



AN ACCESS AND EQUITY RANKING OF PUBLIC LAW SCHOOLS

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ABSTRACT

Over the past few decades, several comprehensive ranking systems, including the influential U.S. News and World Report's Best Law Schools rankings, have emerged to provide useful information to prospective law students seeking to enroll in law school. These ranking systems have defined what is measured as "quality" and what outcomes law schools focus on to gain a better position in the ranking. These rankings fail to measure what many law schools claim to be one of their longstanding goals—diversity, access, and equity.

One of the problematic and shocking reasons U.S. News cites for not including diversity measures in the ranking is that law schools themselves have no consensus on diversity. I counter this argument, asserting that while there may not be widespread consensus—for certain people—on diversity, there

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is substantial academic scholarship and agreement on the tenets of diversity that ranking enthusiasts can use to design an effective diversity measure. I maintain that any ranking that does not include diversity, access, and equity measures often leave communities of color and their interests in the margins. Therefore, this Article seeks to center the needs of Black and Latinx prospective law students through a new ranking system.

Given that public law schools aim to increase racial/ethnic diversity—that is, the number of racial/ethnic minoritized students—because of their institutional missions, the Article provides the first ranking of public law schools on “Access and Equity” measures. It describes ranking law schools based on measurable outcomes related to diversity, access, and equity. This ranking uses twelve access and equity measures that are significant to Black and Latinx law school fit. This “Access and Equity Ranking” is the only ranking to date that will help Black and Latinx students identify which public law schools centers their needs.

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I. INTRODUCTION

In the 1990s, the *U.S. News and World Report* (“*U.S. News*”) unleashed its hierarchization system upon American law schools.¹ This system changed how the legal academy, prospective students, and administrators view legal education.² This limiting system, whereby it gives no weight to diversity in neither its primary institutional nor disciplinary rankings, has played a role in perpetuating and preserving the status quo of the lack of diversity in the legal profession.³

While there are a host of reasons why there exists low levels of racial diversity in law schools,⁴—for example, public law schools “voluntarily forgo[ing] affirmative action policies in favor of seeking higher rankings,”⁵—the rankings, one influential contributor, has remained vigorously charged and contentious. More specifically, scholars strongly hypothesize that one of the most critical factors contributing to the legal

1. Paul L. Caron & Rafael Gely, *What Law Schools Can Learn from Billy Beane and the Oakland Athletics*, 82 TEX. L. REV. 1483, 1510 (2004) (book review).

2. See Louis H. Pollak, *Why Trying to Rank Law Schools Numerically Is a Non-Productive Undertaking: An Article on the U.S. News & World Report 2009 List of “the Top 100 Schools,”* 1 DREXEL L. REV. 52, 60–65 (2009) (advocating against the usage of *U.S. News* rankings while conceding to its influence); see also Christopher J. Ryan, Jr., *A Value-Added Ranking of Law Schools*, 29 U. FLA. J.L. & PUB. POL’Y 285 *passim* (2019) (discussing the *U.S. News* rankings of law schools, alternative ranking systems of law schools, and ranking law schools by the value they add to their students); Bernard S. Black & Paul L. Caron, *Ranking Law Schools: Using SSRN to Measure Scholarly Performance*, 81 IND. L.J. 83, 84–85 (2006); Caron & Gely, *supra* note 1, at 1510–17; Rachel F. Moran, Commentary, *Of Rankings and Regulation: Are the U.S. News & World Report Rankings Really a Subversive Force in Legal Education?*, 81 IND. L.J. 383, 383–91 (2006); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229, 230 (2006).

3. Alex M. Johnson, Jr., *Including Diversity in U.S. News’ Rankings: One Small Step in the Right Direction*, 27 J. C.R. & ECON. DEV. 167, 168–76 (2013) [hereinafter *One Small Step*] (discussing the impact, growth, and import of the rankings to legal education and how they have resulted in a decrease of diversity in law schools).

4. See AM. BAR ASS’N, 2020 ABA PROFILE OF THE LEGAL PROFESSION i (2020) (statement of ABA President Judy Martinez) (“The report also measures how far we have to go as a profession when it comes to race. For example, just 5% of all lawyers in the U.S. are African American, even though African Americans are 13% of the U.S. population. And Native Americans are severely underrepresented on the federal bench. Only two federal judges are Native American among 1,386 nationwide (that’s one-tenth of 1%), despite the fact that 1.3% of the U.S. population is Native American.”). Unsurprisingly, white lawyers have dominated the legal profession at or around 85% since 2010. See *id.* at 109. While ABA President Judy Martinez did not speak to the Latinx population statistics, the report reveals that Latinx lawyers decreased to 4.6% in 2020 from 5.2% in 2018. *Id.*

5. *One Small Step*, *supra* note 3, at 169.

profession's lack of diversity is the limiting scope of the rankings of law schools.⁶

Traditionally, the usefulness of a university ranking system depends primarily on whether it provides information about important factors to the user.⁷ University rankings communicate a host of items to a user, however, they most commonly assert that it can be used as a proxy to determine a university's quality and value.⁸ Similarly, law school rankings attempt to communicate a measure of a law school's quality and value.⁹ Although employers and other stakeholders use law school rankings to help gain insight into the "best law school," rankings are traditionally most used by prospective law students.¹⁰ Specifically, future law students rely on law school rankings to evaluate whether the benefit of a legal education outweighs the cost of legal education.¹¹ Additionally, prospective law students likely rely on rankings to gauge if the law school is an appropriate match or fit because "information is difficult for outsiders [to legal education] to gather themselves."¹² Thus, what factors

6. *E.g., id.* (lamenting about the rankings and its "detrimental effect on the choices that law school applicants make in selecting which law schools to apply to and matriculate at"). Professor Johnson claims that the "result of this impact is the misapplication of law students to law schools with a resulting decline in the number of African-American students matriculating at our law schools." *Id.* He goes on to say that his review of the data demonstrates "the widening scope of misapplication and does allow [him] to present a reasonable hypothesis that the misapplication [of minoritized individuals] is due to the influence of the rankings." *Id.* at 170; *see also* Alex M. Johnson, Jr., *The Destruction of the Holistic Approach to Admissions: The Pernicious Effects of Rankings*, 81 IND. L.J. 309, 358 (2006) [hereinafter *The Pernicious Effects of Rankings*].

7. Christopher J. Ryan, Jr. & Brian L. Frye, *A Revealed-Preferences Ranking of Law Schools*, 69 ALA. L. REV. 495, 500 (2017) ("[U]sefulness of a law school ranking system depends not only on which factors it considers, but also on its intended audience. The intended audience of a rankings system is typically prospective law students.").

8. Marc Meredith, *Why Do Universities Compete in the Ratings Game? An Empirical Analysis of the Effects of the U.S. News and World Report College Rankings*, 45 RSCH. HIGHER EDUC. 443, 445–46, 459 (2004) (discussing the impact of the *U.S. News and World Report* rankings on college admissions and its disparate impact on public and private colleges); Don Hossler, *The Problem with College Rankings*, 5 ABOUT CAMPUS 20, 21 (2000) (claiming that the "general public and many public policymakers often see college rankings as just another way of assessing quality" and value).

9. *See* Robert L. Jones, *A Longitudinal Analysis of the U.S. News Law School Academic Reputation Scores Between 1998 and 2013*, 40 FLA. ST. U.L. REV. 721, 722–23 (2013); Olufunmilayo B. Arewa et al., *Enduring Hierarchies in American Legal Education*, 89 IND. L.J. 941, 944–45 (2014).

10. Ryan & Frye, *supra* note 7, at 499–500 (discussing the subjective approach to law school rankings based on law school students' preferences).

11. *Id.* at 499; *see also* Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 L. & SOC'Y REV. 105, 106–07, 116 (2006).

12. *See* Sauder & Lancaster, *supra* note 11, at 106–07.

ranking systems prioritize is of particular concern because they define what is considered measures of “quality and value,” and should, to some extent, communicate a law school’s accessibility and attainability to prospective students.¹³

Among the critics of the ranking system are members of public law schools.¹⁴ Public law schools, which are partly funded by the taxpaying public,¹⁵ are affected by the rankings in their asserted efforts to remain accessible to their citizens. Put simply, these institutions belong in part to the public¹⁶ and have an obligation “to seek students from the broadest cross-section of the state public.”¹⁷ One would hope that public law schools would prioritize their state’s needs, but many law schools have found creative ways around this mandate.¹⁸ As a result, many public law

13. While some may argue that ranking systems are simply a starting point, and prospective students can quickly lookup factors that align with their interests, I maintain that marginalized populations are already overtaxed and overburdened during their law school admissions process. Professor Aaron Taylor’s article undergirds this assertion as he chronicles and declares that Black Americans—and I argue other minoritized groups—experience marginalization throughout the admission and matriculation processes in law schools. *See generally* Aaron N. Taylor, *The Marginalization of Black Aspiring Lawyers*, 13 *FIU L. REV.* 489 (2019) (arguing that Black Americans who aspire to be lawyers experience unique challenges and marginalized experiences in applying to and attending law schools).

14. Many professors at public law schools have published scholarship on this topic. *See, e.g., The Pernicious Effects of Rankings*, *supra* note 6; *see also* Andrew P. Morriss & William D. Henderson, *Measuring Outcomes: Post-Graduation Measures of Success in the U.S.* *News & World Report Law School Rankings*, 83 *IND. L.J.* 791, 795–96 (2008); Nancy B. Rapoport, *Ratings, Not Rankings: Why U.S. News & World Report Shouldn’t Want to be Compared to Time and Newsweek—or The New Yorker*, 60 *OHIO ST. L.J.* 1097, 1099–1100 (1999) (lamenting that “objective” input factors used by *U.S. News’* rankings, such as GPA and LSAT scores, are not “good indicator[s] of *quality*” because “[t]hese numbers don’t reflect how well the law school teaches, how cutting-edge its research is, or whether the law school community is cutthroat or supportive”).

15. *But see* Rachel F. Moran, *Clark Kerr and Me: The Future of the Public Law School*, 88 *IND. L.J.* 1021, 1031 (2013) (lamenting that “as state revenues for public law schools decline, there is a growing rhetoric of privatization and self-sufficiency”).

16. *See* SHAUN R. HARPER & ISAIAH SIMMONS, *BLACK STUDENTS AT PUBLIC COLLEGES AND UNIVERSITIES: A 50-STATE REPORT CARD 6* (2019) (discussing why higher education in the United States “is a public good,” as they argue that while higher education “confers enormous personal and material advantages to individuals, it more significantly profits our broader society”).

17. Rex R. Perschbacher, *The Public Responsibilities of a Public Law School*, 31 *U. TOL. L. REV.* 693, 694 (2000) (discussing the four varied responsibilities public law schools have: “(1) [to have] genuinely equal access; (2) [to have] learning environments that prepare students to lead and participate in a democratic society; (3) [to have] engagement—a conscious effort to bring resources and expertise to bear on community, state, national and international problems; and (4) [to be] open and [have] public accountability”).

18. *See* Moran, *supra* note 15, at 1031 (“The law schools at the University of Michigan and the University of Virginia already have moved decisively in th[e] direction [toward privatization], while those at Arizona State University and the University of Minnesota have announced plans to become self-sufficient.”); Karen Dybis, *When Public Funding Is*

schools leave parts of their citizenry, particularly minoritized communities, with limited legal education access.¹⁹ This Article focuses on public law schools because lawyers and the legal field per se hold themselves out to the public as a public profession whereby they are officers of the court, the public's call of consciousness, and the people's attorney.²⁰ This public call is often codified and expressed repeatedly in bar ethical codes across the country, where the code says that a lawyer is "a public citizen having special responsibility for the quality of justice."²¹ Given that those with a legal education have a public responsibility embedded in their profession and substantially influence the public, the question of who has access to the state's public law school should forever be present.

