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Race and Higher Education: Is the LSAT systemic of racial differences in education attainment?

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Race and Higher Education: Is the LSAT systemic of racial differences in education attainment?

Abstract

Law school is the least diverse graduate school program, which translates to the lack of diversity among law professionals. Among America's national law schools, Caucasians fill eighty-eight percent of the seats. This persistent trend over the years has led researchers to question what barriers of entry might exist that are limiting the diversity. One of the most significant barriers has shown to be the Law School Admissions Test. The LSAT is the highest weighing component on whether an applicant will be accepted or denied from law school. Trends have also revealed that underrepresented minorities statistically have much lower scores on the LSAT. This test score gap translates to the lack of diversity in America's top law schools. This research paper attempts to answer the question of is the LSAT is systemic of racial differences in higher education attainment.

In this research economic barriers will be analyzed for a greater idea on socioeconomic differences among students in law school. Following the analysis of the socioeconomic advantages and disadvantages among applicants, a analysis on the test score gap vs. the knowledge gap will be included. Finally, predictability of the LSAT to measure success on the law bar exam will be reevaluated. This reevaluation will comprehensively include data from test takers with subsequent attempts. This additional data will add a dimension to "success" because the ABA currently measures school's success rate solely on first attempt takers.

Keywords

LSAT, racism, Law School, African Americans

Disciplines

Business | Law and Race

Race and Higher Education: Is the LSAT systemic of
racial differences in education attainment?

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The Wharton School | University of Pennsylvania
Summer Program for Undergraduate Research
8/20/2017

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Legal Studies and Business Ethics Department

Abstract:

Law school is the least diverse graduate school program, which translates to the lack of diversity among law professionals. Among America's national law schools, Caucasians fill eighty-eight percent of the seats. This persistent trend over the years has led researchers to question what barriers of entry might exist that are limiting the diversity. One of the most significant barriers has shown to be the Law School Admissions Test. The LSAT is the highest weighing component on whether an applicant will be accepted or denied from law school. Trends have also revealed that underrepresented minorities statistically have much lower scores on the LSAT. This test score gap translates to the lack of diversity in America's top law schools. This research paper attempts to answer the question of is the LSAT is systemic of racial differences in higher education attainment.

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Introduction:

An increase in diversity in legal professions over the past decade is marginal at best. Minority women and African Americans are the least represented in the field. Minority women make up less than three percent of law partners, and African Americans make up less than two percent¹. The lack of diversity in the legal profession is a salient problem. Diversity has been shown to foster new tactics and outlets to both solve problems and formulate ideas. Diversity is especially important because lawyers represent people of all walks of life, and having diverse law teams ensures that bias and discrimination are reduced in practice².

Many questions have surfaced about these striking numbers, and the majority of them have led back to the law school admissions process. One component of the application that law school admissions weigh heavily on is the LSAT scores, a standardized test, that is supposed to accurately predict success on the bar exam. Tutors, prep books, and taking off of work are three of the main preparation keys to scoring well on the LSAT. However, statistically minorities are disproportionately less likely to have access to these resources and opportunities because they can cost upwards of thousands of dollars. It is relevant and important to address the use and predictability of LSAT as the main instrument for admission to law schools because it is disproportionately excluding minorities that are less likely to have the money or resources to prepare for the exam when compared to their counterparts³. Diversity in law schools is fundamental to bringing new ways of thinking and problem solving. It is being significantly

¹ Chung, Renwei. "Diversity In The Legal Profession Has Flatlined Since The Great Recession; Who Is To Blame?" Above the Law. January 06, 2017. Accessed August 05, 2017. <http://abovethelaw.com/2017/01/diversity-in-the-legal-profession-has-flatlined-since-the-great-recession-who-is-to-blame/?rf=1>.

² Bishi, Faiza. "The Importance Of Diversity In Law." June 06, 2011. Accessed August 5, 2017. <https://www.aspiringsolicitors.co.uk/>.

³ "The LSAT." About the LSAT. January 06, 2017. Accessed August 05, 2017. <https://www.lsac.org/jd/lsat/about-the-lsat>.

limited by the emphasis placed on LSAT scores that excludes socioeconomic diverse people. Belief that the LSAT is a good instrument to measure likelihood to succeed could further more be refuted by research on the minority success rate of subsequent attempts on the bar examination. Socioeconomic status can provide a new light on to why many minorities are not being included in the ABA's definition of success on the bar exam. Since universities are required to maintain a seventy-five percent passage rate on the first attempt on the bar exam, universities are more hesitant to accept lower LSAT scores. This discourages admissions officers from increasing diversity at universities⁴.

