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## The Educational Pipeline to Law School—Too Broken and Too Narrow to Provide Diversity

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# The Educational Pipeline to Law School—Too Broken and Too Narrow to Provide Diversity

SARAH E. REDFIELD\*

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### *America's Perfect Storm*

There is little chance that economic opportunities will improve among key segments of our population if we follow our current path. To date, educational reform has not been sufficient to solve the problem. National test results show no evidence of improvement over the last 20 years. Scores are flat and achievement gaps persist. . . .

We must raise our learning levels, increase our reading and math skills and narrow the existing achievement gaps, or these forces will turn the American Dream into an American Tragedy—putting our nation at risk.<sup>1</sup>

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\* A member of the Maine bar, Sarah Redfield is Professor of Law at Franklin Pierce Law Center in Concord, NH, which supported this work, as did the University of the Pacific McGeorge School of Law where she was Visiting University Professor & Professor of Law from 2004 to 2008. This article is based in large part on a longer work by the author entitled *DIVERSITY REALIZED: PUTTING THE WALK WITH THE TALK FOR DIVERSITY IN THE LEGAL PROFESSION* (2010). This article uses some of the book's material with the gracious permission of publisher Anton Van de Plas. Professor Redfield thanks her students at both schools, without whom the work would be impossible: Cherie Ackerman, Kristen Blanchette, Mitchell Bragg, Beth Bulgeron, Kristen Hicks, Ryan Kahler, Melissa Keyser, Gavin Mody, Luke Nelson, Anna Schwager, Emelia Smallidge, Paul Smith, Evan Szarenski, Hanna Wason, and Josh Weiss.

1. Educational Testing Service, Report Overview: *America's Perfect Storm*, <http://www.ets.org/stormreport> (last visited Mar. 26, 2010); see also IRWIN KIRSCH ET AL., *EDUC. TESTING SERV., AMERICA'S PERFECT STORM: THREE*

*Presidential Advisory Council on Diversity in the Profession*

Beyond the moralistic responsibility, it also makes good business sense for the legal profession to invest time and resources in the diversity pipeline. Law firms, corporate legal departments, government, and the judiciary cannot recruit attorneys of color who do not exist. Diversity efforts will encounter inherent obstacles as long as there remain too few people of color who decide to enter the profession in the first place. Forward-thinking legal employers have already accepted this reality, and label their diversity pipeline “donations” as recruitment expenses . . . .

. . . We are . . . an action-oriented profession of problem-solvers and deal-makers. Let us make this project the most important case on our calendar, the biggest deal pending. The clock is ticking, and we have no time to waste. We can and must join together to make diversity in our profession a reality, rather than an unfulfilled promise.<sup>2</sup>

*Calvin Sims, What Went Wrong: Why Programs Failed*

Brown University associate provost James Wyche puts it this way: The problem with American education is everything is a 2-year, 3-year, 5-year experiment.<sup>3</sup>

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FORCES CHANGING OUR NATION'S FUTURE (2007), available at [http://www.ets.org/Media/Education\\_Topics/pdf/AmericasPerfectStorm.pdf](http://www.ets.org/Media/Education_Topics/pdf/AmericasPerfectStorm.pdf). Other researchers have put it even more critically. Researchers at McKinsey & Company stated: “These educational gaps impose on the United States the economic equivalent of a permanent national recession.” MCKINSEY & CO., THE ECONOMIC IMPACT OF THE ACHIEVEMENT GAP IN AMERICA'S SCHOOLS 5 (2009), available at [http://www.dropoutprevention.org/downloads/docs/webcast/20090512/ACHIEVEMENT\\_GAP\\_REPORT.pdf](http://www.dropoutprevention.org/downloads/docs/webcast/20090512/ACHIEVEMENT_GAP_REPORT.pdf).

2. PRESIDENTIAL ADVISORY COUNCIL ON DIVERSITY IN THE PROFESSION, AM. BAR ASS'N, THE CRITICAL NEED TO FURTHER DIVERSIFY THE LEGAL ACADEMY & THE LEGAL PROFESSION 12 (2005), available at <http://www.abanet.org/op/pipelineconf/acdreport.pdf> [hereinafter THE CRITICAL NEED].

3. Calvin Sims, *What Went Wrong: Why Programs Failed*, 258 SCIENCE 1185, 1185–87 (1992).

## I. INTRODUCTION

We are indeed, as the opening quotation from the American Bar Association (ABA) says, an “action-oriented profession of problem-solvers.”<sup>4</sup> We pride ourselves on being a profession of leaders, and our law schools provide the pathway that a very significant proportion of our national leaders follow to prominence. Still, despite the potential for action and leadership, at almost 90 percent white,<sup>5</sup> the legal profession and the law schools that support it are in crisis in terms of achieving meaningful diversity in their ranks.<sup>6</sup> The legal profession lags behind its sister professions. For example, the U.S. Census reports that 73.6 percent of physicians and surgeons, 77.8 percent of accountants and auditors, and 81.6 percent of civil engineers are white.<sup>7</sup>

The legal profession remains markedly out of sync with the changing demographics of the country, where the population is projected to be over 50 percent minority by 2050.<sup>8</sup> Against this trend, law school enrollment hovers around 20 percent minority, including over 7 percent Asian students.<sup>9</sup> Enrollment of some minority groups shows a decline rather than improvement.<sup>10</sup> These numbers will remain static or continue to decline if the profession does not pay far

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4. THE CRITICAL NEED, *supra* note 2, at 12.

5. U.S. Census Bureau, Census 2000 EEO Data Tool, <http://www.census.gov/eo2000/index.html> [hereinafter EEO Data Tool] (select “Employment by Census Occupation Codes”; select “U.S. Total”; select “Lawyers (210)”).

6. ELIZABETH CHAMBLISS, MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION 2, 8, 10 tbl.5 (2004).

7. EEO Data Tool, *supra* note 5.

8. *U.S. Minorities Will Be the Majority by 2042, Census Bureau Says*, AMERICA.GOV, Aug. 15, 2008, <http://www.america.gov/st/diversity-english/2008/August/20080815140005xlrennef0.1078106.html> [hereinafter AMERICA.GOV] (“By 2042, minorities, collectively, are projected to make up more than 50 percent of the U.S. population . . .”).

9. *See* OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 870–74 (Law Sch. Admission Council & Am. Bar Ass’n eds., 2009) [hereinafter OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 2010].

10. *See id.* Figure 3. Trends in African American Enrollment, Figure 4. Trends in AIAN Enrollment, and Figure 5. Trends in Hispanic Enrollment demonstrate a trend of declining minority enrollment.

more serious attention to the current leaks and gaps along the educational pipeline,<sup>11</sup> far before students seek admission at the law school gates.

	Population%	Applicants%	Admits%
White	65.6	63.5	69.9
Black	12.2	11.3	7.2
Hispanic	15.4	9.3	7.9
ASPI	4.5	8.6	8.6
AIAN	0.8	0.9	0.8

**Figure 1. Law School Applicants and Admitted Students (Admits) Compared to Population in 2008<sup>12</sup>**

The predictable student numbers for the first-grade classes of 2008, 2009, and 2010 do not support anything near a sufficiently broad pool of potential law school candidates to approach parity<sup>13</sup> with the changing national demographics. Projecting population

11. "Pipeline" is used in this context to depict the student pathway for journeying from preschool to the profession, sometimes referred to as the "P20 pipeline."

12. Law School Admission Council, Volume Summary Admitted Applicants by Ethnic & Gender Group, <http://lsacnet.lsac.org/data/EthGenAdmits.pdf> (last visited Mar. 27, 2010) [hereinafter Volume Summary Admitted Applicants]; Law School Admission Council, Volume Summary Applicants by Ethnic & Gender Group, <http://lsacnet.lsac.org/data/EthGenApps.pdf> (last visited Mar. 27, 2010) [hereinafter Volume Summary Applicants]; U.S. Census Bureau, American Factfinder, [http://factfinder.census.gov/servlet/DTSelectedDatasetPageServlet?\\_lang=en&\\_ts=287500686312](http://factfinder.census.gov/servlet/DTSelectedDatasetPageServlet?_lang=en&_ts=287500686312) (click "2008 Population Estimates"; click "Next"; click "Add"; click "T4-2008. Hispanic or Latino By Race"; click "Add"; click "Show Result") (last visited Mar. 27, 2010) [hereinafter American Factfinder]; *see also* OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS (Wendy Margolis et al. eds., 2007) [hereinafter OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 2008] (providing detailed data for every ABA-accredited law school); Richard Gambitta, Dir., Inst. for Law and Pub. Affairs, Univ. of Tex. at San Antonio, Presentation at the Rocky Mountain Legal Diversity Summit (Sept. 20, 2007) (on file with author) (reviewing population implications).

13. While the Supreme Court has refused to recognize proportionality as a goal in diversity, the idea of parity remains; for purposes of the analysis in this article, either term is used, not as a numerical quota, but as a benchmark for comparison to the population and the changing dynamics of the population. *See* Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 728–29 (2007) (discussing proportionality as a goal in diversity).

changes to 2030,<sup>14</sup> and assuming that lawyers remain the same percentage of the population they were in the last census (i.e., 0.3 percent<sup>15</sup>) in 2030, some 100,000 additional black attorneys and approximately 230,000 additional Hispanic attorneys would need to join the ranks of the profession to approach parity with the general population.<sup>16</sup> In an overall lawyer population estimated at about 1.1 million, these numbers would involve increasing current African American admission rates from 3,980 to approximately 5,800 and

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14. The year 2030 is the closest census tabulation to 2028, which is the year Justice O'Connor's twenty-five year window closes for affirmative action. See *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003). See generally U.S. Census Bureau, National Population Projections, <http://www.census.gov/population/www/projections/summarytables.html> (last visited Mar. 27, 2010) (providing population projection tables); U.S. Census Bureau, Projections of the Population by Race and Hispanic Origin for the United States: 2008 to 2050, [http://www.census.gov/population/www/projections/tablesandcharts/table\\_3.xls](http://www.census.gov/population/www/projections/tablesandcharts/table_3.xls) (last visited Mar. 27, 2010) (listing projected population by race). The U.S. Census Bureau estimated data for 2008 suggest that the numbers for the Black and Hispanic populations have exceeded the projections for 2010. See American Factfinder, *supra* note 12 (listing 2008 population statistics by race).