Having no diversity measures within arguably the most popular law school ranking system often contributes to low rates of Black and Latinx students in law school classes²² and ultimately a lack of Black and Latinx lawyers in their localized communities. Therefore, this Article assesses the access and equity rationale in both the *U.S. News* law school rankings and several other alternative ranking systems created and popularized by law academics.²³ Then, I propose a ranking scheme substantiated by literature in higher education that helps understand important institutional factors key to Black and Latinx student success. My ranking, the *Access and Equity Ranking of Public Law Schools*, reimagines public law school rankings by re-ranking all public law schools, as deemed by the American Bar Association, on factors not in the *U.S. News and World Ranking*²⁴ or in any other ranking while also

No Longer Available, 20 NAT'L JURIST 12, 12 (2011); Jenna Ross, *Two U of M Schools Consider Switching to Private-Funding Only*, STAR TRIB. (July 4, 2011, 11:14 PM), <https://www.startribune.com/two-u-of-m-schools-consider-switching-to-private-funding-only/124987709/>.

19. See Moran, *supra* note 15, at 1033–35.

20. Deborah L. Rhode, *Law, Lawyers, and the Pursuit of Justice*, 70 FORDHAM L. REV. 1543, 1545 (2002) (discussing the responsibilities of lawyers and the law to the public and their interests in the twenty-first century); see also Christopher Edley, Jr., *Fiat Flux: Evolving Purposes and Ideals of the Great American Public Law School*, 100 CAL. L. REV. 313, 315, 321 (2012). The mission of great public schools is to support "economic and social development." *Id.* at 321. In doing so, great public law schools' plan to accomplish those aims must be both "obvious and palpable." *Id.* This logic is undergirded by "the purpose of land grant colleges and universities under the federal Morrill Act of 1862." *Id.*

21. Rhode, *supra* note 20, at 1545 (quoting MODEL RULES OF PRO. CONDUCT pmbl. (AM. BAR ASS'N 2002)).

22. See Vernellia R. Randall, *The Misuse of the LSAT: Discrimination Against Blacks and Other Minorities in Law School Admissions*, 80 ST. JOHN'S L. REV. 107, 107–08 (2006).

23. See *infra* Part II.

24. The *U.S. News* ranking at last count uses twenty factors to make its annual evaluation of law schools. Robert Morse et al., *Methodology: 2022 Best Law Schools*

proffering a ranking that centers Black and Latinx student populations.²⁵ With several factors adopted from Harper and Simmons scholarship,²⁶ the factors include several access and equity indicators—student representation in relationship to a state’s demographics,²⁷ faculty racial composition,²⁸ gender equity among student populations,²⁹ gender equity among faculty,³⁰ completion ratio of Black and Latinx students,³¹ financial equity,³² faculty ratio to the minoritized student populations,³³ and minoritized student ratio to law school student population.³⁴ The re-ranking will score the law schools using a standardized index.

The *Access and Equity Ranking of Public Law Schools* will draw more attention to the public schools of legal education that are creating environments conducive to Black and Latinx students’ success. Second, the *Access and Equity Ranking* will equip institutional leaders and educators with information on specific measures related to access, equity, and diversity to create change at their law schools. Lastly, I wish to reorient the deficit-framing that minoritized students often encounter at colleges and universities³⁵ while simultaneously shifting the questioning

Rankings, U.S. NEWS & WORLD REP. (Mar. 29, 2021, 9:00 PM), <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>. At least two of these are subjective: the ratings by academics and the ratings by lawyers and judges. *See id.* The other factors are based on objective actuarial data—undergraduate GPA, bar passage rate, student-faculty ratio, to name a few. *See id.* For a thorough critique see STEPHEN P. KLEIN & LAURA HAMILTON, *THE VALIDITY OF THE U.S. NEWS AND WORLD REPORT RANKING OF ABA LAW SCHOOLS* (1998).

25. *See infra* Part IV.

26. *See* HARPER & SIMMONS, *supra* note 16, at 6

27. *See infra* notes 96–102 and accompanying text.

28. *See infra* notes 112–16 and accompanying text.

29. *See infra* notes 100–01 and accompanying text.

30. *See infra* notes 100–01 and accompanying text.

31. *See infra* notes 117–28 and accompanying text.

32. *See infra* notes 96–99 and accompanying text.

33. *See infra* notes 112–16 and accompanying text.

34. *See infra* notes 117–28 and accompanying text.

35. *See generally* Krystal L. Williams et al., *(Re)Creating the Script: A Framework of Agency, Accountability, and Resisting Deficit Depictions of Black Students in P-20 Education*, 89 J. NEGRO EDUC. 249, 249 (2020) (“[E]ducation research and practice has failed to accentuate the factors that promote Black student success and, instead, produced deficit-centered narratives that focused on Black students’ academic underachievement and challenges. . . . [Author’s also provided] conceptual guidance . . . to identify, challenge, and disrupt the continuation of majoritarian narratives concerning Black students, which often restrict opportunity structures and Black students’ overarching educational trajectories.”); *see also* Gloria Ladson-Billings, *Pushing Past the Achievement Gap: An Essay on the Language of Deficit*, 76 J. NEGRO EDUC. 316, 316 (2007) (challenging educators and various stakeholders to look at the “inherent fallacies of the achievement gap discourse and place students’ academic struggles in the larger context of social failure including health,

to invisible and dysfunctional institutional mechanisms³⁶ that make the experiences for Black and Latinx law students hostile. For example, rather than asking: Why are minoritized law students poorly adjusting to the law school culture? I implore readers to interrogate: Why do public law schools do so poorly at attracting minoritized students? Why do public law schools alienate and isolate students of color? Why do public law schools perennially straddle people of color with more student loan debt than other law school goers? Why do public law schools not afford minoritized individuals more significant and more frequent access to same-race faculty members?³⁷

Thus, with the *Access and Equity Ranking*, prospective Black and Latinx students will have access to more information salient to their needs when choosing a law school.

I address the access and equity gaps in both the *U.S. News* law school rankings and alternative ranking systems in the following sections. Next, I discuss evidence from the higher education literature surrounding each factor addressed in the *Access and Equity Ranking*. Lastly, I present the results of the *Access and Equity Ranking*.

II. THE RANKINGS

Who wins in any ranking system is determined by who is assigning value to the factors in its algorithm.³⁸ More proximally, the choice of factors included in an algorithm depends primarily on the perspective of

wealth, and funding gaps that impede their school success"); see generally Gloria Ladson-Billings, *From the Achievement Gap to the Education Debt: Understanding Achievement in U.S. Schools*, 35 EDUC. RESEARCHER 3 (2006).

36. See, e.g., Juan Carlos Garibay et al., "It Affects Me in Ways That I Don't Even Realize": A Preliminary Study on Black Student Responses to a University's Enslavement History, 61 J. COLL. STUDENT DEV. 697, 697-98 (2020) (discussing how the invisible history of a university's nexus to slavery affects contemporary Black emotional, behavioral, and psychological well-being); see also Juan Carlos Garibay & Christopher L. Mathis, *Does a University's Enslavement History Play a Role in Black-Student- White Faculty Interactions? A Structural Equation Model*, 11 EDUC. SCIS. 809 (2021) (examining whether Black college students' emotional responses to their institution's history of slavery plays a role in contemporary interactions with white faculty using structural equation modeling techniques; authors findings highlight the significance of background characteristics, students' emotional responses to their institution's slavery history, and experiences with racial microaggressions during college in predicting negative interactions with white faculty); see generally Sylvia Hurtado et al., *Enhancing Campus Climates for Racial/Ethnic Diversity: Educational Policy and Practice*, 21 REV. HIGHER EDUC. 279, 283 (1998) (discussing how the silent "historical vestiges of segregated schools and colleges continue to affect the climate for racial/ethnic diversity on college campuses").

37. See HARPER & SIMMONS, *supra* note 16, at 6 (asking similar questions of public universities by interrogating their treatment of Black students across the nation).

38. See Ryan & Frye, *supra* note 7, at 506.

the decision-maker and their controlling value set.³⁹ Which factors that are included are of great importance because often times ranking lists are the first source of information prospective students seek.⁴⁰ Although there are very few law school ranking lists, this Article will focus on those produced by the *U.S. News* and the few alternative rankings produced by legal scholars.⁴¹ While the legal academy is displeased with diversity's absence from the ranking systems,⁴² apart from one exception,⁴³ to date the academy has not proffered any other ranking that addresses diversity. However, these varied ranking schemes are of interest for several reasons. First, they each have published an assessment of public law schools. Second, they also claim to provide a ranking of a law school based on some overall version of "quality." In fact, the *U.S. News* boldly describes which law school is the "best" from year to year. Third, these law school rankings vary in their prestige, publication frequency, and influence on prospective law students.

39. See *id.* at 496, 500.

40. See Nicholas A. Bowman & Michael N. Bastedo, *Anchoring Effects in World University Rankings: Exploring Biases in Reputation Scores*, 61 HIGHER EDUC. 431, 431–34 (2011) (discussing the anchoring effects when it comes to higher education and institutional reputation). Anchoring bias, borne out of the psychology field, is a cognitive bias that causes people to rely heavily on the first piece of information given about a topic. See *id.* at 433. In applying this concept to prospective law students, they often overwhelmingly depend on law school rankings in choosing their law school. See *supra* note 2 and accompanying text. Put differently, anchor theory suggests that when people make judgments or assumptions about a particular phenomenon, they subsequently view newer additional information through the prism and understanding of the anchored text or information instead of seeing it objectively. Bowman & Bastedo, *supra* note 40, at 433; see also Stake, *supra* note 2, at 245, 250–54 (showing that the *U.S. News* law school rankings predict and influence the academic reputation of law schools and produced an anchoring effect resulting in the reputation and actual ranking of the law school being more aligned with each other).

41. See *infra* Part II.

42. See, e.g., Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean's Perspective*, 96 IOWA L. REV. 1549, 1574–75 (2011); see also Kevin R. Johnson, *Measuring Law School Excellence: Diversity Among Law Students*, 101 IOWA L. REV. ONLINE 40, 40–42 (2015) (arguing that the *U.S. News* rankings should "expressly incorporate student and faculty diversity into its much-watched annual rankings of law schools"); J.T. Manhire, *Beyond the U.S. News Index: A Better Measure of Law School Diversity*, 101 IOWA L. REV. ONLINE 1, 2–5 (2015) (discussing "why law school diversity is . . . critical, and why measuring it is so important" in the *U.S. News* ranking, and going on to constructively offer measures of a variety of kinds of diversity among law students that might be worthy of *U.S. News*' consideration); Renwei Chung, *What Could Disrupt Diversity in Law? The Economy, Stupid.*, ABOVE THE LAW (Dec. 26, 2014, 2:39 PM), <https://abovethelaw.com/2014/12/what-could-disrupt-diversity-in-law-the-economy-stupid/>.

