

FOSTERING FIRST-GENERATION STUDENT SUCCESS
IN LAW SCHOOL

Lisa R. Pruitt and Nirav Bhardwaj

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This Article addresses how law schools can better support first-generation (“first-gen”) students, typically defined as those for whom neither parent has a bachelor’s degree. We survey first-gen programming in U.S. law schools, the broad goal of which is to retain students and help them to thrive, thereby increasing their educational and career achievement. We link this goal to extensive research on the growing challenge of upward mobility. In addition, we synthesize the vast empirical research about first-gen students, most of it about undergraduates, with a view to identifying beneficial interventions. We also summarize what quantitative data, collected by the Law School Survey of Student Engagement (LSSSE) and the National Association of Law Placement (NALP), reveal about the first-gen student population.

The first-gen project has been made more salient by the Supreme Court’s 2023 ruling in Students for Fair Admissions vs. Harvard, which held unconstitutional the use of race as a basis for affirmative action in higher education admissions. The first-gen category provides an alternative basis for assisting many students of color, while also supporting socioeconomically disadvantaged white students. Indeed, these programs may foster cross-racial collaboration and coalition building as students from a wide range of races and ethnicities gain an appreciation for the shared struggle for upward mobility they face. Importantly, these students may carry an orientation to see common ground beyond the educational setting and into the wider world, thus helping bridge the growing cultural and ideological divides polarizing our nation.

Lastly, we offer insights from a seminar Pruitt teaches at UC Davis. The course, created for first-gen students, draws on scholarly literature, memoir, and fiction to explore the first-gen experience. The seminar is an invitation for students to tell their own first-gen stories, drawing on those narratives as sources of empowerment. We reveal some of the challenges, pitfalls, and successes of this course, and we discuss other curricular offerings that could foster a sense of belonging—and success—for first-gen law students. Ultimately, we call for more empirical research into the experiences of first-gen students in U.S. law schools.

INTRODUCTION

First-generation (first-gen) college students, often defined as those for whom neither a parent or guardian has obtained a four-year degree,¹ have been

* Martin Luther King, Jr., Professor of Law, UC Davis School of Law. Thanks to Kem Saichaie, Nancy Combs, Hoang Pham, Jesse McCain, Joan Howarth, and Kaceyee Klein for comments on earlier drafts. Any errors are our own. We are grateful to Emily Rishwain, Elizabeth Glenski, Caitlin Durcan, Courtney Patton, and Lil Jansen for expert research assistance and to Chetanya Singla for assisting with the graphs and the manuscript. Linda Cooper and Tessa Bryce managed the manuscript with precision and good cheer. Refugio Acker-Ramirez and David B. Holt of the Mabie Law Library were, as always, indispensable.

** UC Davis School of Law, Class of 2023.

1. Consistent with the academic literature, we use the term four-year degree as synonymous with bachelor’s degree. We nevertheless recognize that less than half of college students complete a bachelor’s degree in just four years. Jon Marcus, *Most College Students Don’t Graduate in Four Years, So College and the Government Count Six Years as “Success,”* HECHINGER REP. (Oct. 10, 2021), <https://hechingerreport.org/how-the-college-lobby-got-the-government-to-measure-graduation-rates-over-six-years-instead-of-four/>

a sizeable and growing population in U.S. higher education for decades.² In 2015, 34% of college graduates were the first in their families to graduate from college,³ and more than 40% of entering college students aimed to be.⁴ Over just a three-year period from 2019–20 to 2021–22, the number of first-generation applicants to U.S. colleges and universities increased by 22%, compared to a 14% increase in all who applied.⁵

Among first-gen undergraduate students, 46% are white, compared to 61% of continuing-generation students.⁶ (We use the term “white” to refer to non-Hispanic white individuals, unless otherwise specified.) Hispanic or Latino students are most likely to be first gen (60%), followed closely by Black students (59%), American-Indian, Alaska-Native, Native Hawaii or Pacific Islanders students (54%) and Asian students (39%).⁷ Immigration is a major reason that students of color are more likely to be first gen.⁸

[<https://perma.cc/ASN3-RCC6>] (noting that the U.S. Department of Education has long measured successful college completion as taking students six years).

2. SARAH E. WHITLEY ET AL., *CTR. FOR FIRST-GENERATION STUDENT SUCCESS, FIRST-GENERATION STUDENT SUCCESS: A LANDSCAPE ANALYSIS OF PROGRAMS AND SERVICES AT FOUR-YEAR INSTITUTIONS* 20 (2018), <https://www.luminafoundation.org/wp-content/uploads/2019/03/first-gen-student-success.pdf> [<https://perma.cc/LJ8U-FFEM>] [hereinafter FGSS REPORT]. According to the report:

The term [first-generation] was intended to identify underserved students, like those from low-income, racial minority, or rural backgrounds, who did not have the benefits of cultural capital and college-going knowledge because their parents did not complete a four-year college degree. Moreover, the term “first-generation” aimed to identify underserved students without referring to race or ethnicity

In the decades since 1980, the definition of first-generation has evolved as higher education has expanded and enrollment diversified. While many institutions rely upon the federal or legislative definition affiliated with the 1980 amendments and TRIO programs, variations have emerged for specific programs and research, and in order to meet specific needs of the population.

Id. The FGSS Report cites a 2002 study analyzing eight different definitions and a sample of 7,300 students that found that those who could be called first-generation ranged from 22% to 77%. *Id.*; see also Jessica Blake, *Defining ‘First Generation’ in Different Ways*, *INSIDE HIGHER ED* (Aug. 3, 2023), <https://www.insidehighered.com/news/diversity/socioeconomics/2023/08/03/varied-definitions-first-generation-confuse-students>.

3. Dick Startz, *First-Generation College Students Face Unique Challenges*, *BROOKINGS* (Apr. 25, 2022), <https://www.brookings.edu/blog/brown-center-chalkboard/2022/04/25/first-generation-college-students-face-unique-challenges/> [<https://perma.cc/TRI6-M4L2>].

4. *Id.*

5. MARK FREEMAN ET AL., *DEADLINE UPDATE: FIRST-YEAR APPLICATION TRENDS THROUGH MARCH 15*, at 1–3 (2022), https://s3.us-west-2.amazonaws.com/ca.research.publish/Research+briefs+2020/20211123_Deadline_Update_FY.pdf [<https://perma.cc/EX4W-CR6E>].

6. See Ilana Hamilton, *56% of All Undergraduates Are First-Generation College Students*, *FORBES ADVISOR* (June 13, 2023), <https://www.forbes.com/advisor/education/first-generation-college-students-by-state/> [<https://perma.cc/LH8S-XXXS>].

7. *Id.* Unless otherwise indicated, we use the racial and ethnic category labels of the sources we cite. See also CHAD CHRISTENSEN ET AL., *LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, LSSSE 2023 ANNUAL REPORT: FOCUS ON FIRST-GENERATION STUDENTS 7–8* (2023), <https://lssse.indiana.edu/wp-content/uploads/2023/10/Focus-on-First-Generation-Students-Final.pdf> [<https://perma.cc/UJ34-ZERQ>] [hereinafter LSSSE 2023] (reporting racial/ethnic breakdown of first-gen law students).

8. See Miriam Jordan, *Children from Immigrant Families are Increasingly the Face of Higher Education*, *N.Y. TIMES* (Nov. 2, 2020), <https://www.nytimes.com/2020/10/15/us/immigrant-families-students-college.html>.

Colleges and universities have taken note of the rising number of first-gen students.⁹ Many scholars now research and document the distinct challenges these students face.¹⁰ This work has led to the development of academic- and financial-support programs aimed at meeting these students' needs and thus helping them stay in college and thrive.¹¹

Attesting to how hot a topic first-gen students have become in college and university circles, the *Chronicle of Higher Education* has in recent years highlighted first-gen issues in a great deal of its content.¹² Within a four-week period in the spring of 2023, the *Chronicle* sponsored two webinars about this student population.¹³ Further, the *Journal of First-Generation Student Success*, an academic publication, was founded in 2021.¹⁴ Two anthologies about the first-gen experience have been published in recent years,¹⁵ as was a memoir titled *First Gen*, by Alejandra Campoverdi, in 2023.¹⁶ Since 2017, National First-Generation College Day has been celebrated on November 8, commemorating President Lyndon Johnson's signing of the 1965 Higher Education Act.¹⁷

When, about a decade ago, Pruitt heard about a first-gen program at the University of Washington at Bothell, she was so excited by the existence of such an undertaking that she immediately made a modest charitable donation to it. She did so even though the program was at a satellite campus she had never

9. See *infra* Part IV.

10. See *infra* Part II.A.

11. See *infra* Part IV.

12. See Karin Fischer, *Tackling Study Abroad's First-Gen Problem*, CHRON. HIGHER EDUC.: LATITUDES (Nov. 2, 2022), <https://www.chronicle.com/newsletter/latitudes/2022-11-02>; D.W. Johnson & Alexander C. Kafka, *I Had to Choose Myself: A First-Gen Story*, CHRON. HIGHER EDUC., <https://www.chronicle.com/featured/student-success/first-gen-challenges-photo-essay-1>; Michael Theis & Carmen Mendoza, *In Their Own Words: Challenges of First-Gen Students*, CHRON. HIGHER EDUC., <https://www.chronicle.com/featured/student-success/first-gen-challenges-video-1>. Several other stories discussed the first-gen student population. See Carolyn Kuimelis, *Students' Trust in Their Colleges Held Steady During Covid's Early Days, Study Finds*, CHRON. HIGHER EDUC. (Sept. 20, 2022), <https://www.chronicle.com/article/students-trust-in-their-colleges-held-steady-during-covids-early-days-study-finds>; Karin Fischer, *To Improve Study-Abroad Rates, Colleges Focus on the Missing Students*, CHRON. HIGHER EDUC.: LATITUDES (Jan. 18, 2023), <https://www.chronicle.com/newsletter/latitudes/2023-01-18>; DAVID WHEELER, CHRON. HIGHER EDUC., HOW SUMMER PROGRAMS AID PERSISTENCE AND RETENTION (2023), https://connect.chronicle.com/cs/931-EKA-218/images/Summer_Ascendium_CaseStudy_v4.pdf.

13. *Mentoring Programs for First-Gen Students*, CHRON. HIGHER EDUC. (Mar. 28, 2023), <https://www.chronicle.com/featured/student-success/mentoring-programs-for-first-gen-students>; *Helping Students Navigate the Hidden Curriculum*, CHRON. HIGHER EDUC. (Apr. 18, 2023), <https://www.chronicle.com/events/virtual/helping-students-navigate-the-hidden-curriculum>.

14. See *Journal & Research*, CTR. FOR FIRST-GENERATION STUDENT SUCCESS, <https://firstgen.naspa.org/journal-and-research/journal-of-first-generation-student-success> [https://perma.cc/Q2FL-EYKS].

15. AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS (Robert Longwell-Grice & Hope Longwell-Grice eds., 2021); FIRST-GENERATION COLLEGE STUDENT EXPERIENCES OF INTERSECTING MARGINALITIES (Teresa Heinz Housel ed., 2018).

16. ALEJANDRA CAMPOVERDI, *FIRST GEN: A MEMOIR* (2023).

17. *First-Generation College Celebration*, CTR. FOR FIRST-GENERATION STUDENT SUCCESS <https://firstgen.naspa.org/engagement/first-generation-college-celebration> [https://perma.cc/6HPH-EAS7].

heard of. At that time, Pruitt was writing an article titled *The False Choice Between Race and Class and Other Affirmative Action Myths*, ultimately published in 2015.¹⁸ Herself a first-gen student, Pruitt maintains a keen interest in seeing first-gen students succeed.

Pruitt saw first-gen programs as places for people like she had been—a first-gen white student—to provide easy access to networks of similarly situated students. Sarah Smarsh, also a white class migrant, expresses something similar in her 2018 book, *Heartland: A Memoir of Working Hard and Being Broke in the Richest Country on Earth*.¹⁹ Of her arrival at the University of Kansas from a rural high school, Smarsh wrote:

There was no language for whatever I represented on campus. Scholarships and student organizations existed to boost kids from disadvantaged groups such as racial minorities, international students, and the LGBTQ community. I was none of those things, and professors and other students often assumed from looking at me or hearing me speak that I was a middle-class kid with parents sending me money.²⁰

Pruitt wrote the *False Choice* article partly out of frustration that low-income white students were sometimes depicted as spoilers for students of color in the affirmative action context. That is, she often heard working-class whites cast as “the problem.”²¹ Although Pruitt had been researching the way low socioeconomic status (SES) white students were viewed in relation to affirmative action, she had not thought about giving students like she had been, a label beyond “low socioeconomic status,” “low-SES,” or “working-class,”²² which is how several bodies of academic literature and the mainstream media referred to them.²³ Pruitt had also never thought about the possibility of channeling additional campus resources to them to optimize the prospects of their success.

18. Lisa R. Pruitt, *The False Choice Between Race and Class and Other Affirmative Action Myths*, 63 *BUFF. L. REV.* 981 (2015).

19. SARAH SMARSH, *HEARTLAND: A MEMOIR OF WORKING HARD AND BEING BROKE IN THE RICHEST COUNTRY ON EARTH* (2018).

20. *Id.* at 261.

21. Pruitt, *supra* note 18, at 982.

22. See Sherry Lee Linkon, *First-Gen or Working Class?: The Politics of Terminology*, in *AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS*, *supra* note 15, at 55; Rashné Jehangir & Kelly Collins, *What's in a Name?: Narratives and Counternarratives of the First-Generation Moniker*, in *AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS*, *supra* note 15, at 301, 302; Thai-Huy Nguyen & Bach Mai Dolly Nguyen, *Is the “First-Generation Student” Term Useful for Understanding Inequality? The Role of Intersectionality in Illuminating the Implications of an Accepted—Yet Unchallenged—Term*, 42 *REV. RSCH. EDUC.* 146 (2018).

23. See, e.g., Lisa R. Pruitt, *Who's Afraid of White Class Migrants? On Denial, Discrediting and Disdain (and Toward a Richer Conception of Diversity)*, 31 *COLUM. J. GENDER & L.* 196, 202, 220 n.77 (2015) (collecting sources); *Increasing College Access and Success for Low Income Students*, UC DAVIS CTR. FOR POVERTY & INEQ. RSCH. (Mar. 2015), <https://poverty.ucdavis.edu/increasing-college-access-and-success-low-income-students> [<https://perma.cc/44LJ-2XGS>] (cross-disciplinary academic conference highlighting the need to serve “low income students”).

As it happens, however, scholars have been studying students they were labeling “first generation” since the 1980s.²⁴ The term was apparently coined more than four decades ago, in 1980, by the Council for Opportunity in Education (COE), an organization championing federal educational opportunity programs.²⁵ Specifically, “‘first-generation’ entered the legislative lexicon” as part of the federal Education Amendments of 1980, which sought to “provide educational access and opportunity to students who were the first in their immediate family to enter college for a bachelor’s degree (thereafter referred to as ‘First Generation College Students’) and from other marginalized groups in secondary and post-secondary education, including low socioeconomic status and disability.”²⁶

When UC Davis initiated its own first-gen programs—one for undergraduates in spring 2017²⁷ and one within the law school a few months later²⁸—Pruitt enthusiastically engaged with both. She joined a “First Gen Faculty Learning Community” at the UC Davis Center for Educational

24. See SUSAN P. CHOY, NAT’L CTR. FOR EDUC. STAT., STUDENTS WHOSE PARENTS DID NOT GO TO COLLEGE: POSTSECONDARY ACCESS, PERSISTENCE, AND ATTAINMENT 4 (2001), <https://nces.ed.gov/pubs2001/2001126.pdf> [<https://perma.cc/XT9W-HB4P>].

25. FGSS REPORT, *supra* note 2, at 20. The U.S. government established TRIO programs in 1965 to “ensure equal educational opportunity for all Americans, regardless of race, ethnic background, or economic circumstances.” Frank J. Balz & Melanie R. Esten, *Fulfilling Private Dreams, Serving Public Priorities: An Analysis of TRIO Students’ Success at Independent Colleges and Universities*, 67 J. NEGRO EDUC. 333, 334 (1998). These programs require about two-thirds of participants to be “low-income, first-generation-college students.” *Id.*

26. FGSS REPORT, *supra* note 2, at 20; *accord First Generation College Student Celebration*, SUFFOLK UNIV., <https://www.suffolk.edu/about/mission-history/trio-and-first-gen-forward/first-generation-college-student-celebration#> [<https://perma.cc/97MY-MFML>]; Education Amendments of 1980, H.R. 5192, 96th Cong. (1980) (amending and extending the Higher Education Act of 1965).

27. The University of California system has been swept up in the first-gen movement. In 2017, the system’s office of the president instructed each of the system’s ten campuses to design and implement a program to support its first-gen students. *UC Kicks Off Systemwide Effort to Support First-Generation Students*, LINK UCOP (Aug. 28, 2017), <https://link.ucop.edu/2017/08/28/uc-kicks-off-systemwide-effort-to-support-first-generation-students/> [<https://perma.cc/7DWD-VQ63>]; see also UNIV. OF CAL., FIRST-GENERATION STUDENT SUCCESS AT THE UNIVERSITY OF CALIFORNIA (2017), <https://www.universityofcalifornia.edu/sites/default/files/2022-02/First-Generation%20Student%20Success%20at%20UC%208-2017.pdf> [<https://perma.cc/4M8Z-9XLF>]. These programs respond to shifting demographics in the state and among the student body: 42% of UC undergraduate students were first generation in 2017, up from 36% a decade earlier. *Id.* at 3 (reporting 45% of California college freshmen were first-generation students). Even the University of California Press has taken up the first-gen mantle with a program aimed at supporting and publishing the work of scholars who are first in their families to earn a college degree. *Learn About Our FirstGen Program*, UNIV. OF CAL. PRESS, <https://www.ucpress.edu/resources/firstgen-program> [<https://perma.cc/9ZMY-7AQ8>].

28. See *First Generation Advocates*, UC DAVIS SCH. OF L., <https://law.ucdavis.edu/students/first-generation-advocates> [<https://perma.cc/F6GS-SU8D>]; Thomas O’Donnell, *UC Davis School of Law Graduates Its Inaugural First Generation Advocates Cohort*, UC DAVIS DIVERSITY, EQUITY & INCLUSION (May 27, 2020), <https://diversity.ucdavis.edu/news/uc-davis-school-law-graduates-its-inaugural-first-generation-advocates-cohort> [<https://perma.cc/HG94-UXAJ>].

Effectiveness. This was an opportunity for faculty from across campus to study and share ideas about how best to teach and serve first-gen students.²⁹

Pruitt also created an undergraduate first-year seminar about being first gen, which she taught in the fall of 2018. Pruitt was struck by how profoundly the first-year undergraduate students rose to the invitation of this seminar to tell their stories. She was surprised at how vulnerable the students made themselves in the assignments as they both wrote about their lives and, on the last day of class, shared their stories orally. Although Pruitt was the only white person in the room—and a middle-aged one with a lingering southern accent at that—the students made themselves vulnerable with Pruitt and with each other as they talked about how they got to UC Davis, sharing the highs and lows of their journeys.

Inspired by the power of the students' stories and the vulnerability they showed, Pruitt adapted that course for law students, calling it "The First Gen Experience in Scholarly and Popular Literature." She initially taught the course in the law school in 2020. Bhardwaj was a student in the course in the fall of 2022.

* * *

We acknowledge that using first-gen status as a frame for identifying vulnerable students is potentially controversial because the first-gen label is colorblind on its face.³⁰ The Lumina Foundation, which in partnership with the National Association of Student Personnel Administrators (NASPA) has devoted considerable resources to studying how to bolster the success of first-gen students, has noted that "first-gen" is an identifier for underserved students "without referring to race."³¹ On the other hand, the same document specifies the category's inclusion of students of color and rural students, among other vulnerable categories.³²

29. *Faculty Learning Communities*, UC DAVIS CTR. FOR EDUC. EFFECTIVENESS, <https://cee.ucdavis.edu/learning-teaching/communities/faculty-learning-communities> [<https://perma.cc/LU54-N4GE>].

30. See, e.g., JARED BASS ET AL., U.S. DEP'T OF EDUC., ADVANCING DIVERSITY AND INCLUSION IN HIGHER EDUCATION: KEY DATA HIGHLIGHTS FOCUSING ON RACE AND ETHNICITY AND PROMISING PRACTICES (2016), <https://www2.ed.gov/rschstat/research/pubs/advancing-diversity-inclusion.pdf> [<https://perma.cc/7CSP-XV5H>]; Genevieve Bonadies Torres, *Affirmative Action in Higher Education: Relevance for Today's Racial Justice Battlegrounds*, AM. BAR ASS'N (Jan. 6, 2020), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/black-to-the-future-part-ii/affirmative-action-in-higher-education—relevance-for-today-s-ra/.

31. FGSS REPORT, *supra* note 2, at 20; see also Tomiko Brown-Nagin, *Rethinking Proxies for Disadvantage in Higher Education: A First Generation Students' Project*, U. CHI. LEGAL F. 433, 480–81 (2014) (referring to "first-generation" as a proxy for disadvantage and focusing in particular on first-generation students who are Pell eligible, which Brown-Nagin also labels "poor").

32. FGSS REPORT, *supra* note 2, at 20.

Indeed, like Pruitt's 2015 *False Choice* article, attention to first-gen students arguably flies in the face of the current trend in higher education to center race and racial disadvantage, at least in rhetoric.³³ This focus on race sometimes eclipses other bases on which students are vulnerable and in need of support, including adverse childhood experiences,³⁴ other traumatic life events, and an array of mental health concerns. And while many students of color experience socioeconomic disadvantage,³⁵ so do many white students.³⁶ The latter will not be served by programs that see only disadvantage based on race.

Further, although race-based affirmative action was a staple of higher education for decades, such admissions policies failed to gain widespread public approval. Indeed, they are increasingly unpopular, even in progressive states like California.³⁷ Affirmative action's ultimate rejection by the U.S. Supreme Court, which came in 2023 in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, was predicted long before that decision overturned the Court's germinal 1978 affirmative action decision in *Regents of University of California v. Bakke*.³⁸

In fact, society has much at stake in supporting first-gen students—regardless of race—and getting them over the finish line of earning a four-year college degree. Students who are first in their family to go to college are significantly more likely to drop out, even after controlling for gender, race, family income, and high school grade point average.³⁹ When they do complete

33. See, e.g., Conor Friedersdorf, *A Uniquely Terrible New DEI Policy*, ATLANTIC (Oct. 13, 2023), <https://www.theatlantic.com/ideas/archive/2023/10/dei-policy-california-community-college/675629/> (reporting on a California community college policy that would deem professors competent only if they use “anti-racist pedagogy”); ADAM RUTHERFORD, HOW TO ARGUE WITH A RACIST: WHAT OUR GENES DO (AND DON'T) SAY ABOUT HUMAN DIFFERENCE 201 (2020) (quoting Angela Davis as saying “it is not enough to be non-racist, we must be anti-racist”); cf. NANCY LEONG, IDENTITY CAPITALISTS: THE POWERFUL INSIDERS WHO EXPLOIT DIVERSITY TO MAINTAIN INEQUALITY (2021).

34. See *Fast Facts: Preventing Adverse Childhood Experiences*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 29, 2023), <https://www.cdc.gov/violenceprevention/aces/fastfact.html> [<https://perma.cc/4RZX-4XPC>]. These experiences include, among others, the following traumatic events occurring between the ages of zero and seventeen: experiencing violence, abuse, or neglect; witnessing violence in the home or community; and having a family member attempt or die by suicide. *Id.* They also include growing up in a household with substance use problems, mental health problems, or instability due to parental separation or household members being in jail or prison. *Id.*

35. See Trina Jones, *Race, Economic Class, and Employment Opportunity*, 72 LAW & CONTEMP. PROBS. 57, 65 (2009) (discussing conflation of Blackness with poverty and dependency); see also *infra* text accompanying notes 329–33 (regarding impulse to found UC Berkeley Law's first-gen program).

36. See Jones, *supra* note 35, at 62.

37. See Michael Powell & Ilana Marcus, *The Failed Affirmative Action Campaign That Shook Democrats*, N.Y. TIMES (June 11, 2023), <https://www.nytimes.com/2023/06/11/us/supreme-court-affirmative-action.html> (reporting on a failed 2020 campaign in California that would have reversed the state's 1996 ban on affirmative action); Anemona Hartocollis, *The Liberal Maverick Fighting Race-Based Affirmative Action*, N.Y. TIMES (Apr. 3, 2023), <https://www.nytimes.com/2023/03/29/us/richard-kahlenberg-affirmative-action.html>.

38. See *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 226–27 (2023) (rejecting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978)).

39. Terry T. Ishitani, *First-Generation Students' Persistence at Four-Year Institutions*, 91 COLL. & U. 22, 32 (2016); see also RICHARD FRY, *FIRST-GENERATION COLLEGE GRADUATES LAG BEHIND THEIR PEERS ON*

their degrees, they typically take longer to do so.⁴⁰ Many factors account for these outcomes, as we discuss in Part II below.

This Article goes beyond the undergraduate context typically associated with the first-gen discussion and expands thinking and learning about first-gen students pursuing legal education.⁴¹ We are motivated in this endeavor because we want to support students who, without institutional supports, are at risk of not completing their law degrees. Indeed, without institutional changes, they might not even undertake them.

We also see conversations with and interactions among first-gen students of different races and ethnicities as leading these students to see what they have in common. Such fruits of first-gen programs have the potential to trickle out into wider society and foster cross-racial coalition building.⁴² These knock-on effects could thus respond to challenges beyond higher education. In short, first-gen programs could encourage and facilitate a transition from a divide-and-conquer mindset to a unite-and-build one.⁴³

KEY ECONOMIC OUTCOMES (2021), <https://www.pewresearch.org/social-trends/2021/05/18/first-generation-college-graduates-lag-behind-their-peers-on-key-economic-outcomes/> [<https://perma.cc/6AZK-DZBG>]; WILLIAM G. BOWEN ET AL., CROSSING THE FINISH LINE: COMPLETING COLLEGE AT AMERICA'S PUBLIC UNIVERSITIES (2009); Krista M. Soria & Michael J. Stebleton, *First-Generation Students' Academic Engagement and Retention*, 17 TEACHING HIGHER EDUC. 673 (2012); *33% of First-Gen Students Drop Out Within 3 Years*, EAB (Apr. 29, 2019), <https://eab.com/insights/daily-briefing/student-affairs/33-of-first-gen-students-drop-out-within-3-years/> [<https://perma.cc/596T-29XU>].

40. BOWEN ET AL. *supra* note 39, at 71.

41. To date, relatively few scholars have discussed the first-gen population in law reviews and adjacent literature. *See, e.g.*, Brown-Nagin, *supra* note 31. A few studies are about first-gen students in legal education. *See* Aaron N. Taylor, *Robin Hood, In Reverse: How Law School Scholarships Compound Inequality*, 47 J.L. & EDUC. 41 (2018); Jacqueline M. O'Bryant & Katharine Traylor Schaffzin, *First-Generation Students in Law School: A Proven Success Model*, 70 ARK. L. REV. 913 (2018); Jesse McCain & Josipa Roksa, *"It's a Strength that I Draw From": First-Generation Background as a Cultural Resource in Law School*, 3 J. FIRST-GENERATION STUDENT SUCCESS 71 (2023); Thomas Sneed, *Adapting Legal Research for a First-Generation Audience*, 42 LEGAL REFERENCE SERVS. Q. 220 (2023). Some articles mention first-gen status only in passing, as in charts or appendices. *See, e.g.*, Elizabeth Bodamer, *Do I Belong Here? Examining Perceived Experiences of Bias, Stereotype Concerns, and Sense of Belonging in U.S. Law Schools*, 69 J. LEGAL EDUC. 455, 481 (2020); Laura P. Graham, *"Safe Spaces" And "Brave Spaces": The Case for Creating Law School Classrooms That Are Both*, 76 U. MIA. L. REV. 84, 97–99 (2021); Christopher J. Ryan, Jr., *Paying for Law School: Law Student Loan Indebtedness and Career Choices*, 2021 U. ILL. L. REV. 97, 105–06.