15. U.S. CENSUS BUREAU, U.S. DEP'T OF COMMERCE, PROFILES OF GENERAL DEMOGRAPHIC CHARACTERISTICS: 2000 CENSUS OF POPULATION AND HOUSING UNITED STATES 1 (2001), available at <http://www.census.gov/prod/cen2000/dp1/2kh00.pdf> (providing total population at the time of the 2000 Census); EEO Data Tool, *supra* note 5 (select "Employment by Census Occupation Codes"; select "U.S. Total"; select "Lawyers (210)") (providing law practice numbers).

16. The numbers about the limited pool that form the basis of this conclusion *are derived and are only illustrative estimates at best*, taking data from a variety of government sources and other reports, which themselves often use different categories and often reflect different years. Given the kinds of assumptions and variations in sources needed to even approximate a number for needed expansion of the pipeline, the numbers here *do not and are not intended to* provide a statistical analysis. Rather, they show a general picture of the dimensions of the diversity issues and then shine a bright light on the end result of flaws and leaks in the pipeline. Even with such a series of assumptions and broad-brush approach, and even at a very rough estimate, the numbers show that diversity is indeed unforeseeable, if not impossible. See American Bar Association Leadership, Office of Diversity Initiatives, <http://www.abanet.org/leadership/diversity.html> (last visited Mar. 27, 2010) [hereinafter Office of Diversity Initiatives] (describing parity as unforeseeable). See generally SARAH REDFIELD, DIVERSITY REALIZED: PUTTING THE WALK WITH THE TALK FOR DIVERSITY IN THE LEGAL PROFESSION app. A (2010) (providing further discussion of the projected numbers and assumptions supporting them).

Hispanic admission rates from 4,400 to approximately 13,000 per year.

	Applicants	Admits	Applied	Matriculants	Matric. /Admits
Chicano/Mex.	1,230	780	63%	670	86%
Hisp./Latino	4,860	2,760	57%	2,370	86%
Puerto Rican	1,690	860	51%	790	92%
Total Hispanic	7,780	4,400	57%	3,830	87%
African Am.	9,430	3,980	42%	3,390	85%
AIAN	730	440	60%	360	82%
ASPI	7,140	4,780	67%	3,870	81%
White	52,960	38,820	73%	32,510	84%

**Figure 2. Comparative Percentages of Applicants, Admits, and Matriculants for 2008<sup>17</sup>**

The numbers would need to be even greater if there is not a relative decrease in the current majority groups, demonstrating the ABA's negative conclusion that "the proportion of minorities in the legal profession is not likely to attain parity with that in the general population in the foreseeable future."<sup>18</sup> By any count, such an increase (or even half or a quarter of such an increase) cannot be gained by continuing to nibble at the edges of the potential applicant pool or by continuing to consider only intermittently or diffusely the larger pipeline problem that the size of the pool reflects.

Given the numbers, it would certainly appear that despite being composed of action-oriented problem solvers, the bar has yet to

17. Volume Summary Admitted Applicants, *supra* note 12 (providing admitted student data); Volume Summary Applicants, *supra* note 12 (providing applicant and admitted student data); Law School Admission Council, Volume Summary Matriculants by Ethnic & Gender Group, <http://lsacnet.lsac.org/data/EthGenMetrics.pdf> (last visited Mar. 27, 2010) (providing matriculant data).

18. Office of Diversity Initiatives, *supra* note 16.

make diversity “the most important case on our calendar.”<sup>19</sup> While law schools may offer the path to leadership, the profession itself has not been a leader in diversity initiatives, nor is the legal profession showing leadership now. Meaningful change remains elusive; progress is limited, if not stalled:

For at least the past three decades, the legal profession has grappled with diversity issues, yet true diversity and inclusion eludes the practice of law. It is time to go beyond talking about the problems, and call the legal profession to face up to the challenge and determine “what’s next?”<sup>20</sup>

Other professions are more diverse and exceed the law in acknowledging the significance of the pipeline and in meaningful, collaborative, focused work along that pipeline.<sup>21</sup> However, the Bar can only be as diverse as the students who approach and successfully pass through the law school gates into the profession. Although minority enrollment overall has increased in law schools, enrollment of Black, Hispanic, and American Indian/Alaskan Natives—the so-called underrepresented minorities<sup>22</sup>—is essentially flat or decreasing.

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19. THE CRITICAL NEED, *supra* note 2, at 12. See generally REDFIELD, *supra* note 16, at ch. 5 (discussing the history of the Bar’s efforts to address its limited diversity).

20. American Bar Association, Presidential Diversity Summit, <https://www.abanet.org/diversity/summit/home.html> (last visited Mar. 27, 2010); see also TASK FORCE ON MINORITIES IN THE LEGAL PROFESSION, AM. BAR ASS’N, REPORT WITH RECOMMENDATIONS 7 (1986) (finding the bar to be “segregated”).

21. For example, both the health professions and the U.S. military have shown far greater success in addressing diversity. See generally CHARLES C. MOSKOS & JOHN SIBLEY BUTLER, ALL THAT WE CAN BE: BLACK LEADERSHIP AND RACIAL INTEGRATION THE ARMY WAY (1996) (describing the Army’s programs to racially integrate at all levels); HEALTH PROFESSIONS P’SHIP INITIATIVE, LEARNING FROM OTHERS: A LITERATURE REVIEW AND HOW-TO GUIDE (2004), available at <http://www.asph.org/userfiles/HPPILiteratureReview.pdf> (describing the health profession’s focused pipeline work).

22. This article uses the term “underrepresented minority” to include African Americans, AIAN, Native Hawaiians or Pacific Islanders, and Hispanics. Asians may remain underrepresented in the higher ranks of the practice. See NAPABA Takes on APA Diversity in Law Firms, NAPABA LAW., Fall 2007, at 10, 10, available at <http://www.napaba.org/uploads/napaba/Fall%202007.pdf> (reporting that Asian-Pacific American representation in partnership ranks was only 1.78 percent despite comprising over 8 percent of associates). However, they are not,



Year	Number of Schools	Af. Am.	Total	Percentage	Percentage Change
2007–2008	198	9,493	150,031	6.33	
1996–1997	179	9,542	134,949	7.07	-0.74

**Figure 3. Trends in African American Enrollment**<sup>23</sup>

Year	Number of Schools	AIAN	Total	Percentage	Percentage Change
2007–2008	198	1,215	150,031	0.81	
1996–1997	179	1,116	134,949	0.83	-0.02

**Figure 4. Trends in AIAN Enrollment**<sup>24</sup>

as a whole, underrepresented in law school admissions. In 2007–2008, the ABA reported 30,598 minority and 11,156 Asian enrollments out of a total enrollment of 150,031. OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 2010, *supra* note 9, at 870–71, 874.

23. *See* OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 2010, *supra* note 9, at 872, 874.

24. *See id.* at 871, 874.

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Year	Number of Schools	Mex. Am.	Total	Percentage	Percentage Change
2007–2008	198	2,498	150,031	1.66	
1996–1997	179	2,429	134,949	1.80	-0.14

Year	Number of Schools	Puerto Rican	Total	Percentage	Percentage Change
2007–2008	198	589	150,031	0.39	
1996–1997	179	686	134,949	0.51	-0.12

Year	Number of Schools	Other Hispanic	Total	Percentage	Percentage Change
2007–2008	198	5,683	150,031	3.79	
1996–1997	179	3,880	134,949	2.88	0.91

Year	Number of Schools	Total Hispanic	Total	Percentage	Percentage Change
2007–2008	198	8,770	150,031	5.85	
1996–1997	179	6,995	134,949	5.18	0.67

**Figure 5. Trends in Hispanic Enrollment<sup>25</sup>**

The trends and numbers reflected in Figures 3 through 5 directly reflect the limited numbers of diverse students persisting along the educational pipeline in order to approach the law school gates qualified for admission in the current admissions milieu.<sup>26</sup>

25. *See id.* at 872–74; *see also* John Nussbaumer, Professor & Assoc. Dean, Thomas M. Cooley Law Sch., Presentation at the Am. Ass'n of Law Sch. Workshop: Progress? The Academy, The Profession, Race and Gender (Jan. 7, 2009) (on file with author) (discussing declining African American and Mexican American enrollment); Cristina Quintero & Jeffrey Penn, A Disturbing Trend in Law School Diversity, <http://www2.law.columbia.edu/civilrights> (last visited Mar. 27, 2010); E-mail from John Nussbaumer, Professor & Assoc. Dean, Thomas M. Cooley Law Sch., to author (Jan. 8, 2009) (on file with author).

26. There are, of course, many issues concerning the admissions process and standards as they currently exist. There is ongoing discussion of change in some of these matters. *See generally* American Bar Association, Section of Legal Education & Admissions to the Bar, Standards Review Committee,

While the root problem lies in the educational system, it is a problem compounded for the profession by its own approach to students as they proceed along the education pipeline to law school. The approach is characterized by large numbers of pipeline programs, which may be gratifying, but are too often isolated and “splash and dash.”<sup>27</sup> This intermittent and diffuse approach has not fully acknowledged how daunting the pipeline numbers are, has not fully acknowledged the significance of the deficits in the pipeline, and has not responded to these deficits in anything even approaching a coordinated or sustained way.

Based on the perspective provided by these introductory statistics, the remainder of this article reviews the achievement gaps and leaks in the educational pipeline to law school and their causes. It describes the ways in which the legal community could be well suited to address the factors contributing to the current inequities. This article concludes by acknowledging that change will not occur without systematic, focused, and sustained attention to pipeline programs well before the law school gates. It will offer an approach for moving toward change based on a template of essential elements and successful sample programs that the Bar could implement to improve the chance<sup>28</sup> for increasing diversity in the profession over time.

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<http://www.abanet.org/legaled/committees/comstandards.html> (last visited Mar. 27, 2010). However, for purposes of this article, it is assumed that the basic parameters, including the impact the U.S. News & World Report rankings have on the admissions process, will remain in play.

27. Cf. American Bar Association Presidential Advisory Council on Diversity in the Profession, Pipeline Diversity Directory, <http://www.abanet.org/op/pipelndir/home.html> (last visited Mar. 27, 2010) [hereinafter Pipeline Diversity Directory] (providing a searchable directory of pipeline programs).

