

Reforming Legal Education in an Era of Crisis on Campus

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This Article uses the campus unrest of spring 2024 as a lens through which to diagnose the structural tensions roiling modern legal education. Law schools stand at an inflection point, their future shaped by the collision of a justice-minded, increasingly diverse student body with institutions still governed by nineteenth-century pedagogical models, hierarchical power structures, and deepening financial vulnerabilities. This Article examines how demographic change, status quo preservation, economic precarity, and speech restrictions converge to create volatility on campuses that both mirrors and perpetuates broader societal inequities. The result is a legal education ill-equipped to prepare graduates to address the urgent challenges of our time—economic inequality, democratic backsliding, identity-based discrimination, the climate crisis—while modeling deference to entrenched power rather than the democratic engagement the profession purports to value.

In response, this Article advances a blueprint for a twenty-first-century law school that rejects institutional neutrality, democratizes governance, reclaims financial independence, and reimagines both curriculum and culture. Stakeholder governance would empower students, faculty, staff, and administrators to share authority in shaping institutional priorities; explicit

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value commitments would moor law schools to principles responsive to contemporary social and political challenges; and cost reductions through, for example, selective, high-quality distance learning would loosen the grip of donor and political influence. These structural reforms would be paired with substantive changes: reforming hierarchical faculty systems; redesigning the 1L year to allow for greater experimentation, creativity, and student autonomy in curricular decision-making; and adopting fearless speech policies that protect both dissent and pluralism.

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INTRODUCTION

Law students arriving on many university campuses in the spring of 2024 encountered scenes unrecognizable since perhaps the Vietnam War. For example, on May 4, 2024, at the University of Virginia (UVA), a crowd of students and supporters watched as over fifty law enforcement officers—including Virginia state troopers—advanced on a campus encampment in full riot gear.¹ Moments earlier, the university had declared the pro-Palestinian sit-in an unlawful assembly for violating recently amended campus rules on tents.² What began as a peaceful protest calling for divestment from companies tied to Israel ended with protesters pepper-sprayed and dragged from the makeshift “Liberated Zone 4 Gaza.”³ Law enforcement ultimately detained twenty-five protesters.⁴ The image of armed state police stamping out a student encampment was jarring for many—a flashback to a darker era, evoking memories of the Kent State University crackdown fifty-four years earlier to the day, when national guardsmen opened fire on unarmed college students, killing four, wounding nine, and ushering in a nationwide student strike and reckoning on the war abroad.⁵

In the wake of the contemporary crackdown at UVA, faculty members on campus issued a scathing open letter condemning what they called “the repression of a peaceful protest of our students by armed state police in riot gear.”⁶ The faculty senate called for an independent investigation into the use of force.⁷ Yet, in a display of solidarity with the

¹ Thomas Baxter & Finn Trainer, *Police Forcefully Clear Encampment Near University Chapel, Detain Protestors*, CAVALIER DAILY (May 5, 2024), <https://www.cavalierdaily.com/article/2024/05/police-forcefully-clear-encampment-near-university-chapel-detain-protestors> [<https://perma.cc/6JX7-JRTV>].

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Jerry M. Lewis & Thomas R. Hensley, *The May 4 Shootings at Kent State University: The Search for Historical Accuracy*, Kent State Univ., <https://www.kent.edu/may-4-historical-accuracy> [<https://perma.cc/5MG8-8HDR>].

⁶ Dori Zook, *UVA History Professors Condemn Response to May 4 Protest*, CVILLE RIGHT NOW (May 6, 2024, at 22:43 ET), <https://cvillerrightnow.com/news/208802-uva-history-professors-condemn-response-to-may-4-protest> [<https://perma.cc/P5UF-BMQJ>]. They expressed “shock and dismay” at the administration’s “unilateral eleventh-hour” rule change that suddenly outlawed the tents under which students had been gathering—noting that UVA quietly removed an exemption for recreational camping just hours before sending in law enforcement to break up the encampment. *Id.*

⁷ Courteney Stuart, *UVA Faculty Senate Chair Discusses Call for Independent Review of Protest Response*, CVILLE RIGHT NOW (May 14, 2024, at 12:24 ET), <https://cvillerrightnow.com/news/208802-uva-faculty-senate-chair-discusses-call-for-independent-review> [<https://perma.cc/CN2W-6S3Q>].

administration, fifty-seven UVA law professors published a letter defending the university president—noting, among other accomplishments, “a successful and unprecedented capital campaign.”⁸ The university insisted the school had “no other choice” after protesters repeatedly refused to follow “reasonable rules” meant to ensure campus safety and operations.⁹ However, according to bystander accounts, the sit-in remained peaceful until officers moved in, at which point a scuffle occurred as students locked arms around a tent and a protester purportedly attempted to assault an officer.¹⁰

To a casual observer, what happened at UVA perhaps came as a shock: a university calling in the state police on its own students for peacefully protesting violence, resurrecting imagery thought long-since relegated to history textbooks. Yet the response to the protest at UVA represents but one instance of the broader civil unrest that gripped campuses in spring 2024, which collectively lay bare a number of long-brewing dynamics in higher education.¹¹ These dynamics and their

⁸ Letter from U. Va. L. Sch. Fac. to Fac. Senate (May 10, 2024) (on file with author) (“We . . . express our strong support for President Jim Ryan. . . . [H]is leadership team made the decision to intervene with the best interests of the University, the students and the wider UVA community in mind.”); accord Finn Trainer, *Was UVA Justified in Forcefully Clearing a Pro-Palestine Encampment?*, CHARLOTTESVILLE TOMORROW (May 18, 2024), <https://www.cvilletomorrow.org/was-uva-justified-in-forcefully-clearing-encampment> [<https://perma.cc/9CQ7-HSKA>]; Gretchen Stenger, *UVA Law School Faculty Support President Ryan’s Actions May 4*, CBS 19 NEWS (May 13, 2024), https://www.cbs19news.com/news/uva/uva-law-school-faculty-support-president-ryans-actions-may-4/article_51322ed6-0f82-5312-8dee-07e74ea61fc5.html [<https://perma.cc/5FE6-M32R>]. The law faculty members did acknowledge “different views” on the police tactics, while ultimately supporting Ryan, a former law professor himself. Letter from U. Va. L. Sch. Fac. to Fac. Senate, *supra*.

⁹ Baxter & Trainer, *supra* note 1.

¹⁰ Trainer, *supra* note 8.

¹¹ The Israel–Palestine conflict ignited waves of student protest and administrative response across university campuses. At Harvard, for example, a pro-Palestinian letter signed by a number of student groups ignited a firestorm of donor backlash. Brian Bushard, *Billionaire Ackman, Others Pledge They Won’t Hire Harvard Students Who Signed Letter Blaming Israel for Hamas Attack*, FORBES (Oct. 11, 2023), <https://www.forbes.com/sites/brianbushard/2023/10/10/billionaire-ackman-others-pledge-they-wont-hire-harvard-students-who-signed-letter-criticizing-israel> [<https://perma.cc/2KFM-S64S>]. Billionaire hedge-fund manager and Harvard alumnus Bill Ackman publicly demanded the names of the student signatories “so as to insure [sic] that none of us inadvertently hire any of their members.” Bill Ackman (@billackman), X (Oct. 10, 2023, at 12:00 ET), <https://x.com/BillAckman/status/1711788747086233661?s=20> [<https://perma.cc/MN5M-CUM6>]. A mobile billboard truck began circling Harvard’s campus displaying student activist names and faces. J. Sellers Hill & Nia L. Orakwue, *As Students Face Retaliation for Israel Statement, a ‘Doxxing Truck’ Displaying Students’ Faces Comes to Harvard’s Campus*, HARV. CRIMSON (Oct. 13, 2023, at 04:01 ET), <https://www.thecrimson.com/article/2023/10/12/doxxing-truck-students-israel-statement> [<https://perma.cc/4LMG-ZSZB>]. Harvard’s president, Claudine Gay, meanwhile, faced intense pressure to denounce antisemitism on campus, as political leaders and major donors questioned the university’s approach and threatened funding—ultimately contributing to the eventual resignation of Gay. Stephanie Saul & Anemona Hartocollis, *College Presidents Under Fire After Dodging Questions About*

Antisemitism, N.Y. TIMES (Dec. 6, 2023), <https://www.nytimes.com/2023/12/06/us/harvard-mit-penn-presidents-antisemitism.html> [https://perma.cc/UVL5-49AD].

At Columbia University, administrators suspended two student organizations—Students for Justice in Palestine and Jewish Voice for Peace. Sravya Tadepalli, *Columbia University in Legal Battle Over Pro-Palestinian Student Group Suspension*, PRISM (Mar. 20, 2024), <https://prismreports.org/2024/03/20/pro-palestine-student-groups-columbia-suspension> [https://perma.cc/G7FA-DNS8]. In one protest at Columbia, NYPD officers were deployed and arrested more than one hundred student protestors who set up an encampment. Jonathan Edwards, Susan Svrluga & Dan Rosenzweig-Ziff, *More Than 100 Arrested at Columbia as Police Clear Pro-Palestinian Protest*, WASH. POST (Apr. 18, 2024), <https://www.washingtonpost.com/education/2024/04/18/columbia-student-gaza-protests-nypd> [https://perma.cc/RQC5-9D6X].

Meanwhile, UCLA saw one of the largest campus flare-ups. See *UCLA Campus Protests*, UCLA ALUMNI, <https://alumni.ucla.edu/campus-protests> [https://perma.cc/7MS9-66TW]; Jake Offenhartz et al., *Tension Grows on UCLA Campus as Police Order Dispersal of Large Pro-Palestinian Gathering*, ASSOCIATED PRESS (May 1, 2024), <https://apnews.com/article/israel-palestinian-campus-student-protests-war-c6e5549532c85f13493daa22d0d143ac> [https://perma.cc/CAE8-7S3T]. A Palestine solidarity encampment at UCLA's Dickson Plaza in May 2024 ended in a clash between protesters and counter-protesters, prompting a deployment of riot police. Gene Block, *Condemning Violence in Our Community*, UCLA NEWSROOM (May 1, 2024), <https://newsroom.ucla.edu/condemning-violence-in-our-community> [https://perma.cc/S6TS-JV7U]; Offenhartz et al., *supra*. The University of California system's president soon imposed new system-wide restrictions on campus protests, under pressure from both a state budget rider and a court injunction, effectively banning encampments altogether in the name of public safety. Amy Dipierro & Michael Burke, *Cal State, University of California Ban Encampments, Impose Protest Rules*, EDSOURCE (Aug. 19, 2024), <https://edsource.org/2024/cal-state-university-of-california-ban-encampments-impose-protest-rules/717832> [https://perma.cc/9HLL-6D9X].

Elsewhere, the university response was more measured. At Brown University, when students erected an unauthorized camp on the main green in solidarity with Palestine, instead of calling in police, Brown's president quietly negotiated a truce. Olivia Ebertz, *At Brown University, Protesters and Administrators Reach Deal to End Encampment*, NPR (May 1, 2024, at 05:08 ET), <https://www.npr.org/2024/05/01/1248403491/at-brown-university-protesters-and-administrators-reach-deal-to-end-encampment> [https://perma.cc/XFF7-BQ5K]; Jacey Fortin, *At Brown, a Rare Agreement Between Administrators and Protestors*, N.Y. TIMES (Apr. 30, 2024), <https://www.nytimes.com/2024/04/30/us/brown-divestment-deal.html> [https://perma.cc/9FQV-L8GJ]. The administration agreed to hear the protesters' demands (including calls for divestment from companies tied to Israel) at a future board meeting, and in exchange students voluntarily dismantled their tents. Christina H. Paxson, *Agreement to End the Encampment*, BROWN UNIV. (Apr. 30, 2024), <https://president.brown.edu/president/agreement-end-encampment> [https://perma.cc/Q47L-2WJQ]. Yet, the board ultimately rejected student demands. *Brown Corporation Votes to Reject Divestment*, BROWN UNIV. (Oct. 9, 2024), <https://www.brown.edu/news/2024-10-09/divestment-decision> [https://perma.cc/RFR5-FRL9].

Likewise, at Northwestern, students organized a "May Day" encampment and occupation—but Northwestern's president opted for dialogue over force, ultimately brokering a deal to end the protest without any arrests. Kathleen Foody, *Northwestern University's Deal with Student Protestors Offers Example of Successful Negotiations*, Associated Press (May 1, 2024, at 13:15 ET), <https://apnews.com/article/northwestern-students-israel-palestinians-protest-c3698198f13c986d6bc238ff96081f9d> [https://perma.cc/X798-AWQA]; Northwestern President Defends Deal with Student Protestors to U.S. House Committee: 'We Had to Get the Encampment Down', WTTW (May 23, 2024, at 16:26 ET), <https://news.wttw.com/2024/05/23/northwestern-president-defends-deal-student-protesters-us-house-committee-we-had-get> [https://perma.cc/Q66R-YX7A].

relationship to the recent unrest on college campuses are the subject of this Article.

Using the modern law school as a case study, this Article attempts to untangle and to explore a number of these colliding dynamics: (1) the arrival of the modern higher education student and class cohort; (2) encountering a fundamentally ill-suited and hierarchical educational ecosystem; (3) in the context of a financially precarious institutional setting reliant on external support; (4) governed by vague free expression frameworks. The collision of these dynamics takes a toll on student mental health and helps explain not only the particular flashpoint of spring 2024 but also why U.S. law schools—and higher education writ large—face a broader reckoning.

The modern law student and class cohort share certain features in common with those of prior generations—confronting global conflict, domestic upheaval, and fundamental questions about law’s role in society.¹² Politically aware students seek to change the world. Yet, differences abound: today’s law students are demographically,¹³ socially,¹⁴ and technologically¹⁵ distinct from their predecessors.¹⁶

Twenty-first century law students—more diverse and first-generation, fewer in number, many invested in social justice, concerned with costs, technologically inclined, and more attuned to work-life balance—attend law schools that promulgate hierarchical governance structures, top-down decision-making processes, and implicit signals to defer to authority.¹⁷ On the pedagogical front, while schools have experimented and innovated over the past couple of decades, traditional classroom methods and curricula remain largely built on the nineteenth century Langdellian model designed to train a privileged elite, not a diverse student body, many of whom seek to combat systemic inequality and develop the skills needed to make societal change.¹⁸

The tension wrought by this mismatch alone would be a significant challenge to overcome, but the financial fragility of law schools, and

¹² See *infra* subpart I(A).

¹³ See *infra* section I(A)(1).

¹⁴ See *infra* section I(A)(2).

¹⁵ See *infra* subpart II(C).

¹⁶ The Article speaks to broad trends in law school student demographics; there is of course significant variation across and within law schools.

¹⁷ See *infra* section I(B)(2) (discussing the implicit and explicit hierarchies found on law school campuses).