43. Manhire, *supra* note 42, at 1.

A. U.S. News and World Report

The most famous system for ranking U.S. law schools is the *U.S. News*. The *U.S. News* law school rankings are the “gold standard of the ranking business.”⁴⁴ The 2021 rankings of its “Best Law Schools” began with the claim that “[a] career in law starts with finding the [law] school that fits you best.”⁴⁵ In the ranking, the ranked law schools were scored—using the collected survey data and the unpublished estimates—by twenty measures of quality.⁴⁶ Those measures can be summarized as follows:

- Quality Assessment (weighted by 0.40)
 - Peer assessment score
 - Assessment score by lawyers and judges
- Selectivity (weighted by 0.21)
 - Median LSAT and GRE scores
 - Median undergraduate GPA
 - Acceptance rate
- Placement Success (weighted by 0.2525)
 - Success is determined by calculating employment rates for graduates at
 - Graduation; and
 - Ten months after graduation
 - Bar passage rate
 - Average debt incurred
- Faculty Resources (weighted by 0.1375)
 - Expenditures per student
 - Student-faculty ratio
 - Library resources⁴⁷

The *U.S. News*, albeit elaborate, is incomplete and imperfect. This ranking has not included any diversity measures in its annual ranking.⁴⁸ Leaders of the ranking system suggest that diversity is too complex to define and are concerned about designing a diversity measure not

44. Ryan, *supra* note 2, at 287; *see also* Jones, *supra* note 9, at 722–23.

45. *2022 Best Law Schools*, U.S. NEWS & WORLD REP., <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings> (last visited Feb. 8, 2022).

46. Morse et al., *supra* note 24.

47. *Id.* As of the 2022 rankings, *U.S. News* also includes average debt incurred of obtaining a J.D. at graduation (weighted by 0.03) and the percent of law school graduates incurring J.D. law school debt (weighted by 0.02). *Id.*

48. *See id.*

accepted by educators and students.⁴⁹ Chief Data Strategist Robert Morse of the *U.S. News* further noted that the “*U.S. News* does not want our rankings to be part of the ongoing public policy debate of how to achieve diversity goals at law schools or other parts of higher education.”⁵⁰ Additionally, in 2011, Morse noted “another important issue is to what degree diversity is linked to academic quality versus being an important social goal.”⁵¹ Morse further asserts that there is a viable question of “whether diversity should even be included in the rankings, given that the main purpose of the rankings is to identify the best schools academically.”⁵²

However, numerous scholars strongly disagreed with Director Morse and called out both the importance of and need to have diversity measures included in law schools’ rankings.⁵³ Scholars, Justices, and lawyers have all also detailed evidence that corroborates the positive influences of diversity in education.⁵⁴ However, the *U.S. News* actively

49. See Robert Morse, *U.S. News’ Views on Including Diversity in Our Best Law Schools Ranking*, 27 J. C.R. & ECON. DEV. 217, 219–20 (2013) [hereinafter *U.S. News’ Views*]; Alfred L. Brophy, *African American Student Enrollment and Law School Ranking*, 27 J. C.R. & ECON. DEV. 15, 15–16 (2013) (discussing “the relationship between African American student enrollment and *U.S. News* peer assessment scores of law schools”).

50. Brophy, *supra* note 49, at 16–17; Robert Morse, U.S. NEWS & WORLD REP., <https://www.usnews.com/topics/author/robert-morse> (last visited Feb. 8, 2022).

51. Robert Morse, *Should Diversity Be Added to Best Law Schools Rankings?*, YAHOO! NEWS (Apr. 7, 2011), <https://news.yahoo.com/news/diversity-added-best-law-schools-rankings-20110407-092638-969.html>.

52. *Id.*

53. See *supra* note 42 and accompanying text.

54. See, e.g., *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 803, 838–43 (2007) (Breyer, J., dissenting) (discussing the educational, democratic, and social elements of which a school’s compelling interest in achieving a racially diverse student body is comprised); *Estes v. Metro. Branches of Dallas NAACP*, 444 U.S. 437, 438, 451 (1980) (Powell, J., dissenting); *Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457, 473 (1982) (“Attending an ethnically diverse school may help . . . [in] preparing minority children ‘for citizenship in our pluralistic society,’ while, we may hope, teaching members of the racial majority ‘to live in harmony and mutual respect’ with children of minority heritage.” (citation omitted) (first quoting *Estes*, 444 U.S. at 451 (Powell, J., dissenting); and then quoting *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 485 n.5 (1979) (Powell, J., dissenting))); Eboni S. Nelson, *Examining the Costs of Diversity*, 63 U. MIAMI L. REV. 577, 586 (2009) (discussing how the benefits schools hope to produce from a diverse student population “can be divided into three distinct types: social, democratic, and educational”); Brief for Respondents at 14–33, *Grutter v. Bollinger*, 539 U.S. 306 (2003) (No. 02–241) (discussing the Law School’s compelling interest in securing educational benefits flowing from student-body diversity); Michael J. Kaufman, *(Still) Constitutional School Desegregation Strategies: Teaching Racial Literacy to Secondary School Students and Preferencing Racially-Literate Applicants to Higher Education*, 13 MICH. J. RACE & L. 147, 166 (2007) (noting that school districts seeking to create racially diverse student bodies do so with the aim of producing the educational benefits resulting from diverse learning

chooses not to incorporate it in its annual report, but rather, created an incomplete racial diversity index,⁵⁵ disassociated from the annual report.⁵⁶ Director Morse notes that among the many reasons it did not incorporate the diversity index into the overall ranking is because law schools themselves have not reached a conclusion or consensus on what diversity is.⁵⁷ Yet, somehow the *U.S. News* found creative ways to define and operationalize other amorphous concepts, like “quality,” which I argue is both amorphous and has no singular meaning understood by law schools.⁵⁸ Moreover, the idea of “quality” which it attempts to assess, has not received as much scholarly guidance as diversity. While there may not be widespread and conclusive consensus surrounding diversity, there does exist a critical mass of scholars, as well as the Supreme Court, that share common tenets in describing what diversity is and its importance

environments); Patricia Gurin et al., *The Benefits of Diversity in Education for Democratic Citizenship*, 60 J. SOC. ISSUES 17, 31–33 (2004).

55. The racial diversity index and its further iterations have been somewhat chaotic. First, the *U.S. News* decided that they would not participate in the public policy debate at all surrounding diversity, as they cited that they did not see the *U.S. News and World Report Rankings* as policymakers or policy influencers. See *U.S. News’ Views*, *supra* note 49, at 220. However, given the cultural pressure in demanding that they address diversity, they created the diversity index. See *id.* at 219. In their first iteration, as described in the paper, majority-minority law schools were penalized as it currently only measures the law schools on whether students are most likely to encounter classmates from a different racial or ethnic group. See *id.* at 217–19. Recognizing the limiting nature of that index, the *U.S. News* in 2021 proffered another, more complete diversity ranking that made glaring and painstaking mistakes. See Caroline Spiezio, *U.S. News Delays Law School Diversity Rankings After Deans’ Uproar*, THOMSON REUTERS WESTLAW TODAY (Mar. 25, 2021, 11:52 PM), [https://today.westlaw.com/Document/I2ea6be208dc711ebb3b7b5bc2f979fe9/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Default\)](https://today.westlaw.com/Document/I2ea6be208dc711ebb3b7b5bc2f979fe9/View/FullText.html?transitionType=SearchItem&contextData=(sc.Default)). As a result, the *U.S. News* decided to postpone the ranking to a later undetermined date after law school deans across the country pointed out the issues with the new diversity ranking. *Id.* The problems included not counting multiracial students as underrepresented minorities and not including Asian students in the ranking. *Id.*; Staci Zaretsky, *U.S. News Pulls Law School Diversity Ranking Less than a Week Before Publication*, ABOVE THE LAW (Mar. 26, 2021, 3:42 PM), <https://abovethelaw.com/2021/03/u-s-news-pulls-law-school-diversity-ranking-less-than-a-week-before-publication/>.

56. *U.S. News’ Views*, *supra* note 49, at 219. Morse discusses the reasons for why the rankings do not include diversity. *Id.* He claims:

First, law schools are not in agreement on a definition of diversity. Second, there is also not an agreement or consensus among law schools on how diversity should be measured. [Lastly], according to *U.S. News*, there is also not an agreement or consensus among the law schools that achieving diversity adds to the academic quality of law schools.

Id.

57. *Id.*

58. Morse et al., *supra* note 24.

in higher education, generally, and legal education, specifically.⁵⁹ As a representative text, Professors Carbado and Gulati proffered well-thought-out conceptual definitions⁶⁰ and operationalizations⁶¹ of what diversity is and why it is important in a university setting.

In not adopting any of the items that are of relative consensus in the field, the *U.S. News* diversity index only “identifies law schools where law students are most and least likely to encounter classmates from a different racial or ethnic group.”⁶² The index examines the representation of racial groups in the student population of the law school.⁶³ Each group’s proportion in the student body is determined, and each school is assigned a score from zero to one based solely on the number of students in each racial category.⁶⁴ Among many problems, this methodology incompletely assesses diversity because it only recognizes diversity to mean miscellany across different races.⁶⁵ Put simply, even when a law school is a “majority-minority” law school, it may receive a low score. For example, Florida A&M University School of Law, a public historically Black university, founded with the express mission to educate African Americans,⁶⁶ would score low on the diversity index

59. See generally *Grutter v. Bollinger*, 539 U.S. 306 (2003) (affirming the constitutionality of diversity as a justification for affirmative action); Meera E. Deo, *The Promise of Grutter: Diverse Interactions at the University of Michigan Law School*, 17 MICH. J. RACE & L. 63 (2011); Angela Onwuachi-Willig, *Using the Master’s “Tool” to Dismantle His House: Why Justice Clarence Thomas Makes the Case for Affirmative Action*, 47 ARIZ. L. REV. 113, 129–30 (2005); Chris Chambers Goodman, *Retaining Diversity in the Classroom: Strategies for Maximizing the Benefits that Flow from a Diverse Student Body*, 35 PEPP. L. REV. 663 (2008).

60. Devon W. Carbado & Mitu Gulati, *What Exactly Is Racial Diversity?*, 91 CAL. L. REV. 1149, 1153–54 (2003). They discuss their conceptualization of the definition of diversity as the “relationship [that] exists between race and social experiences, on the one hand, and knowledge and practices, on the other.” *Id.* They go on to claim that central to that conceptualization is the “notion that how we experience, think about, and conduct ourselves in society is shaped, though not determined, by our race.” *Id.* at 1154.

61. *Id.* at 1154 (describing the importance of diversity and seven ways in which diversity can be operationalized in a college setting). They posit seven different ways of conceptualizing the utility of diversity: “(1) inclusion; (2) social meaning; (3) citizenship; (4) belonging; (5) colorblindness; (6) speech; and (7) institutional culture.” *Id.*

62. Robert Morse, *U.S. News Debates Law Schools over Adding Diversity to Rankings*, YAHOO! NEWS (Nov. 23, 2011), <https://news.yahoo.com/news/u-news-debates-law-schools-over-adding-diversity-180125846.html>.

63. See Robert Morse, *Methodology: 2021 Law School Diversity Index*, U.S. NEWS & WORLD REP. (Mar. 16, 2020), <https://www.usnews.com/education/best-graduate-schools/articles/law-school-diversity-index-methodology>. **Error! Hyperlink reference not valid.**

64. See *id.*

65. See generally *U.S. News’ Views*, *supra* note 49.

66. *About FAMU*, FAMU, <https://www.famu.edu/about-famu/index.php> (last visited Feb. 8, 2022).

because other racial groups, while present, have a relatively scarce presence.