28. Currently, experts think that it is unlikely that law schools can improve their diversity in the timeframe offered in *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003). At a session of the American Education Research Association (AERA), presenters discussed this question and “[t]he unanimous opinion” was that there is “no chance in hell.” Scott Jaschik, *Doomed to Disappoint Justice O’Connor*, INSIDE HIGHER ED, Mar. 26, 2008, <http://www.insidehighered.com/news/2008/03/26/bakke>.

## II. THE LEAKING PIPELINE AND ITS CAUSES AND RESULTS

The current and predictable diversity numbers reflect achievement gaps in the educational pipeline to law school. Without sustained change in the approach of the profession, all other things being equal, diversity efforts of the legal academy and community can be expected to fail. As the opening quotation from *America's Perfect Storm* and other education researchers suggest, all other things may not be equal, and education numbers may well deteriorate if current practices continue.<sup>29</sup> But even if the education system stays constant, the status quo is inadequate, and current efforts for achieving a meaningful level of diversity will still fail. Diversity efforts will not fail because the business case for diversity is unclear or because corporations and firms will not continue to push for diversity.<sup>30</sup> Nor will diversity efforts fail because students are uninter-

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29. "As a greater proportion of blacks and Latinos enter the student population in the United States, the racial achievement gap, if not addressed, will almost certainly act as a drag on overall US educational and economic performance in the years ahead." MCKINSEY & CO., *supra* note 1, at 11; *see also* ALLIANCE FOR EXCELLENT EDUC., DEMOGRAPHY AS DESTINY: HOW AMERICA CAN BUILD A BETTER FUTURE 4 (2006), available at <http://www.all4ed.org/files/demography.pdf> ("If this level of growth among [minority] groups continues, the implications of current achievement gaps—and the potential benefits of closing them—will be far greater than the projections presented in this brief.").

30. In 1999, the Chief Legal Officers of over 500 major corporations signed Bell South's pledge for diversity. *See BellSouth Hosts Historic Diversity Conference; Legal Profession Addresses Workplace Challenges*, THE FREE LIBRARY, Nov. 17, 1999, <http://www.thefreelibrary.com/BellSouth+Hosts+Historic+Diversity+Conference%3B+Legal+Profession...-a057607476> (discussing attendance at the conference). Many participated with the recommitment of leading businesses to the revised Corporate Counsel Call to Action in 2004 and 2008:

As Chief Legal Officers, we hereby reaffirm our commitment to diversity in the legal profession . . . .

. . . [W]e commit to taking action consistent with the referenced Statement. To that end, in addition to our abiding commitment to diversity in our own departments, we pledge that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms. We intend to look for opportunities for firms we regularly use which positively distinguish themselves in this area. We further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse.

ested in the legal profession.<sup>31</sup> Instead, as outlined in the introduction, efforts to improve diversity will fail because the number of potentially qualified matriculants to law school cannot support anything close to parity with the increasing diversity in the American population.<sup>32</sup>

The failures and weaknesses in the education system, which contribute to the leaks in the pipeline, are a direct cause of the profession's failure to achieve meaningful diversity. These failures are reflected in the seemingly intransigent achievement gaps between Black, Hispanic, and AIAN students and their white and Asian peers.<sup>33</sup> The result demonstrates the continued narrowing of the education pipeline as it approaches the law school gates.

Simply put, too few underrepresented minorities are progressing in school and moving successfully through the pipeline. Too few are graduating from high school and progressing to and succeeding in college.<sup>34</sup> Too few are achieving LSAT scores and GPAs that meet the standards for admission to law school,<sup>35</sup> all too few to contribute to a diverse profession.

The proof of the achievement gap and narrowed pipeline for underrepresented minorities runs deep.<sup>36</sup> The problems start early.<sup>37</sup>

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RICK PALMORE, CALL TO ACTION: DIVERSITY IN THE LEGAL PROFESSION (2004), <http://www.acc.com/public/accapolicy/diversity.pdf>.

31. See *infra* Figure 8. Percentage 2005–2006 Bachelor Degree Holders Sitting for the LSAT.

32. See AMERICA.GOV, *supra* note 8.

33. See generally PAUL E. BARTON & RICHARD J. COLEY, EDUC. TESTING SERV., WINDOWS ON ACHIEVEMENT AND INEQUALITY 9–10 (2008), available at <http://www.ets.org/Media/Research/pdf/PICWINDOWS.pdf> (reviewing achievement gap in early child development); JAY MACLEOD, AIN'T NO MAKIN' IT: ASPIRATIONS AND ATTAINMENT IN A LOW-INCOME NEIGHBORHOOD 13–16, 100 (1995) (discussing Pierre Bourdieu's theory that educational systems devalue the "cultural capital" of the lower classes).

34. See, e.g., *infra* Figure 8. Percentage 2005–2006 Bachelor Degree Holders Sitting for the LSAT.

35. See *infra* Figure 9. GPA/LSAT/Law School for 2007.

36. See generally REDFIELD, *supra* note 16, at ch. 3.

37. See generally RICHARD J. COLEY, EDUC. TESTING SERV., AN UNEVEN START: INDICATORS OF INEQUALITY IN SCHOOL READINESS (2002) (providing overview of school readiness), available at <http://www.ets.org/Media/Research/pdf/PICUNEVENSTART.pdf>.

For example, differences in knowing letters<sup>38</sup> and early vocabulary are apparent by kindergarten.<sup>39</sup> These and other problems endure, with many students dropping out of the education pipeline before even beginning high school.<sup>40</sup>

Like early vocabulary, the data on reading, a critical skill for life and for the practice of law, are illustrative. For those who remain in school: the average Black or Latino seventh grader reads at the level of an average white third grader; the average Black or Latino 17-year-old reads at the same level as an average white 13-year-old.

AGE	9	13	17
White	226	266	293
Black	200	244	264
Hispanic	205	242	264

**Figure 6. Nation Assessment of Educational Progress (NAEP)<sup>41</sup>  
Reading Scores for 2004<sup>42</sup>**

38. *See, e.g.*, JERRY WEST ET AL., U.S. DEP'T OF EDUC., NCES 2000-070, AMERICA'S KINDERGARTNERS 16, 22 tbl.6 (2000), available at <http://nces.ed.gov/pubs2000/2000070.pdf>.

39. Young low-income children have smaller vocabularies than their middle-class counterparts. By age three, children in low-income families know about half the words known by children of professional families, 525 compared to 1,116 words. Betty Hart & Todd R. Risley, *The Early Catastrophe: The 30 Million Word Gap by Age 3*, AM. EDUCATOR, Spring 2003, at 4, 7, available at [http://www.aft.org/pubs-reports/american\\_educator/spring2003/catastrophe.html](http://www.aft.org/pubs-reports/american_educator/spring2003/catastrophe.html); *see also* BETTY HART & TODD R. RISLEY, MEANINGFUL DIFFERENCES IN THE EVERYDAY EXPERIENCE OF YOUNG AMERICAN CHILDREN 128 figs.11 & 12 (1995); Interview with Louise Dempsey, Assistant Dean for External Affairs, Cleveland State Univ. Cleveland-Marshall Coll. of Law, Bd. Member, Cleveland Metro. Sch. Dist., in L.A., Cal. (June 20, 2007); Louise Dempsey, Assistant Dean for External Affairs, Cleveland State Univ. Cleveland-Marshall Coll. of Law, Bd. Member, Cleveland Metro. Sch. Dist., Academic and Community Partnerships, Presentation at Wingspread VII (June 8, 2007) (notes on file with author).

40. *See* U.S. Census Bureau, School Enrollment—Social and Economic Characteristics of Students: October 2005, at tbl.1, <http://www.census.gov/population/www/socdemo/school/cps2005.html> (last visited Mar. 28, 2010) (showing school enrollment status of the population).

41. NAEP is the commonly used acronym for the National Assessment of Education Progress, sometimes also referred to as the Nation's Report Card. NAEP provides "the only nationally representative and continuing assessment of what

As with reading, other subjects of particular interest for future law students show similar gaps and weaknesses. The NAEP writing numbers demonstrate that 31 percent of Black students, 30 percent of AIAN students, and 29 percent of Hispanic students are “below basic.”<sup>43</sup> This is compared with 14 percent for White and ASPI students.<sup>44</sup> Writing scores from 2007 show that the Black-White and Hispanic-White achievement gaps remain.<sup>45</sup> For Black students, there was a 23-point gap in scores (it was 24-point in 2002) and a 20-point gap for Hispanic students (it was 18-point in 2002).<sup>46</sup>

The NAEP civics results are similar: 54 percent of Hispanic students, 58 percent of AIAN students, and 58 percent of Black students are below basic, compared to only 26 percent of White students and 32 percent of ASPI students.<sup>47</sup> NAEP history scores are also similar: 68 percent of AIAN students, 73 percent of Hispanic students, and 80 percent of Black students are below basic, compared to only 44 percent of White students and 46 percent of ASPI students.<sup>48</sup>

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America’s students know and can do in various subject areas. Assessments are conducted periodically in mathematics, reading, science, writing, the arts, civics, economics, geography, and U.S. history.” NAEP Overview, <http://nces.ed.gov/nationsreportcard/about> (last visited Mar. 28, 2010).

42. THOMAS D. SNYDER ET AL., U.S. DEP’T OF EDUC., NCES 2008-022, DIGEST OF EDUCATION STATISTICS 2007, at 175 tbl.112. (2008), *available at* <http://nces.ed.gov/pubs2008/2008022.pdf> [hereinafter DIGEST OF EDUCATION STATISTICS 2007].

43. NAEP Data Explorer, <http://nces.ed.gov/nationsreportcard/naepdata/data.set.aspx> (Select subject: “Writing”; select grade: “Grade 12”; click “National” check box; select year “2007”; click “Race/Ethnicity” checkbox; click “Edit Reports”; click “Statistics Options” tab; select “Achievement Levels-Discrete”; click “Done”; click “Build Reports”).

44. *Id.*

45. NAT’L CTR. FOR EDUC. STATISTICS, U.S. DEP’T OF EDUC., NCES 2008-468, THE NATION’S REPORT CARD: WRITING 2007, at 39 fig.22 (2008), *available at* <http://nces.ed.gov/nationsreportcard/pdf/main2007/2008468.pdf>.

