPietro'.

Joseph A. DiPietro
President



Rainey • Kizer • Reviere & Bell plc

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JENNIFER VALLOR IVY
ATTORNEY AT LAW

July 31, 2018

Mike Krause
Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Director Krause,

I am writing because I have grave concerns about Middle Tennessee State University's plan to acquire Valparaiso University Law School. Even if approved by THEC, the program would face serious hurdles in becoming ABA accredited. If approved by THEC, I believe such a program would face major road blocks in seeking American Bar Association (ABA) accreditation. As a University of Memphis law school alumni, I am sure that MTSU's plan will also harm the existing law schools in this State, which have more than adequately served the Tennessee citizens desiring a legal degree.

Regarding accreditation issues, Valparaiso recently lost and regained its ABA accreditation. However, ABA Standard 101(b) clearly prohibits MTSU from acquiring this accreditation. Valparaiso will have to acquire ABA accreditation for the new program, just like every other new law school, which is a huge time and financial commitment. The ABA's acquiescence to the transfer rules are clear: Acquiescence is granted only if the law school demonstrates that the acquisition does not constitute "the creation of a new or different law school." The MTSU acquisition will create a new law school and, therefore, Valparaiso will have a huge battle to fight.

The inquiry then becomes whether Valparaiso could obtain provisional accreditation, which is like starting anew. Were MTSU to pursue provisional accreditation, it would face the very difficult and costly challenge of achieving actual ABA accreditation because the national market for law schools is oversaturated. As an attorney who has been practicing fewer than 5 years, I can state with confidence that the job market for new attorneys is already difficult, and adding an additional law school would make it even more so. The law schools in Tennessee are not at capacity. This gives Valparaiso the additional hurdles of recruiting students, having those students pass the bar exam, and then ensuring that those students can find a job. Six overextended law schools, not including Valparaiso, have closed or merged in the last four years. These failures have caused the ABA to become more skeptical about accrediting new law schools. Further, it is important to note that Nashville already has several law schools, the state of Tennessee has several law schools, and none of the foregoing schools are filled to capacity. Law students simply are not filling those empty seats, and adding another law school puts additional pressure on these existing schools financially and academically.

Valparaiso's ABA accreditation is extremely unlikely, and it is not in the best interest of the State of Tennessee to approve MTSU's plan. Approving this plan will tie up finite state higher education resources in a lengthy and unnecessary accreditation battle.

Yours very truly,

A handwritten signature in blue ink, appearing to read "J.V. Ivy".

Jennifer Vallor Ivy, Attorney at Law
direct dial: 731-426-8159
email: jivv@raineykizer.com

JVI:ajh



Office of the President

341 Administration Building
Memphis, Tennessee 38152-3370Office: 901.678.2234
Fax: 901.678.5065www.memphis.edu

July 31, 2018

Mike Krause
Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Director Krause:

The University of Memphis appreciates the Tennessee Higher Education Commission's critical statutory role in reviewing and approving new academic programs. As you know, the Tennessee General Assembly has instructed all of higher education to create new academic programs that: ensure increased degree production within the state's capacity to support higher education; address the state's economic development, workforce development and research needs; and use institutional mission differentiation to realize statewide efficiencies through institutional collaboration and minimized redundancy in degree offerings, instructional locations, and competitive research.¹ The University of Memphis has concerns that Middle Tennessee State University's Letter of Notification (LON) to acquire the Valparaiso University Law School falls short in addressing these areas.

MTSU's acquisition of Valparaiso Law School does not point to increased degree production for Tennesseans. Valparaiso Law School is seeking to affiliate with MTSU as an alternative to closure. MTSU's LON does not discuss these challenges and provides no specifics on how MTSU will be a better university partner. Despite its established history, Valparaiso has recently experienced poor rankings, poor job placement, and poor bar passage rates. The American Bar Association (ABA) publicly censured Valparaiso for violating their admissions rules in 2016. This censure was only recently lifted, and Valparaiso has stopped admitting additional students. The University of Memphis has concerns that the LON does not address this history or a outline path forward amidst these deficiencies. National trends point to the likelihood of additional challenges if Valparaiso moves to Murfreesboro. Six law schools, not including Valparaiso, have been forced to voluntarily close or merge in the last four years.² Because of these challenges, the ABA has been raising accreditation issues with low performing schools. In fact, the ABA has

¹ T.C.A. § 49-7-202(d)(4) (2018).

² Karen Sloan, *RIP, Law Schools: A Looked at Closed Campuses*, LAW.COM (March 16, 2018), available at <https://www.law.com/2018/03/26/rip-law-schools-a-look-a-closed-campuses/>.

Mike Krause
 July 31, 2018
 Page 2

publicly reprimanded at least twelve schools since 2016.³ MTSU's LON heralds Valparaiso as an accredited law school, which will be able to immediately enroll and graduate students who can sit for the Bar examination, but the letter fails to explain that ABA Standard 101(b) states that "[a]pproval of a law school by the Council is not transferable."⁴ Whether MTSU characterizes this merger as a gift or an acquisition, MTSU cannot acquire Valparaiso's accreditation under current ABA policy. Moreover, it is our understanding that Valparaiso cannot move to Murfreesboro and maintain its accreditation because such a move would constitute a "major change" under ABA Standard 105.⁵ Absent the ABA's rare acquiescence to a major change,⁶ a law school proposing a major change must seek provisional accreditation from the ABA. This is the same process required of any new law school. Thus, in acquiring Valparaiso, MTSU assumes none of the benefits of an accredited law school. If MTSU is unsuccessful in achieving provisional and subsequently full accreditation, it is extremely unlikely to admit additional law students and are unlikely to increase degree production in Tennessee.

The Complete College Tennessee Act of 2010 established the direct link between the state's economic development and its educational system.⁷ The act called upon Tennessee universities to invest in research and graduate programs that have the potential to move Tennessee's economy forward. Governor Haslam's Drive to 55 mission has created more intense momentum by setting critical college completion goals.⁸ Both initiatives call upon Tennessee universities to address the state's economic development, workforce development, and research needs when proposing new academic programs of study.⁹ Unfortunately, these educational charges are not deeply addressed in MTSU's LON. In its letter, MTSU does not make the case that Tennessee's workforce needs more attorneys. In the LON, MTSU anticipates that graduates with Juris Doctor degrees will not perform "spectacularly" well in the job market.¹⁰ MTSU further reports that the Bureau for Labor Statistics believes "that competition for legal jobs over the next ten years will be stiff because of a surfeit of law school graduates."¹¹ Additionally, MTSU's LON states that Tennessee ranks 50th in states in the number of legal occupations per capita,¹² which

³ David Frakt, Admissions, *Accreditation and the ABA: An Analysis of Recent Law School Lawsuits*, THE FACULTY LOUNGE (May 23, 2018), available at <http://www.thefacultylounge.org/2018/05/admissions-accreditation-and-the-aba-an-analysis-of-recent-law-school-lawsuits-.html>.

⁴ ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 101(b).

⁵ ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 105.

⁶ In recent history, the ABA has acquiesced to the moves of only two law schools, each of which, significantly, remained in the same state. It is highly unlikely that the ABA would acquiesce to such a major change in Valparaiso's case.