¹⁸ See *infra* section I(B)(1); see also Meera E. Deo, *Equity in Legal Education*, 63 SANTA CLARA L. REV. 95, 97–98 (2023) (noting that because inequities in legal education have existed for years, an “equity-focused” approach to legal education may allow both students and faculty to address systemic challenges exacerbated by COVID).

universities in general, compounds these problems.¹⁹ The impending enrollment cliff means fewer tuition-paying students will matriculate, while state disinvestment in public universities leaves many schools scrambling for alternative revenue streams.²⁰ In the face of rising costs, wealthier schools have turned to massive endowments to fill this gap, while other schools struggle to survive amid declining applications and rising student debt.²¹

For many institutions, financial precarity has led to an increasing reliance on corporate and donor-driven funding, a dynamic that raises profound questions about institutional independence and decision-making. The backlash at Harvard—where a conservative billionaire donor demanded swift action against student activists and university administrators—illustrates how financial pressures can influence university governance.²² Meanwhile, at public universities, state legislatures wield growing influence over curricula, faculty hiring, and

¹⁹ For an excellent essay explaining the financial challenges facing higher education, see Priya Baskaran, *Combating the Financial Dismantling of Public Higher Education*, 53 *FORDHAM URB. L.J.* 367 (2025) (examining the intertwined nature of the political and financial threats to higher education, emphasizing in particular the fraught relationship of financialization, commercialization, and bond-holder supremacy to higher education's status as a public good); see also Frank H. Wu, *The Crisis of American Higher Education*, *ORG. OF AM. HISTORIANS*, <https://www.oah.org/tah/february-3/the-crisis-of-american-higher-education> [<https://perma.cc/S9GG-669T>]; see Sarah Butrymowicz & Pete D'Amato, *A Crisis Is Looming for U.S. Colleges—and Not Just Because of the Pandemic*, *NBC* (Aug. 4, 2020, at 07:02 ET), <https://www.nbcnews.com/news/education/crisis-looming-u-s-colleges-not-just-because-pandemic-n1235338> [<https://perma.cc/D435-VBCE>].

²⁰ Jon Marcus, *A Looming 'Demographic Cliff': Fewer College Students and Ultimately Fewer Graduates*, *NPR* (Jan. 8, 2025, at 05:00 ET), <https://www.npr.org/2025/01/08/nx-s1-5246200/demographic-cliff-fewer-college-students-mean-fewer-graduates> [<https://perma.cc/5A94-RWYX>]; see Tristan Stein & Arianna Fano, *State Funding and College Costs: Reviewing Evidence*, *BIPARTISAN POL'Y CTR.* (Dec. 16, 2024), <https://bipartisanpolicy.org/explainer/state-funding-and-college-costs-reviewing-the-evidence> [<https://perma.cc/HU7S-HB6P>] (noting that colleges, for example, could enroll more out-of-state and international students to increase tuition revenues).

²¹ See Alan Blinder & Vimal Patel, *Can Donors Fill the Major Budget Holes That Colleges Face Under Trump?*, *N.Y. TIMES* (June 28, 2025), <https://www.nytimes.com/2025/06/28/us/donors-universities-funding-gaps-trump-administration.html> [<https://perma.cc/AW7U-PNHN>] (discussing the challenges of leveraging donors while risking antagonizing the White House, which has suggested the universities address financial problems by reducing “bloated salaries of their faculty” and cutting “useless programs that do little to advance education”); see Kelly Grotke, *Reckoning with the Reckoning in Higher Ed*, *LPE PROJECT* (May 13, 2025), <https://lpeproject.org/blog/reckoning-with-the-reckoning-in-higher-ed> [<https://perma.cc/LW5X-LNSX>] (arguing that the financialization of higher education has contributed to the repression of academic freedom in universities).

²² See Matt Egan, *Harvard Student Groups Issued an Anti-Israel Statement. CEOs Want Them Blacklisted*, *CNN* (Jan. 10, 2024, at 08:11 ET), <https://www.cnn.com/2023/10/11/business/harvard-israel-hamas-ceos-students> [<https://perma.cc/J4GX-33WZ>]; see also *supra* note 11 (describing how several universities responded to student protests).

campus speech policies, particularly in conservative states, where universities are caught in the crosshairs of ideological battles.²³

Growing financial pressures intersect with longstanding ambiguities in free expression policies.²⁴ Yet universities still struggle to craft policies that balance student speech rights and faculty academic freedom with concerns about campus safety and orderly school administration. What does it mean to “disrupt” university operations? Or perhaps an even more difficult question—when is civil disobedience, if not technically permitted, at least an act that should not result in a severe punitive response? University administrators are often incentivized to prioritize risk management, treating campus protest as a threat to reputation, rankings, and funding, rather than as a fundamental exercise in democratic participation and, itself, part of the educational process.²⁵ The result helps explain what happened at UVA and other schools in the spring of 2024, as well as the continued turmoil on college campuses today.²⁶

²³ See Susan Svrluga & Danielle Douglas-Gabriel, *Antisemitism Probe Calls for Review of Federal Aid for Some Colleges*, Wash. Post (Oct. 31, 2024), <https://www.washingtonpost.com/education/2024/10/31/antisemitism-college-campuses-house-committee-investigation-federal-aid/> [<https://perma.cc/5X7H-EYFK>] (discussing how a congressional investigation into campus antisemitism in the wake of the Israel–Gaza War blamed university officials for failing to adequately protect students from protests); Vimal Patel, *Republicans Target Social Sciences to Curb Ideas They Don’t Like*, N.Y. Times (Nov. 21, 2024), <https://www.nytimes.com/2024/11/21/us/florida-social-sciences-progressive-ideas.html> [<https://perma.cc/P9MT-ZL3W>].

²⁴ See *On Freedom of Expression and Campus Speech Codes*, AM. ASS’N OF UNIV. PROFESSORS, <https://www.aaup.org/reports-publications/aaup-policies-reports/policy-statements/freedom-expression-and-campus-speech> [<https://perma.cc/P2YE-9KVQ>]; see, e.g., *Statements on Free Expression and Free Inquiry*, UNIV. OF VA., <https://freespeech.virginia.edu/statement-free-expression-and-free-inquiry> [<https://perma.cc/BTN4-LV4M>]; AM. UNIV., *UNIVERSITY POLICY: FREEDOM OF EXPRESSION AND EXPRESSIVE CONDUCT* (2022), <https://www.american.edu/policies/au-community/upload/freedom-of-expression-and-expressive-conduct-policy.pdf> [<https://perma.cc/K74H-FGXC>].

²⁵ Cf. Press Release, ACLU, *Universities Should Protect Students’ Right to Protest, End Crackdown on Peaceful Protests* (Oct. 31, 2024, at 09:00 ET), <https://www.aclu.org/press-releases/universities-should-protect-students-right-to-protest-end-crackdown-on-peaceful-protests> [<https://perma.cc/H7YQ-TYR8>]; Elena Moore, *For Some Students Who Protested War in Gaza, Fear and Silence Is a New Campus Reality*, NPR (Apr. 12, 2025, at 06:01 ET), <https://www.npr.org/2025/04/11/nx-s1-5343940/college-students-say-trump-administrations-crackdown-on-activism-incites-fear> [<https://perma.cc/D5T5-EA3L>]. Compare Carrie Zaremba, *U.S. Universities Spent the Summer Strategizing to Suppress Student Activism. Here Is Their Plan.*, MONDOWEISS (Sep. 2, 2024), <https://mondoweiss.net/2024/09/u-s-universities-spent-the-summer-strategizing-to-suppress-student-activism-here-is-their-plan> [<https://perma.cc/DU2H-4KZQ>], with Cynthia Vitters, Jake Braunsdorf, Joseph Lord & Roy Mathew, *Significant Risks Facing Higher Education: Getting to the Roots of Risk*, DELOITTE (Dec. 18, 2024), <https://www.deloitte.com/us/en/insights/industry/articles-on-higher-education/top-risks-in-higher-education.html> [<https://perma.cc/M7GU-HE6J>].

²⁶ As we are writing about spring 2024 during the spring and summer of 2025, the second Trump Administration has further exacerbated these colliding tensions. Anti-DEI orders, anti-transgender orders, ICE raids, the stripping of university funding, the slashing of the federal government workforce, and arrests of politically dissenting students all threaten even greater

There are no easy answers to these tensions on campus. At the heart of the discord often lay intractable dualities: protest rights versus campus safety concerns; freedom of expression versus orderly school administration; viewpoint diversity versus condemnation of repugnant words and deeds; the need to accommodate differences versus the need to establish unbiased, principled standards and norms; the economics of running an institution in a market-based society versus the imperative of preserving an academic space that is not simply an outgrowth of capitalist activity; institutions of higher learning serving the needs of society versus society's worst, most base impulses driving educational design.

This Article argues that these tensions should prompt a reimagining of the governance and values framework of contemporary law schools. It proposes democratizing institutional governance by shifting authority away from distant, unaccountable boards and toward stakeholders—students, faculty, staff, and administrators—who directly experience and bear the consequences of institutional decisions. Although no governance model perfectly resolves inherent conflicts, democratic decision-making uniquely aligns accountability with responsibility, making it the best available approach to managing pluralistic tensions.

Beyond stakeholder governance, this Article calls for the development of a twenty-first-century law school that explicitly embraces values responsive to contemporary social and political challenges to fill a gap in the current legal education landscape. Whereas traditional law schools formed primarily to train a narrow, elite segment of society to support the capitalist demands of the Industrial Revolution, this Article imagines a new kind of law school emerging from the current political and social context: one that intentionally broadens access and equips students to confront systemic economic inequality; defend democracy, the rule of law, and civil liberties; combat identity-based discrimination; and advance environmental justice. The suggested values are by no means exhaustive, nor do we argue that every institution must embrace the same values. Rather, we argue that the current moment calls for experimentation with the development of a new institutional model, either through reforming a current school or creating a new one that explicitly embraces these values, the list of which is meant to be more illustrative than comprehensive.

Certain prerequisite steps would be required to realize this reimagined version of a law school, including perhaps most importantly reducing costs. Bringing down costs through technology and experimenting with new models of instructional delivery would ease

conflict. See Karen Yourish et al., *All of the Trump Administration's Major Moves in the First 100 Days*, N.Y. TIMES (Oct. 22, 2025, at 16:29 ET), <https://www.nytimes.com/interactive/2025/us/trump-agenda-2025.html> [<https://perma.cc/9HVG-EUNP>].

dependence on volatile revenue sources like donor largesse or shifting state politics.²⁷ Other changes—including leveraging instructional capacity from other institutions and minimizing the cost of campus facilities—if managed in compliance with baseline American Bar Association (ABA) accreditation standards related to physical space and full-time faculty,²⁸ would further contain costs. This would free institutions to lead with their values and implement stakeholder governance as a more democratic approach to navigating difficult questions, such as those around free expression and academic freedom.²⁹ Reducing costs would also enable students to graduate with less debt and make law school more accessible to a diverse group of modern students, helping to ensure that new lawyers better reflect the society they serve and more often pursue the passions that brought them to law school.³⁰

The motivation for developing a stakeholder-governed, values-driven law school model is not only for the institution itself or for the direct impacts that graduating students as change agents might have on society, but also as a model for society more broadly. As scholars have argued, law schools and the broader world exist in a reciprocal relationship: a hierarchical law school fosters hierarchy in the world.³¹ Inversely, democratic and pluralistic educational models cultivate those same values in society.³² Thus, the law school ecosystem should model anti-hierarchical practices at all levels and serve as a case study of democratic practice.³³

The bulk of this Article is in the nature of a critique.³⁴ Part I examines the colliding dynamics outlined above: exploring how modern

²⁷ See *infra* subpart II(C) (summarizing the technological innovation of distance learning models as a cost-saving strategy for law schools).

²⁸ See *infra* note 101 and accompanying text.

²⁹ See Isaac Kamola, *When It Comes to Free Speech, Dark Money Often Speaks Louder than Words*, LPE PROJECT (May 15, 2025), <https://lpeproject.org/blog/when-it-comes-to-free-speech-dark-money-often-speaks-louder-than-words> [https://perma.cc/7PBR-RSGQ] (arguing that rather than anonymous donors exerting control of on-campus speech, students, faculty, and staff should instead be the center of such debates).

³⁰ See *infra* note 55 and accompanying text (citing the six-figure debt that the average law student will have upon graduation).

³¹ E.g., Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 591 (1982).

³² See Rachel López, *Critical Curriculum Design: Teaching Law in the Age of Rising Authoritarianism*, 109 MINN. L. REV. HEADNOTES 81, 82 (2025) (arguing that current legal pedagogy “undervalues the qualities needed to be good citizens of democracy”).

³³ See Mary Anne Franks, *How Law Schools Can Fight for Fearless Speech*, 51 HOFSTRA L. REV. 613, 619 (2023).

³⁴ Note that while this Article reflects our collective efforts at critique and re-envisioning of law school, individual co-authors may not subscribe to every feature or formulation of each critique or recommendation.

law students are different from those who came before; considering how pedagogy, curricula, and the law school environment in general are ill-suited to meet the needs of this modern cohort; reviewing how law school and university finances are in flux, making schools more reliant on external support; and ultimately interrogating how this leads to tensions, often related to issues of expression, like those that spilled over in the spring of 2024. Part II is our attempt to sketch out a way forward: reenvisioning a new kind of law school built around stakeholder governance, progressive values, lower cost, and which serves students and society through both specific curricular choices and more broadly as a model of a democratic institution concerned with the well-being of all its constituents.

The case for change is both idealistic and pragmatic: to create a more just society and to meet the demands of a new generation of students. At its core, this Article is both a call for, and—co-authored by a law professor and four law students—an example of, anti-hierarchical, values-driven legal education.³⁵

I. COLLIDING DYNAMICS ON THE LAW SCHOOL CAMPUS

A. The Modern Law Student and Class Cohort

1. Demographic Changes and the Enrollment Cliff

Today's student body is more racially, ethnically, economically, and gender diverse than ever before.³⁶ Decades of efforts to expand access to legal education have made an impact, with data showing increasingly diverse classes of law students.³⁷

Yet, significant barriers to access remain. College enrollment trends in the United States have long been shaped by demographic factors, including parental education, income levels, and race.³⁸ Wealthier families

³⁵ This project arose out of a student-driven effort at American University Washington College of Law to incorporate more critical theory and interrogation of power and hierarchy in law in the first-year curriculum. That effort resulted in the development of a new first-year elective course, *Legal Ethics: Critical Perspectives on Law, Legal Education & Lawyering*, in which several of the student co-authors of this piece participated.

³⁶ The incoming law school class of 2023 exemplifies this shift, representing the most diverse cohort in history. James Leipold, *Incoming Class of 2023 Is the Most Diverse Ever, But More Work Remains*, L. SCH. ADMISSION COUNCIL (Dec. 15, 2023), <https://www.lsac.org/blog/incoming-class-2023-most-diverse-ever-more-work-remains> [<https://perma.cc/R6MX-RQ5Q>].