46. *Id.*

47. DIGEST OF EDUCATION STATISTICS 2007, *supra* note 42, at 189 tbl.122.

48. THOMAS D. SNYDER ET AL., U.S. DEP’T OF EDUC., NCES 2009-020, DIGEST OF EDUCATION STATISTICS 2008, at 189 tbl.126 (2009), *available at* <http://nces.ed.gov/pubs2009/2009020.pdf> [hereinafter DIGEST OF EDUCATION STATISTICS 2008].

As these NAEP results indicate, problems identified in reading and other areas in elementary school persist as the students progress in school.<sup>49</sup> The causes of these continuing gaps in testing benchmarks are many.<sup>50</sup> In high school,<sup>51</sup> on average, underrepresented minority students have fewer qualified teachers,<sup>52</sup> fewer counselors,<sup>53</sup> far less rigorous courses,<sup>54</sup> and markedly less challenging and

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49. For example, a student who is not a “modestly skilled reader by the end of third grade is quite unlikely to graduate from high school.” COMM. ON THE PREVENTION OF READING DIFFICULTIES IN YOUNG CHILDREN, NAT’L RESEARCH COUNCIL, PREVENTING READING DIFFICULTIES IN YOUNG CHILDREN 21 (Catherine E. Snow et al. eds., 1998); THE TRUST FOR EARLY EDUC., A POLICY PRIMER: QUALITY PRE-KINDERGARTEN 14 (2004). *See generally* REDFIELD, *supra* note 16, at ch. 3.

50. *See generally* REDFIELD, *supra* note 16, at ch. 4.

51. *See generally id.* at ch. 3.

52. JEANNIE OAKES, MULTIPLYING INEQUALITIES: THE EFFECTS OF RACE, SOCIAL CLASS, AND TRACKING ON OPPORTUNITIES TO LEARN MATHEMATICS AND SCIENCE, at viii–ix (1990), *available at* <http://www.rand.org/pubs/reports/2006/R3928.pdf>.

53. The national student-counselor ratio is reported to be 488:1 and “[t]he average student spends 20 minutes per year talking to his or her counselor.” The Need for an Advising Corps, <http://www.advisingcorps.org/page/the-need-for-an-advising-corps> (last visited Apr. 10, 2010). Some states are far worse, and within states, higher minority schools are apt to experience fewer counselors available per student. For example, in California, the ratio is 966:1. UNDERGRADUATE WORK TEAM OF THE STUDY GROUP ON UNIV. DIVERSITY, UNIV. OF CAL., RECOMMENDATIONS AND OBSERVATIONS 25 tbl.1 (2007), *available at* [http://www.universityofcalifornia.edu/diversity/documents/07-diversity\\_report.pdf](http://www.universityofcalifornia.edu/diversity/documents/07-diversity_report.pdf); *see also* CTR. FOR STUDENT SUCCESS, RESEARCH AND PLANNING GROUP FOR CAL. CMTY. COLLS., BASIC SKILLS AS A FOUNDATION FOR STUDENT SUCCESS IN CALIFORNIA COMMUNITY COLLEGES 28–30 (2d ed. 2007), *available at* [http://www.asccc.org/Events/BSI/Lit\\_Review\\_Student\\_Success.pdf](http://www.asccc.org/Events/BSI/Lit_Review_Student_Success.pdf) (recommending best practices). California researchers report, “[w]hile the availability of counselors is lower in California than in most states, *within* California, students attending intensely segregated high schools have less access to counselors than students in majority white and Asian high schools.” JOHN ROGERS ET AL., UCLA INST. FOR DEMOCRACY, EDUC. & ACCESS, UC ALL CAMPUS CONSORTIUM ON RESEARCH FOR DIVERSITY, CALIFORNIA EDUCATIONAL OPPORTUNITY REPORT 10 (2009), *available at* <http://idea.gseis.ucla.edu/publications/eor-listening-to-public-school-parents>.

54. *Cf.* CLIFFORD ADELMAN, U.S. DEP’T OF EDUC., ANSWERS IN THE TOOL BOX: ACADEMIC INTENSITY, ATTENDANCE PATTERNS, AND BACHELOR’S DEGREE



engaging curricula and materials.<sup>55</sup> Perhaps most importantly, they experience lower expectations of themselves.<sup>56</sup> As one student in a West Virginia survey put it simply and bluntly, “Give [students] a chance to do work that is hard instead of say[ing] they can’t do it.”<sup>57</sup>

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ATTAINMENT vii (1999), available at [http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/17/9b/bb.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/17/9b/bb.pdf).

The impact of a high school curriculum of high academic intensity and quality on degree completion is far more pronounced—and positively—for African-American and Latino students than any other pre-college indicator of academic resources. The impact for African-American and Latino students is also much greater than it is for white students.

*Id.* While impactful, such a curriculum is not so often followed:

A large body of literature within the sociology of education demonstrates that coursetaking patterns are both related to student background and linked with later attainment. In general terms, racial/ethnic minorities [and] students from less affluent backgrounds . . . tend to take less rigorous courses while in high school than do their peers. Further, research shows that students who take less rigorous courses are less likely to attain a college degree and do not do as well in the workforce as students who take more rigorous courses.

MICHAEL PLANTY ET AL., U.S. DEP’T OF EDUC., NCES 2007-316, ACADEMIC PATHWAYS, PREPARATION, AND PERFORMANCE: A DESCRIPTIVE OVERVIEW OF THE TRANSCRIPTS FROM THE HIGH SCHOOL GRADUATING CLASS OF 2003–04, at 1 (2006) (citations omitted), available at <http://nces.ed.gov/pubs2007/2007316.pdf>.

55. Russlynn Ali, Executive Dir., The Educ. Trust-W., *The Pipeline To Where? Achievement in California*, Presentation at the Cal. Public Utilities Comm’n En Banc Hearing: Growing California’s Leaders, slides 59–64 (Sept. 25, 2007) (on file with author).

56. Expectations are absolutely critical. It is this constant *they can’t* mantra that undermines perceptions of self-competence and contributes to negative results. See generally BEYOND TRACKING 9 (Jeannie Oakes & Marissa Saunders eds., 2008) (discussing the impact that assumptions on student capacity have on students). This is not a new problem. As early pipeline programs in science report, minorities were advised not to take difficult science courses; faculty often held “a general assumption that minorities [were] not smart enough to handle the work.” Sims, *supra* note 3, at 1187. See generally Claude Steele, *Stereotype Threat and African-American Student Achievement*, in THERESA PERRY ET AL., YOUNG, GIFTED AND BLACK 109 (2003).

57. THE EDUC. ALLIANCE, THROUGH DIFFERENT LENSES: WEST VIRGINIA SCHOOL STAFF AND STUDENTS REACT TO SCHOOL CLIMATE, at xiv (2006) (alterations in original), available at <http://www.educationalalliance.org/Downloads/Research/ThroughDifferentLenses.pdf>; see also *id.* at 39 (suggesting that the teachers should hold higher academic expectations of students).

Two California examples, drawn from research of the Education Trust, demonstrate the underlying curricular issues and missing opportunities. For curricular offerings, the comparison in Figure 7 spotlights the California A-G college-preparedness standards<sup>58</sup> and shows the differences between primarily minority and other high schools. Garfield (99% Latino) has approximately half the number of higher-level math offerings and over four times as many beginning-level math offerings as Granada (32% African American and Latino).

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58. A-G is shorthand for subjects required in California for University of California/California State University (the University) eligibility. University of California, "A-G" Subject Area Requirements, <http://www.ucop.edu/a-gGuide/ag/a-g/welcome.html> (last visited Apr. 10, 2010). As the University explains: "This pattern of study assures the faculty that the student has attained a body of general knowledge that will provide breadth and perspective to new, more advanced study. Fulfillment of the 'a-g' pattern also demonstrates that the student has attained essential critical thinking and study skills." *Id.* The requirements are: (a) History/Social Science, two years required; (b) English, four years required; (c) Mathematics, three years required, four years recommended; (d) Laboratory Science, two years required, three years recommended; (e) Language Other than English, two years required, three years recommended; (f) Visual and Performing Arts (VPA), one year required; (g) College-Preparatory Electives, one year required. University of California, Subject Requirement ("A-G" Coursework), [http://www.universityofcalifornia.edu/admissions/undergrad\\_adm/paths\\_to\\_adm/freshman/subject\\_reqs.html](http://www.universityofcalifornia.edu/admissions/undergrad_adm/paths_to_adm/freshman/subject_reqs.html) (last visited Apr. 10, 2010).

2004		<b>Granada Hills</b>	<b>Garfield</b>
# Students		3,922	4,844
Poverty		27%	98%
Af. Am. & Latino		32%	99%

	Level	Number of Courses	
		<b>Granada Hills</b>	<b>Garfield</b>
Beginning Algebra 1	(non A-G)	9	32
Beginning Algebra 2	(A-G)	14	26
Interm. Algebra	(A-G)	20	10
Trigonometry	(A-G)	7	4
Chemistry	(A-G)	17	15
Automotive mech.		5	12
Special ed. day class		33	77
Military science		0	14
Graduates complete	(A-G)	58 %	33 %

**Figure 7. School Comparisons**<sup>59</sup>

In the environment illustrated in Figure 7, it is hardly surprising that a Garfield student would observe, “They showed me how to fill out a McDonald’s application in my Life Skills Class. I think that they should have at least taught me how to fill out a college application or at least tell me what the ‘A-G’ requirements are.”<sup>60</sup>

For specific assignments and expectations within the curriculum, the Ed-Trust data illustrate similar discrepancies. An example is the seventh grade “ME Assignment” from a California school that is 97 percent free and reduced lunch and 99 percent Latino students.<sup>61</sup> “ME” is a graphic sheet that has students fill in the lines for things

59. Ali, *supra* note 55, at slide 58; *see also* BARBARA SCHNEIDER, FORMING A COLLEGE-GOING COMMUNITY IN U.S. PUBLIC HIGH SCHOOLS 2 (2007), available at <http://inpathways.net/CollegeGoing.pdf> (stating that lower college-going rates can be attributed to lack of advanced courses).

60. Selene Rivera & Christian Alcalá, *Coalition Demands Access to Higher Education*, INNERCITY STRUGGLE, Mar. 24, 2005 <http://innercitystruggle.org/story.php?story=129>.