⁷ T.C.A. § 49-7-202 (2018).

⁸ See www.driveto55.org.

⁹ T.C.A. § 49-7-202(d)(4)(A) (2018).

¹⁰ *Id.* at 12.

¹¹ *Id.* at 8.

¹² Middle Tennessee State University, *Letter of Notification to Develop a New Academic Program: Doctor of Jurisprudence*, at 2 (July 2018).

Mike Krause
 July 31, 2018
 Page 3

demonstrates that there is not demand for many more lawyers in Tennessee. Throughout the LON, MTSU relies on research and salary data that pre-date the 2008 recession, which changed the landscape of legal employment. Since 2008, law firms and the clients that employ them have engaged in cost-cutting practices that forced greater efficiencies into the delivery of legal advice, permanently contracting the legal employment market.¹³ These practices mean that law schools must compete to prepare qualified students capable of excelling in a competitive market. Based on evidence from the MTSU LON and available literature on the future of the legal market, it is unclear in our review that a seventh law school in Tennessee will have a positive impact on Tennessee's economy or workforce.

State law requires that THEC consider efficiency as an important goal and consideration of all public servants, especially those who serve students in higher education because student success has strong ties to higher education affordability and access.¹⁴ To efficiently and effectively invest tax-payer dollars, higher education programs throughout Tennessee should fulfill diverse and critical needs based on their institutional missions. MTSU's proposal to acquire Valparaiso Law School will create duplicative degree offerings. The LON does not mention that half of Tennessee law schools are in the Nashville metropolitan area, that Tennessee's two public law schools are both within 200 miles of Nashville, or that over 60 percent of Tennesseans live in a county that is within 75 miles of an ABA accredited law school.¹⁵ The University of Memphis and University of Tennessee offer competitive tuition rates and a world-class legal education to all Tennessee students who are likely to pass the bar exam and go on to successful careers in law. MTSU's LON does not address the existing capacity of Tennessee's public law schools to serve additional law students, if they applied and were qualified. While MTSU projects 620 annual legal job vacancies in Tennessee, they do not mention that, at full enrollment capacity, Tennessee's existing law schools can graduate the number of lawyers that the market may demand. Indiana, Valparaiso Law School's home state, is like Tennessee in terms of population and economic outlook.¹⁶ Most of Tennessee's peer states, states with similar populations or regional similarities, have the same or fewer law schools. Although Valparaiso currently operates within one hour of Chicago, the nation's third largest city with a metropolitan population of 9,554,598, Valparaiso has not enrolled sufficient students capable of graduating and passing the bar. According to officials at Valparaiso, "the likelihood of declining enrollment helped make the determination that the law school is financially unsustainable for the foreseeable future and its continued operation could significantly impede the university's ability to achieve its mission, vision and goals." Because Tennessee is served by six existing law schools and this acquisition

¹³ Kaplan, *The Evolution of the Legal Profession*, at 2-3.

¹⁴ T.C.A. § 49-7-202(d)(4)(C) (2018).

¹⁵ <http://www.statsamerica.org/radius/big.aspx>

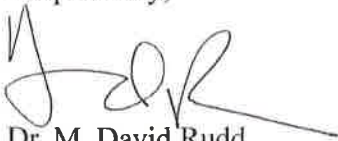
¹⁶ US Bureau of Economic Analysis.

Mike Krause
July 31, 2018
Page 4

appears to create duplicative programs, we are uncertain that MTSU's proposal warrants increased state investment.

Upon review of MTSU's LON, The University of Memphis feels that MTSU does not make the case that the acquisition of Valparaiso Law School is in the best interest of the State of Tennessee because the acquisition is unlikely to fulfill an economic need, will create redundancy in programs, and may not result in increased degree production. The University of Memphis truly appreciates the opportunity to provide a formal public comment and looks forward to reviewing feedback from state policymakers on this topic. We feel that results of these efforts, along with our evidentiary concerns, should be fully considered before any substantive actions are taken to move forward with approval of the acquisition.

Respectfully,



Dr. M. David Rudd

President

The University of Memphis



Katharine Traylor Schaffzin

Interim Dean & Professor of Law

Cecil C. Humphreys School of Law



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July 31, 2018

Mike Krause
Executive Director,
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Director Krause,

I write on behalf of The Memphis Bar Association (MBA), a voluntary bar association with over 2,000 members, serving the legal community of Memphis and Shelby County. With a unanimous vote, the MBA's Board of Directors has determined to voice its strong opposition to the Middle Tennessee State University's plan to acquire Valparaiso Law School.

The MBA believes that this move is not in the best interest of the legal profession or the State of Tennessee. The Valparaiso Law School will face challenges by moving into a competitive Tennessee law school market, will be hard-pressed to find qualified students, and is unlikely to succeed. We worry that MTSU's law school experiment will divert the resources of Tennessee's established public law schools, which have a track record of student success and job placement. Moreover, adding another law school is unnecessary because Tennessee's existing law schools already have the capacity to serve additional qualified students.

MTSU is proposing to add a seventh law school to the State of Tennessee funded by taxpayer dollars. If approved, MTSU's law school will compete for qualified students with three other Nashville law schools and two Tennessee public law schools. We understand that Valparaiso is seeking a merger because it is situated in an oversaturated market and cannot enroll enough students to keep its doors open amid such competition. Moving to Tennessee will only set the school up for more of the same by creating another oversaturated market.

Nationally, overextended law schools are closing and schools with low admissions standards and low bar passage rates face accreditation scrutiny. Since 2016, the American Bar Association (ABA) has reprimanded, censured,

or placed on probation twelve law schools for failing to admit students capable of graduating and passing the bar examination. In 2016, Valparaiso Law School was censured for admitting students that did not indicate the capability to satisfactorily complete the JD program or pass the bar examination. This censure was lifted in November 2017, and shortly after Valparaiso announced that it would not admit new students. Valparaiso has admitted that its failures were caused by a national decline in law school applications and enrollment and a low demand for new lawyers in the employment market. This is accurate; low enrollment has forced the voluntary closure of six law schools in the last 5 years. This reality will surely follow Valparaiso wherever it moves.

Together, the existing six law schools in Tennessee can admit every qualified Tennessee resident who applies. The University of Memphis and the University of Tennessee are both below their capacities of 160 students each. If there were additional applications from qualified Tennessee residents, we believe that both the UofM and UT would happily serve these students. There are no untapped potential law students in Tennessee who are not well served.

The State would face unnecessary challenges with the addition of a third public law school competing for state resources including smaller state appropriations for existing programs and more competition for qualified law school students. Why should we risk these challenges when there is no need for an additional law school in the State of Tennessee and this new law school has a history of subpar performance?

The MBA urges the Tennessee Higher Education Commission to oppose MTSU's request.

We appreciate the Commission's consideration of this important matter. Please do not hesitate to contact me if you have any questions concerning the MBA's position.

Best regards,

Memphis Bar Association

A handwritten signature in blue ink, appearing to read "Earle Schwarz", with a large, stylized flourish extending from the end of the name.