³⁷ *Id.*

³⁸ Richard V. Reeves & Joana Venator, *The Inheritance of Education*, Brookings Inst. (Oct. 27, 2014), <https://www.brookings.edu/articles/the-inheritance-of-education> [<https://perma.cc/6YCN-ENPE>].

have more financial resources to support higher education, a trend reinforced by declining fertility rates among affluent populations.³⁹ Racial disparities further shape enrollment patterns.⁴⁰ Black and Hispanic students have historically encountered systemic barriers, including inequitable primary and secondary school funding, limited access to college preparatory resources, and financial constraints.⁴¹ Black and Hispanic students are also more likely to attend underfunded public schools, which affects college readiness and application rates. Although enrollment rates among these groups have improved over time, gaps persist compared to white students.⁴² Financial barriers are also a significant obstacle, and regional or institutional variations can have an outsized impact on enrollment trends.⁴³ Despite scholarship and financial

³⁹ See *id.*; see also Parul Tewari, *Falling Fertility Rates: Why Do Wealthier People Have Fewer Children?*, *Nexus* (Aug. 1, 2017), <https://blog.iiasa.ac.at/2017/08/01/falling-fertility-rates-why-do-wealthier-people-have-fewer-children> [<https://perma.cc/NDP8-KUMB>] (noting that declining fertility rates among affluent populations contribute to lower birth rates, which in turn reduce the number of students entering higher education; this demographic trend presents long-term challenges for institutions reliant on steady enrollment).

⁴⁰ See *Table 302.20: Percentage of Recent High School Completers Enrolled in College, by Race/Ethnicity: 1960 Through 2019*, NAT'L CTR. FOR EDUC. STAT. (2020) [hereinafter *Table 302.20*], https://nces.ed.gov/programs/digest/d20/tables/dt20_302.20.asp [<https://perma.cc/MA6W-X9QS>]; see also *Table 302.60: Percentage of 18- to 24-Year Olds Enrolled in College, by Level of Institution and Sex and Race/Ethnicity of Student: 1970 Through 2019*, NAT'L CTR. FOR EDUC. STAT. (2020) [hereinafter *Table 302.60*], https://nces.ed.gov/programs/digest/d20/tables/dt20_302.60.asp [<https://perma.cc/3P63-6V4N>].

⁴¹ See *Table 302.20*, *supra* note 40; see also *Table 302.60*, *supra* note 40.

⁴² NAT'L CTR. FOR EDUC. STAT., *REPORT ON THE CONDITION OF EDUCATION 2022*, at 1 (2022), <https://nces.ed.gov/pubs2022/2022144.pdf> [<https://perma.cc/V2UY-2Y7L>]; see *Table 302.20*, *supra* note 40; see also *Table 302.60*, *supra* note 40. Recent initiatives by educational institutions reflect efforts to address disparities in college preparedness and access. Dana Goldstein, *Why Some Schools Are Rethinking 'College for All'*, *N.Y. TIMES* (Mar. 6, 2025), <https://www.nytimes.com/2025/03/06/us/college-for-all-kipp-international-baccalaureate.html> [<https://perma.cc/M6YR-WQHN>]. The Knowledge Is Power Program (KIPP), a national network of charter schools, has incorporated the International Baccalaureate (IB) program to better equip students from historically underserved backgrounds for the academic demands of higher education. *Id.* Expanding rigorous academic programs is one strategy aimed at closing the preparedness gap and improving college enrollment and completion rates. *Id.*

⁴³ Danielle Douglas-Gabriel, *College Enrollment Rebounds, Surpassing Pre-Pandemic Levels*, *WASH. POST* (Jan. 23, 2025), <https://www.washingtonpost.com/education/2025/01/23/college-enrollment-increase-pandemic> [<https://perma.cc/6WZU-RRPL>]. Susan Krinsky, *First Impressions of the Incoming Class of 2024: Largest Class Since 2021, Top Line Diversity Is Level, More Research Needed and the Work Continues*, L. SCH. ADMISSION COUNCIL (Dec. 16, 2024), <https://www.lsac.org/blog/2024-class-first-impressions> [<https://perma.cc/229N-YRS4>]. Studies indicate that Black graduates are more likely to carry student loan debt from graduate school, with forty percent holding such debt compared to twenty-two percent of white graduates. Melanie Hanson, *Student Loan Debt by Race*, EDUC. DATA INITIATIVE (Feb. 18, 2025), <https://educationdata.org/student-loan-debt-by-race> [<https://perma.cc/DEW3-RMJN>]; see also *Student Loan Debt: A Disproportionate Burden on Black and Latino Borrowers*, DEP'T OF FIN. PROT. & INNOVATION, <https://dfpi.ca.gov/news/insights/student-loan-debt-a-disproportionate-burden-on-black-and-latino-borrowers> [<https://perma.cc/7T7W-Q6K3>]; Jon Boeckenstein, *Will*

aid incentives, students of color face greater difficulties in repaying their student loans, which impacts career choices and financial stability.⁴⁴ Additionally, geographic disparities can significantly influence law school enrollment, as institutions often rely on local undergraduate institutions to sustain applicant pools.⁴⁵

These student diversity dynamics collide with another modern reality: the legal academy sits on the precipice of an “enrollment cliff,” with the number of high school graduates projected to peak around 2025 or 2026.⁴⁶ The ensuing significant decline in matriculating students is expected to be most pronounced among white students, who are overrepresented in law schools.⁴⁷ Beyond this initial decline, a second, steeper decline in the birth rate is projected to affect college enrollment by 2045.⁴⁸ Also driving the enrollment cliff is the increasing number of high school graduates delaying or foregoing college enrollment altogether, driven by economic pressures, rising tuition costs, and alternative career paths.⁴⁹ Many young adults are opting for trade schools or direct workforce entry over traditional college degrees, particularly in states with high tuition costs.⁵⁰

Financial concerns and evolving attitudes toward higher education have altered enrollment behaviors with potential implications for

Your College Survive the Demographic Cliff, CHRON. HIGHER EDUC. (Mar. 22, 2022), <https://www.chronicle.com/article/will-your-college-survive-the-demographic-cliff> [<https://perma.cc/4Y83-2SD8>].

⁴⁴ Hanson, *supra* note 43; Karen Sloan, *Financial Stress and Anxiety Plague Two-Thirds of Young Lawyers, ABA Survey Finds*, REUTERS (Sep. 11, 2024), <https://www.reuters.com/legal/transactional/financial-stress-anxiety-plagues-two-thirds-young-lawyers-aba-survey-finds-2024-09-10> [<https://perma.cc/Q569-JFTX>].

⁴⁵ See Boeckenstedt, *supra* note 43. The Midwest and Northeast regions, already experiencing lower college enrollment rates, now face sharper declines in high school graduates. *Id.* The South and West, which have seen population growth, maintain relatively stable enrollment numbers. *Id.*; see also Douglas-Gabriel, *supra* note 43.

⁴⁶ Boeckenstedt, *supra* note 43; Dan Bauman, *Colleges Were Already Bracing for an ‘Enrollment Cliff.’ Now There Might Be a Second One.*, CHRON. HIGHER EDUC. (Feb. 7, 2024), <https://www.chronicle.com/article/colleges-were-already-bracing-for-an-enrollment-cliff-now-there-might-be-a-second-one> [<https://perma.cc/GK42-NGMQ>].

⁴⁷ Boeckenstedt, *supra* note 43.

⁴⁸ Bauman, *supra* note 46.

⁴⁹ Suzanne Blake, *Student Aid Expert Sounds Alarm on 2024 College Enrollment*, NEWSWEEK (Apr. 12, 2024, at 12:24 ET), <https://www.newsweek.com/student-aid-expert-warns-2024-college-enrollment-low-1889832> [<https://perma.cc/KG4R-7Z3G>]; Emily Withnall, *For Some Young People, a College Degree Is Not Worth the Debt*, N.Y. TIMES (Jan. 18, 2024), <https://www.nytimes.com/2024/01/13/business/college-dropout-debt.html> [<https://perma.cc/VG73-WJDF>].

⁵⁰ See ANTHONY P. CARNEVALE ET AL., AFTER EVERYTHING: PROJECTIONS OF JOBS, EDUCATION, AND TRAINING REQUIREMENTS THROUGH 2031, at 4 (2023), <https://cew.georgetown.edu/wp-content/uploads/Projections2031-National-Report.pdf> [<https://perma.cc/3S88-EJA5>].

institutions that depend on a steady pipeline of college graduates. As institutions compete for fewer applicants, adjusting recruitment strategies and financial models will be necessary to meet the needs of a more diverse student body.⁵¹ Financial pressures, however, are likely to intensify as colleges strive to attract students while maintaining affordability.⁵²

2. A Twenty-First Century Social Context

Today's law students face challenges recognizable from prior generations—global conflicts, domestic turmoil, and fundamental questions about the rule of law—but these familiar issues have taken on distinctly contemporary forms. Many current students came of age during an era marked by unprecedented systemic economic inequality, the rise of authoritarian populism, and the erosion of democratic norms, civil liberties, and trust in public institutions. They have been steeped in modern and unique incarnations of social movements aimed at addressing entrenched identity-based discrimination, racial injustice, gender-based violence, xenophobia, antisemitism, Islamophobia, homophobia, and transphobia. Simultaneously, climate change and environmental degradation have escalated to existential crises, raising ethical and legal questions about accountability and collective responsibility to future generations. Within this fraught context, many students approach legal education not merely as a means of career advancement but as preparation for meaningful engagement with these urgent and interconnected challenges.

This evolving social landscape has deeply influenced today's law students, shaping the expectations and motivations they bring to law school. Many were raised in the post-9/11 era, characterized by constant tension between civil liberties and national security.⁵³ They witnessed the 2008 financial crisis, an event that not only reshaped global economies but

⁵¹ Bauman, *supra* note 46.

⁵² *Id.*; see, e.g., Danielle Douglas-Gabriel & Susan Svrluga, *More Colleges Offering Free Tuition to Middle-Class Families*, WASH. POST (Dec. 11, 2024), <https://www.washingtonpost.com/education/2024/12/11/college-free-tuition-middle-class> [<https://perma.cc/3BHY-E3N9>].

⁵³ The national security policies implemented in the wake of 9/11 fundamentally altered discussions on civil liberties, government surveillance, and executive authority. Carroll Doherty, *Balancing Act: National Security and Civil Liberties in Post-9/11 Era*, PEW RSCH. CTR. (June 7, 2013), <https://www.pewresearch.org/short-reads/2013/06/07/balancing-act-national-security-and-civil-liberties-in-post-911-era> [<https://perma.cc/RQ3C-SLD4>]. The passage of the Patriot Act and the expansion of national security agencies' authority fostered debates over the balance between security and individual freedoms. *Id.* The expansion of governmental surveillance and data collection practices led to ongoing debates over privacy rights and the limits of government power. *Id.*

also left lasting scars on household economic stability.⁵⁴ Many will graduate with six-figure debt, even as the economic promise of a legal career has become more tenuous, resulting in a student body that demands a more compelling value proposition than their predecessors.⁵⁵ This cohort has also lived through the rise of marriage equality, the #MeToo movement, and the 2020 racial reckoning, all of which cemented new expectations about justice, representation, and the law's role in social change.⁵⁶ They see climate catastrophe on the horizon, with existential crises—wildfires, floods, hurricanes—now becoming commonplace and the immediacy of environmental threats undeniable.⁵⁷ And they experienced the COVID-19 pandemic, a global event that redefined their relationship to formal education, introducing new technologies while highlighting institutional vulnerabilities and accelerating uncertainties about the future of higher education.⁵⁸

⁵⁴ Colette Shade, *The Great Recession: What Happened and How the Aftermath Explains Trump's Political Success*, TEENVOGUE (Dec. 16, 2024), <https://www.teenvogue.com/story/great-recession-what-happened-aftermath-trump> [<https://perma.cc/FBH2-TSLE>]; see Clayborne Carson, *Occupy Wall Street*, BRITANNICA (Mar. 8, 2026), <https://www.britannica.com/topic/Occupy-Wall-Street> [<https://perma.cc/AFQ5-ZDLA>] (discussing Occupy Wall Street, which occurred in the aftermath of the 2008 financial crisis and played a pivotal role in shaping views on economic policy, corporate regulation, and wealth disparity).

⁵⁵ See Withnall, *supra* note 49.

⁵⁶ See, e.g., *History & Inception*, ME TOO, <https://metoomvmt.org/get-to-know-us/history-inception> [<https://perma.cc/VNU6-P2AG>]; Tina Reed, *COVID's Legacy: Public Health's Diminished Power*, AXIOS (Mar. 10, 2025), <https://www.axios.com/2025/03/10/covid-19-legacy-public-health-reduced-power> [<https://perma.cc/DEE9-K27F>]; see also DA HAE KIM, ELIZABETH TANG & CHRISTINA IRUENA LANE, 2023 #METOO WORKPLACE ANTI-HARASSMENT REFORMS 1 (2023), https://nwlc.org/wp-content/uploads/2023/09/2023_nwlcMeToo_Report.pdf [<https://perma.cc/U3BL-MVH7>].

⁵⁷ Movements such as the global climate strikes led by youth activists have reinforced a sense of urgency regarding governmental and corporate responsibility for environmental protection. See Seth Borenstein, *In NYC and Elsewhere, Climate Protesters Say Pace of Change Isn't Fast Enough*, ASSOCIATED PRESS (Sep. 20, 2024, at 19:45 ET), <https://apnews.com/article/climate-protests-change-united-nations-climate-week-3c944a1d05d5bb4415c6b811bddc48b9> [<https://perma.cc/9EZ9-7DR3>]. These developments have increased the prominence of environmental law, regulatory compliance, and international climate policy. See Mark Sherman, *Supreme Court Rejects Republican-Led Effort to Halt Climate Change Lawsuits in Democratic-Led States*, ASSOCIATED PRESS (Mar. 10, 2025, at 10:18 ET), <https://apnews.com/article/supreme-court-climate-change-state-lawsuits-d38a557894276083f94f47cae4127ddd> [<https://perma.cc/AUS3-P43U>]; Carl Campanile, *Business Sue Hochul Over 'Illegal and Misguided' \$75B Climate Law, Claiming It Will Cause a Spike in Costs to Consumers*, N.Y. POST (Mar. 2, 2025, at 19:58 ET) <https://nypost.com/2025/03/02/us-news/ny-gov-kathy-hochul-sued-over-75b-climate-law> [<https://perma.cc/42LY-YCRE>].

