

# RAISING THE BAR

A PUBLICATION DEDICATED TO THE EXCHANGE OF  
EVIDENCE-BASED THINKING ABOUT THE BAR EXAM

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## FROM THE DIRECTOR

### Resource Guide to Diversity and Bar Success

The ABA's recently published data highlighting disparities in bar exam pass rates by race point out the need for renewed focus on diversity, equity, and inclusion all along the professional “admission to admission” continuum – from entry into legal education through entry into the profession – and beyond.

This Fall 2021 issue of *Raising the Bar* serves as a Resource Guide for those exploring salient research findings regarding diversity and attorney licensing, and serves as a complement to our Fall 2020 issue that featured original pieces on the intersection of race and licensing. Like the Summer 2021 Raising the Bar, which included a reference list for key bar-related studies, this issue's resource list provides a starting point for scholars, researchers, bar examiners, thought leaders, and other stakeholders considering changes that might be made in our professional licensing process to diversify the profession.

We are also proud to feature in this issue a Distinguished Commentary from Erin Freiburger, Victor D. Quintanilla and Sam Erman, sharing critically important findings about the effect of the COVID-19 pandemic on bar exam performance, and widening disparities between advantaged and disadvantaged test-takers.

I look forward to engaging in robust discussion with all of you, and invite you, as you review the resources listed in this issue, to share additional citations for future resource lists by emailing me at [Success@accesslex.org](mailto:Success@accesslex.org).



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# DISTINGUISHED COMMENTARY

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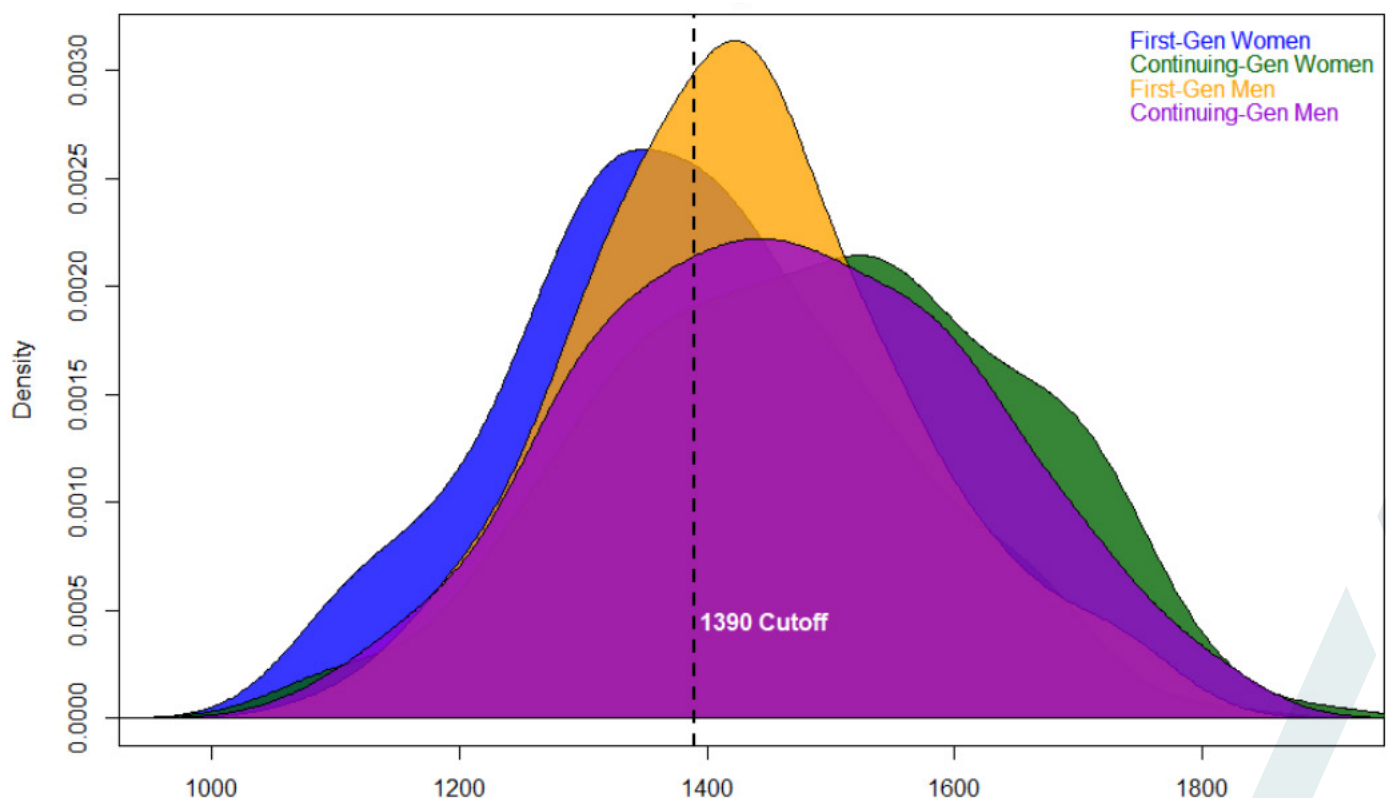
## The COVID-19 Pandemic and Bar Performance: Magnifying Adversities, Stress, and Disparities Among Bar Test-Takers

Has the COVID-19 pandemic affected bar performance or widened disparities on the bar exam between advantaged and disadvantaged test-takers? Research collected across the world has revealed, for example, that the COVID-19 public health crisis has magnified pre-existing inequalities, including socio-economic status (SES) and gender-based adversities, in other professional domains. For instance, women, especially low-income women, have been burdened with increased caregiving demands amidst the pandemic, undermining their career trajectories. Have applicants preparing for the bar exam confronted similar adversities?

We recently completed a study investigating which groups were most at risk of failing the October 2020 bar exam, and the degree to which the uneven burdens engendered by the COVID-19 pandemic explained these disparities. Bar exam scores and self-report measures were collected from 976 U.S. law students and graduates (618 women; 351 men; 320 first-gen; 649 continuing-gen) in partnership with the State Bar of California, and among test-takers who were first-generation and continuing-generation students in college, respectively, 73.1% and 51.4% were people of color.

Two key findings begin to cast light on these questions: first, we found that first-gen women severely underperformed relative to first-gen men and continuing-gen women, who performed moderately higher on the October 2020 bar exam than continuing-gen men. Crucially, these findings, represented in the figure below, reveal that first-gen women were particularly at risk of failing the bar exam at the current 1390 threshold relative to others during the global pandemic.

**Total Bar Exam Score Distribution by Test-Taker Gender and First-Gen Status**



Secondly, we examined the prevalence of COVID-19 adversities and stressors among those who sat for the October 2020 bar exam during the pandemic. We investigated both whether disparities existed between groups (e.g., first-gen women vs. continuing-gen women) and the degree to which pandemic-related stress predicted their bar exam performance. We theorized that stress was both differentially experienced during the pandemic and associated with lower performance.

Troublingly, we found that first-gen women reported more stress relating to increased care-giving demands, severe cuts in household income, and the inability to pay household bills attributable to the pandemic than any other group, including continuing-gen women and men overall. Ultimately, we observed that these exacerbated pandemic-related stressors in part explained first-gen women's lower performance on the bar exam. We also observed that being the primary caregiver of a dependent during the

pandemic, or employed over the summer while studying, negatively predicted bar performance and that both of these risk factors were associated with being a first-gen student.