Earle Schwarz, MBA President

From: Sullivan County Attorney
To: [Betty.Dandridge.Johnson](#)
Subject: Please: no more law schools
Date: Wednesday, August 8, 2018 4:21:16 PM

Ms. Johnson,

I write regarding the petition by Middle Tennessee State University for a law school on its campus in Murfreesboro.

Upon graduating the University of Tennessee College of Law in 1980, I returned to my home town and started a solo practice on my own. I realized not soon after starting such practice that there were way too many lawyers. It has only gotten worse. The profession has done unrepairable damage by graduating so many lawyers. The profession has lost respect and the average income of lawyers has decreased dramatically. I speak loudly in saying that the profession needs to stop graduating so many lawyers. We are killing the profession.

Dan Street

**GREATER MEMPHIS CHAMBER**

August 22, 2018

Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243
c/o Betty Dandridge Johnson
Email: betty.dandridge.johnson@tn.gov

Dear Commissioners:

The Greater Memphis Chamber does not support Middle Tennessee State University's (MTSU) petition for a law school on its campus in Murfreesboro. We share many of the concerns formally expressed by the University of Tennessee, Knoxville, as contained in its public comment regarding this matter. No economic study or data support the opening of a seventh law school in Tennessee, and fourth law school in the Middle Tennessee. Such a move would necessarily result in the allocation/reallocation of already limited State resources.

In particular, we submit that the opening of a law school at MTSU would have an adverse impact on the University of Memphis and the University of Memphis School of Law. Given the University of Memphis' importance to our community and economic well-being, we cannot support MTSU's petition for a law school.

For the foregoing reasons, and more, we urge the Commission to deny approval of a new law school program at MTSU.

Sincerely,

Philip Trenary
President and CEO
Greater Memphis Chamber



M. Joy Baxter
 jbaxter@ortalekelley.com
 Direct: 615.780.7515

August 21, 2018

Betty Dandridge Johnson
 Tennessee Higher Education Commission
 404 James Robertson Parkway, Suite 1900
 Nashville, TN 37243

Re: Middle Tennessee State University

Dear Ms. Johnson,

I write in opposition to Middle Tennessee State University's acquisition of Valparaiso Law School. I graduated from the University of Tennessee College of Law in May 2017 and would like to offer my perspective, as I have just recently fought for employment as an attorney in this state and am a lifelong resident of Murfreesboro, Tennessee.

I graduated at the top 10% of my class, held leadership positions in professional associations, participated in advocacy competitions, credentialed myself with publications, and had a strong undergraduate transcript. The path to a position at a premier law firm should have been easy, but it was not. During my last year of law school, I watched my hardworking colleagues progress toward graduation with increasing apprehension, as market demand for new associates appeared to shrink on a daily basis. Although I was fortunate enough to obtain a position, many of my classmates are still seeking work.

I do not believe that the addition of another law school will have an insurmountable impact on the students of the University of Tennessee, given the high caliber of its academic program. However, I *do* believe that Valparaiso Law School will be a misleading trap for its prospective students. This Commission owes consideration to the students who will enroll in a new school under the false belief that a legal job will be waiting for them upon graduation.

In today's economic climate, diligent, talented graduates are mired in student debt and struggling to find jobs. It is a disservice to the young people of Tennessee to approve the creation of a new law school, given the hiring challenges that current graduates face. I respectfully request that the Commission deny this proposal.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'M. Joy Baxter', is written over a horizontal line.

M. Joy Baxter, Esq. (No. 035938)
 330 Commerce Street, Suite 110
 Nashville, TN 37219-8985
 (615) 256-9999
jbaxter@ortalekelley.com



OFFICE OF
THE PRESIDENT

TENNESSEE STATE UNIVERSITY
3500 JOHN A. MERRITT BOULEVARD
NASHVILLE, TENNESSEE 37209-1561

September 14, 2018

Mike Krause, Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Dear Director Krause,

I write to you today to express my strong support for Middle Tennessee State University's proposal to establish an American Bar Association accredited public law school. As the only state-supported Carnegie Doctoral / Research institution located in the state capitol, Tennessee State University serves students, scholars, and business leaders from around the globe. As a Historically Black University (HBCU) our student body represents the rich cultural diversity of a vibrant society and we, as a university, are dedicated to preparing our graduates for meaningful careers as productive citizens. Having an accredited public law school in middle Tennessee that believes that the legal profession should reflect the ever increasing diversity of our society supports this mission. It is obvious that the Valparaiso Law School which is proposed to be moved to MTSU is committed to fostering a community of students, faculty, and staff who value inclusiveness as evidenced by the fact that as recently as 2015-16 it ranked 22nd among all law schools in the United States in the number of African-Americans it graduated.

To those who would argue against establishing a public law school in middle Tennessee I point to the statutory responsibility of the Tennessee Higher Education Commission to review and approve new academic programs and units with the intent to:

Promote academic quality – The Valparaiso University Law School is the 38th oldest ABA accredited law school in the United States. It is rated A+ by National Jurist Magazine, ranked the 11th best law school in the United States for practical training and named to a list of 20 most innovative law schools in the U.S. (Pre-law Magazine). Those who oppose the law school will point to its brief censure in 2016 and claim that it has admitted weak students. The fact is that the median LSAT admission test scores as well as GPAs of entering students are comparable to those of entering students at a large number of reputable ABA accredited law schools in the U.S., including those entering the law school of the University of Memphis.

Maximize cost effectiveness and efficiency to ensure that benefits to the state outweigh the costs and that existing programs are adequately supported – The commission's decision on whether or not to establish a public law school in middle Tennessee should not be made on a one-sided focus on the "costs" but should

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AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER M/F

Krause /2

also place equal consideration on the “benefits to the state,” foremost of which are access to legal education for the residents of one of the most rapidly growing and diverse metro areas in the U.S. and the associated economic benefits to the individuals, businesses, and communities in the region. The Commission must also consider the role this law school will play in meeting degree attainment goals among graduates of middle Tennessee colleges and universities and the resulting societal benefits in Tennessee. Finally, it is almost impossible to overstate the economic benefit of receiving an existing ABA accredited law school when compared to the potential cost to the State of starting a new law school from scratch in the future.

Fulfill student demand, employer need and societal requirements – Like most HBCU’s, Tennessee State University enrolls and graduates large numbers of excellent students who desire to earn a law degree (for example, we have had a pre-law program since 1975) but who lack access legal education or find that the opportunity, if available, is unaffordable. While 40% of incarcerated persons in the United States are African-American, just 4% of lawyers in the U.S are African-American and less than 2% of partners in major law firms are African-American. Among the greatest obstacles to increasing the number of Black lawyers is the lack of access to and the cost of attending law school. Without a public law school in the Nashville area our graduates are faced with the choice of relocating to another city or state, shouldering significant (and often impossible) debt to attend a private law school, or attending an unaccredited law school for which no federal tuition assistance is available.