⁵⁸ The pandemic disrupted traditional education models, forcing students into remote learning environments while highlighting inequities in digital access and educational resources. See Sara Randazzo, Matt Barnum & Julie Jargon, *Screens Have Taken Over Classrooms. Even Students Have Had Enough.*, WALL ST. J. (Jan. 22, 2025, at 21:00 ET), <https://www.wsj.com/us-news/education/schools-phone-screens-technology-research-c268bda5> [<https://perma.cc/45U4-RBS4>]; Collin Binkley, *US Children Fall Further Behind in Reading, Make Little Improvement*

Further shaping this generation is the global resurgence of authoritarianism and threats to the continued endurance of democracy. The rise of disinformation and its impact on democracy, particularly through social media, has heightened awareness of free speech rights, media regulation, and election security. The January 6th attack on the U.S. Capitol underscored concerns about democratic stability, the role of misinformation, and the legal mechanisms for addressing political violence. This era has seen intensifying debates over constitutional law, voting rights, and the regulation of digital platforms.⁵⁹ The return of aggressive immigration enforcement has renewed questions related to due process, access to asylum status, and the role of legal institutions in protecting vulnerable populations.⁶⁰ Increased Immigration and Customs Enforcement (ICE) activity has led to high-profile arrests of outspoken international students, like Columbia University student Mahmoud Khalil, and has sparked protests over federal activity on university campuses.⁶¹

The intersecting social, legal, and political shifts driven by these movements form the backdrop against which modern law students enter

in *Math on National Exam*, ASSOCIATED PRESS (Jan. 29, 2025, at 17:27 ET), <https://apnews.com/article/naep-test-scores-nations-report-card-school-60150156e41b8518be3b6eabf77d0c66> [<https://perma.cc/28SF-EWBX>].

⁵⁹ See Gilles Paris, *2024 US Election: A Crash Test for American Democracy*, LE MONDE (Nov. 5, 2024, at 19:46 ET), https://www.lemonde.fr/en/international/article/2024/11/05/2024-us-election-a-crash-test-for-american-democracy_6731672_4.html [<https://perma.cc/Z4FB-Q7RK>]; Rachel Leingang, *Trump's January 6 Pardon Doesn't Cover FBI Murder Plot Conviction, Judge Rules*, GUARDIAN (Mar. 10, 2025, at 17:16 ET), <https://www.theguardian.com/us-news/2025/mar/10/january-6-pardon-fbi-murder-plot> [<https://perma.cc/PAL9-65MN>]; Cristian Farias, *The Supreme Court That Empowered Donald Trump Won't Save Democracy—Only Voters Can*, VANITY FAIR (Nov. 1, 2024), <https://www.vanityfair.com/news/story/supreme-court-2024-election-lawsuits> [<https://perma.cc/S5BU-JUZY>]; Editorial, *The Guardian View on Digital Media: The Case for Better Regulation Must be Made*, GUARDIAN (Dec. 26, 2024, at 13:30 ET), <https://www.theguardian.com/commentisfree/2024/dec/26/the-guardian-view-on-digital-media-the-case-for-better-regulation-must-be-made> [<https://perma.cc/L8SR-FQPS>]; Anna Betts, *US Added to International Watchlist for Rapid Decline in Civic Freedoms*, GUARDIAN (Mar. 9, 2025, at 20:00 ET), <https://www.theguardian.com/us-news/2025/mar/09/watchlist-decline-civic-freedoms-civics> [<https://perma.cc/ZR9N-YVH4>].

⁶⁰ See *Mass Deportation: Analyzing the Trump Administration's Attacks on Immigrants, Democracy, and America*, AM. IMMIGR. COUNCIL (July 23, 2025), <https://www.americanimmigrationcouncil.org/report/mass-deportation-trump-democracy> [<https://perma.cc/Y9N6-4WA3>]; Laurence Benenson & Nicci Mattey, *The First 100 Days of the Second Trump Administration: Key Immigration-Related Actions and Developments*, NAT'L IMMIGR. F. (Apr. 28, 2025), <https://immigrationforum.org/article/the-first-100-days-of-the-second-trump-administration-key-immigration-related-actions-and-developments> [<https://perma.cc/9B6V-2S7X>].

⁶¹ See Avery Lotz, *ICE Arrests Pro-Palestinian Activist Involved with Columbia Encampment*, AXIOS (Mar. 9, 2025), <https://www.axios.com/2025/03/09/ice-arrests-palestinian-activist-columbia-university> [<https://perma.cc/38JB-8JLT>]; Anna Betts, *'Reeks of McCarthyism': Outrage After ICE Detains Palestinian Student Activist*, GUARDIAN (Mar. 10, 2025, at 13:02 ET), <https://www.theguardian.com/us-news/2025/mar/10/palestinian-activist-mahmoud-khalil-reactions> [<https://perma.cc/55KH-22BR>].

law school. Law schools thus face the challenge of educating a generation deeply attuned to pressing social inequities, questions about governance and law's role in society, and the cost-value proposition of higher education—at precisely the moment when demographic shifts will further transform the terrain.

B. An Ill-Suited Law School Ecosystem

1. Outdated Pedagogy and Curriculum

As these modern law students arrive on campus—shaped by global instability and modern social movements—they encounter an educational model that has remained largely frozen in time since the nineteenth century, when the current system of legal education began to take shape.⁶² As a result, despite law schools' best efforts to bring legal education into the twenty-first century, most institutions continue to foster an ill-suited, hierarchical model that often marginalizes student perspectives and devalues their agency.⁶³ For progressive law students, the law school environment is marked by a set of ever-present doubts.⁶⁴ Is the law a tool for radical change or a handmaiden of power systems? Is participation in law school a strategic choice within a capitalist system or a form of capitulation?

Part of the problem lies in the Langdellian curriculum, which was conceived barely five years after the end of the Civil War.⁶⁵ Langdell's model was conceived by and for white men—the only people with meaningful access to the legal system, or legal education—at the time the

⁶² Claudia Angelos et al., *Langdell's Subjects*, 102 U. DET. MERCY L. REV. 1, 2 (2024) (“[O]ur law schools continue to graduate lawyers whose required course of study inscribes nineteenth century notions, categories, and values.”); Edward Rubin, *What's Wrong with Langdell's Method, and What to Do About It*, 60 VAND. L. REV. 609, 610 (2007) (“Here we are, at the beginning of the twenty-first century, using a model of legal education that was developed in the latter part of the nineteenth.”).

⁶³ See Melissa H. Weresh, *Hidden Lessons, Unforeseen Consequences: Interrogating the Hidden Curriculum in Legal Education and Its Impact on Students from Historically Underrepresented Groups*, 75 ALA. L. REV. 655, 661 (2024) (“The manner in which law schools transmit the culture of the legal profession, including attitudes, traditions, and identity, can impact students' sense of belonging, especially if their backgrounds differ from the experiences of lawyers in the dominant legal culture.”).

⁶⁴ Kennedy, *supra* note 31, at 608 (describing the process of disillusionment, self-doubt, and disorientation that students experience as they attempt to reconcile their personal ethics with the demands of legal education).

⁶⁵ Rachel Gurvich et al., *Reimagining Langdell's Legacy: Puncturing the Equilibrium in Law School Pedagogy*, 101 N.C.L. REV. F. 118, 126 (2023) (stating that Christopher Columbus Langdell became the dean of Harvard Law School in 1870); JAMES I. ROBERTSON, JR., *THE CIVIL WAR* 31 (2018) (marking the end of the Civil War as May 26, 1865, the day the Army of Tennessee laid down its arms before the forces of General William Tecumseh Sherman).

modern law school began to take shape.⁶⁶ As a result, Langdell's model takes the identities of its students as a given and frames law as a practice best understood through appellate decisions in which litigants are represented by competent counsel and opinions are free from ideological bias or identity-based discrimination.⁶⁷

Compare this curriculum to the contemporary reality, where eviction and consumer debt collection make up the lion's share of state court dockets and are disproportionately filed against people with lower incomes and Black and Hispanic parties.⁶⁸ Additionally, most cases in state courts are litigated *pro se* by people who likely lack the resources or the time to appeal an unfavorable outcome.⁶⁹ Finally, issues ostensibly decided on the merits are undermined by the reality that judges are highly susceptible to implicit bias, yet consider themselves largely unaffected by racial prejudice.⁷⁰

⁶⁶ Angelos, *supra* note 62 at 1–2 (explaining how the litigants, judges, and advocates in U.S. courts during the nineteenth century were overwhelmingly white men).

⁶⁷ See Sherri Lee Keene, *Teaching Dissents*, 107 MINN. L. REV. 2619, 2622 (2023) (noting that law schools typically teach using appellate opinions, the reasoning of which students are instructed to take at face value, instead of reading for the judge's potential underlying motivations in issuing the opinion); John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 L. & SOC. INQUIRY 855, 861 (2017) (“[A]s students are trained to ‘think like a lawyer,’ they learn to eschew moral, political, and other contextual aspects of case analysis.”).

⁶⁸ Sarah Johnson, Lorae Stojanovic & Peter Hepburn, *Preliminary Analysis: Eviction Filing Patterns in 2024*, EVICTION LAB (Apr. 24, 2025), <https://evictionlab.org/ets-report-2024> [<https://perma.cc/3248-4WHD>] (reporting that, in 2024, landlords filed more than one million eviction cases in the jurisdictions tracked by the Eviction Lab); Casey Chiappetta, *Debt Collection Cases Continued to Dominate Civil Dockets During Pandemic*, THE PEW CHARITABLE TRS. (Sep. 18, 2023), <https://www.pew.org/en/research-and-analysis/articles/2023/09/18/debt-collection-cases-continued-to-dominate-civil-dockets-during-pandemic> [<https://perma.cc/U9EX-GSDH>] (noting that, in the nine states where researchers were able to compile data, consumer debt collection cases made up forty-two percent of civil dockets in 2021); Jenifer B. McKim, *The Debt Mills: How State Courts Grind Through Consumer Debt Cases*, GBH NEWS (Nov. 12, 2025), <https://www.wgbh.org/news/local/2024-09-03/the-debt-mills-how-state-courts-grind-through-consumer-debt-cases> [<https://perma.cc/H46A-37HR>]; Jessica LaVoi & Domonkos F. Vamossy, *Racial Disparities in Debt Collection*, 164 J. BANKING FIN. 1, 2 (2024) (noting that Black and Hispanic borrowers are fifty-two percent more likely to experience a debt collection judgment); Peter Hepburn, Renee Louis & Matthew Desmond, *Racial and Gender Disparities Among Evicted Americans*, 7 SOCIO. SCI. 649, 653 (2020) (finding that Black renters are overrepresented in eviction filings).

⁶⁹ Nora Freeman Engstrom & David Freeman Engstrom, *The Making of the A2J Crisis*, 75 STAN. L. REV. ONLINE 146, 146 (2024) (reporting that around three-quarters of civil cases in state court are litigated *pro se*).

⁷⁰ Bernice Donald, Jeffrey Rachlinski & Andrew Wistrich, *Getting Explicit About Implicit Bias*, JUDICATURE, Fall/Winter 2020–21, at 75, 76 (noting that research studies show that judges harbor implicit biases against Black litigants, which in turn affects their decision-making); Mary Smith, Michael B. Hyman & Sarah E. Redfield, *Addressing Bias Among Judges*, STATE CT. REP. (Sep. 14, 2023), <https://statecourtreport.org/our-work/analysis-opinion/addressing-bias>

The stark differences between curricular material and current realities are reflected in the common claim that law students are prepared for the bar exam but not for the job market.⁷¹ Legal employers prioritize hiring attorneys with strong legal analysis skills who can translate their thinking into concise, well-written work product.⁷² Accordingly, not only does the overt curricular focus on doctrinal law skew student perceptions of the legal system, but it also detracts from the ability of students to participate in experiential learning opportunities that may prove useful in future full-time roles.⁷³

When considered alongside the realities of today's inequitable legal system and the needs of present-day legal employers, Langdell's model seems not only outdated but harmful in its failure to interrogate existing legal hierarchies. By continuing to teach from a 150-year-old model, law schools produce students who are fundamentally unprepared not only to work within the current legal system, but also to change it for the better.

2. Hierarchical and Status Quo Reinforcing Environment

Beyond curricula, the law school environment is a hierarchical space largely governed by implicit institutional norms.⁷⁴ Some responsibility for this dynamic rests with the American Bar Association (ABA) Council of the Section of Legal Education and Admissions to the Bar, which sets the standards that govern every accredited school in the country.⁷⁵ Few states allow graduates of unaccredited law schools to sit for the bar exam, and

among-judges [<https://perma.cc/RJ5D-9BTN>] (citing a study of judges that found that ninety-seven percent of judges claim to possess an above-average ability to avoid racial prejudice).

⁷¹ E.g., Martin Pritkin, *Are Law School Curriculums Preparing Students to Succeed?*, NAT'L JURIST (May 8, 2018), <https://nationaljurist.com/national-jurist-magazine/are-law-school-curriculums-preparing-students-succeed> [<https://perma.cc/G3NF-RJCG>] (describing survey results from recent law graduates and legal employers who overwhelmingly felt that legal education did not prepare its students for lawyering).

⁷² Keith Lee, *What Are Employers Looking for When They Hire New Attorneys?*, ABOVE THE L. (May 16, 2014, at 15:11 ET), <https://abovethelaw.com/2014/05/what-are-employers-looking-for-when-they-hire-new-attorneys> [<https://perma.cc/A7T7-KZW6>].

⁷³ See Drew Coursin, Comment, *Acting Like Lawyers*, 2010 WIS. L. REV. 1461, 1472 (2010) (citing the 2007 Carnegie Report and the preceding MacCrate Report in 1992, both of which warned that a continued focus on doctrinal education in law schools would result in a widening gap between legal education and legal practice).

⁷⁴ See Weresh, *supra* note 63 at 680–81 (describing the “hidden curriculum” of law school that signals a hierarchy of legal education as relates to curricular design, and racial and gender representation in the legal academy).

⁷⁵ See ABA, Standards and Rules of Procedure for Approval of Law Schools 2024–2025, at iii, v (2024) [hereinafter ABA Standards], https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2024-2025/2024-2025-standards-and-rules-for-approval-of-law-schools.pdf [<https://perma.cc/DH6U-GX2L>] (“In most jurisdictions, an ABA-approved law school J.D. degree is a necessary credential to qualify to sit for the bar examination.”).

even fewer allow unaccredited institutions to operate.⁷⁶ As the gatekeeper to legal education, the ABA has immense authority over law school governance structures.⁷⁷

For example, ABA Standard 405 sets out the minimum academic freedom and tenure requirements that law schools must provide their instructors.⁷⁸ Under 405(b), full-time doctrinal faculty receive the highest level of protection in the form of guaranteed academic freedom and tenure-track positions.⁷⁹ By contrast, 405(c) only requires law schools to provide something “reasonably similar to tenure” for full-time clinical faculty, and 405(d) leaves legal writing faculty with even less, granting schools broad latitude to determine what is necessary to retain competent legal writing teachers.⁸⁰ As scholars have long insisted, Standard 405 creates a hierarchical faculty system that trickles down into intra-faculty dynamics, which are deeply hierarchical and silently normative.⁸¹ It is not uncommon for skills and writing faculty to have no voting rights or to be barred from voting on certain matters in faculty meetings because they lack tenure and the associated governance rights.⁸² Faculty labor for law schools without the ability to participate in their own governance.