Methodology:

In this research, the financial breakdown on scoring well on the LSAT will be analyzed and compressed for easy accessibility and understanding. These breakdowns will include preparation materials and will put a raw number to more less tangible estimates, such as the price of not working while preparing from the exam.

Additionally, in this research the test score gap will be compared to the knowledge gap using the Boalt Hall Study. This effectively compares minority students to their white counterparts by matching them based on GPA and university and then comparing their LSAT scores. This allows for a better comparison of the role that finances play in earning a better score.

Lastly, the power of the LSAT will be reanalyzed by looking into pass rates of subsequent bar attempts. Data on the pass rates of first, second, and third time takers of different

⁴ Ward, Stephanie Francis. "ABA House rejects proposal to tighten bar-pass standards for law schools." ABA Journal. May 4, 2011. Accessed September 04, 2017. http://www.abajournal.com/news/article/aba_house_rejects_proposal_to_tighten_bar_pass_standards_for_law_schools.

racial and ethnic groups for the ABA will be compiled. Following, the statistics will be compared with the subsequent attempts and merged with racial statistics to evaluate success rates opposed to the ABA's published success rate of universities that are based solely on first time attempts.

The methodology of this research proposal will be to compress quantitative data from the socioeconomic statuses of top ranked law school students. This information is located on the diversity statistics website of law schools. Furthermore, I will compile data on the pass rates of first, second, and third time takers of different racial and ethnic groups for the ABA. I will compare the statistics of subsequent attempts and merge the data with racial statistics to evaluate success rates opposed to the ABA's published success rate of universities that are based solely on first time attempt.

Score Gap vs. Achievement Gap

Growing controversy and conversation over Affirmative Action raises the question of how accurately do standardized tests for higher education measure knowledge and are there other variables that play significant roles in test scores? The Boalt Hall study designed and executed by William C. Kidder attempted to quantify these variables and provide empirical evidence for the existing test score gap. The study conducted at the University of California at Berkeley campus studies fifteen top-tier law schools, including Columbia, University of California-Berkeley, Duke, University of California-Los Angeles, Georgetown, Stanford, Dartmouth, Harvard, Northwestern, Yale, University of Texas-Austin, Cornell, University of Michigan-Ann Arbor, Brown, and Princeton⁵. In this study Kidder matched a graduate that identified as

⁵ Randall, Vernilla. "LSAT Magnifies Differences in Education Attainment." The Law School Report. February 4, 2006. Accessed August 21, 2017. <http://academic.udayton.edu/thewhitestlawschools/2005twls/chapter2/Legaled08.htm>.

Caucasian to a pre-law graduate that identified as African American, Hispanic/Latino, Asian American, or Native American. The students were matched on a few criteria. Both members in each pair that were matched had to attend the same undergraduate university, have the same major, and have the same GPA plus or minus one-tenth of a point. 1,366 minority students were surveyed, and all of the participants were seeking admission to Boalt Hall Law School at the University of California at Berkeley.

The goal of the Boalt hall study was to gather data on whether or not minorities systematically score lower on the LSAT. This study distinguished itself through the matching process. By matching a Caucasian student to an African American, Hispanic/Latino, Asian American, or Native American based on the strict criteria, it significantly reduced uncontrolled variables. It was controlled because each student in the pair attended the same undergraduate university or college, had the same GPA to the nearest tenth of a point, and pursued the same major⁶.

The results of the study show a significant score gap mean between the total white applicants and respectively paired African American, Hispanic/Latino, Asian American, or Native American applicants surveyed. 407 Hispanics and Latinos were surveyed, and on average they had a 6.8 LSAT score score gap. Thirty-three Native Americans were surveyed, and on average they had a 4.0 LSAT score score gap. 1043 Asian Americans were surveyed, and on average they had a 2.5 LSAT score score gap. The score discrepancy, which can seem like only a

⁶ "LSAT Results Undermine Undergraduate Achievement for Minority Law School Applicants." LSAT Results Undermine Undergraduate Achievement for Minority Law School Applicants | FairTest. January 9, 2011. Accessed August 21, 2017. <https://www.fairtest.org/lSAT-results-undermine-undergraduate-achievement-minority-law-school-applicants>.

few points can greatly hurt a student during the admission process because the LSAT only has a sixty point range⁷.

The Boalt Hall Study brought light to the law school barriers that minorities were disproportionately affected by. The study brought empirical and tangible evidence on the existing score gap. This evidence paved the way for further research including grounds for Affirmative Action and the evaluation of what significant variables may be causing the score gap. One area of further research also includes looking into what extent the LSAT score is a good measure of success rate in law school and on the BAR exam.