61. *See* Ali, *supra* note 55, at slide 60.

like “three words that describe me best,” “my favorite food, “my best friend,” etc.<sup>62</sup> In comparison stands the seventh grade essay assignment from a nearby (more white) school.

Essay on Anne Frank. Your essay will consist of an opening paragraph which introduced the title, author, and general background of the novel. Your thesis will state specifically what Anne's overall personality is, and what general psychological and intellectual changes she exhibits over the course of the book. You might organize your essay by grouping psychological and intellectual changes OR you might choose 3 or 4 characteristics (like friendliness, patience, optimism, self doubt) and show how she changes in this area.<sup>63</sup>

In the environments that these examples display, it is hardly surprising that kids drop out.<sup>64</sup> High school graduation rates hover around 50 percent for underrepresented minorities as compared to almost 75 percent for white and Asian students.<sup>65</sup>

If you can't read well, you won't do well in high school (or beyond).<sup>66</sup> *If you don't graduate from high school, you won't go to college (or to law school).* If you do graduate from high school, many of the same problems identified in high school continue into college,<sup>67</sup> where more underrepresented minorities need more reme-

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62. *Id.*

63. *Id.* at slide 59.

64. See generally JOHN M. BRIDGELAND ET AL., CIVIC ENTERS., THE SILENT EPIDEMIC: PERSPECTIVES OF HIGH SCHOOL DROPOUTS 5 (2006) (analyzing the effect of low expectations on dropout rates).

65. Alliance for Excellent Education, About the Crisis, [http://www.all4ed.org/about\\_the\\_crisis](http://www.all4ed.org/about_the_crisis) (last visited May 13, 2010).

66. See Clifford Adelman, *The Kiss of Death? An Alternative View of College Remediation*, NAT'L CROSSTALK, Summer 1998, at 15, 15, available at <http://www.highereducation.org/crosstalk/pdf/ctsummer98.pdf> (“No matter what the combination, the conclusion makes unfortunate sense: If you can't read, you can't read the math problem either (let alone the chemistry textbook, the historical documents or the business law cases).”)

67. See, e.g., Kevin Carey, *The Black-White College Literacy Gap*, EDUC. SECTOR, Apr. 4, 2006, [http://www.educationsector.org/analysis/analysis\\_show.htm?doc\\_id=364915](http://www.educationsector.org/analysis/analysis_show.htm?doc_id=364915). See generally JUSTIN D. BAER ET AL., AM. INSTS. FOR RESEARCH, THE LITERACY OF AMERICA'S COLLEGE STUDENTS (2006), available at <http://www.air.org/news/documents/The%20Literacy%20of%20Americas%20>

diation, making them, again, more likely to drop out.<sup>68</sup> *If you don't graduate from college,<sup>69</sup> you won't go to law school. Indeed, if you do not do well in college, you won't go on to law school, even if you are interested. More underrepresented minority students are interested in law school than their numbers in the population would suggest, but their admissions lag.<sup>70</sup>*

Race/Ethnicity	General Pop. 2008	Bachelor Degree Conferred 2005–06	Sat for LSAT
White	65.6%	72.4%	66.1%
Black	12.2%	9.6%	10.3%
Hispanic	15.4%	7.2%	8.8%
ASPI	4.5%	6.9%	8.2%
AIAN	0.8%	0.7%	0.72%

**Figure 8. Percentage 2005–06 Bachelor Degree Holders Sitting for the LSAT<sup>71</sup>**

Here is the crux of the problem. Having experienced inequitable distribution of beneficial aspects of the educational pipeline to this

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College%20Students\_final%20report.pdf (analyzing literacy skills of college students).

68. There is a racial/ethnic divide in the need for remediation: White Non-Hispanic, 31%; Asian, 36%; Black Non-Hispanic, 42%; Hispanic, 41%; American Indian, 41%; Low income, 37%. STRONG AM. SCH., DIPLOMA TO NOWHERE 12 (2008), available at <http://deltacostproject.org/resources/pdf/DiplomaToNowhere.pdf>. The situation is most risky for those needing remediation in reading, which involves White Non-Hispanic, 7%; Asian, 10%; Black Non-Hispanic, 24%; Hispanic, 20%; AI, N/A; Low income, 23%. JOHN WIRT ET AL., U.S. DEP'T OF EDUC., NCES 2004-077, THE CONDITION OF EDUCATION 2004, at 140 tbl.18-1 (2004), available at <http://nces.ed.gov/pubs2004/2004077.pdf>.

69. See generally *infra* Figure 8. Percentage 2005–06 Bachelor Degree Holders Sitting for the LSAT.

70. See *supra* Figure 2. Comparative Percentages of Applicants, Admits, and Matriculants for 2008.

71. See SUSAN P. DALESSANDRO ET AL., LAW SCH. ADMISSION COUNCIL, LSAT TECHNICAL REPORT 06-03, LSAT PERFORMANCE WITH REGIONAL, GENDER, AND RACIAL/ETHNIC BREAKDOWNS: 1999–2000 THROUGH 2005–2006 TESTING YEARS, at 4 fig.1, 14 tbl.4, 15 fig.12 (providing LSAT data); DIGEST OF EDUCATION STATISTICS 2007, *supra* note 42, at 419 tbl.274 (providing Bachelor of Arts degree data); American Factfinder, *supra* note 12 (providing population comparison numbers).

point, many of the underrepresented minorities interested in law school apply with lower numerical credentials than White or Asian applicants.<sup>72</sup> There is really little surprise that the pipeline is so narrow at the law school gates.<sup>73</sup>

	Undergraduate GPA		LSAT Score	
	Applied	Admitted	Applied	Admitted
American Indian	3.11	3.25	150	154
Black/African American	2.96	3.15	144	150
Caucasian/White	3.32	3.40	155	157
Chicano/Mexican American	3.13	3.26	149	154
Hispanic/Latino	3.15	3.28	148	153
Asian/Pacific Islanders	3.24	3.32	155	158
Puerto Rican	3.19	3.29	140	144
Other	3.25	3.34	153	156
Canadian Aboriginal	n/a	n/a	n/a	n/a
TOTAL Average	3.26	3.37	153	156

**Figure 9. GPA/LSAT/Law School for 2007<sup>74</sup>**

72. See *infra* Figure 9. GPA/LSAT/Law School for 2007; *infra* Figure 11. Percentage of LSAT Scores 156 or Higher for 2005–2006.

73. And this does not even get to the bar exam issues. See generally LINDA F. WIGHTMAN, LAW SCH. ADMISSION COUNCIL, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY 27 tbl.6, 32 tbl.10 (1998), available at <http://www.lisacnet.org/Research/rr/LSAC-National-Longitudinal-Bar-Passage-Study.pdf> (providing first-time and eventual bar-passage rates by race).

74. Chart courtesy of Kent Lollis and the Law School Admission Council. Email from Phil Handwerk to author (June 11, 2009) (on file with author); Email from Kent Lollis to author (Mar. 20, 2008) (on file with author); OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS 2008, *supra* note 12, at 74–848 (providing LSAT and GPA data for 2008 matriculates).

These numbers show the importance of giving attention to the issues in the educational pipeline well before the law school gates. Without implementing changes that will enable more students to approach the law school gates with qualifying credentials, the opportunity for increased diversity will remain limited, if not impossible.

Today's first graders are the law school graduating class for 2028. That year is also the year that Justice O'Connor suggested as the closing window of affirmative action based on a compelling diversity interest.<sup>75</sup> There are almost four million first graders.<sup>76</sup> Across all grade levels, 57 percent of students are white, 17 percent are black, 20 percent are Hispanic, 5 percent are Asian Pacific Islander, and 1 percent are American Indian Alaskan Native, providing for a black first-grade population around 650,000 and a Hispanic first-grade population around 800,000.<sup>77</sup> Projecting current degree-granting rates, about 1.5 million of these first graders overall can be anticipated to earn Bachelor's degrees in 2024–25, including 25.3 percent of black students and 31.1 percent of Hispanic students.<sup>78</sup> In

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75. See *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

76. DIGEST OF EDUC. STATISTICS 2008, *supra* note 48, at 64 tbl.34.

77. *Id.* at 74 tbl.41; see also RICHARD FRY & FELISA GONZALES, PEW HISPANIC CTR., ONE-IN-FIVE AND GROWING FAST: A PROFILE OF HISPANIC PUBLIC SCHOOL STUDENTS 8 (2008), available at <http://pewhispanic.org/files/reports/92.pdf> (providing an analysis of the Hispanic school-age population). The estimate assumes that grades are divided equally by race.

78. This estimate is derived based on the students in the first-grade class of 1990 (using race percentages from 1986), related to the number of Bachelor of Arts degrees awarded in 2006, with that percentage applied to the racial/ethnic groups in the number of current first graders. See DIGEST OF EDUCATION STATISTICS 2007, *supra* note 42, at 419 tbl.274 (providing Bachelor of Arts data); THOMAS D. SNYDER & CHARLENE M. HOFFMAN, U.S. DEP'T OF EDUC., NCES 92-097, DIGEST OF EDUCATION STATISTICS 1992, at 54 tbl.42 (1992), available at <http://nces.ed.gov/pubs92/92097.pdf> (providing 1990s data); THOMAS D. SNYDER & CHARLENE M. HOFFMAN, U.S. DEP'T OF EDUC., NCES 91-697, DIGEST OF EDUCATION STATISTICS 1991, at 58 tbl.44 (1991), available at <http://nces.ed.gov/pubs91/91697.pdf>; *supra* Figure 2. Comparative Percentages of Applicants, Admits, and Matriculants for 2008 (providing current enrollments and categories). For purposes of this estimate, the same percentages were assumed for Bachelor of Arts degree holders and lawyers in 2028, though both will likely rise. See, e.g., DIGEST OF EDUCATION STATISTICS 2008, *supra* note 48, at 277 tbl.187. The increases may cancel each other out in terms of comparative calculations, but even

turn, of these degrees, projecting current applicant data, about 20 percent of Black students and 25 percent of Hispanic students can be anticipated to have earned degrees with GPAs (3.37)<sup>79</sup> sufficient for admission to law school under existing trends.