While scholars have pointed out the problems with the *U.S. News* ranking and the index in terms of diversity, law schools still orient efforts to gain higher metrics for better positioning on the list.⁶⁷ Given that public law schools operate in a competitive market, maintaining student enrollment and securing financial support are consistently prominent concerns for educational administrators. More pointedly, “[i]f enrollment declines, there are few places [that law schools can turn] to economize.”⁶⁸ Richards and colleagues claim that “rankings play a role in institutions’ abilities to achieve their [academic] goals, creating a complicated relationship between educational administrators and college ranking systems.”⁶⁹

Some scholars assert that some law schools’ administrators “only respond to the factors that *U.S. News* measures and when [racial diversity is not measured], schools are unlikely to prioritize diversity among their student bodies.”⁷⁰ While many stakeholders, including students, within public law schools value diversity,⁷¹ the diminishing regard for diversity persists, in part, because of the *U.S. News*’ influence and popularity among alumni and donors. Yearly, alumni and donors

67. See, e.g., Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 L. & SOC’Y REV. 105, 130 (2006) (discussing how the *U.S. News* rankings “provide a signal of law school quality that influences the behavior” of law schools across the country); see Brian Leiter, *The Law School Observer*, 4 GREEN BAG 2D 311, 311–12 (2001) (discussing how law schools game their peer assessment score by inundating members of the legal academy with literature and promotional materials about the many new innovations at their law school); MICHAEL S. MCPHERSON & MORTON OWEN SCHAPIRO, *THE STUDENT AID GAME: MEETING NEED AND REWARDING TALENT IN AMERICAN HIGHER EDUCATION* 21 (1998) (explaining how highly selective schools set standard class sizes and have high research expenditures, two criteria that contribute to the rankings); William D. Henderson & Rachel M. Zahorsky, *The Law School Bubble: Federal Loans Inflate College Budgets, but How Long Will that Last if Law Grads Can’t Pay Their Bills?*, 98 A.B.A. J. 30, 34 (2012) (discussing how schools offer cross-subsidies to “maximize prestige as measured by *U.S. News* rankings”).

68. Robert B. McKay, *What Law Schools Can and Should Do (and Sometimes Do)*, 30 N.Y.U. L. REV. 491, 504 (1985); see also Richard A. Matasar, *The Rise and Fall of American Legal Education*, 49 N.Y.U. L. REV. 465, 467, 473–78 (2004) (discussing how the economics of law school are increasingly unsustainable); Paul Horwitz, *What Ails the Law Schools?*, 111 MICH. L. REV. 955, 969–72 (2013).

69. David A.R. Richards et al., *One Size Does Not Fit All: A Critical Race Theory Perspective on College Rankings*, 42 REV. HIGHER EDUC. 269, 271 (2018) (discussing college rankings’ impacts on higher education institutions).

70. Brophy, *supra* note 49, at 17.

71. See, e.g., Meera E. Deo et al., *Struggles & Support: Diversity in U.S. Law Schools*, 23 NAT’L BLACK L.J. 71, 74–76, 80 (2010) (discussing the need to have “a critical mass of students of color” as a way “to combat the often unwelcoming law school atmosphere” for minoritized students).

access *U.S. News* and measure the law school's prestige without being mindful of the missing essential factors. This relationship is of particular importance because public law schools' budgets continuously grow scarce across the country,⁷² and the need for development continuously grows more critical.

B. Alternative Rankings

Law professor Vernellia Randall created a ranking system that listed the "most isolating" and "least isolating" law schools for matriculating Black law students in 2005.⁷³ She ranked law schools according to their percentage of white students and how isolating law schools are for Black students. She also reported the results on the website "America's Whitest Law Schools."⁷⁴ While this ranking produced shocking and alarming results, it was limited in its factors examined.⁷⁵ The ranking system only focused on the total "whiteness" of a law school student population.⁷⁶ The percent of whiteness was calculated by adding the percent of "Caucasian" to the percent of "unknown."⁷⁷ The lower the rank number, such as 1, the higher the percentage of whiteness.⁷⁸ As such, the ranking scheme does not capture other important factors needed for students of color to decide which law school they should attend.

Additionally, Ryan and Frye recently provided an alternative ranking of law schools, known as the revealed-preferences ranking, which answers not where students should attend but where the "most desirable students" attend.⁷⁹ In doing so, Ryan and Frye reveal the "best

72. MCPHERSON & SCHAPIRO, *supra* note 67, at 21.

73. See, e.g., VERNELLIA R. RANDALL, UNIV. DAYTON, THE WHITEST LAW SCHOOL REPORT AND OTHER LAW SCHOOL RANKINGS RELATED TO RACIAL/ETHNIC DIVERSITY IN LAW SCHOOL (2005), <https://academic.udayton.edu/TheWhitestLawSchools/2005TWLS/Chapter7/IsolationAfrican.htm> [hereinafter 2005 REPORT]; see also Vernellia R. Randall, *The Misuse of the LSAT: Discrimination Against Blacks and Other Minorities in Law School Admissions*, 80 ST. JOHN'S L. REV. 107, 107–08 (2006) (lamenting on the problems with the *U.S. News* surrounding race and how "[l]aw schools are engaging in disturbing practices in efforts to 'raise' their rank"). Randall boldly asserts that "[i]f a Black or Mexican applicant is denied admission to law school, there is an excellent possibility that he or she may have been discriminated against based on race." *Id.*

74. See Vernellia Randall, *America's Whitest Law Schools*, UNIV. DAYTON, <https://academic.udayton.edu/TheWhitestLawSchools/index.htm> (last updated Sept. 15, 2005).

75. 2005 REPORT, *supra* note 73, at ch. 1.

76. *Id.*

77. *Id.*

78. 2005 REPORT, *supra* note 73, at ch. 3.

79. Ryan & Frye, *supra* note 7, at 499 (discussing their approach to ranking law schools). Their ranking is based on the revealed preferences of matriculating law students. *Id.* Ryan and Frye argue that "[l]aw school admission depends almost entirely on an

law schools ranking” based solely on undergraduate GPAs and the LSAT scores of matriculating students.⁸⁰ Though Ryan and Frye’s novel ranking system provides valuable information, their ranking system also only focused on narrow, albeit salient, factors that impact a law student’s interest. And while their purpose was not to measure notions of diversity, access, and equity, ranking systems that do not account for nuanced preferences, and in this case different preferences of minoritized students, are incomplete.

Other legal scholars—starting with Leiter,⁸¹ and later, Black and Caron,⁸² as well as Yelnosky⁸³—ranked law schools based on some notion of faculty productivity. For example, Black and Caron advocated that a law faculty’s Social Science Research Network (“SSRN”) be used to create or supplement a ranking scheme.⁸⁴ While useful, this model is also focused on only one factor. However, this factor is unlikely to be useful for prospective students in examining a law school’s compatibility and fit. And a growing number of legal academics have begun to rank law schools based on the schools’ ideological values, for example, conservative or liberal.⁸⁵ For instance, Michael Conklin asserts that the *U.S. News* ranking of law schools penalizes conservative law schools and boosts liberal law school rankings.⁸⁶ He goes on to rank the ten most conservative and ten most liberal schools.⁸⁷

While these alternative rankings are useful, the rankings proffered above do not account for students’ of color diverse needs. Nor do any of these alternative rankings account for the importance of diversity among law school faculty, financial equity, or other factors that have been shown to impact Black and Latinx students’ college choice. Except for Vernellia Randall’s, these proposed rankings continue to remain silent to prospective and current law students, law school administrators, and societal calls to incorporate notions of diversity in ranking schemes.

applicant’s LSAT score and undergraduate GPA, and law schools compete to matriculate students with the highest possible combined scores.” *Id.* at 498–99.

80. *Id.*

81. See Brian Leiter, *How to Rank Law Schools*, 81 IND. L.J. 47, 50–51 (2006).

82. See Black & Caron, *supra* note 2, at 84–85.

83. See Michael J. Yelnosky, Comment to *On “Faculty Productivity” Studies*, L. PROFESSOR BLOGS NETWORK: BRIAN LEITER’S L. SCH. REPS. (May 7, 2012, 4:48 PM), <https://leiterlawschool.typepad.com/leiter/2012/05/on-faculty-productivity-studies.html>.

84. Black & Caron, *supra* note 2, at 84–85.

85. See Michael Conklin, *Political Ideology and Law School Rankings: Measuring the Conservative Penalty and Liberal Bonus*, 2020 U. ILL. L. REV. ONLINE 178, 179 (2020) (discussing the findings of a “study designed to measure whether peer rankings are affected by a law school’s ideological reputation”).

86. *Id.* at 178–79, 182–83.

87. *Id.* at 182–83.

While law students are the most under researched demographic in higher education, Professor Christopher Ryan recently surveyed law students on their choice of law school.⁸⁸ In his study, law students surveyed at four law schools in the 2017–2018 academic year indicated that among the most salient factors contributing to their decision to enroll was their law schools’ tuition rates, location, and institutional fit.⁸⁹ Given the survey’s novelty, the survey results did not account for all areas of graduate school choice theory present in other popular rankings. As such, a ranking system that considers these outcomes, among others discussed below, is necessary to describe a law school’s match to minoritized students.

III. LITERATURE SUPPORTING THE FACTORS INCLUDED IN THE ACCESS AND EQUITY RANKING

Every year, thousands of students decide to pursue law school in the United States.⁹⁰ Research suggests that participants who successfully complete a law degree have an increased sense of well-being as compared to participants with a bachelor’s degree.⁹¹ “Well-being” is defined as “the interaction and interdependency between many aspects of life, such as finding fulfillment in daily work and interactions, having strong social relationships and access to the resources people need, [and] feeling financially secure.”⁹² Moreover, there are several other reasons why legal education is a desirable social objective. For example, legal education also

88. See Christopher J. Ryan, Jr., *Analyzing Law School Choice*, 2020 U. ILL. L. REV. 583, 583, 587–89, 615 (2020) (discussing the several “factors that bear on the choice to attend law school from the results of an original survey distributed to current law students at four law schools—a private elite law school, a public flagship law school, a public regional law school, and a private new law school—in the 2017–2018 academic year”).

89. See *id.* at 585, 614–15.

90. See Swethaa S. Ballakrishnen & Carole Silver, *A New Minority? International JD Students in US Law Schools*, 44 L. & SOC. INQUIRY 647, 647, 653–54 (2019) (revealing “the significance of a new and growing minority group” within the U.S. law school ethos—“international students in the Juris Doctor program”—calling for the “importance of international students as actors within a more mainstream institutional context.”); Miranda Li et al., *Who’s Going to Law School? Trends in Law School Enrollment Since the Great Recession*, 54 UC DAVIS L. REV. 613, 622–27 (2020) (explaining the trends in law school enrollment over the past decade and establishing how enrollment has not been uniform across demographic groups).

91. GALLUP & ACCESSLEX INST., LIFE AFTER LAW SCHOOL: A PILOT STUDY EXAMINING LONG-TERM OUTCOMES ASSOCIATED WITH GRADUATING LAW SCHOOL AND THE VALUE OF LEGAL EDUCATION 3, 13–14 (2016) (discussing results of a “pilot study of law school graduates to better understand the overall value of a law degree and determine how law school experiences affect the lives and careers of law school alumni”).

92. *Id.* at 4; see also Wood R. Foster, Jr., *A Profession on Edge Part 5: The Phenomenon of BigLaw*, 77 OR. STATE BAR BULL. 26, 29 (2017) (showing that attorneys entering large law firms in 2017 could expect to make upwards of \$160,000 per year).

provides a critical engine for innovation and the discovery of knowledge,⁹³ access to power and influence,⁹⁴ and marketable skills often applied to other disciplines.⁹⁵ Given that society deems legal education as a valuable and coveted asset for individuals, ensuring its equitable accessibility among all a state's citizenry, particularly in law schools where the public contributes funds, is of great importance. Ensuring that everyone has equitable access to legal education also lends itself to other benefits that Carbado and colleagues lay out in their seminal piece.⁹⁶ This ranking system in *some* senses borrows several sentiments and tenets from their work and operationalizes their concept of diversity.⁹⁷

While obtaining a law degree presents several benefits to individuals and society, there remains inequality regarding law school attainment for historically under-represented populations. Racial minorities,⁹⁸ low-income people,⁹⁹ and until recent years, women,¹⁰⁰ are all

93. See, e.g., John A. Robertson, *Law, Science, and Innovation: Introduction to the Symposium*, 38 J.L. MED. & ETHICS 175, 175 (2010) (explaining the significance that law has in scientific innovation, specifically emphasizing the role that legal dynamics had on the development of stem cell science); see also Alex Stein, *Law and the Epistemology of Disagreements*, 96 WASH. U.L. REV. 51, 58–70, 90–92 (2018).

