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## Race, Rankings, and the Part-Time Free Pass

Paul F. Kirgis

The subject of the *U.S. News and World Report* rankings—in particular, their effect on law school admissions—probably consumes more collective law school attention than any other issue. The subject of diversity, again particularly with respect to law school admissions, probably comes in a close second. Concerns about rankings and diversity—and how to improve both—drive many of the choices law schools make in setting institutional objectives and in allocating scarce financial resources.

Unfortunately, the goal of improved rankings frequently clashes with the goal of increased diversity because of the weight the rankings give to factors, such as the LSAT, that are skewed against minorities. This clash has been the subject of intense scholarly attention.<sup>1</sup> To date, however, there has been no systematic study of the way part-time programs intersect with the linked issues of rankings and race. Part-time programs have their own set of rules; most notably, the scores of matriculated students in part-time programs do not count in the medians used by *U.S. News* to generate the rankings. Consequently, part-time programs offer law schools what amounts to a free pass: the opportunity to increase either the total enrollment (i.e., revenues) or the proportion of minorities, or both, without significant impact on their ranking.

Empirical study of part-time programs poses challenges because of the scarcity of reliable public data on the part-time admission practices of individual law schools. Although the Law School Admission Council, which administers the LSAT, compiles cumulative data on full-time and part-time admissions, the data that would be most useful—detailed data on individual law schools' applications and admissions broken down by race and by full- and part-time programs—is not publicly available.<sup>2</sup> Still, some admission data for

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1. See, e.g., Richard Delgado, *Official Elitism or Institutional Self Interest? 10 Reasons Why UC-Davis Should Abandon the LSAT (and Why Other Good Law Schools Should Follow Suit)*, 34 *U.C. Davis L. Rev.* 593 (2001); Gail L. Heriot & Christopher T. Wonnell, *Standardized Tests Under the Magnifying Glass: A Defense of the LSAT Against Recent Charges of Bias*, 7 *Tex. Rev. L. & Pol.* 467 (2003); William C. Kidder, *Does the LSAT Mirror or Magnify Racial and Ethnic Differences in Educational Attainment? A Study of Equally Achieving "Elite" College Students*, 89 *Cal. L. Rev.* 1055 (2001) [hereinafter Kidder, *LSAT Mirror*].
2. That data exists, but it is the proprietary information of the individual schools.

individual schools, as well as enrollment data, appears in the *ABA-LSAC Official Guide to ABA-Approved Law Schools*.<sup>3</sup> I have used this data to piece together a partial picture of how part-time programs are being used with the dual objectives of rankings and diversity in mind.

My primary objective in this article is to determine, at least tentatively, the extent to which law schools use the *U.S. News* free pass to promote diversity by way of their part-time programs. Secondly, I hope to begin a dialog about whether this use of the free pass is a good thing, from the perspective of a proponent of greater minority representation in law schools. One view—perhaps the one held by most people committed to greater law school access for minorities—is that virtually any strategy to increase minority enrollment would have merit. But use of the free pass to increase minority enrollment in part-time programs potentially imposes costs on the very students who are its intended beneficiaries. Law schools with disproportionate numbers of minorities in their part-time programs—whether because of a conscious strategy or because of other factors—should consider those costs carefully.

### A Brief Overview of Law School Admissions

At least for schools in competitive markets, the law school admission process has become largely a game of numbers. Median LSAT accounts for 12.5 percent of a law school's total score in the *U.S. News* rankings; median GPA accounts for 10 percent.<sup>4</sup> As a consequence, median LSAT is the most important number in law school admissions, and median GPA is the second-most-important. While schools certainly weight them differently, the numbers play a significant role in admission decisions at every law school. Anecdotal evidence suggests that, at many, perhaps most law schools, students with comparatively high LSAT scores and GPAs are granted something approximating automatic admission. Students with comparatively low scores and grades are frequently rejected without significant consideration of other factors.<sup>5</sup>

This myopic focus on scores, and particularly on the LSAT, raises many serious questions for law schools.<sup>6</sup> It is especially problematic in light of the