Taken as a whole, we observed that the COVID-19 pandemic has magnified adversities experienced by persons already at the margins, particularly challenging low-SES women, the vast majority of whom were women of color, and undermining their ability to reap the benefits of their professional degrees. This research featured in a forthcoming paper highlights the need for policy prescriptions addressing adversities that these at-risk groups contend with when seeking professional advancement. Our findings can, and have in California already, informed structural and psychological interventions to support diversity, equity, and inclusion in bar licensure pipelines — challenges that have been amplified amidst the global pandemic.



# RESOURCE GUIDE FOR DIVERSITY AND BAR SUCCESS

*To assist those who are focused on increasing diversity in law school admissions, retention, and attorney licensing, we have put together a list of resources. Note that there is much important and highly relevant research in higher education outside of law that we intentionally did not list here, simply because we did not have space. The list is not exhaustive. The idea behind the list is to serve as a starting point for further research. We welcome citations for additional resources from readers so that we can enhance this bibliography in the future.*

## Diversity in Pre-Law and Admissions

- AccessLex Institute, [Priming the Pump: How Pipeline Programs Seek to Enhance Legal Education Diversity](#) (2018)

AccessLex Institute has developed this research brief to provide an overview of legal education pipeline programs in the U.S. — the channel by which we, as stakeholders in legal education, can improve access to law school. The prevalence of these programs and their components are discussed in detail. The brief also takes preliminary steps towards assessing their impact and effectiveness. The immediate goal is to provide useful information to aspiring students, their advisors, and others concerned about legal education diversity. The ultimate goals for future research are to identify components shared by the most effective and impactful pipeline programs, and to encourage other programs to adopt those best practices.

- AccessLex Institute, [Roadmap to Enrolling Diverse Law School Classes, Volume 4: Contextualizing Admission Factors](#) (2020)

The purpose of this fourth volume of the Roadmap to Enrolling Diverse Law School Classes series is to provide law schools with a guide to using empirical research methods, such as regression analyses, to gain a better understanding of the relative impact of admission factors on student outcomes. The volume presents the following steps to conducting these analyses: Step 1: Consider outcomes to predict. Step 2: Choose study

subjects. Step 3: Contemplate relevant factors. Step 4: Collect data. Step 5: Calculate relationships between variables.

- Michael W. Carroll and Troy Romero, [Addressing the Lack of Diversity in the Legal Profession, at the Undergraduate Level](#) (2017)

The study and practice of law is among the most respected and well-regarded pursuits; unfortunately, it is also among the least diverse. The persistent and alarming lack of diversity is prevalent in the industry regardless of the culture. In the United States and in Europe, statistics show that lawyers are overwhelmingly comprised by white males, especially in the higher ranks of the profession. Several factors contribute to this lack of diversity, including access to legal professionals and costs associated with pursuing a legal degree. Several strategies have been initiated to increase diversity in the field, including increasing awareness of the issue in the legal world and actively recruiting diverse populations, yet the lack of diversity persists. This paper will review some of the factors that contribute to the lack of diversity in the legal profession and strategies considered to increase diversity, and ultimately highlight a program that initiated one such strategy — a pre-law program developed to increase knowledge of the legal profession, access to legal professionals, and financial and academic support for the pursuit of a legal career for undergraduate students. The remainder of this paper will outline specifics of the pre-law program, including its student demographics that include over 60 students with very diverse backgrounds, its law-related activities/programming that include presentations from law students and professions, law school visits, and workshops on applying for law school and writing personal statements, and its achieved outcomes since its inception in 2009 that include formative partnerships with regional law schools and legal organizations, student scholarships, and graduated attorneys.

- Alisa Cunningham and Patricia Steele, [Diversity Pipeline Programs in Legal Education: Context, Research, and a Path Forward](#) (2015)

This report, commissioned by AccessLex Institute, highlights the issue of diversity in legal education, provides an overview of the

diversity pipeline, explores programs that seek to improve the pipeline, and provides several recommendations for leaders and supporters of diversity pipeline programs. As the racial and ethnic diversity of the United States continues to grow, it is increasingly important that comparable cultural diversity grows in the legal profession. Diversity in the legal field is central to ensuring public confidence in the legal system and provides society with a sense of fairness in the judicial system. The benefits of diverse leadership are numerous, particularly as the U.S. engages with a global, multicultural marketplace. To address gaps in the educational pipeline to the legal profession, many diversity pipeline programs have emerged to inspire interest, engagement, and success in degree programs in law. The goal of this report is to identify some of the key factors that are associated with successful diversity programs based on a scan of the literature, both within and outside of law school pipeline programs.

- Jonathan P. Feingold, [Diversity Drift](#) (2019)

Diversity may be under attack in the age of Trump, but higher education in America has its own diversity problem. If mission statements and strategic plans offer any guidance, many of America's colleges and universities actively value diversity. Yet even as calls for diversity grow, these calls far too often lack a clear and coherent normative anchor. Institutions often seek "diversity" without first having done the work to define, precisely, why they want diversity, or to identify, concretely, what sorts of diversity will get them there. As a result, universities have become susceptible to diversity drift, whereby good intentions invite unintended – and at times, perverse – consequences. Seemingly innocuous language (as simple as calls to hire and admit "diverse people"), for instance, risks reifying whiteness as an institutional baseline against which students and faculty of color are rendered perpetual outsiders. And untethered to history, context, and power, calls for diversity can fall victim to false equivalencies that deny any principled distinction between those who would #TakeAKnee to honor Black lives and those who travel the college circuit to mock, demean, and insult.

- New York City Bar, [Sealing the Leaks: Recommendations to Diversify and Strengthen the Pipeline to the Legal Profession](#) (2019)

For the last decade, the New York City Bar Association ... has used benchmarking surveys to collect and analyze the recruitment, promotion, and attrition data from 88 law firms that have signed onto the City Bar's Statement of Diversity Principles. ... While the findings continue to reflect slow ascension to leadership and elevated attrition rates for attorneys of color and women, more troubling is the failure of the pipeline into the profession to promote diversity, which directly impacts the pool of talent considered for law firm leadership.

The City Bar views the "Diversity Pipeline" as integral to the goal of increasing the number of diverse and underrepresented groups who enter into and progress within the legal profession. Underrepresented groups include racial minorities and women, lesbian, gay, bisexual and transgender individuals and attorneys with disabilities. There are distinct challenges that affect Black/African American and Latinx students compared to the experiences of other groups. The focus of this report is to address those distinct challenges. (p. 1)

- John Nussbaumer and Chris Johnson, [The Door to Law School](#) (2011)

This article researches Law School Admissions Council and ABA Section of Legal Education data for the first ten years of this century and finds that nearly half of all Hispanic law school applicants and nearly two-thirds of all African American law school applicants during this ten-year period were totally shut-out from every ABA-approved school they applied to, compared to just about one-third of all Caucasian applicants.

The research also shows that that African Americans, Mexican Americans, and Puerto Ricans all lost ground in terms of proportional representation, both in comparison to the growth in enrollment of all students of color and the growth in enrollment of all students. The article also reviews the social and economic costs of this continuing failure on the part of America's law schools to diversify the legal profession, including the substantial lost opportunity costs suffered by communities

of color when qualified applicants are denied admission, conservatively estimated at \$12.6 billion dollars for the African American community as a result of the applicants who were denied admission during this ten-year period. Finally, the article proposes a comprehensive blueprint for action to open the door to law school to make the profession more representative of the increasingly diverse society that lawyers serve.

