



Protecting Diversity: Can We Afford to Throw Out *Grutter* Before Its Expiration Date?
Analyzing the Effects of Campus Diversity on Attrition, GPA, and Bar Passage in Law
Students and Graduates

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Abstract

With affirmative action decisions pending from the United States Supreme Court in *Students for Fair Admissions v. President and Fellows of Harvard College* and *Students for Fair Admissions v. University of North Carolina*, this study examines whether the educational benefits that flow from diversity acknowledged in *Grutter v. Bollinger* (2003) persist twenty years later in a law school context. Using data from the American Bar Association (ABA), the U.S. Census Bureau, and the Law School Survey of Student Engagement (LSSSE), we model law school campus diversity as a predictor of law-school-level attrition ($n = 498$), law-student-level GPA ($n = 4,730$), and law-student-level first-time bar passage ($n = 4,461$) among underrepresented law students of color. Campus diversity is operationalized as a U.S. News & World Report-style index. Our findings demonstrate modest benefits associated with campus diversity for student retention, final law school GPA, and first-time bar passage among underrepresented law students of color.

Keywords: law school, diversity, attrition, GPA, bar passage, affirmative action

Introduction

At the time of writing, the Supreme Court has not yet released its rulings for *Students for Fair Admissions v. President and Fellows of Harvard College* and *Students for Fair Admissions v. University of North Carolina*, the latest cases to challenge *Grutter v. Bollinger* (2003). Twenty years ago, the *Grutter* decision recognized educational diversity as a compelling state interest given the “educational benefits that flow from a diverse student body,” thereby permitting the narrowly tailored use of race in admissions decisions (*Grutter v. Bollinger*, 2003, p. 343). During oral arguments in October 2022, the Court questioned whether these educational benefits exist and, in Justice Thomas’ words, “What academic benefits stem from diversity?” (Howe, 2022). The scope of these benefits will likely be a foundational argument in the Court’s upcoming decisions.

In *Grutter*, Justice O’Connor suggested: “The Court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today” (p. 343). Considering the approaching 25-year timeline and the more imminent decision from the Court on the latest cases to challenge affirmative action in college and university admissions, this paper adds to the body of literature demonstrating the educational benefits of diversity by investigating the extent to which law school campus diversity affects academic outcomes. Whether or not the Court overturns *Grutter*, we hope that our findings reinforce the urgency of diversifying our institutions of higher learning by highlighting the benefits that these efforts yield and therefore inspiring new initiatives and policies that secure that diversity. Furthermore, this study fills a void in legal education research; studies examining the educational benefits of diversity at the law school level are relatively sparse. As noted below, Lott and Ramseyer (2007) examine the effect of minority enrollment counts on course grades in law school but, to our knowledge, no other published empirical research has examined attrition or bar passage as a function of student body diversity at the law school level.

We use two unique datasets to investigate the effect of institutional diversity on academic outcomes. First, we use publicly available data to explore the effect of campus diversity on the proportion of underrepresented students of color attriting from law school. Second, we use data collected from a previously completed study of 22 participating law schools in partnership with the Law School Survey of Student Engagement to explore the extent to which diversity explains student-level law school performance and bar exam results. Considering what some literature has reported—that the impact of campus diversity may vary based on racial/ethnic identification—we disaggregate outcomes by race/ethnicity and/or institutional selectivity where possible. Doing so provides a more nuanced study of the extent to which student body racial diversity yields academic benefits 20 years after *Grutter* (Herzog, 2022; Oseguera, 2005; Wolfe and Fletcher, 2014).

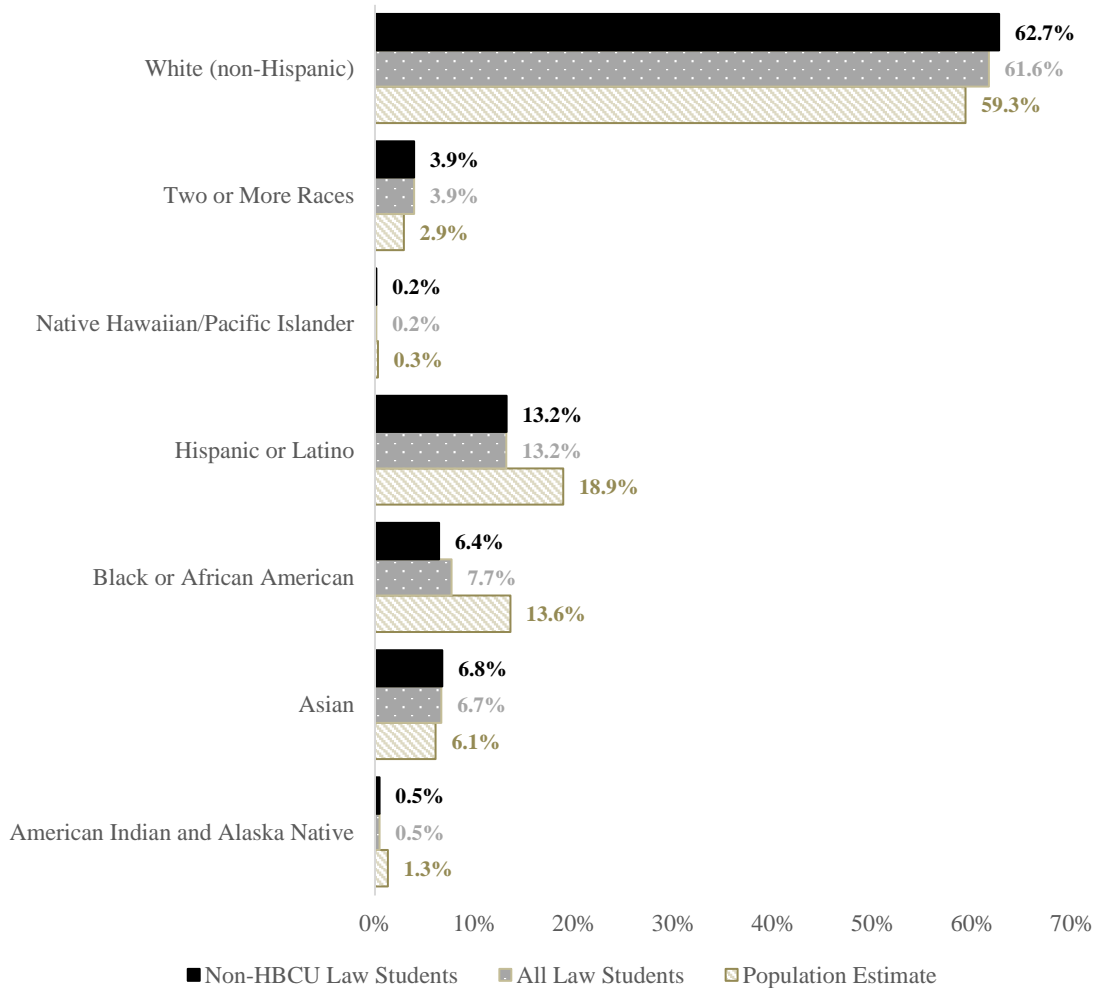
The State of Diversity in Legal Education

According to the literature, the benefits of campus diversity can include exposure to and comfort with alternative viewpoints, backgrounds, and experiences; better grades and test scores; reduced bias and prejudice; increased civic engagement; and, according to some studies, higher graduation rates, increased postgraduate earnings, and increased family income (Aronson & Bridgeman, 1979; Denson & Chang, 2015; Gurin et al., 2002; Pettigrew and Tropp, 2006; Whitla et al., 2003; Wolfe & Fletcher, 2013). Myriad studies also explore belonging and inclusion among people of color (“POC”) as a vehicle to realize these benefits (Association for the Study of Higher Education [ASHE], 2015c; Aronson & Bridgeman, 1979; Birdsall et al., 2020; Law School Survey of Student Engagement [LSSSE], 2020c; Robbins, 2020; Rocconi et al., 2019). To achieve a sense of belonging, people of color should not only feel included in their campus environment but also interact with peers and professors

who share their lived experiences. But in legal education, people of color are underrepresented relative to the general population, particularly those identifying—according to the American Bar Association’s definitions— as Black or African American, Hispanic or Latino, American Indian or Alaska Native, and Native Hawaiian or Pacific Islander (hereafter referred to as underrepresented POC, or “uPOC”). (See Figures 1 and 2).