42. *See, e.g.*, *Bridging the Diploma Divide in American Politics*, DIPLOMA DIVIDE, <https://www.diplomadivide.org> [<https://perma.cc/UH8N-624Z>]; Jason Willick, *How the Diploma Divide Came to Dominate American Politics*, WASH. POST (Oct. 1, 2023, 7:30 AM), <https://www.washingtonpost.com/opinions/2023/10/01/understanding-electorate-diploma-divide/>; Doug Sosnik, *The 'Diploma Divide' Is the New Fault Line in American Politics*, N.Y. TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/opinion/education-american-politics.html>; Zolan Kanno-Youngs, *No Degree? No Problem. Biden Tries to Bridge the 'Diploma Divide,'* N.Y. TIMES (May 15, 2023), <https://www.nytimes.com/2023/05/15/us/politics/biden-working-class-voters.html>; Michael J. Sandel, *Disdain for the Less Educated Is the Last Acceptable Prejudice*, N.Y. TIMES (Sept. 2, 2020), <https://www.nytimes.com/2020/09/02/opinion/education-prejudice.html>.

43. *See* IAN HANEY LÓPEZ, MERGE LEFT 16 (2019) (stressing the importance of cross-racial alliances and the need to form a sense of community to achieve racial and economic justice); *see also* EZRA KLEIN, WHY WE'RE POLARIZED (2020); GEORGE PACKER, LAST BEST HOPE: AMERICA IN CRISIS AND RENEWAL (2021); Justin Wong, *Are We Part of the Problem?*, FIRST GEN COURSE BLOG (Nov. 16, 2023), <https://firstgencourse.blogspot.com/2023/11/am-i-part-of-problem.html> [<https://perma.cc/KJX7-E6L7>].

This Article unfolds as follows: In Part I, we link goals of the first-gen project to extensive research on the increased difficulty of achieving upward mobility. We also show how higher educational attainment functions as a catalyst for socioeconomic success, with attendant health and lifestyle benefits.⁴⁴ In Part II, we provide a comprehensive overview of the empirical literature about first-gen students with a view to identifying interventions that have proved empowering.

Part III summarizes what we know about first-gen law students. Here we reference the quantitative data collected by the Law School Survey of Student Engagement (LSSSE) and the National Association of Law Placement (NALP). Part IV surveys first-gen programs at U.S. institutions of higher education, including at a burgeoning number of law schools.

Part V provides insights from a first-gen intervention at the law school level: Pruitt's seminar, *The First-Gen Experience in Scholarly and Popular Literature*. We discuss some of the challenges, pitfalls, and successes of providing a first-gen specific curricular offering. Analysis of this course is notable for two reasons. First, the course is taught at the law-school level, and thus it is more likely to include participants who will eventually have careers in government, public service, legislative policy, politics, academia, and so forth. Law graduates will play influential roles in broader public discourse on key policy issues.⁴⁵ Second, the course was developed and taught at UC Davis, which is situated at the vanguard of diversity, equity, and inclusion initiatives.⁴⁶

44. See *infra* Part I. To be clear, we are not claiming that educational attainment is the only way to attain the “good life.” See generally MICHAEL J. SANDEL, *THE TYRANNY OF MERIT: WHAT’S BECOME OF THE COMMON GOOD?* (2020) (arguing for greater respect and social esteem for the working class and asserting that lack of this esteem has led to polarization). We acknowledge and respect the trend away from requiring college degrees for many state government jobs.

45. As the U.S. Supreme Court wrote in 2003 in *Grutter v. Bollinger*: “Individuals with law degrees occupy roughly half the state governorships, more than half the seats in the United States Senate, and more than a third of the seats in the United States House of Representatives.” 539 U.S. 306, 332 (2003). The Court thus differentiated the law school context from the undergraduate context at stake in the companion case of *Gratz v. Bollinger*. *Id.* Increasingly, graduate education is the gateway to power. See Bill Henderson, *Rocks on the Back of First-Generation College Grads Attending Law School*, LEGAL EVOLUTION (July 21, 2020), <https://www.legalevolution.org/2020/07/rocks-on-the-back-of-first-generation-college-grads-attending-law-school-182/> [https://perma.cc/LHE4-58Y8] (citing Richard L. Zweigenhaft, *The Role of Elite Education for White Men, White Women, and People of Color in the U.S. Corporate Elite*, WHO RULES AMERICA? (June 29, 2015), https://whorulesamerica.ucsc.edu/power/elite_education.html [https://perma.cc/TZ2A-QHQN]); NICHOLAS CARNES, *WHITE-COLLAR GOVERNMENT: THE HIDDEN ROLE OF CLASS IN ECONOMIC POLICY MAKING* (2013).

46. See, e.g., Kevin R. Johnson, *How and Why We Built a Majority-Minority Faculty*, CHRON. HIGHER EDUC. (July 24, 2016), <https://www.chronicle.com/article/how-and-why-we-built-a-majority-minority-faculty/>; *UC Davis Law Ranks No. 1 for Students, No. 3 for Faculty in Representation of Women in Law Schools*, UC DAVIS SCH. OF L. (Aug. 26, 2022), <https://law.ucdavis.edu/news/uc-davis-law-ranks-no-1-students-no-3-faculty-representation-women-law-schools> [https://perma.cc/7AJ3-D7QH]; see also Michael Powell, *D.E.I. Statements Stir Debate on College Campuses*, N.Y. TIMES (Sept. 8, 2023), <https://www.nytimes.com/2023/09/08/us/ucla-dei-statement.html>.

The institution is thus at or near one end of the political spectrum along which U.S. society is polarized.⁴⁷

This Article closes with pragmatic advice for legal educators seeking to incorporate first-gen programming into their student services or curriculum. Ultimately, we call for more empirical studies of first-gen students in the law school setting. We need a better understanding of the student needs and vulnerabilities that arise in this environment so that legal educators can decide whether and how to respond. Meanwhile, educators concerned about creating opportunity in a post-affirmative action era should consider how first-gen programs can serve those ends without running afoul of current legal precedents.

I. WHAT'S AT STAKE: THE GROWING CHALLENGES TO CLASS MIGRATION AND THE ROLE OF HIGHER EDUCATION IN UPWARD MOBILITY

Upward mobility, a term sometimes used interchangeably with the ubiquitous “American Dream” concept, describes the phenomenon of individuals growing up in one socioeconomic class and rising to a higher one as an adult.⁴⁸ Professor Joan Williams has called those who achieve this through access to higher education “class migrants.”⁴⁹ We thus call the process class migration. In this Part, we first explain the increasing difficulty of achieving upward mobility, especially for low-SES individuals. We then elucidate the significance of increased educational attainment as a facilitator of upward class migration, acknowledging that while it offers a pathway up the socioeconomic ladder, it does not necessarily resolve the inherent challenges associated with achieving such mobility, including the financial and psychological barriers involved in accessing and successfully navigating education itself.

47. Hyperpolarized environments, even those where the vast majority of faculty and students lean highly progressive as is the case at UC Davis, provide an opportunity to build arguably the most important bridges—those that reel in the extremes toward a temperate center. In a democracy, this can facilitate progress for all. See Jennifer McCoy & Benjamin Press, *What Happens When Democracies Become Perniciously Polarized?*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Jan. 18, 2022), <https://carnegieendowment.org/2022/01/18/what-happens-when-democracies-become-ferociously-polarized-pub-86190> [https://perma.cc/5SUD-LLS2].

48. See Raj Chetty et al., *The Fading American Dream: Trends in Absolute Income Mobility Since 1940*, SCIENCE, Apr. 2017, at 356, 398–406 [hereinafter Chetty et al., *The Fading American Dream*] (defining the “American Dream” as “the aspiration that children have a higher standard of living than their parents”); see also LAWRENCE R. SAMUEL, *THE AMERICAN DREAM: A CULTURAL HISTORY* (2012); MICHÈLE LAMONT, *SEEING OTHERS: HOW RECOGNITION WORKS—AND HOW IT CAN HEAL A DIVIDED WORLD* (2023); JENNIFER L. HOCHSCHILD, *FACING UP TO THE AMERICAN DREAM: RACE, CLASS AND THE SOUL OF THE NATION* (1996).

49. JOAN C. WILLIAMS, *RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER* 154 (2010).

A. Growing Challenges to Upward Mobility

The economics of class migration may be studied in two distinct ways. One approach examines *intergenerational* mobility, which evaluates the correlation between parental socioeconomic status and that of their adult children.⁵⁰ The second approach studies *intragenerational* mobility, which considers the correlation of outcomes at specific points within a person's adult lifetime.⁵¹ In other words, the former considers how likely it is that a child will attain a higher (or lower) socioeconomic status than their parents, while the latter assesses the likelihood that an individual will rise in socioeconomic status over the course of their adult life. Both analyses are important for our discussion because each corresponds to a distinct aspect of the first-gen experience.

The intergenerational analysis is intuitively appropriate when studying first-gen students because first-gen status is defined by the educational attainment of their parents, and educational attainment is closely correlated with socioeconomic status.⁵² Intergenerational trends of the past few decades reveal a decline in the percentage of adult children who earn more money than their parents.⁵³ For example, in the 1940s, about nine of ten children earned more than their parents, but this dropped to only half for children born in the 1980s.⁵⁴ Similarly, recent studies show that the overall connection between parents' income and their children's income as adults has become stronger.⁵⁵ This means children born into low-SES families now find it meaningfully harder to improve their economic situation compared to kids from similar families in the past.

Intragenerational analysis is informative, too, because it considers income and wealth mobility from the perspective of individuals who are working age.⁵⁶ For example, an intragenerational approach asks how likely it is that someone starting at the lowest quintile of income or wealth attainment at the age of twenty-five will be able to rise to a higher level by the age of fifty-five. This metric allows us to compare the pure economic mobility of first-gen graduates

50. See Bhash Mazumder, *Intergenerational Economic Mobility in the United States*, FED. RESRV. BANK OF CHI. (Apr. 2022), <https://www.chicagofed.org/research/content-areas/mobility/intergenerational-economic-mobility> [https://perma.cc/8E38-Y5PJ].

51. See GREGORY ACS & SETH ZIMMERMAN, U.S. INTRAGENERATIONAL ECONOMIC MOBILITY FROM 1984 TO 2004: TRENDS AND IMPLICATIONS (2008), <https://www.urban.org/sites/default/files/publication/31316/1001226-u-s-intragenerational-economic-mobility-from-to-.pdf> [https://perma.cc/J9X3-4A86].

52. See, e.g., Brown-Nagin, *supra* note 31, at 467.

53. See, e.g., Chetty et al., *The Fading American Dream*, *supra* note 48, at 398; see generally DANIEL MARKOVITS, *THE MERITOCRACY TRAP* (2019).

54. Chetty et al., *The Fading American Dream*, *supra* note 48, at 398.

55. Juan C. Palomino et al., *Intergenerational Mobility in the US: One Size Doesn't Fit All*, CEPR (Jan. 3, 2019), <https://cepr.org/voxeu/columns/intergenerational-mobility-us-one-size-doesnt-fit-all> [https://perma.cc/2UNG-F5LF]; Bhashkar Mazumder, *Estimating the Intergenerational Elasticity and Rank Association in the United States: Overcoming the Current Limitations of Tax Data*, in *INEQUALITY: CAUSES AND CONSEQUENCES* 83, 84 (Lorenzo Cappellari et al. eds., 2016).

56. See ACS & ZIMMERMAN, *supra* note 51, at 3–4.

with that of continuing-generation graduates, which helps determine the role of a college education as an economic equalizer. With this approach, we can determine whether first-gen and continuing-generation college graduates are equally situated once they've earned their degrees, despite the differences in their parents' educational status.

Like intergenerational research, intragenerational research reveals a disconcerting trend: upward mobility of low-SES adults of working age has fallen.⁵⁷ Worse yet, this phenomenon has become more dramatic over time. A 2020 analysis of income from 1967 to 2016 confirmed previous findings highlighting the decline of upward mobility: “absolute upward mobility out of poverty dropped by about 19 percent and downward mobility from the middle class increased from five to eleven percent.”⁵⁸ It is thus increasingly likely that low-SES adults will remain low-SES for their entire life, a trend that holds when analyzing wealth as distinct from income.⁵⁹

These findings, which show the difficulty of increasing one's relative socioeconomic status after the age of twenty-five, are especially consequential for first-gen students because they suggest that educational attainment may be the final significant intervention opportunity for folks who otherwise appear destined to a lifetime of low socioeconomic status. This is because individuals typically graduate from university in their twenties; it is also when they tend to pursue postgraduate education and commence full-time employment, placing them on clearer paths to upward mobility.⁶⁰ It is no surprise, then, that a Brookings Report recommends policies “to improve upward mobility during this dynamic period.”⁶¹

Ultimately, these data from both intragenerational and intergenerational research reveal an unsettling combination of low initial wealth and poor

57. Katharine Bradbury & Jane Katz, *Trends in U.S. Family Income Mobility, 1967-2004*, at 1, 12–14 (Fed. Rsr. Bank of Bos., Working Paper No. 09-7, 2009), <https://www.bostonfed.org/publications/research-department-working-paper/2009/trends-in-us-family-income-mobility-19672004.aspx> [<https://perma.cc/4LAU-5MXT>].

58. ARIEL GELRUD SHIRO ET AL., *STUCK ON THE LADDER: INTRAGENERATIONAL WEALTH MOBILITY IN THE UNITED STATES* 7 (2022), https://www.brookings.edu/wp-content/uploads/2022/06/2022_FMCI_IntragenerationalWealthMobility_FINAL.pdf [<https://perma.cc/U5HT-QSUW>] (citing STEPHEN ROSE, *SQUEEZING THE MIDDLE CLASS: INCOME TRAJECTORIES FROM 1967 TO 2016*, at 2 (2020), https://www.brookings.edu/wp-content/uploads/2020/08/Squeezing-the-middle-class_Report-1.pdf [<https://perma.cc/Z7RH-FB9V>]).

59. *See id.* at 13–14.

60. *See* Robin Marantz Henig, *What Is It About 20-Somethings?*, N.Y. TIMES MAG. (Aug. 18, 2010), <https://archive.nytimes.com/www.nytimes.com/2010/08/22/magazine/22Adulthood-t.html> [<https://perma.cc/S9G7-PDS5>]; *Pre-Professional Advising: After Graduation*, JOHNS HOPKINS UNIV., <https://studentaffairs.jhu.edu/preprofadvising/pre-medhealth/after-graduation/#> [<https://perma.cc/98TB-7YXV>] (indicating the average age of a first-year medical student is twenty-four).

61. *See* SHIRO ET AL., *supra* note 58, at 22.

prospects for upward mobility.⁶² Those who are poor or born into poor families are more likely to remain poor and to beget poor families.⁶³ The same type of “stickiness” is true for those born into affluent families: they remain rich.⁶⁴

More importantly, these data support the case for emphasizing not only college education but also postgraduate education and professional schooling. This can be especially important for those starting at the bottom of the income and wealth distributions. This is not only because educational attainment correlates very well with upward mobility⁶⁵ but also because upward mobility is easier to achieve in one’s twenties and thirties, the age range at which most students graduate from college or professional school.⁶⁶

B. Three Quantifiable Benefits of Increased Educational Attainment

Educational attainment has long been a good strategy for achieving upward socioeconomic mobility.⁶⁷ Indeed, more highly educated individuals enjoy a plethora of objectively better life outcomes compared to those with less education.⁶⁸ Significant research highlighting the correlation between educational attainment and a variety of positive outcomes has led scholars to call upon policymakers to pursue interventions that improve college opportunities for those less likely to pursue or complete it.⁶⁹ In the following sections, we synthesize the upshots of this research by discussing three categories of benefits associated with increased educational attainment. Where data are available, we emphasize the additional benefit conferred by the completion of graduate degrees, including a Juris Doctor.

62. *Id.*; see generally MARKOVITS, *supra* note 53 (detailing the decreasing likelihood that those not born into the elite class will ascend into it and the growing likelihood that non-elites will fall to a class position lower than that occupied by their parents).

63. See SHIRO ET AL., *supra* note 58, at 5.

64. *Id.*

65. See *infra* Part I.B.

66. *Pre-Professional Advising*, *supra* note 60 (indicating the average age of a first-year medical student is twenty-four); MEERA E. DEO ET AL., LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, THE CHANGING LANDSCAPE OF LEGAL EDUCATION: A 15-YEAR LSSSE RETROSPECTIVE 8 (2020), https://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE_Annual-Report_Winter2020_Final.pdf [<https://perma.cc/7ZLC-DKB8>].

67. See *infra* Part I.B. *But see* JON SHELTON, THE EDUCATION MYTH: HOW HUMAN CAPITAL TRUMPED SOCIAL DEMOCRACY (2023).

68. See *infra* Parts I.B.1–3.

69. See Judith M. Harackiewicz & Stacy J. Priniski, *Improving Student Outcomes in Higher Education: The Science of Targeted Intervention*, 69 ANN. REV. PSYCH. 409, 409–10 (2018); PPIC HIGHER EDUC. CTR., PUB. POL’Y INST. OF CAL., IMPROVING COLLEGE COMPLETION 3–4 (2019), <https://www.ppic.org/wp-content/uploads/higher-education-in-california-improving-college-completion-october-2019.pdf> [<https://perma.cc/YC4U-962V>]; William N. Evans et al., *Increasing Community College Completion Rates Among Low-Income Students: Evidence from a Randomized Controlled Trial Evaluation of a Case-Management Intervention*, 39 J. POL’Y ANALYSIS & MGMT. 930, 931–33 (2020).

1. *Economic Prosperity*

It is no secret that increased educational attainment tends to correspond to an economic boon over the course of a lifetime.⁷⁰ Men with bachelor's degrees earn approximately \$890,000 more in median gross lifetime earnings than male high school graduates.⁷¹ For women, the difference in lifetime earnings between college graduates and high school graduates is about two-thirds of that—\$630,000.⁷²

The data on individuals with graduate degrees are even more striking.⁷³ Men with graduate degrees earn \$1.51 million more in median income than male high school graduates, whereas the difference for women is about \$1.06 million.⁷⁴ Moreover, these figures hold even when controlling for factors such as race, ethnicity, marital history, number of children, birthplace, high school type, college preparation course enrollment, and math and science Advanced Placement (AP) course enrollment.⁷⁵

This trend has accelerated in recent decades. Though it has long been the case that college-educated Americans make more money than their non-college-educated counterparts, the difference in average income between the two groups has drastically increased since the late 1970s.⁷⁶ This is partly due to more employers requiring a college degree for many jobs that previously did not require one.⁷⁷

Isolating for law graduates (Juris Doctor) sheds additional light on the importance of creating law school pipelines for first-gen students. In response to concerns about the value of a law degree (in part due to the extraordinarily burdensome costs of attending law school), law professor Michael Simkovic and economist Frank McIntyre determined that law school graduates will earn on average \$1 million more than college graduates over the course of their

70. Christopher R. Tamborini et al., *Education and Lifetime Earnings in the United States*, 52 DEMOGRAPHY 1383, 1402–03 (2015). *But see* ANTHONY P. CARNEVALE ET AL., 'THE COLLEGE PAYOFF: MORE EDUCATION DOESN'T ALWAYS MEAN MORE EARNINGS 1 (2021), https://cew.georgetown.edu/wp-content/uploads/cew-college_payoff_2021-fr.pdf [<https://perma.cc/6GMT-KP4V>] (noting general trend indicating that more education results in greater lifetime earnings, but that various nuances complicate the simplistic comparison of advanced education, with factors like age, field of study, occupation, gender, race and ethnicity, and location all affecting lifetime earnings).

71. Tamborini et al., *supra* note 70, at 1394.

72. *Id.*

73. *Id.*

74. *See id.*

75. *Id.* at 1396, 1398.

76. ANNE CASE & ANGUS DEATON, DEATHS OF DESPAIR AND THE FUTURE OF CAPITALISM 50–51 (2021).

77. *Id.* at 51; *see also* WILL BUNCH, AFTER THE IVORY TOWER FALLS: HOW COLLEGE BROKE THE AMERICAN DREAM AND BLEW UP OUR POLITICS—AND HOW TO FIX IT 100–01 (2022).

lifetime.⁷⁸ The researchers also found that a law degree results in a 73% increase in median earnings and a 60% increase in median hourly wages.⁷⁹

Simkovic and McIntyre's findings corroborated numerous earlier studies revealing that increased educational attainment corresponds to tangible labor market benefits, including those that extend beyond an individual's field of study.⁸⁰ Simkovic and McIntyre's data set included anyone with a law degree, regardless of whether they practiced law or not.⁸¹ The benefit conferred to non-lawyer J.D.s is partly due to the increase in social capital that results from the network of friends one develops by being enrolled in higher education degree-granting programs, a topic we take up in the next section.⁸²

2. *How Social Capital Fuels Economic Prosperity*

Studies reveal that interpersonal connections can be more helpful in the job-search process than knowledge or skills about performing the required job tasks.⁸³ The “who-you-know phenomenon” has been studied—even quantified—by renowned economist Raj Chetty.⁸⁴ Chetty labels it “economic connectedness,” a metric that estimates social capital based upon the share of high-SES friends enjoyed by lower-SES individuals.⁸⁵ Chetty found that economic connectedness is the only form of social capital (among many) that boosts socioeconomic mobility, and that it does so profoundly.⁸⁶ However, the *quality* of the interpersonal relationship affects its potential impact on economic prospects.⁸⁷ The closer the relationship between two individuals, the more likely one will help the other via mentorship and networks.⁸⁸

Analyzing data from 21 billion Facebook friendships, Chetty found that being connected to educated or affluent people can result in tangible benefits via “transferring information, shaping aspirations and providing mentorship or

78. Michael Simkovic & Frank McIntyre, *The Economic Value of a Law Degree*, 43 J. LEGAL STUD. 249, 249 (2014) (based upon 2013 data).

79. *Id.*

80. *Id.* at 252; see also David Neumark et al., *Future Skill Shortages in the U.S. Economy?*, 32 ECON. EDUC. REV. 151 (2013); Yuping Tsai, *Returns to Overeducation: A Longitudinal Analysis of the U.S. Labor Market*, 29 ECON. EDUC. REV. 606, 606–17 (2010).

81. Simkovic & McIntyre, *supra* note 78, at 252.

82. See *infra* Part I.B.2.

83. See, e.g., Raj Chetty et al., *Social Capital I: Measurement and Associations with Economic Mobility*, 608 NATURE 108, 109 (2022) [hereinafter Chetty et al., *Social Capital I*]; Matthew O. Jackson, *Inequality's Economic and Social Roots: The Role of Social Networks and Homophily*, in ADVANCES IN ECONOMICS AND ECONOMETRICS, THEORY AND APPLICATIONS: TWELFTH WORLD CONGRESS OF THE ECONOMETRIC SOCIETY (forthcoming) (manuscript at 13) (SSRN).

84. Chetty et al., *Social Capital I*, *supra* note 83, at 109.

85. *Id.*

86. *Id.*

87. See Jackson, *supra* note 83, at 14.

88. Chetty et al., *Social Capital I*, *supra* note 83, at 109.

job referrals.”⁸⁹ People thus benefit professionally (and therefore, economically) from their friends, even though they may not be aware of this benefit. In the context of higher education, this benefit may take the form of learning about how to select and apply to college or graduate school, identifying and applying for scholarships, and various aspects of the hidden curriculum while a student.⁹⁰

Chetty also found that affluent people are more likely to have made their friends and built their networks in *college*, while low-income individuals tend to have made friends with neighbors.⁹¹ Affluent people are thus more likely to expand and diversify their connections (their economic connectedness) because they go to college, where they are immersed in an environment filled with individuals who are statistically more likely to be or become the highest earners in society.⁹² College classmates are also more likely to come from different backgrounds than one’s hometown neighbors,⁹³ which also has a broadening effect.

3. Health

College-educated individuals also enjoy a number of objectively positive outcomes related to health.⁹⁴ The Office of Disease Prevention and Health Promotion of the U.S. Department of Health and Human services includes “Education Access and Quality” as a social determinant of health.⁹⁵ More highly educated people live longer, on average, than their less educated counterparts, sometimes by a margin of ten to fifteen years, when controlling for race and gender.⁹⁶ Indeed, the Centers for Disease Control and Prevention reports that people with even *some* college education have mortality rates lower than half the rate of those with no college education.⁹⁷ Moreover, World Health

89. *Id.* at 108–09.

90. See generally JESSICA MCCRORY CALARCO, A FIELD GUIDE TO GRAD SCHOOL: UNCOVERING THE HIDDEN CURRICULUM (2020); Marcia Chatelain, *We Must Help First-Generation Students Master Academe’s ‘Hidden Curriculum,’* CHRON. HIGHER EDUC. (Oct. 21, 2018), <https://www.chronicle.com/article/We-Must-Help-First-Generation/244830>.

91. Raj Chetty et al., *Social Capital II: Determinants of Economic Connectedness*, 608 NATURE 122, 122–23 (2022).

92. *Id.*

93. Chetty et al., *Social Capital I*, *supra* note 83, at 109.

94. The extent to which these positive outcomes are the result of the increased wealth of college-educated folks versus the simple fact that they have more formal education is unclear. Indeed, the relationship could be one of correlation rather than causation.

95. *Social Determinants of Health*, U.S. DEPT OF HEALTH & HUM. SERVS., OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, <https://health.gov/healthypeople/priority-areas/social-determinants-health> [<https://perma.cc/FU83-C33C>].

96. Anne Case & Angus Deaton, *Without a College Degree, Life in America Is Staggeringly Shorter*, N.Y. TIMES (Oct. 3, 2023), <https://www.nytimes.com/2023/10/03/opinion/life-expectancy-college-degree.html>; Austin Frakt, *Does Your Education Level Affect Your Health?*, N.Y. TIMES (June 3, 2019), <https://www.nytimes.com/2019/06/03/upshot/education-impact-health-longevity.html>.

97. Frakt, *supra* note 96.

Organization data show that more educated people are less anxious, less likely to be depressed, and less likely to have serious health conditions.⁹⁸

Further, Americans without college degrees are significantly more likely to die from a cause associated with “deaths of despair.” Princeton economists Angus Deaton and Anne Case coined this term to refer to the relatively recent rise in deaths resulting from suicide and afflictions stemming from substance abuse, such as alcoholic liver disease and drug overdoses.⁹⁹ Data from 2000 to 2014 show that men and women over the age of twenty-four with at least a college degree exhibited the lowest rate of suicide in America, whereas those with just a high school diploma had the highest rates.¹⁰⁰ Educational attainment is thus a core social determinant of both suicide risk and all-cause mortality.¹⁰¹

Ultimately, greater educational attainment correlates to increased wealth, health, and happiness. Increased rates of college success thus result in objectively good outcomes for society at large, as well as for individual students, especially first-gen students, who are at greatest risk of not living up to their educational potential.

II. MAPPING THE FIRST-GEN CHALLENGE: WHAT THE SCHOLARLY RESEARCH REVEALS

A. Undergraduate Education

Within several years of federal policymakers and advocates coining the term “first generation” in 1980, the phrase began to appear in academic literature.¹⁰² In the intervening decades, the study of first-gen students has proliferated, with the vast majority of this research focusing on undergraduate students.¹⁰³ Because the educational aspirations of first-gen students trend lower than those of their continuing-generation counterparts,¹⁰⁴ and because first-gen college

98. *Id.*

99. CASE & DEATON, *supra* note 76, at 2.

100. Julie A. Phillips & Katherine Hempstead, *Differences in U.S. Suicide Rates by Educational Attainment, 2000–2014*, 53 AM. J. PREVENTATIVE MED. e123, e124 (2017).

101. *See id.*; CASE & DEATON, *supra* note 76, at 2.