Avoid and eliminate unnecessary duplication to ensure that proposed academic programs cannot be delivered through collaboration or alternative arrangements– Some individuals and institutions will claim that a law school at MTSU would be an unnecessary duplication as there are already three law schools in Nashville including the prestigious Vanderbilt Law School but those arguments are disingenuous. They fail to acknowledge that Vanderbilt enrolls few graduates from Tennessee colleges and universities and (most of those it does admit are its own graduates). In fact, a review of admissions data at Vanderbilt’s law school shows that not a single graduate of TSU has been admitted for more than a decade. To claim that a public law school in middle Tennessee would unnecessarily duplicate the existing programs in Memphis and Knoxville reflects either an arrogant or ignorant lack of understanding of the barriers many first generation, low-income, and minority students face when attempting to access professional school. It also fails to acknowledge that ABA accreditation standards do not allow institutions to offer law degrees through distance or online instruction. As the population of the Nashville metro region continues its rapid growth, this lack of access to quality, affordable legal education will continue to perpetuate the existing disparity in access to justice for persons of color.

Encourage cooperation among all institutions, both public and private - Higher education has become and will continue to be a highly competitive environment with institutions competing for students, academic programs, and resources. However, rather than fostering competition, having a public law school at MTSU will stimulate collaboration among the public and private institutions in the middle Tennessee region. The result of which will be increased enrollment of high ability high school and community college students, increased rates of persistence and degree completion by students who see real opportunity to continue to law school, and collaborations between faculty of the law school and faculty of surrounding schools. At Tennessee State University, we look forward to the opportunity to introduce our pre-law students to this opportunity and to work with MTSU to develop an early-admission decision agreement that will increase access to quality legal education for our graduates.

In conclusion, I urge you to resist the arguments of those who view this opportunity through the single lens of how it might affect their existing program or alma mater and be visionary in considering how it

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can impact the people of largest, fastest growing, and most diverse region of Tennessee. It is a transformational opportunity that will not come before you again.

Sincerely,



Glenda Glover
President

cc: Evan Cope, Chair - Tennessee Higher Education Commission

STATE OF TENNESSEE
HOUSE OF REPRESENTATIVES



BETH HARWELL
SPEAKER OF THE HOUSE

Mike Kraus, Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, Tennessee 37243

Evan Cope, Chairman
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, Tennessee 37243

September 27, 2018

Dear Director Kraus and Chairman Cope,

It is my understanding that the Tennessee Higher Education Commission has scheduled a special meeting for October 15th to consider a proposal by Middle Tennessee State University to accept the relocation of the Valparaiso University School of Law to its campus in Murfreesboro. I also understand that this opportunity is the result of Valparaiso University's willingness to give the law school to Middle Tennessee State University with the understanding that MTSU will maintain its American Bar Association accreditation and continue the school's historical mission and heritage of service. I am writing to express my support for this proposal as it offers a unique opportunity to place an accredited public law school in the most populous and fastest growing region of the state.

As speaker of the Tennessee House of Representatives, I am continually reminded of the geographical, cultural, legal, and economic distinctions of the three "Grand Divisions of Tennessee" that are defined in state law (Tennessee Code Annotated Title 4, Chapter 1, Part 2). In addition to the many symbols of these distinct divisions (e.g., the three stars on our state flag), we have long recognized the need to ensure equity for our citizens. For example, our Constitution mandates that no more than two of our Supreme Court Justices can be from any one Division and state law requires a particular number of appellate judges be from each Grand Division.

STATE OF TENNESSEE
HOUSE OF REPRESENTATIVES



BETH HARWELL
SPEAKER OF THE HOUSE

Since I was first elected to the Legislature in 1988, I have worked hard to represent the interests and values of all Tennesseans as well as the specific needs of my constituents in the 56th District. As the Tennessee Higher Education Commission works to meet its legislatively mandated responsibility to fulfill student demand, employer need and societal requirements, the value of placing a public law school in the most populous, most culturally diverse, and the fastest growing region of state cannot be overstated. This law school will provide access to affordable legal education for individuals who are place bound and unable to relocate to Memphis or Knoxville or who cannot afford the cost of an elite private law school. While many of the graduates of this law school will choose to pursue opportunities in private practice, a large number will be also be employed by the many businesses and industries that are relocating to Tennessee and who prize individuals that hold a J.D. degree. Finally, an accredited public law school will also provide a critical resource to members of the legal community and to the public as we seek to ensure equal access to justice for residents of the middle Tennessee region.

I look forward to your meeting on October 15th and the opportunity that this proposal offers.

Sincerely,

A handwritten signature in cursive script that reads "Beth Harwell".

Beth Harwell
Speaker of the House
Tennessee General Assembly

M MIKE SANDLER LAW, PLC
 LAW 615-881-4499|mike@mikesandlerlaw.com

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 OCT 2 2018

October 1, 2018

(Sent by U.S. Mail, Postage Pre-paid)

Mr. Mike Krause, Executive Director
 Tennessee Higher Education Commission
 404 James Roberson Parkway, Suite 1900
 Nashville, Tennessee 37243

Re: Proposed Transfer of Valparaiso University School of Law to MTSU

Dear Mr. Krause:

I am writing this letter **in support** of the transfer of the Valparaiso University School of Law to MTSU. As a Middle Tennessee native and graduate of both MTSU and the Nashville School of Law, I offer the following in support of the transfer:

- There is a great need for a public, ABA-accredited law school in Middle Tennessee. The closest publicly supported law schools are located outside (approx. 200 miles) of the Nashville, Franklin and Murfreesboro metropolitan area. Many potential students cannot afford to uproot their lives and move to East or West Tennessee or out-of-state to attend law school;
- The current cost of attending the law schools in the area varies greatly and prevents many prospective law students from applying;
- The price point for tuition at the proposed MTSU School of Law would fall into a pricing niche between Belmont School of Law and Nashville School of Law;
- Vanderbilt School of Law and Belmont School of Law will not be affected as both institutions market themselves to a very select group of prospective students both locally and nationally and only accepts a small percentage of those students. Cost is also a prohibiting factor;
- Nashville School of Law would not be affected due to its lower cost of tuition, monthly payment plan (it does not accept federal aid so students cannot apply for student loans) and night-time only class schedule for working students. No other law school in Tennessee provides that;
- MTSU will be able to provide federally funded student-aid and grants through its existing student-aid programs;
- MTSU will be able provide an ABA-accredited education to residents in Middle Tennessee at an affordable price currently not found in our area.

Sincerely yours,


 Michael J. Sandler, Sr., Esq.