Figure 1

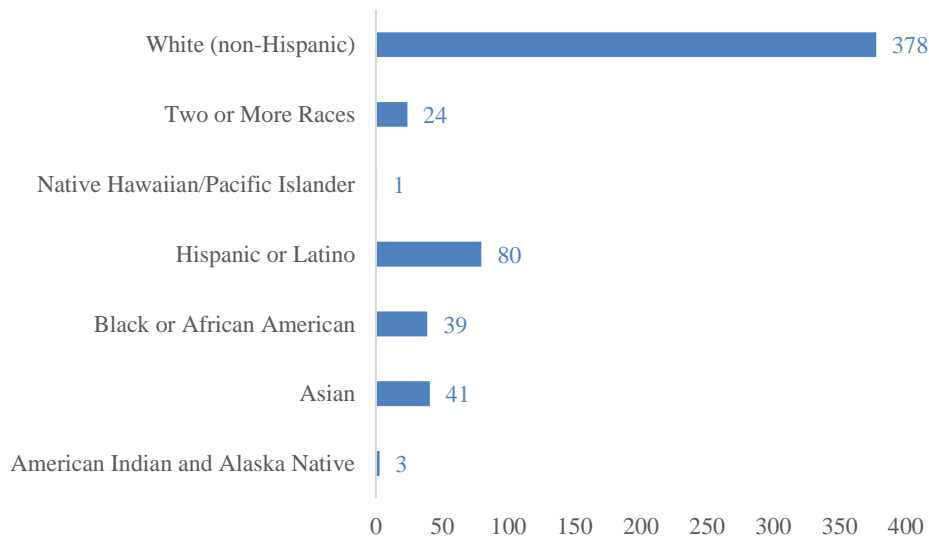
Law School Population Compared to U.S. Population by Race



Source: 2021 American Bar Association 509 Information Reports, U.S. Census Bureau QuickFacts

Figure 2

*Average Enrollment Counts by Race at Typical Law School
(Excluding HBCUs)*



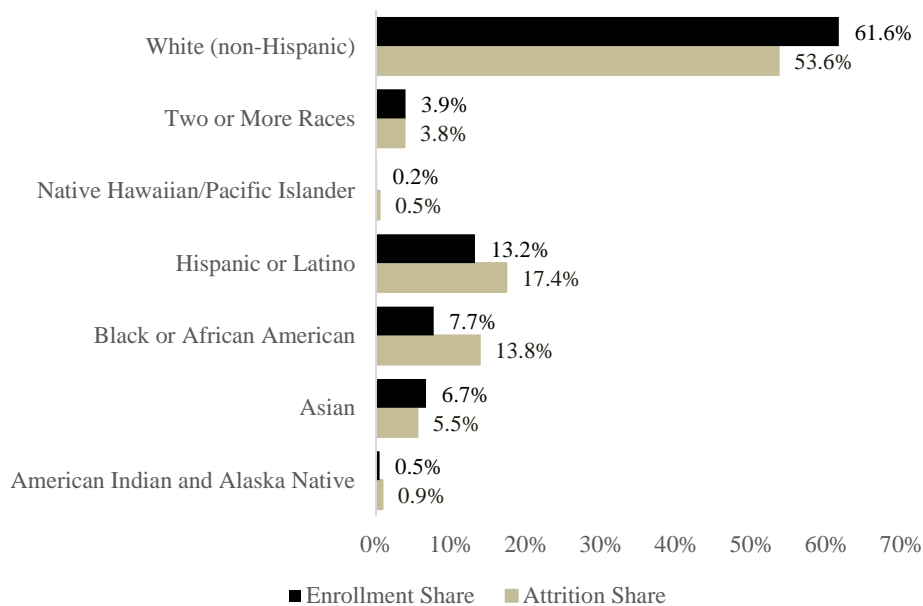
Source: American Bar Association Standard 509 Information Report, 2021

Consequently, these students are more likely to feel isolated on campus, lack a sense of belonging, and encounter stereotype threat and tokenization. Whether in combination or in isolation, these obstacles and barriers can lead to academic struggles. As shown in Figure 3, Black and Hispanic students represent a combined 31% of those who attrit from law school after their first year but only 20% of law students. White and Asian students, however, comprise notably higher shares of enrollments than dismissals.

Black law school graduates also represent a disproportionate number of those who fail the bar exam on their first attempt, representing 16% of first-time takers who failed the bar exam in 2020 but only 8% of all first-time examinees (American Bar Association [ABA], 2022b). In law, admission to the state bar association is required to practice. In all but Wisconsin, this means passing the bar exam or, in a few limited cases, completing an alternative licensure program (i.e., New Hampshire's Daniel Webster Scholars program).

Figure 3

Share of Enrollment Compared to Share of Attrition (Academic and Other) by Race (2021)



Source: American Bar Association Standard 509 Information Report, 2021

How is Diversity Measured?

Over the past several years, researchers have taken various approaches to operationalizing institutional diversity. Wolfe and Fletcher (2013) use a diversity index based on the racial composition of the colleges attended by their study participants (survey respondents). Denson and Chang (2015) use students' self-reported frequency of intergroup interactions, quality of interactions, and opinion of diversity. Gurin et al. (2002) also examine "diversity experiences," including, for example, self-reported informal interactions between students of different racial and ethnic backgrounds and enrollment in an ethnic studies course. Franklin (2011) and Chisholm-Burns et al. (2022) compare institutional demographics to those of the surrounding state.

Frequently publicized is the diversity index published by *U.S. News & World Report*, which is based on the methodology proposed by Meyer and McIntosh (1992) and intends to measure "the probability that two people chosen at random from the study population will differ along at least one ethnic dimension" (Meyer & McIntosh, 1992). The Meyer and McIntosh methodology is potentially problematic for several reasons. First, it redistributes uncategorized race responses on the assumption that the population of these responses mirrors the distribution of the remaining race categories at that institution. The example in Table A.1 demonstrates how this might lead to inaccurate estimates. Take School X, which enrolls 100 students: 40 White students, 20 Asian students, 15 Black students, 12 Hispanic students, and 13 students of another uncategorized race identity category. Using the Meyer and McIntosh approach, the probability that two randomly selected students vary by race is 0.69–0.70.¹ However, if those students in the uncategorized race group were included as their

¹ Meyer and McIntosh only state that the redistribution of the uncategorized race group is proportional to the distribution of the remaining races. This could be construed in two ways. The first (Column 5 in Table A.1) applies the distribution of the remaining races, which includes the 13 uncategorized race observations in the denominator. The second (Column 6 in Table A.1), applies

own category rather than redistributed, the probability would increase to 0.75. Since the composition of the uncategorized race group is unknown, the Meyer and McIntosh method may penalize schools admitting students of underrepresented racial/ethnic identities that do not fall within one of the predefined categories. Furthermore, *U.S. News & World Report's* adaptation of Meyer and McIntosh's approach exacerbates this problem by recategorizing the entire uncategorized race group as non-Hispanic Whites (Morse, 2021).

Moreover, diversity rankings based solely on the proportion of enrolled minority students at a law school penalizes two types of schools: (1) Historically Black College and University (HBCU) law schools, whose student bodies comprise, on average, 58.7% Black students, resulting in lower values despite their mission to increase diversity in legal education and the profession; and (2) law schools that are located in demographically homogenous and less densely populated regions of the country, restricting the diversity of their applicant pools compared to schools in more populous and more racially and ethnically diverse population centers. Manhire (2015) articulates additional drawbacks to the Meyer and McIntosh method; that it (1) only accounts for racial and ethnic diversity and not diversity of experiences, training, or perspective, and (2) can yield unintuitive index scores that vary depending on the number of diversity dimensions used (Manhire, 2015).

Beyond Diversity

Diversity measures aside, there is a clear distinction between diversity and belonging. Since the educational environment of law school has historically been predominantly White (Kanu, 2021), certain interventions and characteristics on the part of a law school may help underrepresented students' sense of belonging in a way that better allows for improved educational outcomes. Research suggests that diverse enrollment and social interactions may improve retention among students of color (Chang, 2001; Herzog, 2022; Oseguera, 2005; Rincón, 2018). Worthwhile interventions may include student engagement opportunities, learning experiences that promote intergroup contact, recruitment of diverse faculty, and formative assessments with a focus on metacognition and growth mindset (Aronson & Bridgeman, 1979; Birdsall et al., 2020; LSSSE, 2020c; Robbins, 2020; Rocconi et al., 2019).