102. *See, e.g.*, Howard B. London, *Breaking Away: A Study of First-Generation College Students and Their Families*, 97 AM. J. EDUC. 144 (1989); FIRST-GENERATION STUDENTS: CONFRONTING THE CULTURAL ISSUES (L. Steven Zwerling & Howard B. London eds., 1992).

103. *See generally* FGSS Report, *supra* note 2.

104. Patrick T. Terenzini et al., *First-Generation College Students: Characteristics, Experiences, and Cognitive Development*, 37 RSCH. HIGHER EDUC. 1, 8 (1996); *see also* Gary R. Pike & George D. Kuh, *First- and Second-Generation College Students: A Comparison of Their Engagement and Intellectual Development*, 76 J. HIGHER EDUC. 276, 277 (2005); Gail Markle & Danelle Dyckhoff Stelzriede, *Comparing First-Generation Students to Continuing-Generation Students and the Impact of a First-Generation Learning Community*, 45 INNOVATIVE HIGHER EDUC. 285 (2020).

graduation rates lag, a dominant theme in the literature is how to retain these students and get them over the finish line of degree completion.¹⁰⁵

While educators, administrators, and policymakers initially attributed first-gen students' poorer academic performance and lower graduation rates to their weaker preparation for higher education, some scholars soon concluded that "the performance gap may be as much due to differences *during* college as differences *before* college."¹⁰⁶ Some literature focuses on the practical barriers first-gen students face, including economic circumstances that often compel these students to hold part-time or even full-time jobs.¹⁰⁷

Where students live is another factor. Because first-gen students are more likely to live off campus, they are "less likely to develop strong relationships with other students and to become involved in campus clubs and organizations."¹⁰⁸ Given these looser attachments to the institution, it is not surprising that first-gen students "tend to be less satisfied with the campus environment."¹⁰⁹

Related to those weaker attachments is first-gen students' greater reluctance to seek help. First-gen students are less likely to develop relations with faculty members or to perceive faculty as concerned about their development.¹¹⁰ These students also tend to need professors to communicate expectations in explicit and detailed ways, avoiding unfamiliar jargon that may implicate the hidden curriculum.¹¹¹ As a consequence, some scholars have called for colleges to be "more strategic and systematic in finding ways to develop faculty-student

105. See A. Benjamin Spencer & Charleigh Kondas, *Law Schools Must Do More to Retain First-Generation Students*, BLOOMBERG L. (Feb. 15, 2022, 3:00 AM), <https://news.bloomberglaw.com/us-law-week/law-schools-must-do-more-to-retain-first-generation-students> [<https://perma.cc/TXE5-EFSX>].

106. Sarah D. Herrmann & Michael E. W. Varnum, *Utilizing Social Class Bicultural Identity Integration to Improve Outcomes for First-Generation College Students*, 4 TRANSLATIONAL ISSUES PSYCH. SCI. 165, 166 (2018) [hereinafter Herrmann & Varnum, *Bicultural*].

107. See Ian S. Pratt et al., *Should I Stay or Should I Go? Retention in First-Generation College Students*, 21 J. COLL. STUDENT RETENTION: RSCH., THEORY & PRAC. 105, 105 (2019).

108. Pike & Kuh, *supra* note 104, at 277–78; see also Terenzini et al., *supra* note 104, at 16–18; Ernest T. Pascarella et al., *First-Generation College Students: Additional Evidence on College Experiences and Outcomes*, 75 J. HIGHER EDUC. 249, 275–77 (2004) (showing lower levels of participation in traditional academic and social experiences by first-generation students); HEATHER T. ROWAN-KENYON ET AL., TECHNOLOGY AND ENGAGEMENT: MAKING TECHNOLOGY WORK FOR FIRST GENERATION COLLEGE STUDENTS 4–5 (2018) (surveying literature and collecting sources); Soria & Stebleton, *supra* note 39, at 673.

109. Pike & Kuh, *supra* note 104, at 277–78; see also Scott E. Carrell & Michal Kurlaender, *My Professor Cares: Experimental Evidence on the Role of Faculty Engagement*, 15 AM. ECON. J.: ECON. POL'Y, Nov. 2023, at 113, 115 (testing a "light touch" randomized intervention of professor emailing students to indicate keys to success in the course, inform the students about their standing in the course, and remind them of the professor's availability); cf. *infra* Part III.A (LSSSE data noting that until the 2023 survey, first-generation law students were more satisfied with their legal education in terms of believing they are learning to think like lawyers but they were also more stressed).

110. Pike & Kuh, *supra* note 104, at 277.

111. Peter J. Collier & David L. Morgan, "Is That Paper Really Due Today?": Differences in First-Generation and Traditional College Students' Understandings of Faculty Expectations, 55 HIGHER EDUC. 425, 438–39 (2008); see also Michael W. Kraus et al., *Social Class as Culture: The Convergence of Resources and Rank in the Social Realm*, 20 CURRENT DIRECTIONS PSYCH. SCI. 246 (2011).

interactions for first-generation, working-class college students.¹¹² This means devising ways to get students interacting with professors, both inside and outside the classroom.¹¹³

These findings have led other scholars to move beyond practical concerns and turn to cultural issues.¹¹⁴ As Pierre Bourdieu observed, the educational system is the “primary vehicle by which the culture of the dominant class is both transmitted and rewarded.”¹¹⁵ Cultural capital refers to the “degree of ease and familiarity that one has with the ‘dominant’ culture of a society,”¹¹⁶ and we have already noted that first-gen students are less likely to come to campus equipped with the ability to navigate higher education with ease. Further, the varieties of cultural capital that first-gen students do bring with them may not be immediately or obviously valued in that setting.¹¹⁷

Ostrove and Long frame this mismatch in terms of “belonging,” observing that “social class background has important implications for students’ sense of belonging at and adjustment to college.”¹¹⁸ This sense of belonging is not merely a touchy-feely abstraction; it has big implications for college experience and performance.¹¹⁹ They hypothesize that a sense of belonging “affects the extent of participation in class, willingness to seek help as needed, and other critical behaviors that influence college success.”¹²⁰ Ostrove and Long anticipate that institutions of higher education can make changes to become more welcoming and inclusive of all students, regardless of social class.¹²¹

Indeed, “belonging” has become a buzz word on campuses in recent years, with the *Chronicle of Higher Education* reporting in 2023 that sixty jobs posted in the periodical the prior year included that word in the job title, up from twenty-

112. Rob Longwell-Grice & Hope Longwell-Grice, *Testing Tinto: How Do Retention Theories Work for First-Generation, Working-Class Students?*, 9 J. COLL. STUDENT RETENTION: RSCH., THEORY & PRAC. 407, 407 (2008) (finding that first-generation, working-class students lack faculty support because they are intimidated by the idea of seeking it out); see also McCain & Roksa, *supra* note 41, at 85–86.

113. Longwell-Grice & Longwell-Grice, *supra* note 112, at 417–18.

114. See, e.g., Herrmann & Varnum, *Bicultural*, *supra* note 106, at 166.

115. Collier & Morgan, *supra* note 111, at 428; see also Lucille A. Jewel, *Bourdieu and American Legal Education: How Law Schools Reproduce Social Stratification and Class Hierarchy*, 56 BUFF. L. REV. 1155, 1156–58 (2008); Kenneth Oldfield, *Humble and Hopeful: Welcoming First-Generation Poor and Working-Class Students to College*, ABOUT CAMPUS, Jan.–Feb. 2007, at 2, 3.

116. Pascarella et al., *supra* note 108, at 252 (quoting David B. Bills, *Credentials, Signals, and Screens: Explaining the Relationship Between Schooling and Job Assignment 90* (2000) (unpublished manuscript) (on file with University of Iowa)); see also Annette Lareau & Elliot B. Weininger, *Cultural Capital in Educational Research: A Critical Assessment*, 32 THEORY & SOC’Y 567, 568–69, 588 (2003) (conceptualizing cultural capital as familiarity with expectations, norms, and procedures).

117. See Sarah O’Shea, *Avoiding the Manufacture of ‘Sameness’: First-in-Family Students, Cultural Capital and the Higher Education Environment*, 72 J. HIGHER EDUC. 59, 59–60, 63 (2015) (arguing for asset-based thinking about first-gen students as opposed to deficit thinking).

118. Joan M. Ostrove & Susan M. Long, *Social Class and Belonging: Implications for College Adjustment*, 30 REV. HIGHER EDUC. 363, 379–81 (2007); see also Bodamer, *supra* note 41, at 477.

119. Ostrove & Long, *supra* note 118, at 381.

120. *Id.*; see also Soria & Stebleton, *supra* note 39, at 681; McCain & Roksa, *supra* note 41, at 78, 81.

121. Ostrove & Long, *supra* note 118, at 384.

three such postings the year before.¹²² The Chancellor of the University of Arkansas attracted the attention of the *Chronicle of Higher Education* in mid-2023 when he abolished all campus DEI initiatives in favor of a focus instead on belonging.¹²³

Others studying these cultural issues have come to speak in terms of a mismatch between first-gen students and institutions of higher education. This mismatch is typically between the culture associated with working-class families and that reflected in colleges and universities. The latter is a better fit for students from middle-class and affluent families in part because their parents are products of higher education.¹²⁴

A body of research led by Nicole M. Stephens is based on the premise that students raised working-class tend to value and manifest *interdependence* while middle-class kids are raised to embrace and manifest independence. Specifically, Stephens and colleagues explain that the “hard interdependence” mindset arises from the relative material deprivation low-income students have experienced in their childhood and youth.¹²⁵ Working-class upbringings thus “afford an understanding of the self and behavior as interdependent with others and the social context.”¹²⁶ The “hard” aspect of this interdependence is attributed to the resilience working-class students develop by coping with adversity¹²⁷ and the “fewer opportunities for influence, choice, and control” that they have enjoyed.¹²⁸

Stephens and colleagues contrast this interdependence with the “expressive independence”¹²⁹ associated with affluent, middle-class contexts.¹³⁰ Children

122. Adrienne Lu, *Everyone is Talking About Belonging. What Does It Really Mean?*, CHRON. HIGHER EDUC. (Feb. 13, 2023), <https://www.chronicle.com/article/everyone-is-talking-about-belonging>.

123. Helen Huiskes, *This University Is Eliminating Its Diversity Office. Now What?*, CHRON. HIGHER EDUC. (June 15, 2023), <https://www.chronicle.com/article/this-university-is-eliminating-its-diversity-office-now-what> (quoting Chancellor Charles F. Robinson as explaining the refocus would “expand programs around access, opportunity, and developing a culture of belonging for all students and employees”).

124. See, e.g., Nicole M. Stephens et al., *Feeling at Home in College: Fortifying School-Relevant Selves to Reduce Social Class Disparities in Higher Education*, 9 SOC. ISSUES & POL’Y REV. 1, 7–9 (2015); Nicole M. Stephens et al., *It’s Your Choice: How The Middle-Class Model of Independence Disadvantages Working-Class Americans*, in FACING SOCIAL CLASS: HOW SOCIETAL RANK INFLUENCES INTERACTION 87, 88–89 (Susan T. Fiske & Hazel Rose Markus eds., 2012); Nicole M. Stephens et al., *Unseen Disadvantage: How American Universities’ Focus on Independence Undermines the Academic Performance of First-Generation College Students*, 102 J. PERSONALITY & SOC. PSYCH. 1178, 1193 (2012) [hereinafter Stephens et al., *Unseen Disadvantage*]; Nicole M. Stephens et al., *Social Class Culture Cycles: How Three Gateway Contexts Shape Selves and Fuel Inequality*, 65 ANN. REV. PSYCH. 611, 619–21 (2014) [hereinafter Stephens et al., *Culture Cycles*].

125. See Stephens et al., *Culture Cycles*, *supra* note 124, at 615–16, 615 n.3.

126. *Id.* at 615; see also Barbara Gray et al., *Identity Work by First-Generation College Students to Counteract Class-Based Microaggressions*, 39 ORG. STUD. 1227, 1239–40 (2018).

127. Stephens et al., *Culture Cycles*, *supra* note 124, at 615.

128. Antony S. R. Manstead, *The Psychology of Social Class: How Socioeconomic Status Impacts Thoughts, Feelings, and Behaviour*, 57 BRIT. J. SOC. PSYCH. 267, 271 (2018) (discussing Stephens et al., *Culture Cycles*, *supra* note 124, at 615); see McCain & Roksa, *supra* note 41, at 82 (reframing as resilience and independence).

129. Stephens et al., *Culture Cycles*, *supra* note 124, at 615.

130. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1193.

and youth from those families “need to worry far less about making ends meet or overcoming persistent threats.”¹³¹ Young adults from the middle-class thus have the freedom to “express[] their personal preferences, influenc[e] their social contexts, stand[] out from others, and develop[] and explor[e] their own interests.”¹³²

Middle-class students tend to fit in better in colleges and universities because these institutions value and cultivate this type of independence.¹³³ University administrators are more likely to endorse independent ways of being (e.g., challenging norms, working independently) as practices that make students successful.¹³⁴ Thus, a “good” student in the college context is willing to approach the teacher, ask questions, and even interrupt to make a point.¹³⁵ First-gen students, on the other hand, show greater “respect and deference to faculty as authority figures” and are thus “less likely to enact independent ways of being in the classroom.”¹³⁶ These students ask questions of professors or otherwise seek help less frequently, as they believe doing so is burdensome on the professor.¹³⁷

Another aspect of the working-class culture of interdependence is ties to family. First-generation students’ reasons for attending college often implicate their families, e.g., serving as a role model or helping their family.¹³⁸ Indeed, one asset these students bring with them to college is “a drive to overcome adversity for the benefit of their families and communities.”¹³⁹ Yet first-gen success in college almost always leads to some loosening of family ties because of the need to prioritize higher education over the family.¹⁴⁰

131. Stephens et al., *Culture Cycles*, *supra* note 124, at 615.

132. Manstead, *supra* note 128, at 271 (discussing and quoting Stephens et al., *Culture Cycles*, *supra* note 124, at 615).

133. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1193; *see also* Manstead, *supra* note 128, at 267.

134. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1178; *see also* O’Bryant & Schaffzin, *supra* note 41, at 923.

135. *See* Manstead, *supra* note 128; *see also* Elizabeth Mertz et al., *What Difference Does Difference Make? The Challenge for Legal Education*, 48 J. LEGAL EDUC. 1, 11 (1998).

136. Herrmann & Varnum, *Bicultural*, *supra* note 106, at 167.

137. *Id.*; *see also* McCain & Roksa, *supra* note 41, at 81–82 (finding first-gen students less likely to ask for help and more likely to find answers on their own).

138. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1187–89; *see also* James Hutson et al., *Predictors of Persistence, Retention and Completion for First-Generation Graduate Students*, 22 J. ORGANIZATIONAL PSYCH. 87, 96 (2022).

139. Herrmann & Varnum, *Bicultural*, *supra* note 106, at 167; *see also* Gray et al., *supra* note 126, at 1239–40 (writing about some students’ deep identification with family and desire to provide for them); Pratt et al., *supra* note 107, at 114 (discussing the pull of family ties for first-gen college students); McCain & Roksa, *supra* note 41, at 79–80; Josipa Roksa et al., *Parental Validation, College Experiences, and Institutional Commitment of First-Generation and Low-Income Students*, 58 J. STUDENT AFFAIRS RSCH. & PRAC. 295, 297 (2020) [hereinafter Roksa et al., *Parental Validation*].

140. *See* JENNIFER M. MORTON, MOVING UP WITHOUT LOSING YOUR WAY: THE ETHICAL COSTS OF UPWARD MOBILITY 150 (2019).

Based on a number of experiments, Stephens and colleagues suggest several interventions that “recognize, appreciate, and accommodate more than one cultural model of how to be a student.”¹⁴¹ The proposed interventions would “expand the dominant rules of the game . . . to include more interdependent cultural norms (e.g., connecting to others, working together).”¹⁴² They also suggest the need for forums where working-class students have a voice, where they are encouraged to express their shared interests and concerns.¹⁴³

Stephens and colleagues designed a low-cost intervention that proved successful at empowering first-gen students.¹⁴⁴ Their so-called difference-education intervention brought junior and senior college students to speak to incoming college students about how the former found success in higher education. The key was to have the older students highlight “how their social-class backgrounds mattered for their college experience.”¹⁴⁵ These stories gave entering students a framework for understanding how their backgrounds are assets that can help them succeed.¹⁴⁶

Introduced early in the college journey, the difference-education intervention reduced the social-class achievement gap between first-generation and continuing-generation students by 63% at the end of their first year.¹⁴⁷ Just as importantly, the intervention “improved first-generation students’ college transition on numerous psychosocial outcomes (e.g., psychological adjustment and academic and social engagement).”¹⁴⁸ In fact, all students who experienced the difference-education intervention—whether first-gen or not—benefitted in that they experienced “less stress and anxiety, better adjustment to college life, and more academic and social engagement” than participants in the standard condition.¹⁴⁹ Stephens and colleagues link first-gen students’ “increased tendency to take advantage of college resources” to their academic gains and also to the intervention.¹⁵⁰ The scholars hypothesize that “other related

141. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1194; *see also* Cyrus R. Williams & S. Kent Butler, *A New Retention Variable: Hope and First Generation College Students*, VISTAS ONLINE, at 7 (2010) (criticizing focus on “deficiencies”).

142. Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1194.

143. Manstead, *supra* note 128, at 283 (summarizing the work of Stephens et al., *Culture Cycles*, *supra* note 124). This is also consistent with bell hooks, *Confronting Class in the Classroom*, in *THE CRITICAL PEDAGOGY READER* 142, 147–49 (Antonia Darder et al. eds., 2003).

144. Nicole M. Stephens et al., *Closing the Social-Class Achievement Gap: A Difference-Education Intervention Improves First-Generation Students’ Academic Performance and All Students’ College Transition*, 25 *PSYCH. SCI.* 943, 944 (2014) [hereinafter Stephens et al., *Achievement Gap*].

145. *Id.* at 944.

146. *Id.* at 949.

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.* at 951.

processes—such as an increased sense of entitlement, confidence, or resilience” probably contributed to these behavioral changes.¹⁵¹

Some of the work by Stephens and colleagues has been expressed in terms of “biculturalism.”¹⁵² They explain that, over time, first-gen students become bicultural from exposure to middle-class norms in higher education. The students thus remain capable of thriving within the working-class norms, while also taking on norms associated with the middle-class.¹⁵³ Stephens et al. observe that these bicultural adults “will have higher levels of psychological well-being and be better prepared to thrive in diverse settings than those who do not.”¹⁵⁴ Characteristics associated with hard interdependence, for example, may help students raised working-class to overcome professional setbacks and “adjust to their roles in the organizational hierarchy.”¹⁵⁵

Indeed, Sarah Herrmann and Michael Varnum found that first-generation students with high bicultural identity integration tend to have more diverse social networks.¹⁵⁶ This characteristic has been linked, in time, to improved self-reported academic performance, increased work engagement, and greater satisfaction with life.¹⁵⁷ Identity integration is also positively related to mental health, physical health, overall health, term GPA, and cumulative GPA, and significantly related to a lower rate of acculturative stress, depression, and perceived stress.¹⁵⁸

Another aspect of first-gen students’ interdependent mindset and relationship to their families is the guilt many feel because their educational achievements set them apart from family members who have not had opportunities to pursue higher education.¹⁵⁹ Investigating this phenomenon, Covarrubias and colleagues found that first-gen students experienced higher

151. *Id.* This sense of entitlement, confidence, and resilience arguably resembles what McCain & Roksa, *supra* note 41, observed in their law student informants.

152. See Stephens et al., *Culture Cycles*, *supra* note 124, at 629; see also McCain & Roksa, *supra* note 41.

153. Stephens et al., *Culture Cycles*, *supra* note 124, at 629; see also Sarah Herrmann & Michael E. W. Varnum, *Integrated Social Class Identities Improve Academic Performance, Well-Being and Workplace Satisfaction*, 49 J. CROSS-CULTURAL PSYCH. 635, 652–53 (2012) [hereinafter Herrmann & Varnum, *Integrated Identities*].

154. Stephens et al., *Culture Cycles*, *supra* note 124, at 629.

155. *Id.*; accord Stephens et al., *Unseen Disadvantage*, *supra* note 124, at 1194; see also Collier & Morgan, *supra* note 111, at 445 (suggesting that the cultural capital first-gen students acquire to survive in higher education will also serve them in the workplace).

156. Herrmann & Varnum, *Integrated Identities*, *supra* note 153, at 638.

157. *Id.* at 638, 643, 646; see also Gray et al., *supra* note 126, at 1241–42 (discussing code-switching and asserting it does not represent an abandonment of identity but rather is a helpful skill); McCain & Roksa, *supra* note 41, at 83–84 (discussing the need for students to be able to bring their whole selves to legal education, to take pride in where they came from).

158. Herrmann & Varnum, *Integrated Identities*, *supra* note 153, at 649.

159. Rebecca Covarrubias & Stephanie A. Fryberg, *Movin’ On Up (to College): First-Generation College Student Experiences with Family Achievement Guilt*, 21 CULTURAL DIVERSITY & ETHNIC MINORITY PSYCH. 420, 420 (2015); see also Patricia Somers et al., *Pushing the Boulder Uphill: The Persistence of First-Generation College Students*, 41 NASPA J. 418, 431 (2004) (reporting on “survivor guilt” first-gen students may feel regarding college attendance).

levels of family achievement guilt.¹⁶⁰ These feelings may undermine students' adjustment and success in college and influence whether they attend graduate or professional schools.¹⁶¹ The researchers found, however, that when students were made mindful of how they have already helped their families, they were able to move forward in their studies with less guilt.¹⁶² Another study found that family validation of first-gen students fosters their educational engagement.¹⁶³

Finally, a limited literature takes up the issue of microaggressions in relation to first-gen students. Gray and colleagues studied the social interactions—both on and off campus—of “first-generation students from lower social classes and racial minorities on predominantly White campuses.”¹⁶⁴ They designed their study in response to literature suggesting “that cross-class and -race encounters may be destabilizing for lower social class members and minorities.”¹⁶⁵ Gray et al. assert that, “[f]or first-generation students, ‘everyday life and ordinary language abound with class-based indignities and affronts.’”¹⁶⁶ The researchers hypothesized that first-gen students might “internalize the negative evaluations projected onto them by majority members,” preventing first-gen students “from developing coherent, stable and positive identities, diminishing their self-confidence.”¹⁶⁷

Gray and colleagues found that their first-gen informants used “class work”—a type of “identity work”¹⁶⁸—to “protect their identities”¹⁶⁹ in the face of microaggressions. The students “min[ed] core identity strength,”¹⁷⁰ e.g., the will to endure,¹⁷¹ by reflecting on earlier experiences of facing and overcoming adversity.¹⁷² The researchers labeled this an *intrapersonal* strategy¹⁷³ that helped the students “save face and reestablish equilibrium during cross-class encounters . . . repairing the attendant emotional damage.”¹⁷⁴

Gray and colleagues also identified “*interpersonal* class work strategies—dodging, passing, and building peer networks”—that first-generation students

160. Covarrubias & Fryberg, *supra* note 159, at 420, 426.

161. *Id.* at 428.

162. *Id.* at 427.

163. Roksa et al., *Parental Validation*, *supra* note 139, at 295.

164. Gray et al., *supra* note 126, at 1230.

165. *Id.* at 1231.

166. *Id.* at 1229 (quoting Laura Smith & Rebecca M. Redington, *Class Dismissed: Making the Case for the Study of Classist Microaggressions*, in *MICROAGGRESSIONS AND MARGINALITY: MANIFESTATION, DYNAMICS, AND IMPACT* 269, 269 (Derald Wing Sue ed., 2010)).

167. *Id.* at 1231.

168. *Id.* at 1227.

169. *Id.* at 1239.

170. *Id.* at 1239–40.

171. *Id.*

172. *Id.* Gray and colleagues referred to this as “sheer grit.” *Id.* at 1240.

173. *Id.* at 1239.

174. *Id.* at 1230.

used.¹⁷⁵ Passing meant that students withheld information about an identity that others might disparage, e.g., being from a lower socioeconomic class.¹⁷⁶ Dodging meant that they avoided social situations where their class might be revealed.¹⁷⁷

Just as importantly, the first-generation students developed and relied on peer networks to provide a buffer when the students felt under siege in conversations that threatened identity collapse. Gray and colleagues describe how these networks of “similar others”¹⁷⁸ empowered students “to temporarily withdraw from ‘the game’ by psychologically and/or behaviorally removing themselves from interactions with more privileged individuals.”¹⁷⁹ The peer networks provided the students “reprieve,” permitting them to “cognitively disengage from cross-class and/or cross-race interactions,” thus conserving energy so they could later “get back into the game.”¹⁸⁰ Findings like those of Gray and colleagues provide support for a common practice of first-gen undergraduate programs: the use of cohorts, often in so-called “living-learning communities.”¹⁸¹

Gray et al. also observed that students from higher social classes purport to be class blind, which the authors label “declassing.”¹⁸² They noted that first-gen students, on the other hand, see and experience class acutely.¹⁸³ Interestingly, these findings by Gray and colleagues are contrary to a 2007 study by Elizabeth Aries and Maynard Seider, which found that affluent college students were more likely than less affluent ones “to acknowledge the importance of social class in shaping their identities.”¹⁸⁴ It is possible that these conflicting findings regarding awareness of class difference simply reflect the different decades in which these studies were conducted, with young working-

175. *Id.* at 1239 (emphasis added).

176. *Id.* at 1241. Pruitt has written of engaging in this practice as a law student. Lisa R. Pruitt, *How You Gonna' Keep Her Down on the Farm. . .*, 78 UMKC L. REV. 1085, 1092 (2010).

177. Gray et al., *supra* note 126, at 1241.

178. *Id.* at 1244. The authors refer to “intersectional networks” as “friendships that capture both race and social class.” *Id.* at 1242. Students view these networks as places of retreat. *Id.*

179. *Id.* at 1242–43.

180. *Id.*

181. See FGSS REPORT, *supra* note 2, at 36 (reporting that “32 percent of cohort-based programs and 24 percent of non-cohort based use living-learning communities as a high-impact practice with first-generation students”).

182. Gray et al., *supra* note 126, at 1243.

183. *Id.*

184. Manstead, *supra* note 128, at 270 (discussing Elizabeth Aries & Maynard Seider, *The Role of Social Class in the Formation of Identity: A Study of Public and Elite Private College Students*, 147 J. SOC. PSYCH. 137, 151 (2007)). Aries and Seider wrote:

The affluent students were well aware of the educational benefits that had accrued from their economically privileged status and of the opportunities that they had to travel and pursue their interests. The lower income students were more likely to downplay class in their conception of their own identities than were the affluent students.

Id.

class students more aware of class disadvantage in the era of the Gray study than in the early aughts when Aries and Seider did their research.

B. *Graduate and Legal Education*

While sociolegal scholars have occasionally written about socioeconomic class in relation to legal education,¹⁸⁵ they have only recently deployed the first-gen frame,¹⁸⁶ and little of the work is empirical. It is thus hard to say how any of the findings about first-gen undergrads map onto the law school experience. Certainly, this literature review raises a number of questions: Do lessons learned and confidence gained transfer to legal education? If so, how and when—before or during the law school journey? Are first-gen law students better able to shrug off some of the confusion and self-doubt they experienced when they first encountered higher education as undergraduates?¹⁸⁷ After all, only reasonably successful undergraduate students will be accepted into law school. Only students who are somewhat academically minded—those with a degree of tolerance for higher education and the discomfort associated with it—will choose to undertake another degree.

On the other hand, entry into law school may downgrade students' confidence by whittling away at some of the cultural capital they accumulated as undergraduates. After all, law school is a very different enterprise that uses a whole new language, thus amplifying cultural challenges.¹⁸⁸ As sociologists of higher education Jesse McCain and Josipa Roksa have observed, law school launches a “career path that depends on a powerful cycle of social class reproduction,”¹⁸⁹ one “where cultural challenges may be amplified”¹⁹⁰ in the

185. See, e.g., POWER, LEGAL EDUCATION, AND LAW SCHOOL CULTURES (Meera E. Deo et al. eds., 2019); William D. Henderson, *The Bursting of the Pedigree Bubble*, 21 ARTICLES BY MAURER FAC. 12 (2009); Celestial S.D. Cassman & Lisa R. Pruitt, *A Kinder, Gentler Law School? Race, Ethnicity, Gender, and Legal Education at King Hall*, 38 U.C. DAVIS L. REV. 1929 (2005); Mertz et al., *supra* note 135, at 6 (collecting studies that address socioeconomic class in legal education).