94. See, e.g., Martha Minow, *Why Do Law School Graduates Become Leaders?*, HARV. L. TODAY (Fall 2012), <https://today.law.harvard.edu/letter-from-the-dean/why-do-law-school-graduates-become-leaders/> (noting that the Socratic method, the way law students are spontaneously questioned by their professors on the course material, contributes to the attainment of the type of reasoning required of a prospective political leader).

95. See, e.g., Suzanne Craig Robertson, *Your Flexible Law Degree*, 50 TENN. BAR J. 12 (2014) (detailing the applicability of law degrees to such disparate fields as business, education, and philanthropy).

96. See Carbado & Gulati, *supra* note 60, at 1153–64.

97. See generally *id.* (discussing factors such as minority representation in the diversity context, which is reflected in the ranking system).

98. See, e.g., Taylor, *supra* note 13, at 494, 505–06 (analyzing the impact that the LSAT has on Black enrollment in law schools); Elizabeth Baylor, *Closed Doors: Black and Latino Students Are Excluded from Top Public Universities*, CTR. FOR AM. PROGRESS (Oct. 13, 2016), <https://www.americanprogress.org/article/closed-doors-black-and-latino-students-are-excluded-from-top-public-universities> (according to a report from the Center for American Progress analyzing federal data, if minorities were represented proportionally in higher education, there would be an additional 193,000 students enrolled); Erik Davin Malmberg, *Factors Affecting Success of First-Year Hispanic Students Enrolled in a Public Law School* (Aug. 2008) (Ph.D. dissertation, University of Texas at Austin) (on file with University of Texas Libraries: Electronic Theses and Dissertations), <http://hdl.handle.net/2152/17937> (finding that first-generation Hispanic law school students are disadvantaged compared to their peers).

99. See Richard H. Sander, *Class in American Legal Education*, 88 DENV. U.L. REV. 631, 632 (2011) (noting that the vast majority of law students came from elite backgrounds, and that merely five percent of students at the most prestigious law schools come from families whose income falls in the bottom half of the national distribution).

100. E.g., LANI GUINIER ET AL., *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* (1997); Celestial S.D. Cassman & Lisa R. Pruitt, *A Kinder, Gentler*

disproportionately less likely than their counterparts to earn a law degree. While there has been significant improvement in gender parity in law school, women disproportionately leave the legal field at every stage.¹⁰¹ Without intentional plans for improvements in law degree attainment rates for underrepresented populations, it is likely that law schools, particularly selective law schools, perpetuate minoritized communities' inaccessibility to legal services. Put simply, though "the United States has an oversupply of law graduates," significant proportions of racial/ethnic minoritized groups "go without legal assistance."¹⁰² Therefore, it is essential to expand and examine the factors that influence an individual's decision to pursue a legal education.

While legal education grows in size and importance, "theoretically- and empirically-based scholarly research surrounding prospective law student choice is mostly non-existent."¹⁰³ However, although limited, graduate/professional education choice literature helps make sense of the various factors that may influence a prospective law students' decision to enroll.¹⁰⁴ English and Umbach noted that "human capital investment decision resides at the core of the graduate school choice process."¹⁰⁵ Put simply, prospective graduate students' chief concern is whether their expected monetary benefits outweigh their graduate education costs.¹⁰⁶

Law School? Race, Ethnicity, Gender, and Legal Education at King Hall, 38 U.C. DAVIS L. REV. 1209, 1213–14, 1220 (2005); Catherine Carroll & April Brayfield, *Lingering Nuances: Gendered Career Motivations and Aspirations of First-Year Law Students*, 27 SOCIO. SPECTRUM 225, 225 (2007); Meera E. Deo et al., *Struggles and Support: Diversity in U.S. Law Schools*, 23 NAT'L. BLACK L.J. 71, 73 (2010) (discussing how America's racism perpetuates throughout the law school culture, attitudes, opinions, and actions); Ian Pisarcik, *Women Outnumber Men in Law School Classrooms for Third Year in a Row, but Statistics Don't Tell the Full Story*, JURIST (Mar. 5, 2019, 10:10 AM), <https://www.jurist.org/commentary/2019/03/pisarcik-women-outnumber-men-in-law-school/> (explaining how despite the fact that women have achieved more representation in legal education over the years, they still face rampant discrimination in the legal field).

101. Veta T. Richardson & Robin Myers, *Cause and Effect: Why Women Leave the Legal Profession*, ASS'N CORP. COUNS. (Feb. 1, 2017), <https://www.accdocket.com/cause-and-effect-why-women-leave-legal-profession>.

102. BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* 170 (2012).

103. See Ryan, *supra* note 88, at 585.

104. See, e.g., Elvia Ramirez, *Examining Latino/as' Graduate School Choice Process: An Intersectionality Perspective*, 12 J. HISP. HIGHER EDUC. 23 (2012) (examining the factors that influenced Latino/a students' decision to matriculate at a particular doctoral institution); Laura W. Perna, *Understanding the Decision to Enroll in Graduate School: Sex and Racial/Ethnic Group Differences*, 75 J. HIGHER EDUC. 487 (2004) [hereinafter *Understanding the Decision*] (examining how outside factors such as graduate school outreach and social networks influence minorities' and women's decision to enroll in graduate school).

105. David English & Paul D. Umbach, *Graduate School Choice: An Examination of Individual and Institutional Effects*, 39 REV. HIGHER EDUC. 173, 197 (2016).

106. *Id.*

Several scholars have argued a negative association between a student's indebtedness and the pursuit of graduate education.¹⁰⁷ Therefore, it is essential in this proposed ranking system to include public law schools' application fees and their tuition rates, as prospective graduate students may consider these important financial costs before applying and enrolling.

The limited literature on graduate education choice confirms and adopts most of its theoretical underpinnings from undergraduate college choice literature.¹⁰⁸ Within this body, scholars suggest that a prospective student's habitus, cultural capital, and social capital influence their educational decision making.¹⁰⁹ More specifically, Amaury Nora's college choice model presents a framework to consider students' perception of institutional fit between psychosocial needs and institutional characteristics to meet those needs.¹¹⁰ That is to say, when students' behaviors and interests align with institutional climate, positive student emotional, behavioral, and psychological responses should be optimal.¹¹¹ While students of color's behaviors and interests are heterogeneous, alignment is precarious at its most rudimentary level when law schools have primarily homogenous faculty.¹¹² Given that it is undisputed that student-faculty interaction substantially influences institutional climate,¹¹³ minoritized students would probably depend on faculty of color as a factor to maximize their institutional fit. It is also important to note that several scholars have pointed out the nexus between a racially diverse faculty and an improved climate for students.¹¹⁴ Partly because

107. *Id.* at 200.

108. See, e.g., Laura Walter Perna, *Differences in the Decision to Attend College Among African Americans, Hispanics, and Whites*, 71 J. HIGHER EDUC. 117 (2000) [hereinafter *Differences in the Decision*]; see also *Understanding the Decision*, *supra* note 104.

109. *Differences in the Decision*, *supra* note 108, at 119.

110. See Amaury Nora, *The Role of Habitus and Cultural Capital in Choosing a College, Transitioning from High School to Higher Education, and Persisting in College Among Minority and Nonminority Students*, 3 J. HISP. HIGHER EDUC. 180, 180–87 (2004).

111. *Id.* at 191–98.

112. See Erika Kubik, *How Diverse Are the Law School Faculty in the United States?*, 2CIVILITY (Aug. 29, 2016), <https://www.2civility.org/diverse-law-school-faculty-united-states/> (claiming that “[w]hen looking at the race and ethnicity of all full-time male faculty members, 15.9% were minorities and 82.7% were white, while the remaining ethnic groups were not identified”).

113. Sharon L. Fries-Britt et al., *Underrepresentation in the Academy and the Institutional Climate for Faculty Diversity*, 5 J. PROFESSORIAL 1, 4 (2011) (discussing how faculty in general impact campus racial climate).

114. See Uma M. Jayakumar et al., *Racial Privilege in the Professoriate: An Exploration of Campus Climate, Retention, and Satisfaction*, 80 J. HIGHER EDUC. 538, 539 (2009) (“Faculty of color are more likely to use active pedagogical techniques known to improve student learning. Faculty of color also more frequently encourage students to interact with peers from different backgrounds, engage in service-related activities and produce

faculty of color tend to, out of necessity, take on more effective “teaching, mentoring, service, and administrative/committee responsibilities than do White faculty.”¹¹⁵ In addition, scholars note that the race of a law school faculty member “affect both *what* is taught in the first year and *how* that material is taught.”¹¹⁶ Thus, it is essential for a ranking system that prioritizes people of color to consider faculty racial composition.

Another essential factor that incoming minoritized law students consider is their future peers’ demographics given law schools’ competitive environment. It has long been understood that law students of varying demographics see their campus environments as not only challenging but also competitive and isolating.¹¹⁷ Students regularly reported that law school could be both a traumatizing and isolating experience.¹¹⁸ These adverse feelings are disproportionately heightened for minoritized students who frequently find themselves enrolled in law schools that remain geared toward white male norms.¹¹⁹ According to several scholars, legal education instigates distinct and varying psychological distress and dysfunction,¹²⁰ partly because of the large

scholarship that addresses issues of race, ethnicity, and gender . . . [T]enured faculty of color [are] agents of social change in predominantly White universities . . . [F]aculty of color are more committed to orienting their work toward service ideals.”); Priya Baskaran, *Service, Scholarship, and Radical Citation Practice*, 73 RUTGERS U.L. REV. 891, 895–901 (2021) (highlighting the unrecognized service work and mentorship law school faculty of color provide to enrich the educational climate for minoritized students).

115. See Jayakumar et al., *supra* note 114, at 539.

116. Meera E. Deo, Maria Woodruff & Rican Vue, *Paint by Number? How the Race and Gender of Law School Faculty Affect the First-Year Curriculum*, 29 CHICANA/O-LATINA/O L. REV. 1, 2 (2010) (discussing how “there is a relatively standard first-year curriculum at all ABA-accredited law schools in the U.S., [however,] no two classrooms are identical”).

117. See Carole J. Buckner, *Realizing Grutter v. Bollinger’s “Compelling Educational Benefits of Diversity”—Transforming Aspirational Rhetoric into Experience*, 72 UMKC L. REV. 877, 877–78, 892–93 (2004); Nancy E. Dowd et al., *Diversity Matters: Race, Gender and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL’Y 11, 26–27, 32 (2003) (discussing a study supporting the notion that minorities and women experience dissatisfaction and negative outcomes because of inequality in their legal educations).

118. Buckner, *supra* note 117, at 877–78.

119. See Walter R. Allen & Daniel Solórzano, *Affirmative Action, Educational Equity and Campus Racial Climate: A Case Study of the University of Michigan Law School*, 12 BERKELEY LA RAZA L.J. 237, 267 (2001).