Lott and Ramseyer (2007) find that, for any given law student, the enrollment of additional students from one's ethnic group alone does not improve law school exam scores or course grades. The authors' acknowledgement of segregation in the classroom suggests that deeper social integration and intergroup contact may yield greater educational benefits than simple enrollment counts. In a similar study, however, Herzog (2022) found a positive effect of numerical racial diversity at the classroom level on four-year retention among college students of color, excluding Asian students. These nuances may implicate the concept of a "critical mass" of underrepresented students of color required to achieve some baseline sense of belonging and, by extension, academic success (Grutter, 2003).

the distribution without the uncategorized race observations in the denominator. The results in this example are similar but will be more extreme for instances with greater numbers of uncategorized race observations.

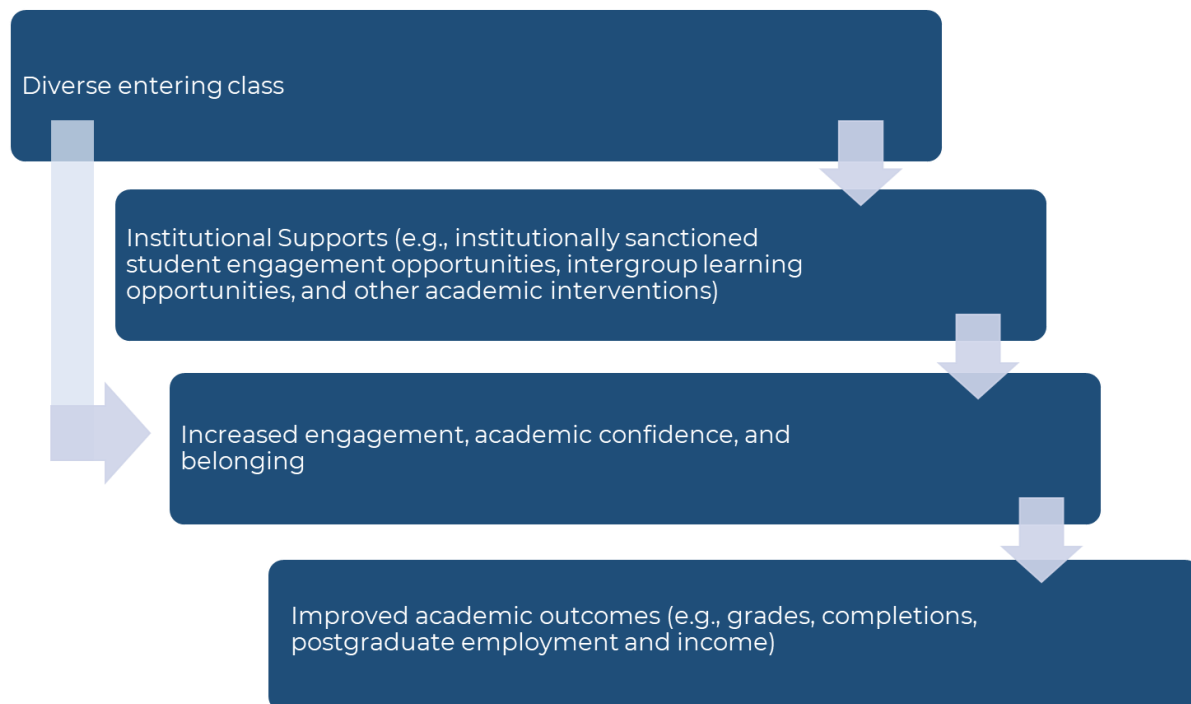
The Educational Benefits of Diversity

The Supreme Court’s emphasis on “the educational benefits that flow from diversity” (*Grutter v. Bollinger*, 2003; *Regents of the University of California v. Bakke*, 1978) in its affirmative action jurisprudence has resulted in some affirmative action advocates prioritizing the effects of these benefits for the (usually predominantly White) student body at large for the sake of legal argument (ASHE, 2015c). Although this colorblind approach is consistent with existing legal doctrine, it neglects to consider the effects of affirmative action—and by extension, institutional diversity—on its originally intended beneficiaries: underrepresented students of color.

Improving institutional diversity and accompanying institutional supports at selective law schools may lead to better educational, personal, and professional outcomes for students of color who enroll at those institutions; specifically, lower attrition rates, higher law school GPAs (LGPAs), higher degree completion rates, and higher lifetime earnings (LSSSE, 2020c; Robbins, 2020; Wolfe & Fletcher, 2013). Outside the law school arena, Aronson and Bridgeman (1979) also observed that students of color demonstrated improved test scores and grades after an extended collaborative and interracial learning experience via the jigsaw method. Exposure to a more diverse group of students may foster greater intergroup socialization (Aronson & Bridgeman, 1979) as well as academic self-confidence and self-concept (Denson & Chang, 2015; Gurin et al., 2002; Pettigrew & Tropp, 2006). As such, improved diversity may reduce prejudice and stereotype threat in ways that improve critical thinking and student mindset across multiple contexts. Facilitating interracial student engagement and learning opportunities at an institutional level may jump-start the educational benefits that campus diversity provides (See Figure 4).

Figure 4

How Institutional Diversity Could Improve Educational Outcomes



Although the literature broadly converges on the conclusion that benefits flow from educational diversity, these benefits can come in many forms and may flow differently to members of different racial and ethnic groups. For example, Wolfe and Fletcher (2014) find that college campus diversity is only significantly associated with 4-year degree completion and post-graduate education among Hispanic students. Additionally, Wolfe and Fletcher found that Hispanic students tended to form less diverse friend groups than other racial groups, even at more diverse institutions. Given the importance of intergroup contact as a vehicle to realize the educational benefits of diversity, this tendency could—in theory—hinder the flow of educational benefits of diversity to Hispanic students.

Institutional Matching

One notable exception to the dearth of literature studying outcomes for beneficiaries of affirmative action is the literature associated with institutional matching: namely, theories of undermatching and academic mismatch. Most prominently within the law school context, Sander (2004) has forwarded claims that affirmative action harms its recipients after matriculation, arguing that these students enter elite institutions unprepared to succeed in a more academically competitive environment. Instead, Sander argues, a student who might otherwise earn admission to an elite institution through affirmative action would be better served at a less selective school that more closely “matches” the student’s entering credentials. At less selective institutions, Sander suggests that these students would achieve higher graduation rates.

However, despite suggestions that beneficiaries of affirmative action perform worse in law school than their peers, a growing body of literature suggests that students perform (e.g., retention rates, grades, and satisfaction) best at the most selective institution or opportunity for which they are qualified (Kang, 2020; Muskens et al., 2019; Ovink et al., 2018). Additionally, more selective institutions typically boast higher graduation rates than less selective schools (Startz, 2022). In their comprehensive analysis of mismatch studies at the law school and undergraduate levels, Kidder and Lempert (2014) summarize critiques of Sander’s mismatch study methodology and find that it is inconsistent with most rigorous empirical studies on the topic.

The Present Study

Our study contributes to the literature on the topic in legal education by investigating how law school campus diversity relates to student outcomes among uPOC. We focus on three outcomes: non-transfer attrition among an institution’s uPOC law students, cumulative Final LGPA among an institution’s uPOC law students, and first-time bar passage among an institution’s uPOC law graduates. We hypothesize that increases in institutional diversity will be associated with...

1. ... decreases in attrition rate among underrepresented law students of color.
2. ... higher final LGPA among underrepresented law students of color.
3. ... higher predicted probability of first-time bar passage among underrepresented law school graduates of color.

For each hypothesis above, we treat the null hypothesis as the outcome in which institutional diversity is not associated with attrition rate, final LGPA, or first-time bar passage, respectively.

Method

Data

Data for these analyses comes from the American Bar Association (ABA), the U.S. Census Bureau, and administrative data from a partnership with 22 law schools.