3. Law School Admission Council & Am. Bar Ass'n, *ABA-LSAC Official Guide to ABA-Approved Law Schools*, eds. Wendy Margolis et al., 2005 ed. (Newtown, 2004).
4. *America's Best Graduate Schools*, *U.S. News & World Rep.*, 2005 ed. (Washington, 2004), at 23 [hereinafter *Best Graduate Schools*].
5. Studies of law school admissions clearly demonstrate that other factors are taken into account beyond LSAT and undergraduate GPA. See Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions*, 72 *N.Y.U. L. Rev.* 1, 12 (1997).
6. See Lani Guinier, *Confirmative Action*, 25 *Law & Soc. Inquiry* 565, 577 (2000) ("[C]ompared to holistic affirmative-action processes, so-called objective measures such as undergraduate GPA and LSAT scores that rank order law school applicants fail to measure students' potential as *law school graduates*."). One critical and frequently overlooked problem with focusing on test scores is that they are relatively poor predictors of law school performance. See Michael A. Oliivas, *Higher Education Admissions and the Search for One Important Thing*, 21 *U. Ark. Little Rock L. Rev.* 993, 993–94 (1999); David A. Thomas, *Predicting Law School Academic Performance from LSAT Scores and Undergraduate Grade Point Averages: A Comprehensive Study*, 35 *Ariz. St. L.J.* 1007, 1021 (2003). Furthermore, students who

goal—held by most schools—of maintaining a diverse student body. Studies have consistently shown that minorities score significantly lower on the LSAT than white students.<sup>7</sup> The disparity is especially pronounced for African-American students, the group on which I focus in this article. One recent study of applicants to California's Boalt Hall showed that black LSAT takers scored an average of 9.2 points below white students with similar grades from the same undergraduate institutions.<sup>8</sup> These findings are consistent with the more general trend in LSAT scores: in recent years the mean LSAT score for all African-American applicants has been about 10 points below the mean for white applicants.<sup>9</sup>

The persistence of lower LSAT scores among African-Americans means that schools that admit substantial numbers of black students risk lowering their median LSAT scores, and hence their *U.S. News* ranking. It appears that few law schools are so rankings-driven as to ignore black applicants entirely in an effort to boost median LSAT. To the contrary, U.S. law schools, taken as a whole, give less weight to numeric credentials when assessing black candidates than when assessing white candidates. Empirical evidence for that proposition comes from several sources. In her study of the likely effects of using race-blind admissions, Linda Wightman examined the extent to which LSAT and undergraduate GPA predict actual law school admission. She found that combined LSAT/GPA is a significantly worse predictor of admission for black applicants than for white or Asian applicants.<sup>10</sup> In other words, black applicants are admitted to law school in higher numbers than their scores alone would predict. That suggests that, at least to some extent, law schools discount numeric credentials when deciding whether to accept black applicants.

take expensive review courses can substantially improve their LSAT scores, thus undermining the validity of the test and magnifying economic gaps in law school admissions. See Abiel Wong, Note, "Boalting" Opportunity? Deconstructing Elite Norms in Law School Admissions, 6 *Geo. J. on Poverty L. & Pol'y* 199, 231–34 (1999).

7. See David M. White, The Requirement of Race-Conscious Evaluation of LSAT Scores for Equitable Law School Admissions, 12 *Berkeley La Raza L.J.* 399, 405–06 (2001).
8. Kidder, LSAT Mirror, *supra* note 1, at 1074.
9. See Gita Z. Wilder, The Road to Law School and Beyond: Examining Challenges to Racial and Ethnic Diversity in the Legal Profession, Law School Admission Council, Research Rep. 02-01, at 18 tbl.14 (Newtown, 2003), available at <<http://www.lsacnet.org/lisac/research-reports/RR-02-01.pdf>>.
10. Wightman, who at the time of her study was vice president for testing, operations, and research at LSAC, concluded:

If affirmative action admission practices are prevalent, the proportion of actual admission offers would be expected to exceed the proportion predicted by the model, and the data for applicants of color would not fit the model as well. One way to evaluate the data is to compare the correlation between predicted and actual admission decisions for applicants of color when decisions are predicted from the models developed using data from white applicants. The correlations are not nearly as high for any group of nonwhite applicants as they are for white applicants. When the LSAT/UGPA-combined model is used to predict, the correlations range from a low of .34 for black applicants to a high of .67 for Asian American applicants. These substantially lower correlations support the assertion that factors other than LSAT and UGPA play a more important role in admission decisions for applicants of color than for white applicants.