Financial Barriers

At America's top twenty ranked law schools, there is little socioeconomic diversity. A study conducted by University of California in Los Angeles Law School has found that at America's top twenty law schools, seventy-five percent of the students are in the top twenty-five percent of financial brackets, and over fifty percent are in the top ten percent financial bracket⁸. Nation-wide socioeconomic diversity among law schools is remarkably low. The Boalt Hall study revealed that there was a substantial LSAT score gap between underrepresented minorities and their Caucasian counterparts. The link between the two is that underrepresented minorities disproportionately fall in the lower income brackets when compared to their Caucasian

⁷ Kamath, Vasant M. "Report Shows LSAT Score Gap | News." The Harvard Crimson. October 2, 1998. Accessed August 21, 2017. <http://www.thecrimson.com/article/1998/10/2/report-shows-lsat-score-gap-pa/>.

⁸ Weiss, Debra Cassens. "Study Finds 'Lopsided' Concentration of Socioeconomic Elites at Law Schools." ABA Journal. October 2011. Accessed August 05, 2017. http://www.abajournal.com/news/article/study_finds_lopsided_concentration_of_socioeconomic_elites_at_law_schools.

counterparts. Since the LSAT is the highest weighing component for admission at the vast majority of accredited law schools, it is often described as a financial barrier to entrance⁹.

Preparing for LSAT is costly. Students take a wide range of approaches to prepare for the exam, but the most common methods are highlighted. These include breakdowns of prep books, tutors, time off from work, and the exam fees. More disposable income allows a student to accumulate more of the resources, hence making it easier to prepare. The LSAT cost 180 dollars, plus the 121 dollar subscription fee many colleges require for application. On top of exam fees, preparation fees can go up to several thousands of dollars. Books are approximately one hundred each. Online courses are approximately 500. Classes can mark upwards of 800 dollars. The most costly preparation source is a private tutor which can cost a few thousand dollars¹⁰. With the high price of these recourses, students with lower income brackets would face more financial hardship when attempting to prepare for the test.

Subsequent Bar Attempts:

The LSAT is the highest weighing component admission officers consider when reviewing applications at the vast majority of law schools¹¹. The LSAT is stressed at law schools across the nation for several reasons, many of which could be argued systemically disadvantage underrepresented minorities. Nation-wide law schools are competing to be top ranking law schools. Two factors that play a significant role in rankings are incoming LSAT scores and

⁹ Kamath, Vasant M. "Report Shows LSAT Score Gap | News." The Harvard Crimson. October 2, 1998. Accessed August 21, 2017. <http://www.thecrimson.com/article/1998/10/2/report-shows-lsat-score-gap-pa/>.

¹⁰ "LSAT Prep Budget - How much to spend and where?" LSAT Test Prep Course Online - AlphaScore.com. March 04, 2011. Accessed August 31, 2017. <https://www.alphascore.com/posts/lSAT-prep-budget-how-much-to-spend-and-where/>.

¹¹"UMass Amherst Pre-Law Advising Office." Just how important is the LSAT? : LSAT (Law School Admission Test) : UMass Amherst Pre-Law Advising Office. April 6, 2017. Accessed August 24, 2017. http://prelaw.umass.edu/topics/LSAT_importance.

passage rate on the Bar exam¹². The main driving factor, however, is staying accredited. All law schools are required by the American Bar Association to maintain at least a seventy-five percent passage rate for students on the first attempt on the Bar exam¹³. Historically Black colleges and Universities across the country are at attack by the strict accreditation policies because they struggle for their students to pass the bar exam on the very first attempt, which is what is deemed successful in the American Board Association policies¹⁴. The LSAT is supposed to serve as a predictability measure for how well a student will perform in law school and respectively on the Bar Exam. Below is the breakdown of how a student is predicted to perform based on their original LSAT scores.¹⁵

¹² Morse, Robert, and Kenneth Hines. "Methodology: 2018 Best Law Schools Rankings." U.S. News. March 13, 2017. Accessed August 24, 2017. <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>.

¹³ Zaretsky, Staci. "ABA Cracks Down On Law Schools Admitting Students Who Can't Pass The Bar Exam." Above the Law. November 17, 2016. Accessed August 24, 2017. <http://abovethelaw.com/2016/11/aba-cracks-down-on-law-schools-admitting-students-who-cant-pass-the-bar-exam/>.

¹⁴ Tabo, Tamara. "What's More Racist? The Trouble With Low Bar Passage Rates At Historically Black Law Schools." Above the Law. August 8, 2106. Accessed August 24, 2017. <http://abovethelaw.com/2013/08/whats-more-racist-the-trouble-with-low-bar-passage-rates-at-historically-black-law-schools/>.