For our school-level attrition analyses, we use publicly available ABA data for 176 ABA-approved, non-HBCU, and non-Puerto Rican law schools whose reporting structure and accreditation status remained consistent during the study period. This data is published annually, providing insights on admissions, enrollment, graduation, and attrition. As of ABA calendar year 2018 (which describes the 2017–2018 school year for most variables but lags one year—e.g., 2016–2017—when it comes to attrition), non-transfer attrition is reported as counts by race and ethnicity. Schools report academic attrition and non-academic attrition separately. We examine attrition as the sum of both types because a student’s decision to withdraw from law school is the result of several factors including academic performance, whether the student feels a sense of inclusion and belonging at the school, and whether the financial burden is worthwhile.

A likely contributor to higher rates of non-transfer attrition among uPOC law students is the lower amount of financial assistance they receive compared to non-uPOC law students. A 2017 report from the Law School Survey of Student Engagement (LSSSE) found that White and Asian law students were more likely to receive merit-based aid than Black and Hispanic students. Specifically, White law students received merit-based aid at a rate 15 percentage points higher than Hispanic students and 18 percentage points higher than Black students. Since nearly 80% of the total law school scholarships awarded to respondents were merit-based, this represented a significant portion of aid awarded (Taylor & Christensen, 2017).

The financial strain of law school may lead to poorer academic performance, resulting in academic dismissal. For example, students who must work or support dependents through law school may face greater constraints on their time, energy, and resources. Joo et al. (2008) and DeSimone (2008) find some evidence that financial stress and extracurricular employment, respectively, can predict lower undergraduate grades. Additionally, Taylor et al. (2021) find that law students who worked at a non-law-related job or cared for dependents during law school faced lower predicted probabilities of first-time bar passage. We attempt to mitigate the potential confounding effect of financial burden by including as a control variable the average percentage of attendance cost that is not covered by scholarships.

The earliest year in our study period corresponds to that in which the ABA first began reporting attrition data by race and ethnicity, and we exclude the two most recent ABA-reported years due to the COVID-19 pandemic, leaving us with a three-year period. We focus our analysis of attrition data on the ABA 2018–2020 calendar years (which in fact describe attrition for the 2016–2017, 2017–2018, and 2018–2019 school years) to fit our analysis between the onset of this disaggregated race reporting and the onset of the pandemic, which may have had its own effects on attrition and could confound analysis. For this period, 1,997 (3.5%) of the underrepresented students of color attrited from law school in the sample. Regrettably, since attrition is an uncommon occurrence, we are unable to examine each racial group individually and instead aggregate them into a uPOC and non-uPOC group.

Our student-level LGPA and bar passage analyses use administrative data for 5,130 law school graduates who completed their studies in 2018 and 2019 and were provided by an institutional partnership with 22 law schools. As shown in Table A.7, the racial/ethnic composition of our sample of law schools represents the population of all ABA law schools reasonably well; where sample proportions differ from the population proportions with statistical significance, the differences themselves remain small. Altogether, we compile a dataset containing student demographic information, preadmission information, final LGPA,

and first-time bar exam result for the graduating classes of 2018 and 2019, with sample sizes of 5,025 and 4,782 for the LGPA and bar passage models, respectively.

Measures

Campus Diversity and Representation Index

Our principal explanatory variable is a campus diversity and representation index (hereafter referred to as “DRI”), which combines campus racial and ethnic composition and the extent to which that composition matches the corresponding geographic area (the location quotient). The latter is an extension of Franklin’s (2012) approach, which compares diversity measures of interest with those of the broader state. Franklin calculates a location quotient for each racial and ethnic group, dividing the proportional representation of the group’s enrollment over that of the state. If the quotient is less than one, then the representation of that group’s enrollment is lower than their proportion of the state population, and vice versa. According to Chisholm-Burns et al. (2022), the demographics of a surrounding geographic area are an important factor for diversity indices to ensure that any comparisons made are not the result of broader population trends.

First, we calculate the diversity component of the DRI using an adapted version of the Meyer and McIntosh method and publicly available data from the American Bar Association (ABA), which reports racial/ethnic categories as: American Indian or Alaska Native, Asian, Black or African American, Hispanics of any race, Native Hawaiian or Other Pacific Islander, Two or More Races, White, and Race and Ethnicity Unknown.

As discussed above, we consider the treatment of the unknown race category and how, as Smith et al. (2005) argue, some schools may inflate their diversity metrics by redistributing White students to this unknown category. Table A.2 shows School Y’s actual enrollment demographics versus its reported demographics and the effect this discrepancy has on the school’s diversity index. By reporting a disproportionately higher number of White students in the unknown race category, the school’s diversity index score increases from 0.68 to 0.76, or 12%. By removing the unknown race category from the denominator when calculating the proportions of the other racial groups, the problem is largely mitigated, as shown in the last column of Table A.2. Although the diversity index may still be inflated, any further adjustment would require greater visibility into the racial and ethnic composition of the unknown race category.

The two or more races category may also introduce uncertainty as to which students make up the group. However, since (1) we are limited to American Bar Association data, and (2) since students of biracial or multiracial identities may make unique contributions to a diverse campus climate beyond any one of the races with which they identify, we treat multiracial students as a distinct racial group.

We expand on this diversity index by including a multiplier based on Franklin’s (2012) location quotient. Our geographic area of focus is the school’s metropolitan statistical area (MSA). Five schools lie outside of MSAs, requiring us to use their state populations. These schools are: the University of Mississippi, Ohio Northern University, Washington and Lee University, Vermont Law School, and Appalachian School of Law. The location quotient takes on a minimum of 0 and no strict maximum (in our sample, the maximum uPOC location quotient reported across schools and years was 5.8), with values closer to one indicating that the school’s demographic composition more closely resembles that of its geographic location. We obtain the multipliers from these location quotients by examining the distribution of location quotient values and observing that: (1) the range is unbound at the upper end, and (2) most diverse law schools seem to fall in a “sweet-spot” range of location quotient values between one-half standard deviation and one standard deviation from the mean.

Operationally, the multiplier serves to provide the greatest reward to schools whose student body most closely resembles the racial/ethnic composition of its geographic area, providing some reward to schools that are more diverse than their geographic location, and penalizing those that are less diverse than their geographic location.

In summary, we use the following logic to configure our multipliers:

- For “sweet-spot” schools:
 - Subtract 1 from the uPOC location quotient, then add the top value in the range (in our case, 1.29)
- For schools outside the sweet spot and falling within one standard deviation of the mean:
 - Subtract 1 from the uPOC location quotient if it is above the mean, or subtract the uPOC location quotient from 1 if it is below the mean. Then subtract this difference from the top value in the sweet-spot range (in our case, 1.29)
- For schools more than one standard deviation below the mean:
 - Divide 1 by the difference between the uPOC location quotient and the inverse of the maximum location quotient value (in our case, 0.17).
- For schools more than one standard deviation above the mean:
 - Substitute value with highest in sweet-spot range (in our case, 1.29).

The product of our diversity index and this multiplier represents our DRI. All values are scaled 0–1.

We exclude Historically Black Colleges and Universities (HBCUs) from analysis due to the unique composition of their student bodies. Since they serve to afford wider opportunities to populations that have been historically marginalized, the diversity on these campuses is of a different variety than can be found on most law school campuses. Therefore, the role of diversity on student outcomes at HBCUs, although interesting, is not germane to this study.

Selectivity Index

In each analysis, we include a selectivity index, which accounts for the predictive values of a school’s reported LSAT and UGPA quartiles relative to its bar passage performance. We calculate this index by weighting and combining into one variable LSAT score (25th percentile, median, and 75th percentile), undergraduate GPA (25th percentile, median, and 75th percentile), and admission rate according to how much each covaries as a function of bar pass differential.

Analytical approach

uPOC Attrition

Our analysis of uPOC attrition uses panel data (repeated measures for the same observations—that is, schools—over time) and multilevel modeling to account for the nesting of observations within schools. Further, since we are interested in differences in attrition that result from differences in diversity *between* schools, we utilize a partial pooling (random effects) model with year fixed effects. The use of a random effects estimator adjusts the standard errors to reflect this nesting.