186. See *supra* note 41 (collecting sources).

187. See generally María C. Ledesma, *You Never Stop Being First-Generation*, INSIDE HIGHER EDUC. (Feb. 22, 2022), <https://www.insidehighered.com/advice/2022/02/25/support-first-gens-must-go-beyond-undergraduate-students-opinion> (asserting that the first-gen mindset persists throughout one's career); Fernanda Zamudio-Suarez, *"I Fit in Neither Place,"* CHRON. HIGHER EDUC. (Dec. 11, 2016), <https://www.chronicle.com/article/i-fit-in-neither-place/> (quoting M. Sonja Ardoin, a professor researching the first-gen experience, “I think I'll always feel like a first-generation student, even though I've now been part of academia for over a decade. There are still components that seem very new to me or that I don't understand. I don't know if it ever leaves you, the feeling that the system wasn't necessarily set up for you.”).

188. See McCain & Roksa, *supra* note 41, at 72, 86.

189. *Id.* at 73.

190. *Id.* at 86.

context of a “highly professionalized climate.”¹⁹¹ After all, the pursuit of a legal career is “often intergenerational.”¹⁹²

Data from the late 1990s and early 2000s reveal that first-generation students are less likely to attend graduate school, particularly for professional and doctoral degrees.¹⁹³ More recent data indicate that about a third of Ph.D. students are first-gen.¹⁹⁴ Yet empirical studies of first-gen students in graduate and professional schools are still fairly uncommon.¹⁹⁵ Many such studies are conducted in the context of specific disciplines,¹⁹⁶ which may limit the extent to which we can generalize from them, especially regarding a professional school experience like a J.D. program.¹⁹⁷

Empirical studies of first-gen graduate students reveal the challenges these students carry into more demanding environments.¹⁹⁸ Despite being equipped with a bachelor’s degree, first-gen students commence graduate studies with a different foundation of professional and academic knowledge than their

191. *Id.* at 85.

192. *Id.* at 73. Someone whose mother or father earned a professional degree in the 1990s is 3.5 times more likely also to earn a professional degree. Julie R. Posselt & Eric Grodsky, *Graduation Education and Social Stratification*, 43 ANN. REV. SOCIO. 353, 356 (2017).

193. Hutson et al., *supra* note 138, at 104; *see also* EMILY FORREST CATALDI ET AL., NAT’L CTR. FOR EDUC. STAT., FIRST-GENERATION STUDENTS: COLLEGE ACCESS, PERSISTENCE, AND POSTBACHELOR’S OUTCOMES 12 (2018), <https://nces.ed.gov/pubs2018/2018421.pdf> [<https://perma.cc/C3XJ-MS3K>] (within four years after earning a bachelor’s degree in 2007–08, 4% of first-gen students enrolled in a doctoral or professional degree program).

194. Josipa Roksa et al., *First-Generation Students in Pursuit of the PhD: Comparing Socialization Experiences and Outcomes to Continuing-Generation Peers*, 89 J. HIGHER EDUC. 728, 728 (2018) [hereinafter Roksa et al., *Comparing Socialization*] (citing NAT’L SCI. FOUND., DOCTORATE RECIPIENTS FROM U.S. UNIVERSITIES (2015)).

195. *But see* Heather Maietta, *When First-Generation College Students Become Doctoral Candidates*, in AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS, *supra* note 22, at 282–93; Hyacinth Mason et al., *Admissions Isn’t Access: First-Generation College Graduates in Medical School*, in AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS, *supra* note 22, at 266–75.

196. *See, e.g.*, Annie M. Wofford et al., *Unequal Expectations: First-Generation and Continuing-Generation Students’ Anticipated Relationships with Doctoral Advisors in STEM*, 82 HIGHER EDUC. 1013, 1013–29 (2021); Vincent J. Roscigno et al., *Mobility and Inequality in the Professions: How and Why First-Generation and Working-Class Backgrounds Matter*, 9 SOCIUS 1 (2023); Martina Vasil & Joyce McCall, *The Perspectives of Two First-Generation College Students Pursuing Doctoral Degrees in Music Education*, J. MUSIC TCHR. EDUC., Feb. 2018, at 67, 67; Amy C. King, *Where Do We Fit? Challenges Faced by First-Generation Graduate Students in Professional Psychology*, SOC’Y FOR ADVANCEMENT PSYCHOL., <https://societyforpsychotherapy.org/challenges-faced-first-generation-graduate-students/> [<https://perma.cc/DN2V-282W>].

197. *See generally* Melissa L. Jones, *First Generation Law Students: Barriers to Success* (Aug. 2021) (Ed.D. dissertation, University of Mississippi), [https://egrove.olemiss.edu/cgi/viewcontent.cgi?params=/context/etd/article/3109/&path_info=\]ones_umiss_0131A_12545.pdf](https://egrove.olemiss.edu/cgi/viewcontent.cgi?params=/context/etd/article/3109/&path_info=]ones_umiss_0131A_12545.pdf) [<https://perma.cc/L36C-NYCE>]; Susan K. Gardner & Karri A. Holley, *Navigating the Pipeline: How Socio-Cultural Influences Impact First-generation Doctoral Students*, 5 J. DIVERSITY HIGHER EDUC. 112 (2012); Susan K. Gardner, *The Challenges of First-Generation Doctoral Students*, NEW DIRECTIONS FOR HIGHER EDUC., Autumn 2013, at 43; Brett Lunceford, *When First-Generation Students Go to Graduate School*, NEW DIRECTIONS FOR TEACHING AND LEARNING, Sept. 2011, at 13.

198. *See* Lunceford, *supra* note 197.

continuing-gen peers.¹⁹⁹ First-gen doctoral students struggle significantly with the “hidden rules” of academic life.²⁰⁰ This struggle often leads to heightened self-doubt, intensified imposter syndrome, and a sense of social invisibility within the broader campus community.²⁰¹

When comparing first-gen and continuing-gen students’ experiences in graduate school, McCain and Roksa suggest the need to “capture more nuanced distinctions.”²⁰² For example, where one recent study of Ph.D. students in biological sciences reported no significant difference between first-gen and continuing-gen students in certain aspects of doctoral studies, another study of doctoral students revealed important differences in the experiences of the two groups because first-gen students “ascribe[] different meanings to the same concepts.”²⁰³ As a result, first-gen graduate students tend to seek more direct, skill-based guidance, in contrast to the independence and tailored support expected by their continuing-gen counterparts, a nuance that reflects broader cultural and experiential divides.²⁰⁴

The work of Gray et al. may also provide insights beyond undergraduate education. Gray and colleagues suggest that childhood experiences, as well as the reshaping of attitudes in the context of higher education, have life-long impacts.²⁰⁵ They recommend future research to illuminate whether and how “social class differences continue to trigger identity threats” once these students are in the workforce.²⁰⁶

The recent work of McCain and Roksa responds to this call. In their 2023 article in the *Journal of First-Generation Student Success*, these University of Virginia sociologists report on a qualitative study of first-gen students at a selective law school.²⁰⁷ They bring an asset-based lens to their in-depth interviews of sixteen first-gen students.²⁰⁸ While McCain and Roksa found that the law student informants felt like “social outsiders” who were “reminded of their background

199. Kevin Kniffin, *Accessibility to the PhD and Professoriate for First Generation College Graduates: Review and Implications for Students, Faculty, and Campus Policies*, 3 AM. ACAD. 49, 53 (2007).

200. Susan K. Gardner & Karri A. Holley, “Those Invisible Barriers Are Real”: *The Progression of First-Generation Students Through Doctoral Education*, 44 EQUITY & EXCELLENCE EDUC. 77, 77 (2011).

201. See Jason Wallace & Jesse R. Ford, “They Don’t Value My Knowledge”: *Intergating the Racialized Experiences of Black First-Generation Doctoral Students in HESA Programs at HWIs*, 1 J. FIRST-GENERATION STUDENT SUCCESS 127, 127–44 (2021).

202. McCain & Roksa, *supra* note 41, at 73.

203. *Id.* (discussing Wofford et al., *supra* note 196).

204. Roksa et al., *Comparing Socialization*, *supra* note 194; Wofford et al., *supra* note 196, at 1013; see also Hutson et al., *supra* note 138, at 97 (finding that first-gen and non-traditional graduate students sought “more robust live support from faculty and staff” as well as the “flexibility provided by on-demand resources to meet [students’] challenging schedules”).

205. Gray et al., *supra* note 126, at 1245.

206. *Id.*

207. See McCain & Roksa, *supra* note 41.

208. *Id.* at 72. Twelve of the students were White, one identified as White/Middle Eastern, one as Asian, one as Black and one as Black/Asian. Eight were women and eight were men. *Id.* at 77.

routinely when struggling to connect with peers,²⁰⁹ they also identified upsides associated with being first-gen. Specifically, the scholars observed that the students' backgrounds were "cultural resources"²¹⁰ and "powerful sources of strength and agency,"²¹¹ even pride,²¹² in a competitive environment where students often felt marginalized.²¹³ Indeed, the students' first-generation identities also drove purpose²¹⁴ and gave them confidence.²¹⁵

Unlike the undergraduates in the Gray et al. study, who tended to pass and dodge regarding their working-class origins,²¹⁶ the law students in the McCain and Roksa study valued the ways in which they were different.²¹⁷ Many made themselves vulnerable by "talking openly about their first-generation background and identity," revelations that put them in a position "to challenge inequality."²¹⁸ McCain and Roksa interpreted this as revealing that the students can embrace "marginalized identities, such as first-generation status . . . in ways that both empower personal confidence and critique existing structures."²¹⁹ The comments of a White female student reflected this duality:

I'm pretty happy to share [my identity as a first-generation student], I'm an open book. Sometimes I share it to be biting, like you, well you don't understand because your background is more privileged than you realize it is. Yeah, I'm happy to show them some reality every once in a while. I want to make sure that people are aware of the privilege that they come from.²²⁰

In a similar vein, a Black female informant commented:

I think I share the most of myself in situations where I feel like there's a point of view that's being ignored. Maybe the conversation is getting a little too elitist like we're starting to think that everyone has had a certain type of background or has a certain type of experience . . . [D]on't forget that there

209. *Id.* at 79. McCain and Roksa did not use the microaggressions concept but did use the term "micro-interactions." *Id.* at 79.

210. *Id.* at 72.

211. *Id.* at 79. This seems similar to what Gray et al. observed in their informants, who drew on "the will to endure" when they felt threatened. Gray et al, *supra* note 126, at 1239–40.

212. McCain & Roksa, *supra* note 41, at 85.

213. *Id.* at 85 (discussing "professional spaces of marginalization"); cf. Robert Granfield, *Making it by Faking it: Working-Class Students in an Elite Academic Environment*, 20 J. OF CONTEMP. ETHNOGRAPHY 331, 343 (1991) (reporting on a range of working-class student responses to prestigious law schools and the legal profession, including "identity ambivalence" about having "sold out" their class of origin while also deceiving those in the professional class they were seeking to integrate).

214. McCain & Roksa, *supra* note 41, at 79–80, 84.

215. *Id.* at 85.

216. Gray et al., *supra* note 126, at 1239–42.

217. McCain & Roksa, *supra* note 41, at 79.

218. *Id.* at 85.

219. *Id.*

220. *Id.* at 83.

are people like me here at the university too. I'm happy to use it as a reminder to anybody that needs it: we are not all the same.²²¹

Similar to the findings of Gray et al. regarding how undergraduate students cope by deploying interpersonal strategies like developing peer networks to provide spaces of retreat,²²² McCain and Roksa found that their first-generation law student informants “forg[ed] meaningful relationships in community with other first-generation students.”²²³ One White male student commented that the “different world” of law school had made him “feel like I’m an outsider looking in” even though “I am in it.”²²⁴ A woman who self-identified as Middle Eastern/White described “socioeconomic jarring moments,” explaining that her “repeated interactions with peers” who are more privileged had made her “change the way [she] look[ed] at everyone in the community around [her].”²²⁵ Several of the informants thus found value in the law school’s first-gen-focused affinity groups, in addition to their informal first-gen network.²²⁶

McCain and Roksa also provided new insights—indeed, a new frame—on the oft-discussed issue of first-gen students’ interdependence vs. independence. In contrast to scholars studying undergrads, McCain and Roksa offered a different angle on independence. They found that first-gen law students exhibited independence in the form of “resourcefulness to learn in their own time.”²²⁷ While they were sometimes uncomfortable asking questions of professors or of their continuing-generation classmates,²²⁸ they exhibited independence in solving problems and in getting the information they needed.²²⁹ One White female informant said she got answers to questions by going to Google, elaborating, “because then I’ll educate myself without revealing that I don’t know what they do . . . that I don’t understand what they just said . . . I just try to educate myself.”²³⁰ McCain and Roksa observed that first-gen students “are used to [solving problems] on their own”; it is a skill and

221. *Id.*

222. Gray et al., *supra* note 126, at 1230, 1239–40; *see also supra* notes 164–83.

223. McCain & Roksa, *supra* note 41, at 84.

224. *Id.* at 78.

225. *Id.* at 78–79.

226. *Id.* at 81.

227. *Id.* at 84; *see also* April Yee, *The Unwritten Rules of Engagement: Social Class Differences in Undergraduates’ Academic Strategies*, 87 J. HIGHER EDUC. 831, 850 (2016) (finding that lower SES students often pursue independent strategies, in contrast to other students who are more likely to network and plan to ask for help on academic work). Interestingly, the 2023 LSSSE Report indicated that first-gen students worked with classmates outside class at slightly higher rates (33% to 31%) than their continuing-generation counterparts. *See* LSSSE 2023, *supra* note 7, at 13.

228. *See supra* note 110 and accompanying text (discussing first-gen undergraduates’ reticence to ask professors questions).

229. McCain & Roksa, *supra* note 41, at 84; *cf.* Gardner & Holley, *supra* note 200, at 86 (describing how graduate students seek support).

230. McCain & Roksa, *supra* note 41, at 81.

an expectation they bring to graduate school.²³¹ A Black female informant explained:

You know you have to start from scratch and try to get the information, because you don't have a person that could just say "yes, this is what you do." You have to go to the internet or go to other people that maybe don't know so well and just try to piece it together.²³²

A White female student expressed frustration and resentment because her peers

. . . just have these places that they can go to for advice so easily on questions that I have to dig around the law school to find answers to. You know, spend hours and hours researching and they could just text their mom and be like: "hey, what's the answer to this question?"²³³

McCain and Roska's qualitative work thus provides a highly nuanced picture of how first-gen students of various races and ethnicities demonstrate both independence and interdependence.

Another recent empirical study assessed performance on the California bar exam during the pandemic, with a focus on first-gen law graduates.²³⁴ Freiburger and colleagues found that first-generation status predicted outcomes, as did gender. In particular, first-gen women underperformed on the California bar exam relative to others overall, and especially compared to continuing-generation women.²³⁵ This underperformance was explained by pandemic-related stress, which first-gen women contended with most among all groups.²³⁶

The outcome was also explained by structural demands shouldered most by first-gen test takers, regardless of gender.²³⁷ Even controlling for the structural features of caregiving and working while studying, the researchers found that the psychological burdens that first-generation women experienced predicted lower exam success.²³⁸ These findings appear consistent with some of the raw data available regarding first-gen law students and which subpopulations are most vulnerable. We discuss these data in the next Part.

231. *Id.* at 82.

232. *Id.*

233. *Id.*

234. See Erin Freiburger et al., *The Impact of the COVID-19 Pandemic on First-Generation Women Test-Takers: Magnifying Adversities, Stress, and Consequences for Bar Exam Performance*, J. SOC. ISSUES 878 (2022).

235. *Id.* at 888.

236. *Id.* at 879.

237. *Id.*

238. *Id.* at 891.

III. WHAT WE KNOW ABOUT FIRST-GEN STUDENTS IN U.S. LAW SCHOOLS

Because the world of legal education has only relatively recently begun to consider first-gen students as a population, few quantitative data are available regarding them. Indeed, the Law School Admissions Council (LSAC) collects rolling data on whether applicants are first gen,²³⁹ but it does not publish these data at the end of the admissions cycle.²⁴⁰ Two other national institutions, however, have for several years systematically collected data on first-gen students in relation to two topics: student engagement, broadly defined, and job placement after law school. These data sets are discussed in the following sections.

A. Law School Survey of Student Engagement (LSSSE)

The Law School Survey of Student Engagement (LSSSE) tracks information regarding law student experiences as part of the Indiana University Center for Postsecondary Research.²⁴¹ The survey is “designed to measure the effects of legal education” through the self-reported experiences of law students, both in and out of the classroom.²⁴² LSSSE releases annual reports that track law student data on gender, race, employment interests and

239. *YTD US Applicants from Region/State of Permanent Residence*, LSAC, <https://report.lsac.org/VolumeSummary.aspx> (last visited Nov. 27, 2023). When visited on November 27, 2023, the website indicated that 4,873 applicants (24%) were first gen; 14,790 (73%) were not first gen; and the parental status of 645 applicants was unknown. This was a drop of 0.3% in first gen applications compared to the prior year.

First Generation College Students

Response	Last Year	Current Year	Percent Change
▲ Yes	4,887	4,873	-0.3%
No	14,682	14,790	0.7%
Unknown	806	645	-20.0%
Total	20,375	20,308	-0.3%

Id.

240. Telecon between David B. Holt, Mabie L. Libr., UC Davis Sch. of L., and Marie, Law Sch. Admissions Council (Nov. 20, 2023) (on file with author) (confirming that the collected first-gen data are not publicized); see also Pruitt, *supra* note 18, at 1028 n.147.

241. See *About LSSSE*, LAW SCH. SURV. OF STUDENT ENGAGEMENT, <https://lsse.indiana.edu/who-we-are/#advisory> [<http://perma.cc/55S9-EJLS>].

242. *The LSSSE Survey Tool*, LAW SCH. SURV. OF STUDENT ENGAGEMENT, <https://lsse.indiana.edu/about-lsse-surveys/> [<http://perma.cc/9SBM-F9Z5>].

expectations post-graduation, LSAT scores, financial topics such as scholarships and student debt, and law school satisfaction rates.²⁴³ The theme of the annual report varies, with periodic focus, for example, on women, Asian-American students, or the COVID pandemic.²⁴⁴ LSSSE began collecting data on first-gen students in 2014, and its most recent report, *Focus on First-Generation Students*, centers this population.²⁴⁵

The 2023 LSSSE Report defines “first-generation” as respondents who report that neither of their parents has a bachelor’s degree.²⁴⁶ Some earlier annual reports further differentiated among three different categories of respondents: (1) those for whom neither parent has more than a high school diploma (FG-HS); (2) those for whom at least one parent has some college experience, but no bachelor’s degree (FG-SC); and (3) non-first-generation respondents for whom at least one parent has a bachelor’s degree or higher (N-FG).²⁴⁷ Consistent with the terminology we use throughout this article, we refer to this last group of students as “continuing generation.”

The LSSSE differentiation between students whose parents have some college but no degree versus those whose parents have no college whatsoever is rare in the legal education sector. Indeed, we know of no law school that draws such a distinction. Some law schools (including our own) do, however, differentiate in their data keeping between students for whom neither parent has a bachelor’s degree and those students for whom neither parent has a law degree or other graduate degree.²⁴⁸

1. *Demographics and Numerical Qualifications*

Roughly 26% of the more than 13,000 law students surveyed for the LSSSE 2023 Annual Report identified as first-generation students.²⁴⁹ Hispanic

243. See generally *Annual Results*, LAW SCH. SURV. OF STUDENT ENGAGEMENT, <https://lsse.indiana.edu/annual-results/> [http://perma.cc/Z76S-R7S8].

244. *Id.*

245. See LSSSE 2023, *supra* note 7.

246. See *id.* at 7. The survey gives respondents seven choices of parental education level, from “[d]id not finish high school” up to “[d]octoral or professional degree,” but it did not differentiate among these in the 2023 Report. *Id.*

247. See generally AARON N. TAYLOR & CHAD CHRISTENSEN, LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2016 ANNUAL SURVEY RESULTS: LAW SCHOOL SCHOLARSHIP POLICIES: ENGINES OF INEQUITY (2016), <https://lsse.indiana.edu/wp-content/uploads/2015/12/LSSSE-2016-Annual-Report-1.pdf> [https://perma.cc/3ACF-P85Q] [hereinafter LSSSE 2016].

248. See, e.g., *First Generation Advocates*, UC DAVIS SCH. OF L., <https://law.ucdavis.edu/students/first-generation-advocates> [https://perma.cc/6]QK-EXQF]. The website states: “King Hall’s First Generation Advocates program was created to promote diversity and maximize the academic, professional, and personal success of students who are the first from their families to earn a college or professional degree as well as students from low-income backgrounds.” *Id.* UC Davis School of Law uses multiple definitions for purposes of admissions office recordkeeping. See Email from Kirsten Mercado, Dean of Admissions, UC Davis Sch. of L., to Lisa R. Pruitt (Sept. 17, 2023, 3:01 PM) (on file with author).

249. See LSSSE 2023, *supra* note 7, at 3, 7.

respondents (53%) and Black/African-American respondents (36%) were far more likely to identify as first-generation, compared to Asian respondents (28%) and white respondents (21%).²⁵⁰ Women are more likely than men to be first-generation law students, regardless of race/ethnicity: 28% of female respondents reported that neither parent has a bachelor's degree, compared to 24% of male respondents.²⁵¹ In addition to this gender differential regarding first-gen students broadly, the 2019 LSSSE survey showed that Black, Latina, and white female law students were less likely than their male counterparts to report having a parent who is a lawyer.²⁵² Asian-American women, on the other hand, are more likely than Asian-American men to have a parent with a law degree.²⁵³

First-generation students had notably lower LSAT scores, on average, 154 (first-gen) compared to 157 (continuing-gen), representing an estimated difference of eleven percentile points.²⁵⁴ First-generation students also enter law school with slightly lower undergraduate grade point averages (UGPAs), 3.35 (first-gen) versus 3.44 (continuing-generation).²⁵⁵ Once in law school, first-generation students reported somewhat lower grade point averages than their continuing-generation counterparts: “B” average compared to “B+” average.²⁵⁶

2. *Time Usage: Studying, Co-curricular Activities, Work, and Caregiving*

First-generation and continuing-generation law students also have differing study and work habits. First-generation students report spending 8% more time studying than their continuing-generation counterparts.²⁵⁷ Interestingly, as students progress into their 3L year, the gap widens slightly, with first-

250. *See id.* at 8. In 2014, these figures were 48%, 43%, 25% and 23%. AARON N. TAYLOR ET AL., LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, ANNUAL RESULTS 2014: LOOKING AHEAD: ASSESSMENT IN LEGAL EDUCATION 10 (2014), https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE_2014_AnnualReport.pdf [<https://perma.cc/9CEQ-TJZR>] [hereinafter LSSSE 2014]. First-generation respondents in 2014 were evenly distributed among the three years of law school but made up a larger percentage of 4th-year law students, who are students in part-time programs. *See id.*

251. LSSSE 2023, *supra* note 7, at 8.

252. *See* MEERA E. DEO ET AL., LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2019 ANNUAL SURVEY RESULTS: THE COST OF WOMEN'S SUCCESS 7 (2019), <https://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE-AnnualSurvey-Gender-Final.pdf> [<https://perma.cc/D743-F384>] [hereinafter LSSSE 2019].

253. *Id.*

254. *See* LSSSE 2023, *supra* note 7, at 9. While a three-point difference does not sound significant, a 154 on the LSAT is at the 55.5 percentile, while a 157 is at the 66.5 percentile. *How to Calculate your LSAT Scores and Percentile*, 7SAGE LSAT, <https://7sage.com/lSAT-score-percentile-conversion/> [<https://perma.cc/V3HD-5LKT>].

255. LSSSE 2023, *supra* note 7, at 9. In 2014, these numbers were 3.28 and 3.32, respectively. LSSSE 2014, *supra* note 250, at 10.

256. LSSSE 2023, *supra* note 7, at 9. These are similar to prior years. *See* LSSSE 2014, *supra* note 250, at 10.

257. *See* LSSSE 2023, *supra* note 7, at 11.

generation students reporting 13% more time studying.²⁵⁸ Prior annual reports show the gap has been wider still (17%) for students in the final year of four-year, part-time programs.²⁵⁹

Co-curricular participation is another point of difference. Only 36% of first-generation law students are members of a law journal compared to 44% of continuing-generation students.²⁶⁰ The good news is that the percentage of first-gen students participating in law journals has doubled since 2014, while it has increased by just 63% for continuing-generation students.²⁶¹ While 19% of continuing-generation students do research with a faculty member, just 15% of first-generation students do.²⁶² It may be that first-generation students participate less in co-curricular activities because they spend 24% more time working for pay and are 40% more likely to spend at least twenty-one hours per week doing so compared to continuing-generation students.²⁶³ The 2023 Report also showed that first-gen students are considerably more likely to have caregiving or other familial obligations, 44% to 33%.²⁶⁴

3. Satisfaction with Law School

The 2023 LSSSE Report included the response to a single question about law student satisfaction, revealing that first-gen students are slightly less satisfied (74%) than their continuing-generation counterparts (78%).²⁶⁵ This is a reversal of earlier surveys, which showed first-gen students more satisfied, although direct comparisons across the years are not possible because prior annual reports included data on satisfaction regarding specific aspects of law school.²⁶⁶ For example, the 2014 survey revealed that 71% of first-gen students were satisfied with academic advising, while 67% of continuing-generation law students were.²⁶⁷ First-gen students were also more satisfied with their law school environment and held “a greater belief that they are learning to think like a lawyer.”²⁶⁸

258. *See id.*

259. LSSSE 2014, *supra* note 250, at 10–11. Data on this point were not included in the 2023 Report.

260. *See* LSSSE 2023, *supra* note 7, at 14.

261. LSSSE 2023, *supra* note 7, at 13–14 (showing also that first-gen students are slightly less likely to join student organizations); LSSSE 2014, *supra* note 250, at 11. The 2023 survey did not report on moot court, but the 2014 survey showed a narrower gap for this activity than for law journals, with 13% of first-generation students participating compared to 15% of their continuing-generation counterparts. *Id.*

262. LSSSE 2014, *supra* note 250, at 11.

263. *See* LSSSE 2023, *supra* note 7, at 11–12. The 2014 figure was 25% more for first-gen students. LSSSE 2014, *supra* note 250, at 11.

264. LSSSE 2023, *supra* note 7, at 11–12.

265. *Id.* at 15.

266. *See* LSSSE 2014, *supra* note 250, at 12.

267. *Id.*

268. *Id.* at 11–12.

These 2014 findings may suggest that, just a decade ago, first-gen students were coming into law school with lower expectations—or at least different ones—from their continuing-generation counterparts.²⁶⁹ It may also be that first-gen students were previously simply more grateful for whatever they got from the institution because they had less of an entitlement mindset. The shift reflected in the 2023 survey may mean first-gen students are becoming more politicized in how they see themselves in relation to their institutions, which is consistent with the findings of McCain and Roska.²⁷⁰ Their decreased satisfaction might signal a stronger sense that they deserve to be in law school. That is, they may be more willing to think critically about the enterprise because they are more confident than an earlier generation. For some, participation in undergraduate programs for first-gen students may be a reason for that enhanced confidence.