In a similar vein, the broader law school environment for students is no less normative or focused on hierarchical rankings. The U.S. News & World Report rankings remain an important measure, not only for many students but also for law schools.⁸³ In general, schools are strongly incentivized to place students in lucrative, high-profile legal jobs. As a result, students are strongly encouraged to pursue judicial clerkships and

⁷⁶ See, e.g., D.C. Code § 38-1306 (2025); D.C. Code § 38-1309 (2025).

⁷⁷ See Mary Beth Beazley, *Shouting into the Wind: How the ABA Standards Promote Inequality in Legal Education, and What Law Students and Faculty Should Do About It*, 65 Vill. L. Rev. 1037, 1038 (2020) (characterizing the ABA Standards as the “bible for every law school administration”).

⁷⁸ See Melissa H. Weresh, *The History of American Bar Association Standard 405(d): One Step Forward, Two Steps Back*, 24 Legal Writing 125, 126–27 (2020) (explaining how ABA Standard 405 provides different levels of security of position to doctrinal, clinical, and legal writing professors).

⁷⁹ See ABA Standards, *supra* note 75, at 33.

⁸⁰ *Id.*

⁸¹ Kennedy, *supra* note 31.

⁸² J. Lyn Entrikin et al., *Treating Professionals Professionally: Requiring Security of Position for All Skills-Focused Faculty Under ABA Accreditation Standard 405(c) and Eliminating 405(d)*, 98 OR. L. REV. 1, 25 (2020).

⁸³ See Christopher J. Ryan, Jr., *A Value-Added Ranking of Law Schools*, 29 U. Fla. J.L. & Pub. Pol’y 285, 291 (2019) (noting that, in 2019, survey responses demonstrated that bar passage and employment opportunities mattered most to law students when deciding which school to attend); Eric Brooks, Owen Turnbull & Sam Wellington, *Methodology: 2026 Best Law Schools Rankings*, U.S. News & World Rep. (Apr. 6, 2026, at 19:00 ET), <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology> [<https://perma.cc/8YXE-6SDL>] (noting that “[p]lacement success and bar passage” comprise 58% of each school’s rank).

summer associate positions at corporate firms, regardless of their personal career ambitions.⁸⁴ The imperative to secure these jobs puts pressure on students to pad their resumes with extracurriculars marketed for their prestige rather than their educational or professional value.⁸⁵ Cumulatively, law schools create an environment that teaches students to prioritize external markers of success over self-directed passion, resulting in many students considering their professional role separate from their personal identity and core values.⁸⁶

This mental bifurcation, however, obviates the fact that professional roles have practical, real-life consequences and are not value neutral. As mentioned above, law schools pride themselves on their clerkship hiring placements, especially for federal clerkships.⁸⁷ However, President Trump's first term, during which he appointed 234 judges and flipped the balance of three federal appeals courts, transformed the present-day federal judiciary.⁸⁸ In his second term, President Trump has made no secret of his threat to dramatically reconstitute the federal judiciary.⁸⁹ Trump-appointed judges have rolled back decades of progress for women's and LGBTQ+ rights, kneecapped voting rights legislation, and repeatedly violated bedrock procedural norms.⁹⁰ By facilitating hiring between

⁸⁴ See, e.g., Nicholas Alexiou, *To Clerk or Not to Clerk . . . It's Actually Not Much of a Question*, ABOVE THE L. (June 7, 2018, at 11:33 ET), <https://abovethelaw.com/2018/06/to-clerk-or-not-to-clerk-its-actually-not-much-of-a-question> [<https://perma.cc/TB8G-N5LZ>] ("While the amount that you will learn from your clerkship will be of the greatest advantage to you in your legal career, a close second may well be the line on your resume.").

⁸⁵ See e.g., Nicholas Alexiou, *Yes, Law Students, You Should Really Try to Get Onto a Journal*, ABOVE THE L. (May 10, 2018, at 11:17 ET), <https://abovethelaw.com/2018/05/yes-law-students-you-should-really-try-to-get-onto-a-journal> [<https://perma.cc/PH73-AGER>].

⁸⁶ Bliss, *supra* note 67, at 857 (describing law students who pursue a corporate path for financial security, not personal fulfillment).

⁸⁷ See, e.g., *Judicial Clerkships*, CORN. L. SCH., <https://www.lawschool.cornell.edu/careers/judicial-clerkships> [<https://perma.cc/3FVN-ARAD>]; *Judicial Clerkship Placement Statistics*, U.C. BERKELEY L., <https://www.law.berkeley.edu/careers/employment-outcomes/judicial-clerkship-placement-statistics> [<https://perma.cc/Z47S-ZPWE>]; Leah M. Litman & Deeva Shah, *On Sexual Harassment in the Judiciary*, 115 NW. U.L. REV. 599, 611 (2020) ("Potential employers view clerkships, particularly at the federal level, as prestigious.").

⁸⁸ See Candice Norwood & Orion Rummier, *The 19th Explains: How Trump Has Shaped Federal Courts and What We Can Expect Next*, The 19th (Jan. 3, 2025, at 06:00 ET), <https://19thnews.org/2025/01/trump-judges-federal-judiciary> [<https://perma.cc/AJ5G-WUB3>]; Donald Trump's Legacy--Six Policy Takeaways, Reuters (Oct. 30, 2020), <https://www.reuters.com/world/china/donald-trumps-legacy-six-policy-takeaways-2020-10-30/> [<https://perma.cc/4C-YR-VZ6F>].

⁸⁹ See JP Collins, *How Trump and Senate Republicans Could Reshape the Federal Courts of Appeals, Part I, Balls & Strikes* (Feb. 18, 2025), <https://ballsandstrikes.org/nominations/trump-nominations-fights-courts-of-appeals-part-i> [<https://perma.cc/YLU6-7KYS>].

⁹⁰ See *The Harmful Legacy of Trump's Anti-LGBTQ+ Federal Judges: Lambda Legal Analysis Reveals Enduring Impact*, Lambda Legal (Oct. 22, 2024), https://lambdalegal.org/newsroom/us_20241022_harmful-legacy-of-trump-anti-lgbtq-federal-judges-analysis-reveals-

prospective clerks and Trump-appointed federal judges, law schools are recruiting law students into this effort, which further entrenches existing legal inequities.

Similarly, most law schools work with corporate firms to facilitate summer associate hiring because these roles tend to produce well-paid alumni who, in turn, become wealthy potential donors.⁹¹ Although some corporate firms provide critical pro bono support for public interest litigation, most first-year associates spend the majority of their time producing work for paying clients.⁹² Even those new graduates who do find themselves working on pro bono cases may find themselves performing politicized work on behalf of the current Trump Administration, as some large corporate law firms have signed agreements committing a certain number of pro bono hours to causes of the administration's choosing.⁹³

In sum, law schools produce law graduates inculcated in hierarchy and well-positioned to reinforce, rather than to challenge, an increasingly inequitable status quo.

C. Financial Precarity and Reliance on External Support

The mismatch between the modern law student and the law school ecosystem alone would provide plenty of fuel for tensions on campuses. Yet this conflict collides with another significant dynamic: law schools today face serious financial precarity driven by declining enrollments, demographic shifts, and diminishing state support.⁹⁴ As discussed above, the projected demographic cliff poses a particular threat to enrollment and tuition revenue, placing many institutions at heightened risk of closure or

enduring-impact/ [https://perma.cc/LNC6-XBXJ]; Ark. State Conf. NAACP v. Ark. Bd. of Apportionment, 86 F.4th 1204, 1213 (8th Cir. 2023) (stripping private plaintiffs of their ability to enforce the Voting Rights Act); Jeevna Sheth & Devon Ombres, The 5th Circuit Court of Appeals Is Spearheading a Judicial Power Grab, Ctr. for Am. Progress (May 15, 2024), <https://www.americanprogress.org/article/the-5th-circuit-court-of-appeals-is-spearheading-a-judicial-power-grab> [https://perma.cc/SMV6-GJMR].

⁹¹ Infra subpart I(C).

⁹² Pro Bono Inst., Report on the Law Firm Pro Bono Challenge Initiative 2 (2024), https://www.probonoinst.org/wp-content/uploads/2024_PBI_Challenge-ReportFinal.pdf [https://perma.cc/K36F-7C2Z] (noting that, in 2024 alone, law firms reported more than five million aggregate hours of pro bono work); David Brown, Firms Are Falling Behind on Pro Bono Performance, Best L. Firms (Nov. 4, 2024, at 11:28 ET), <https://www.bestlawfirms.com/articles/pro-bono-performance-dwindles-for-firms/6209> [https://perma.cc/3AC4-CL7J].

⁹³ Michael S. Schmidt et al., *Law Firms Made Deals with Trump. Now He Wants More from Them.*, N.Y. TIMES (Apr. 16, 2025), <https://www.nytimes.com/2025/04/16/us/politics/law-firms-deals-trump.html> [https://perma.cc/LHP6-AXNR].

⁹⁴ *Supra* section I(A)(1).

consolidation.⁹⁵ Regional disparities further complicate the outlook for higher educational institutions, as regions with already low college enrollment rates, such as the Midwest, are expected to experience sharper declines, directly affecting tuition revenue and diversity.⁹⁶

This shrinking pipeline underscores long-term concerns about institutional sustainability.⁹⁷ Public law schools, which historically provided a more affordable path to a legal career, are especially vulnerable to declining state support and are becoming increasingly out of reach as funding declines and operational costs rise.⁹⁸ As state-level disinvestment exacerbates financial pressures, many law schools are driven to seek corporate sponsorships or private donations and to increase tuition, eroding the historical affordability and accessibility of legal education.⁹⁹ For many prospective students, the disparity between the cost of education and post-graduation income potential has become a significant deterrent.¹⁰⁰

In addition to these financial pressures, ABA accreditation standards impose further strain on institutions. Requirements such as employing full-time faculty for first-year courses aim to ensure educational quality but also increase financial burdens.¹⁰¹ As enrollments decline, law schools must navigate the tension between compliance with these standards and financial viability.

⁹⁵ See, e.g., Robert Kelchen, Dubravka Ritter & Douglas Webber, *Predicting College Closures and Financial Distress*, 2025-003 FED. RSRV. FIN. & ECON. DISCUSSION SERIES 1, 2 (2025).

⁹⁶ See generally Nathan D. Grawe, *Demographics and the Demand for Higher Education* (2018) (discussing how the financial model supporting legal education faces mounting challenges in light of the demographic cliff).

⁹⁷ See Boeckenstedt, *supra* note 43.

⁹⁸ See Michael Mitchell, Michael Leachman & Kathleen Masterson, *A Lost Decade in Higher Education Funding*, CTR. ON BUDGET & POL'Y PRIORITIES (Aug. 23, 2017), <https://www.cbpp.org/research/a-lost-decade-in-higher-education-funding> [<https://perma.cc/4F8P-S2KF>]. Compare Boeckenstedt, *supra* note 43, with Bryce Welker, *How Much Does It Cost to Take the LSAT?*, MIA. HERALD (July 24, 2024), <https://www.miamiherald.com/careers-education/how-much-does-it-cost-to-take-the-lsat> [<https://perma.cc/UU2T-YCHQ>].

⁹⁹ See Katy Snodgrass, *Huron County Schools Awarded Funds to Make College More Accessible*, HURON DAILY TRIB. (Feb. 18, 2025), <https://www.michigansthumb.com/news/article/michigan-fafsa-initiative-funding-20158948.php> [<https://perma.cc/DR99-C4WM>]; Melissa Santos, *How Washington Is Promising Free College to Low-Income Kids*, AXIOS (Dec. 9, 2024), <https://www.axios.com/local/seattle/2024/12/09/washington-guarantee-tuition-fafsa-food-stamps> [<https://perma.cc/D4CM-DJVQ>].

¹⁰⁰ See Boeckenstedt, *supra* note 43.

¹⁰¹ ABA, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2025–2026, at 34 (2025), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2025-2026/2025-2026-standards-and-rules-of-procedure-for-approval-of-law-schools.pdf [<https://perma.cc/SUP2-QBTV>].

D. External Influence Meets Vague Free Expression Policies

The reliance on external funding sources raises concerns about institutional autonomy, as seen in recent controversies in which major donors and government actors have sought to influence law schools' policies and public stances on politically charged issues.¹⁰² Financial dependence on external donors and political actors directly impacts campus speech and institutional governance.¹⁰³

The 2024 campus demonstrations held in response to the Israel–Gaza War highlighted how financial and political pressures constrain speech on campuses.¹⁰⁴ Law schools, committed to mission-driven education that promotes advocacy, justice, and civic responsibility, publicly struggled to reconcile donor demands and political pressures with their commitments to free expression. University presidents faced intense scrutiny from Congress, wealthy donors, and the media over their handling of the protests, prompting rapid policy shifts that restricted students' ability to protest and limited permissible spaces for speech.¹⁰⁵

¹⁰² E.g., Josh Moody, *What Do Universities Owe Their Donors?*, INSIDE HIGHER ED (Nov. 2, 2023), <https://www.insidehighered.com/news/governance/executive-leadership/2023/11/02/what-do-universities-owe-their-donors> [<https://perma.cc/LDS6-NCPH>]. In recent controversies, university decisions often aligned with donors' public statements, leading to the conclusion that the overreliance on donors unfairly pressures university presidents to honor donor requests. See Stephanie Saul & Anemona Hartocollis, *College Presidents Under Fire After Dodging Questions About Antisemitism*, N.Y. TIMES (Dec. 6, 2023), <https://www.nytimes.com/2023/12/06/us/harvard-mit-penn-presidents-antisemitism.html> [<https://perma.cc/WK7X-VKSE>]; Vimal Patel & Sharon Otterman, *Colleges Wonder if They Will Be 'the Enemy' Under Trump*, N.Y. TIMES (Nov. 12, 2024), <https://www.nytimes.com/2024/11/12/us/trump-higher-education-policy-universities.html> [<https://perma.cc/7JEP-LJHM>].

¹⁰³ Kamola, *supra* note 29.

¹⁰⁴ See Rachel Treisman & Ayana Archie, *Mass Arrests Roil College Campuses Amid Pro-Palestinian Protests*, NPR (Apr. 25, 2024, at 18:05 ET), <https://www.npr.org/2024/04/25/1247091785/campus-protests-gaza-israel-arrests-usc-emerson-texas> [<https://perma.cc/F4WH-ZEES>].