	Mostly A's	A's & B's	Mostly B's	B's & C's	Mostly C's	C's, D's, & less
White	19.3	13.7	27.3	15.7	16.2	7.8
Asian	16.9	13.3	28.3	15.9	18.1	7.5
Black	9.6	9.2	24.2	16.4	25.8	14.9
Pacific Islander	14.4	9.9	27.9	15.8	19.3	12.7
Hispanic	12.7	10.9	25.3	16.4	23.5	11.1
American Indian	13.2	9.5	28.9	16.0	22.1	10.4
Lowest 25% in- come	12.7	10.8	25.7	16.7	22.3	11.9
Middle 50% income	15.9	12.7	27.1	16.1	18.7	9.5
Highest 25% in- come	22.5	14.0	26.9	14.7	15.4	6.5

**Figure 10. Grades/GPA in College 2003–04**<sup>80</sup>

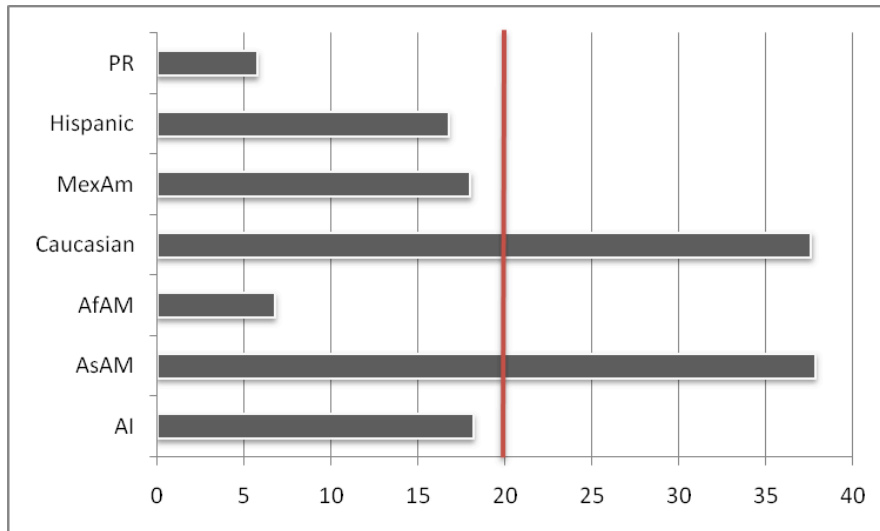
Even the students with appropriate GPAs may have difficulty with LSAT scores.

without analyzing such projections, the numbers continue to beg numbers to approach parity.

79. See *supra* Figure 9. GPA/LSAT/Law School for 2007. Data is derived for the average matriculated GPA of 3.37. The GPAs included here are 3.25 and above, making the percentage used for these calculations slightly more inclusive.

80. LAURA HORN ET AL., U.S. DEP'T OF EDUC., NCES 2006-184, PROFILE OF UNDERGRADUATES IN U.S. POSTSECONDARY EDUCATION INSTITUTIONS: 2003–04, at 77 tbl.2.3 (2006), available at [http://nces.ed.gov/pubs2006/2006184\\_rev.pdf](http://nces.ed.gov/pubs2006/2006184_rev.pdf). See generally Peter Schmidt, *What Color Is an A?*, CHRON. HIGHER EDUC. (Wash., D.C.), June 1, 2007, at A24 (discussing programs aimed at increasing minority success rates).





**Figure 11. Percentage of LSAT Scores 156 or Higher for 2005–06<sup>81</sup>**

These credentials have remained remarkably constant, making significant change unlikely absent some other intervening factors.

Given the current and projected numbers, while there is a high interest in law school,<sup>82</sup> other professions will also be competing for qualified applicants. *Assuming, though, that all* are possible participants in the applicant pool for law school and *assuming that the factors outlined here (and their causes) do not change significantly*, the qualified pool would have to be much larger than projection of current numbers would suggest. For Hispanic students, the anticipated pool would prove insufficient; for Black students, about 60 percent of the available students would need to be admitted to law school to achieve parity in the profession.<sup>83</sup>

81. See DALESSANDRO ET AL., *supra* note 71, at 14 tbl.4.

82. See *supra* Figure 8. Percentage 2005–06 Bachelor Degree Holders Sitting for the LSAT; George Campbell Jr., *United States Demographics*, in ACCESS DENIED: RACE, ETHNICITY, AND THE SCIENTIFIC ENTERPRISE 7-41 (George Campbell Jr. et al. eds., 2000) (discussing race differences in aspirations).

83. See *supra* notes 14–17.

## III. THE LEGAL COMMUNITY AND THE PIPELINE

To change the numbers of underrepresented minority students approaching the law school gates with credentials equivalent to their white and Asian peers requires a change in approach to the education of those students as they move along the pipeline. Many of the identified inequities and disparities that damage the pipeline involve extensive student disengagement.<sup>84</sup> Students who are disengaged and ill-served in K–12 will remain disengaged as citizens and workers;<sup>85</sup> they will not be prepared for success in the workforce of the twenty-first century—a workforce that will demand more, not less, education, and more, not less, capacity to think critically and communicate effectively.<sup>86</sup> Such disengaged students will continue to reflect “a profound civic achievement gap between poor, minority, and immigrant youth and adults, on the one hand, and middle-class or wealthy white and native-born youth and adults on the other.”<sup>87</sup> In short, disengaged students will long since be absent from the qualified pool of students who reach the law school gates, making it hardly surprising how limited and narrow this pipeline is for underrepresented minorities.

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84. See generally REDFIELD, *supra* note 16, at ch. 4.

85. See, e.g., CTR. FOR EDUC., NAT’L RESEARCH COUNCIL, RESEARCH ON FUTURE SKILL DEMANDS: A WORKSHOP SUMMARY (2008), available at [http://books.nap.edu/openbook.php?record\\_id=12066](http://books.nap.edu/openbook.php?record_id=12066) (summarizing reports on future skills demands and rapid improvements needed in K–12 education).

86. See JUDITH TORNEY-PURTA ET AL., UNIV. OF MD., PATHS TO 21ST CENTURY COMPETENCIES THROUGH CIVIC EDUCATION CLASSROOMS: AN ANALYSIS OF SURVEY RESULTS FROM NINTH GRADERS 2 (2009), available at <http://civicmissionofschools.org/site/documents/21CSkillsExecSummary>. See generally THE CONFERENCE BD. ET AL., ARE THEY REALLY READY TO WORK? EMPLOYERS’ PERSPECTIVES ON THE BASIC KNOWLEDGE AND APPLIED SKILLS OF NEW ENTRANTS TO THE 21ST CENTURY U.S. WORKFORCE 26–29 (2006), available at [http://www.21stcenturyskills.org/documents/FINAL\\_REPORT\\_PDF09-29-06.pdf](http://www.21stcenturyskills.org/documents/FINAL_REPORT_PDF09-29-06.pdf) (profiling technical education initiatives); FRANK LEVY & RICHARD J. MURNANE, THE NEW DIVISION OF LABOR: HOW COMPUTERS ARE CREATING THE NEXT JOB MARKET 31–54 (2004) (discussing the role of technology in the evolution of the workplace).

87. Meira Levinson, Ass’t Prof. of Educ., Harvard Graduate Sch. of Educ., Presentation at the 25th National Law-Related Education Leadership Conference (Sept. 7, 2007).

Considering the disengagement and related concerns which that disengagement underscores, education research, together with the lessons from our sister institutions' ongoing pipeline work, define a critical focus for successful pipeline work.<sup>88</sup> This core focus can be summarized as the new 3Rs: Rigor, Relevance, and Relationships.<sup>89</sup> "Rigor" stands for the proposition that all students must be given a "challenging curriculum that prepares them for college or work."<sup>90</sup> "Relevance" requires that children have "courses and projects that clearly relate to their lives and goals."<sup>91</sup> Finally, "Relationships" requires communities to make sure that children "have a number of adults who know them, look out for them, and push them to achieve."<sup>92</sup> "Results," sometimes listed as another R, suggests the need to measure, evaluate, and re-inform pipeline work based on the data.<sup>93</sup>

Educational research suggests that the legal profession is particularly well positioned to support improved delivery of these 3Rs.<sup>94</sup> The law's curricula and established teaching methodology—its signature pedagogy—by definition promotes rigor and sustains high expectations.<sup>95</sup> Additionally, one look at the newspaper, the Su-

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88. See generally GEOFFREY D. BORMAN ET AL., COMPREHENSIVE SCHOOL REFORM AND STUDENT ACHIEVEMENT: A META-ANALYSIS (2002), available at <http://www.csos.jhu.edu/CRESPAR/techReports/Report59.pdf> (reviewing research on comprehensive, whole school reforms).

89. Bill Gates, Remarks at the National Education Summit on High Schools, (Feb. 26, 2005), available at <http://www.gatesfoundation.org/speeches-commentary/Pages/bill-gates-2005-national-education-summit.aspx>.

90. *Id.*

91. *Id.*

92. *Id.*

93. See, e.g., KAREN MITCHELL ET AL., AM. INSTS. FOR RESEARCH, RIGOR, RELEVANCE, AND RESULTS: THE QUALITY OF TEACHER ASSIGNMENTS AND STUDENT WORK IN NEW AND CONVENTIONAL HIGH SCHOOLS 1 (2005), available at [http://smallhs.sri.com/documents/Rigor\\_Rpt\\_10\\_21\\_2005.pdf](http://smallhs.sri.com/documents/Rigor_Rpt_10_21_2005.pdf).

94. See *infra* notes 99–105 and accompanying text (setting out the relationships between the best practices from education research and law pedagogy and opportunities).

95. See generally WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 2–3 (2007) [hereinafter EDUCATING LAWYERS] (describing typical law school pedagogy); William Sullivan, Senior Scholar, The Carnegie Foundation for the Advancement of Teaching, Presentation at Wingspread VI P20 Pipeline Leadership Conference (Oct. 6, 2006).

preme Court's docket, or today's television listings shows that the law offers engaging, relevant subject matter. Regarding "Relationships," the legal community has a great capacity—and indeed has already shown this in some of its programs—to provide intellectual capital and human resources to establish and support relationships with students as mentors, teachers, internship supervisors, and the like. Finally, "Results" is an area where the work of the law community (and others) has been limited.<sup>96</sup>

While the educational issues that underrepresented minority students confront are myriad, well beyond the three highlighted by the new 3Rs,<sup>97</sup> these three are important and are readily related to the study of law and the capacity of the legal community. Law has engaging subject matter, substantial human resources for mentorships and role models, and a signature pedagogy,<sup>98</sup> all attributes that convincingly match with the new 3Rs. Indeed, the match between approaches identified as valid and valuable by the educational research—probably the best match among the professions—and the resources available through the legal community is striking and significant to its long-term success in achieving diversity. Focusing on these attributes and honing pipeline efforts to programs that deliver them provides the core parameters for achieving wider student success along the pipeline to law school.