Wightman, *supra* note 4, at 12; see also Kidder, LSAT Mirror, *supra* note 1, at 1097.

The national decision profiles compiled each year by the LSAC confirm the difference in treatment of African-American and white applicants with similar scores. The profiles break application and admittance data down both by race and by LSAT and GPA. The profiles consistently show that African-Americans are admitted in higher percentages than white applicants at almost every combination of LSAT and GPA. For example, in the most recent profile, consisting of data on students applying to law school for the fall 2003 term, more applicants fell into the range of 150–154 on the LSAT and 3.25–3.49 GPA than into any other combination. Of the 4,454 applicants in that group, 87 percent of the African-Americans were admitted to a law school, while only 70 percent of the white applicants were admitted.<sup>11</sup> Similar disparities can be found at virtually every score combination, from the very top to the very bottom.

These differences seem to demonstrate an understanding by law school admission officers that LSAT scores may not accurately capture the ability of black applicants. But despite this discounting of their LSAT scores, a much lower percentage of African-American than white applicants are admitted to law school overall. For the fall of 2003, only 34 percent of black applicants were admitted, while 63 percent of white applicants were admitted.<sup>12</sup> The reason for this is that a disproportionate percentage of African-American applicants fall into the low-LSAT and low-GPA categories, at which small percentages of both black and white applicants are admitted. Again for the fall of 2003, almost 60 percent of black applicants scored below 145 on the LSAT, while only 12.5 percent of white applicants scored that low.<sup>13</sup> And less than 14 percent of all applicants with LSAT scores below 145 were admitted.<sup>14</sup>

Given these numbers, the relatively modest additional consideration that black applicants receive over white applicants with the same numeric credentials will not significantly increase the numbers of black students in law school. But a law school that gave a more concrete preference to black applicants, assuming such a preference would be constitutional under the Supreme Court's recent decision in *Grutter v. Bollinger*,<sup>15</sup> could jeopardize its median scores—and its ranking. Faced with this conundrum, law school admission officers seem likely to look for a way to admit minority students without negatively affecting median LSAT. Anecdotal evidence suggests that part-time programs are seen as one avenue for accomplishing that objective.

11. See Law School Admission Council, *National Decision Profiles: 2002–2003 Application Year Summary* (Dec. 2003) (internal data provided to law school admission officers) (on file with author).

12. *Id.*

13. *Id.* These numbers exclude nonstandard test administrations and applicants for whom no LSAT score was reported.

14. *Id.*

15. 539 U.S. 306 (2003).

### Part-Time Programs and Diversity

Of the 187 ABA-accredited law schools in the United States, at least 87 have regular part-time programs.<sup>16</sup> These typically feature evening classes and target people who have more or less full-time day jobs. Students in a part-time program usually take between 8 and 12 credits per semester instead of the standard full-time course load of 12 to 16, and they complete law school in four years instead of three. In addition to these “standard” programs, some law schools offer more limited part-time programs to selected students on the basis of special circumstances. These schools may or may not have a separate evening division, but allow some students to take a reduced course load as part of the day division.

What makes part-time programs interesting from a rankings perspective is that *U.S. News* does not count part-time students in calculating median LSAT and GPA: a school can admit as many part-time students as it wants, with any credentials, and suffer little or no impact in its ranking. Of course, schools have other incentives to admit only the best applicants they can attract, including the need to have intellectual ability in the classroom and a graduating class that can pass the bar and positively represent the school in the workforce.<sup>17</sup> But the free pass that schools get from *U.S. News* for their part-time students gives them increased flexibility with respect to part-time admissions.