To operationalize uPOC attrition, we model the proportion of uPOC law students at a given school who attrit (leave law school either voluntarily or via dismissal). As mentioned above, we are unable to investigate attrition for each racial group due to the small number of instances in each category. We therefore aggregate the component racial groups into one of two groups: uPOC and non-uPOC. We utilize logistic regression, which conditions the log-transformed proportion of uPOC attrition on our DRI and control variables: selectivity index, school type (public or private), and the typical proportion of law school cost of attendance not covered by scholarship aid (also created using data derived from the ABA).

We also model academic attrition and non-academic attrition separately. The results for all types were similar, and therefore we narrow our focus to those obtained from modeling the two types of attrition together. Greater exploration of the disaggregated attrition models can be found in the Appendix.

In addition to excluding the six HBCU law schools, we also remove St. Thomas University (Florida) because it has an average uPOC enrollment greater than 74%, which is several standard deviations above the mean and on par with that of an HBCU law school.

Bar Passage and LGPA

To study final LGPA and bar passage, we use a separate dataset that contains student-level repeated cross-sectional data grouped at the school level. As with uPOC attrition, we utilize a partial pooling approach to explore the variation in bar passage and LGPA that are the result of *between* school variation in our DRI.

We model first-time bar passage using logistic regression, where the outcome is dichotomous; pass or fail. Although bar exam score would be a more useful indicator and allow for a more nuanced examination of bar exam performance, only a handful of jurisdictions report scores to law schools—the vast majority report only pass/fail or report scores either aggregated for the entire schools or anonymously, so that schools cannot match scores to graduates. Additionally, because the format and difficulty of the bar exam can vary by jurisdiction, we use the state of a given law school as a proxy control for jurisdiction in lieu of that data's availability in our dataset.

We model LGPA using linear regression. In both cases, since we focus on how diversity influences bar passage and LGPA for uPOC students, we include student race as an interaction term with the school's DRI value. This interaction enables us to examine the extent to which campus diversity differentially affects the outcomes of particular racial/ethnic groups. We utilize an interaction term rather than random slopes for race because within some schools and years there are instances where some racial groups are unrepresented or are represented by an exceedingly small number of students. Not surprisingly, this results in singularity issues in the estimating procedure.

For these analyses, we examine racial groups as: "Asian or Asian American", "Black or African American", "Hispanics of any race", "Remaining", and "White". The groups "Native Hawaiian or Pacific Islander", "Multiracial", and "American Indian or Alaska Native" are collapsed into "Remaining" due to sample size restrictions.

We model the two outcomes, bar passage and final LGPA, separately. In each model, we include a random intercept for each school and a fixed effect for graduation year. In addition, we include students' ages to account for potential confounding effects.²

² For each of these two models, we also constructed secondary models utilizing perceived diversity, as measured on the LSSSE survey, as the predictor variable. Perceived diversity is constructed using multiple items from the LSSSE survey using factor analysis. The results from these and a few additional analyses will be made available in a separate online addendum. We do not include those

Results

Among students of color, greater campus diversity is associated with decreases in non-transfer attrition.

In a model without an interaction between DRI and selectivity index, the effect of DRI on non-transfer attrition is negative and statistically significant ($p < 0.05$)—holding constant institutional selectivity, school type, and the typical proportion of law school cost of attendance not covered by scholarship aid. (See Table A.3). The average effect size is small; an increase in DRI from the minimum sample observation to the maximum is associated with a decrease in predicted uPOC attrition rate of approximately one-half percentage point (at the average school, this is equal to approximately 1 uPOC student).

This overall effect, however, masks the small moderating effect of institutional selectivity on DRI. Including an interaction term for school selectivity and DRI reveals that the magnitude of the effect increases as institutional selectivity decreases. At a school with below average selectivity, an increase in DRI from the minimum to the maximum observed in the sample is associated with a slightly steeper drop in predicted uPOC attrition rate: about 3 percentage points, from 9% to 6%.

This finding suggests that racial diversity on campus may indeed contribute to the factors that motivate uPOC law student retention. Such factors could include both positive academic outcomes and feelings of belonging and inclusion.

Greater campus diversity is associated with slightly higher cumulative LGPA across racial groups.

Holding age, graduation year, institutional selectivity, and race constant, we find that greater student diversity (as measured by the DRI) is positively associated with final, cumulative LGPA. The effect is small and not statistically significant. For the average student, an increase in DRI from the first quartile by one standard deviation is associated with an improvement in final LGPA of 0.02 grade points (e.g., from 3.13 to 3.15).

Notwithstanding, as shown in Figure 6, there is an interesting interaction between DRI, institutional selectivity, and student race/ethnicity. For purposes of discussion, we interpret the 25th percentile of selectivity in our sample as “less selective”, the median as “selective” and the 75th percentile as “more selective”. At less selective law schools, greater DRI is positively associated with higher LGPAs for Black and Hispanic students but negligibly so for Asian and White students; at selective law schools, greater DRI is positively associated with higher LGPAs for all racial/ethnic groups; and at more selective law schools, DRI is positively associated with higher LGPAs for all but Hispanic students (for whom the relationship is negligible). Most notable of the many relationships is that the benefit of greater DRI is strongest for Asian students at more selective schools: An increase in DRI from the minimum to the maximum is associated with a 0.11-point improvement in LGPA among Asian students at more selective institutions.

results here due to space limitations and because the analyses rely on a smaller subsample of those graduates that completed the LSSSE survey. This reduces the number of observations from 4,500 to 1,600, which in turn limits the number of variables that can be included to account for potential confounding variables. Notwithstanding, we do not find a meaningful relationship between perceived diversity and either outcome.

Greater campus diversity is associated with higher predicted probabilities of bar passage among underrepresented law students of color.

As shown in Figure 7, there are modest positive relationships between DRI and the predicted probability of first-time bar passage among all but White law students, holding school state (a proxy for bar exam jurisdiction), student age, graduation year, and institutional selectivity constant. Although a model without such an interaction indicates virtually no effect on the predicted probability of first-time bar passage, introducing an interaction between race and DRI reveals an important intertwining of the extent to which these two factors influence each other's effect on bar passage. The inclusion of the interaction term also improves model fit.

For the typical White student, an increase in DRI from the first quartile by one standard deviation is associated with a decrease in the predicted probability of first-time bar passage of 2 percentage points, from 83% to 81%. Among all other racial groups in the model, including Asian students, however, the same increase in DRI is associated with an improvement in predicted probability of bar passage ranging from 2 to 4 percentage points.

Institutional selectivity is associated with lower predicted uPOC attrition—regardless of race/ethnicity—and with modestly higher predicted LGPA and predicted probability of first-time bar passage among uPOC students.

Although our initial hypotheses focus on campus diversity rather than institutional selectivity, the strong association of institutional selectivity with favorable law school outcomes emerges as a consistent theme in our DRI models. In the models predicting attrition, final LGPA, and first-time bar passage, the positive coefficient (or negative, in the case of attrition) for selectivity rivals or exceeds that of DRI in magnitude and statistical significance. This suggests that students of all racial and ethnic backgrounds perform better at more selective law schools when it comes to attrition, final LGPA, and bar passage.

Hypotheses

Overall, we can tentatively reject our first null hypothesis that campus diversity is not associated with uPOC attrition rates. We find greater DRI is associated with a statistically and practically significant decline in the attrition of uPOC law students. We are unable to statistically reject our second (campus diversity is not associated with final LGPA of uPOC students) and third hypotheses (campus diversity is not associated with the chances of passing the bar exam for uPOC students). Although our results support some modest benefit to greater campus diversity on LGPA and bar passage among uPOC students, these effects are relatively small and do not achieve statistical significance ($p < 0.05$). Nonetheless, it is important to note that the benefits we report are consistent with the extant literature on the topic and taken collectively, our results lend support to longstanding efforts to diversify law school campuses given the potential benefit to underrepresented students of color.