- Marjorie M. Shulz and Sheldon Zedeck, [Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions](#) (2011)

Law school admission decisions are heavily influenced by a student's undergraduate grade point average (UGPA) and Law School Admission Test (LSAT) score. These measures, although predictive of first-year law school grades, make no effort to predict professional competence and, for the most part, they do not. These measures also create adverse impact on applicants from underrepresented racial/ethnic groups. This article describes the rationale for and process by which we explored new tests to predict lawyer effectiveness rather than law school grades and reports results of a multiyear empirical study involving over 3,000 graduates from Berkeley Law School and Hastings College of the Law. Tests measuring personality constructs, interests, values, and judgment predicted lawyering competency but had little or no adverse impact on underrepresented minority applicants. Combined with the LSAT and UGPA, these broader tests could assess law applicants on the basis both of both projected professional effectiveness and academic indicators.

- Marjorie M. Shulz and Sheldon Zedeck, [Admission to Law School: New Measures](#) (2012)

Standardized tests have been increasingly controversial over recent years in high-stakes admission decisions. Their role in operationalizing definitions of merit and qualification is especially contested, but in law schools this challenge has become particularly intense. Law schools have relied on the Law School Admission Test (LSAT) and an INDEX (which includes grade point average [GPA]) since the 1940s. The LSAT measures analytic and logical reasoning and reading. Research has focused on the

validity of the LSAT as a predictor of 1st-year GPA in law school, with almost no research on predicting lawyering effectiveness. This article examines the comparative potential between the LSAT versus noncognitive (e.g., personality, situational judgment, and biographical information) predictors of lawyering effectiveness. Theoretical links between 26 lawyering effectiveness factors and potential predictors are discussed and evaluated. Implications for broadening the criterion space, diversity in admissions, and the practice of law are discussed.

- Aaron N. Taylor, [The Marginalization of Black Aspiring Lawyers](#) (2018)

This paper argues that Black people who aspire to be lawyers endure marginalized existences, which span the law school admission process through the matriculation process and into the law school classroom. The manner in which the Law School Admission Test (LSAT) drives the vetting of law school applications ensures that Black applicants face steep disadvantages in gaining admission. In the 2016-17 admission cycle, it took about 1,960 Black applicants to yield 1,000 offers of admission, compared to only 1,204 among White applicants and 1,333 overall. These trends are explained in large part by racial and ethnic disparities in average LSAT scores. The average score for Black test-takers is 142-11 points lower than the average for White and Asian test-takers of 153. Therefore, for large proportions of Black law school applicants — 49 percent in 2016-17 — their marginalization in the admission process ends in outright exclusion.

...

Unfortunately, for many Black applicants who do receive offers of admission, the marginalization process continues. They are often required to pay higher proportions of their law school's "sticker price" than other students. They are also disproportionately funneled into schools with the least favorable outcomes. Lastly, they are exposed to a curriculum that is presented in a way that alienates Black students and other students from underrepresented backgrounds. (pp. 489-91)

- Aaron N. Taylor, [Robin Hood, in Reverse: How Law School Scholarships Compound Inequality](#) (2018)

This article explains how law school merit scholarship policies, driven in large part by Law School Admission Test (LSAT) scores, ensure that law school scholarships flow most lucratively to students who tend to come from privileged backgrounds, contributing, most notably, to increased student loan debt among students from disadvantaged backgrounds. The result is a cascade of negative outcomes, including a “reverse Robin Hood” cost-shifting strategy through which disadvantaged students subsidize the tuition of their peers from privileged backgrounds. These trends are illustrated using data from more than 16,000 law students who responded to the Law School Survey of Student Engagement (LSSSE) in 2016. (p. 41)

## Diversity in Law School

- Tiffany Atkins, [Amplifying Diverse Voices: Strategies for Promoting Inclusion in the Law School Classroom](#) (2018)

American law schools lack diversity and adequate representation of minorities and underrepresented groups, both in their student body and faculty. This lack of representation often creates disconnects in the learning environment which may negatively impact minority students’ sense of belonging and willingness to engage in class. When classroom discussions lack these critical voices and perspectives, the result is a slanted and incomplete understanding of the law and its societal context. This article shares three strategies law professors can implement in their classrooms to actively promote inclusion, and amplify the experiences and voices of their students, especially women, students of color, and introverts.

- Christopher Birdsall et al., [The Effects of Demographic Mismatch in an Elite Professional School Setting](#) (2020)

Ten years of administrative data from a diverse, private, top-100 law school are used to examine the ways in which female and nonwhite students benefit from exposure to demographically similar faculty in first-year, required law courses. Arguably, causal impacts of exposure to same-sex and same-race

instructors on course-specific outcomes such as course grades are identified by leveraging quasi-random classroom assignments and a two-way (student and classroom) fixed effects strategy. Having an other-sex instructor reduces the likelihood of receiving a good grade (A or A-) by 1 percentage point (3 percent) and having an other-race instructor reduces the likelihood of receiving a good grade by 3 percentage points (10 percent). The effects of student-instructor demographic mismatch are particularly salient for nonwhite and female students. These results provide novel evidence of the pervasiveness of demographic-match effects and of the graduate school education production function.

- Kathryn Blair, [Gender Bias in Law Schools \(And What You Might Be Able to Do About It\)](#) (Sept. 3, 2019)

Statistics released by the American Bar Association (ABA) Commission on Women in the Profession show women have been inching closer and closer to receiving half of J.D.s awarded in the United States, finally appearing to have achieved that parity in 2018. Contributing to that, 2016 marked the first year that women made up more than half of the student body at law schools in the United States.

Despite these significant advancements, women still lag behind men in other areas of the profession: law firm partners, law school administration positions, federal judgeships, and salary. Scholars and commentators have pointed to a variety of factors to explain this across the profession, but two that are particularly interesting given law school trends, are differential admission practices at law schools and performance in law school. Statistics from 2018 show that men still outnumber women at the top five law schools, and in some studies, women received lower grades than men do in law school. The common wisdom is that law school ranking and small differences in grades can have a big impact on obtaining prestigious clerkships and jobs at top firms.

- Danielle M. Conway et al., [Building an Antiracist Law School: Inclusivity in Admissions and Retention of Diverse Students—Leadership Determines DEI Success](#) (2021)



Structural problems, such as institutional racism and bias, require structural solutions. White people in the legal academy are only now reckoning with the reality of systemic racism within our hallowed halls, an insidiousness that many People of Color in the legal academy have always known. Yes, racism and bias are pervasive in our teaching, learning, service, and leadership environments.

This article is one of three interdependent articles authored by Penn State Dickinson Law faculty and staff. These articles are meant to be read together to chart the vision and implementation for building an Antiracist law school and providing a template for an Antiracist legal academy and legal profession. The other two articles in the trilogy are: Amy Gaudion, [Exploring Race and Racism in the Law School Curriculum: an Administrator's View on Adopting an Antiracist Curriculum](#); and Dermot Groome, [Exploring Race and Racism in the Law School Curriculum: Educating Antiracist Lawyers](#).

- Meera E. Deo, [Faculty Insights on Educational Diversity](#) (2015)

Twice in the past two years, the U.S. Supreme Court has approved educational diversity as a compelling state interest that justifies the use of race in higher education admissions decisions. Nevertheless, it remains on somewhat shaky ground. Over the past decade, the Court has emphasized that its acceptance of diversity stems from the expectation that a diverse student body will enhance the classroom environment, with students drawing on their diverse backgrounds during classroom conversations that ultimately bring the law to life. Yet, the Court provides no support for its assumption that admitting and enrolling diverse students actually result in these educational benefits. In fact, empirical research on law students indicates that structural diversity (i.e., diversity in numbers) does not lead automatically to interactional diversity (i.e., meaningful interaction among diverse students) or classroom diversity (i.e., meaningful diverse interaction in the classroom specifically); instead, these enhanced classroom experiences depend on adept facilitation by faculty and mutual respect among diverse students.