120. *E.g.*, Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 524–26 (1998); Lawrence S. Krieger, *Psychological Insights: Why Our Students and Graduates Suffer, and What We Might Do About It*, 1 J. ASS’N LEGAL WRITING DIRS. 258, 258–60, 262 (2002); Nancy J. Soonpaa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 CONN. L. REV. 353, 381 & n.180 (2004); Gregory S. Parks & Julia Doyle, *The Rage of a Privileged Class*, 89 FORDHAM L. REV. 2541, 2542 (2021) (examining how “bias, discrimination, racism, and stereotyping adversely impact the mental health of Black law students and attorneys,” which, as a result, stifles and hinders their academic and work

classes and inflated student-faculty ratios.¹²¹ These traditions and infrastructure in law schools often contribute to law students' isolation and disenfranchisement, specifically for women and minoritized people. However, successful law students not only rely on their faculty interactions, but they also rely on their law school classmates for emotional and academic support. Legal scholars Deo and Griffin found that law "students report receiving more support from [their] peers . . . than other friends, faculty, other mentors, and religion."¹²² The authors noted that 95% of their participants receive psychosocial and academic support from their law school peers.¹²³ Law students primarily receive such support—e.g., psychosocial, academic, emotional, and professional—in the associations and organizations in which they join.¹²⁴ Students of color often receive this support through affinity groups. For example, Black law students often find support within the Black Law Students Association ("BLSA").¹²⁵ BLSA was chartered on the collective acknowledgment that Black law students require a different level of support and engagement than what law schools traditionally provide and what their counterparts needed.¹²⁶ These considerations make it critical that Black students collectively have the space to pool resources. However, such an organization's efficacy is directly linked to the number of students needed to fulfill its mission. Put simply, BLSA's effectiveness hinges on the number of Black law students enrolled at a given law

performance); Kathryn M. Young, *Understanding the Social and Cognitive Processes in Law School that Create Unhealthy Lawyers*, 89 *FORDHAM L. REV.* 2575, 2575–76 (2021) (discussing the role law schools have in law students' mental health challenges that follow them throughout their professional careers). In fact, Kathryn Young suggests, while students begin law school with a psychological makeup similar to their non-law school peers, three years later "they emerge less intrinsically motivated, less hopeful, and less happy" and also "carry new mental health problems." *Id.*; see also Symposium, *Mental Health and the Legal Profession Symposium*, 89 *FORDHAM L. REV.* 2415 (2021).

121. Iijima, *supra* note 120, at 528.

122. Meera E. Deo & Kimberly A. Griffin, *The Social Capital Benefits of Peer-Mentoring Relationships in Law School*, 38 *OHIO N.U. L. REV.* 305, 305, 318 (2011) (claiming that "from 203 first-year law students at eleven institutions reveal that" they mostly rely on "peer support, forming formal, informal, and 'organizational' peer-mentoring relationships" in law school).

123. See *id.* at 319 tbl.1 (showing that majority of law students received some or strong support, 35.1% and 60.5% respectively, from peers).

124. See *id.* at 320–27 (discussing information exchange, academic guidance, and psychosocial support from affinity groups).

125. See *id.* at 324–26.

126. *Our Purpose & Mission*, BLACK L. STUDENTS ASS'N, <https://www.nblsa.org/purpose> (last visited Feb. 8, 2022).

school.¹²⁷ Indeed, a study by Garibay and Vincent found that greater student compositional diversity at a degree program level predicts reported increases in the enrollment of students of color.¹²⁸ Thus, including the number of minoritized students enrolled in a law school is essential.

IV. THE ACCESS AND EQUITY APPROACH TO RANKINGS

In a substantial number of public law schools, the stalling rates of people of color,¹²⁹ coupled with the psychological effect law school disproportionately has on people of color,¹³⁰ suggests a need for a new approach to ranking and grading law schools. As the results in this ranking make clear, far too many public law schools, even with constitutionally approved affirmative action plans in place in some states, fail to offer people of color equitable access to legal education.¹³¹ While several public law schools attempt to rectify this enrollment disparity through initiatives,¹³² prospective law students of color must

127. See Juan C. Garibay & Shirley Vincent, *Racially Inclusive Climates Within Degree Programs and Increasing Student of Color Enrollment: An Examination of Environmental/Sustainability Programs*, 11 J. DIVERSITY HIGHER EDUC. 201, 211 (2018).

128. *Id.*

129. See AM. BAR ASSOC., *supra* note 4, at 58, 123; see also Alex M. Johnson, Jr., *The Underrepresentation of Minorities in the Legal Profession: A Critical Race Theorist's Perspective*, 95 MICH. L. REV. 1005, 1005, 1009 (1997) (commenting on the lack of diversity in the legal profession and value of reducing racism); Nancy E. Dowd, Kenneth B. Nunn & June E. Pendergast, *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL'Y 11, 20 (2003). For an article presenting an alternative rationale as to why the numbers are low in diverse communities, see Jason P. Nance & Paul E. Madsen, *An Empirical Analysis of Diversity in the Legal Profession*, 47 CONN. L. REV. 271, 271 (2014) (noting that there is a racial gap within the legal profession, but finding that this gap is largely attributable to external forces).

130. G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 AM. BAR FOUND. RSCH. J. 225, 226 (1986) (describing the increased psychopathological symptoms law school goes and lawyers have in comparison to the normal population); ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO "THINK LIKE A LAWYER"* 27 (2007) (discussing how certain methods in law school affect student's interpersonal relations and sense of self-esteem).

131. See, e.g., Jesse Rothstein & Albert H. Yoon, *Affirmative Action in Law School Admissions: What Do Racial Preferences Do?*, 75 U. CHI. L. REV. 649, 697 (2008) (claiming that "affirmative action is responsible for nearly all of the diversity currently seen in the law student population generally and at every law school of even moderate selectivity").

132. See, e.g., Catherine E. Smith, *Seven Principles: Increasing Access to Law School Among Students of Color*, 96 IOWA L. REV. 1677, 1689–92 (2011) (discussing pipeline efforts at the University of Denver Sturm College of Law); Osamudia R. James, *Dog Wags Tail: The Continuing Viability of Minority-Targeted Aid in Higher Education*, 85 IND. L.J. 851, 869 (2010); John Nussbaumer & Chris Johnson, *The Door to Law School*, 6 U. MASS.

know about the many other institutional factors that will likely influence their decision to enroll. Given this connection, prospective minoritized law students need as much information as possible surrounding the law school's characteristics to make an informed decision surrounding their choice in law schools. Though law schools across the country stipulate the importance of access and equity,¹³³ oddly, few empirical studies examine people of color's needs in law school choice.

Therefore, people of color in the market for legal education need law school rankings systems to account for their needs, provide more information, and answer different questions than they have in the past. Prospective minoritized law students may ask: Which law schools are the most affordable for my family and me? Which law schools attract a diverse student population? Which law schools will allow me to graduate on time? Which law schools will I learn from a diverse set of faculty members? Which law schools will help me feel more integrated?

By identifying the law schools in which people of color enjoy heightened graduation rates, higher chances in interacting with diverse faculty and students, and financial parity, I can identify the "most accomplished" and "least accomplished" law schools from the perspective of minoritized students. The public law school with the highest number on the access and equity indicators is the most accomplished. Conversely, the public law school with the lowest number on the access and equity indicators is the least accomplished, with a range in between. I use the terms "most accomplished" and "least accomplished" because, unlike other rankings, high rankings and grades in this Article are not necessarily indicators of exceptional performance.

Similarly, the grading system will mimic that of a great number of law schools across the country—honors, pass, low pass, or fail. Again, the high grades in this ranking system are not indicative of public law schools necessarily doing exceptional work in this area. Nor does the high grade suggest that no other work in this area is needed. Rather, it is a letter grade assessment of the markers on public law schools' performance in relation to one another.

ROUNDTABLE SYMP. L.J. 1, 28–29 (2011); Stephen B. Thomas & Judy L. Hirschman, *Minority-Targeted Scholarships: More than a Black and White Issue*, 21 J. COLL. & U.L. 555, 562, 564 (1994).

133. See Eboni S. Nelson, Ronald Pitner & Carla D. Pratt, *Assessing the Viability of Race-Neutral Alternatives in Law School Admissions*, 102 IOWA L. REV. 2187, 2189 (2017) (discussing how over the past several years law schools are experiencing declines in student enrollment and how this is "particularly problematic for law schools in their attempts to enroll sufficient numbers of students . . . in racially diverse learning environments").

Grade	Distribution (~ 20 Law Schools per Quadrant)
H: Honors	First Quadrant
P: Pass	Second Quadrant
LP: Low Pass	Third Quadrant
F: Fail	Fourth Quadrant

This access and equity method of ranking law schools measure aspects critical to minoritized law students' success, rather than ignoring their varied needs. The problem with only measuring the traditional factors in ranking systems is that its factors are often silent to what matters to prospective minoritized law students. In fact, Ryan and Frye claim that "[l]aw school rankings systems that measure . . . unhelpful information to prospective students by failing to measure salient factors . . . may create an incentive for law schools to compete on factors that are not salient to students."¹³⁴ On the other hand, an access and equity ranking of law schools focus on what prospective racial/ethnic minoritized students actually need in law school to be successful.

A. *Sample*

"Starting with the Morrill Act of 1862, public universities were built to expand access and success for state residents underserved by private institutions."¹³⁵ Understanding public universities' historic mission to provide education to all parts of its citizenry, this study focuses attention on every public law school in the U.S. as the sample in this study.¹³⁶ The American Bar Association ("ABA") is a definitive authority that grants accreditation to all public law schools who are legally empowered to confer Juris Doctorate degrees.¹³⁷ While private law schools were not included in the list because of their different missions, histories, and aims regarding accessible education, private law schools too should be held accountable for its diversity and equity efforts. Forthcoming publications will address separately private law schools and their commitment to diversity and accessibility. After excluding private law schools, the total number of public law schools was 85.¹³⁸

134. Ryan & Frye, *supra* note 7, at 503.

135. HARPER & SIMMONS, *supra* note 16, at 5.

136. *See id.* at 5–6.

137. Theodora Belniak, *The History of the American Bar Association Accreditation Standards for Academic Law Libraries*, 106 L. LIBR. J. 151, 152 (2014).

138. *ABA Approved Public Law Schools*, AM BAR ASS'N, https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/public_law_schools/ (last visited on Feb. 8, 2022). At the time of this writing the ABA only had 85 public law schools.

B. Data Collection and Analysis

Data was collected between January 2020 and October 2020. To rank law schools, this Article examines the ABA Rule 509 Required Disclosures¹³⁹ and the U.S. Census Data.¹⁴⁰ The 509 Required Disclosures are self-reported institutional characteristics of each accredited law school.¹⁴¹ These reports are essential because they provide a measure of transparency to consumers and prospective law students.¹⁴² The disclosure also includes several measures utilized within the *U.S. News'* ranking scheme. For example, the 509 Required Disclosures report the law school's average LSAT score, UGPA, tuition rates, etc.¹⁴³ The data used in this study was collected from academic years 2011 through 2019–20 by each accredited public law school as reported to the ABA. I accessed the ABA portal and merged important perennial factors for this study by each accredited public law school. Next, I merged the important data from the U.S. Census Bureau into one spreadsheet. Finally, the equity rankings and grading will be hand-coded and mapped onto the existing dataset.

This study employs a much smaller subset of variables from the full data set that are linked to 509 Required Disclosures. Because this Article focuses on access and equity indicators as proffered below in the table, this data set comprises twelve variables linked to prospective minoritized law students' success.

With four access indicators borrowed from *Black Students at Public Colleges and Universities: A 50 State Report Card*,¹⁴⁴ I examined in this study twelve access and equity indicators for Black and Latinx prospective law students. Quantitative data was analyzed and merged from two open access data sources: the ABA Rule 509 Required Disclosures and the U.S. Census Data. Each access and equity indicator are discussed here.