¹⁵ Merritt, Deborah J. "LSAT Scores and Eventual Bar Passage Rates." The Faculty Lounge. December 16, 2015. Accessed August 24, 2017. <http://www.thefacultyounge.org/2015/12/lSAT-scores-and-eventual-bar-passage-rates.html>.

LSAT Score & Avg. Bar Passage Rate

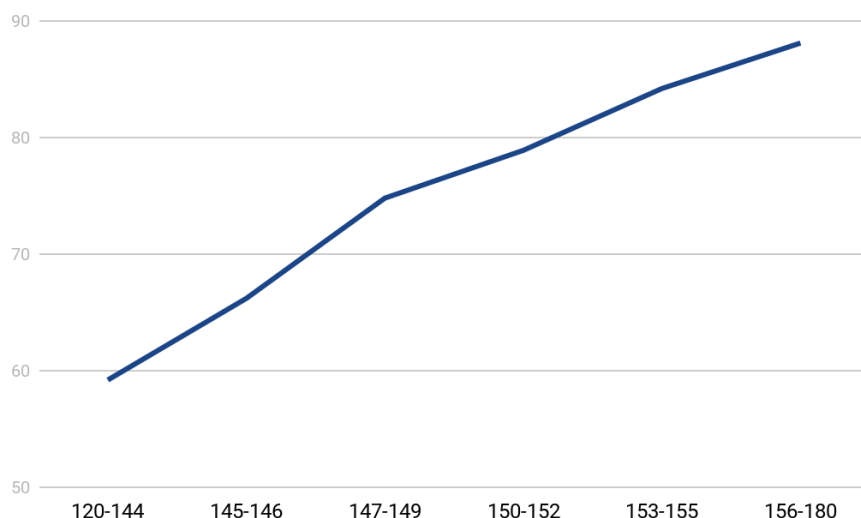


Chart Above: Shows the correlation found between LSAT scores and successful first attempt bar passage rates¹⁶.

Law school admissions are hesitant to accept lower LSAT scores because copious amounts of research shows that stronger LSAT scores yield stronger bar passage rates on first attempts. Since law school's accreditation depends on whether seventy-five percent of their graduating class successfully completes the bar exam, the willingness to accept lower scores puts their entire practice at risk¹⁷. Minorities disproportionately fall in the lower spectrum of LSAT scores despite identical GPAs compared to Caucasian students from the same undergraduate university. The reduced amount of minorities that are scoring high on the LSAT due to many factors such as financial burden of the test correlates to the low socioeconomic diversity in law school¹⁸.

¹⁶ LST. "Bar Exam Outcomes." LST | Bar Exam Outcomes. April 8, 2015. Accessed August 25, 2017. <https://www.lawschooltransparency.com/reform/projects/Bar-Outcomes/>.

¹⁷ Ho, Daniel E. "Affirmative Action's Affirmative Actions: A Reply to Sander." 114.8 Yale L.J. 2011, 2016 (2005)

¹⁸ amath, Vasant M. "Report Shows LSAT Score Gap | News." The Harvard Crimson. October 2, 1998. Accessed August 21, 2017. <http://www.thecrimson.com/article/1998/10/2/report-shows-lsat-score-gap-pa/>.

Law schools across the nation have strict affirmative action lenience due to the fear of not meeting the American Bar Association accreditation policies, which result in a warning period and then a suspension¹⁹. The lack of diversity and strive to correct it raises the question of are minorities passing the bar exam despite LSAT scores predictability percentages that law schools are heavily relying on to determine admission?

By analyzing bar passage rates per ethnicity groups and score levels, data shows that underrepresented minorities are passing the Bar Exam. The complication is that these groups of students are less likely to pass in the first attempt. Similar to the financial impact of the LSAT, underrepresented minorities disproportionately fall in the lower income brackets. Preparing for the Bar Exam is often considered a full time job, and one of the top reasons students successfully pass is heavily based on whether or not they can find a way to afford not holding a job while preparing for the exam. The financial privilege is high which could also include more expenses that add to success on the exam such as private tutors and courses²⁰. For many people in lower socioeconomic statuses, affording the privilege of taking off work is rare and challenging.