Even when first-gen law students were reporting higher satisfaction levels, respondents from lower socioeconomic backgrounds reported generally higher levels of stress, per the 2016 LSSSE Report.²⁷¹ (The 2023 LSSSE Report does not mention stress levels).²⁷² The two groups of law students reporting the greatest stress were Black respondents and FG-HS, with 62% of both groups reporting high stress.²⁷³ Slightly fewer Latino respondents reported high stress (59%), but Latina/os reported more stress than Asian respondents (54%) and white respondents (52%).²⁷⁴ Among FG-SC students, 58% reported high stress compared to 51% of continuing-generation students.²⁷⁵

Interestingly, respondents who received merit scholarships reported lower rates of general stress, regardless of the respondents' race or socioeconomic status.²⁷⁶ Counterintuitively, FG-HS students who received merit scholarships reported slightly *higher* levels of *financial* stress (67%) than FG-HS students who did not receive those scholarships (66%).²⁷⁷ This suggests that merit scholarships have a negligible impact in terms of alleviating financial stress among this population.

The 2016 LSSSE report speculates that the negligible—even inverse—difference made by merit scholarships is because “Black, Latino, and FG-HS respondents are more likely to have financial concerns that transcend tuition

269. See Wofford et al., *supra* note 196, at 1013 (discussing differences between first-gen and continuing-generation graduate student expectations).

270. See McCain & Roska, *supra* note 41, at 82–85.

271. See LSSSE 2016, *supra* note 247, at 14.

272. See LSSSE 2023, *supra* note 7.

273. See LSSSE 2016, *supra* note 247, at 14.

274. See *id.*

275. See *id.*

276. See *id.*

277. See *id.*

costs, rendering a merit scholarship alone less likely to fully allay their stress.”²⁷⁸ Apparently the same is true of need-based scholarships because the 2016 Annual Report found that those scholarships also had no significant impact on the stress levels of first-gen students.²⁷⁹ This greater financial stress is consistent with what we know about first-gen undergraduate students: they are less likely to receive financial support from their families and may even be under pressure to support family members.²⁸⁰

4. Career Aspirations

The 2023 LSSSE Report did not address career issues except to note, regarding co-curricular involvement, that first-gen students’ lesser engagement in these activities could have “lasting repercussions as they continue through law school and begin their professional careers.”²⁸¹ The 2017 LSSSE Report is the most recent to report robustly on anticipated careers. That year’s survey revealed that 39% of first-generation respondents prefer to work in a public service setting rather than in the private sector, slightly higher than the 35% of continuing-generation respondents who expressed that preference.²⁸² In terms of expected employment, first-generation respondents are less likely than continuing-generation students to anticipate working in the private sector, but within that sector, are more likely to anticipate working in small firms.²⁸³

5. Student Debt, Scholarships, and First-Gen Status

It comes as no surprise that LSSSE data reveals that first-generation students have more debt than their continuing-generation classmates.²⁸⁴ The 2023 LSSSE Survey, for example, found that 35% of first-generation respondents expected to have more than \$120,000 of law school debt by the

278. *Id.* In contrast, FG-SC and continuing-generation students who received merit scholarships reported lower levels of financial stress compared to respondents of the same parental education level who did not receive merit scholarships. *Id.*

279. *Id.*

280. *See supra* Section IIA (discussing scholarly literature on first-gen undergraduate students).

281. LSSSE 2023, *supra* note 7, at 14.

282. *See* A. N. TAYLOR ET AL., LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2017 ANNUAL SURVEY RESULTS: PREFERENCES & EXPECTATIONS FOR FUTURE EMPLOYMENT 12 (2017), <https://lsse.indiana.edu/wp-content/uploads/2015/12/2017-Annual-Survey-Results.pdf> [<https://perma.cc/C38A-49DX>] [hereinafter LSSSE 2017] (comparing student expectations of their careers with employment data collected by NALP and the ABA).

283. *See id.*

284. *See generally* LSSSE 2023, *supra* note 7, at 10; LSSSE 2014, *supra* note 250, at 11; LSSSE 2016, *supra* note 247, at 12.

time they earned their J.D.²⁸⁵ This is consistent with the trends reflected in prior LSSSE reports.²⁸⁶

The 2014 LSSSE Report showed that more than 86% of all respondents (whether first gen or continuing generation) had incurred student loan debt during their educational careers,²⁸⁷ though the organization cautioned that these self-reported data likely understate actual debt loads.²⁸⁸ Among first-generation students, 93% incurred loan debt, while 84% of continuing-generation students did so.²⁸⁹ Full-time, first-generation respondents in their 3L year report, on average, 23% more debt than continuing-generation 3L respondents.²⁹⁰ This figure rises to 26% for part-time students in their fourth year of law school.²⁹¹

Several reasons surely account for why first-generation students report greater student loan debt. The LSSSE hypothesizes that law schools typically give merit scholarships to applicants with the highest LSAT scores and GPAs, and those students tend to be continuing-generation students.²⁹² Per the 2016 Annual Report, continuing-generation respondents were most likely to receive a merit scholarship (65%), followed by FG-SC students (60%), and FG-HS students (52%).²⁹³

These merit scholarship awards likely correspond strongly to LSAT scores. According to the 2016 Annual Report, 43% of FG-HS students scored below 151 on the LSAT, compared to 37% of FG-SC and 26% of continuing-generation students.²⁹⁴ The LSAT score discrepancy is also observed at the other end of the spectrum, with 25% of continuing-generation students scoring above 160 but only 10% of FG-HS students and 12% of FG-SC students scoring in that range.²⁹⁵

In his 2018 article, *Robin Hood, in Reverse: How Law School Scholarships Compound Inequality*, Aaron Taylor critiques this trend in law school allocation of

285. LSSSE 2023, *supra* note 7, at 10.

286. The 2016 Report, for example, found that almost half of first-generation respondents expected to have more than \$100,000 of law school debt. LSSSE 2016, *supra* note 247, at 12. For students expecting to owe between \$180,000 and \$200,000 in student debt, 40% have parents whose highest level of educational attainment was less than a bachelor's degree. Christopher J. Ryan, *Guest Post: Paying for Law School and the Public Service Loan Forgiveness Program*, LSSSE BLOG (June 14, 2019), <http://lssse.indiana.edu/blog/guest-post-paying-for-law-school-and-the-public-service-loan-forgiveness-program/> [<https://perma.cc/2QSR-RVUS>] (analyzing 2018 LSSSE data).

287. LSSSE 2016, *supra* note 247, at 12; *see generally* John Patrick Hunt, *Consent to Student Loan Bankruptcy Discharge*, 95 IND. L. J. 1137 (2020) (detailing the hardship often arising from student debt); Ryan, *supra* note 41.

288. LSSSE 2014, *supra* note 250, at 11.

289. *Id.* at 10–11.

290. *See id.* The comparison is \$97,000 to \$79,000. *Id.*

291. *See id.* The comparison is \$97,000 to \$77,000. *Id.*

292. *See* LSSSE 2023, *supra* note 7, at 10; *see also* LSSSE 2014, *supra* note 250, at 10; Taylor, *supra* note 41, at 48.

293. *See* LSSSE 2016, *supra* note 247, at 10.

294. *Id.*

295. *See id.*

scholarship and other financial aid funds.²⁹⁶ The practice of relying heavily on LSAT scores to award financial aid tends to disserve first-gen students, whose LSAT scores trend lower.²⁹⁷ The practice leaves socioeconomically disadvantaged students, already facing myriad barriers to higher education, paying more for tuition. Indeed, not only do low-income students typically not have their tuition reduced by merit scholarships, the amount of tuition they pay may, in fact, be more than the cost associated with their own education.²⁹⁸ This is because the “sticker price” they pay already supplements the discounted rate paid by their peers who get merit scholarships.²⁹⁹

One group of students who are particularly affected by the focus on merit scholarships is females over the age of thirty who study part-time.³⁰⁰ This group is disproportionately Black, Latino, and first gen.³⁰¹ Indeed, the highest proportion of respondents expecting more than \$100,000 in debt were first-gen Latinas, among whom two-thirds expected it.³⁰²

B. National Association for Law Placement (NALP) Data

The National Association for Law Placement (NALP) is another source of data regarding first-gen law graduates.³⁰³ The class of 2020 is the first for which NALP collected data that identified first-gen students, defined as not having at least one parent or guardian with a bachelor’s or higher degree.³⁰⁴ NALP divides continuing-generation students into two categories: students who have at least one parent or guardian with a J.D. degree, which we call “continuing-generation

296. Taylor, *supra* note 41, at 52–53; see also Aatish Bhatia et al., *Study of Elite College Admissions Data Suggests Being Very Rich Is Its Own Qualification*, N.Y. TIMES (July 24, 2023), <https://www.nytimes.com/interactive/2023/07/24/upshot/ivy-league-elite-college-admissions.html?searchResultPosition=6> (observing how “America’s elite colleges perpetuate the intergenerational transfer of wealth and opportunity”).

Between 2005 and 2010, merit scholarship funding increased 68% among public law schools and 53% among private schools, while need-based scholarship funding remained flat. Taylor, *supra* note 41, at 58–59. This does not hold true for Ivy League schools, which are more likely to award financial aid based on need. *Id.* at 59.

297. Taylor, *supra* note 41, at 41. Law schools tend to rely on LSAT scores for admissions and scholarship determinations because rankings are largely based upon incoming students’ LSAT scores. *Id.* at 55. But see Lily Knezevich & Wayne Camara, *The LSAT Is Still the Most Accurate Predictor of Law School Success*, LSAC, <https://www.lsac.org/data-research/research/lsat-still-most-accurate-predictor-law-school-success> [<https://perma.cc/DYB8-F7LA>].

298. See Taylor, *supra* note 41, at 58–59.

299. This is partially because law schools are very tuition dependent. In 2013, 69% of law school revenue was from tuition payments, and about fifty U.S. law schools received 88% or more of their revenue from tuition alone. *See id.*

300. *Id.* at 90.

301. *Id.* Recall that the recent study of bar exam takers also revealed the particular vulnerability of this demographic group. *See generally* Freiburger et al., *supra* note 234.

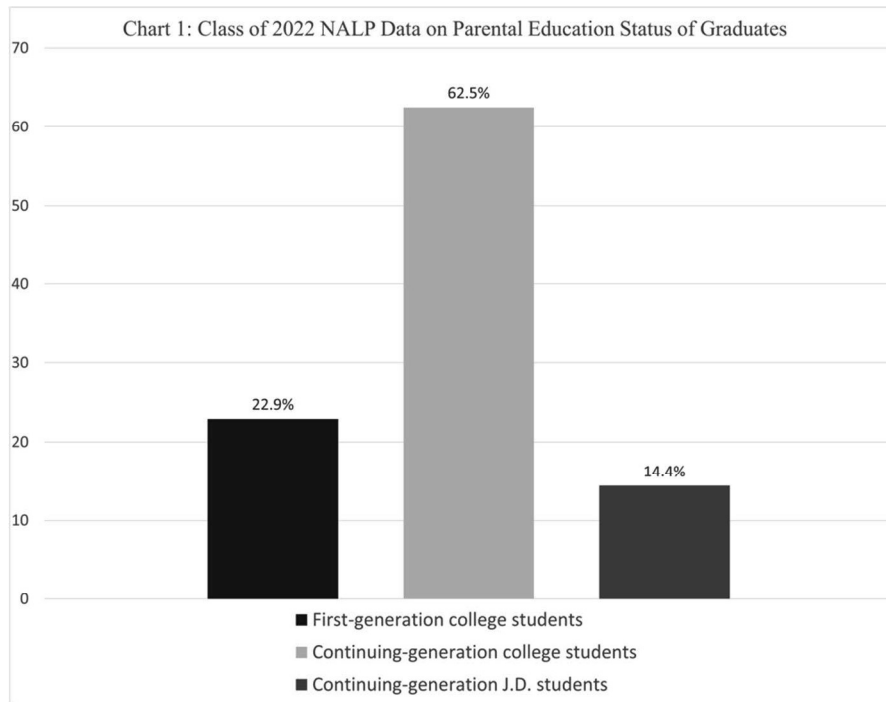
302. Taylor, *supra* note 41, at 92.

303. See NAT’L ASS’N FOR L. PLACEMENT, JOBS & J.D.S: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES, CLASS OF 2020, at 72 (2021) [hereinafter NALP 2020].

304. *Id.*

J.D. students,” and students who have at least one parent with a bachelor’s degree, which we label “continuing-generation college students.”³⁰⁵ Students in this final, intermediate category, include those with a parent who has an M.A., Ph.D., M.D., or any other advanced degree that is not a J.D.³⁰⁶

The composition of the class of 2022 in relation to parental education level is depicted in Chart 1, which shows a significant majority of graduates are continuing-generation college and the lowest percentage are continuing-generation J.D.³⁰⁷



Among the three cohorts that NALP has tracked, the percentage of first-gen graduates was very similar for the classes of 2020 (22.5%), 2021 (22.1%), and 2022 (22.9%).³⁰⁸

The NALP data reveal that first-gen students are employed at slightly lower rates than their continuing-generation counterparts, with a gap of 3.4% between

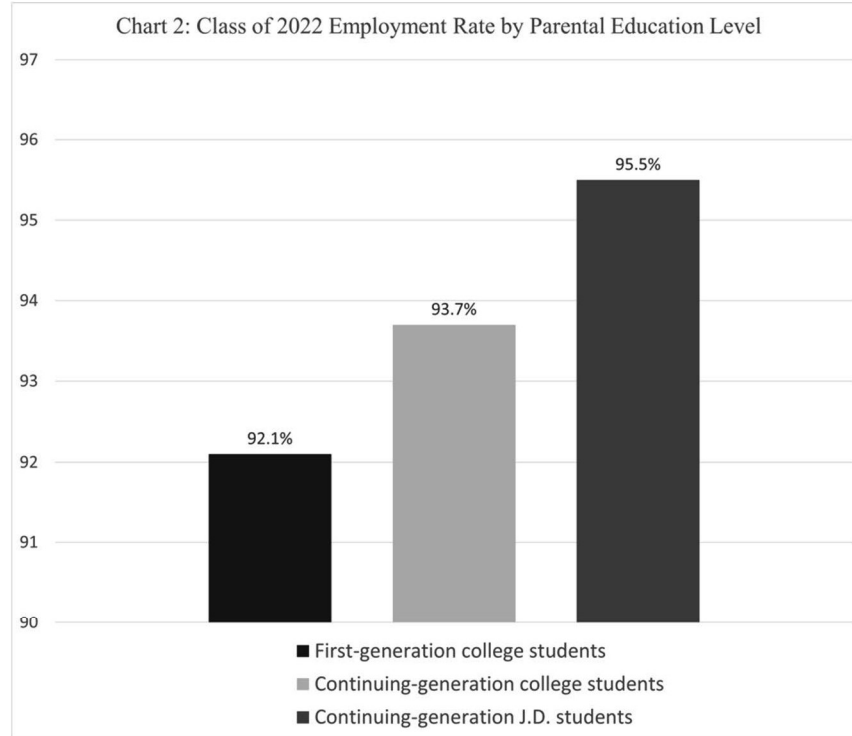
305. *Id.*

306. *Id.*

307. NAT’L ASS’N FOR L. PLACEMENT, JOBS & J.D.S: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES, CLASS OF 2022, at 72 (2023) [hereinafter NALP 2022].

308. *See id.*; NALP *Bulletin: New Findings on Disparities in Employment Outcomes Based on Level of Parental Education*, NALP (Nov. 2021), <https://www.nalp.org/1121research> [<https://perma.cc/7LDN-G7SM>] [hereinafter *NALP Bulletin*] (noting that 48% of the class of 2020 reported parental education level). While the percentage of first-gen graduates spiked for the class of 2021, the percentage of continuing-generation college students fell to 63.3% for that cohort, while continuing-generation J.D. students rose to 14.4%. NAT’L ASS’N FOR L. PLACEMENT, JOBS & J.D.S: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES, CLASS OF 2021, at 7 (2022) [hereinafter NALP 2021].

first-gen law graduates and those law graduates with a parent who holds a J.D. The data for the class of 2022 are reflected in Chart 2³⁰⁹:



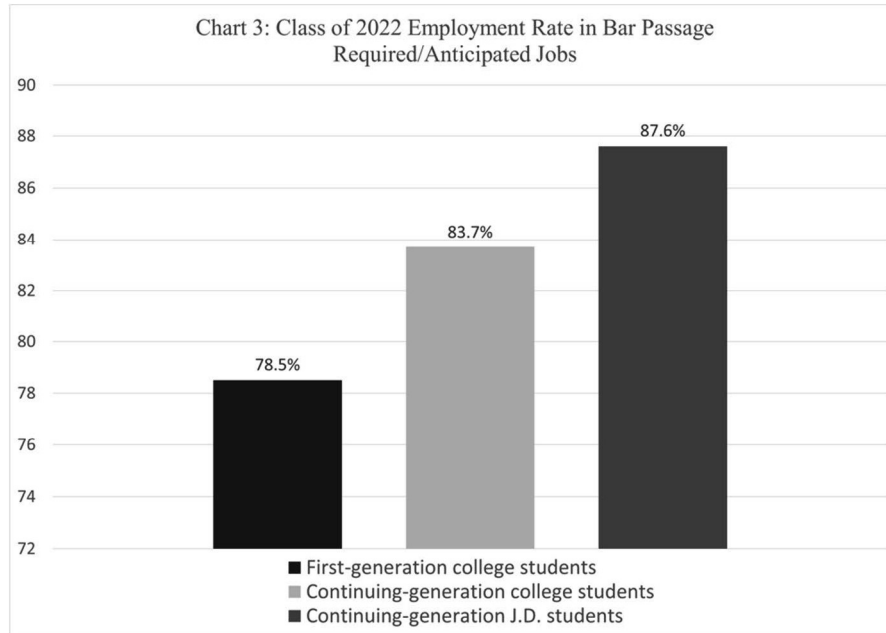
The trends are similar for 2021 and 2020.³¹⁰

The gap between first-generation students and continuing-generation J.D. students was greater still (9.1%) for employment in bar passage required/anticipated jobs, as depicted in Chart 3.³¹¹

309. NALP 2022, *supra* note 307, at 103.

310. The rate of employment for first-gen students of the class of 2020 was 88%, while that for their continuing-generation J.D. counterparts was 92.8%. NALP 2020, *supra* note 303, at 103. The difference in employment rates was similar for the class of 2021: 94.9% for continuing-generation J.D. students and 91.7% for first-generation students, with continuing-generation college students in the middle at 93.6%. NALP 2021, *supra* note 308, at 103.

311. NALP 2022, *supra* note 307, at 103; *see also* JOAN HOWARTH, SHAPING THE BAR: THE FUTURE OF ATTORNEY LICENSING 7–8 (2022) (noting racial and ethnic disparities in bar passage rates); Freiburger et al., *supra* note 234, at 878 (finding first-gen women the most disadvantaged bar test takers).



That gap has been narrowing over the years, however, from 11.1% for the class of 2020 and 10% for the class of 2021.³¹² Data from all three years show that first-gen graduates are less likely than both categories of continuing-generation students to take jobs with Big Law or as judicial clerks, while first-gen graduates are more likely to work in government.³¹³ These data, like the salary data that follow, may reflect differences in family networks and social capital among the three categories of law graduates.

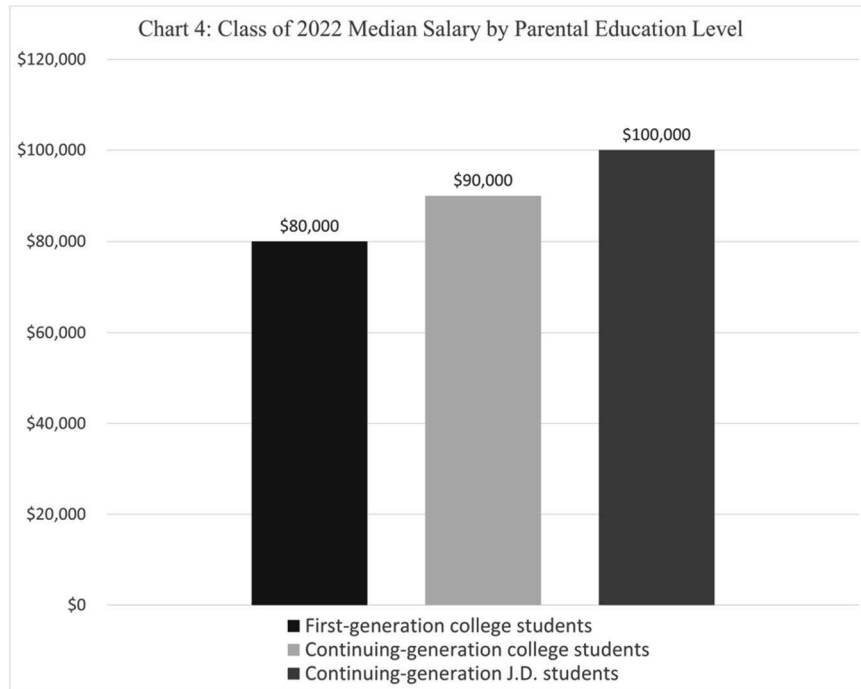
The starting salaries of first-gen students are also lower than those of their continuing-generation counterparts, as reflected in Charts 4³¹⁴ (median salary) and 5³¹⁵ (mean salary).

312. The data for the class of 2020 show 84.3% for continuing-generation J.D. students compared to 73.2% for first-gen students, with continuing-generation college students about midway between the two, at 79.5%. NALP 2020, *supra* note 303, at 103. For the class of 2021, the data points were 86.3% continuing-generation J.D. students compared to 76.3% first-generation college students. NALP 2021, *supra* note 308, at 103.

313. See NALP 2020, *supra* note 303, at 103; NALP 2021, *supra* note 308, at 103; NALP 2022, *supra* note 307, at 78, 85, 96.

314. NALP 2022, *supra* note 307, at 95.

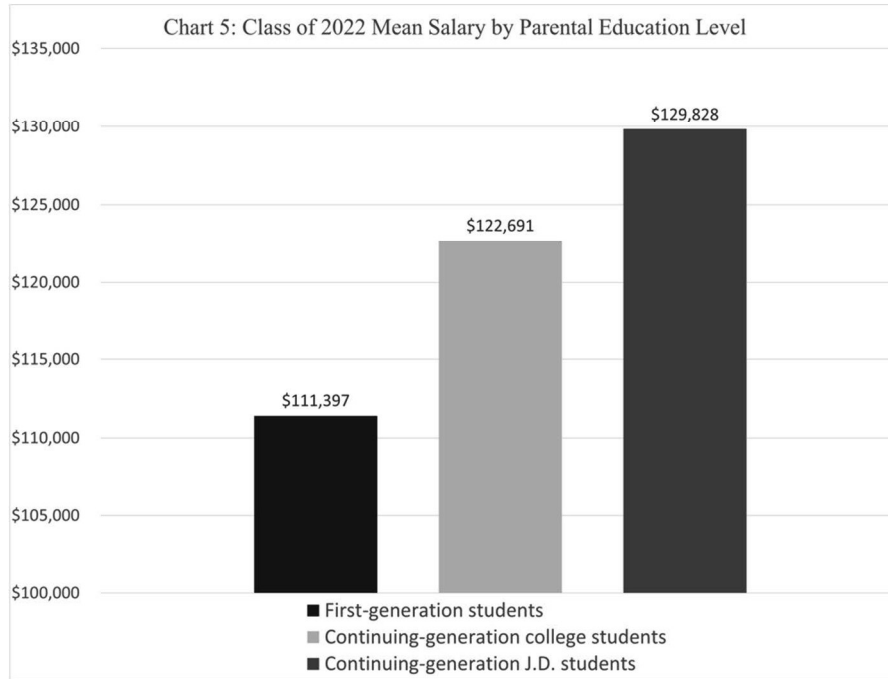
315. *Id.*



The trends are similar for the classes of 2020 and 2021, all demonstrating the premium associated with having a parent who holds a J.D., the lesser value of having a parent with a college degree, and the penalty associated with being first-generation.³¹⁶ The mean salary comparisons for the class of 2022, which are similarly stark, are shown in Chart 5.³¹⁷

316. NALP 2021, *supra* note 308, at 95. The range is \$90,000 (continuing-generation J.D.) to \$75,000 (first-gen), with continuing-generation college at \$82,500. *Id.* For the class of 2020, the comparison is \$85,000 (continuing-generation J.D.), \$80,000 (continuing-generation college), and \$71,727 (first-gen). *NALP Bulletin*, *supra* note 308; *see also* NALP 2020, *supra* note 303, at 95.

317. NALP 2022, *supra* note 307, at 95.



The mean salary data for the classes of 2020 and 2021 showed similar trends, with continuing-generation students in both categories earning at least \$13,000 more than their first-generation counterparts, a premium of at least 12%.³¹⁸

What the NALP data do not reveal is the extent to which first-gen students earn less by virtue of where they went to law school. That is, if first-gen students earn their law degrees at less prestigious institutions, this may be one reason they command lower salaries than continuing-generation students.³¹⁹ Some of the best-paying jobs may be effectively out of reach for the graduates of lower-ranked schools, but the graduates of those institutions may also accumulate less debt if they get larger scholarship awards from less competitive schools.

IV. WHAT INSTITUTIONS OF HIGHER EDUCATION ARE DOING TO SUPPORT FIRST-GEN STUDENTS

Though we now have the benefit of decades of scholarly research into the first-generation college experience, programs to support these students have proliferated only in the last decade or so.³²⁰ Currently, more than 277 programs

318. See NALP 2020, *supra* note 303, at 95; NALP 2021, *supra* note 308, at 95.

319. See Jack Crittenden, *How Elitism is Killing Legal Education, Diversity and American Society*, NAT'L JURIST (Sept. 10, 2023, 3:51 PM), <https://nationaljurist.com/national-jurist-magazine/how-elitism-is-killing-legal-education-diversity-and-american-society/>.

320. See generally FGSS REPORT, *supra* note 2. Other support programs were in place at many universities well before the 1980s, but rarely branded "first gen." UC Davis, for example, has had a Special Transition

at U.S. colleges and universities are branded “first gen.”³²¹ According to the Center for First-Generation Student Success, programs at so-called First-Gen Forward Institutions “share evidence-based practices and resources, address challenges, generate knowledge, and continue to advance the success of first-generation students.”³²² The University of Alabama is among First-Gen Forward Institutions.³²³

More recently, first-gen lingo has crept into legal education, with programs now in place at a couple dozen U.S. law schools.³²⁴ Institutions hosting these programs range from top-ranked schools such as Stanford, Yale, and New York University, to third- and fourth-tier schools.³²⁵ Some of these programs have been formed by students and function as student-led organizations, suggesting that their robustness may vary from year to year.³²⁶ Others have originated with

Enrichment Program, a summer boot camp for low-income undergraduate students, since 1976. *See Special Transitional Enrichment Program*, CTR. FOR EDUC. OPPORTUNITY PROGRAM, <https://eop.ucdavis.edu/step> [<https://perma.cc/X49U-CEJ3>]. The Educational Opportunity Program has been in place since the 1960s. *About Us*, CTR. FOR EDUC. OPPORTUNITY PROGRAM, <https://eop.ucdavis.edu/about> [<https://perma.cc/SN9K-NNWR>] (listing various races and ethnicities and “low-income whites” as those being served).

321. *First-Gen Forward*, CTR. FOR FIRST-GENERATION STUDENT SUCCESS, <https://firstgen.naspa.org/programs-and-services/first-gen-forward/first-gen-forward> [<https://perma.cc/K3KB-XCUK>]; *see also* FGSS REPORT, *supra* note 2, at 9 (reporting that 50% of surveyed institutions have a “point person” to coordinate first-generation efforts and 48% have a first-generation support office).

322. *First Scholars Network: A National Scaling Model*, CTR. FOR FIRST-GENERATION STUDENT SUCCESS, <https://firstgen.naspa.org/programs-and-services/first-scholars-network/first-scholars-network> [<https://perma.cc/V8XV-W9PJ>].

323. *First-Generation Programs*, UNIV. OF ALA., <https://success.ua.edu/first-generation-programs> [<https://perma.cc/WMJ2-D8AS>].