The match between the law and the education approach is evident. In the general context of reading:

- Education Generally—Reading and writing are foundational.

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96. See Sims, *supra* note 3, at 1185–86 (describing lack of assessment and follow up in science and engineering).

97. This focus is not intended to diminish or underestimate the need to understand issues of poverty, family education background and support, peer culture, school safety, and the like. See REDFIELD, *supra* note 16, at app. A (discussing the relationship between poverty, race, and ethnicity). See generally ALEX KOTLOWITZ, THERE ARE NO CHILDREN HERE: THE STORY OF TWO BOYS GROWING UP IN THE OTHER AMERICA (1992) (chronicling the young lives of two children in Henry Horner Homes, a Chicago public housing project).

98. See generally EDUCATING LAWYERS, *supra* note 95 (describing a signature pedagogy).

- Law School—Reading, analysis, writing, and communicating are the underpinnings of a professional education.<sup>99</sup>

In the general context of engagement:

- Education Generally—Competent relevant curriculum is essential.
- Law Schools offer curricula and other resources to assure interactive, project-based, relevant, and engaging curriculum.<sup>100</sup>

In the general context of critical thinking and problem-solving skills:

- Education Generally—Educating for critical thinking and problem solving is crucial as is offering rigorous courses with intellectual integrity and high standards.<sup>101</sup>
- Law School—Honing of critical thinking and analytical skills is the core of the law school education. “Thinking like a lawyer” is often a shorthand catch phrase for “critical think-

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99. *See, e.g.*, American Bar Association, Preparing for Law School, <http://www.abanet.org/legaled/prelaw/prep.html> (last visited May 15, 2010) (emphasizing critical reading, problem solving, and writing). The community advocacy clinic at the University of Maryland is an example of this match. *See generally* UNIV. OF MD. SCH. OF LAW, COURSE CATALOG, COMMUNITY LAW IN ACTION CLINIC (2008), available at [http://www.law.umaryland.edu/academics/program/curriculum/catalog/course\\_details.html?coursenum=541D](http://www.law.umaryland.edu/academics/program/curriculum/catalog/course_details.html?coursenum=541D).

100. The New York Urban Assembly law-themed schools, some working with law schools and legal practitioners, are examples of achieving engagement and commitment, demonstrating student success. *See, e.g.*, The Urban Assembly, Our Schools: The Bronx School for Law, Government and Justice, <http://www.urbanassembly.org/lgi.html> (last visited May 15, 2010).

101. “Critical thinking” is variously defined as thinking that is reasoned, active, and investigative. *See, e.g.*, P’SHP FOR 21ST CENTURY SKILLS, THE INTELLECTUAL AND POLICY FOUNDATIONS OF THE 21ST CENTURY SKILLS FRAMEWORK 11–13 (2007), [http://www.21stcenturyskills.org/route21/images/stories/epapers/skills\\_foundations\\_final.pdf](http://www.21stcenturyskills.org/route21/images/stories/epapers/skills_foundations_final.pdf). Some educators also include in the definition creativity in approach to problems. *Id.* Necessary for success in education and in the professions, critical thinking is often valued more than subject-matter knowledge. *Id.*

ing,” highlighting the analytical and problem-solving skills that ground legal education.<sup>102</sup>

The match is equally strong in terms of the self-confidence and competence that results from active engagement:

- Education Generally—Active engagement is required to prevent students from leaking out of the educational pipeline and to assure learning to high levels.
- Law School—Individual engagement is central to law school’s signature pedagogy and is the heart of the Socratic method.<sup>103</sup>

The connection between education generally and law school is illustrated by the commonality of citizenship engagement:

- Education Generally—Citizenship engagement, involvement with, and internalization of concepts of due process and democracy are vital, as is embedding these concepts of student voice in schools.
- Law School—Key to our constitutional rights and to the core mission of law schools is the sustained emphasis on the rule of law and due process—notice and opportunity to be heard.<sup>104</sup>

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102. See generally SARAH E. REDFIELD, THINKING LIKE A LAWYER: AN EDUCATOR’S GUIDE TO LEGAL ANALYSIS AND RESEARCH (2002) (helping educators understand how law is made, how to read analytically, and how to apply law to situations). An example of a pipeline effort that attempts to deliver these core skills is the Marshall–Brennan Constitutional Literacy Project, which delivers its own curriculum via law-student teaching fellows. See American University Washington College of Law, Marshall-Brennan Constitutional Literacy Project, <http://www.wcl.american.edu/marshallbrennan/> (last visited Apr. 11, 2010).

103. EDUCATING LAWYERS, *supra* note 95, at 2–3. In addition to basic curricular approaches, various mock trial or moot court competitions are examples of approaches known to be intensive and effective to achieve a rigorous student experience. See BAR/SCHOOL P’SHIP PROGRAM, AM. BAR ASS’N, PUTTING ON MOCK TRIALS 23–48 (2002), available at <http://www.abanet.org/publiced/mocktrialguide.pdf> [hereinafter MOCK TRIALS] (providing examples of mock trial programs ranging from elementary to secondary level education).

104. Leadership and involvement with democracy are central as well. Center for Civic Education, Project Citizen, Introduction, <http://www.civiced.org/index.php?page=introduction> (last visited Apr. 11, 2010).

Connecting students with mentors who can counsel about the possibilities of higher education and professional work can be provided by a relationship between the legal community and primary educational institutions:

- Education Generally—Individual trusting (and advocacy) relationships can counteract human capital deficiencies and stereotype vulnerabilities, making the difference between success and failure for many students.
- Law schools and the legal community are well suited to focus the profession's rich human capital. They offer the potential for individual interactions for intense academic support where necessary.<sup>105</sup>

#### IV. ACKNOWLEDGING THE PROBLEMS, MOVING FORWARD

Success in diversity through pipeline initiatives *could* lie within the competency of the legal profession using initiatives that highlight the very strengths of that profession. But a strategy complementing these strengths remains unimplemented, and potential benefits to

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An established example of a pipeline program to establish this type of leadership and democratic skills is We the People: Project Citizen. *Id.* We the People: Project Citizen is a curricular program that promotes participation in state and local government and “helps participants learn how to monitor and influence public policy.” *Id.*

105. The University of New Mexico ENLACE project, with its joint appointments and initiatives spanning relationships from family to law and medical schools, and with its relationship to the Southwest Hispanic Research Institute, offers an evaluated example of a pipeline program making such a partnership. *See, e.g.*, ENLACE New Mexico, <http://enlacenm.unm.edu/> (last visited Jan. 10, 2010); E-mail from Karen Griego, Principal, Atrisco Heritage High School, Former Director, ENLACE Albuquerque, to author (Mar. 30, 2009) (on file with author). The work of the Wingspread P20 consortium is another example. *See, e.g.*, SARAH REDFIELD, CALL TO ACTION: RENOVATING THE P-20 PYRAMID IN EDUCATION WITH THE LEADERSHIP OF SCHOOLS OF LAW (2004), <http://www.bridgingworlds.org/P-20/RedfieldP-20Calltoaction.pdf> [hereinafter CALL TO ACTION]. *See also* REDFIELD, *supra* note 16, at ch. 7, app. B; SARAH REDFIELD, PEDAGOGY CHART (2010) (on file with author) (providing further illustrations of pipeline efforts to focus and hone educational skills and attributes necessary for a legal education).

diversity unrealized. The disappointing results to date are at least in part because of an overabundance of varied, uncoordinated, and typically undocumented initiatives. For example, just as the opening quotation from Calvin Sims proffers, bar association pipeline efforts are often marked by the idea that a program can be accomplished within the year that parallels a bar president's term.<sup>106</sup> Even if of longer duration, pipeline programs and initiatives are now marked by breadth in number, but not necessarily by depth of approach or results. The current tabulation of pipeline programs in the American Bar Association/Law School Admission Council directory of pipeline initiatives is illustrative.<sup>107</sup> The directory includes a very large number of diversity initiatives, studded with strong missions; at last count, over 200 pipeline programs have been self-identified and posted in the directory, and hundreds more are indicated for recruitment and other areas.<sup>108</sup> Despite all of these programs, success eludes the profession.

Given the record to date, realizing success in diversity efforts now requires a new paradigm. Success in strengthening and broadening the pipeline requires a move away from the plethora of unconnected programs, however beloved each may be in its own sphere.<sup>109</sup> Success requires a move away from the plethora of one-day, one-week, one-month, or even one-year programs,<sup>110</sup> however shining

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106. Sims, *supra* note 3, at 1187.

107. Pipeline Diversity Directory, *supra* note 27.

108. American Bar Association, Search the Pipeline Diversity Directory, <http://www.abanet.org/op/pipelndir/search.cfm> (last visited Apr. 11, 2010); *see also* HEALTH PROFESSIONS P'SHIP INITIATIVE, *supra* note 21, at 1–3 (demonstrating the more focused efforts of the health professions); National Center for State Courts: Public Trust and Confidence Forum, Projects and Initiatives, [http://www.ncsconline.org/Projects\\_initiatives/PTC/UnequalTreatment.htm](http://www.ncsconline.org/Projects_initiatives/PTC/UnequalTreatment.htm) (last visited Apr. 11, 2010) (listing projects and best practices).

109. *See, e.g.*, CAPTURING LATINO STUDENTS IN THE ACADEMIC PIPELINE 45–46 (Patricia Gándara et al. eds., 1998) (describing lack of evaluations).