¹⁰⁵ See Comm. on Educ. & the Workforce, *Antisemitism on College Campuses Exposed 1* (2024), https://edworkforce.house.gov/uploadedfiles/10.30.24_committee_on_education_and_the_workforce_republican_staff_report_-_antisemitism_on_college_campuses_exposed.pdf [<https://perma.cc/8LVR-XMMR>]; see, e.g., Northwestern President Defends Deal with Student Protestors to US House Committee: 'We Had to Get the Encampment Down', WTTW (May 23, 2024, at 16:26 ET), <https://news.wttw.com/2024/05/23/northwestern-president-defends-deal-student-protesters-us-house-committee-we-had-get> [<https://perma.cc/37KT-EVBC>] (exemplifying how presidents faced criticism for low numbers of suspensions or expulsions and for engaging in dialogues with student protestors); see Shawn Hubler, Stephanie Saul & Jill Cowan, U.S.C. President Censured by Academic Senate After Weeks of Turmoil, N.Y. TIMES (May 8, 2024), <https://www.nytimes.com/2024/05/08/us/university-of-southern-california-carol-folt-censure.html> [<https://perma.cc/LUZ9-CFGV>]. Of the seven university presidents who testified before Congress about antisemitism on campus, only two remain employed. Sharon Otterman, Rutgers President Announces Resignation After a Year Rocked by Protests, N.Y. TIMES (Sep. 17, 2024), <https://www.nytimes.com/2024/09/17/us/rutgers-president-resignation-jonathan-holloway.html> [<https://perma.cc/X35C-WMDY>]. The testimony before Congress reflects the

Members of boards of trustees and wealthy donors often exercise significant control over university presidents, forcing institutions to take actions that are in tension with their mission and values.¹⁰⁶ As donors' influence over university freedom of speech policies has increased over the last several years due to financial difficulties, not only have donors challenged universities on matters involving public expression, but they have also influenced university hiring and firings when dissatisfied with rankings.¹⁰⁷ The reliance on wealthy donors' generosity to subsidize university programs often forces universities to consider an array of external factors when making sensitive decisions.

In response to external threats, universities have enacted broad, ambiguously defined policies ostensibly to protect campus order; however, in practice, these policies effectively empower administrators to selectively restrict speech and assembly.¹⁰⁸ This shift can target speech critical of influential donors, boards of trustees, or political authorities. Further, state actors have leveraged concerns about antisemitism and perceived ideological conformity to push legislative and administrative actions against universities, chilling speech and autonomy under the guise of enforcing anti-discrimination laws or public order.¹⁰⁹ These challenges reveal deeper tensions within campus governance, given that these policies rarely adequately address student or faculty concerns. Universities face mounting contradictions: while officially committed to robust debate,

balance university presidents attempted to strike in promoting student safety, disciplining students based on external pressure, and allowing students and faculty to express their views. *See id.*

¹⁰⁶ Rebecca Richards, *Free Speech and Donor Privacy Go Hand in Hand*, AM. COUNCIL OF TRS. & ALUMNI (Sep. 30, 2024), <https://www.goacta.org/2024/09/free-speech-and-donor-privacy-go-hand-in-hand> [<https://perma.cc/67DP-SCM3>]; Mark J. Drozdowski, *Donors Withhold Contributions Over Campus Free Speech Controversies*, BEST COLLEGES (Oct. 26, 2023), <https://www.bestcolleges.com/news/analysis/donors-withhold-contributions-over-free-speech-controversies> [<https://perma.cc/VFJ3-FCJT>].

¹⁰⁷ *See* Stephanie Saul, *A Star President's Resignation Was a Mystery. Was It All About Rankings?*, N.Y. TIMES (Nov. 17, 2024), <https://www.nytimes.com/2024/11/17/us/politics/rankings-university-of-florida-ben-sasse.html> [<https://perma.cc/6V4R-FFWP>].

¹⁰⁸ *See, e.g., Temporary Standards and Procedures for Campus Events and Demonstrations*, UNIV. OF PA. (June 7, 2024), <https://catalog.upenn.edu/pennbook/temporary-standards-procedures> [<https://perma.cc/3BBT-FPCP>]; *Facilities Use Policy*, AM. UNIV. (Oct. 4, 2024), <https://www.american.edu/policies/facilities/upload/facilities-use-policy.pdf> [<https://perma.cc/JR7X-4HDP>].

¹⁰⁹ Universities tend to impose limits in certain contexts—for instance, when behavior intends to cause fear or when it disrupts a class or other campus program in a way that prevents others from speaking or hearing a speaker. Frederick M. Lawrence, *"The Remedy to Be Applied Is More Speech": Rights, Responsibilities, and Obligations of Free Expression at Law Schools*, 51 HOFSTRA L. REV. 419, 427 (2023); *see id.* at 426 (discussing how courts did not uphold 1980s speech codes that colleges and universities adopted to regulate the expression of bigotry).

institutional dependence on donor largesse and political approval frequently results in policies that undermine free expression.¹¹⁰

While preexisting tensions among donors, students, faculty, university presidents, and the government revealed serious cracks in freedom of speech policies across campuses, the second Trump Administration has only deepened these tensions.¹¹¹ For example, sixty universities received letters from the U.S. Department of Education for failing to police the rise of antisemitism on campus, in purported violation of anti-discrimination laws that prevent discrimination on the basis of national origin.¹¹² These incidents further highlight the careful balance universities must strike at the moment in attending to legitimate campus climate concerns, while navigating new and escalated threats that would limit even legitimate speech.

E. The Toll on Mental Health

These colliding dynamics exacerbate the demands of legal education on a student's mental, emotional, and social well-being. Legal training involves a reorientation toward skepticism, issue-spotting, and vigilance in scanning for potential client risks. Fostering this perspective within an

¹¹⁰ See K-Sue Park, *Whose Free Speech?*, DISSENT, Summer 2021, for a discussion of corporate control and government censorship.

¹¹¹ In March 2025, President Trump announced he would freeze all federal funding to schools holding "illegal protests." See Kanishka Singh & Jonathan Allen, *Trump Threatens Funding Cut to Colleges Allowing 'Illegal Protests'*, REUTERS (Mar. 4, 2025), <https://www.reuters.com/world/us/trump-says-federal-funding-will-stop-colleges-schools-allowing-illegal-protests-2025-03-04> [https://perma.cc/M2ZX-3FTV]. Columbia lost \$400 million in federal funding after accusations that it tolerated antisemitism. Jesse Zanger & Ali Bauman, *\$400 Million of Columbia University's Federal Funds Canceled by Trump Administration*, CBS NEWS (Mar. 7, 2025, at 17:58 ET), <https://www.cbsnews.com/newyork/news/trump-administration-cancels-400-million-columbia-university> [https://perma.cc/2W44-TVYR]. Mahmoud Khalil, a recent graduate from Columbia University, was arrested and unlawfully detained for his role organizing protests on Columbia's campus in spring 2025. Michael Wilson, Michael Rothfeld & Ana Ley, *How a Columbia Student Activist Landed in Federal Detention*, N.Y. TIMES (Mar. 17, 2025), <https://www.nytimes.com/2025/03/16/nyregion/mahmoud-khalil-columbia-university.html> [https://perma.cc/3UVR-5VKZ]. See generally Franks, *supra* note 33, at 614–15 ("One explanation of how we arrived at this dystopian moment of state-sponsored censorship and broad governmental assault on educational institutions is that this was the next phase of the rightwing extremist movement that was legitimized and normalized by the Trump presidency.").

¹¹² Press Release, U.S. Dep't of Educ., U.S. Department of Education's Office for Civil Rights Sends Letters to 60 Universities Under Investigation for Antisemitic Discrimination and Harassment (Mar. 10, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-office-civil-rights-sends-letters-60-universities-under-investigation-antisemitic-discrimination-and-harassment> [https://perma.cc/HH26-ALG8]; Michael C. Bender, *Trump Officials Warn 60 Colleges of Possible Antisemitism Penalties*, N.Y. TIMES (Mar. 10, 2025), <https://www.nytimes.com/2025/03/10/us/politics/trump-colleges-antisemitism.html> [https://perma.cc/RED4-G82D].

energetically taxing and socially competitive environment may produce better lawyers, but it also increases the likelihood of depression, anxiety, and substance use.¹¹³ Comparisons of law students before and after matriculation indicate a marked decline in mental health that continues throughout the degree program.¹¹⁴ Once some law students encounter these challenges, they may avoid seeking treatment or support for fear of academic penalties or bar admission obstacles, such as the character-and-fitness assessment.¹¹⁵ That mentality tends to continue once law students enter the workforce, which perpetuates some of the same mental health struggles.¹¹⁶

¹¹³ Jarrod F. Reich, *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*, 65 VILL. L. REV. 361, 376 (2020). A 2021 study of student mental health involving 5,400 students across thirty-nine American law schools found that 54% of students (up from 37% when researchers first conducted the study in 2014) screened positive for anxiety. David Jaffe, Katherine M. Bender & Jerome Organ, “*It Is Okay to Not Be Okay*”: The 2021 Survey of Law Student Well-Being, 60 U. LOUISVILLE L. REV. 441, 451, 465 (2022). Moreover, 33% (up from 18%) of respondents reported a depression diagnosis in their lifetime, and 18% (up from 17%) stated that they gained the diagnosis after starting law school. *Id.* at 463. Conversely, alcohol use exhibited a modest decrease from 2014, with 16% (down from 22%) of students in 2021 stating that they binge drank weekly and 44% (down from 53%) saying that they got drunk at least once in the past 30 days. *Id.* at 455. Nevertheless, students reporting serious thoughts of suicide *nearly doubled* in 2021, with 33% (up from 21%) saying that they had those thoughts in their lifetime and 11% (up from 6%) revealing that they seriously contemplated suicide in the past year. *Id.* at 467.

¹¹⁴ One study conducted before 2020 found that although 10% of incoming law students had diagnosable depression, this rate rose to 27% after one semester, 34% after two semesters, and 40% upon graduation. Janet Thompson Jackson, *Wellness and Law: Reforming Legal Education to Support Student Wellness*, 65 HOWARD L. J. 45, 67 (2021). “Law students also reported experiencing stress at significantly higher levels than medical or graduate students.” *Id.* Those findings mirror an earlier 1986 study, which revealed that law student declines in mental health compared to the general population did not lessen significantly until two years after graduation. G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RSCH. J. 225, 240–41 (1986).

¹¹⁵ Forty-five states and the District of Columbia still ask about mental health status on their character-and-fitness assessments to determine whether the student is fit to practice law. Natalie C. Fortner, Comment, *Mental Health, Law School, and Bar Admissions: Eliminating Stigma and Fostering a Healthier Profession*, 75 ARK. L. REV. 689, 698–99 (2022). As recently as 2023, bar admission rules in some jurisdictions stated that evidence of treatment or orders to seek treatment may be viewed as a lack of present fitness. *See, e.g., id.* at 699 (“Evidence of treatment, advice to seek treatment or any order directing the Applicant to seek mental health treatment . . . may be considered as an indication of lack of present fitness.” (quoting TEX. BD. OF L. EXAM’RS, BOARD OF LAW EXAMINERS GUIDELINES FOR DETERMINING CHARACTER AND FITNESS AND OVERSEEING PROBATIONARY LICENSE HOLDERS 2 (n.d.)); *see also id.* (arguing that statements by bar associations, that mental health diagnosis or treatment do not typically constitute a lack of present fitness, is meaningless when law students see that a state bar’s guidelines still mention that such evidence may be an indication of lack of present fitness).

¹¹⁶ Based on a 2020 survey of legal professionals, only 35% said that they could take extended leave to address mental health or substance use issues. Lizzy McLellan, *Lawyers Reveal True Depth of Mental Health Struggles*, LAW.COM (Feb. 19, 2020, at 11:00 ET), <https://www.law.com/2020/02/19/lawyers-reveal-true-depth-of-the-mental-health-struggles>

Beyond this general experience, students of color navigate additional threats. Recent studies on microaggression exposure have revealed a positive association between such exposure and depression and anxiety.¹¹⁷ Race-based traumatic stress from racial justice violations, national disasters, and constant otherism in school may reduce the emotional bandwidth of students of color and impact their ability to perform academically.¹¹⁸ Despite this obstacle, no studies have specifically examined the effects of race-based traumatic stress on law students or evaluated interventions such as school policy changes or allyship and microaggression training in law schools.¹¹⁹ Some students of color have generated their own solution by self-segregating into law student organizations where they can find affinity and avoid microaggressions.¹²⁰ As a recent example of the divergent law school experience, students of color witnessed stark contrasts in law enforcement responses to the 2020 Black Lives Matter protests compared to the January

[<https://perma.cc/6MGH-LAZ5>]. Of those that felt they could not take time off, 78% feared that it would hurt their career trajectory, 77% feared what their employer would think, and 36% feared what their clients would think. *Id.* These beliefs took a toll on respondents' mental health: 31% reported feeling depressed, 64% thought they had anxiety, 10% suspected that they had an alcohol problem, and 18% had contemplated suicide during their legal career. *Id.* Tellingly, 74% of respondents believed that the legal profession had a negative effect on their mental health, with the top-cited reasons being billable hours pressure, lack of sleep, client demands, and a sense of always being on-call. *Id.* Young lawyers appear to suffer the worst of this phenomenon, at least in the law firm setting, due to a lack of autonomy, impeded affinity with coworkers, extrinsic valuations of worth, and excessively long work hours seemingly designed to burn out most associates before they become eligible for partner. *See* Reich, *supra* note 113, at 383, 390 ("This model not only keeps equity partner wealth growing by the continuous influx of new junior associates but also leads to significant attrition such that few associates last long enough even to be considered for equity partner.").

¹¹⁷ This effect was especially pronounced for LGBTQ+ people of color and heterosexual women, less significant for heterosexual men of color, and not at all present for heterosexual white men. Kaitlin M. Boyle, Elizabeth Culatta, Jennifer L. Turner & Tara E. Sutton, *Microaggressions and Mental Health at the Intersections of Race, Gender, and Sexual Orientation in Graduate and Law School*, 15 J. WOMEN & GENDER HIGHER EDUC. 157, 171–72 (2022); *see also* Heather L. Johnson, *How Can We Help LGBTQ+ Law Students Thrive in Law School?*, 60 GONZ. L. REV. 31, 36 (2025) (explaining that her LGBTQ+ law students report having a heightened awareness around the politicization of their identity, requiring vigilance in law school spaces); Bennett Capers, *The Law School as a White Space*, 106 MINN. L. REV. 7, 16 (2021) (discussing the concept of "white spaces" as those where Black people are typically absent, not expected, and marginalized when present).

¹¹⁸ National disasters mentioned in this regard include COVID-19 disruptions and the September 11th terrorist attacks. Jackson, *supra* note 114, at 86; *see* Deo, *supra* note 18, at 97 (writing that the COVID-19 pandemic worsened inequities by placing people of color, women, caregivers, and first-gen students in more precarious positions economically and socially).

¹¹⁹ *See* Jackson, *supra* note 114, at 86 (writing that no studies yet exist on how race-based traumatic stress impacts law students in particular).

¹²⁰ Meera E. Deo, *Two Sides of a Coin: Safe Space & Segregation in Race/Ethnic-Specific Law Student Organizations*, 42 WASH. U.J.L. & POL'Y 83, 87 (2013).

6th insurrectionists, which reemphasized how entrenched racism persists in American institutions.¹²¹

The dynamics outlined above stand to worsen the mental health outlook on law school campuses. Limitations on free expression and increasing financial pressures will likely exacerbate student anxiety and depression. First-generation and students of color will feel particularly acute impacts. Now is a critical time to reimagine law school.