324. *See* NAT’L ASS’N. FOR L. PLACEMENT, TIPS AND BEST PRACTICES FOR INITIATING OR SUPPLEMENTING FIRST-GENERATION PROGRAMMING FOR LAW STUDENTS 1 (2022), https://www.nalp.org/uploads/NALPFirstGenResourceFinal_Jan2022.pdf [<https://perma.cc/V6QA-QQ4P>] (reporting that twenty-two schools among forty-eight respondents offer some first-generation programming) [hereinafter NALP TIPS AND BEST PRACTICES].

325. *See, e.g., Stanford Law First-Generation & Low-Income Professionals*, STAN. L. SCH., <https://law.stanford.edu/flip/> [<https://perma.cc/ZAJ5-UHEW>]; *Student Organizations*, YALE L. SCH., <https://law.yale.edu/student-life/student-journals-organizations/student-organizations> [<https://perma.cc/YB5W-KWXR>]; *First-Generation Graduate Students*, NYU, <https://www.nyu.edu/students/student-information-and-resources/career-development-and-jobs/graduate-students/first-generation-graduate-students.html> [<https://perma.cc/F8QL-FZ96>].

326. UC Berkeley’s group, First Generation Professionals, was formed by students, with faculty advisors. Andrew Cohen, *Student Group Mentors and Guides First Generation Professionals*, BERKELEY L. (Oct. 15, 2014), <https://www.law.berkeley.edu/article/student-group-mentors-and-guides-first-generation-professionals/> [<https://perma.cc/8RQG-XE88>]. UCLA’s group appears also to have been formed by students. *First Generation Law Students Association*, UCLA, <https://firsttogo.ucla.edu/For-Graduate-Students/First-Generation-Law-Students-Association> [<https://perma.cc/3RHB-7NYZ>]. UC Irvine’s program appears to be run by students, though perhaps formed by the law school. *First Generation Professionals Program*, UCI L., <https://www.law.uci.edu/campus-life/student-organizations/orgs/fgpp.html> [<https://perma.cc/G6V7-NN2V>] [hereinafter *FGPP*]. Other student-run groups include Chicago-Kent’s First-Generation Law Student Association, formed in 2020, *First-Generation Law Student Association*, CHICAGO-KENT COLL. OF L., <https://studentorgs.kentlaw.iit.edu/firstgen/> [<https://perma.cc/2Q6N-PAQ5>]; the University of Alabama School of Law’s First Generation Law Students Association, *Student Organizations*, UNIV. OF ALA. SCH. OF L., <https://www.law.ua.edu/students/student-organizations/> [<https://perma.cc/5RFS-LT4Z>]; Stanford Law School’s First-Generation and Low-Income Professional Program, founded in

law school administrators.³²⁷ Some appear to be hybrid. That is, they are called “programs,” which suggests that they are products of the administration, but they have student officers, which suggests student-driven programming.³²⁸

To the best of our knowledge, students formed the earliest law school affinity group for first-gen students at UC Berkeley in 2011.³²⁹ A 2014 story about the founding of the Berkeley program, First Generation Professionals, led with this anecdote:

Among the myriad student organizations he encountered at Berkeley Law, Antonio Herrera ’12 noticed a missing slice in the diversity pie. “There were so many ethnic- and racial-identified groups, but no socioeconomic-identified groups,” he recalled. “It seemed like a glaring void.”

....

“At the top 10 law schools, only 3 percent of the cumulative student body comes from the bottom economic quartile and only 10 percent comes from the bottom half,” Herrera said. “That creates an initial disconnect for people from our backgrounds. I remember talking with classmates and thinking, ‘How come no one else knows what government cheese is?’”³³⁰

the spring of 2017, *Stanford Law First-Generation & Low-Income Professionals*, STAN. L. SCH., <https://law.stanford.edu/flip/> [<https://perma.cc/8U4A-QLDU>] (labeling itself a “student-led group that offers support for SLS students who identify as first-generation and/or low-income professionals. This includes students who grew up in working-class or low-income communities, students who are first in their family to attend college, and students who are first in their family to attend professional school”); the University of Michigan Law School’s program, *First Generation Law Students at Michigan Law Welcomes You*, FIRST GENERATION L. STUDENTS AT MICH. L., <https://www.firstgenmlaw.com> [<https://perma.cc/6ZS4-4YHT>]; New York University School of Law’s program, *Student Groups*, NYU SCH. OF L., <https://www.law.nyu.edu/studentorganizations/first-generation-professionals> (last visited Mar. 25, 2023); University of Notre Dame Law School’s program, *First Generation Professionals*, UNIV. OF NOTRE DAME L. SCH., <https://law.nd.edu/student-life/grow-here/student-organizations/first-generation-professionals/> [<https://perma.cc/9SB9-32GE>] (reporting a membership of seventy-seven students).

327. UC Law San Francisco’s program is an example, dating to February 2022. *UC Law SF Kicks Off First Generation Program*, U.C. L. S.F. (Feb. 25, 2022), <https://uclawsf.edu/2022/02/25/uc-hastings-kicks-off-first-generation-program/> [<https://perma.cc/3DC8-GXPR>]. However, UC Law San Francisco has run another program, Legal Education Opportunity Program (LEOP), since 1969. *LEOP Admissions*, U.C. L. S.F., <https://www.uclawsf.edu/admissions/leop-admissions/#:~:text=and%20LEOP%20community-,Applying%20through%20LEOP,and%20academic%20and%20professional%20ability> [<https://perma.cc/5E2Q-P6DZ>]. The University of Southern California Gould School of Law’s program, which has its own administrator and offers a range of programs, *C. David Molina First Generation Professionals Program*, USC GOULD SCH. OF L., <https://gould.usc.edu/students/first-generation/> [<https://perma.cc/W82U-MLEG>] [hereinafter *Molina*], dates to 2015, Leslie Ridgeway, *\$1 Million Estate Gift from USC Gould School of Law Alumnus Provides Scholarship Support*, BUS. WIRE (Sep. 16, 2020, 12:00 PM), <https://www.businesswire.com/news/home/20200916005307/en/1-Million-Estate-Gift-from-USC-Gould-School-of-Law-Alumnus-Provides-Scholarship-Support> [<https://perma.cc/DU8S-5NST>].

328. These include UC Davis School of Law, which started forming its program in 2017, O’Donnell, *supra* note 28, the same year the undergraduate program was founded, *UC Kicks Off Systemwide Effort to Support First-Generation Students*, *supra* note 27. The UC Irvine program also falls into this category. *FGPP*, *supra* note 326. The Duke program is similar in that it enjoys administrative support, primarily for event planning, but students do most of the programming. Telecon between Lisa R. Pruitt and Brandon Bishop, President of 1GP student group, Duke L. Sch. (July 2, 2023) (on file with author) [hereinafter Pruitt–Bishop Telecon].

329. Cohen, *supra* note 326.

330. *Id.*; see also SMARSH, *supra* note 19; cf. Jones, *supra* note 197, at 40–41, 51, 66–67, 72. Interestingly, Herrera did not conflate being a person of color with being socioeconomically disadvantaged.

At the time, the Berkeley group was the only one of its kind “among major U.S. law schools.”³³¹ Seven students attended its first meeting, but it soon grew to more than forty members.³³² The group remains active, functioning as a student-led organization that “strives to address the needs of first generation law students through mentorship, career advising, and social activities.”³³³

Law school programs vary in their details, but mentoring and networking are staples of most.³³⁴ Some programs, especially those run by law schools, match faculty and staff with students or otherwise foster opportunities for student–faculty interaction outside the classroom.³³⁵ These are consistent with some of the best practices identified in the scholarly literature about undergraduates, as discussed above.³³⁶ They are also consistent with McCain and Roksa’s study of first-generation law students.³³⁷ Other programs designate 2L and 3L students to mentor first-year students, and some engage alumni to do the mentoring. Regardless of who the mentors are, these relationships also facilitate networking.³³⁸

Many first-gen programs include workshops on topics such as student debt, networking, resume writing, and interviewing.³³⁹ The Yale Law School student group, First Generation Professionals, runs a biannual survey to collect socioeconomic data about the law school’s student body.³⁴⁰ The University of Pennsylvania Carey Law School supports six first-gen students through a First Generation Fellows Program that “personally[]tailor[s] professional development supports” including executive communication coaching as well as

331. Cohen, *supra* note 326.

332. *Id.*

333. *Student Organizations*, BERKELEY L., <https://www.law.berkeley.edu/students/student-organizations/#bb5-first-generation-professionals-fgp-3> [<https://perma.cc/UQ49-T7EX>].

334. See NALP TIPS AND BEST PRACTICES, *supra* note 324.

335. UC Davis School of Law, for example, matches students with faculty and staff. Duke Law School provides opportunities for first-gen students to have lunch with faculty members, judges, and other dignitaries. Pruitt–Bishop Telecon, *supra* note 328.

336. See *supra* Part II.A; see also NALP TIPS AND BEST PRACTICES, *supra* note 324.

337. See generally McCain & Roksa, *supra* note 41.

338. Chapman University, for example, uses alumni as mentors and also arranges mentoring across the class years. See *First Generation Scholars Program*, CHAP. UNIV. FOWLER SCH. OF L., <https://www.chapman.edu/law/student-resources/first-generation-scholars.aspx> [<https://perma.cc/VJN4-2C5L>]. Loyola University Chicago Law School’s first-generation student group uses peer and alumni mentoring. See *First Generation Law Students*, LOY. UNIV. CHI. SCH. OF L., <https://www.luc.edu/law/studentlife/organizations/firstgenerationlawstudents/> [<https://perma.cc/5BSR-4A6W>].

339. At USC Gould School of Law, the seminars offered “may include: School Work and Life Work[;] Public Interest Work and the First Generation Professional[;] Working Identity: Name Changes, Cultural Challenges and Other Assimilation Pressures[;] Gender and the First Generation Professional[;] Résumé Writing for the First Generation Professional[;] Interviewing Skills[;] The Interview Date[;] Dressing the Part[;] and] Debt and the First Generation Professional.” Molina, *supra* note 327.

340. *Yale Law First Generation Professionals*, YALE L. SCH., <https://yaleconnect.yale.edu/fgp/home/> [<https://perma.cc/3U9W-GEZG>]. Our requests for these data went unanswered.

post-grad executive coaching to “smooth the transition to practice.”³⁴¹ The support covers a six-year period.³⁴²

Based on the law schools’ websites, two of the most active and comprehensive programs that serve appear to be those at the University of Southern California Gould Law School and Duke University Law School.³⁴³ Both designate some paid-personnel time to help run their first-gen initiatives.³⁴⁴ The USC First-Generation Professionals webpage includes an explanation of factors that may set first-gen students apart from others. It reads like something of a summary of what the academic literature on first-gen students teaches, acknowledging that these “students face special hurdles in the law school assimilation process.”³⁴⁵ It also suggests that “[t]he study and practice of law demand certain lifestyle and perspective changes” that require “time and intensity of focus.”³⁴⁶ Further, it notes that changes students experience in law school “may initially isolate you from your community of family and friends at a time when support is needed most.”³⁴⁷ After acknowledging the “financial anxiety” these students face and a nod to the importance of peer and alumni networks, the USC overview concludes with: “We see your perspective as a source of strength that, properly supported, can provide valuable insight into what it means to ethically practice law and what is required to allow the law to achieve its full social justice potential.”³⁴⁸

The Duke Law alumni webpage explains the need for that institution’s program, which is called 1GP, stating that it “create[s] a space for students to find guidance and support in industries that are becoming increasingly represented by generational wealth and success.”³⁴⁹ Fifteen national and regional law firms provide funding to support Duke Law’s 1GP

341. *Creating Penn Law’s First Generation Fellows Program*, U. PA. ALMANAC (Apr. 2, 2019), <https://almanac.upenn.edu/articles/creating-penn-laws-first-generation-fellows-program-1> [<https://perma.cc/69EZ-U3FX>]. The Penn Carey Law School has gone above that number. *Law School Supports Nine First Generation Professionals Fellows Across All Class Years*, PENN CAREY L. (Nov. 8, 2021), <https://www.law.upenn.edu/live/news/14049-law-school-supports-nine-first-generation> [<https://perma.cc/Q5L6-2MMR>].

342. *Creating Penn Law’s First Generation Fellows Program*, *supra* note 341.

343. *See Molina*, *supra* note 327; *1GP Provides Duke Law’s First Generation Professionals with Academic and Career Support*, DUKE L. SCH. (July 26, 2018), <https://law.duke.edu/news/1gp-provides-duke-laws-first-generation-professionals-academic-and-career-support> [[https://perma.cc/2BSQ-B\]X](https://perma.cc/2BSQ-B]X)].

344. *See Molina*, *supra* note 327; *1GP Provides Duke Law’s First Generation Professionals with Academic and Career Support*, *supra* note 343.

345. *See Molina*, *supra* note 327.

346. *Id.*

347. *Id.*

348. *Id.*

349. *First Generation Professionals (1GP) Law Alumni*, DUKE ALUMNI, <https://alumni.duke.edu/groups/first-generation-professionals-1gp-law-alumni/announcements> [<https://perma.cc/9PC2-TGP8>]; *see also* Telecon between Elizabeth Glenski, Rsch. Assistant to Lisa R. Pruitt, and Jennifer Caplan, Duke L. Sch. Career Off. (Sept. 29, 2023) (on file with author).

programming.³⁵⁰ Indeed, Duke's program is so focused on students who plan careers at Big Law that a second student organization, First Class, has formed to serve the interests of first-gen students who are looking at careers in other sectors.³⁵¹

Some law schools have generous scholarships earmarked for first-gen students.³⁵² The Berkeley Law Opportunity Scholarship, for example, is a full-tuition and fees scholarship worth more than \$180,000.³⁵³ It is awarded to at least one first-gen student each year.³⁵⁴ New York University School of Law awards the AnBryce Scholarship, which offers "full-tuition funding and support to incoming NYU Law students who are among the first in their immediate family to pursue a graduate or professional degree and have proven themselves to be leaders in the face of challenging social and economic circumstances."³⁵⁵ The photos on the website suggest a cohort of about a dozen AnBryce recipients at any given time.³⁵⁶

Many law schools have programs that prepare underrepresented students for the law school admissions process. Our own UC Davis School of Law, King Hall, has for more than two decades run the King Hall Outreach Program (KHOP), whose mission is to do just that.³⁵⁷ The University of Virginia initiated a similar program in 2022, Roadmap Scholars, with an inaugural cohort of twelve rising college juniors.³⁵⁸ Participants spend eight weeks over two summers being introduced to the legal profession, preparing for and taking the LSAT, applying to law school, and participating in legal internships.³⁵⁹

At least one institution, the University of Memphis Cecil C. Humphreys School of Law, has a longer-standing investment in the underrepresented

350. The firms provide sponsorship (between \$750 and \$1,000 each) to support programming for the 1GP student group at Duke Law. Email from Brandon Bishop, President of 1GP student group, Duke L. Sch., to Lisa R. Pruitt (July 2, 2023) (on file with author).

351. Pruitt–Bishop Telecon, *supra* note 328.

352. See NALP TIPS AND BEST PRACTICES, *supra* note 324, at 1 (suggesting establishment of scholarships for first-gen students).

353. *Berkeley Law Opportunity Scholarship*, BERKELEY L., <https://www.law.berkeley.edu/admissions/J.D./financial-aid/types-of-aid/scholarships/entering-student-scholarships/berkeley-law-opportunity-scholarship/> [<https://perma.cc/A4N5-HFEB>].

354. *Id.*

355. *AnBryce Scholarship Program*, NYU SCH. OF L., <https://www.law.nyu.edu/financialaid/J.D.scholarships/anbryce> [<https://perma.cc/ERR5-ETPU>].

356. *Id.*

357. *King Hall Outreach Program (KHOP)*, UC DAVIS SCH. OF L., <https://law.ucdavis.edu/admissions/outreach/KHOP> [<https://perma.cc/TQJ4-CXBF>]. Florida State College of Law, St. John's University School of Law, and Suffolk Law School are among law schools that also provide programs to assist students from underrepresented communities in preparing for law school. See *Summer Pre-Law Programs*, BOS. UNIV. COLL. OF ARTS & SCIS., <https://www.bu.edu/prelaw/preparing-for-law-school/summer-pre-law-programs/> [<https://perma.cc/M29C-34VT>].

358. *Roadmap Scholars Initiative*, UNIV. OF VA. SCH. OF L., www.law.virginia.edu/academics/program/roadmap-scholars-initiative [<https://perma.cc/SD7E-R5QP>] [hereinafter *Roadmap*].

359. *Id.*

student pipeline.³⁶⁰ The Tennessee Institute for Pre-Law (“TIP”)³⁶¹ is for applicants who were denied admission through the regular application process.³⁶² TIP serves underrepresented individuals, including those who are “racially or ethnically underrepresented, disabled, socioeconomically disadvantaged, first-generation United States citizens, or first-generation college graduates.”³⁶³ Admission is competitive, with only twenty seats available to more than fifty applicants.³⁶⁴ Between 2012 and 2016, forty-five of the eighty-five TIP participants (53%) were first-gen college graduates.³⁶⁵ Because the program has been running for more than two decades, data on its success and costs are available.³⁶⁶

TIP features a five-week summer instruction program that simulates an abbreviated experience of the first year of law school.³⁶⁷ Students are assigned academic mentors.³⁶⁸ TIP also provides a stipend (\$1,000 per student), casebooks, free parking, Wi-Fi, email accounts through the university, printing, housing, and disability accommodations.³⁶⁹

Once in law school, two-thirds of program participants from 2012 to 2015 outperformed their admission indices.³⁷⁰ The results of TIP are particularly encouraging for the first-gen participants, among whom 81% passed the bar exam in 2013.³⁷¹ Indeed, bar passage rates of first-gen TIP participants have at times exceeded those of non-TIP students.³⁷²

In short, by using some of the best practices suggested by empirical studies of first-gen undergraduates, TIP reveals the hidden curriculum and helps students build social capital.³⁷³ The financial resources are surely a critical component of the program’s success, as they alleviate some of the fiscal stress associated with investing oneself in higher education. Yet the program appears to be relatively inexpensive, at \$4,500 per student in 2018.³⁷⁴

360. See O’Bryant & Schaffzin, *supra* note 41, at 914–15.

361. *See id.*

362. *Id.* at 914.

363. *Id.* at 938.

364. *Id.*

365. *Id.* at 941.

366. *See generally id.* at 942 (discussing the available data).

367. *Id.* at 939.

368. *Id.*

369. *See id.*

370. *Id.* at 941.

371. *Id.* at 945.

372. *Id.* at 941.

373. *Id.* at 946.

374. *Id.* at 940.

V. A SEMINAR ABOUT BEING FIRST-GEN, FOR FIRST-GEN STUDENTS

As noted in the Introduction, Pruitt created a law school seminar, The First-Gen Experience in Scholarly and Popular Literature (First-Gen Seminar), in 2020.³⁷⁵ The course was initially offered as a two-unit seminar, but in 2023 was approved for three units. This law school course is an adaptation of an undergraduate seminar Pruitt created and taught in 2018 as a first-year seminar,³⁷⁶ a style of course long offered at UC Davis. These first-year seminars are akin to similar course offerings at other colleges and universities in that they are aimed at helping students transition from high school to college by engaging them in an intimate learning environment. Assessments based on writing, rather than exams, are typical in first-year seminars.³⁷⁷ These seminars can be on any topic, but the one Pruitt created in 2018 was about the first-gen experience.

In neither the law school nor the undergraduate seminar is enrollment limited to students who are first-gen, but students who choose the courses are typically first-gen by some definition.³⁷⁸ In the law school seminar, most students fall into one or two of three overlapping categories: (1) many are first gen based on having neither a parent or guardian with a four-year degree; (2) some have one or more parents or guardians with four-year degrees, but with neither parent having a law or other type of graduate or professional degree; and (3) some are immigrants or the children of immigrants, who also identify as “first-gen immigrant” or “first-gen American.”³⁷⁹ Students from immigrant families often have a parent or parents who earned degrees in another country.³⁸⁰

Many students in these latter two categories, who could also be labeled continuing-generation college, identify as middle class and describe lifestyles that some would consider affluent.³⁸¹ A few students have seen their families’ economic circumstances improve dramatically over the course of their lives.³⁸²

375. Lisa R. Pruitt, UC Davis School of Law, Syllabus from The First-Gen Experience in Scholarly and Popular Literature Seminar (2020) (on file with author).

376. *See id.*

377. *First-Year Seminar Program*, UC DAVIS, <https://catalog.ucdavis.edu/additional-education-opportunities/first-year-seminar-program/#:~:text=First%2DYear%20Seminars%20are%20an,%2C%20critical%20thinking%2C%20and%20community> [https://perma.cc/7GTC-BCHN].

378. NALP’s best practices for first-gen students suggest letting students opt into these programs if they define themselves as first gen. NALP TIPS AND BEST PRACTICES, *supra* note 324. The perils of policing the category are reflected in the story of Mackenzie Fierceton. Rachel Aviv, *How an Ivy League School Turned Against a Student*, NEW YORKER (Mar. 28, 2022), <https://www.newyorker.com/magazine/2022/04/04/mackenzie-fierceton-rhodes-scholarship-university-of-pennsylvania>.

379. *See generally* FIRST GEN COURSE BLOG, <https://firstgencourse.blogspot.com/> [https://perma.cc/YMC3-ENS4].

380. *See generally id.*

381. *See generally id.*

382. *See generally id.*

Sometimes these improvements are because the parents pursued higher education while raising their children.³⁸³

The variety of students' relative financial privilege means students see and are grappling with first-gen challenges from very different socioeconomic vantage points. This sometimes makes for awkward moments, as students raised with few economic concerns hear details of the financial stresses of those from lower-SES families. At least one student has chosen to write about these issues, including his realization that he enjoyed a relative largesse of social capital.³⁸⁴

A. Written and Oral Assessments

Students in Pruitt's First-Gen Seminar are assessed on the basis of blog posts, essays, or research papers. In the 2018 undergraduate seminar, students wrote progressive drafts that culminated in a seven-page paper about their journey to college. The writing options for the law school seminar have evolved in the three years since its inception. Initially, Pruitt required students to write a reflection paper that would presumably include an autobiographical component. As in the undergraduate seminar, the students submitted several drafts over the course of the semester, culminating in a twelve-page final paper. (This did not include those seeking to meet the law school writing requirement, who must meet more rigorous requirements, as discussed below.)

At the end of the semester, students presented their papers, which essentially entailed sharing some part of their story with the class. This sharing worked extremely well in the undergraduate course, with students talking openly about a wide range of experiences, e.g., parents who were mentally ill, incarcerated, deported, or experiencing substance-abuse disorder. One spoke about having come out to his family at Thanksgiving. In the law school course, however, one student suggested in the course evaluations that the expectation of sharing one's personal story had been too uncomfortable.³⁸⁵

When Pruitt taught the law school seminar the second time, she made some changes in response to this feedback. First, she made clear that students need not write about themselves; they have the opportunity instead to craft an analytical research paper about any theme of the course; references to self are optional. She also gave an explicit trigger warning: reflecting upon and writing

383. *See generally id.*

384. *See, e.g.,* Justin Wong, *Reflecting on My Social Capital*, FIRST GEN COURSE BLOG (Sept. 12, 2023), <https://firstgencourse.blogspot.com/2023/09/reflecting-on-my-social-capital.html> [<https://perma.cc/NAA3-5P4E>].

385. Course Evaluations, UC Davis School of Law, *The First-Gen Experience in Scholarly and Popular Literature (2020–2023)* (on file with author).

about your own life may be traumatizing because you may be unpacking and reflecting on upsetting events you had psychologically tucked away.³⁸⁶

Pruitt also decided that, in lieu of having students work up to one twelve-page paper, she would turn to a platform she had been using for many years in her other seminars: a course blog. Pruitt created a blog called First Gen Course, and students are required to write and post four short essays there over the course of the semester.³⁸⁷ Instead of blog writing, students may choose to write op-eds, Jotwell reviews, or X threads (formerly Twitter). To date, students have chosen to write only for the blog.

Students may also choose to have their writing for the course satisfy the law school writing requirement, which requires a twenty-page paper manifesting “rigorous intellectual effort.”³⁸⁸ As with all writing that students do for the course, they may write autobiographically. That is, students may use some aspect(s) of their journeys as the facts they analyze in light of the scholarly framework they select, e.g., the imposter phenomenon, the model minority.

When the law faculty approved Pruitt’s First-Gen Seminar, some expressed concern that permitting students to write autobiographically might result in papers that were inadequately analytical and scholarly to meet the law school writing requirement. To avoid this possibility, Pruitt gives students very specific guidelines on the use of both academic and other sources, e.g., the memoirs we read for the class; reports from credible media outlets; primary data, as from the U.S. Department of Education and the U.S. Census Bureau. Students aim for eighty to one hundred citations in their papers, and the minimum number of sources they must cite is twenty.

B. Course Readings

To model personal narrative and inspire the students, the course readings include excerpts from a diverse selection of memoirs by famous attorneys who are first-gen by some definition³⁸⁹: Barack Obama,³⁹⁰ Michele Obama,³⁹¹ and Justice Sonia Sotomayor.³⁹² Not all memoirists on the syllabus are lawyers, and not all are well-known, though some have been made famous to some degree

386. A particularly effective and thorough trigger warning for these purposes can be found in the epilogue to Alejandra Campoverdi’s memoir, *First Gen*. CAMPOVERDI, *supra* note 16, at 257–73.

387. See FIRST GEN COURSE BLOG, *supra* note 379.

388. *Degree Requirements*, UC DAVIS SCH. OF L., <https://law.ucdavis.edu/students/degree-requirement> [<https://perma.cc/L3NT-2UG4>].

389. See Lisa R. Pruitt, UC Davis School of Law, Syllabus from The First-Gen Experience in Scholarly and Popular Literature Seminar (2023) (on file with author).

390. BARACK OBAMA, *DREAMS FROM MY FATHER: A STORY OF RACE AND INHERITANCE* (1995).

391. MICHELLE OBAMA, *BECOMING* (2018).

392. SONIA SOTOMAYOR, *MY BELOVED WORLD* (2013).

by publication of their books: J.D. Vance,³⁹³ Richard Rodriguez,³⁹⁴ Janet Mock,³⁹⁵ Eli Clare,³⁹⁶ Tara Westover,³⁹⁷ Sarah Smarsh,³⁹⁸ and Alejandra Campoverdi.³⁹⁹ Pruitt also shares her own autobiographical and other reflective writing.⁴⁰⁰ Consistent with bell hooks's admonition that teachers should make themselves vulnerable in the classroom, especially if they expect the same from their students, Pruitt models openness and vulnerability by sharing other aspects of her life experience throughout the course.⁴⁰¹ Pruitt has also experimented with assigning excerpts from novels such as *Homegoing* by Yaa Gyasi⁴⁰² and Elizabeth Strout's *Lucy Barton*/*Amgash* novels.⁴⁰³

The syllabus includes readings on issues associated with being first gen or a class migrant in progress: evolving relationships with family and community of origin,⁴⁰⁴ the imposter phenomenon,⁴⁰⁵ and the financial, cultural, and psychological barriers to higher education.⁴⁰⁶ Students also read newspaper and

393. J.D. VANCE, *HILLBILLY ELEGY* (2016).

394. RICHARD RODRIGUEZ, *HUNGER OF MEMORY: THE EDUCATION OF RICHARD RODRIGUEZ* (1982).

395. JANET MOCK, *REDEFINING REALNESS: MY PATH TO WOMANHOOD, IDENTITY, LOVE & SO MUCH MORE* (2014).

396. ELI CLARE, *EXILE AND PRIDE: DISABILITY, QUEERNESS, AND LIBERATION* (1999).

397. TARA WESTOVER, *EDUCATED* (2018).

398. SMARSH, *supra* note 19.

399. CAMPOVERDI, *supra* note 16.

400. Pruitt, *supra* note 176; Lisa R. Pruitt, *How Quickly We Forget: Of Fathers and Essential Workers*, CALMATTERS (June 24, 2020), <https://calmatters.org/economy/2020/06/how-quickly-we-forget-of-fathers-and-essential-workers/> [<https://perma.cc/R4UU-L7N5>]; *How Does Being a First Gen Faculty Member Change the Way You Teach?*, UC DAVIS CTR. FOR EDUC. EFFECTIVENESS (Nov. 13, 2019), <https://cee.ucdavis.edu/blog/how-does-being-first-gen-faculty-member-change-way-you-teach> [<https://perma.cc/3RNY-W8EJ>].