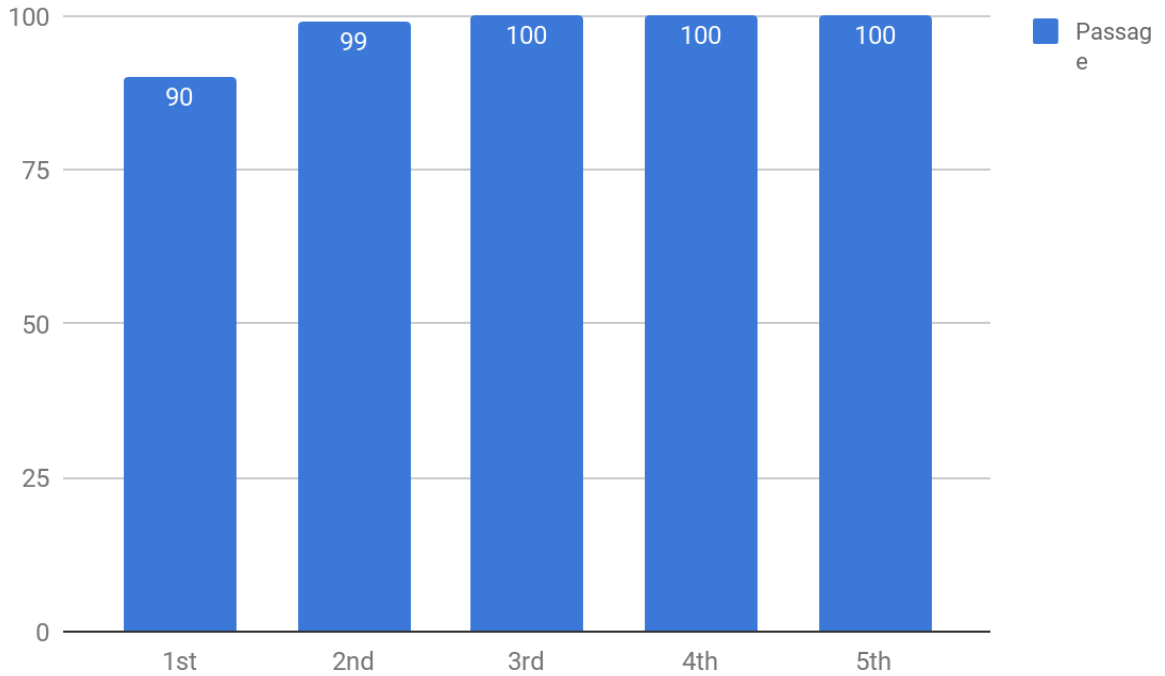
Trends in data from the Bar exam show a breakdown of success rates. While the LSAT is a fairly accurate measure of how well a student will do on the Bar Exam on the first attempt. It is not found to be a successful measure for overall passage after subsequent attempts. The chart below shows the steep and increasing percentage of success rate based on LSAT predictability

¹⁹ "Advertisement." Standards | Section of Legal Education and Admissions to the Bar. Accessed August 28, 2017. https://www.americanbar.org/groups/legal_education/resources/standards.html.

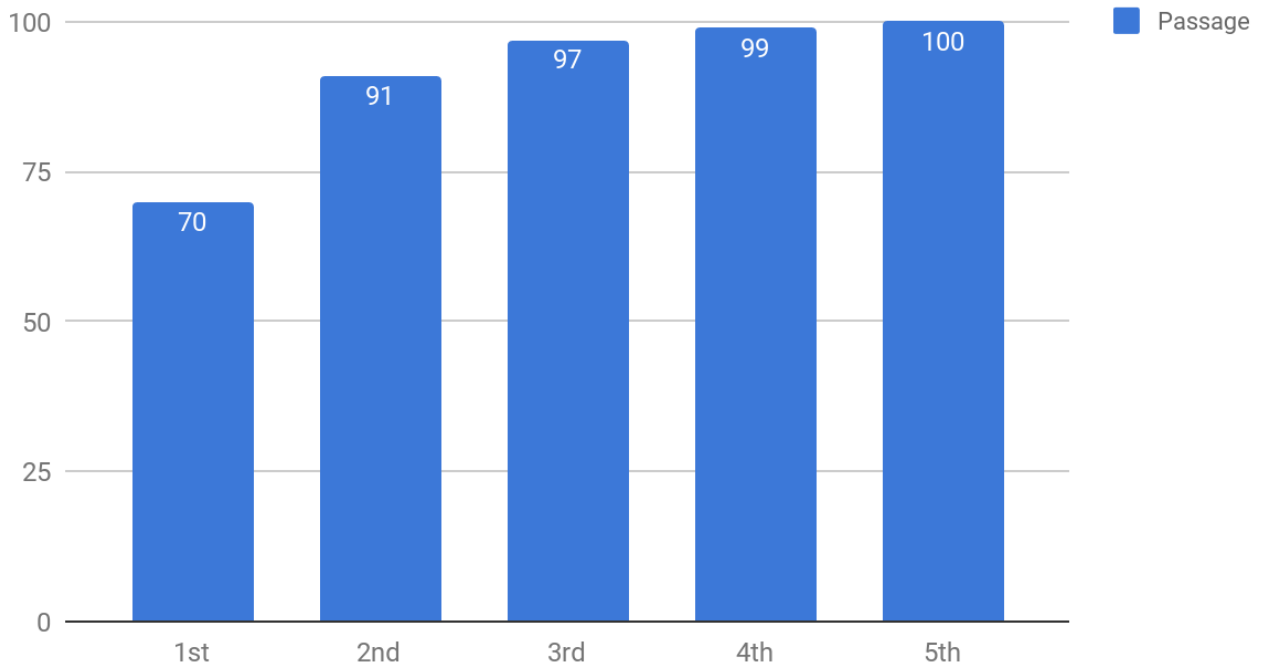
²⁰ Choi, Sunny. "The Not-So-Lost Art of Part Time Bar Study." Above the Law. December 3, 2013. Accessed August 28, 2017. <http://abovethelaw.com/career-files/the-not-so-lost-art-of-part-time-bar-study/?rf=1>.