II. THE REENVISIONED LAW SCHOOL

What would be required to address the crises unfolding across contemporary law school campuses that result from the colliding dynamics described above? This Article does not purport to have all the answers. Rather, in the tradition of Bennett Capers's thought-provoking piece, *The Law School as a White Space*, in which he re-envisions an almost utopian future law school grounded in anti-racist principles, this Article begins to flesh out in broad strokes the framework for a future law school that would move toward resolving the tensions described herein.¹²²

A. Stakeholder Governance

The dynamics explored in Part I highlight the inadequacy of current institutional frameworks to manage tensions inherent in modern higher education. At their core, these tensions raise thorny questions around often seemingly irreconcilable dualities, as described above: protecting protest rights versus maintaining campus safety; safeguarding freedom of expression versus ensuring orderly administration; promoting viewpoint diversity versus condemning discriminatory or harmful speech; accommodating diverse identities and perspectives versus upholding clear, impartial norms; balancing economic pressures inherent in market-based education versus preserving a genuinely independent academic space; and holding institutions publicly accountable versus preventing institutional capture by powerful external actors and their interests.

Recognizing that traditional governance structures exacerbate rather than resolve these conflicts, this Article argues that stakeholder governance—grounded in democratic decision-making by students, faculty, staff, and administrators—provides the best available framework for addressing and managing these pluralistic tensions effectively.¹²³ The

¹²¹ See Jackson, *supra* note 114, at 50 (noting that though students of color who advocate for social justice in clinics and through protests may find that work rewarding, their experiences may negatively impact them on a psychological level).

¹²² Capers, *supra* note 117.

¹²³ See Timothy V. Kaufman-Osborn, *The Anti-Democratic Legal Form of the University (and How to Fix It)*, LPE PROJECT (Mar. 3, 2025), <https://lpeproject.org/blog/the-antidemocrat>

ongoing governance crisis in higher education is rooted in the consolidation of decision-making authority in external boards of trustees—groups often disconnected from the everyday realities of campus life.¹²⁴ These hierarchical bodies, frequently composed disproportionately of individuals with corporate backgrounds, may tend to prioritize profit, efficiency, and risk management over engaging in less efficient yet important debates informed by pluralistic values.¹²⁵ As scholars in the Law and Political Economy movement have recently observed, this structural disconnect helps explain why universities increasingly “behave more like Fortune 500 companies than sites of democratic knowledge production.”¹²⁶

Stakeholder governance embeds democratic decision-making across institutional levels, anchoring governance in the lived experiences and commitments of those who teach, learn, administer, and maintain the campus.¹²⁷ The core premise is that those who experience the consequences of decisions should have a meaningful role in shaping them. This not only enhances the legitimacy of institutional choices but also improves their quality, as a broader range of perspectives and expertise are brought to bear on complex issues.¹²⁸

ic-legal-form-of-the-university-and-how-to-fix-it [<https://perma.cc/C6QZ-TWE3>] (describing the “structural disenfranchisement” of faculty and staff that prevents those subject to university boards’ rules from participating in the rulemaking process); cf. Brett McDonnell, *Stakeholder Governance as Governance by Stakeholders*, 47 SEATTLE U.L. REV. 511, 513 (2024) (arguing for governance by corporate stakeholders, empowering them to make decisions via board representation, councils, or unions). *But cf.* Lucian A. Bebchuk & Roberto Tallarita, *The Illusory Promise of Stakeholder Governance*, 106 CORN. L. REV. 91, 96–97 (2020) (arguing that corporate stakeholder governance would fail to address stakeholder concerns).

¹²⁴ Steven Davidoff Solomon & David Berger, *A Blueprint for University Governance*, HARV. L. SCHOOL F. ON CORP. GOVERNANCE (Jan. 3, 2024), <https://corpgov.law.harvard.edu/2024/01/03/a-blueprint-for-university-governance> [<https://perma.cc/BXN2-Y998>]; *Embracing a New Model for Higher Education Governance Part I: Raising the Bar for College and University Leaders*, THE CHANGE LEADER, INC., <https://changinghighered.com/new-model-for-higher-education-governance> [<https://perma.cc/MZR3-GV8U>].

¹²⁵ Jonathan Feingold et al., *Eight Legal Experts on Trump’s Assault on Higher Education*, LPE PROJECT (Mar. 27, 2025), <https://lpeproject.org/blog/eight-legal-experts-on-trumps-assault-on-higher-education> [<https://perma.cc/LS9K-T9H8>].

¹²⁶ *Id.*

¹²⁷ *Id.* (“We believe [reclaiming higher education for the common good] requires . . . a more structural understanding and critique of the political economy that shapes decision-making in higher education (for example, where power resides and what incentives are at play); and a positive vision for higher education for the common good (which includes concrete means of democratizing college and university governance by redistributing power to institutional constituents and the communities in which they reside).”).

¹²⁸ Todd Wolfson & Mia McIver, *Organizing for a Just and Democratic Future*, ACADEME MAG., <https://www.aaup.org/academe/issues/spring-2025/organizing-just-and-democratic-future> [<https://perma.cc/WT8P-S53C>].

A stakeholder model is particularly well-suited to managing the pluralistic tensions that characterize modern law schools. When diverse groups participate in governance, disagreements are not suppressed but addressed openly through deliberation and negotiation.¹²⁹ This democratic process is essential for balancing competing values—such as free expression and inclusion, or academic independence and public accountability—without defaulting to the interests of the most powerful or well-connected.¹³⁰ Stakeholder governance channels these differences into constructive dialogue, fostering a campus culture that is both resilient and adaptable.

By embracing stakeholder governance, law schools can model the democratic values they seek to instill in their graduates. This approach not only addresses the immediate crises of legitimacy and accountability but also positions legal education as a force for democratic renewal across society. Stakeholder governance thus emerges not just as a structural reform, but as an essential practice for institutions committed to justice, inclusion, and equality.

B. Against Institutional Neutrality

Many universities have adopted a policy of institutional neutrality when faced with taking public positions on controversial issues.¹³¹ Proponents of institutional neutrality argue that taking an official position on divisive topics chills discourse and impedes universities from fulfilling

¹²⁹ Cf. Keiva Hummel, *Strengthening Democracy: The Power of Dialogue and Deliberation*, FULCRUM (Nov. 8, 2024), <https://thefulcrum.us/bridging-common-ground/dialogue-and-discourse> [<https://perma.cc/88DL-XP HQ>] (“By cultivating spaces where diverse perspectives can coexist and be respected, dialogue and deliberation offer processes that reflect a broad spectrum of experiences and values.”).

¹³⁰ Carol J. Batker & Jennifer E. Turpin, *The Crisis in U.S. Higher Education: Alternative Governance and Financing Models*, in ICEEPSY 2019: EDUCATION AND EDUCATIONAL PSYCHOLOGY 602, 608 (2019) (“Re-framing thinking about governance and finance in higher education from corporate to academic, educational, and social justice goals will turn our attention away from the market, the competitive landscape, and viewing education as a product. Rather than replicating inequitable social stratification, education can serve as a ‘public commons’ for developing and sharing knowledge while supporting a living wage and the equitable treatment of workers. Academic, collectivist, and democratic governance and finance are the means to those social justice goals.”).

¹³¹ 148 colleges and universities adopted institutional neutrality statements by end of 2024. Alex Arnold, Erin Shaw, Nate Tenhundfeld & Nicole Barbaro Simovski, *The Rising Tide of Institutional Statement Neutrality: How Universities Are Rethinking Institutional Speech*, Heterodox Acad. (Mar. 10, 2025), https://heterodoxacademy.org/reports/a-revival-of-institutional-statement-neutrality-how-universities-are-rethinking-institutional-speech-in-2024/?utm_source=Iterable&utm_medium=email&utm_campaign=campaign_12897372_nl_Daily-Briefing_date_20250314 [<https://perma.cc/RUY9-SGMS>].

their educational missions.¹³² This idea stems from the belief that creating a neutral space free of opinions increases the likelihood of free debate.¹³³ Yet proponents fail to account for the difficulties of differentiating noncontroversial institutional values from political matters of the day, or for the fact that a “neutral” stance often inherently incorporates certain normative priors. Institutional neutrality also inhibits a law school from leading with explicitly modern progressive values.¹³⁴

The particular form of twenty-first century law school suggested by this Article would stand in stark contrast to those that purport to embrace a form of “institutional neutrality,” the very notion of which is fundamentally flawed.¹³⁵ All institutional actions—admissions and hiring decisions, curricula choices, leadership appointments, investment strategies—reflect underlying political and social values. Historical and contemporary contexts illustrate vividly that neutrality itself is a political stance, often complicit in perpetuating inequality and exclusion.¹³⁶ Further, establishing what is a political matter of the day versus a settled law or norm is not so bright a line as universities claiming institutional neutrality would like to believe. Enslavement was once a political matter of the day—clearly no longer.¹³⁷ Interracial marriage?¹³⁸ Same-sex marriage?¹³⁹ Presumably the same. Military recruiters discriminating against transgender students?¹⁴⁰ The answer to this question is less obvious but potentially more valuable for illustrating an institution’s commitments. A new kind of law school of the sort advocated for in this Article would, for example, explicitly reject anti-transgender policies by military recruiters as a violation of its values against all forms of identity-based discrimination.

¹³² Daniel Diermeier, *The Need for Institutional Neutrality at Universities*, FORBES (Dec. 20, 2023, at 13:15 ET), <https://www.forbes.com/sites/danieldiermeier/2023/12/20/the-need-for-institutional-neutrality-at-universities> [<https://perma.cc/G6WM-DVVR>].

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Proponents of institutional neutrality believe that colleges and universities should abstain from taking positions on political or social controversies. *Adopting Institutional Neutrality*, FIRE, <https://www.thefire.org/defending-your-rights/reforming-college-policies/adopting-institutional-neutrality> [<https://perma.cc/R6GK-FTR8>].

¹³⁶ Cf. Doron Samuel-Siegel, *Reckoning with Structural Racism in Legal Education: Methods Toward a Pedagogy of Antiracism*, 29 CARDOZO J. EQUAL RTS. & SOC. JUST. 1, 19–24 (2022) (arguing that ignoring race in legal education is “false neutrality,” perpetuates systemic racism, and does not prepare students to challenge systemic racism in practice).

¹³⁷ See U.S. CONST. amend. XIII (abolishing enslavement).

¹³⁸ See *Loving v. Virginia*, 388 U.S. 1 (1967) (striking down laws that banned interracial marriage).

¹³⁹ See *Obergefell v. Hodges*, 576 U.S. 644 (2015) (legalizing same-sex marriage).

¹⁴⁰ *Understanding Trump’s Trans Military Ban*, A4TE, <https://transequality.org/resources/understanding-trumps-trans-military-ban> [<https://perma.cc/N2M3-4QJD>].

Some law schools have longstanding ties to explicit value commitments that clearly go beyond the role of a passive, neutral observer of society. Former Georgetown Law School Dean William Treanor drew upon the school's Jesuit origins to push back against former Interim United States Attorney Edward Martin's unconstitutional threats.¹⁴¹ Other institutions have roots in opposing identity-based discrimination. Our own institution—American University Washington College of Law (AUWCL)—was founded by women at a time when they were excluded from other law schools.¹⁴² AUWCL is not a law school that is (or should be) neutral on questions of discrimination based on one's identity. Our argument is for a more explicit embrace and extension of progressive value commitments—to democratize higher education, disrupt systemic economic inequality, defend democracy, combat identity-based discrimination, and advocate for climate justice.

C. Reclaiming University Finances

Reclaiming independence in university finances is integral to reshaping university governance and committing to a core set of progressive values. Reliance on external sources of funding—such as donors, corporate sponsors, and fluctuating government grants—may undermine law school efforts to protect free expression. When paired with stakeholder governance, financial autonomy empowers the campus community to set and uphold principles that reflect its collective mission. Meanwhile, lowering the cost of legal education enables students to graduate with less debt and makes law school more accessible to a diverse group of modern students. This accessibility ensures that new lawyers reflect the broader population and are empowered to pursue lawyering for important but less remunerative causes.

Reducing the cost of legal education may also make achieving financial independence more attainable for law schools. As an example, law schools may pursue distance education tools to reduce costs. Before the COVID-19 pandemic, distance learning remained a fledgling concept in legal education. Only two universities had seriously experimented with distance learning to contend with the rapid growth in costs.¹⁴³ ABA

¹⁴¹ Letter from William M. Treanor, Dean & Exec. Vice President, Geo. Univ. L. Ctr., to Edward R. Martin, Jr., Interim U.S. Att'y (Mar. 6, 2025), <https://www.washingtonpost.com/documents/06480bde-06ed-419f-841e-762c8198b508.pdf> [<https://perma.cc/Z8X6-FXK2>].

¹⁴² *Our Founding Mothers*, AM. UNIV., <https://www.american.edu/wcl/impact/history> [<https://perma.cc/FU3Z-ABY5>].

¹⁴³ The two universities are Syracuse University and Mitchell-Hamline University. See A. Michael Froomkin, *The Virtual Law School*, 2.0, 70 J. LEGAL EDUC. 348, 363 n.51 (2021); see also *id.* at 349–51 n.4 (citing that between 1985 to 2000, average in-state public law school tuition rose by 388%, non-resident public law school tuition rose by 332%, and private law

restrictions and perceptions of lower quality deterred most institutions from exploring the format,¹⁴⁴ though when ABA limits eased, some top-tier institutions partnered with technology investors to establish online learning platforms.¹⁴⁵ These distance learning models still had to navigate the difficulty of implementing a Socratic teaching method in a virtual setting, the absence of student networking opportunities, the inability of students to participate in extracurriculars, the limited opportunities for students to gain real-world skills, and the threat that less interactive distance learning programs might dilute an institution's brand by producing less accomplished graduates.¹⁴⁶

The COVID-19 pandemic then forced nearly all law schools to temporarily adopt distance learning models.¹⁴⁷ This paradigm shift accelerated innovation and problem-solving in the distance learning space—with the same two early-adopter universities at the forefront.¹⁴⁸

school tuition rose by 290%; meanwhile, inflation only increased by 60% over that fifteen-year period).

¹⁴⁴ ABA rules initially prohibited accredited schools from offering distance learning J.D. programs altogether. See ABA, STANDARDS FOR APPROVAL OF LAW SCHOOLS § 304(g), at 42 (2000), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/standardsarchive/2000_standards.pdf [<https://perma.cc/4HUA-V83K>] (“A law school shall not grant credit for study by correspondence.”). In 2002, the ABA revised its rules to allow limited use of distance education after students took at least twenty-eight traditional in-class credits. Froomkin, *supra* note 143, at 364–65 (noting that “limited use” reflected a maximum level of twelve distance learning credits through the rest of a student’s J.D. program).