On one level, the existence of the free pass opens the door to gaming the rankings by diverting low-credentialed students to the part-time program in order to boost tuition revenues. Less cynically, to the extent a school with a part-time program believes LSAT and GPA do not adequately capture classroom potential or employment prospects for minority candidates, that school can use its part-time program to increase minority enrollment without fear of jeopardizing its rank. Because applicants to part-time programs frequently are older and have significant work experience, it should be easier to evaluate their potential without the usual focus on LSAT and undergraduate GPA.

A school using its part-time free pass would, at a minimum, have lower LSAT and GPA medians for part-time students than for full-time students. A school using its free pass to promote diversity would admit part-time minority students in greater numbers and with lower LSAT and GPA credentials than full-time minority students. It might also discount the scores for part-time minority applicants more than it discounts the scores of full-time minority

16. Eighty-seven accredited law schools have at least 20 students enrolled part time. A number of other schools have small numbers of part-time students but no formal part-time program. Even some schools among the 87 to which I refer do not have a separate part-time division. But I consider any school with at least 20 part-time students to have something approximating a regular part-time program.
17. Those concerns also appear in the rankings, to a lesser degree, in the calculations for bar passage rate (2 percent of total score), percentage of graduates employed at graduation (6 percent of total score), and percentage of graduates employed nine months after graduation (12 percent of total score). See *Best Graduate Schools*, *supra* note 4, at 23. But these numbers, particularly the placement numbers, are deeply flawed because they cannot be verified and because it is possible for schools to manipulate them.

applicants, when the scores of those two sets of applicants are compared to the scores of white applicants to the part- and full-time programs. Accurately assessing the extent to which schools engage in those practices would require analyzing admission statistics, including LSAT and GPA of applicants and admits for full- and part-time programs, broken down by race, for each school with a part-time program. Again, the data to analyze the admission practices of individual schools at that level of detail is not readily available.<sup>18</sup> But the *ABA-LSAC Official Guide* provides data on part-time and full-time admissions to individual schools that is not broken down by race, and it also provides data on *enrollment* that is broken down by race. Combining those two sources of data, I have attempted to draw some tentative conclusions about the extent to which law schools are using the part-time free pass.

I compiled admission and enrollment data for full-time and part-time students at 80 ABA-accredited law schools with part-time programs as reported in the *ABA-LSAC Guides* for the years 2003, 2004, and 2005.<sup>19</sup> I focused on two factors: (1) average 75th percentile LSAT<sup>20</sup> for the three-year period for admitted students to full- and part-time programs, and (2) percentage of African-Americans enrolled for the three-year period among full- and part-time students. I tabulated only LSAT scores—to the exclusion of GPA—because the LSAT scores count more in the rankings and because the LSAT is a uniform test, while GPA depends heavily on undergraduate institution and course of study. I focused on African-American students because, as a group, they have the lowest LSAT scores and thus present the greatest diversity challenge. I used three-year averages in order to be more confident of identifying trends rather than unique events.

On the basis of this data, I classified schools according to the extent to which they have either or both significant *decreases* in LSAT from full- to part-time students and significant *increases* in African-American enrollment from full- to part-time students. I defined a significant decrease in LSAT as a difference of at least two points in average 75th percentile LSAT for the three-

18. *Cumulative* data on full-time and part-time law school admissions broken down by race is available, but it is not particularly helpful because of the large disparity in admission standards between schools that have only full-time programs and schools that have part-time programs. With a few notable exceptions, schools with part-time programs generally do not appear near the top of the *U.S. News* rankings. Consequently the cumulative scores of students applying to schools with part-time programs are much lower than the cumulative scores of students applying only to full-time programs. This fact makes it impossible to draw valid conclusions about relative part-time and full-time admission practices from the cumulative data.
19. I have included only law schools with part-time enrollment of at least 20 students for each of the three years studied. I excluded several schools that had 20 part-time students because they did not report part-time data for each of the three years. In addition, I excluded the three law schools in Puerto Rico—Inter-American, Pontifical, and the University of Puerto Rico—because their students are almost 100 percent Puerto Rican.
20. Although *U.S. News* uses median LSAT to compute the rankings, it publishes 75th and 25th percentile LSAT, and that is what appears in the *ABA-LSAC Guide*. I chose to use the 75th percentile figure on the assumption that it would be closer to the median than the 25th percentile figure, because the students in the top half of the class tend to be tightly clustered just above the median, whereas students in the bottom half of the class may be spread across a much wider range of scores.