110. Compare, for example, the work of Sonnenschein Nath & Rosenthal in starting a charter school in Chicago, adding a class year after year and committing to it for the indefinite future, with the phenomenon of bar initiatives, which some characterize as a one-year drive-by. Interview with Errol Stone, Legacy Charter School in Chicago, Ill. (June 6, 2008) (explaining the Legacy Charter School's goal of adding a class year after year and committing to it for the indefinite future, with the phenomenon of bar initiatives); Legacy Charter School, About Us,



they may be. It requires a move away from undocumented programs, however good they may feel. Achieving diversity requires: (1) an abiding commitment to educational opportunity; (2) an acknowledgement of the education reality and the issues the achievement gap poses to any diversity effort seeking real results; (3) a dedication to a limited palette of research-based, strong pipeline programs with attention to documented results; and, finally, (4) a commitment to programs that are sustained over time, connected to each other along the pipeline, systematic and systemic.<sup>111</sup>

In implementing this new paradigm, certain elements will be essential for pipeline programs. Successful programs<sup>112</sup> will: (1) recognize the education reality and the depth of the issues dividing underrepresented minorities (black, Hispanic and AIAN) from their

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<http://www.legacycharterschool.org/wb/pages/home/about-us.php> (last visited Apr. 11, 2010). The charter school's mission illustrates the difference:

Our mission arises from our core beliefs that: A high quality education is a key to breaking the cycle of poverty and to empowering individuals to lead meaningful and constructive lives in the 21st Century. A high quality education will have the greatest impact if it starts at a very early age, embraces the individual learning styles of each child, and emphasizes personal, as well as academic, growth that focuses on the whole child. In the 21st Century, people with a college education will continue to have far more choices and opportunities; therefore elementary education should motivate and begin to prepare students for success in college. A high quality education must teach the foundations of a just society, ethics, and values that prepare and encourage students to participate in the global community with wisdom, understanding, and honesty. A high quality education must prepare students to be life-long learners and independent thinkers, who can apply knowledge from many disciplines to solve problems arising in an ever-changing world. The active support and participation of the child's family is critical to a high quality education . . . .

Legacy Charter School, Mission Statement, <http://www.legacycharterschool.org/wb/pages/home/mission.php> (last visited Apr. 11, 2010). While Sonnenschein offers a unique example of firm-wide continuous commitment, longer-term efforts do exist and can be expanded with the bar associations and individuals.

111. See PALMORE, *supra* note 30.

112. See, e.g., REDFIELD, *supra* note 16, at ch. 7, app. B (discussing examples of successful programs); see also SARAH E. REDFIELD, EDUCATION PIPELINE TO THE PROFESSIONS: PROGRAMS THAT WORK TO INCREASE DIVERSITY (forthcoming 2010).

white and Asian peers;<sup>113</sup> (2) have clear diversity goals;<sup>114</sup> (3) focus on the significance of high expectations and aspirations, and incorporate the new 3Rs;<sup>115</sup> (4) involve students in intense or extended ways, including an intensity of relationships with a student over time;<sup>116</sup> (5) involve more than one segment of the pipeline—

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113. For example, the Bar Association of San Francisco supports a full-time coordinator four days every week to counsel students in grades nine through twelve, particularly regarding high school graduation requirements. See Telephone Interview with Jayne Salinger, Dir. of Special Projects, Bar Ass'n of S.F., Cal. (May 15, 2008); E-mail from Jayne Salinger to author (Jan. 28, 29, 2008) (on file with author); The Bar Association of San Francisco, Pipeline Diversity Programs, School-To-College, <http://www.sfbar.org/diversity/schooltocollege.aspx> (last visited Apr. 11, 2010).

114. See Melissa C. Rodriguez, *Students Get a Preview of Law School Life*, U. TEX.-PAN AM., June 27, 2005, <http://www.utpa.edu/news/index.cfm?newsid=2953&curtype=release&curbar=news>; *School of Law at the University of Texas at Austin to Partner with UTSA on Institute for Law and Public Affairs in San Antonio*, U. TEX. AUSTIN, July 17, 2001, [http://www.utexas.edu/news/2001/07/17/nr\\_institute/](http://www.utexas.edu/news/2001/07/17/nr_institute/); University of Texas at El Paso, Law School Preparation Institute, <http://academics.utep.edu/Default.aspx?alias=academics.utep.edu/law> (last visited Apr. 11, 2010). The Texas pre-law programs were established to address concerns after the *Hopwood* decision against the law school's use of race as an admissions factor. See *Hopwood v. Texas*, 78 F.3d 932, 962 (5th Cir. 1996).

115. For example, the Legal Studies Academy offers a four-year high school curriculum focused on a law theme. See First Colonial High School, Legal Studies Academy, [http://www.firstcolonialhs.vbschools.com/dept\\_lsa.htm](http://www.firstcolonialhs.vbschools.com/dept_lsa.htm) (last visited Apr. 11, 2010); see also Virginia Beach City Public Schools, Advanced Academic Programs: Middle and High School, [http://www.vbschools.com/curriculum/advanced\\_academic/index.asp](http://www.vbschools.com/curriculum/advanced_academic/index.asp) (last visited Apr. 11, 2010). Also, the Saturday Academy of Law offers a series of Saturday classes for ninth grade students with a high curricular pitch. See Univ. of Cal. Irvine, Saturday Academy of Law, <http://www.cfep.uci.edu/sal/> (last visited Apr. 11, 2010).

116. For example, Legal Outreach, based in New York, is multi-layered program that reaches out to underrepresented minorities at middle and high school levels. Legal Outreach, About Us, <http://www.legaloutreach.org/content.cfm?cntid=1> (last visited Apr. 11, 2010). "From the 8th through 12th grades, students work after school, on weekends, and during summers to build the skills and confidence they need to achieve their goals." *Id.* Also, after completing the Saturday Academy of Law students move into other University of California Irvine pipeline programs in the Center for Educational Partnerships, including being matched with mentors for the rest of their high school careers to assure they have academic,

elementary or high school students with law students, prelaw students with law firms;<sup>117</sup> (6) emphasize and value partnerships,<sup>118</sup> and mutual visioning among partners—a precept more easily stated in the negative, that is, it is not the law community approaching a school with “do-we-have-a-deal-for-you,” but it is a mutual statement of capacity and needs;<sup>119</sup> (7) use common course development, research/evaluation design, professional development, networking, and grant-writing support to increase effectiveness;<sup>120</sup> (8) support rigorous themed curricula, career-pathways, and academies, which

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college, and career support. See Univ. of Cal., Irvine, Saturday Academy of Law, <http://www.cfep.uci.edu/sal/programdetails.html> (last visited Apr. 11, 2010).

117. For example, ENLACE works with students from elementary school to law school and medical school. See ENLACE New Mexico, ENLACE Programs, [http://enlacenm.unm.edu/index.php?option=com\\_content&view=article&id=29&Itemid=6&lang=en](http://enlacenm.unm.edu/index.php?option=com_content&view=article&id=29&Itemid=6&lang=en) (last visited Apr. 11, 2010).

118. See, e.g., LILI ALLEN WITH LUCRETIA MURPHY, JOBS FOR THE FUTURE, LEVERAGING POSTSECONDARY PARTNERS TO BUILD A COLLEGE-GOING CULTURE: TOOLS FOR HIGH SCHOOL/POSTSECONDARY PARTNERSHIPS 4–5, 10–12, 25–41 (rev. ed. 2008), available at [http://www.jff.org/sites/default/files/ToolsPSEpship\\_slowres\\_2.pdf](http://www.jff.org/sites/default/files/ToolsPSEpship_slowres_2.pdf); LISA GONSALVES & JOHN LEONARD, NEW HOPE FOR URBAN HIGH SCHOOLS: CULTURAL REFORM, MORAL LEADERSHIP, AND COMMUNITY PARTNERSHIP 161–62 (2007); Sheryl Weaver, *Sunnyside High School Doctors Academy: A Principal's Experience with HPPI*, 81 ACAD. MED. S48, S48 (Supp. 6 2006), available at [http://journals.lww.com/academicmedicine/Fulltext/2006/06001/Sunnyside\\_High\\_School\\_Doctors\\_Academy\\_\\_A.14.aspx](http://journals.lww.com/academicmedicine/Fulltext/2006/06001/Sunnyside_High_School_Doctors_Academy__A.14.aspx). See generally JORDAN HOROWITZ, INSIDE HIGH SCHOOL REFORM: MAKING THE CHANGES THAT MATTER (2005) (discussing the implementation of the California Academic Partnership Program); Peter Arth et al., California Aspire, Achieve, Lead—The Underlying Concept (2007) (unpublished manuscript, on file with author); CaliforniaALL, <http://www.calall.org/> (last visited Apr. 11, 2010).

119. For example, the Wingspread P20 Consortium is an informal collaborative of law-school-centered, cross-education teams and others interested in using their collective resources collaboratively to address issues along the educational pipeline to improve opportunities for those groups of students who are underrepresented in law schools. See CALL TO ACTION, *supra* note 105, at 4.

120. For example, New York's Urban Assembly schools are “dedicated to preparing students from under-resourced neighborhoods for success in four-year colleges,” many with a law theme. The Urban Assembly, Who We Are, <http://www.urbanassembly.org/whoweare.html> (last visited Apr. 11, 2010); see also The Urban Assembly, Our Schools, <http://www.urbanassembly.org/our-schools.html> (last visited Apr. 11, 2010). These schools offer a model for this kind of work sharing and potential for partnership.

present opportunities to bring together professional resources and education resources in meaningful curriculum and engagement;<sup>121</sup> (8) track participants and their results, using their data to form and re-inform the projects; and (9) are in and connected to the pipeline for the long haul.

While the list of essential elements appears lengthy, in its abbreviated form, it is about staying consonant with the 3Rs<sup>122</sup> and using the identified strengths of the law community in a focused way to bring about successful student outcomes and an increase, over time, in the qualified pool of underrepresented minorities interested in law careers. Law schools and the law community, with their institutional infrastructure and systemic connections, have the capacity to craft, support, and sustain successful pipeline interventions before the law school gates, should they have and commit the will.

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121. This category offers many examples. In the Marshall-Brennan program, law students teach high school students constitutional law. American University Washington College of Law, *supra* note 99. In magnet and themed high schools the entire curriculum has a law orientation. *See, e.g.*, Dorsey High School, Law/Public Service Magnet, [http://dorseydons.org/apps/pages/index.jsp?uREC\\_ID=56416&type=d&rn=724081857](http://dorseydons.org/apps/pages/index.jsp?uREC_ID=56416&type=d&rn=724081857) (last visited Apr. 11, 2010); Thurgood Marshall Academy Public Charter High School, About: Law Theme, <http://www.thurgoodmarshallacademy.org/about/lawtheme.html> (last visited Apr. 11, 2010).

122. Gates, *supra* note 87.