The Court could draw from a wide body of empirical scholarship with students to better understand the ways in which educational

diversity could provide true scholastic and professional benefits. Yet, another group of classroom participants and observers offers even more astute perspectives. Law faculty members have never been asked about their perspectives on educational diversity as part of a formal empirical study, though as the ones facilitating discussion, leading classroom conversations, and instilling a model of respect, they have unique experiences and insights into the possible benefits of educational diversity.

This Article presents findings from the Diversity in Legal Academia (DLA) project, a landmark empirical study of the law faculty experience. DLA findings suggest that law faculty members from all racial/ethnic backgrounds not only appreciate the many benefits of diversity, but they also recognize the educational and professional challenges associated with the lack of diversity currently plaguing many law schools. Courts, administrators, and others should rely on these findings to provide additional support for affirmative action through educational diversity, especially to bolster it while it is under attack.

- Jonathan P. Feingold and Doug Souza, [Measuring the Racial Unevenness of Law School](#) (2013)

In *Measuring the Racial Unevenness of Law School*, Jonathan Feingold and Doug Souza introduce and analyze the concept of racial unevenness, which refers to the particularized burdens an individual encounters as a result of her race. These burdens, which often arise because an individual falls outside of the racial norm, manifest across a spectrum. At one end lie obvious forms of overt and invidious racial discrimination. At the other end, racial unevenness arises from environmental factors and institutional culture independent from any identifiable perpetrator. As the authors detail, race-dependent burdens can arise in institutions and communities that expressly promote racial diversity and condemn overt racial discrimination; good intentions are no panacea to racial unevenness.

- Erin C. Lain, [Racialized Interactions in the Law School Classroom: Pedagogical Approaches to Creating a Safe Learning Environment](#) (2018)

It is inevitable and important that racial issues be discussed in classrooms, particularly when considering our purpose of training

future lawyers who will serve on the front lines. Be it affirmative action, *Terry* stops, freedom of expression, or discussions of disproportionate incarceration, these topics come up frequently within the law school curriculum. However, navigating these topics can seem like a minefield for most. Issues evoking tension and microaggressions can pop up unexpectedly, despite the lengths to which a professor plans the delivery of the material. This article will define racialized interactions and psychological safety within the classroom and discuss typical professor responses. It will also explore best practices and practical tools for professors to help students navigate and learn from these interactions while maintaining psychological safety. It will conclude with my own reflection on my practices in the classroom and provide examples from which others can learn. (p. 781)

- Law School Survey of Student Engagement, [Diversity and Exclusion: 2020 Annual Survey Results](#)

This year for the first time, LSSSE introduced a set of questions focused on diversity and inclusion that supplement related questions from the primary survey. The Diversity and Inclusiveness Module examines environments, processes, and activities that reflect the engagement and validation of cultural diversity and promote greater understanding of societal differences. Questions explore students' exposure to inclusive teaching practices and intercultural learning; perceptions of institutional values and commitment regarding diversity; and participation in diversity-related programming and coursework. (p. 6)

- Law School Survey of Student Engagement, [The Cost of Women's Success: 2019 Annual Survey Results](#)

The past two decades have seen increasing numbers of women in law schools. After graduating from law school, women lawyers enjoy greater opportunities for financial independence, security of employment, and a potential for leadership facilitated by the J.D. degree. Yet, gender inequities in pay and position continue to plague the legal profession. In spite of this conundrum, there has been little scholarly attention given to the experience of women while in law school.

The 2019 LSSSE Annual Results celebrate women. We investigate the successes of women law students – using objective and subjective measures to reveal various accomplishments. We also interrogate their backgrounds and the context for their enrollment in law school, revealing challenges women overcome and the sacrifices they make to succeed. This Report not only shares findings on women as a whole, but also features comparisons by gender and race/ethnicity, providing greater depth and context to the overall experience of women law students. Our findings make clear that women's success comes at great personal and financial cost. Greater awareness of these challenges provides both an imperative and an opportunity for administrators, institutions, and leaders in legal education to invest more deeply in the success of women. (p. 5)

- NALP Foundation and Center for Women in Law, [Women of Color: A Study of Law School Experiences](#) (2020)

Women of color are significantly underrepresented in legal organizations and law-related positions and leave these legal roles – especially at law firms – in alarming numbers. Anecdotal evidence suggests that women of color face more substantial barriers to success in the legal profession than do their white colleagues. Recent research by NALP found that nearly one-half of law firm offices do not have a single partner who is a woman of color. One theory attributes this divergence to imbalances in resources and opportunities in law schools – specifically, that female law students of color lack access to the same level of resources and prospects as their male and white female counterparts – leaving women of color at a particularly pronounced disadvantage as they begin their legal careers.

Encouraged by members of the legal community, the Center for Women in Law and The NALP Foundation developed this research project to document the experiences of women of color in law school and identify gaps in access to student resources. This study seeks to determine what steps law schools have taken and can further take to better position women of color for success in the legal industry. The results will be used to identify effective best practices to enhance the professional experiences of women of color.

- Adriane Peralta, [The Underrepresentation of Women of Color in Law Review Leadership Positions](#) (2015)

The pipeline for women of color joining the law review and ascending into law review leadership positions, such as EIC, is one such site of legal education worth exposing. Part I introduces the problem by examining the limited research that shows a significant underrepresentation of women and people of color in law review leadership positions and by explaining the significance of such research. Part II explores the possible causes of this unfortunate phenomenon by uncovering the challenges that women of color face in obtaining law review leadership positions. Finally, Part III offers potential solutions for increasing opportunities for women of color in obtaining law review leadership positions.

- Louis M. Rocconi et al., [Beyond the Numbers: An Examination of Diverse Interactions in Law School](#) (2019)

A concerted effort has been devoted to diversifying law schools. However, the focus has been almost exclusively on increasing the structural diversity of the student body rather than increasing diverse interactions. This study investigates the types of activities and experiences in law school that relate with more frequent diverse interactions. Findings illustrate several other factors, in addition to structural diversity, are related with more frequent diverse interactions. These factors include perceptions of a supportive and friendly law school environment, interactions with faculty members, positive relationships with other students, pro bono work, and being a member of a student organization.

- Kellye Y. Testy, [Best Practices for Hiring and Retaining a Diverse Law Faculty](#) (2011)

Although in many respects the goal of hiring and retaining a diverse faculty is like other institutional goals, it will require a different approach because it is different in one important respect — namely, that the institution must work against the structural and systemic inequality that plagues every area of our society. Part of the Iowa Law Review's symposium, "Rethinking Legal Education" (February 25–26, 2011), this presentation offers specific advice on the search process and how an institution can support the faculty of color it hires.

- Kylie Thomas and Tiffane Cochran, [ABA Data Reveals Minority Students Are Disproportionately Represented in Attrition Figures](#) (Sept. 18, 2018)

Recently, AccessLex added new ABA non-transfer attrition data disaggregated by race and ethnicity to [Analytix by AccessLex®](#). Non-transfer attrition refers to students who discontinue their legal education for any reason other than transfer to another law school. Previous ABA data reports show that non-transfer attrition often occurs for academic reasons, but can also result from financial and other circumstantial challenges. The ability to evaluate 1L non-transfer attrition data by race and ethnicity is a significant development, enabling a more nuanced analysis of non-completion among law students.

...