Cc: Dr. Sydney A. McPhee

From: Bill Ketron
To: [Betty.Dandridge.Johnson](#)
Subject: Law School MTSU
Date: Wednesday, October 3, 2018 4:34:19 PM

Mrs. Dandridge, I am lending my support for a law School at MTSU! Having served as Rutherford County's Senator for the last 16 years I have seen the need for a Professional Degree at MTSU. My first ten years on the Senate I served Maury, Marshall, Lincoln and Western Rutherford County. I talked to Students, Parents, Educators, Business Owners, and Elected Officials. They would always say to me when is Middle going to get some professional degree. They wanted their children in the Central or Middle part of the State to have this opportunity closer to home. East Tennessee was cover in Knoxville and the Western part was covered with Memphis. The Middle Grand division does not have an Accredited Law Degree that their kids can afford and in most cases that Parents can afford. Nashville Law School is under 10K per year but not accredited, even though it is Public. The only other law Schools are Belmont at over 20K and Vanderbilt over 30K and both are Private institutions. If this gift by Valpo is accepted not only will it meet the needs of the entire Middle Tennessee Region but it will pull student from Northern Alabama and Southern Kentucky. I MTSU can come somewhere in between Nashville Law and Belmont Law as a Public Accredited Law School for Middle Tennessee. This is a win win for all concerned. This decision should not be made or rejected because of turf Protection, It should be made on the students and the Future of our Great State. I hope you will share my passion for MTSU and Rutherford County with all of the Decision makers on this Issue. As the newly elected Mayor for Rutherford county I am working hard to prepare our Students for our future. with Middle Tennessee being predicted to gain another 1 Million people by 2035 and 300,000 to 600,000 in my county alone there will be a greater need for professional Attorneys to represent the Citizens coping with life Issues. Thank you for accepting my feelings on this New Law School! Mayor Bill Ketron

Mayor Bill Ketron

Sent from my iPad

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Gregory D. Smith

Attorney at Law

331 Franklin Street, Suite 1
Clarksville, Tennessee 37040

Phone: 931/647-1299
Fax: 931/647-2850

October 3, 2018

Hon. Evan Cope, Chair
c/o Tennessee Higher Education Commission
Parkway Towers, Suite 1900
404 James Robertson Parkway
Nashville, TN 37243-0830

RE: MTSU College of Law Proposal

Dear Chairman Cope:

I write in support of Middle Tennessee State University's proposal to obtain the Valpariso University School of Law. The pressing question before your Commission is whether Tennessee needs another law school. I believe it does and I have a unique perspective on the question you are considering. Let me explain.

First, I am a graduate of MTSU and was the Outstanding Senior of 1985. I was the Outstanding Young Alumnus for MTSU in 1999. I believe MTSU is a fine school and I appreciate the education they provided. Up front, I admit I am a fan of Middle Tennessee State University. That being said, I am also the incoming president of the Tennessee Municipal Judges Conference (300+/- judges) and was selected as the 2017 Outstanding Tennessee Municipal Court Judge of the Year. In 2001, I was the Tennessee Bar Association's *Pro Bono* Attorney of the Year. In 1994, I spoke at the United Nations in New York on juvenile drug prevention efforts the Tennessee Bar Association developed. I am also on several Native American tribal supreme courts. Much of my philosophical and altruistic views were formed during my college days at MTSU.

Does Tennessee need another law school? The type of law school MTSU will generate – **Yes!** There are **no** public university law schools in middle Tennessee. The closest public university law schools are in Knoxville and Memphis. That means a local student has to relocate 200 miles either direction to attend these schools. The only other option for a budget-minded student in middle Tennessee is an unaccredited law school. An ABA accredited public university law school in the middle Tennessee area would be a huge asset. More important, **how** MTSU would teach law is important.

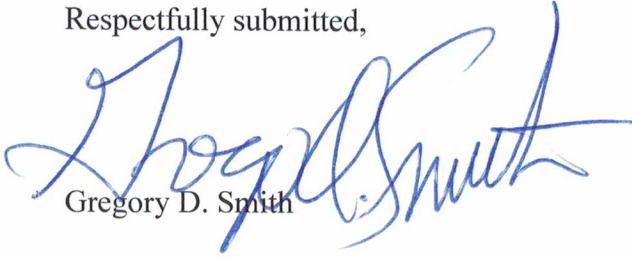
The private middle Tennessee law schools that have ABA accreditation are very expensive and are more designed for a national student body. A public institute in middle Tennessee would tend to retain local residents who wish to be legally trained public

servants in local communities. Most of the Tennessee Municipal Judges Conference Appendix C
jurists are “home-grown.”

A second benefit MTSU offers the legal community is the pre-existing music, entertainment and health-care ties the university already has nourished in and around Nashville. The VA clinic in Murfreesboro is an excellent example of a *pro bono* legal clinic option for the MTSU College of Law. Students could help veterans with legal matters and in return the students grow hearts for those in need. Distance, time and expense makes this option impossible for other law schools in Tennessee.

MTSU’s slogan is “*I’m True Blue.*” A public institute law school in middle Tennessee opens up opportunities for a blue collar work ethic to be used by the citizens needing middle Tennessee lawyers in middle Tennessee. What better place to produce middle Tennessee lawyers than *Middle Tennessee*? This Commission should approve MTSU’s request to obtain the Valprasio School of Law. I believe MTSU would be a great fit for a much needed public institute law school serving middle Tennessee. Please feel free to contact me if you have any question.

Respectfully submitted,



Gregory D. Smith

cc: Dr. McPhee

Kirk D Catron
President
W. Scott Kimberly
Vice President



Jennifer Potts
Secretary
Catherine Mekis
Treasurer

October 1, 2018

Dr. Sidney McPhee, President
Middle Tennessee State University
Cope Administration Building, Room 204
1301 East Main Street
Murfreesboro, TN 37132

Re: Law School Acquisition

Dear Dr. McPhee:

As President of the Rutherford & Cannon County Bar Association (RCCBA), my fellow officers and I sought out comment from our fellow bar members to gain insight as to the thoughts of the local attorneys regarding the acquisition of the Valparaiso University School of Law. We solicited comments from our members from Monday, September 24, 2018 thru Sunday, September 30, 2018.

Overall the concept of bringing a law school to Middle Tennessee State University was favored by our members who believe that adding this academic program would have a positive impact in our community both through academic programming and the addition of quality students to the downtown and greater Murfreesboro area. It is believed that the addition of a law school can benefit the local bar in a variety of ways. From assisting the community with legal clinics for those unable to otherwise afford legal services to providing a public legal education for not only Middle Tennessee, but the surrounding areas. The local bar has indicated that they would be able to offer internships for students and show a willingness to help teach law students in a professional working environment.

There were some concerns expressed from the local bar of which we would like to make the University aware. Those include: the local bar would have a difficult time absorbing all the graduates into the local job market, how the school would be funded and can the University supply students with the requisite classes to be able to pass the bar examination.

As the Rutherford County community continues to grow at steady pace, the RCCBA will continue to grow with it. It is the overall desire of the RCCBA to develop a partnership with the University that will allow the Rutherford County to continue to be the home of the best lawyers in the state.

If you should have any questions, please feel free to contact me at (615) 225-5290.

Respectfully yours,

Kirk D Catron
President, RCCBA

SHANE REEVES
SENATOR

14th SENATORIAL DISTRICT
BEDFORD, LINCOLN, MARSHALL, MOORE &
RUTHERFORD

NASHVILLE OFFICE
425 5th AVENUE, NORTH
CORDELL HULL BUILDING, SUITE 752
NASHVILLE, TN 37243

Senate Chamber **State of Tennessee**

NASHVILLE

MEMBER OF COMMITTEES
Government Operations
Judiciary

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EMAIL ADDRESS
sen.shane.reeves@capitol.tn.gov

Mike Krause, Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Evan Cope, Chairman
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

October 4, 2018

Dear Director Krause and Chairman Cope,

I am writing to express my strong support of a positive vote of the Tennessee Higher Education Commission regarding the Middle Tennessee State University Law School. I was born and raised in the Middle Tennessee area and have seen firsthand the positive impact MTSU has had on the Murfreesboro community. From serving as President of the Rutherford County Chamber of Commerce to employing MTSU students at my pharmacy, I have watched as MTSU has grown and changed over the years. That growth and change has been nothing but great for the City of Murfreesboro as well as the entire Middle Tennessee Region.