¹⁴⁵ ABA restrictions lessened by 2019 to allow students to take up to ten credits of online education in their first year and earn up to a third of their J.D. program credits through online courses. ABA, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS: 2019–2020 § 306(e), at 19 (2019), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2019-2020/2019-2020-aba-standards-and-rules-of-procedure.pdf [<https://perma.cc/B5MW-BBH7>]. With this opening, millions of dollars in startup capital poured into competing entities such as Coursera (founded by two Stanford University professors) and edX (jointly founded by Massachusetts Institute of Technology and Harvard University) to establish a flagship online learning platform for law schools. See Froomkin, *supra* note 143, at 366 (stating that platform models generally involved taped lectures, online text, and live student discussion groups led by teaching assistants).

¹⁴⁶ See Froomkin, *supra* note 143, at 354 (explaining that one idea schools contemplated was having students work with each other outside the classroom, with the drawback that if the whole group suffered from some misunderstanding of the material, it would be hard for the school to correct their learning); *id.* at 370, 374.

¹⁴⁷ Emergency actions led 75% of law students to take all courses online in fall 2020 and 79% in spring 2021. Froomkin, *supra* note 143, at 379. Meanwhile, 56% of law schools reported that their curricula during this time were less effective, and some students sued for breach of contract due to lower quality education in the transition to virtual learning. See *id.* at 381–83; see also *Barkhordar v. President & Fellows of Harvard Coll.*, 544 F. Supp. 3d 203, 213–14 (D. Mass. 2021) (holding that Harvard’s customary conduct of in-person learning in ordinary circumstances does not create an implied contract requiring the same conduct during extraordinary circumstances).

¹⁴⁸ Besides Syracuse University and Mitchell-Hamline University, some technology companies seized the opportunity to facilitate virtual teaching. Barbri, for example, began selling

Syracuse University launched an online-centered J.D. program that included several in-person teaching components focused on experiential learning in negotiation, counseling, trial practice, and lawyering.¹⁴⁹ Similarly, Mitchell Hamline University launched an online-focused, four-year J.D. program in which students completed asynchronous online courses alongside intensive in-person sessions.¹⁵⁰ Meanwhile, across U.S. law schools, twenty-five percent of students indicated that they preferred the pandemic-induced delivery of distance learning even after in-person teaching resumed.¹⁵¹

Beyond law students, the pandemic environment had notable impacts on faculty and law schools themselves. Some faculty became much more adept at delivering online instruction,¹⁵² with their new skills representing a sunk cost in virtual instruction that law schools could use to formalize distance learning curricula.¹⁵³ Some schools capitalized on this moment by selling online courses to other schools.¹⁵⁴ Especially for specialized subjects like feminist legal studies, critical race theory, or legal statistics, online courses produced for asynchronous delivery by well-known professors may supplement other schools' course offerings, even if the innovation would result in some loss of perceived uniqueness in the eyes of prospective students.¹⁵⁵ As J.D. programs at mid-tier law schools

a suite of distance learning classes to law schools to offer for credit, ranging from Administrative Law to Wills, Trusts, and Estates. Froomkin, *supra* note 143, at 388–89.

¹⁴⁹ Timothy Casey, *Reflections on Legal Education in the Aftermath of a Pandemic*, 28 CLINICAL L. REV. 85, 95–96 (2021).

¹⁵⁰ *Id.* at 95. Some scholars have analyzed the impact and impressions that Mitchell-Hamlin's distance learning J.D. program has on students. One study found that students generally disliked online discussion boards as busywork but highly valued structured live discussion with guiding questions and interactions with instructors. Andrele Brutus St. Val, *Survey Says—How to Engage Law Students in the Online Learning Environment*, 70 J. LEGAL EDUC. 297, 310 (2021). Conversely, during social events students preferred that the school leave them unstructured rather than institution-led, and generally preferred individual projects over group projects due to the higher levels of self-motivation present among the program's older student cohort. *See id.* (presenting a full array of results).

¹⁵¹ Froomkin, *supra* note 143, at 385.

¹⁵² As an extreme example, one professor wrote that he used no fewer than eight monitors—including a teleprompter—to hold virtual lectures. Josh Blackman, *My New Eight-Monitor Display*, REASON (May 24, 2020, at 18:00 ET), <https://reason.com/volokh/2020/05/24/my-new-eight-monitor-display> [<https://perma.cc/SC8Y-547E>]; *see also* Froomkin, *supra* note 143, at 387 (listing the software hurdles to virtual teaching).

¹⁵³ *See* Froomkin, *supra* note 143, at 390 (explaining that though online teaching is often touted as cost-saving, it may actually be so labor-intensive as to increase costs in the short-run).

¹⁵⁴ Harvard Law School, for example, rolled out a “Zero-L” course in 2020 to prepare incoming students for a legal education. *Id.* Though Harvard initially offered the course for free to other law schools, by fall 2022 it began charging other schools to use the course. *Id.* at 394–95.

¹⁵⁵ *Id.* at 395. One potential long-term outcome of a robust online legal education market would be the radical democratization of law school. Because asynchronous online learning

become more similar, those schools may rely more on price competition to attract students by adopting hybrid or asynchronous learning formats.¹⁵⁶

The pandemic induced a rapid change in the delivery of law school curriculum that is still being felt today. Though some innovations emerged from that unprecedented time, plenty of room remains for schools to create J.D. programs that couple asynchronous, online learning with intensive, in-person coursework.¹⁵⁷ In this way, distance learning models that incorporate core, in-person student experiences may avoid the pitfalls of limited social cohesion and professional identity formation while generating the cost savings that asynchronous coursework offers.¹⁵⁸

D. Curricular and Campus Reform

1. Redefining the 1L Curriculum

To meet modern law students where they are, law schools must stop tinkering with the formula for legal education and should instead consider what an entirely new curricular structure could look like.¹⁵⁹ Ideas abound as to how schools should initiate this process. Consider, for example, the lessons from a spring 2024 workshop hosted by the University of Detroit Mercy School of Law that included practicing lawyers, law professors, judges, and law students.¹⁶⁰ The results of the workshop provide several starting points for what a twenty-first-century law school curriculum might look like.¹⁶¹

Participants were divided into four groups, with each proposing a new model of legal education.¹⁶² One group suggested building a

models significantly reduce the marginal costs of admitting another student, some community-minded institutions might open enrollment to a large number of students at reduced fees. *See id.* at 356, 360 (comparing the advantages and disadvantages of a systemic shift toward online legal education).

¹⁵⁶ *Id.*

¹⁵⁷ Mitchell-Hamline University and Syracuse University are prime examples. *See* Casey, *supra* note 149, at 95–96 (discussing both programs). Though the ABA evolved its standards over time to accommodate some fraction of distance learning, it remains cautious about the impacts of distance learning in legal education when that format predominates. *See* Froomkin, *supra* note 143, at 399 (tracing the ABA’s changing standards regarding distance learning).

¹⁵⁸ *See* Froomkin, *supra* note 143, at 391 (noting the disparity in sense of belonging for students learning virtually compared to in-person); Casey, *supra* note 149, at 99 (describing the ABA’s proposed changes).

¹⁵⁹ Gerald P. López, *Transform—Don’t Just Tinker with—Legal Education*, 23 CLINICAL L. REV. 471, 557 (2017) (calling for law schools to transform, not just tinker, with legal education by taking such discrete actions such as implementing a handful of critical courses or expanding externship programs).

¹⁶⁰ Claudia Angelos et al., *supra* note 62, at 3.

¹⁶¹ *Id.*

¹⁶² *Id.* at 15.

curriculum around the relationship between individuals and the police;¹⁶³ another group proposed a focus on contemporary and historical American Indian and tribal law;¹⁶⁴ a third group put forth the idea of structuring foundational legal concepts around problems a client might face, like eviction, arrest, and loss of family custody;¹⁶⁵ and the final group suggested centering on explicit and implicit social contracts between individuals and within broader society.¹⁶⁶

The suggestion of the second group recalls the work of Angi Porter, whose scholarship pioneering the field of Africana Legal Studies could provide the basis for a curriculum structured around indigenous systems of African governance (referred to as “Protocol”) that can be traced directly to historical and present-day practices among communities descended from enslaved Africans.¹⁶⁷ By teaching not solely from the perspective of white practitioners, but from the point of view of Native people who first built communities in this country, or African people whose ways of living form the basis for many current systems of social governance, law schools could incorporate analyses of power systems and provide a legal education that better reflects the demographics of today’s law students.¹⁶⁸

Alternatively, rather than focusing on curricular content, law schools could eliminate the strict requirements of the first-year curriculum altogether. Per the ABA Standards, law schools need only require students to complete the following: (1) at least two credit hours in professional responsibility; (2) one writing experience in the first year and another writing experience during 2L or 3L; and (3) at least one experiential course(s) totaling at least six credit hours.¹⁶⁹ Schools could continue to offer the traditional 1L courses (Civil Procedure, Torts, Contracts, Criminal Law, Property, and Constitutional Law), but rather than requiring students to complete them during the first year, schools could empower students with greater flexibility in choosing a course load, thus affording students the ability to pursue more seminar courses or skills-based practica that may better suit their needs. In this scenario, students focused on passing the bar would be free to take the traditional 1L course load and, in all likelihood, the normative pressures of the Langdellian model would influence the course-selection decisions of many incoming law students.

¹⁶³ *Id.* at 16.

¹⁶⁴ *Id.* at 16–18.

¹⁶⁵ *Id.* at 18–19.

¹⁶⁶ *Id.* at 19.

¹⁶⁷ Angi Porter, *Africana Legal Studies: A New Theoretical Approach to Law & Protocol*, 27 MICH. J. RACE & L. 249, 270–71 (2022).

¹⁶⁸ *Id.*

¹⁶⁹ ABA Standards, *supra* note 75, at 20.

But for the students who benefit from self-guided learning, the opportunity to have greater agency over their course load would empower them to take ownership of their education.

2. Building a Better Law School Culture

As for the hierarchical law school environment, changing institutional culture is potentially more difficult than changing a formalized legal curriculum.¹⁷⁰ Whereas the latter more explicitly exists on paper and can change from year to year, the former is nebulous and rooted in decades of norms and unstated assumptions. Nevertheless, one change that law schools could make immediately to campus culture is very simple: granting all full-time faculty the same academic freedom and tenure protections, regardless of whether they teach doctrinal law, skills courses, or legal writing. Already, the proportion of full-time legal writing instructors is increasing, and the proportion of adjunct faculty is decreasing among law schools.¹⁷¹ By reforming the hierarchical system endorsed by Standard 405, law schools would empower all faculty members to play a meaningful role in governance, thereby strengthening academic freedom protections inside and outside the classroom, as well as modeling anti-hierarchical practices.

As for student culture, ideally, the effects of overhauling curricular design with an eye toward incorporating present-day perspectives and addressing the inequities of the legal system would trickle down into student dynamics.¹⁷² Law schools can and should change the messaging they send to students about what roles to aspire to as full-time legal practitioners. Practically speaking, this would mean dedicating the same amount of funding to public interest career planning as is dedicated to corporate law and clerkship opportunities. By treating each career path as equally valuable, law schools could begin to undo the artificial professional hierarchy constructed around which roles are considered prestigious and which are not.

If law schools focus less on placing students with corporate firms, their graduating classes may well produce fewer wealthy alumni, who, in turn, may be less likely to become future donors. As law schools shift their funding considerations away from reliance on individual donors with outsized governance power to a shared governance structure, faculty and students will have more freedom to pursue professional paths that reflect

¹⁷⁰ Stephen Wizner, *Can Law Schools Teach Students to Do Good? Legal Education and the Future of Legal Services for the Poor*, 3 N.Y.C. L. REV. 259, 263 (2000).

¹⁷¹ Entrikin et al., *supra* note 82 at 38–39.

¹⁷² *Id.*

their true interests, and administrations will have further opportunities to create an institutional culture that prioritizes core values.

3. Reform of Free Speech Policies

The current political landscape and protests on university campuses have illuminated the tenuous relationship between universities and donors and exposed cracks in foundational university free speech policies.¹⁷³ Complementing the reforms discussed above, the time is also ripe for law schools to reevaluate their free speech policies in ways that protect students' abilities to express their views.¹⁷⁴ Law schools prepare students to participate in, shape, and lead the political process, further underscoring the necessity that an effective lawyer be trained to be tolerant of different views.¹⁷⁵ Universities that adopt progressive values and establish a tolerant environment, even toward student protests of those very values, will encourage debate and further empower students to staunchly defend democratic pluralism.

In an effort to combat repressive speech policies, Mary Anne Franks suggests that law schools adopt a framework of fearless speech: law schools should arm students with information about free speech doctrine and elevate free speech discourse.¹⁷⁶ She contrasts "fearless speech" with what she terms "reckless speech," which flatters those in power and perpetuates hierarchies; fearless speech is sincere, critical, and courageous, and allows speakers to challenge power and vindicate the rights of the oppressed.¹⁷⁷ Universities should draw on this fearless speech framework in reforming their policies.

CONCLUSION

The drafting of this Article has itself been an exercise in anti-hierarchical, democratic legal education. Throughout, we have critiqued how entrenched hierarchies, outdated campus practices, financial precarity, and ambiguous free speech policies have left contemporary law schools ill-equipped to serve today's diverse and politically engaged

¹⁷³ See *supra* subpart I(C) for a discussion on the rising cost of higher education.

¹⁷⁴ Len Niehoff, *Terrible Freedom, Ambiguous Authenticity, and the Pragmatism of the Endangered: Why Free Speech in Law School Gets Complicated*, 51 HOFSTRA L. REV. 583, 587 (2023) (providing an overview of three factors that complicate the dynamics of free speech on law school campuses).

¹⁷⁵ See *id.* at 593; see also Franks, *supra* note 33, at 619 (arguing that law schools bear the responsibility to address these concerns because legal education has contributed to the existential, systematic threats to free speech and democracy).

¹⁷⁶ Franks, *supra* note 33, at 624–25.

¹⁷⁷ *Id.*

student body. This critique emerges directly from the demands of students who see legal education not as a path to personal advancement within existing systems but as preparation to challenge and transform them.

Yet critique alone is insufficient. This Article has also outlined proposals for institutional change—emphasizing stakeholder governance, an explicit commitment to progressive values, curricular modernization, and financial independence through greater reliance on technological innovation. Our proposals remain necessarily preliminary and significant work lies ahead in refining governance structures, fleshing out specific core values, fully articulating curricular reforms, and identifying sustainable economic models. The proposals presented here are starting points meant to stimulate further conversation, exploration, and experimentation.

Ultimately, not every institution must embody this explicitly values-driven model. However, the current moment—beset by widening economic inequity, rising threats to democracy, evolving yet persistent identity-based discrimination, and existential environmental challenges—urgently demands the creation of a new model. Law schools that embrace democratic governance, progressive values, financial autonomy, and meaningful free expression offer a concrete example of how education can cultivate the kind of society it aims to serve. Even if institutions fall short of fully realizing these aspirations, the pursuit itself generates meaningful progress—toward more democratic decision-making, improved student well-being, a more diverse and impactful legal profession, and a more just society.