The new data reveal that historically underrepresented law students — those identifying as American Indian, Asian, Black, Hispanic, Native Hawaiian, and two or more races — are disproportionately represented among students who do not persist beyond the first year. In 2016, white students comprised 62 percent of 1L enrollment and 49 percent of 1L non-transfer attrition. In contrast, minority students made up 30 percent of 1L enrollment but accounted for 44 percent of 1L non-transfer attrition. This disproportionate representation of minority students among those who did not advance to the second year of law school is largely driven by the overrepresentation of Hispanic and black students in 1L non-transfer attrition figures. ...

- Erin Thompson, [Law Schools Are Failing Students of Color](#) (June 5, 2018)

Law school applications are up this year in what some are calling a "Trump bump," since around a third of applicants were inspired to apply by Trump's election. Nearly half of them identify themselves as members of a minority group. They've seen lawyers fighting Trump administration policies that discriminate against their communities and want to do the same. If these minority applicants succeed, they could change the balance of power in American society. If they fail, they will find themselves crushed under a lifetime of debt. But few are aware that they are taking this enormous gamble in a rigged game.

## Racial, Ethnic, and Gender Disparities on the Bar Exam

- American Bar Association, [2020 and 2021 Summary Bar Pass Data: Race, Ethnicity, and Gender](#) (2021)

The following charts present the performance of the various racial and ethnic groups based on data submitted in the 2020 and 2021 Bar Passage Questionnaire (the “BPQ”). The left column reports the Ultimate Pass Rate for the graduating classes after two years. The middle column reports the Ultimate Pass Rate for the graduating classes in that year after one year. The right column reports the First Time Pass Rate for that year’s graduating classes. The reported information does not depict differences in bar passage rates based on any other background variables.

- Timothy T. Clydesdale, [A Forked River Runs Through Law School: Toward Understanding Race, Gender, Age, and Related Gaps in Law School Performance and Bar Passage](#) (2004)

Analyses of the National Longitudinal Bar Passage Study (N = 27,478), demonstrate that law schools enlarge entering academic differences across race, age, disability, and socioeconomic origins rather than reduce them, and that academic differences in turn impact bar passage. Such differences cannot be reduced to (1) academic preparation, effort, or distractions; (2) instructional or law school-type characteristics; (3) social class; or (4) acceptance of an elitist legal ethos. Rather, results suggest that (1) women, minorities, and other atypical law students confront stigmatization throughout legal education; (2) for women (entering law school in 1991), this stigmatization is new, rejected, and consequently unassociated with law school outcomes; (3) for minorities, this stigmatization is continuous with prior socialization, making resistance difficult and consequent impact sizable; and (4) for other atypical law students, this stigmatization varies with visibility of difference, as do resistance and impact. Implications for social stigma theory and legal education are discussed.

- Jane E. Cross, [The Bar Examination in Black and White: The Black-White Bar Passage Gap and the Implications for Minority Admissions to the Legal Profession](#) (2004)

This article explores 1) the phenomena of the Black-White Bar Passage Gap, 2) the reasons further study of the gap is required, and 3) psychometric and cultural observations about the existence of this gap. The Black-White Test Score Gap is a term used to describe the observed differences in test results between black and white standardized test takers. When this concept is applied to similar differences in bar passage results, this article labels the phenomena as the Black-White Bar Passage Gap. Although the LSAC National Longitudinal Bar Passage Study clearly documented this gap, further study of the Black-White Bar Passage Gap is needed due to three converging trends. The trends are 1) the increasing use by state bar examiners of standardized multistate examinations, 2) the higher percentages of black student enrollment in and graduation from law school, and 3) the recent decrease in national and state bar passage rates. After examining the data indicating the continued need to study the Black-White Bar Passage Gap, this article explores the concepts of test validity and bias and later examines culture and race-oriented theories which provide explanations for the differences in black and white test scores. The article concludes that the phenomena of the Black-White Bar Passage Gap will continue to slow the rate of minority admission into the legal profession without further study of its ramifications and causes.

- Cecil J. Hunt, II, [Guests in Another’s House: An Analysis of Racially Disparate Bar Performance](#) (1996)

Prevailing wisdom holds that substantial disparities exist in bar passage rates between people of color and their white counterparts. Some scholars argue that these differences reflect the educational preparation and academic performance of racial groups prior to and during law school. However, such disparate performance also generates concern that the bar examination, the gateway to the legal profession, may be infected with racial, ethnic, cultural, gender, and/or economic bias unrelated to the competent practice of law. To the extent that such bias prevents otherwise capable law graduates from entering the legal profession, it is a serious problem.

The issue is not new. Bias in the examination process has been observed in one form or



another for over sixty years, but any serious effort to recognize or correct this problem has been stymied by three interrelated factors. First, there is a scarcity of comprehensive, accurate statistical data to confirm racial disparities in bar passage rates over time and across jurisdictions. Second, courts consistently demonstrate an unwillingness to consider judicial remedies as an appropriate response to any aspect of the disparate bar passage problem. Lastly, there is a surprising lack of thorough, sensitive analysis of the causes and the sources of such racially disparate bar performance. This Article analyzes each of these three interrelated factors. (pp. 722-24)

- Stephen P. Klein and Roger Bolus, [The Size and Source of Differences in Bar Exam Passing Rates Among Racial and Ethnic Groups](#) (1997)

Non-Hispanic whites (hereinafter referred to as “Whites”) are generally more likely to pass the bar exam than their law school classmates. In this article, we discuss the size of the differences in passing rates among racial/ethnic group and summarize the findings of studies that have examined why some groups do better on the exam than others. These studies have investigated whether the differences in passing rates among groups are related to several factors, including: the types of essay and multiple-choice questions that are asked, the subject matter areas covered by the exam, the racial/ethnic background of the readers who grade essay answers, the general academic ability of the applicants taking the exam, and their law school grades. As we discuss below, this last factor explains virtually all the differences in bar exam passing rates among groups. ... (p. 8)

- National Conference of Bar Examiners, [Impact of Adoption of the Uniform Bar Examination in New York](#) (2019)

This study was undertaken to investigate the impact of adoption of the Uniform Bar Examination (UBE) in New York. The UBE was first administered in New York in July 2016. The UBE consists of a multiple-choice component, the Multistate Bar Examination (MBE), weighted 50% of the total score, and a written component consisting of six Multistate Essay Exams (MEEs) and two Multistate Performance Tests (MPTs), weighted 50% of the total score. The New York bar exam prior to

UBE adoption consisted of the MBE (weighted 40% of the total score), a written component (five New York-developed essays and one MPT, weighted 50% of the total score), and a New York-developed multiple-choice exam (weighted 10% of the total score). This study was conducted by staff from the Research Department of the National Conference of Bar Examiners (NCBE) at the request of the New York State Board of Law Examiners (NYSBLE). The analyses in this study were designed to address three primary questions:

1. How do candidate background characteristics compare across bar exam administrations? How do they relate to performance on the bar exam in New York before and after UBE adoption?
2. How do candidates grouped by race/ethnicity and gender perform on the bar exam before and after UBE adoption?
3. How does performance on the bar exam in New York compare before and after UBE adoption?

In addition, several ancillary questions were addressed, including the following:

How does performance on the MBE in New York compare to MBE performance in all other jurisdictions before and after New York adopted the UBE?

What candidate variables best predict performance on the bar exam?

What are the eventual pass rates for candidates taking the New York bar exam before and after UBE adoption?

Each of these questions was intended to contribute to the overarching question of impact, specifically what was the impact of adopting the UBE on candidate performance in New York? The short answer, based on the data available, is that the impact was, at most, small. Bar exam performance increased, on average, after UBE adoption and the improvement in performance appeared to be explained in large part by improvements in the background characteristics of candidates taking the New York bar exam. In other words, the improvement in bar exam performance after UBE adoption was likely not attributable to the UBE.