Now the list as of 2022 reflects 87 public law schools. The University of Illinois Chicago School of Law now is a public law school and Michigan State University College of Law, which previously was private and independent, is now a part of the university. *Id.*

139. Managing Director's Guidance Memo: Standards 509 (Am Bar Ass'n 2016), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2016_standard_509_guidance_memo_final.pdf [hereinafter ABA Rule 509 Required Disclosures].

140. U.S. CENSUS BUREAU, <https://data.census.gov/cedsci/> (last visited on Feb. 8, 2022).

141. ABA Rule 509 Required Disclosures, *supra* note 139.

142. *Id.*

143. *Id.*; see also Morse et al., *supra* note 24.

144. HARPER & SIMMONS, *supra* note 16, at 7.

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Table 1: Access and Equity Indicators

Access and Equity Indicator	Data Sources	Access and Equity Measure
Student Representation and Outcomes		
(1) Black Law Student Representation at the Institution	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Ratio of full-time, Black law students to number of law students at the institution
(2) Latinx Law Student Representation at the Institution		Ratio of full-time, Latinx law students to number of law students at the institution
(3) Black Student Representation in Comparison to State Representation	ABA Rule 509 Required Disclosures (Academic Year 2019) and U.S. Census Data (2019 population estimates)	Percent of full-time Black law students at the institution divided by the percent of Black citizens in the state
(4) Latinx Student Representation in Comparison to State Representation		Percent of full-time Latinx law students at the institution divided by the percent of Latinx citizens in the state

(5) Proportion of Law School Graduates: Black	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Total number of Black Law School graduates divided by total number of All law school graduates for institution
(6) Proportion of Law School Graduates: Latinx		Total number of Latinx Law School graduates divided by total number of All law school graduates for institution
(7) Proportion of Full Time Law Students: Women	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Proportion of full-time law student population that are women

Faculty Representation

(8) Faculty of Color Representation	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Proportion of full-time faculty that are Faculty of Color
(9) Proportion of Full Time Faculty: Women	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Proportion of full-time faculty that are women

Faculty to Student Ratio

(10) Faculty of Color to Black Students Ratio	ABA Rule 509 Required Disclosures (Academic Year 2019-2020)	Ratio of Faculty of Color to full-time, degree-seeking Black law students
	ABA Rule 509 Required Disclosures	Ratio of Faculty of Color to full-time,

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(11) Faculty of Color to Latinx Students	(Academic Year 2019-2020)	degree-seeking Latinx law students
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Financial Costs

(12) Financial Equity	ABA Rule 509 Required Disclosures (Academic Year 2019-2020) and U.S. Census Data	The cost to apply and attend the institution divided by the median income of people in the state
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C. Limitations

There are several limitations to this study. First, the Student Representation and outcomes factors includes only Black and Latinx full-time law students. Some Black and Latinx students attend law school through part-time programs because of other competing interests in their lives. However, it is essential to note that at many public law schools the overwhelming majority of Black and Latinx law students, specifically, and all students, generally, enroll in traditional full-time day programs.

Second, both the Proportion of Full-Time Law Students: Women and Faculty Proportion of Full-Time Faculty: Women, Access and Equity Indicators treat gender as a binary—women and men—which is a limitation. I analyzed and reported the data this way because both the Rule 509 Required Disclosures and the U.S. Census Data has no other gender identity options.

Third, the Proportion of Law School Graduates: Black and Latinx Access and Equity Indicator does not account for the transfer student population. The 509 Required Disclosures reports do not disaggregate the numbers by race, gender, or any other measure. While it is important not to dismiss this group of students' experiences, I must note that most law students enroll and graduate from the same institution.

Fourth, I do concede that there are other racial minorities that attend law school, however because of the limiting data reported to the 509 Required Disclosures, this study was not able to include those constituents in the analysis. Future studies should address this gap in the data.

Fifth, this study does exclude the Native American population from the analysis. While I wanted to include this population, several law schools did not report or share Native American student or faculty

representation statistics. Additionally, several 509 Required Disclosures similarly did not report or share Native American statistics. Moreover, there exists a dearth of literature detailing their law school choice needs. Academic literature certainly should begin to address this population as academic literature seeks to be more inclusive of all people attending law schools. Lastly, this study only examines data from public law schools. Given the historical mission of public education, I chose to exclude private law schools because of public law schools' varying commitments to the state's public in which their law school sits.

1. Data Accuracy

The law school data I present in this report is from the ABA's Rule 509 Required Disclosures and the U.S. Census Data. Every law school accredited in the nation must annually submit these and other data to the American Bar Association.¹⁴⁵ Lastly, if this report's has statistical inaccuracies, it is most likely attributable to erroneous institutional reporting to the ABA or technical processing errors in the ABA or U.S. Census Data.

I now offer an access and equity approach to ranking law schools on the basis of the twelve variables in Table 1.

D. *An Access and Equity Ranking*

Law schools in the ranking were standardized in relationship to each other to create a normative assessment on access and equity measures. Standardization is the process of putting different variables of interest on one singular measurable scale. This process allows one to compare the results between different variables. After each school was standardized, the Access and Equity ("A & E") score was summed from twelve equal parts: (1) Student Representation: Black, (2) Student Representation: Latinx, (3) Black Law Student Representation at the Institution Compared to State Representation, (4) Latinx Law Student Representation at the Institution Compared to State Representation, (5) Proportion of Law School Graduates: Black, (6) Proportion of Law School Graduates: Latinx, (7) Proportion of Full-Time Law Students: Women, (8) Faculty of Color Representation, (9) Proportion of Full-Time Faculty: Women, (10) Faculty of Color to Black Students Ratio, (11) Faculty of Color to Latinx Students (12) Financial Equity—each given one-twelfth weight to construct the ranking. The A & E ranking constructed from the composite scores proffered in the appendix below, surprised me

145. ABA Rule 509 Required Disclosures, *supra* note 139.

because the line-up is inconsistent with the positioning of several law schools' standing in the *U.S. News Ranking*.¹⁴⁶ This reality is even more pronounced in the perennial top law schools like the University of Virginia, Michigan, and California based law schools. However, there are several notable exceptions, a few of which are discussed below, and the full rankings for 2019–20 are included in Table 2.

1. Note About Rankings and Grades

Like Harper and Simmons' report, a high ranking in this *Access and Equity Ranking* ("A & E Ranking"), does not necessarily indicate stellar and exemplary performance.¹⁴⁷ Also, like Harper and Simmons, I proffer two examples to demonstrate that even when a law school is among the "most accomplished," it can still perform low in particular access and equity indicators.¹⁴⁸

For example, Pennsylvania State University–Penn State Law is ranked 18 with a composite score of .28 and graded H in the 2020 *A & E Ranking*, but the minority full-time faculty at this law school is 19 percent, and the Black and Latinx student population is 7 and 4 percent, respectively as reported in the 2019 Standard 509 Information Report.¹⁴⁹ Moreover, Pennsylvania State's statistics across the board are relatively low, but on average, in comparison to other public law schools, outperform them across the twelve indicators placing Penn State among the top in the *A & E Ranking*.

Similarly, at the University of Indiana at Indianapolis ranking 38 with a composite score of .11 in the 2020 *A&E Ranking*, only 16 percent of their faculty is minority and the completion rate of the Black and Latinx student population is 11 and 6 percent respectively.

As this ranking brings forward, it is clear that public law schools across the country have much work to do to increase these numbers. I think these two examples clearly indicate that failure exists in all public law schools in terms of access and equity. That in fact, it is not just a handful of institutions. Even the "most accomplished" law school in the *A&E Ranking* is not good, and the numbers are unacceptable. Simply, the number one institution in this ranking is the most accomplished among other public law schools that perform worse according to the

146. Compare *infra* tbl.2, with *2022 Best Law Schools*, U.S. NEWS, <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings> (last visited on Feb. 8, 2022).

147. See generally HARPER & SIMMONS, *supra* note 16, at 10.

148. See *id.*

149. PENNSYLVANIA STATE: PENN STATE LAW, ABA, STANDARD 509 INFORMATION REPORT (2019).

factors examined. To this end, a law school that thrives in comparison to other law schools on the *A&E Ranking* is not by definition a “model of excellence.”¹⁵⁰ Law schools that perform well in this ranking are not absolved from deep reflective analysis of the policies that limit equity-based solutions at their law school.

2. Rankings

The *A & E Ranking* rearranges the *U.S. News* top public law schools. For example, the “T-14s”—top-14 law schools—are disrupted, as the perennial public law schools that rank high in the *U.S. News* ranking fell significantly in the *A & E Ranking*. For instance, the University of Virginia ranked number 8 in *U.S. News 2021 Rankings* is ranked 63 by the factors that the *U.S. News* espouses.¹⁵¹ Similarly, UC Berkeley ranked 9 in *U.S. News* is 27 on the *A & E Ranking*, and its peer institution, the University of Michigan, ranked 9 in *U.S. News* was 22 on *A & E Ranking*.¹⁵² UCLA had a similar fate where it was ranked 15 and dropped to 47, Minnesota was ranked 21 in the *U.S. News Ranking* and dropped to 58.¹⁵³ Lastly, one other public law school fell out of the top 25, Arizona State at 24 in the *U.S. News* fell to 66.¹⁵⁴

Unsurprisingly, but yet still remarkable, all public Historically Black Colleges and Universities (“HBCU”) law schools are clustered at the top of the list,¹⁵⁵ with the University of District of Columbia rounding out the fifth slot. While these law schools are not immune from investigating and participating in self-reflective measures in improving their status among the twelve metrics, it is important to note these institutions for several reasons.

First, what these rankings make painstakingly evident is that since these law schools’ existence over sixty to seventy years ago, they are still primarily responsible for educating and providing access to the country’s minoritized populations. For example, the five public HBCU law schools combined enrolled 1,303 Black students;¹⁵⁶ it would take the next 40

150. HARPER & SIMMONS, *supra* note 16, at 10.

151. Compare *infra* tbl.2, with Staci Zaretsky, *The 2021 U.S. News Law School Rankings Are Here*, ABOVE THE LAW (Mar. 16, 2020, 11:46 PM), <https://abovethelaw.com/2020/03/2021-u-s-news-law-school-rankings/>.

152. Zaretsky, *supra* note 151.

153. *Id.*

154. *Id.*

155. *Historically Black Colleges and Universities*, U.S. NEWS, <https://www.usnews.com/best-colleges/rankings/hbcu> (last visited on Feb. 8, 2022).

156. See ABA Rule 509 Required Disclosures, *supra* note 139 (author added the total reported number of Black students at the five public HBCUs of Florida A&M University,

public law schools on the *Access and Equity Ranking*—public law schools ranked 6 to 45—to equate 1,303 Black students.

Second, it is also important to note that these institutions have not only honored their original mission in educating Black people, but they have also broadened and extended their mission to other minority groups, as this ranking revealed. Yet, other public law schools, with more generous state funding, have continually struggled to fulfill their institutional mission of educating *all* of their citizens.

Third, this ranking's results contribute to the policy debate surrounding the relevancy and need for HBCU law schools.¹⁵⁷ I assert that the rankings further reveal and reiterate these schools' importance to minoritized groups access to justice. Lastly, this ranking reinforces extant literature in that HBCUs often "punch above their weight."¹⁵⁸ Whereby, these schools, given their history of being systematically under-resourced and demonized, the enrollment, degree, and economic impact are significantly greater than one would expect.¹⁵⁹

On another note, broadly, public universities in the Midwest region of the United States tend to perform better in the *A & E Ranking* than their actual *U.S. News* ranking, such as Wayne State, Wisconsin, and Ohio State, all a part of the Top 20.¹⁶⁰ However, several Mid-Atlantic law schools like William & Mary, Virginia, and George Mason, all slid drastically placing them near the bottom of this ranking.¹⁶¹

There are some unforeseen contenders within the top quadrant of the *A & E Ranking*. The University of Hawai'i, New Hampshire, City University of New York, New Mexico, and Ohio State are among the highest on the *A&E Ranking*.