measure and subsequent attempts.

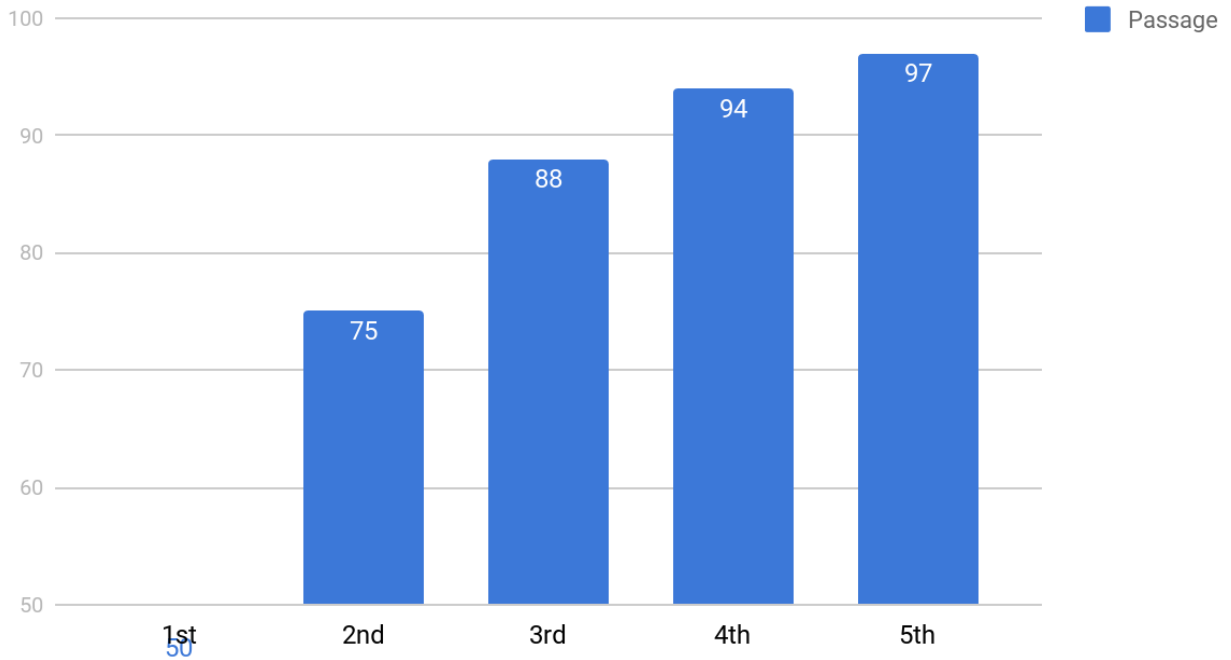
90 Percent Predicted Passage



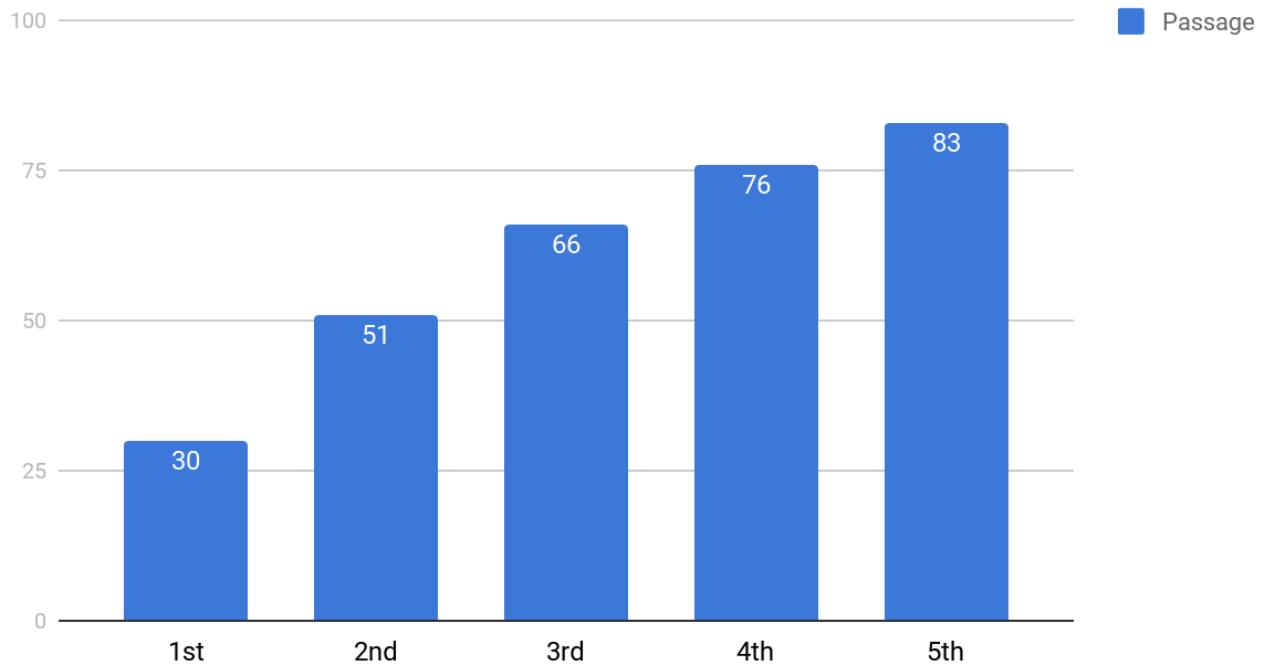
70 Percent Predicted Passage



50 Percent Predicted Passage



30 Percent Predicted Passage



Charts above: Display passage rate per attempt in categories of original first time passage rate estimate from LSAT predictable percentage²¹

The data above collected from ABA published numbers has shown that applicants that take multiple attempts on the bar exam