- Douglas R. Ripkey and Susan M. Case, [A National Look at MBE Performance Differences Among Ethnic Groups](#) (2007)

Issues related to diversity are an important concern in bar admissions. Various researchers have examined ethnic performance with regard to admission to law school, experiences while in law school, and the associated educational outcomes both in law school and on bar examinations.

...

This article reports on our initial investigations into the Multistate Bar Examination (MBE) performance differences across ethnic groups using data from a national population. Since NCBE does not have bar passage information on individual examinees, we cannot undertake a study of overall bar passage rates of ethnic groups. However, we can look at MBE performance, and the commonality of the MBE as a bar examination component in most jurisdictions allows for a clearer interpretation of results across ethnic groups. It avoids problems related to state-specific components and state-specific pass/fail standards. Because we have published previous information about gender differences in MBE performance, they are not included as part of this article. (p. 21)

- Linda F. Wightman, [LSAC National Longitudinal Bar Passage Study](#) (1998)

The Law School Admission Council (LSAC) National Longitudinal Study was undertaken primarily in response to rumors and anecdotal reports suggesting bar passage rates were so low among examinees of color that potential applicants were questioning the wisdom of investing the time and resources necessary to obtain a legal education. This study presents national longitudinal bar passage data gathered from the class that started law school in fall 1991. Data provided by students, their law schools, and state boards of bar examiners over a 5-year period are included in the summaries and analyses in the report. Summary statistics, graphical illustrations, and mathematical models were used to analyze and present the data. The eventual bar passage rate for all study participants was 94.8% (21,886 of 23,086). The eventual passage rate for all participants of color was 84.7%. The passage rate was lowest for

African Americans (77.6%, or 1,062 of 1,368) and highest for White participants (96.7% or 18,664 of 19,285). Eventual pass rates were substantially higher than initial pass rates, and there were no differences in bar passage rate between men and women. Both law school grade point average and Law School Admission Test (LSAT) scores were the strongest predictors of bar examination passage for all groups studied. Although students of color entered law school with academic credentials, as measured by undergraduate grade point average and LSAT scores that were significantly lower than those of white students, their eventual bar passage rates justified admission practices that look beyond those measures. Five appendixes contain forms used to conduct the survey, some data analysis, and an explanation of the use of log odds.

- Jane Yakowitz, [Marooned: An Empirical Investigation of Law School Graduates Who Fail the Bar Exam](#) (2010)

What happens to law school graduates that fail the bar exam? This invisible population makes up a significant portion of the graduating law school classes, but we don't know anything about their long-term prospects. We don't even know how many of them there are. In contrast to the rich body of literature examining the long-term outcomes of lawyers, this is the first serious attempt to understand the costs imposed by bar failure. I use a number of data resources, all of which have limitations, but which in combination tell a consistent story. I rely most heavily on the 1993 National Survey of College Graduates which allows for the identification of subjects likely to have failed the bar exam. I also use the 1994 LSAC Bar Passage Study and a bank of nearly 200 interview transcripts with law school graduates that failed a bar exam. Law school graduates that never succeed in passing a bar exam have a very difficult 'first term.' Five to ten years out of law school, they lag well behind lawyers on every measure — earnings, employment stability, even marriage and divorce rates. Moreover, as a group, bar-failers fare worse than college graduates despite having left college with better-than-average grades. But after an initial adjustment period, they spring back and out-perform the average college graduate for the second half of

their careers. Though they never catch up to the prosperous outcomes of their lawyer peers, the earnings of the median bar-failer does catch up to the 25th percentile lawyer, which might have been about the center of their distribution if the group had passed the bar exam.

## Bar Exam Cut Scores

- Mitchel L. Winick et al., [Examining the California Cut Score: An Empirical Analysis of Minimum Competency, Public Protection, Disparate Impact, and National Standards](#) (2020)

The selection of a minimum bar exam passing score ("cut score") shapes the representation of racial and ethnic minorities in the legal profession and the quality of access to justice in the state. This study provides an empirical analysis that shows how higher cut scores create disparities within the attorney licensing system and affects the diversity of new licensees. Analysis of disciplinary statistics from 48 jurisdictions also shows that establishing a high cut score does not result in greater public protection when measured by disciplinary statistics.

The study's first data set included 85,727 examinees who sat for 21 administrations of the CBX from 2009-18 and the race and ethnicity of each examinee. Both historical actual and simulated cut scores were analyzed. The study's second data set used the ABA discipline data from up to 48 U.S. jurisdictions from 2013-18 and the cut scores in each jurisdiction to examine the relationship between minimum cut scores and rates of attorney discipline.

A simulation analysis using actual examinee scores confirmed that selecting a lower cut score would have significantly narrowed the achievement gap between Whites and racial and ethnic minorities and would have increased the number of newly admitted minority attorneys in California. The study also determined that no relationship exists between the selection of a cut score and the number of complaints, formal charges, or disciplinary actions taken against attorneys. The study results indicate that maintaining a high cut score does not result in greater public protection as measured by disciplinary statistics but does result in excluding minorities

from admission to the bar and the practice of law at rates disproportionately higher than Whites.

- Mitchel L. Winick et al., [A Five-Year Retroactive Analysis of Cut Score Impact: California's Proposed Supervised Provisional License Program](#) (2020)

A five-year cohort of 39,737 examinees who sat for the California Bar Exam ("CBX") between 2014-18 was analyzed using a simulation model based on actual exam results to evaluate how the minimum passing scores ("cut score") of 1440, 1390, 1350, 1330, and 1300, if used as qualifying scores for a provisional licensing program, would affect the number of previous examinees, by race and ethnicity, who would qualify to participate within retroactive groupings of five-year, four-year, three-year, two-year, and one-year examinee cohorts.

The result of the simulation models indicated that selecting a qualifying score lower than the current California cut score of 1390 will significantly increase both the overall number of eligible participants and the diversity of the group eligible to participate in the proposed alternate licensing program.

This study follows an initial study of 85,727 examinees of the CBX from 2009-18 titled, *Examining the California Cut Score: An Empirical Analysis of Minimum Competency, Public Protection, Disparate Impact, and National Standards* that determined maintaining a high cut score does not result in greater public protection as measured by disciplinary statistics, but does result in excluding minorities from admission to the bar and the practice of law at rates disproportionately higher than Whites.

## Alternative Licensure Methods

- Oregon State Board of Bar Examiners, [Recommendation of the Alternatives to the Bar Exam Task Force](#) (2021)

As charged by the Oregon Supreme Court, the Alternatives to the Exam Task Force ("the Task Force") assessed alternatives to the bar examination as pathways to attorney licensure. We studied alternative models including (1) supervised practice as it exists in Canada, (2) the emergency models from Utah and Washington, D.C., (3) diploma privilege as it exists in Wisconsin, and (4) a curriculum-

based experiential learning model in place at the University of New Hampshire. The Task Force researched each model, spoke to constituents in the jurisdictions where these models are in place, and consulted with stakeholders in Oregon. Two principles guided our mission: consumer protection and equity. With these considerations in mind, the Task Force also considered how to improve the models currently employed in other jurisdictions.