I believe a law school at MTSU would have a significant positive impact on students in Tennessee, particularly those from the Middle Tennessee region. These students will realize the benefit of having an affordable, ABA accredited option in Middle Tennessee and can give back to the Middle Tennessee region upon graduation. I have attended numerous graduations for MTSU and look forward to attending the first law school graduation in the years ahead. I appreciate the commission taking a look at this issue and would strongly encourage a favorable vote.

Sincerely,



Shane Reeves
State Senator, District 14

Buck & Buck
Attorneys-at-Law
124 West Main Street
Smithville, Tennessee 37166



Frank Buck
Lena Buck

Telephone: 615/597-6725
Telefax: 615/597-8250

September 14, 2018.

Dr. Sidney A. McPhee
Office of the President
Middle Tennessee State University
1301 E. Main Street
Cope Administration Building, Room #110
Murfreesboro, TN 37132

Dear President McPhee:

You and I do not know each other very well, but I have been practicing law at this central location since July of 1968. I recently read a long article in the Tennessee Journal on your efforts to obtain Valparaiso University Law School.

First, let me tell you a little about my background. I was a graduate of University of Tennessee in the summer of 1966. Likewise, I served 36 years in the Tennessee General Assembly and was a member of Judiciary Committee for all those years and further chairman of that committee from 1986 until 2004. Likewise, during my first six year tenure at the General Assembly, I was one of the sponsors of the East Tennessee Medical School and my Alma Mater was terribly opposed to the establishment of the East Tennessee Medical School. UT was wrong and I have never for a moment doubted the fact that I made the right decision when I agreed to vote for that bill and help sponsor the bill. With all that background, I feel like I have some knowledge of the legal community and what is for the best use and benefit of the public in general. If you remember, I contacted you several years ago in an effort to encourage you to promote the establishment of a law school at MTSU in Murfreesboro with particular convenience being divided to most of the middle Tennessee area. I served one term as chairman of the judicial counsel and so I had a lot of experience related to the legal system.

My father was in a wheelchair when I was 12 years old and we were by no means, a well-to-do family, if you will. I married Lena Graves from Nashville, who is eldest of 12 children, and whose father was a World War II Veteran. We did not have a lot of money to throw around and certainly did not have sufficient funds to be paying tuition to a private university. By the same token, the National Student Loan programs were not nearly as widely used in those days as they are now. We painted water tanks, changed radio tower bulbs at WUOT Knoxville, cooked pizza pies, built beauty shop furniture, pumped gas, and a host of other private endeavors to get a B.S. Degree from Tennessee Tech in Business, as well as a Law Degree from the University of Tennessee at Knoxville. Likewise, Mrs. Buck is a graduate of the Nashville School of Law as well. Our families did not have the wherewithal to have a lot of help from our families. My dad could not help from being stricken by polio in his mid 40's and Mr. Graves first obligation was to

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Dr. Sidney McPhee

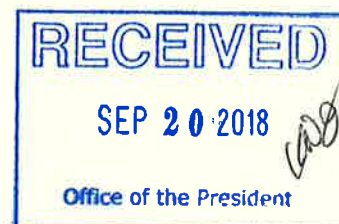
September 14, 2018

his family and his children. We did what we had to get that law degree. I know how hard it was for me and our family to get that law degree and I suspect there are a lot of other people just like me, who came from poor backgrounds and who are willing to work their butts off to get through school. That, Dr. McPhee is what America is all about.

My grandson, Frank Pursell, could not get into the University of Tennessee Law School. At the time he was a resident of Cumberland County. He wound up attending the University of Memphis Law School and moving to Shelby County. He has since graduated from University of Memphis Law School. I also have a granddaughter who is a freshman at the University of Tennessee Law School. There is nothing wrong with the University of Memphis Law School, in fact it is a very fine law school. The only reason we were hopeful for him to get into UT Law was because of the fact that Smithville is located closer to Knoxville than of course Memphis. He could continue to work in this law office during one weekend a month during his hopeful years at UT Knoxville, while earning his Law Degree. In his previous college years, he earned a Master's Degree in Accounting at Tennessee Technological University, at which time he worked most afternoons here at our law office.

Now obviously, we cannot have admissions to any law school based upon political connections or family connections but always must be on the basis of Merit. What irked me about my Alma Mater at the University of Tennessee was the fact that they were advertising out of state trying to get people to come into UT Knoxville and pay the out of state tuition and to receive a legal education from the University of Tennessee Law School. I feel they have a duty to take care of their own citizens of Tennessee, before they start advertising out of state. Frankly put, they forgot who owned them. Likewise, they were about to be on probation at UT in my years at the General Assembly and I was the primary sponsor of the bill that provided the money to enlarge their building to keep them off probation. I did that because of the fact that it was, simply put, the right thing to do, and at that point in time McWherter administration was mad at UT Law School.

As you may surmise, obviously, we have a lot of connections to different law schools. With our family connections of the University of Memphis Law School and Nashville School of Law and my connection with University of Tennessee, I do not seek to do any harm to these universities but these universities need to understand who owns them and what their function is in life. What is their excuse for existence? If I understand the circumstance, MTSU would be the



Page -3-

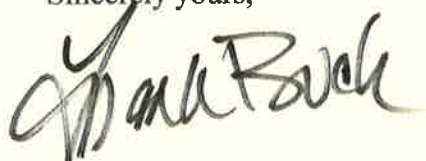
Dr. Sidney McPhee

September 14, 2018

only publically owned law school in middle Tennessee that is approved by the American Bar Association. All of the other Universities in the middle Tennessee area are privately owned and therefore are a lot more expensive.

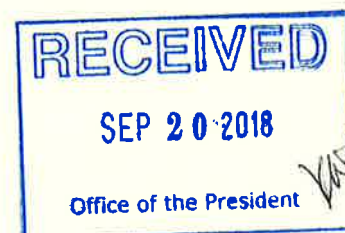
Dr. McPhee, with all that being said, I encourage you to pursue the establishment of a law school on the MTSU campus. If there is anything I can do to help flourish the establishment, please do not hesitate to contact me, as this is something that I am very passionate about.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Frank Buck", written in a cursive style.

FRANK BUCK

cc: Ron Ramsey



R. STEVEN WALDRON

TERRY A. FANN

BENJAMIN L. PARSLEY, III

202 W. MAIN STREET

MURFREESBORO, TN 37130

(615) 890-7365

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September 7, 2018

BY EMAIL TRANSMISSION ONLY

President Sidney McPhee
Middle Tennessee State University

Dear President McPhee:

I am writing after a conversation with our mutual good friend Don Witherspoon that relates to the discussion about the location of the Valparaiso Law School to MTSU. As you can see, I am enclosing a copy of an article from the July 2018 *Tennessee Bar Journal* and I ask your attention to the first full paragraph on page 3 which I have circled. It references the need for thousands of individual attorneys in Tennessee who perform pro bono legal service.