401. *See* hooks, *supra* note 143 (suggesting teachers should make themselves vulnerable, especially if they expect it from their students).

402. YAA GYASI, *HOMEGOING* (2016).

403. ELIZABETH STROUT, *LUCY BY THE SEA* (2022); ELIZABETH STROUT, *OH WILLIAM!* (2021); ELIZABETH STROUT, *ANYTHING IS POSSIBLE* (2017); ELIZABETH STROUT, *MY NAME IS LUCY BARTON* (2016).

404. Rob K. Henderson, *Everything I Know About Elite America I Learned From 'Fresh Prince' and 'West Wing': Television Taught Me How to Move Between Social Classes, but at What Cost?*, N.Y. TIMES (Oct. 11, 2020), <https://www.nytimes.com/2020/10/10/opinion/sunday/television-culture.html>; Elizabeth Spiers, *A Defense of Jeremy Strong (and All the Strivers with No Chill)*, N.Y. TIMES (Jan. 9, 2022), <https://www.nytimes.com/2022/01/09/opinion/culture/jeremy-strong-new-yorker-careerist-striver.html>; Quoc Trung Bui & Claire Cain Miller, *The Jobs You're Most Likely to Inherit from Your Mother and Father*, N.Y. TIMES (Nov. 22, 2017), <https://www.nytimes.com/interactive/2017/11/22/upshot/the-jobs-youre-most-likely-to-inherit-from-your-mother-and-father.html>.

405. Collier & Morgan, *supra* note 111; Leslie Jamison, *Why Everyone Feels Like They're Faking It*, NEW YORKER (Feb. 6, 2023), <https://www.newyorker.com/magazine/2023/02/13/the-dubious-rise-of-impostor-syndrome>.

406. Claude S. Fischer & Greggor Mattson, *Is America Fragmenting?*, 35 ANN R. SOC. 435 (2009); Jasmine L. Whiteside, *Becoming Academically Eligible: University Enrollment Among First-Generation, Rural College Goers*, 86 RURAL SOC. 204, 204–28 (2020); CASE & DEATON, *supra* note 76; Jason DeParle, *For Poor, Leap to College Often Ends in a Hard Fall*, N.Y. TIMES (Dec. 22, 2012), <https://www.nytimes.com/2012/12/23/education/poor-students-struggle-as-class-plays-a-greater-role-in-success.html>; Teresa Watanabe, *The Untitled Kids: California's New Generation Star College Applicants*, L.A. TIMES

magazine stories about income, wealth, and education inequality;⁴⁰⁷ reports on the impact that place/geography has on life opportunities;⁴⁰⁸ and literature critiquing legal education⁴⁰⁹ and rethinking pedagogy more generally.⁴¹⁰ Varied media are used, with assignments including podcasts like Shankar Vedantam's *Hidden Brain* (*Zipcode Destiny* and *Between Two Worlds*⁴¹¹) and *Dolly Parton's America*.⁴¹²

Many readings are explicitly or implicitly intersectional,⁴¹³ considering multiple axes of identity including race and ethnicity,⁴¹⁴ gender,⁴¹⁵ sexuality,⁴¹⁶ (dis)ability,⁴¹⁷ geography,⁴¹⁸ and religion⁴¹⁹—mostly in relation to socioeconomic or first-gen status. The readings are selected with a view to

(Dec. 29, 2021), <https://www.latimes.com/california/story/2021-12-29/they-are-the-unentitled-kids-californias-new-gene-applicants>.

407. Teresa Watanabe, *A 4.0 Student Beat All the Odds. But He Can't Afford a UC Campus*, L.A. TIMES (Apr. 25, 2023), <https://www.latimes.com/california/story/2023-04-25/high-college-tuition-is-pushing-students-from-uc-to-community-colleges>; Bhatia et al., *supra* note 296; Andrew Van Dam, *People From Elite Backgrounds Increasingly Dominate Academia, Data Shows*, WASH. POST (May 10, 2023), <https://www.washingtonpost.com/business/2022/07/08/dept-of-data-academia-elite/>.

408. PETER BERGMAN ET AL., OPPORTUNITY INSIGHTS, CREATING MOVES TO OPPORTUNITY: EXPERIMENTAL EVIDENCE ON BARRIERS TO NEIGHBORHOOD CHOICE (2023), https://opportunityinsights.org/wp-content/uploads/2021/12/cmt0_summary.pdf [<https://perma.cc/N65Z-29W7>]; SHERYLL CASHIN, PLACE, NOT RACE: A NEW VISION OF OPPORTUNITY IN AMERICA (2014); Phillip D. Grant & J. Kessa Roberts, "You're Poor, so You're Not Going to Do Anything." *Socioeconomic Status and Capital Accumulation as a Means to Access Higher Education for Rural Youth*, 87 RURAL SOC. 1340 (2022).

409. Duncan Kennedy, *Legal Education as Training for Hierarchy*, in THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE 54 (David Kairys ed., 3d ed. 1998).

410. BELL HOOKS, TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM (1994) [hereinafter HOOKS, TEACHING TO TRANSGRESS]; hooks, *Confronting Class*, *supra* note 143.

411. Shankar Vedantam, *Zipcode Destiny*, HIDDEN BRAIN (Nov. 12, 2018), <https://hiddenbrain.org/podcast/zipcode-destiny/> [<https://perma.cc/8T2P-XGE2>]; Shankar Vedantam, *Between Two Worlds*, HIDDEN BRAIN (Nov. 9, 2020), <https://hiddenbrain.org/podcast/between-two-worlds/> [<https://perma.cc/7QYH-WC77>].

412. Jad Abumrad & Shima Oliace, *Dolly Parton's America*, WNYC STUDIOS: DOLLY PARTON'S AMERICA: THE STORY OF A LEGEND AT THE CROSSROADS OF AMERICA'S CULTURE WARS (Dec. 3, 2019), <https://www.wnycstudios.org/podcasts/dolly-partons-america/episodes/dolly-partons-america-episode> [<https://perma.cc/3L85-NUZF>] (featuring University of Tennessee students discussing bias based on accents).

413. Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 140; see also Pheng Xiong, *Dual Invisibilities: The Intersection of First-Generation and LGBTQ Identities*, in AT THE INTERSECTION: UNDERSTANDING AND SUPPORTING FIRST-GENERATION STUDENTS, *supra* note 22, at 119, 120–21.

414. Louie F. Rodríguez et al., *Reflecting on the Institutional Processes for College Success: The Experiences of Four Chicanos in the Context of Inequality*, 11 LATINO STUD. 411 (2013); Camille Gear Rich, *Marginal Whiteness*, 98 CAL. L. REV. 1497 (2010); Dagmar Myslinska, *Contemporary First-Generation European-Americans: The Unbearable Whiteness of Being*, 88 TUL. L. REV. 559 (2014).

415. SMARSH, *supra* note 19; WESTOVER, *supra* note 397.

416. CLARE, *supra* note 396; MOCK, *supra* note 395.

417. CLARE, *supra* note 396.

418. SMARSH, *supra* note 19; Abumrad & Oliace, *supra* note 412; Adam Kirk Edgerton, *What's Wrong with Being from the South? Just Ask an Academic in the North*, CHRON. HIGHER EDUC. (May 25, 2018), <https://www.chronicle.com/article/whats-wrong-with-being-from-the-south-just-ask-an-academic-in-the-north/>.

419. WESTOVER, *supra* note 397.

providing a diverse group of students the opportunity to see themselves. The assigned materials also provide context for understanding their experiences. The readings have proved generative in class discussions and in relation to the writing students do for the course.

After her course was approved for an additional unit (bringing the total to three) in 2023, Pruitt sought to leverage the Stephens et al. “difference-education intervention,” whereby juniors and seniors in college spoke to entering undergraduates about how their first-gen upbringings had been assets in higher education.⁴²⁰ Pruitt did so by inviting first-gen alums to speak about characteristics or experiences associated with that status which had served them well in their law school endeavors and more recently in their careers. The goal was to cultivate an asset-based attitude toward being first gen and more opportunities for students to see themselves in others who had weathered law school and are thriving in diverse careers.

One student who had become a public defender, for example, explained she would not be as effective at her job had she not come from a low-income community, growing up amidst people like her clients. Another described how his work ethic and positive outlook had drawn mentors to him, opening doors both to transfer from a junior college to a University of California campus and then to an invitation to apply to law school. A third told of how her struggle with imposter syndrome had proved beneficial in that it propelled her to work harder than everyone else to prove herself, which in turn was landing her enhanced opportunities. A fourth talked about his many years working as a restaurant server, solving problems and handling displeased customers; he explained that those experiences had equipped him to roll with the punches of a busy legal aid office with stressed clients and too few staff to meet the need. Now that he is a senior attorney involved in hiring for his organization, he looks to hire attorneys with the sort of grit he developed from working service jobs.

C. Student Writing

Although the First Gen Course Blog is a public platform that anyone can read, many students have written posts that are not only deeply reflective, but also highly self-revelatory. Some have written, for example, about their struggles

420. See Stephens et al., *Achievement Gap*, *supra* note 144, discussed in text accompanying notes 144–51.

with mental health,⁴²¹ conflicts with their families,⁴²² and the drama of their first law school cold call.⁴²³ Several have written about an injustice they or a family member experienced that motivated them to pursue a law degree.⁴²⁴ Some have written about how a lack of social capital shaped their own journey to college or law school.⁴²⁵ Others have reflected on the trade-offs they've made to achieve higher education; one wrote poignantly about what it cost her, for example, in terms of time with family.⁴²⁶

Students are also required to comment on others' posts. In those comments, too, many have chosen to be highly revealing, e.g., detailing their LSAT scores.⁴²⁷ Indeed, even students who are reticent to speak in class often engage very thoughtfully with one another on the blog. They put in writing what they are unwilling or unable to say out loud. The blog is thus a public repository of what is on students' minds, and it is, ultimately, a means for them to be in conversation across cohorts. This will likely become a more significant asset if the course continues to be taught over several years.

Student papers also pick up these themes and others reflected in the materials assigned for the course. Students write about a range of barriers to higher education and how they have navigated them. One theme centered in the papers of several female students has been the experience of being the "eldest immigrant daughter,"⁴²⁸ with the added sociocultural and familial

421. See, e.g., Ryan Chen, *How My Parents Gave Me an Anxiety Disorder*, FIRST GEN COURSE BLOG (Sept. 28, 2022), <https://firstgencourse.blogspot.com/2022/09/how-my-parents-gave-me-anxiety-disorder.html> [<https://perma.cc/733N-S4T2>]; Jason Wong, *Celebrate Nothing*, FIRST GEN COURSE BLOG (Sept. 27, 2022), <https://firstgencourse.blogspot.com/2022/09/celebrate-nothing.html> [<https://perma.cc/2NMM-SA28>]; Anjali Mistry, *The Worst Morning Routine*, FIRST GEN COURSE BLOG (Sept. 15, 2023), <https://firstgencourse.blogspot.com/2023/09/the-worst-morning-routine.html> [<https://perma.cc/UR92-YYY7>].

422. See, e.g., Alina Ali, *Muslim Hannah Montana*, FIRST GEN COURSE BLOG (Oct. 25, 2022), <https://firstgencourse.blogspot.com/2022/10/muslim-hannah-montana.html> [<https://perma.cc/N2CC-TRCQ>]; Ryan Chen, *Why Are We So Poor? Working-Class Whites, Capitalism and Racial Scape-Goating*, FIRST GEN COURSE BLOG (Oct. 26, 2022), <https://firstgencourse.blogspot.com/2022/10/why-are-we-so-poor-working-class-whites.html> [<https://perma.cc/5GEZ-A5FE>].

423. See, e.g., Geovannaym, *American Limbo*, FIRST GEN COURSE BLOG (Oct. 4, 2022), <https://firstgencourse.blogspot.com/2022/10/american-limbo.html> [<https://perma.cc/9CYJ-3BTB>].

424. See, e.g., Riki Walter, *Who I Owe It To*, FIRST GEN COURSE BLOG (Sept. 18, 2022), <https://firstgencourse.blogspot.com/2022/09/who-i-owe-it-to.html> [<https://perma.cc/6U7M-8WBR>].

425. See, e.g., Riki Walter, *How Tyler, the Creator Got Me into College*, FIRST GEN COURSE BLOG (Mar. 11, 2023), <https://firstgencourse.blogspot.com/2023/03/how-tyler-creator-got-me-into-college.html> [<https://perma.cc/5RUT-LT4Q>].

426. See, e.g., Geovannaym, *I Can Do It, but I Don't Want To*, FIRST GEN COURSE BLOG (Sept. 12, 2022), <https://firstgencourse.blogspot.com/2022/09/i-can-do-it-but-i-dont-want-to.html> [<https://perma.cc/3HZK-EJ9M>].

427. See Comments to Taylor Brown, *Is Law a Gatekeeping Profession? The LSAT is Partly to Blame*, FIRST GEN COURSE BLOG (Sept. 11, 2023), <https://firstgencourse.blogspot.com/2023/09/is-legal-field-gatekeeping-profession.html> [<https://perma.cc/YQT2-BHLP>].

428. See Andrew J. Fuligni, *Family Obligation Among Children in Immigrant Families*, MIGRATION POLY INST. (July 1, 2006), <https://www.migrationpolicy.org/article/family-obligation-among-children-immigrant-families> [<https://perma.cc/YQ4F-8P9V>]; Fatima Abdel-Gwad, *Eldest Daughter or Third Parent? An Exploration of Eldest Daughter in the Egyptian-American Diaspora* (Feb. 2023) (Ph.D. dissertation,

expectations that come with that position. Many students who are the children of immigrants ponder what they owe their parents for the sacrifices those parents made in coming to the United States with the goal of giving their children a brighter future.⁴²⁹ The pressures associated with the model minority are a common theme among Asian-American students, as is parental disappointment that the student is pursuing law rather than a career in STEM.⁴³⁰

Some students stick more to the academic literature, reflecting, for example, on how different aspects of the hidden curriculum have been revealed to them.⁴³¹ Some write about their experiences passing or dodging, phenomena Gray et al. observed in first-gen undergraduates.⁴³² Some challenge the notion that they are less “independent” than their continuing-generation peers.⁴³³ In doing so, they redefine independence in relation to the increased responsibility they have typically taken for themselves and their families from younger ages. This is consistent with McCain and Roksa’s finding that some first-gen law students see themselves as independent learners because of the resourcefulness they deploy to get answers and solve problems.⁴³⁴ Another angle on the independence vs. interdependence frame is that, because first-gen law students are more likely to have lived at home and been commuter students during their undergraduate studies, some have bigger leaps to make toward independent living when they leave their parents’ homes to enter law school.

Student work product for the course also provides frequent reminders of the significant trauma in some students’ pasts. Many had adverse childhood experiences.⁴³⁵ Though trauma is not limited to the first-gen student population, it may be aggravated by disadvantages associated with that status. The course gives students an explicit invitation to talk about these matters.

American University Cairo), <https://fount.aucegypt.edu/cgi/viewcontent.cgi?article=3082&context=etds> [<https://perma.cc/F9NA-DGYS>]; *To Be the Child of an Immigrant*, MENTAL HEALTH AM., <https://www.mhanational.org/blog/be-child-immigrant#:~:text=To%20be%20the%20child%20of%20an%20immigrant%20means%20growing%20up,mental%20health%20support%20is%20low> [<https://perma.cc/RD2H-8J6E>]. One student wrote a blog post about this phenomenon. SC, *It’s Ok to Breathe*, FIRST GEN COURSE BLOG (Nov. 12, 2023), <https://firstgencourse.blogspot.com/2023/11/its-okay-to-breathe.html> [<https://perma.cc/97SW-88QW>].

429. Jacob Yang, *Mental Boom*, FIRST GEN COURSE BLOG (Nov. 14, 2023), <https://firstgencourse.blogspot.com/2023/11/mental-boom.html> [<https://perma.cc/ZZ5J-Y9R7>].

430. See Sarah Michelle Olin, *What it Means to Fail: Exploring How the Model Minority Makes Sense of Academic Struggles in College* 39–40 (Nov. 1, 2017) (Ph.D. dissertation, Northeastern University), <https://repository.library.northeastern.edu/files/neu:cj82r248z/fulltext.pdf> [<https://perma.cc/9CP3-72ZW>].

431. Collier & Morgan, *supra* note 111. As a related but decidedly not academic matter, several students have written about how much they learned for example, from the film *Legally Blonde*, whose protagonist, though wealthy, knew nothing about law school. The film depicts the hidden curriculum being revealed to her.

432. See Gray et al., *supra* note 126.

433. See *supra* notes 125–43 and accompanying text.

434. McCain & Roksa, *supra* note 41, at 82.

435. See *supra* note 34 and accompanying text; see also VANCE, *supra* note 393, at 226–27; CAMOVERDI, *supra* note 16, at 260.

Students writing papers present them on the final day of the course. By the end of the semester, the paper writers and their fellow students have typically shared a great deal about themselves, either in class discussions or on the blog. Trust has been established. Thus, in their oral presentations, most students writing papers share generously from what they have written of their journeys, though they are encouraged to be as circumspect as makes them comfortable.

D. Course Objectives

One aspect of Pruitt's vision for the First-Gen Seminar was to empower students by providing a space where students would feel safe surfacing and telling their stories.⁴³⁶ Pruitt's sense, based largely on what she has observed in class, is that the course is achieving this goal. The course evaluations also support this conclusion. Comments on the evaluations have included praise for inclusivity and "the space to discuss and reflect on my experiences as a first-gen student."⁴³⁷ One student wrote, "Being in law school, or feeling like I belonged, was something I struggled with and this class validated my existence so I'm grateful for that."⁴³⁸ Another wrote, "This course was so eye-opening for a first-gen student. I had never learned about these issues specifically before and the knowledge I've gained from the class has helped me both in my own studies and in advising and helping others."⁴³⁹ A third commented, "[S]uch a well thought out and designed course. I've never felt this much community since I started out at King Hall."⁴⁴⁰

These remarks and others in the evaluations suggest that law students—perhaps not all of them, but certainly many who are first gen by some definition—are eager for opportunities to reflect upon and express their feelings about their law school experience. They are also eager to be seen in something approaching their full complexity—what bell hooks, in *Teaching to Transgress*, calls "the whole student."⁴⁴¹ Pruitt's sense is that some students may not have many—or even any—other opportunities to feel fully seen during their law school careers, depending on factors such as the courses they take, the extracurricular activities in which they engage, and whether they develop a meaningful mentoring relationship.

436. See McCain & Roksa, *supra* note 41, at 84–86 (recognizing the value of storytelling and owning one's narrative for the first-gen population).

437. Course Evaluations, UC Davis School of Law, The First-Gen Experience in Scholarly and Popular Literature (2020–2023) (on file with author).

438. *Id.*

439. *Id.*

440. *Id.*

441. HOOKS, *TEACHING TO TRANSGRESS*, *supra* note 410 (arguing that a holistic education values students' unique experiences, emotions, and identities as integral to the learning process, ultimately empowering students to become critical thinkers and agents of societal change).

McCain and Roksa express something similar in what they observed in their study: students “sharing their whole selves”⁴⁴² by talking openly about being first gen.⁴⁴³ The students do this, in part, to reveal how they are different in relation to the relative privilege of others in the law school community. McCain and Roksa characterize this as “political education.”⁴⁴⁴

Pruitt also envisioned that the First-Gen Seminar would be a space where students from widely varying backgrounds could see commonalities across racial–ethnic and other divides. This harkens back to her effort in 2015 in *The False Choice Between Race and Class*.⁴⁴⁵ The next section discusses how these efforts have played out in the course.

E. Navigating Identity Politics and Whiteness

As memoirist Sarah Smarsh and Berkeley Law’s first-gen student leader Antonio Herrera have expressed it, students of color can typically tap into robust race- and ethnicity-based centers and student organizations for support in higher education.⁴⁴⁶ At UC Davis, these include nearly seventy student-run “ethnic/cultural/identity-based” organizations.⁴⁴⁷ At the law school alone, such groups include the Middle Eastern, North African and South Asian Law Students Association, Latinx Law Students Association (previously LaRaza), the Filipinx Law Students Association, the Native American Law Students Association, and the Black Law Students Association.⁴⁴⁸ Likewise, LGBT students can find community in the Lambda Law Students Association.⁴⁴⁹

Needless to say, there is no affinity group for white students nor, more salient for purposes of this analysis, for the subset of white students who are first-gen and/or low-income.⁴⁵⁰ Indeed, affinity groups based on low-SES

442. McCain & Roksa, *supra* note 41, at 84.

443. *Id.* at 83.

444. *Id.*

445. See Pruitt, *supra* note 18.

446. *Faculty Resources for Student Support*, UC DAVIS UNDERGRADUATE EDUC., <https://ue.ucdavis.edu/faculty-resources> [<https://perma.cc/DU7V-3SPV>]; see also *supra* text accompanying notes 330 (quote from Berkeley Law student re: what was missing in terms of student organizations) and 20 (Smarsh quote).

447. *Aggie Life*, UC DAVIS, https://aggielife.ucdavis.edu/club_signup?group_type=&search=first&category_tags=&order=name_asc [<https://perma.cc/UH72-W4T6>].

448. *Student Organizations*, UC DAVIS SCH. OF L., <http://students.law.ucdavis.edu> [<https://perma.cc/9DFE-9JPX>].

449. *Id.*

450. Such a group would be inappropriate. See *Anonymous ‘It’s Ok to be White’ Flyers Posted at UC Davis*, CBS NEWS (Nov. 11, 2017, 7:02 PM), <https://www.cbsnews.com/sanfrancisco/news/its-ok-to-be-white-flyers-posted-at-uc-davis/> [<https://perma.cc/X6ZY-6VG6>]; Gary S. May, *Response to Provocative Flyers*, UC DAVIS LEADERSHIP (Nov. 9, 2017), <https://leadership.ucdavis.edu/chancellor/blog/response-provocative-flyers> [<https://perma.cc/CPC7-ARTH>] (discussing the flyers as communicating “white victimhood” and stating they “attempted to subtly convey a message that white people are under attack in the United States”).

status have generally been missing from higher education.⁴⁵¹ As Berkeley Law student Herrera queried, why did his classmates not know about “government cheese”?—a reference to the food commodities the U.S. government distributes to low-income families.⁴⁵² Thus, first-gen programs fill a gap by providing an opportunity for students who are disadvantaged based on socioeconomic class to find common ground.⁴⁵³

Pruitt’s First-Gen Seminar is similarly a place for these students to come together, discuss shared experiences, and perhaps build community. The course also invites students to engage in conversations about class, structural inequalities, intersecting identities, and a range of life experiences, all within the first-gen frame. Among the class sessions explicitly inviting discussions of race/ethnicity, are those titled “Intersectionality: Class, Race, Place, and Power” and “Intersectionality: Class, Race/Ethnicity, and Immigration.”⁴⁵⁴ The syllabus has also included sessions varying headed “Intersectionality: Whiteness and Class (and Privilege as Relative)” and “Complicating Whiteness.”⁴⁵⁵

Student responses to the literature by and about socioeconomically disadvantaged white folks have been revealing in relation to the theme of finding common ground. Students sometimes relate powerfully to an author of a different race, gender, or sexuality based on life philosophy, storytelling style, or reflections about a particular family dynamic or achievement. Some women of color have thus responded very favorably to Sarah Smarsh, whose memoir documents her socioeconomically challenged upbringing in Kansas. Several female Muslim students have related profoundly to the expectations of modesty that Tara Westover’s family, fundamentalist Latter Day Saints, put on her. Female students of all races and ethnicities relate to Justice Sonia Sotomayor and Michelle Obama on various bases. When students across race and gender spectrums read about Obama’s high school counselor suggesting that Princeton was beyond her reach, many talk about how their high school counselors similarly discouraged their applications to prestigious institutions.⁴⁵⁶

One semester, two students identified an excerpt from Michelle Obama’s *Becoming* as a reading that most resonated with them. The excerpt was about the failing health of Obama’s father and her role as the family member who most pressed him to seek medical care.⁴⁵⁷ Those two students were different from each other in race, gender, ability, and religion. A significant generation gap lay

451. Mark J. Mitchell, *Building and Supporting Socioeconomic Diversity*, NAT’L ASS’N OF INDEP. SCHOOLS (2018), <https://www.nais.org/magazine/independent-school/fall-2018/building-and-supporting-socioeconomic-diversity/> [http://perma.cc/Y58L-ENV4].

452. See *supra* text accompanying note 330.

453. McCain & Roksa, *supra* note 41, at 80–81.

454. Lisa R. Pruitt, UC Davis School of Law, Syllabus from The First-Gen Experience in Scholarly and Popular Literature Seminar (2023) (on file with author).

455. *Id.*

456. OBAMA, *supra* note 391, at 65–66.

457. *Id.* at 136–45.

between them. Yet both saw themselves in Michelle Obama's response to her father's failing health.

Students of color have also praised J.D. Vance's *Hillbilly Elegy*—though the praise is typically tempered when they realize that he has become a conservative politician and, most recently, a Republican Senator.⁴⁵⁸ Vance's struggle with poverty and despair resonated deeply with one woman of color, who observed:

My favorite reading this semester has been *Hillbilly Elegy* by J.D. Vance. I will be reading the full memoir! Thank you for recommending! Some of my favorite lines from these excerpts are:

“Whatever talents I have, I almost squandered until a handful of loving people rescued me. And I want people to understand something I learned only recently: that for those of us lucky enough to live the American Dream, the demons of the life we left behind continue to chase us.”

....

“But I love these people, even those to whom I avoid speaking for my own sanity [T]here are no villains in this story.”⁴⁵⁹

Despite these encouraging expressions of empathy across racial difference, some students in the seminar have expressed general negativity toward white people. In one session on the intersection of whiteness with socioeconomic status, for example, a student opined that they didn't “trust white people,” and another student quickly agreed. These comments led a third student, who identified as “half white, half Mexican” to ask, “What about me?” The third student thus queried whether they were trusted or not, given their mixed race/ethnicity.⁴⁶⁰

In other instances, students responded to the course readings by declaring that they “have a hard time empathizing with white people.”⁴⁶¹ This comment came after the students had read excerpts from Vance, Smarsh, Westover, and Prof. Dagmar Myslinska, who are all white. The general lack of empathy was expressed in spite of the myriad obstacles and traumas the authors had revealed about their respective journeys. Indeed, it was expressed despite the fact that white students enrolled in the course and present in the room had revealed their own vulnerabilities based not only on socioeconomic class, but also struggles with mental illness, substance abuse, sexual assault, and other traumas.

Another student had commented in a prior class session on the need to differentiate between “whiteness” and “white people”:

I met white people for the first time when I came to college. So maybe that's why And I was immediately told that there's like white privilege and white

458. J.D. VANCE, U.S. SENATOR FOR OHIO, <https://www.vance.senate.gov/> [<https://perma.cc/A4TU-KTGC>].

459. Comments from Students in The First-Gen Experience in Scholarly and Popular Literature Seminar at UC Davis School of Law (2020–2023) (on file with author).