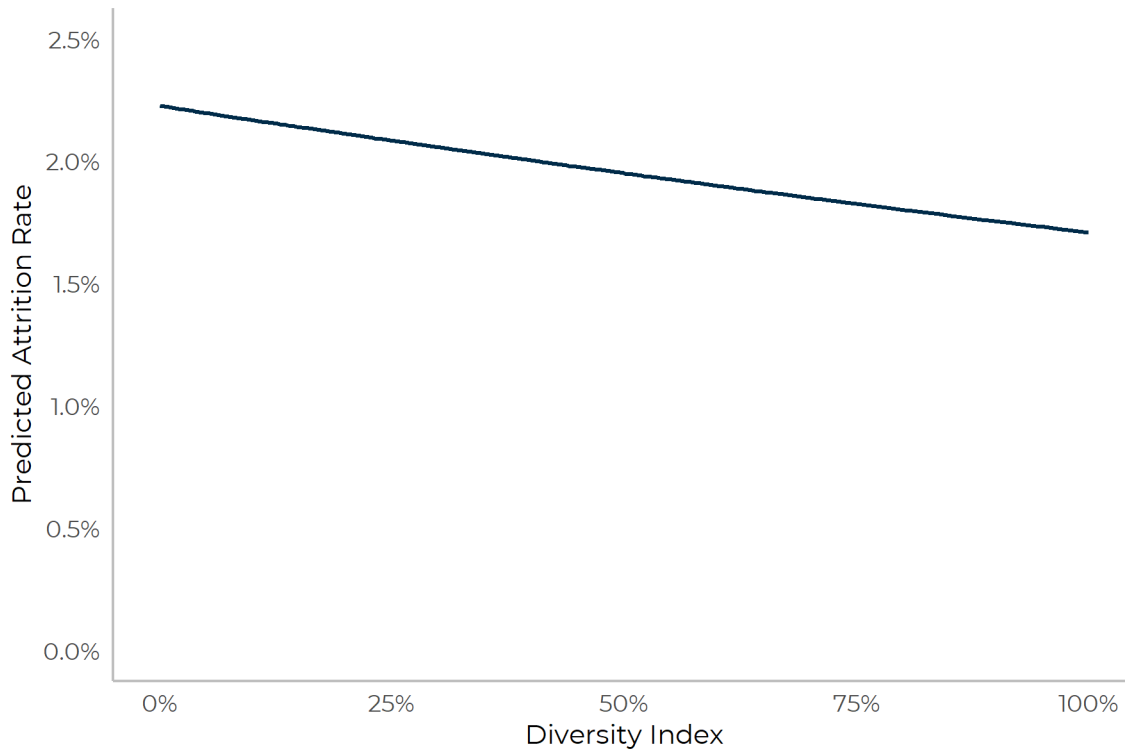
Discussion

Attrition

Higher law school DRI scores are associated with lower predicted non-transfer attrition rates among underrepresented students of color across institutional selectivity levels. This finding may validate the importance of “critical mass” raised in *Grutter* and evokes issues of inclusion and belonging described in the literature, suggesting that uPOC may feel more supported in a more representative educational environment. (Although institutional commitments to diversity and inclusion should not stop at mere enrollment numbers.)

Figure 5

Overall uPOC Attrition Declines as Diversity Index Increases

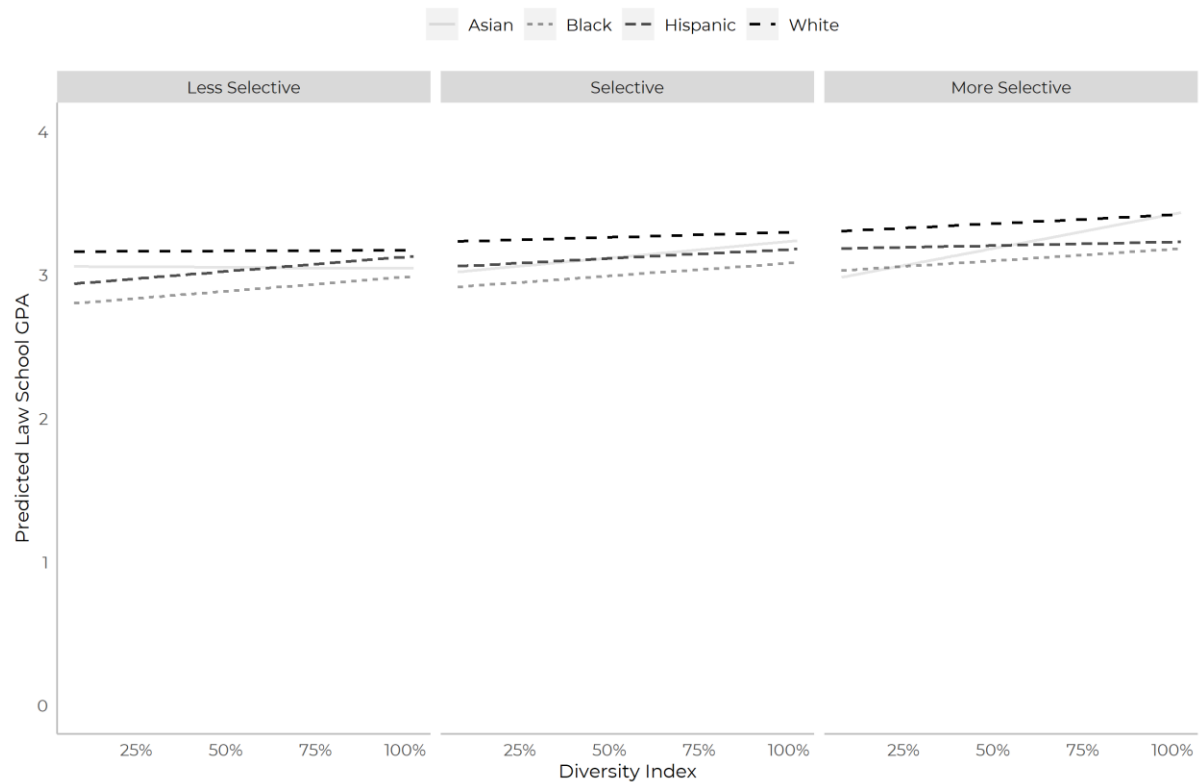


Furthermore, this result might constitute evidence contrary to the theory of “mismatching”—the argument that affirmative action’s beneficiaries perform consistently worse at institutions for which they are “underqualified” (Sander, 2004). To the contrary, given equal opportunities and resources, underrepresented students of color appear well-positioned to succeed regardless of institutional selectivity.

Law School GPA

Campus DRI has a slight positive effect on LGPA, but the effect is not statistically significant. Introducing an interaction term for race reveals stronger improvements to final LGPA resulting from campus diversity.