I have now practiced law in Murfreesboro/Rutherford County for 45 years and I still maintain an active practice. I represent no corporations, public entities or institutions. While I am blessed with some well-to-do clients, most of my business comes from folks who are working class, poor, or somewhere in between. I chose from the outset to represent groups of people who need attorneys but who produce few attorneys from their ranks.

I understand one of the arguments against the placement of an accredited law school at MTSU is that there are too many attorneys already and there is not enough legal business to support all the lawyers who would graduate from a law school at MTSU. I respectfully disagree.

My wife is an MTSU alumni who received her undergraduate and graduate degrees there. I had the privilege of attending MTSU for one year in 1967-1968. During that year, I received the best instruction and educational experience of my life which includes three years in law school at the University of Florida in Gainesville. Understandably, I follow closely the continued upward progression of MTSU in terms of student numbers, the quality and quantity of graduates, the multiple career and academic offerings, etc.

I always enjoy reading about the book chosen by the University to be read by all incoming students and then discussed by the author at convocation at the beginning of the school year. The speaker, whose name I do not recall, was absolutely amazing. He epitomizes why people should want to go to law school and then be lawyers after they graduate. I am sure that brilliant man would tell you that we do not have enough lawyers in Middle Tennessee, the state of Tennessee, or in this country, and that certainly we do not have enough lawyers who want to represent those who are currently unserved or grossly underserved. If, as the TBA President says, there are thousands of individual attorneys who perform pro bono service, there is a lot of legal work to be

President Sidney McPhee
Middle Tennessee State University
September 7, 2018
Page 2

done. I have made a very good living by following my heart and representing working class and poor people and I can assure you that we need lawyers who want to connect with people who need them.

I believe most law schools serve as minor leagues for corporate America in that law students are tilted toward making excellent grades, building good resumes, and then landing well-paying jobs in big firms in cities. I can assure you there is lots of legal work available, much of which could be fee generating if the lawyer is properly trained, and that such work would enhance our society greatly.

I can only guess at the monumental benefits to MTSU to be derived from having a professional school. I suppose for comparative analysis one could ask those in the know at Samford University in Birmingham what it has meant to have the Cumberland School of Law there after it migrated from Cumberland University in Lebanon 50 or so years ago.

I do know there are many good lawyers who are MTSU graduates who would love to identify and participate with the University and its law school. The beset example I can give you of an MTSU graduate who is an outstanding lawyer is Mike Dagley. He is a terrific lawyer and a partner at Bass, Berry in Nashville. While at MTSU, he was a member and perhaps captain of your nationally ranked debate team. I understand the debate team is still outstanding. I could easily see a productive connection between the debate team and law school.

My one year as a student at MTSU allowed me to be somewhat in touch with an institution that has not only a significant presence but a magnificent soul. Thankfully, its reputation is now receiving long overdue recognition.

I can only wonder what the effect of having an accredited law school at MTSU would mean 50 years from today. The potential seems limitless.

At the same time, I am sure this is a disputable issue and there is another side. I also suspect there are headwinds from sources who are not necessarily interested in the welfare of MTSU. Respectfully, I submit the opportunity is too enormous to not be made to happen.

President Sidney McPhee
Middle Tennessee State University
September 7, 2018
Page 3

I certainly wish you, Don and Hanna, and the University the best in this and all other endeavors.

Respectfully yours,



R. Steven Waldron,
Attorney at Law

RSW:as

Enclosure



DON R. ASH
 SENIOR JUDGE
 500 North Walnut Street
 Murfreesboro, TN 37130

October 3, 2018

Mike Krause, Executive Director
 Tennessee Higher Education Commission
 404 James Robertson Parkway, Suite 1900
 Nashville, TN 37243

Dear Sir -

My name is Don Ash. I am a proud graduate of Middle Tennessee State University and the University of Memphis law school. After earning my law degree in 1980, I practiced law for thirteen years and then served as a Circuit Judge for Rutherford and Cannon counties from 1994-2012. In 2012, I was appointed by the Tennessee Supreme Court to serve as a Senior Judge and still serve in that capacity today. I also teach Civil Procedure at the Nashville School of Law. I have been blessed with a wonderful career and a lot of the credit goes back to the two universities where I obtained my degrees.

I have tried to support both of these institutions over the years. My wife, Rita, and I have financially contributed to MTSU for over thirty years and a few years ago, we established the Judge Don Ash and Rita Ash scholarship at my law school.

I wanted to write in full support of a professional degree being added to Middle Tennessee State University. Let me tell you why. First, I think it will be a tremendous asset to the legal community. When I went to law school, my school was in its infancy. Some of my friends who went to Vanderbilt and Tennessee looked down on my education. Today, the University of Memphis is an outstanding school and many of my judge friends also went there. Someone many decades ago gave the University of Memphis a chance to prove they could have an excellent law school. They have met that challenge. I think Middle Tennessee University deserves the opportunity to prove they can do it as well. Middle also has one of the top mock trial teams in the country as well as an outstanding political science department. While this is not enough to fill an entire law school, it is a great start.

In sum, if we are given this opportunity I am convinced great things will happen. Some of my friends say there are already too many lawyers and if we had a law school,

SENIOR JUDGE DON R. ASH
500 North Walnut Street
Murfreesboro, Tennessee • 37130

Page • 2

there would not be enough jobs for the graduates. I respectfully disagree. I see more and more law graduates going into business, mediation, and other fields. I imagine our law school would be very specialized working with our nationally-recognized business college, honors college, science department, and mass communications department. Middle Tennessee is exploding in growth and I believe more and more corporate headquarters are heading our way.

In closing, I hope you all will consider giving other students the same opportunity the University of Memphis gave me. Please let me know if I can provide your commission any other information and thank you for this opportunity.

Soli deo Gloria!

A handwritten signature in black ink, appearing to be 'Don R. Ash', with a stylized, looping initial 'D' and a horizontal line extending to the right.

Don R. Ash



September 17, 2018

Mike Krause, Executive Director
Tennessee Higher Education Commission
404 James Robertson Parkway, Suite 1900
Nashville, TN 37243

Re: Law School at Middle Tennessee State University

Dear Director Krause:

Please accept this letter of support for the proposed law school at Middle Tennessee State University.

The Nashville Area Chamber of Commerce is the largest business federation in Middle Tennessee and has been continuously working on behalf of business since 1847. The Chamber is a nonprofit organization dedicated to creating economic prosperity by facilitating community leadership. The Nashville Area Chamber represents more than 2,200 member businesses in 15 counties. Through a wide variety of programs and initiatives, the Chamber works to positively impact the economic vitality and enhance the quality of life in the region, while supporting the growth and prosperity of Chamber-member businesses and our partners.