460. *Id.*

461. *Id.*

supremacy. And that Whiteness is like the evil, the root of all evil. And I just disagree. I think that the expectation of whiteness that even on white people is hurting them, right? And it's like that whiteness is sort of its own monster almost separate from in some ways the white people. And I don't know where the separation is, and I'm not trying to be controversial or problematic here.⁴⁶²

We think the distinction the student articulated is critically important. As the student acknowledged, however, the distinction between whiteness as an abstract construct on the one hand and, on the other, people with white skin, is a blurry one, difficult to grasp. Indeed, that distinction may be lost on some students who will hear only negativity about themselves based solely on their race. Further, generalized anti-white rhetoric is unhelpful and potentially perilous, as is rhetoric that stereotypes or vilifies any racial or ethnic group. This is a particular concern in an era when student mental health is front of mind.⁴⁶³

Some students' general negativity toward white people because they are white should perhaps not surprise us given the currency now associated with concepts like "white supremacy" and "white privilege." These have become widely and casually used phrases, deployed in ways that increasingly broaden their meanings.⁴⁶⁴ Further, we live in an era when terms like "white fragility" are deployed to chastise—even ridicule—white people for alleged lack of self-awareness.⁴⁶⁵ Such phrases may be used in ways that are dismissive of trauma

462. *Id.*

463. See Linda Sugin, *Does Law School Have to Suck?*, ALM (Mar. 30, 2023, 2:00 PM), <https://www.law.com/nationallawjournal/2023/03/30/does-law-school-have-to-suck/> [https://perma.cc/DQX4-H92E]; Mary Ellen Flannery, *The Mental Health Crisis on College Campuses*, NEATODAY (Mar. 29, 2023), <https://www.nea.org/nea-today/all-news-articles/mental-health-crisis-college-campuses> [https://perma.cc/QYN7-KYDN]; Deidre McPhillips, *Mental Health Struggles are Driving More College Students to Consider Dropping Out, Survey Finds*, CNN (Mar. 23, 2023, 6:13 AM), <https://www.cnn.com/2023/03/23/health/mental-health-college-dropout-survey-wellness/index.html> [https://perma.cc/V95D-KWNS]; Zara Abrams, *Student Mental Health Is in Crisis. Campuses Are Rethinking Their Approach*, AM. PSYCH. ASS'N (Oct. 12, 2022), <https://www.apa.org/monitor/2022/10/mental-health-campus-care> [https://perma.cc/9HTX-XBJW]; Donna St. George & Valerie Strauss, *The Crisis of Student Mental Health is Much Vaster Than We Realize*, WASH. POST (Dec. 5, 2022, 6:00 AM), <https://www.washingtonpost.com/education/2022/12/05/crisis-student-mental-health-is-much-vaster-than-we-realize/>.

464. See Tyler Austin Harper, *Ibram X. Kendi's Fall is a Cautionary Tale—So Was His Rise*, WASH. POST (Sept. 28, 2023, 1:00 PM), <https://www.washingtonpost.com/books/2023/09/28/ibram-kendi-stamped-center-antiracist-research/> (arguing that "the real damage that Kendi's philosophy has wrought on American culture is in the way he turned words like 'racism' and 'white supremacy' into banal, everyday terms"); John McWhorter, *Words Have Lost Their Common Meaning*, ATLANTIC (Mar. 31, 2021), <https://www.theatlantic.com/ideas/archive/2021/03/nation-divided-language/618461/>; Michael Powell, *'White Supremacy' Once Meant David Duke and the Klan. Now it Refers to Much More*, N.Y. TIMES (Oct. 17, 2020), <https://www.nytimes.com/2020/10/17/us/white-supremacy.html>. Further, academic uses of the term often deviate from everyday uses and understandings. See Khiara M. Bridges, *White Privilege and White Disadvantage*, 105 VA. L. REV. 449, 456–62 (2019).

465. ROBIN DIANGELO, *WHITE FRAGILITY* 33 (2018). DiAngelo writes, "I hope to have made clear that white supremacy is something much more pervasive and subtle than the actions of explicit white nationalists. White supremacy describes the culture we live in, a culture that positions white people and all that is associated with them (whiteness) as ideal. White supremacy is more than the idea that whites are superior to people of color; it is the deeper premise that supports this idea—the definition of whites as the norm or standard for human, and people of color as a deviation from that norm."

and pain when experienced by people with white skin. Indeed, these terms not only essentialize race, they construct whiteness as monolithic⁴⁶⁶ and suggest it is the most important characteristic of a person with white skin. This language and these understandings of whiteness obscure the wide variety in white individuals' lived experiences, as well as the significance of those variations.⁴⁶⁷

Following these disconcerting classroom exchanges, Pruitt was sufficiently concerned that broad negativity toward white people as a group could have deleterious impacts on the white students in the classroom that she consulted the UC Davis Center for Educational Effectiveness (CEE) for advice.⁴⁶⁸ The Center's leadership directed Pruitt to resources on how to handle "Charged Discussions."⁴⁶⁹ That guidance states that "[c]harged discussions may organically arise from studying difference, power, inequality, and other emotional topics and controversial issues which occur as part of a university education."⁴⁷⁰ Among the recommendations when charged discussions arise is to "depersonalize the comment if it is potentially hurtful (e.g., 'Thank you for raising that perspective. Many feel that way, and you've given us an opportunity to talk about it.')."⁴⁷¹

In a segment of the CEE "Charged Discussions" resource titled "Students Say," one comment seemed apt regarding the blanket negativity toward white people that Pruitt sometimes hears: "I really appreciated my professor who acknowledged that, although I come from a relatively more privileged background than many, my perspective was worthy of consideration as well."⁴⁷²

466. DiAngelo asserts that all "white people raised in Western society are *conditioned into a white supremacist worldview*." *Id.* at 129 (emphasis added). John McWhorter has compared the antiracist framing of whiteness and white people to the Christian concept of original sin—a stain that can never be removed. JOHN MCWHORTER, *WOKE RACISM: HOW A NEW RELIGION HAS BETRAYED BLACK AMERICA* 30–31 (2021).

467. See McWhorter, *supra* note 464; see also Chloé Valdary, *A Hole in the Heart of Antiracism Training. Reducing People to Caricatures and Abstractions Pushes Us All Further Apart*, BOS. GLOBE (Feb. 3, 2021, 12:23 PM), <https://www.bostonglobe.com/2021/02/03/opinion/hole-heart-antiracism-training/>. Reflecting a generational shift, some students object when authors who are white do not expressly comment on their white privilege. Many younger students do not have a sense that, until very recently, there was no expectation that people would articulate their privilege. In many circles, however, this has even come to be expected prior to talking about any disadvantages or adverse life experiences they have faced. See William Deresiewicz, *Chuck Your Privilege: How College Students Can Exercise Real Humility*, PERSUASION (Sept. 6, 2023), https://www.persuasion.community/p/chuck-your-privilege?utm_source=post-email-title&publication_id=61579&post_id=136766742&isFreemail=true&r=7y34f&utm_medium=email [<https://perma.cc/H5U6-UK42>]; Noah Berlatsky, *Liberals Are So Busy Confessing and Denouncing Privilege They've Forgotten to Fix It*, QUARTZ (Feb. 6, 2017), <https://qz.com/901278/phoebe-maltz-bovy-and-the-perils-of-privilege-liberals-are-so-busy-confessing-and-denouncing-privilege-theyve-forgotten-to-fix-it> [<https://perma.cc/N9L7-5DH8>].

468. This is the entity that facilitated the First-Gen Faculty Learning Community in which Pruitt participated in 2019.

469. *Charged Discussions: Creating an Engaging & Inclusive Environment*, UC DAVIS CTR. FOR EDUC. EFFECTIVENESS, <https://cee.ucdavis.edu/jitt/charged-discussions> [<https://perma.cc/YLN9-D4ZK>] [hereinafter CEE, *Charged Discussions*].

470. *Id.*

471. *Id.*

472. *Id.*

This appears to acknowledge that white students (as well as those privileged on bases other than race) may be on the receiving end of comments that generalize in hurtful ways. It further suggests that professors should model respect for the perspectives of those students, thus making them less likely to self-censor and thereby fostering more robust discussions.

Kem Saichaie, Director of the Center for Educational Effectiveness, further suggested to Pruitt that it may be advisable at the outset of the semester to tell students that, although we do not have to agree with everyone, the classroom must hold space for everyone. Saichaie suggested saying that if any student cannot do so, “this may not be the time for you to have this experience.”⁴⁷³ A DEI trainer offered similar advice to the UC Davis Law faculty in a fall 2023 session on the topic of trust agreements with students: “Agreement is not required in order to have community. We strive for respect, not agreement.”⁴⁷⁴

Of course, these challenging conversations are shaped by the environment in which they take place. We have already noted UC Davis Law School’s great degree of rhetorical attention to racial and ethnic disadvantage, despite the fact that Black students made up only 2% of the class of 2022.⁴⁷⁵ Meanwhile, 14% were Hispanic, 23% were Asian, and 44% were white.⁴⁷⁶ Just as students of color are a majority of the wider law school population, they are also a majority of first-gen students at the law school.⁴⁷⁷ Each time Pruitt has taught the law school seminar, one or two white students and the same number of mixed race students who are partly white have been enrolled, amidst total enrollment of eight to thirteen students.

While UC Davis is highly optically diverse, many other institutions are far less so. Nationally, white students comprise a significant plurality (46%) of first-gen undergraduate students.⁴⁷⁸ States with high percentages of first-gen

473. Notes from conversation between Lisa R. Pruitt and Kem Saichaie, Director, UC Davis Ctr. for Educ. Effectiveness (March 20, 2023) (on file with author). *See also* CHRON. OF HIGHER ED., FOSTERING STUDENTS’ FREE EXPRESSION: HOW COLLEGES CAN SUPPORT AND ENCOURAGE TOUGH CONVERSATIONS (2023).

474. Rich Diversity Consulting, DEI Training for UC Davis Law Faculty, Slide titled “Set a Baseline: Examples of Trust Agreements” (Sept. 15, 2023) (screenshot on file with author).

475. UC DAVIS SCH. OF L., FALL 2022 INCOMING CLASS PROFILE (2022), <https://law.ucdavis.edu/sites/g/files/dgvnsk10866/files/media/documents/class-profile-sheet-2022%20Final.pdf> [<https://perma.cc/MD22-KHZX>]; *University of California – Davis*, LAW SCH. TRANSPARENCY, <https://www.lawschooltransparency.com/schools/davis/environment> [<https://perma.cc/4ECB-M3NL>].

476. FALL 2022 INCOMING CLASS PROFILE, *supra* note 475; *University of California – Davis*, *supra* note 475.

477. The UC Davis Law School classes of 2025 and 2026 consisted of 18% and 28% first-generation students (as defined by having a parent with a bachelor’s degree), respectively. FALL 2022 INCOMING CLASS PROFILE, *supra* note 475; UC DAVIS SCH. OF L., FALL 2023 INCOMING CLASS PROFILE (2023), <https://law.ucdavis.edu/sites/g/files/dgvnsk10866/files/media/documents/class-profile-sheet-2023-Final.pdf> [<https://perma.cc/G852-3867>].

478. Hamilton, *supra* note 6.

students include Kentucky, West Virginia, Arkansas, and Idaho—all states with substantially larger percentages of white students than California.⁴⁷⁹ We would thus expect the racial composition and dynamics among first-gen cohorts to vary widely from place to place, even law school to law school.

Ultimately, we believe these discussions about race and privilege—including explicit discussions of whiteness—are important.⁴⁸⁰ These conversations are an opportunity to engage critically about the merits and drawbacks of essentializing race.⁴⁸¹ We further acknowledge that the willingness of students to speak openly and honestly about whiteness suggests a degree of comfort and trust that is desirable in the classroom, especially in a course like this one. Having these conversations in the context of a course for and about first-gen students is certainly appropriate. Indeed, having these conversations in a course that centers first-gen status is likely to differ from how they might unfold in a critical race theory course. This is because the first-gen context seems more likely to call into question the tendency to conflate whiteness with affluence, ease, and well-being.⁴⁸² Indeed, the very presence of low-SES white students challenges that conflation, and the variations in white folks' lived experiences—including traumatic ones—are literally in the room.

F. *Lessons Learned*

In the First-Gen Seminar, students learn what the empirical literature reveals about the first-gen student population broadly. They also consider whether and how this learning is reflected in their own experiences. They draw encouragement and inspiration from reading about the lives of others—and from learning about the journeys of their peers.

479. Alcino Donadel, *These States Have the Highest Rates of First-Generation Students*, UNIV. BUS. (July 12, 2023), <https://universitybusiness.com/these-states-have-the-highest-rates-of-first-generation-students/> [<https://perma.cc/CDK9-YC7Y>].

480. See Eugene Volokh, *Free Speech Rules, Free Speech Culture, and Legal Education*, 51 HOFSTRA L. REV. 629, 631 (2023) (arguing that fostering a culture of free speech in law schools is vital for the search for truth, democratic self-government, and self-expression while also serving crucial pedagogical goals essential to the effective training of future lawyers).

481. See generally, e.g., YASCHA MOUNK, *THE IDENTITY TRAP: A STORY OF IDEAS AND POWER IN OUR TIME* (2023); Wendy D. Roth et al., *Conceptualizations of Race: Essentialism and Constructivism*, 49 ANN. REV. SOCIO. 39 (2023) (analyzing the merits of two of the predominant conceptualizations of race: essentialism and constructivism).

482. Jones, *supra* note 35, at 65. Jones writes:

Somehow . . . race and class become mutually reinforcing. Blacks are poor because they are Black and Blackness gets constructed as poor. That is, poverty becomes a constitutive element of Blackness. Blacks are not only lazy, intellectually and morally inferior, they are also poor.

Id. The flip side of this is a conflation of whiteness with independence and affluence. Jones continues: “[I]f economic status can so diminish the power of Whiteness, then one might legitimately ask are poor Whites still White or are they ‘operatively’ or ‘functionally’ Black?” *Id.* at 63 n.40. Jones answers this question “no.” *Id.* Cf. LANI GUINIER & GERALD TORRES, *THE MINER’S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* 94–95 (2003).

In short, the seminar is one of the few opportunities that students have in law school to share their stories, without obloquy or shame for doing so. The seminar is, in fact, an invitation to share, and it permits students to practice doing so.⁴⁸³ The course is also a chance for students to foster self-knowledge that advances their own professional identity formation.⁴⁸⁴ The course further supports students' abilities to engage meaningfully with other students who are both like them and different from them. Students may thus bond over their first-gen status, even as they have the opportunity to develop and practice empathy with vulnerable students who are different from them on various bases.⁴⁸⁵

Because students typically put so much of themselves on the line in a course like this—because they make themselves so vulnerable in telling their stories—Pruitt has found grading student writing to present challenges she has not experienced in other courses. Pruitt tends to give students a great deal of feedback on their writing, down to scrutinizing everything from word choice to syntax. In the First-Gen Seminar, however, Pruitt has found herself rethinking her feedback practices. When students write about profoundly personal life events—including traumatic ones—Pruitt has found it hard to squabble with word choice and even to correct minor grammar errors, like a missing comma. What a student has shared feels to Pruitt too fragile, perhaps sacred, for a reader/critic to wordsmith or tinker much around the edges. She is concerned that too much of the wrong type of feedback on intermediate drafts will have chilling effects on student writers.

Having been given pause about how much feedback is optimal in this very sensitive context, Pruitt has become a less nit-picky grader of student writing in her other courses. She is now more likely to channel her feedback toward substance and big picture organization and less likely to get distracted by exhaustive correction of mechanical issues. Pruitt is also more likely to remember to praise explicitly what the student has accomplished, what they have done well.

483. See also McCain & Roksa, *supra* note 41, at 84 (discussing value of storytelling by first-gen students, including in the service of achieving professional goals); NALP TIPS AND BEST PRACTICES, *supra* note 324, at 3 (encouraging “programming focusing on developing [students’] narrative[s]” as first-gen).

484. Revised ABA Standard 303(b) requires that law schools “shall provide substantial opportunities . . . for . . . development of a professional identity,” and is discussed extensively by the Holloran Center for Ethical Leadership, STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS. § 303(b) (AM. BAR. ASS’N 2023–2024); *Holloran Center for Ethical Leadership*, UNIV. OF ST. THOMAS SCH. OF L., <https://law.stthomas.edu/about/centers-institutes/holloran-center/> [<https://perma.cc/78LS-KH7H>]; see also Ananya Bhatia-Lin et al., *What Will You Protect? Redefining Professionalism Through the Lens of Diverse Personal Identities*, MEDEDPORTAL, Dec. 2021, at 1 (discussing professional identity formation for diverse students in the context of medical school); John Goodyear, *Traveling Down an Unpaved Road: My Experience as a First-Generation College Graduate*, 89 J. KAN. B. ASS’N 66 (2020).

485. This helps to fulfill a law school’s requirement under Revised ABA Standard 303(c), which provides that a “law school shall provide education to law students on bias, cross-cultural competency, and racism.” STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCHS. § 303(c) (AM. BAR. ASS’N 2023–2024).

G. Developing First-Gen Curricular Programming

An upper-level seminar like the one Pruitt teaches is not the only sort of first-gen course that a law school could offer. Indeed, it may not be the best option, especially given how few students are served by one small seminar each year. One alternative would be an orientation course for 1L students. A course taught earlier in the students' law school careers would set them up for success in their first-year courses, which is where first-gen students seem to struggle most to find their bearings—and to do so in time to perform well on first-semester examinations.

The course we are contemplating could take the form of a 1L course⁴⁸⁶ or a summer orientation program for first-gen students. One option would be a summer program like the Tennessee Institute for Pre-Law (TIP), which has yielded a good return on investment.⁴⁸⁷ The University of Virginia's Roadmap Initiative is another promising program that takes place primarily in the summer.⁴⁸⁸ One drawback to both, however, is that, like Pruitt's seminar, they serve relatively few students.

A NALP survey of first-gen programs found that several law schools include first-gen programming, sometimes in credit-bearing courses that are framed, for example, as professional development.⁴⁸⁹ One law school offers admitted students the opportunity to attend a nine-session "Jump Start" program covering professional development topics.⁴⁹⁰ Another institution with a large percentage of first-gen students requires a one-credit Professional Identity Formation course, which covers a range of topics, including "how values drive choices, career exploration, emerging issues in the practice of law, access to justice, multicultural lawyering, cultural competency, emotional intelligence, and mentoring."⁴⁹¹

The course we envision would inform first-gen law students about legal education's hidden curriculum. The course could draw best practices from the constellation of first-gen programming we have surveyed in this Article. Given the importance of first-year academic success in law school, one primary goal

486. We recognize the challenges in adding a course to the 1L curriculum. For example, at UC Davis School of Law, the 1L curriculum includes civil procedure, criminal law, contracts, and legal research and writing (LRW) in the fall, and torts, property, constitutional law, and LRW in the spring. *First Year Curriculum*, UC DAVIS SCH. OF L., <https://law.ucdavis.edu/academics/curriculum/first-year> [<https://perma.cc/N7DV-GPPL>].

487. See, e.g., *supra* notes 361–74 (discussing TIP program). Another pre-1L course that introduces incoming law students to the legal curriculum so as to foster their academic success in first-year law students is J.D.-Next. J.D.-Next helps admitted students "develop the fundamental reading and analysis skills they will need to succeed in law school and beyond." *J.D.-Next*, ASPEN PUBL'G, <https://aspenspublishing.com/pages/J.D.next> [<https://perma.cc/S6HA-YQCM>].

488. *Roadmap*, *supra* note 358.

489. NALP TIPS AND BEST PRACTICES, *supra* note 324, at 3.

490. *Id.* at 2.

491. *Id.* at 5.

of such a course would be to help first-gen students, as 1Ls, to outperform their admission indices.⁴⁹² This would entail equipping first-gen students with various tools and knowledge, including how to read a legal case and what outlining means in the law school setting; the importance of 1L grades; what law review is, why it can be beneficial, and what is required to join; information about obtaining practical experience via law school clinics; information about federal clerkships, why they are prestigious, what doors they may open, and how to create a plan for compiling a competitive clerkship application; exposure to unique post-bar fellowship opportunities; information on legal academia; tools and tips to prepare for law school exams; how to identify and overcome imposter syndrome; what social capital is and how can one build it; mental health and well-being tools for coping with the stresses of law school and the legal profession, including how to access mental health resources on campus; introduction to legal technology tools and their burgeoning role in legal education (e.g., Westlaw and Lexis); and preparation for the professional world, as through support for resume building and cover-letter writing.⁴⁹³

Both approaches to law school curricula offer distinct opportunities to foster the success of first-gen students. Both types of courses are needed. A first-year course has the advantage of preparing students to succeed when it may matter most, early in their law school careers. It could also serve many more students.

CONCLUSION

Policymakers and educators have been supporting first-generation undergraduate students for decades. Both attention and the flow of resources to these students have seen an uptick in recent years. Legal educators' buy-in to the first-gen project is, by comparison, quite recent. In this Article, we have reviewed the academic literature about the first-gen experience, as well as the limited quantitative data available regarding first-gen law students. We have also summarized the relatively nascent first-gen programming some law schools have undertaken. In addition, we have reflected on an innovative law school seminar for and about first-gen students. All of this informs and lays the groundwork for greater engagement by legal educators with a vulnerable population who have a great deal to teach us about diversity and inclusion in the profession. At the same time, this overview makes clear that we need to

492. First year academic success is especially important at the law school level because it plays a disproportionately important role in creating extracurricular and career opportunities. See Emily Zimmerman, *Do Grades Matter?*, 35 SEATTLE U.L. REV. 305, 309 (2012); Corie Rosen, *The Method and the Message*, 12 NEV. L.J. 160, 177 (2011); Nathan H. Saunders, Note, *Student-Edited Law Reviews: Reflections and Responses of an Inmate*, 49 DUKE L. J. 1663, 1675 (2000).

493. For the entering class of 2026 at UC Davis, student orientation offered an additional half day of programming for first-gen students on how to brief a case, etc. E-mail from Alexis Elston, Dir. of Diversity & Student Life, UC Davis Sch. of L., to Lisa R. Pruitt (Sept. 18, 2023, 10:37 PST) (on file with author).

know much more about how first-gen students experience both law school and their entry into the profession. Not only should more institutions track quantitative data, we need more sophisticated qualitative work, like that of McCain and Roksa,⁴⁹⁴ to help us understand this student population and how our institutions can help them reach their goals.

The U.S. Supreme Court's recent decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*⁴⁹⁵ provides a further impetus for legal educators to look to first-gen students as critical constituents. Since that decision, a great deal has been written about the role of first-gen and low-SES status as proxies that higher education institutions could use to achieve racial diversity in a constitutional manner.⁴⁹⁶ Treating the first-gen label or frame merely as a proxy for racial and ethnic diversity, however, is inconsistent with one of the purposes of the first-gen project: to support students at risk because of socioeconomic class, regardless of race.⁴⁹⁷ Indeed, because first-gen students represent all races and ethnicities engaged in a shared struggle for upward mobility, they can see what unites them and not only what divides them. They thus become prospective change agents who may ultimately be able to model and foster cross-racial coalition building for the wider society.

But such benefits of first-gen programs accrue precisely because the programs see and include white students, too. The reflections of the University of Pennsylvania's Camille Charles are instructive. Charles, an African-American professor of sociology, codirects that university's first-gen hub, Penn First Plus.⁴⁹⁸ Asked in a 2023 interview why she believes "colleges need to support first-gen students in some special way,"⁴⁹⁹ Charles recognized that first-gen programming helps vulnerable students, including a demographic segment that

494. McCain and Roksa, *supra* note 41.

495. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023); *see supra* text accompanying note 38.

496. Itzel Luna, *After Supreme Court Affirmative Action Ruling, Renewed Focus on First-Generation Students*, USA TODAY (July 26, 2023, 1:19 PM), <https://www.usatoday.com/story/news/education/2023/07/23/first-generation-students-answer-to-affirmative-action-ban/70420604007/?gnt-cfr=1>; Genevieve Carlton, *After the Affirmative Action Ban, Are First-Generation Students the Answer to College Diversity?*, BEST COLLS. (Aug. 17, 2023), <https://www.bestcolleges.com/blog/after-affirmative-action-ban-first-generation-students-answer-to-college-diversity/> [<https://perma.cc/5K8K-555C>]; Margot Ngo, *How Can We Promote Diversity and Help Students if Affirmative Action Falls?*, CENTURY FOUND. (June 14, 2023), <https://tcf.org/content/commentary/how-can-we-promote-diversity-and-help-students-if-affirmative-action-falls/> [<https://perma.cc/RVY9-UYLG>]; *cf.* Aatish Bhatia & Emily Badger, *Can You Create a Diverse College Class Without Affirmative Action?*, N.Y. TIMES (Mar. 9, 2024), <https://www.nytimes.com/interactive/2024/03/09/upshot/affirmative-action-alternatives.html> (suggesting that attention to class alone in college admissions will not benefit many low-income Black students because low-income white students are so much more numerous).

497. *See supra* text accompanying notes 30–31 (noting that first-gen label conveys vulnerability without explicit mention of race and thus is colorblind).

498. *Penn First Plus*, UNIV. OF PA., <https://pennfirstplus.upenn.edu> [<https://perma.cc/EQ4L-LKQY>].

499. Jeffrey R. Young, *Why Class Diversity Can Be 'Invisible' at Colleges*, EDSURGE (July 18, 2023), <https://www.edsurge.com/news/2023-07-18-why-class-diversity-can-be-invisible-at-colleges> [<https://perma.cc/JEU7-UJ7L>].

is often otherwise forgotten: low-income white students. She commented on “the number of white students who would come and talk to [her] about how they felt invisible because they were also coming from low-income backgrounds—first-gen backgrounds—but nobody at Penn was thinking about white students in that way.”⁵⁰⁰ Charles says these students are made invisible when a college emphasizes pure racial diversity and achieves it by “recruit[ing] . . . Black students and . . . brown students who have this same profile or as close as possible to the same profile as the white and Asian students from the affluent backgrounds.”⁵⁰¹

In lieu of a purely race-based approach to diversity, Charles asserts that a first-gen frame ensures that we do not forget a vulnerable student constituency.⁵⁰² “When I’m wearing my racial inequality hat,” she elaborates, “I’m saying, ‘You know, don’t forget there are white students who are poor and who are the first in their families to go to school. And that not all Black and brown students are poor and in need of financial support.’”⁵⁰³

The promise and potential of the first-gen project are thus summed up well. It is an opportunity to achieve and promote optical diversity, yes. But it is also an opportunity to promote the diversity of life experience and perspective represented by students who are first in their family to earn a college degree, regardless of race or ethnicity.⁵⁰⁴ We must see the worth of both groups of students, which will require us to hear and value all of their stories, in both our law schools and in the legal profession. Doing so will not only foster the success of deserving, striving students, it may ultimately help temper the polarizing forces roiling our society and undermining our democracy.

500. *Id.*

501. *Id.*

502. *Id.*; see also GUINIER & TORRES, *supra* note 482, at 94–95 (2003) (implicitly suggesting a template for cross-racial coalition building in the context of higher-education access in Texas by observing that rural white students are “raced black or brown” for purposes of higher-education access). *But see* Richard Rothstein, *The Problem with Wealth-Based Affirmative Action*, ATLANTIC (June 1, 2023), <https://www.theatlantic.com/ideas/archive/2023/06/affirmative-action-race-socioeconomic-supreme-court/674251/>.

503. Young, *supra* note 499; see also Brown-Nagin, *supra* note 31; Raj Chetty et al., *Diversifying Society’s Leaders? The Determinants and Causal Effects of Admission to Highly Selective Private Colleges* (Nat’l Bureau of Econ. Rsch., Working Paper No. 31492), <http://www.nber.org/papers/w31492> [<https://perma.cc/457G-P9AU>] (quantifying the advantage enjoyed by wealthy students, regardless of academic credentials, in elite admissions).

504. See Pruitt, *supra* note 23; see also Richard D. Kahlenberg, *A Harvard Champion of Affirmative Action Accepts Reality*, WASHINGTON MONTHLY (March 5, 2024), <https://washingtonmonthly.com/2024/03/05/a-harvard-champion-of-affirmative-action-accepts-reality/> (chronicling Derek Bok’s shift towards appreciating “class-based affirmative action” and recognizing the potential to foster much-needed ideological diversity at elite universities by admitting working-class students).