As a result of our research, the Task Force recommends the Court adopt two alternative pathways to admission: an experiential learning pathway (Oregon Experiential Pathway or OEP) and a supervised practice pathway (SPP). The OEP is a curriculum-based model with a focus on experiential coursework during an applicant's last two years of law school culminating in a capstone portfolio submitted to the Oregon State Bar Board of Bar Examiners (BBX) to measure minimum competence. By contrast, the SPP is a post-graduation model where applicants work directly under a licensed attorney for 1000-1500 hours of practice and submit a portfolio of work samples to the BBX to measure minimum competence. These pathways are "alternatives" to an applicant sitting for and passing the Uniform Bar Examination (UBE) and are not proposed as replacements for that pathway to admission. ... (pp. 1-2)

## Mindset Interventions

- Victor D. Quintanilla et al., [Evaluating Productive Mindset Interventions that Promote Excellence on California's Bar Exam](#) (2020)

As Mindsets in Legal Education (MILE) researchers, we designed, administered, and evaluated the online productive mindset intervention referred to as the California Bar Exam Strategies and Stories Program (the program). In partnership with the State Bar of California (SBC), we streamlined and simplified the enrollment process while improving participation on the July 2018 and July 2019 California bar exams.

1. Proven Effectiveness: Working closely with the SBC, we conducted a preliminary analysis of the program in January 2020. The results suggest that the program increases the likelihood of passing the bar

exam, after controlling for LSAT and GPA, by between 6.8 to 9.6 percent, depending on the analysis conducted.

2. Boost for First-Generation and Underrepresented Minority Students: The program particularly helped applicants who were first-gen college students and underrepresented minorities, according to our analyses.
3. Reductions in Psychological Friction: Our analyses suggest that the productive mindset intervention succeeded by reducing psychological friction. Among applicants studying for the exam, it fostered stress-is-enhancing and growth mindsets that helped them succeed in the face of stress, anxiety, and mistakes.

In light of these results, we recommend that the SBC offer the California Bar Exam Strategies and Stories Program to future cohorts. Future test takers would likely benefit from the stress-is-enhancing and growth mindsets that the program fosters. Adaptive mindsets may be especially important in the immediate future, as applicants face adversity associated with COVID-19. We anticipate updating the program to address these new sources of psychological friction.

## Diversity in the Legal Profession

- Allison E. Laffey and Allison Ng, [Diversity and Inclusion in the Law: Challenges and Initiatives](#) (May 2, 2018)

Despite the increased emphasis on diversity and inclusion within the legal field over the past decade or so, the legal profession remains one of the least diverse of any profession. According to the American Bar Association's National Lawyer Population Survey, women made up just 30 percent of the legal profession in 2007. As of 2017, the percentage of women in the legal profession rose slightly to 35 percent. This is progress, but there remains more to do. For example, in terms of private practice, while women make up roughly 48 percent of summer associates and 45 percent of associates, they make up only 20 percent of partners and just 18 percent of equity partners.



- American Bar Association, Commission on Women in the Profession and Minority Corporate Counsel Association, [You Can't Change What You Can't See: Interrupting Racial and Gender Bias in the Legal Profession](#) (2019)

This research report, published by the ABA Commission on Women in the Profession and Minority Corporate Counsel Association (MCCA) with data provided by the Center for WorkLife Law at University of California - Hastings, details the four main types of bias encountered by female and minority attorneys, with strategies for law firms and corporate legal departments to interrupt those biases so level the playing field for all attorneys.

- Frank McIntyre and Michael Simkovic, [Are Law Degrees as Valuable to Minorities?](#) (2017)

We estimate the increase in earnings from a law degree relative to a bachelor's degree for graduates of different race/ethnic groups. Law earnings premiums are higher for whites than for minorities (excluding individuals raised outside the U.S.). The median annual law earnings premium is approximately \$41,000 for whites, \$34,000 for Asians, \$33,000 for blacks, and \$28,000 for Hispanics. Law earnings premiums for whites, blacks and Hispanics have trended upward and appear to be gradually converging. Approximately 90% of law graduates are white compared to approximately 82% of bachelor's degree holders.

- NALP, [2020 Report on Diversity in U.S. Law Firms](#)

Overall, women and people of color continued to make incremental progress in representation at major U.S. law firms in 2020 as compared with 2019, according to the latest law firm demographic findings from the National Association for Law Placement (NALP). NALP's recent analyses of the 2020-2021 *NALP Directory of Legal Employers* (NDLE) — the annual compendium of legal employer data published by NALP — shows that the percentage of Black partners and Black associates exceeded 2% and 5%, respectively, for the first time in 2020; however, representation of Black lawyers in law firms still trails that of Asian and Latinx lawyers. After experiencing several years of declines following the Great Recession, the percentage of associates who are Black women in 2020 (3.04%) finally surpassed the

2009 figure of 2.93% for the first time as well, equating to an increase of just one-tenth of a percentage point over this 11-year period.

The data on summer associates suggests the likelihood of continued advancement in diversifying the associate ranks in the years to come. The representation of women, people of color, and LGBTQ individuals among summer associates in 2020 is more on par with, and in fact slightly exceeds that, of the most recent law school graduating classes. (p. 3)

- NALP, [What Do We Know About Transgender Law Graduates?](#) (2019)

NALP has been collecting data on law graduates who identify as transgender within the annual Employment Report and Salary Survey (ERSS) since 2014. While the number of graduates self-identifying as transgender each year has been relatively small and prevents inclusion within the more detailed tables and analyses contained in NALP's Jobs and JDs publication, we can explore some general trends in employment and demographics more broadly for transgender law school graduates. The data presented in this article come from the Classes of 2015-2018. (The number of graduates identifying as transgender in 2014, the first year of data collection, was very low at only 15; therefore, this class year has not been included in this analysis. In subsequent years at least 20 transgender graduates were reported.) The number of graduates self-identifying as transgender and the number of schools reporting transgender graduates has increased during this period of time. In 2015, there were 22 transgender graduates reported at 21 schools. In 2018, these numbers rose to 35 transgender graduates at 28 schools. Due to the manner in which data on transgender graduates are collected, NALP is unable to determine how many schools surveyed their graduates regarding transgender identity, but did not have any students that self-identified as transgender.

- Jason P. Nance and Paul E. Madsen, [An Empirical Analysis of Diversity in the Legal Profession](#) (2014)

The purpose of this Study is to empirically examine the diversity of the legal profession. The primary distinctive features of this empirical analysis are that it evaluates diversity in the legal profession by (a) carefully comparing it against other prestigious professions that have significant barriers to entry, and (b) focusing on young individuals who recently began their careers. These distinctions are made to isolate anomalies that are more likely caused by forces specific to the legal profession rather than general social forces that limit the eligibility of historically disadvantaged groups to pursue prestigious employment opportunities. Further, by narrowing our focus to attorneys who recently began their careers, we get a clearer picture of the current state of diversity.

In contrast to prior studies, we find that, although woefully underrepresented as a whole in the legal profession, the representation of young African Americans and Hispanic Americans in the legal profession is comparable to the representation of these groups in other prestigious professions. This finding suggests that the underrepresentation of African Americans and Hispanic Americans in the legal profession may be caused primarily by social forces external to the legal profession, and that, in addition to continuing its current diversity efforts, the legal profession should put a concentrated emphasis on initiatives that assist these underrepresented groups to become eligible to pursue all types of prestigious employment opportunities that have significant barriers to entry. Further, we find that Asian Americans, in contrast to other minorities, are very poorly represented in the legal profession as compared to other prestigious professions. Finally, there is some evidence suggesting that women were relatively well represented in the legal profession when compared to other prestigious professions until recently, when they appear to have become slightly underrepresented. This recent drop may be caused by the failure of the legal profession to provide just and inclusive workplaces, leading to greater dissatisfaction and higher attrition rates among female associates.