year period. I assume that a difference in LSAT of two points or more indicates that a school maintains a different standard for admission to the part-time program and may be using its free pass. I defined a significant increase in black enrollment as an increase of at least 50 percent in the percentage of black students enrolled over the three-year period. So, for example, a school with full-time black enrollment of 6 percent and part-time black enrollment of 9 percent would be deemed to have a significant increase in black enrollment. I assume that so large a jump would probably not flow from natural causes, but would instead likely reflect a choice to emphasize diversity in the part-time program. I recognize that this assumption may not be accurate in every case. Some schools in areas with large minority populations may simply have a disproportionate number of black students applying to the part-time program because of social factors such as the need to continue working to support a family or a lack of information about and access to financial aid. But a 50 percent increase in African-American enrollment seems large enough to at least suggest a conscious decision in admission policy.

Using these standards, I then divided the schools into four categories. Category 1 consists of all law schools that show neither a significant decrease in LSAT nor a significant increase in African-American enrollment between their full- and part-time programs. I identified 21 law schools, out of the total of 80, fitting within category 1. The similarity in the profiles of these schools' full-time and part-time programs suggests that the schools apply the same admission criteria to applicants to both programs. The distinguishing feature of many of the schools in this category is that they have little or no competition for part-time students. Seventeen of these 21 schools have the only part-time program in a midsize or large metropolitan market. And only 37 schools out of the total of 80 with part-time programs operate in such a market, meaning almost half of the schools in noncompetitive markets fall into category 1. Facing little or no competition for part-time students and drawing from relatively large applicant pools, these schools simply may not need the *U.S. News* part-time free pass.

Category 2 comprises schools that have a significant decrease in LSAT from the full- to the part-time program, but no significant increase in African-American enrollment. Twelve schools fell into this category. These schools may have difficulty attracting part-time students with the same credentials as the students applying to the full-time program (e.g., because of competition for part-time students in a large urban market<sup>21</sup>), or they may have made a conscious choice to admit students to the part-time program with lower credentials than are required for the full-time program. The motives for the latter decision could be altruistic (to identify students with markers of ability other than scores) or cynical (to bring in the revenue from part-time tuition without affecting the school's *U.S. News* ranking). But whatever drives the lower LSAT scores, the schools in this category have not translated the lower LSATs into significantly higher numbers of African-American students.

21. Indeed, 8 of the 12 schools in this category compete with at least one other part-time program in the same metropolitan area, and several are in markets with multiple part-time programs.



Category 3 includes the schools with no significant decrease in LSAT but with a significant increase in African-American enrollment from the full- to the part-time program. Twenty-three schools fell into category 3. Such large increases in minority enrollment without a corresponding decrease in LSAT suggest that these schools may simply have large numbers of minority applicants to their part-time programs as compared to their full-time programs. All but two of the schools in this category operate in large urban markets with substantial African-American populations, lending support to that hypothesis.

Finally, category 4 consists of schools that have both a significant decrease in LSAT and a significant increase in African-American enrollment. Note that this is the largest category—24 schools. These are the schools most likely to be using the part-time free pass. As always, drawing firm conclusions from such sketchy data is problematic. It is possible that the different enrollment patterns for the full-time and part-time programs at these schools simply reflect differences in applicant pools. The applicants to the part-time programs may have lower numeric credentials and include higher numbers of African-Americans than the applicants to the same schools' full-time programs. If that were the case, the schools would probably have no choice but to admit part-time classes with lower LSATs and higher percentages of African-Americans.