Figure 6
The Effect of Student Diversity on Cumulative LGPA

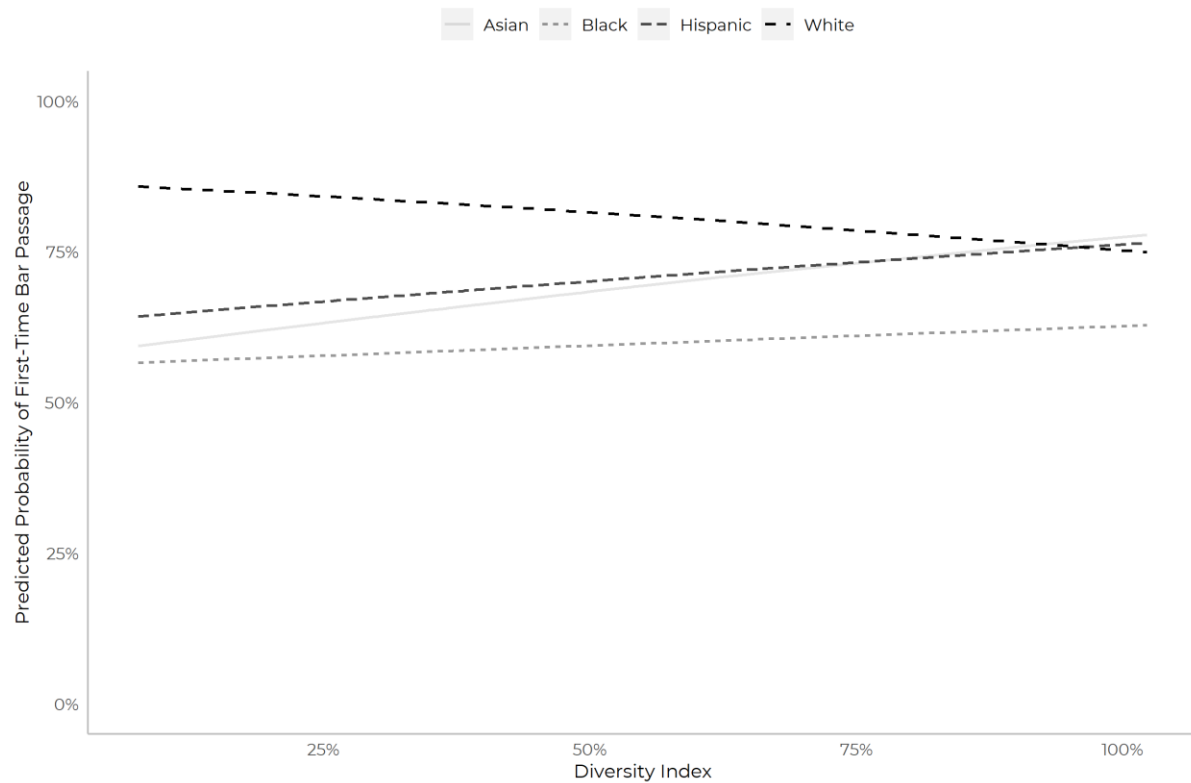


In combination with the findings presented in the extant literature, the generally positive effect of campus DRI on LGPA across racial groups and selectivity levels suggests that any student, regardless of race/ethnicity, who is admitted to a selective or more selective law school stands to benefit from its academic rigor and related extracurricular and postgraduate opportunities.

First-Time Bar Passage

Improvements in campus DRI also have differential impacts on students' predicted probability of bar passage. Among uPOC students, the odds of bar passage increase as campus diversity increases; however, among White students the opposite occurs.

Figure 7
The Effect of Diversity on First-Time Bar Passage



The story behind this finding among White students is difficult to disentangle and may require further study. It is possible that the time between law school graduation and bar exam administration may introduce other potential confounding factors.

Nonetheless, the generally positive relationships between institutional diversity and predicted LGPA and retention, in addition to the consistent strength of selectivity as a predictor of positive law school outcomes, might tentatively support the theory of “undermatching”—that is, students who enroll at the most selective institutions for which they may qualify fare better in scholarship aid, retention and academic success than those who undermatch, and the effect may be more pronounced among low-income and uPOC students (Gansemer-Topf et al., 2017, Kang, 2020; Muskens et al., 2019; Ovink et al., 2018). That underrepresented students of color in our sample experience statistically significantly better outcomes associated with selectivity across the range of analyses supports the idea that, with the right support, a more rigorous academic environment benefits students who have been historically excluded from these educational settings. Although only the relationship between DRI and uPOC attrition was statistically significant, the positive trend of the relationships between DRI and LGPA and bar passage suggest that institutional diversity also plays a role in the outcomes of uPOC students. Overall, these findings should encourage more selective law schools to continue admitting racially and ethnically diverse applicants, including via affirmative action, to the extent possible.

Recommendations

This study adds to the wealth of empirical research demonstrating “the educational benefits that flow from a diverse student body” (*Grutter*, 2003, p. 343). Although the era of affirmative action may soon end, our findings suggest that institutions of higher learning should continue to pursue institutional diversity with whatever tools remain at their disposal to maintain student diversity and its fruit.

Available literature suggests that race-neutral alternatives to affirmative action seldom yield the same student body diversity as race-conscious admissions (ASHE, 2015b). However, some studies offer a few suggestions for race-neutral alternatives to affirmative action, even if such approaches are less efficient or straightforward routes to achieving student diversity. These strategies include reducing consideration of “exceptional” extracurricular activities in admissions (Jayakumar & Page, 2021), curbing legacy admissions (Arcidiacono et al., 2022), increasing consideration of other measures of disadvantage and overachievement (Gaertner & Hart, 2013, 2015), implementing percent plans, and considering wealth and other socioeconomic proxies for race (ASHE, 2015b). This list should be considered non-exhaustive, and admissions officers in selective schools and programs should aim to build on these approaches. If affirmative action ends, law schools will have no choice but to innovate in this regard.

Conclusion

This study establishes two broad conclusions regarding the educational benefits associated with student body diversity in law school. In response to Justice Thomas’ question from the Introduction above: Greater campus diversity has tangible academic benefits in law school—particularly among uPOC law students—fostering higher student retention and, to a lesser extent, grades and odds of first-time bar passage. Second, our review of the literature and some of our own findings indicate that students of most racial and ethnic backgrounds stand to benefit from institutional diversity in some way or another, even if those benefits are intangible.

As we anticipate the Supreme Court decisions for *Students for Fair Admissions v. President and Fellows of Harvard College* and *Students for Fair Admissions v. University of North Carolina* and anticipate a possible future where race-conscious admissions are no longer considered constitutional, these results reinforce diversity as a compelling interest not only to further racial and ethnic representation in law schools and the legal profession, but also to further academic and student success among law students—particularly law students of color. Despite the progress we have made over the last 20 years post-*Grutter*, diversity, equity, inclusion and belonging in higher education remain critical and unrealized objectives for institutions of higher learning, including law schools. Our ability to continue advancing these goals rests on our preparation for the time in which racial preferences are no longer allowed and our collective efforts to create a world in which such preferences are no longer needed.

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Appendix

Table A.1

Effects of Redistributing “Other” (Uncategorized) Racial Identities

	Unadjusted Counts and Proportions		Method 1: Redistributing “Other”		Method 2: Redistributing “Other”	
	Count	Proportion	Count	Proportion	Count	Proportion
White	40	0.4	45.2	0.45	46.0	0.46
Asian	20	0.2	22.6	0.23	23.0	0.23
Black	15	0.15	17.0	0.17	17.2	0.17
Hispanic	12	0.12	13.6	0.14	13.8	0.14
Other	13	0.13	-	-	-	-
Total	100	-	98.4	-	100	-
Diversity Index Score	-	0.75	-	0.7	-	0.69

Note: Method 1 refers to using the proportional distribution of racial/ethnic categories from Column 3, which includes “Other” races in the denominator. Method 2 refers to using the proportional distribution of racial/ethnic categories that does not include “Other” races in the denominator. (For example, White students comprise 40 of the 87 students for whom we know racial/ethnic identity, or 46%)

Table A.2
Adjusting for Unknown Race

	School Y Actual		School Y Reported		School Y Adjusted ¹	
	Count	Proportion	Count	Proportion	Count	Proportion
White	50	0.50	40	0.40	40	0.46
Asian	20	0.20	18	0.18	18	0.21
Black	10	0.10	9	0.09	9	0.10
Hispanic	10	0.10	10	0.10	10	0.12
Two or More	10	0.10	10	0.10	10	0.12
Race and Ethnicity Unknown	0	0.0	13	0.13	0	0
Total	100	-	100	-	87	-
Diversity Index Score	-	0.68	-	0.76	-	0.71

Note: ¹ Adjusted means that the observations from the “Race and Ethnicity Unknown” category are removed from the total observations.

Table A.3
The Effects of Diversity Index on Non-Transfer Attrition

	No Controls	No Interaction	Interaction
Diversity Index	0.02 [-0.31; 0.35]	-0.27 * [-0.38; -0.16]	-0.03 [-0.13; 0.08]
Selectivity (log)		-1.54 * [-1.63; -1.45]	-1.64 * [-1.74; -1.55]
Public School		-0.11 * [-0.21; -0.01]	-0.10 * [-0.20; -0.00]
Avg. % of Attendance Cost Not Covered by Scholarships		0.34 * [0.22; 0.45]	0.29 * [0.18; 0.41]
2017	-0.02 [-0.14; 0.10]	0.05 [-0.03; 0.13]	0.05 [-0.03; 0.13]
2018	-0.04 [-0.16; 0.08]	0.05 [-0.03; 0.13]	0.05 [-0.03; 0.13]
Diversity Index given Selectivity (log)			0.23 * [0.12; 0.33]
AIC	1004.64	848.71	850.47
BIC	1026.00	882.39	888.36
Log Likelihood	-497.32	-416.35	-416.23
Number of observations	530	498	498
Number of groups: schools	183	176	176
School (Intercept)	1.04	0.41	0.41

Table A.4

The Effect of Diversity Index on Academic and Other Attrition Among Underrepresented Law Students of Color