- Erik Ortiz, [Clerkships Remain Largely White. Can Law Students of Color Shake up the Status Quo?](#) (July 4, 2021)

“A recent analysis found judicial clerkships were made up of 77 percent white graduates and 23 percent graduates of color. An effort is underway to diversify the prestigious positions.”

- Carla D. Pratt, [Way to Represent: The Role of Black Lawyers in Contemporary American Democracy](#) (2009)

This essay argues that black lawyers enhance the participatory dimension of citizenship for black citizens. While our democratic project has enacted laws aimed at extending legal citizenship to racial minorities from the perspective of citizenship as rights, it has not been as effective at extending citizenship as public participation to racial minorities, particularly blacks. Nonetheless, the integration of black lawyers into the bar has had — and continues to have — an impact on extending the participatory dimension of citizenship to black citizens. (pp. 1410-11)

- Deborah Rhode, [Law Is the Least Diverse Profession in the Nation. And Lawyers Aren't Doing Enough to Change That](#) (May 27, 2015)

From the outside, the legal profession seems to be growing ever more diverse. Three women are now on the Supreme Court. Loretta Lynch is the second African American to hold the position of attorney general. The president and first lady are lawyers of color. Yet according to Bureau of Labor statistics, law is one of the least racially diverse professions in the nation. Eighty-eight percent of lawyers are white. Other careers do better — 81 percent of architects and engineers are white; 78 percent of accountants are white; and 72 percent of physicians and surgeons are white.

- Deborah L. Rhode and Lucy Buford Ricca, [Diversity in the Legal Profession: Perspectives from Managing Partners and General Counsel](#) (2015)

Within the American legal profession, diversity is widely embraced in principle but seldom realized in practice. Women and minorities are grossly underrepresented at the top and overrepresented at the bottom. What accounts for this disparity and what can be done to address it are the subjects of this Article. It provides the first comprehensive portrait of the problem from the vantage of leaders of the nation's largest legal organizations. Through their perspectives, this Article seeks to identify best practices for diversity in law firms and in-house legal departments, as well as the obstacles standing in the way.

Part I begins with an analysis of the challenges confronting the American bar with respect to diversity and the gap between the profession's aspirations and achievements. Part II sets forth the methodology of the survey of law firm leaders and general counsel. Part III explores the survey's findings, and Part IV concludes with a summary of best practices. "We can and should do better" was how one participant in the study described his firm's progress, and that view is the premise of this Article. (p. 2483)

- Yonghong Jade Xu, [Equality at the Starting Line? Gender- and Race-Based Differences at the Transition from Law School to the Legal Profession](#) (2018)

Data from a longitudinal national survey, After the JD (AJD) Study, are used to investigate how the number of job offers law school graduates received from private and public employers are influenced by individuals' social, cultural, human and economic capitals, and how job offers as an outcome of law education influence their income after controlling for other-income generating factors. The results indicated that women and minorities received significantly lower numbers of job offers than their counterparts from private employers after controlling for factors such as law school ranking, foreign-born parent(s), and personal finance of law education. In addition, the number of job offers from private employers had a positive impact on the annual income two years after graduation for both male and female lawyers that was even stronger than the ranking of law school attended. The significant differences between genders and among individuals of different racial backgrounds are a clear indication of inequality and against the commitment to diversity in the legal system.

# PUBLICATIONS, POSTS AND PODCASTS

## Selected Recent Publications

- ALTERNATIVES TO THE BAR EXAM TASK FORCE, OR. STATE BD. OF BAR EXAM'RS, RECOMMENDATION OF THE ALTERNATIVES TO THE BAR EXAM TASK FORCE (2021)
- AM. BAR ASS'N, 2021 PROFILE OF THE LEGAL PROFESSION.
- GALLUP & ACCESSLEX INST., LAW SCHOOL IN A PANDEMIC: STUDENT PERSPECTIVES ON DISTANCE LEARNING AND LESSONS FOR THE FUTURE (2021)
- Bruce A. Green, The Judicial Role in Professional Regulation, 89 FORDHAM L. REV. 4 (2021).
- Jennifer A. Gundlach & Jessica Santangelo, Understanding the Metacognitive "Space" and Its Implications for Law Students' Learning (2021).
- Neil Hamilton, The Major Transitions in Professional Formation and Development from Being a Student to Being a Lawyer Present Opportunities to Benefit the Students and the Law School, 73 BAYLOR L. REV. 139 (2021).
- Joshua L. Jackson & Tiffane Cochran, Approaching the Bar: An Analysis of Post-Graduation Bar Exam Study Habits (AccessLex Inst. Rsch. Paper No. 21-04, 2021).
- Lael Weinberger, Keep Distance Education for Law Schools: Online Education, the Pandemic, and Access to Justice, LOY. UNIV. CHI. L.J. (forthcoming).

## Selected Recent Posts and Podcasts

- Eva Herscovitz, America Needs a "Lawyers Justice Corps": Paper, CRIME REP. (June 22, 2021).
- Deborah Jones Merritt, Racial Inequity on the Bar Exam, BEST PRACS. FOR LEGAL EDUC. (Aug. 4, 2021).
- Deborah Jones Merritt et al., Racial Disparities in Bar Exam Results—Causes and Remedies, BLOOMBERG L. (July 20, 2021).
- On the Merits, Bar Exam Has Got to Go, Law School Dean Says, BLOOMBERG L. (Aug. 3, 2021).
- Katheryn Tucker, Remote Bar Examinees Report Blank Screens, Lost Time, Panic and Looking "Death in the Eye", LAW.COM (July 28, 2021).

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- AccessLex Legal Education Research Symposium (Nov. 1, 2021)
- LexCon '21 Financial Capability and Student Success Conference for Graduate and Professional Administrators, AccessLex (Nov. 2, 2021)
- Association for the Study of Higher Education Conference (Nov. 3–6, 2021)
- Association of American Law Schools Annual Meeting (Jan. 5–9, 2022)

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# RESOURCES FOR LEGAL EDUCATORS AND LAW STUDENTS

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- [Bar Information Guide](#)
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- [ABA Bar Passage Outcomes](#)
- [ABA Statistics](#)
- [AccessLex Resource Collections: Bar Success](#)
- [LibGuides](#)
- [Bar Exam Results by Jurisdiction](#)
- [NCBE Bar Exam Fundamentals for Legal Educators](#)
- [Collaboratory on Legal Education and Licensing for Practice](#)

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- [Testing Task Force Blog](#)
- [Testing Task Force Reports](#)
- [Testing Task Force Presentations](#)

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- [ABA Grants for Law Students](#)
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- [American Association of Law Libraries \(AALL\)](#)

## ASP and Bar Success Resources

- [The Bar Examiner](#)
- [The Learning Curve](#)
- [CALI Lessons](#)

## Diversity-Related Resources

- [AALS Law Deans Antiracist Clearing House Project](#)
- [ABA Commission on Women in the Profession](#)
- [ABA, \*From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms\*](#)
- [ABA Diversity and Inclusion Resources](#)
- [ABA Mental Health Toolkit](#)
- [AccessLex Diversity Pipeline Program Directory](#)
- [AccessLex, \*Priming the Pump: How Pipeline Programs Seek to Enhance Legal Education Diversity\*](#)
- [AccessLex, \*Raising the Bar\*](#)
- [AccessLex Resource Collections](#)
- [AccessLex, \*Roadmap to Enrolling Diverse Law School Classes\*](#)
- [Association of Corporate Counsel, \*Fixing What's Broken: Strategies for Increasing Diversity in Law Firms\*](#)
- [Bias Interrupters Toolkits](#)
- [NALP, \*Women and Minorities at Law Firms — What Has Changed and What Has Not in the Past 25 Years\*](#)

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