The Chamber is committed to efforts that contribute to a stronger workforce in Tennessee. The value of a legal education transcends the practice of law. Many businesses prefer law school graduates as employees essential to their workforce needs in every business discipline.

The Chamber is supportive of MTSU's bid for a law school. We believe Middle Tennessee State University will provide a significant and much needed service to the many people who desire access to an accredited, quality, and affordable public legal education in Middle Tennessee. Our organization sees the establishment of the law school at MTSU to be an important plus for attracting and retaining workforce in the Nashville region since many of these law school graduates are likely to stay in the community after graduation.

We are pleased to offer this letter of support and encourage the Tennessee Higher Education Commission to approve the establishment of an accredited, public law school at Middle Tennessee State University.

Sincerely,

Ralph Schulz
President and CEO

C: Sidney A. McPhee

201 Commerce Street, Suite 300
Nashville, Tennessee 37201
phone - 615.253.3100
fax - 615.253.3194
website - nashvillechamber.com

From: Meyer, Matt [mailto:Wallace_Meyer@chs.net]
Sent: Thursday, October 4, 2018 12:48 PM
To: Betty.Dandridge Johnson; Mike Krause
Cc: Sidney.McPhee@mtsu.edu
Subject: Letter in Support of the law school at MTSU

***** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. - STS-Security*****

TO: Mr. Mike Krause, Exec. Director
 TN Higher Education Commission
 404 James Robertson Parkway, Suite 300
 Nashville, TN 37243

I am writing this letter in support of the proposal for Valparaiso Univ. to transfer their law school to MTSU.

As a graduate of Nashville School of Law, I believe school would fit a needed niche between NSL and Belmont and VU.

Also, NSL and MTSU would serve different markets (night time working folks at a lower price point vs. full-time day classes at MTSU at a higher cost).

Plus, the MTSU component would finally provide the opportunity to get a Masters of Law locally at an affordable price.

There are a lot of people in Middle TN that: (1) cannot or are not willing to uproot themselves and their families to move to Memphis or Knoxville to go to law school; and (2) cannot get accepted and/or afford the costs of attending VU or Belmont.

I strongly urge this proposal to be supported and approved. As the parent of three high schoolers, I would like them to be able to look forward to this option.

Thanks,

Matt
 731-616-0664

W. Matt Meyer, J.D. | Senior Business Systems Analyst | IS Process & Performance Excellence
 | Community Health Systems
 9009 Carothers Parkway (*Carothers Building 4B*) | Franklin, TN 37067 | Tel: 615-925-4537 | <http://www.chs.net>

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... creating a better quality of life.

October 4, 2018

Betty Dandridge Johnson
Chief Academic Officer
Tennessee Higher Education Commission
404 James Robertson Parkway
Suite 1900
Nashville, TN 37243

Ms. Johnson,

As Mayor of the City of Murfreesboro, I am offering our community's fullest support for the transfer of Valparaiso University Law School to the campus of Middle Tennessee State University in Murfreesboro.

As a graduate of MTSU, I am naturally proud of my alma mater for its academic tradition of excellence dating back to its founding in 1911 as a training school for teachers. In recent years the university's facilities have greatly expanded with a new College of Education Building, Student Union and a new state-of-the-art Science building. As a comprehensive public university, MTSU now touts the largest undergraduate enrollment in the state to its nationally and internationally respected academic programs.

Receiving the significant gifting of Valparaiso University Law School, founded in 1879, with its long and distinguished history of preparing students for the legal profession is truly significant. Not only is it an American Bar Association-accredited law school, there are tremendous financial benefits to be inherited from an established academic program for both the university and our community. Growing cities like ours need a pool of well-trained lawyers and the legal profession is enhanced by the proximity of an excellent law school.

It's my understanding that Valparaiso identified three universities for consideration of taking on its law school and decided MTSU was the best fit, based on its mission and location. Naturally, I concur with that decision. It's not only the right fit for Valparaiso, it's the right fit for MTSU and Murfreesboro, one of the fastest growing mid-sized cities in the nation.

To be perfectly candid, receiving the gift of Valparaiso University Law School is in keeping with MTSU's longstanding tradition of developing innovative partnerships that benefit students, the growing Middle Tennessee region and the State of Tennessee.

I extend my deep appreciation to both Valparaiso and MTSU for initiating such a partnership and highly recommend that the Tennessee Higher Education Commission and governing boards of both institutions approve the transfer.

Sincerely,

Mayor Shane McFarland

Administration Department

111 West Vine Street * PO Box 1139 * Murfreesboro, Tennessee 37133-1139 Phone 615 849 2629 * Fax 615 849 2679
TDD 615 849 2689 www.murfreesborotn.gov



MIKE KRAUSE
Executive Director

STATE OF TENNESSEE
HIGHER EDUCATION COMMISSION
PARKWAY TOWERS, SUITE 1900
NASHVILLE, TENNESSEE 37243-0830
(615) 741-3605
FAX: (615) 741-6230

BILL HASLAM
Governor

TO: President Sidney McPhee
University of Memphis

FROM: Mike Krause 

SUBJECT: Middle Tennessee State University
Letter of Notification: Doctor of Jurisprudence (JD)

DATE: August 10, 2018

Thank you for the recent submission of the Letter of Notification (LON) for the proposed Doctor of Jurisprudence program. Per the THEC Policy for *New Academic Programs: Approval Process*, all Letters of Notification for proposed programs are posted on the THEC website for public comments. Middle Tennessee State University's LON for the proposed JD program was posted for a 15 day period on the THEC website. Attached are the public comments (10 letters) received in response to the proposed JD program. It is requested that these comments be shared with members of the MTSU Board of Trustees.

In order to carefully assess the LON for the proposed JD program, THEC will utilize these public comments along with the market and feasibility study that is currently underway by Aslanian Market Research. We anticipate this report will be available by October 12th.

Upon receipt of the report from Aslanian Market Research, THEC will evaluate the Letter of Notification for the proposed JD program and render a decision at that time.

Attachment

cc: Dr. Mark Byrnes
Dr. Peter H. Cunningham
Betty Dandridge Johnson

Letter of Notification (LON)

Policy A1.0 New Academic Programs: Approval Process

Institution	Middle Tennessee State University
Proposed Academic Program	Doctor of Jurisprudence (J.D.)
Proposed Implementation Date	Fall 2019
Letter of Notification (LON) Submission Date	July 13, 2018
Posted Date on THEC Website	July 16, 2018
Public Comment Period	July 16 – July 31, 2018

Public Comments (10 letters)

Mr. George T. Lewis Baker Donelson Memphis, TN Received: July 30 2018 (2 pages)	Dr. Joseph A. DiPietro President University of Tennessee Knoxville, TN Received: July 31 2018 (1 page)
Mr. Earle Schwarz <i>President</i> Memphis Bar Association Memphis, TN Received: July 31 2018 (2 page document)	- Dr. Wayne T. Davis <i>Interim Chancellor</i> - Dr. David Manderscheid <i>Provost and Senior Vice Chancellor</i> - Melanie D. Wilson <i>Dean & Lindsay Young Distinguished Professor of Law</i> University of Tennessee Knoxville Received: July 31 2018 (12 pages)
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