	Outcome Variable:					
	Academic Attrition			Other Attrition		
	No Controls	No Interaction	Interaction	No Controls	No Interaction	Interaction
Diversity Index	0.64 [-0.31; 1.59]	-0.09 [-0.92; 0.73]	-0.99 [-3.34; 1.37]	0.31 [-0.38; 1.00]	-0.09 [-0.76; 0.58]	-1.55 [-3.31; 0.22]
Selectivity (log)		-2.39 * [-2.86; - 1.91]	-2.01 * [-3.05; - 0.97]		-0.88 * [-1.23; - 0.53]	-0.19 [-1.04; 0.65]
Public School		0.04 [-0.37; 0.45]	0.04 [-0.37; 0.44]		0.03 [-0.28; 0.34]	0.03 [-0.27; 0.34]
Avg. % of Attendance Cost Not Covered by Scholarship Aid		0.04 [-1.24; 1.32]	0.06 [-1.22; 1.34]		0.11 [-0.99; 1.20]	0.14 [-0.95; 1.22]
2018	-0.08 [-0.22; 0.05]	-0.03 [-0.19; 0.13]	-0.03 [-0.18; 0.13]	0.12 [-0.06; 0.31]	0.13 [-0.07; 0.33]	0.13 [-0.07; 0.33]
Diversity Index given Selectivity (log)			-0.86 [-2.97; 1.26]			-1.50 [-3.17; 0.17]
AIC	652.84	517.31	518.68	508.12	458.07	456.98
BIC	668.32	543.99	549.16	523.60	484.75	487.47
Log Likelihood	-322.42	-251.65	-251.34	-250.06	-222.04	-220.49
Number of observations	354	334	334	354	334	334
Number of groups: schools	178	170	170	178	170	170
School (Intercept)	1.99	0.79	0.78	0.38	0.22	0.21

Table A.5
The Effects of Institutional Diversity on LGPA

	No Controls or Pooling	No Controls	With Controls	With Interaction
Diversity Index	0.23 * [0.18; 0.28]	0.05 [-0.12; 0.22]	0.10 [-0.06; 0.26]	-0.26 [-0.99; 0.48]
Race: Black			-0.12 * [-0.16; -0.07]	-0.44 * [-0.82; -0.07]
Race: Hispanic			0.01 [-0.03; 0.05]	-0.32 [-0.75; 0.11]
Race: Remaining			-0.01 [-0.06; 0.05]	-0.24 [-0.68; 0.20]
Race: White			0.16 * [0.12; 0.19]	-0.02 [-0.34; 0.30]
Age			0.32 * [0.08; 0.57]	0.29 * [0.05; 0.54]
Selectivity Index			0.35 * [0.17; 0.54]	-0.22 [-0.91; 0.46]
Grad Year: 2019			0.00 [-0.02; 0.02]	0.00 [-0.02; 0.02]
Diversity Index given Race: Black				0.47 [-0.34; 1.29]
Diversity Index given Race: Hispanic				0.54 [-0.35; 1.42]
Diversity Index given Race: Remaining				0.53 [-0.47; 1.53]
Diversity Index given Race: White				0.21 [-0.44; 0.87]
Selectivity given Race: Black				0.69 [-0.04; 1.41]
Selectivity given Race: Hispanic				0.74 [-0.08; 1.55]
Selectivity given Race: Remaining				0.45 [-0.42; 1.32]
Selectivity given Race: White				0.49 [-0.10; 1.09]
Selectivity given Diversity and Race: Black				-1.05 [-2.69; 0.58]
Selectivity given Diversity and Race: Hispanic				-1.28 [-3.04; 0.47]
Selectivity given Diversity and Race: Remaining				-0.95 [-2.93; 1.03]

Selectivity given Diversity and Race:
White

-0.75

[-2.04; 0.53]

R ²	0.02			
Adj. R ²	0.02			
Number of observations	5025	5025	4730	4730
AIC		3504.64	3006.93	3033.80
BIC		3530.73	3084.47	3195.34
Log Likelihood		-1748.32	-1491.47	-1491.90
Number of groups: schools		21	21	21
Var: schools (Intercept)		0.02	0.01	0.01
Var: Residual		0.12	0.11	0.11

Note: The reference group for “Race” is “Asian”.

Table A.6
The Effects of Institutional Diversity on Bar Passage

	No Controls	With Controls	With Interaction
Diversity Index	-1.79 *	-0.05	0.93
	[-2.91; -0.66]	[-0.67; 0.57]	[-0.07; 1.92]
Race: Black		-0.50 *	-0.06
		[-0.82; -0.18]	[-0.92; 0.79]
Race: Hispanic		0.02	0.23
		[-0.28; 0.32]	[-0.54; 1.00]
Race: Remaining		-0.29	-0.01
		[-0.72; 0.13]	[-1.09; 1.07]
Race: White		0.63 *	1.55 *
		[0.38; 0.87]	[0.93; 2.17]
Age		-2.52 *	-2.66 *
		[-4.37; -0.68]	[-4.52; -0.80]
Selectivity Index		2.06 *	2.07 *
		[1.19; 2.93]	[1.20; 2.94]
Grad Year: 2019		0.19 *	0.20 *
		[0.05; 0.34]	[0.05; 0.34]
State A		0.17	0.17
		[-0.08; 0.42]	[-0.08; 0.42]
State B		0.45	0.42
		[-0.02; 0.91]	[-0.05; 0.89]
State C		0.44 *	0.42 *
		[0.05; 0.83]	[0.03; 0.81]
State D		0.08	0.11
		[-0.41; 0.58]	[-0.38; 0.61]
State E		0.27	0.18
		[-0.47; 1.01]	[-0.57; 0.92]
State F		1.71 *	1.67 *
		[1.12; 2.29]	[1.08; 2.25]
State G		1.29 *	1.06 *
		[0.55; 2.03]	[0.31; 1.82]
State H		0.38	0.34
		[-0.07; 0.83]	[-0.11; 0.79]
State I		1.29 *	1.21 *
		[0.61; 1.97]	[0.53; 1.89]
State J		0.94 *	0.92 *
		[0.60; 1.28]	[0.58; 1.26]
State K		1.52 *	1.45 *
		[0.92; 2.11]	[0.85; 2.05]
State L		0.57 *	0.50 *
		[0.13; 1.00]	[0.06; 0.94]
State M		0.68 *	0.59 *
		[0.20; 1.16]	[0.11; 1.07]
State N		0.19	0.06

	No Controls	With Controls	With Interaction
State O		[-0.27; 0.64] 0.50	[-0.40; 0.52] 0.31
Diversity Index given Race: Black		[-0.22; 1.23]	[-0.43; 1.05] -0.65
Diversity Index given Race: Hispanic			[-2.18; 0.88] -0.30
Diversity Index given Race: Remaining			[-1.57; 0.96] -0.23
Diversity Index given Race: White			[-2.39; 1.92] -1.67 *
			[-2.68; -0.67]
AIC	5133.11	4642.33	4633.92
Log Likelihood	-2563.55	-2295.16	-2286.96
Number of observations	4728	4461	4461
Number of groups: schools	21	21	21
Var: schools (Intercept)	0.51	0.00	0.00

Note: The reference group for “Race” is “Asian”.

Table A.7
Sample Representation

<u>Race</u>	Full LSSSE Sample		All ABA Law Schools	
	Count	Percentage	Count	Percentage
Asian	412	8.0*	4388	6.4
Black	440	8.6	5733	8.4
Hispanic	512	10.0*	8480	12.3
Multiracial	20	0.4*	2043	3.0
White	3296	64.2*	42205	61.4
Remaining	154	3.0*	2833	4.1
Unknown	296	5.8*	3013	4.4
<u>Gender</u>				
Male	2320	45.2	33180	48.0
Female	2810	54.8	35970	52.0
<u>Admission Variables</u>		Mean		Mean
LSAT	--	154*	--	155
UGPA	--	3.28*	--	3.36

Note: ABA race counts and proportions correspond to degrees awarded to the classes of 2018 and 2019. ABA gender values correspond to the 3L classes in those years. ABA admissions values correspond to the entering classes three years prior. The “remaining” group includes American Indian and Alaska Natives and Native Hawaiian and Pacific Islanders to protect anonymity due to low counts. In our models, “remaining” also includes multiracial students, who are sufficiently numerous to disaggregate for this table.

*Indicates a statistically significant difference between sample and population proportions.