But the combination of significantly lower LSAT and significantly higher black enrollment at least raises the possibility that these schools have made a choice to admit a comparatively large number of African-Americans with low scores to their part-time programs. It is noteworthy that 12 of the 24, exactly half, are in the New York, Washington, and Chicago metropolitan areas, which all have large numbers of black applicants and highly competitive legal education markets. These schools likely feel competing pressures both to admit minority students and to maintain a high LSAT in the full-time program to protect the *U.S. News* ranking. As a consequence, they may be consciously or subconsciously shifting lower-credentialed African-American students to their part-time programs.

Because my objective in this article is to identify general trends in law school admissions, rather than to single out individual schools for praise or blame, I have chosen not to list data for individual schools.<sup>22</sup> But in the accompanying table I provide aggregate data for the 80 law schools I studied to give a rough sense of how the numbers play out. The table breaks the data down by the categories described above. Again:

Category 1 consists of schools without a significant decrease in LSAT or a significant increase in African-American enrollment from full- to part-time program.

Category 2 consists of schools with a significant decrease in LSAT but no significant increase in African-American enrollment from full- to part-time program.

Category 3 consists of schools with no significant decrease in LSAT but a significant increase in African-American enrollment from full- to part-time program.

22. The data broken down by individual schools is on file with the author and the *Journal of Legal Education*. I will share it with anyone who is interested in seeing it.

Category 4 consists of schools with a significant decrease in LSAT and a significant increase in African-American enrollment from full- to part-time program.

For each category, the table provides the number of schools in the category, the average full-time 75th percentile LSAT for the three-year period studied, the average part-time 75th percentile LSAT for that period, the average percentage of full-time black enrollment, and the average percentage of part-time black enrollment.

	<i>Number of schools</i>	<i>Average 75th % LSAT (full-time)</i>	<i>Average 75th % LSAT (part-time)</i>	<i>Average African-American enrollment (full-time)</i>	<i>Average African-American enrollment (part-time)</i>
Category 1	21	155	155	8.6%	8.3%
Category 2	12	161	158	6.0%	6.4%
Category 3	23	155	155	4.7%	9.6%
Category 4	24	158	154	4.3%	9.5%

There are two striking features in this table. First, the schools with a significant decrease in LSAT from full- to part-time—the schools in categories 2 and 4—have a much higher aggregate full-time LSAT than the schools without a significant decrease. As mentioned earlier, a large majority of these schools operate in highly competitive legal markets. Schools in that situation have powerful incentives to maintain high LSAT medians to protect their rankings. The data suggests that those schools may be using the part-time free pass to be more selective in the full-time program, while making up lost revenue in the part-time program.

Second, the schools with significant increases in black enrollment from full- to part-time—the schools in categories 3 and 4—have noticeably lower aggregate full-time black enrollment than the other schools. That is true even though an overwhelming majority of the schools in categories 3 and 4 operate in urban markets with large African-American populations. Again, that fact supports the conclusion that the schools in categories 3 and 4 are making a conscious choice to treat minority admissions differently in the full- and part-time programs.

To summarize, then, the *ABA-LSAC Guides* for 2003–2005 show that, of 80 U.S. law schools with part-time programs, 47, or almost 60 percent have part-time programs with black enrollment that is more than 50 percent higher than the black enrollment for the same schools' full-time programs. In other words, the enrollment data unmistakably shows that African-Americans are overrepresented in the part-time programs of a majority of law schools with such programs. Furthermore, the evidence at least allows an inference that 30 percent of the law schools with part-time programs are using the part-time free pass to admit comparatively large numbers of African-Americans with comparatively low LSAT scores.

### **Consequences of African-Americans' Overrepresentation in Part-Time Programs**

For law school faculty and administrators interested in promoting diversity, the *U.S. News* free pass for part-time students presents an opportunity to

increase minority enrollment without affecting the law school's ranking. The enrollment data for the past three years indicates that 30 percent of the law schools with part-time programs may be taking advantage of that opportunity, at least for African-American students. And 29 percent may not be using quite that strategy, in that they are maintaining similar numeric credentials for the students in the part-time and full-time programs, but nevertheless appear to be admitting black students in disproportionately large numbers to the part-time programs.