have significantly increasing chances of improving and eventually passing despite original first time attempt LSAT predicted percentages.

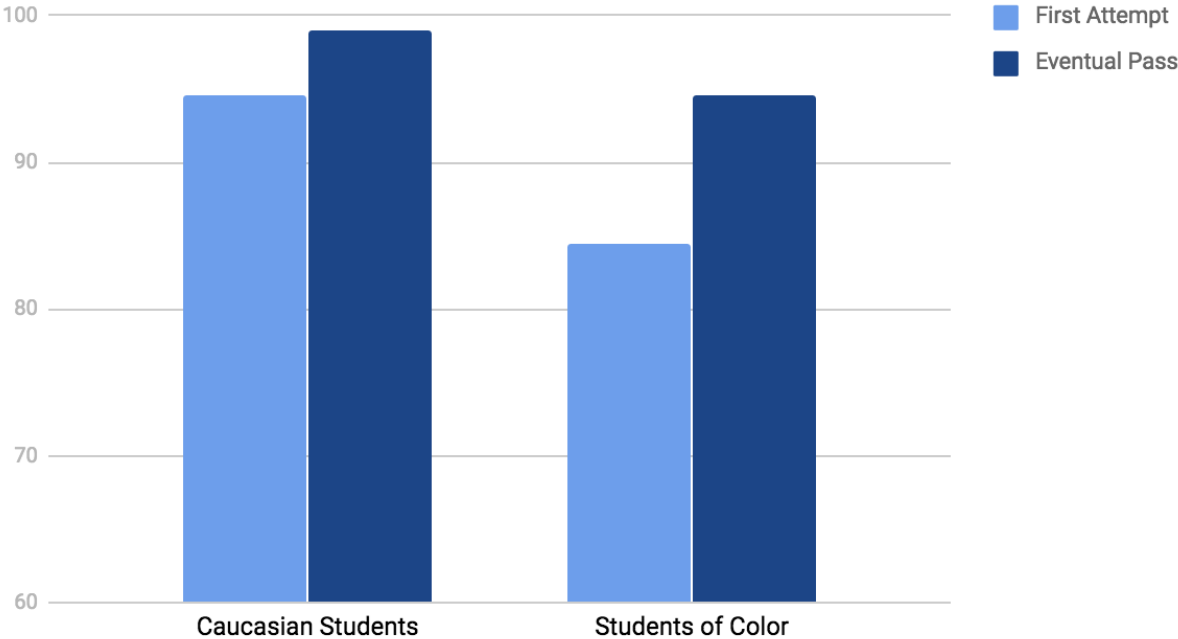
Using the LSAT as a measure of whether or not a student would pass the Bar exam and contribute to the maintenance of a university's accreditation is valid for first time attempts, but the students with lower LSAT scores are seen to be passing the bar, just not as frequently in the first time attempt ABA measures as successful.