Apart from the unanticipated law schools found at the rankings' extremities, there were other surprising, noteworthy shifts within the middle of the ranking. UC Davis leads the California law schools moving to number 15 in this ranking. Similarly, the University of Nevada finds itself just outside the Top 15. Moreover, to some extent, it was surprising to find law schools with considerably fewer racial minorities in the state outperform other law schools in traditionally diverse locales. For

North Carolina Central University, Southern University, Texas Southern, and the University of the District of Columbia).

157. UNITED NEGRO COLL. FUND, HBCUs PUNCHING ABOVE THEIR WEIGHT: A STATE-LEVEL ANALYSIS OF HISTORICALLY BLACK COLLEGE AND UNIVERSITY ENROLLMENT GRADUATION 5–6 (2018).

158. *Id.* at 5–9.

159. *Id.*

160. *Infra* tbl.2.

161. *Infra* tbl.2.

instance, the University of Maine and New Hampshire, both find themselves among the top 25.¹⁶²

For the most part, the *A & E Ranking* reveals that public law schools struggle with these measures of access and equity. Accordingly, it may be beneficial to add these measures to any ranking so that law schools begin to remedy this problem. This ranking further implies that the *U.S. News* and other rankings discussed above may not measure all the factors that are salient to prospective law students.

3. How to Use the Access and Equity Ranking

The *A & E Ranking* was created to help several constituents in the legal education sphere. First, it was designed to draw attention to the law schools that are committed to accessibility and equity. Second, the *A & E Ranking* was created to provide minoritized prospective law students with more information surrounding their needs in making a substantial professional, financial, mental, and long-term investment. Lastly, it was designed to help professionals and administrators of public law schools make data-driven informed decisions surrounding their institutional practices, goals, and aims.

Understanding this purpose, this ranking should be used as a tool to help in the calculus of Black and Latinx students' decision of in which law school to enroll. This ranking was not designed to be the sole and only source that a Black and Latinx prospective student uses in choosing a law school. The *A & E Ranking* does not purport to be the panacea for minoritized prospective law students, whereby it will eliminate marginalization, discomfort, and alienation in minoritized students experience in law school. Instead, the ranking should be utilized as a supplemental informational tool to help prospective students understand a particular public law school's commitment to diversity and accessibility.

While Black and Latinx needs in this Article were grouped because of their shared marginalized experience in law schools;¹⁶³ this ranking

162. *Infra* tbl.2.

163. *See, e.g.*, Sharon Foley & Deborah L. Kidder, *Hispanic Law Students' Perceptions of Discrimination, Justice, and Career Prospects*, 24 HISP. J. BEHAV. SCI. 23, 35 (2002); Allen & Solórzano, *supra* note 119, at 299–300 (discussing the shared experience that Black and Latina/o students feel). For example, the authors note that both “Black and Latina/o students felt more alienated and isolated from general campus life compared to Asian and White students.” *Id.* In addition, the authors note the similar financial background Black and Latinx students share compared to White and Asian students. *Id.*; Randall, *supra* note 73, at 107–08, 141, 146; Erin Lain, *Experiences of Academically Dismissed Black and Latino Law Students: Stereotype Threat, Fight or Flight Coping Mechanisms, Isolation and Feelings of Systematic Betrayal*, 45 J.L. & EDUC. 279, 315–23 (2016) (while the sample in

recognizes and concedes that Black and Latinx prospective law students are not monolithic groups. Indeed, each group has their own storied histories, needs, and experiences. Thus, it would be unwise to assume that there do not exist other factors—e.g., employment opportunity post-graduation, bar passage rate, and proximity to family, etc.—that may be salient to individual members of these groups that this ranking does not capture. Future forthcoming work addresses those concerns, alongside the access and equity concerns, and create a more comprehensive ranking schema of both public and private law schools. Notwithstanding these considerations, I am confident that this ranking will help redress *some* law school choice issues. In sum, the *A&E Ranking* explores, exposes, and encourages all legal education public schools to improve their standing in all variables included in this ranking.

V. CONCLUSION

This Article contributes to the continued debate both within the rankings world and legal education by highlighting the ways in which both systems continually fail Black and Brown prospective law students. These indicators of access and equity are essential in informing prospective Black and Brown law students. Contrary to popular belief, Black and Brown students are interested in obtaining a law degree.¹⁶⁴ Yet, oftentimes they are victims to seemingly innocuous structures that are not designed with their interests in mind. This ranking is a tool to help law schools assess their widely published goals of increasing school diversity.

this study is students who were dismissed from law school it is important to note the parallels that students from each racial group share in their law school experiences). As such, given the shared experiences that Black and Latinx students face in law school, this Article chose not to include Asian American populations in this ranking as their experiences are not proximal to the Black and Latinx experiences.

164. See, Taylor, *supra* note 13, at 496 (discussing how the high application rates evidence Black and [Brown] people aspire to be attorneys). He further laments that as recent as 2017, “49 percent of Black law school applicants received no offers of admission.” *Id.* Claiming that:

This was the highest shut-out rate among all racial and ethnic groups. . . . The shut-out rate increases as the LSAT score band decreases. This trend holds with almost complete consistency for each racial and ethnic group. This means that for groups whose score distribution trends lower, the admit rate for that group is lower.

Id. Aaron Taylor makes painstakingly clear that the problem does not solely belong to the erroneous idea often perpetuated that there is a leaky pipeline or a small applicant pool of minoritized individuals aspiring to be attorneys. *Id.*

As far as the *U.S. News Rankings*' primary argument for not including these measures within their ranking—because diversity terms are too broad to define and wish not for their rankings to be part of the ongoing public policy debate on achieving diversity—I believe this ranking system addresses and operationalizes both areas of concern in a straightforward, yet accurate way. This ranking schema counters that argument by using higher education and legal education literature to operationalize these terms while simultaneously using data to undergird such factors. While the *U.S. News Ranking* does not want to influence the debate on these terms, I assert, they have already affected the discussion in their silence.

As the *A & E* ranking indicates, very few law schools' rankings were consistent with their tier in the *U.S. News* ranking. The *U.S. News* and any other law school rankings' methodology must find ways to capture and include these factors as increasing diversity within the legal profession continues to be a widespread goal among many stakeholders. The ranking proffered below forms the basis of an access and equity ranking and, therefore, a more improved ranking alternative for Black and Brown prospective students who want to see which law schools are moving in the right direction, and which law schools are simply paying lip service to the ideas surrounding access and equity. Whatever law schools choose to do to improve access and equity, whether they stop reporting to the *U.S. News Report* or create their own measurement to assess access and equity, all law schools will benefit when they decide unabashedly to recognize, value, and incorporate communities of color.

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Appendix

Grade	Distribution (~ 20 Law Schools per Quadrant)
H: Honors	First Quadrant
P: Pass	Second Quadrant
LP: Low Pass	Third Quadrant
F: Fail	Fourth Quadrant

Table 2: The 2019-2020 Access and Equity Ranking of Public Law Schools

2019-2020 *T=Tied	Law School	A&E Index	U.S. News Ranking *T=Tied	Grade
1.	Texas Southern	1.99	T 148-194	H
2.	North Carolina- Central	1.65	T 148-194	H
3.	Southern University	1.51	T 148-194	H
4.	Florida A&M	1.30	T 148-194	H
5.	District of Columbia	1.22	T 148-194	H
6.	Florida International	.90	T90	H

7.	New Mexico	.89	T99	H
8.	Hawai'i	.78	T96	H
9.	City University of New York	.67	T107	H
10.	UNT Dallas	.57	Unranked	H
T 11.- 12.	New Hampshire	.46	T88	H
T 11.- 12.	Ohio State	.46	T38	H
T 13.- 14.	Mississippi	.37	T67	H
T 13.- 14.	Wayne State	.37	T83	H
T 15.- 16.	Puerto Rico	.35	Unranked	H
T 15.- 16.	California-Davis	.35	T38	H
17.	Nevada	.29	T62	H
18.	Pennsylvania State-Penn State	.28	T60	H
19.	Wisconsin	.25	T38	P
20.	West Virginia	.24	T111	P

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21.	Oregon	.23	T88	P
T 22. -23.	Alabama	.22	T31	P
T 22. -23.	Michigan	.22	T9	P
T 24. -25.	Temple	.20	T56	P
T 24. -25.	Maine	.20	T122	P
26.	California-Irvine	.19	T27	P
27.	California-Berkeley	.18	T9	P
28.	California-Hastings	.17	59	P
T 29. -31.	Baltimore	.16	T126	P
T 29. -31.	Texas A&M	.16	T60	P
T 29. -31.	Cincinnati	.16	T83	P
T 32. -33.	Georgia State	.15	T76	P
T 32. -33.	Washington	.15	T42	P
34.	Maryland	.14	T47	P
T 35. -38.	Florida	.12	T24	P

T 35. -38.	Montana	.12	T122	P
T 35. -38.	Penn State-Dickinson	.12	T62	P
T 35. -38.	Colorado	.12	46	P
T 39. -40.	Arizona	.11	T47	LP
T 39. -40.	Indiana-Indianapolis	.11	T122	LP
41.	Kansas	.08	T70	LP
42.	Indiana-Bloomington	.06	T38	LP
T 43 -45.	Memphis	.05	T141	LP
T 43 -45.	Rutgers	.05	T76	LP
T 43 -45.	Wyoming	.05	T133	LP
T 46 -47.	Idaho	.04	T136	LP
T 46 -47.	Pittsburgh	.04	T76	LP
T 48. -52.	California-Los Angeles	.03	15	LP
T 48. -52.	Kentucky	.03	T70	LP

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T 48. -52.	Tennessee	.03	T70	LP
T 48. -52.	Florida State	.03	T50	LP
T 48. -52.	Missouri-Kansas City	.03	T133	LP
53.	Cleveland State	.02	T102	LP
54.	Northern Kentucky	.01	T 148-194	LP
55.	Arkansas-Little Rock	.00	T 148-194	LP
56.	Iowa	-.01	T27	F
T 57. -58.	Northern Illinois	-.02	T 148-194	F
T 57. -58.	Louisville	-.02	T99	F
59.	Minnesota	-.03	21	F
60.	Louisiana State	-.04	T96	F
61.	Houston	-.05	T56	F
62.	Toledo	-.06	T136	F
63.	Illinois	-.07	T31	F

T 64. -66.	Virginia	-.08	8	F
T 64. -66.	South Carolina	-.08	T96	F
T 64. -66.	North Carolina	-.08	T27	F
T 67. -70.	Utah	-.09	45	F
T 67. -70.	Arizona State	-.09	T24	F
T 67. -70.	Massachusetts	-.09	T 148-194	F
T 67. -70.	North Dakota	-.09	T 148-194	F
71.	Akron	-.11	T141	F
72.	Connecticut	-.15	T50	F
73.	Texas (Austin)	-.17	16	F
74.	Arkansas- Fayetteville	-.18	T90	F
75.	SUNY (Buffalo)	-.19	T99	F
76.	Southern Illinois	-.20	T 148-194	F
77.	Missouri	-.21	T67	F
78.	Georgia	-.23	T31	F

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T 79. -80.	Texas Tech	-.28	T111	F
T 79. -80.	Oklahoma	-.28	T76	F
81.	William & Mary	-.34	T31	F
82.	Washburn	-.39	T107	F
83.	George Mason	-.44	T42	F
T 84. -85.	South Dakota	-.52	T141	F
T 84. -85.	Nebraska	-.52	T76	F