The strategic use of part-time programs to increase diversity—if that is in fact occurring—has obvious benefits. One of the most pernicious effects of the *U.S. News* rankings is the disincentive for schools to identify and admit students of color with low scores but other markers of ability. The use of the part-time free pass can help mitigate that problem by freeing schools to find minority part-time candidates who have succeeded in another field but have relatively low numeric credentials. Absent mass resistance to the *U.S. News* rankings, a prospect that appears remote, the exploitation of loopholes in the rankings to minimize their deleterious effects seems salutary—at least as long as schools do not misrepresent what they are doing.

The students involved are likely to have little complaint, at least at the time they enter law school. Most will gladly accept a bargain that allows them to attend a better law school for the price of attending part-time. And for many students a part-time program is an attractive option because the opportunity to pursue a degree while continuing to work will relieve the debt burden the student faces on graduation.

But there are potentially negative consequences that warrant further discussion. The primary one is cost to the student. The reduced course load for part-time programs comes with a reduced price tag per semester. Because part-time students typically attend law school for four years rather than three, however, they end up at graduation having paid roughly the same amount as the day students.<sup>23</sup> So in theory there should not be much direct monetary difference in attending law school part time as opposed to full time, at least assuming scholarships and financial aid are distributed consistently among students in the two groups.

But there is an opportunity cost associated with spending four years in law school rather than three. For students holding high-paying jobs while attending law school, the cost will be small or nonexistent. But for disadvantaged students the difference between a first-year legal salary and another available job may be quite large. And those who enter the legal market one year later than their peers will never catch up in terms of lifetime earning capacity.

Differences in earning capacity may be further exacerbated by the inability of many part-time students to participate in the formal job-seeking arrangements set up by law school placement offices. The highest-paying legal jobs—

23. The amount may not be identical because tuition increases may affect students in the full- and part-time programs differently over the course of their time in law school. And many students do not pay the full tuition because of the widespread availability of scholarships, both merit- and need-based.

the ones with the most prestigious private law firms—get doled out through summer associate programs. Because they are usually working full time, part-time students frequently cannot participate in those programs. As a result, even the best part-time students often cannot compete on a level playing field with full-time students for the best jobs.

Part-time students may also have difficulty taking advantage of all the cocurricular and extracurricular opportunities available to full-time students. As a rule, law schools with part-time programs make opportunities such as participation on journals or moot court available to all students. But work commitments, lack of information, or psychological barriers may keep many part-time students from participating fully. To the extent part-time students miss out on those opportunities, they may also miss out on steppingstones to the best legal jobs. In addition, because part-time classes are typically held at night, after most of the faculty have gone home, part-time students may have fewer opportunities to develop relationships with teachers outside class. Those relationships can translate into references and work as research assistants, both of which can prove vital for a student's job search.

Finally, if law schools systematically admit large numbers of minorities with comparatively low LSAT and GPA credentials to their part-time programs, they risk creating part-time ghettos. Minority students concentrated in part-time programs may be perceived by students, faculty, and employers as underqualified. A widespread perception that part-time students are not equal to full-time students would further diminish the job prospects for graduates of the part-time program. That perception could negate any beneficial effect of modifying admission standards for part-time applicants to downplay LSAT and GPA credentials in favor of other markers of ability.

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To the extent law schools are admitting more students of color who lack the traditional credentials but have backgrounds that suggest they can succeed in law school and beyond, their use of the part-time free pass is difficult to criticize. But law schools choosing that route must be very careful to provide the full range of opportunities to their part-time students. Those opportunities must include fair scholarship and financial aid, accessibility to all law school programs, and the mentoring and other assistance necessary to provide good career opportunities. Law schools have that obligation to their part-time students under any circumstances. They have an even greater obligation if they choose to admit to their part-time programs students of color with comparatively low numeric credentials.