This data raises the question of is the ABA considering first time attempts as their success rate for law school accreditation disproportionately affecting certain groups more than others²²?

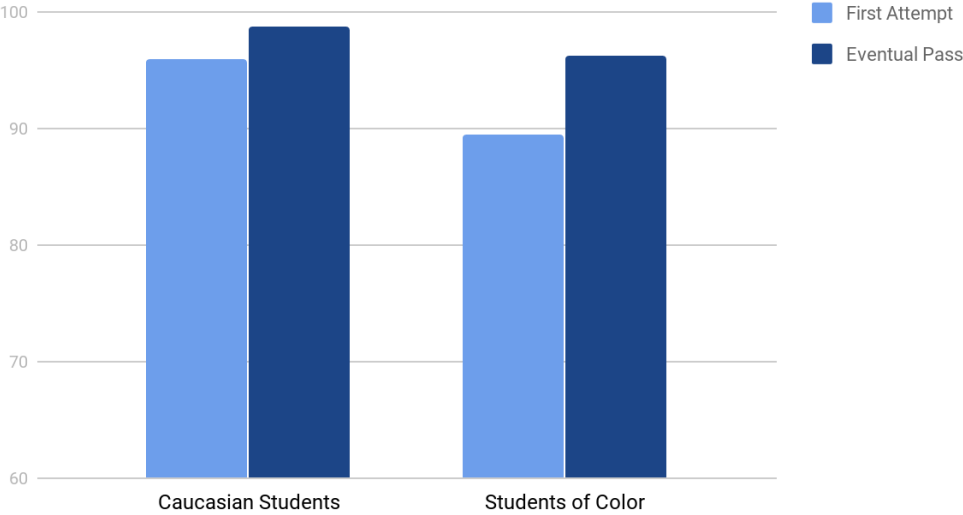
²¹ Leiter, Brian. "Failed the Bar Exam?" Brian Leiter's Law School Reports. November 3, 2015. Accessed August 28, 2017. <http://leiterlawschool.typepad.com/leiter/2015/11/failed-the-bar-exam-try-again-michael-simkovic.html>.

²² Morch, Aron, Michael Kane, and Douglas Ripkey. "Impact of the Increase in the Passing Score on the New York Bar Examination: February 2006 Bar Administration." New York Report. June 19, 2017. Accessed July 28, 2017.

2004 First Time Bar Attempt & Eventual Pass Rates



2005 First Time Bar Attempt & Eventual Pass Rates



Charts Above: demonstrate the variance in passing the bar exam per category and attempt number²³

The data from the University of Michigan's law school on students success rates based on multiple vs. single attempts shows that minorities are passing the bar exam less frequently on their first time attempt. However, the marginal difference between overall attempts significantly reduces.

Conclusion:

The LSAT does systemically disadvantages minorities from obtaining higher education. This is due to the fact that students that are more financially stable can obtain The LSAT also systemically disadvantages underrepresented minorities because admissions place such a heavy weight on the use the score to determine ability to pass the bar. However, the ABA considers only first time takers in their success rates. When the data of second, third, or fourth time test attempts are compressed, the percentage of minorities that succeed on the bar exam are significantly increased.

This means there could be a more socio economic diverse field of successful lawyers if the LSAT wasn't used as the primary instrument for consideration by law school admission officers. Law schools have slowly been making more policies to negate these effects as more research and evidence increases. Harvard Law school, for example, no longer requires LSAT scores to apply to the law school. They also accept the Graduate Record Examination, GRE.

²³ Lempert, Richard O. "University of Michigan Bar Passage 2004-2006: A Failure to Replicate Professor Sander 's Results, With Implications for Affirmative Action." Law and Economics. July 23, 2012. Accessed August 20, 2017.
http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1161&context=law_econ_current.

Other law schools may follow by example in the years to come as research continues to strengthen²⁴.

²⁴ Svrluga, Susan. "Harvard Law School will no longer require the LSAT for admission." The Washington Post. March 09, 2017. Accessed September 04, 2017. https://www.washingtonpost.com/news/grade-point/wp/2017/03/08/harvard-law-school-will-no-longer-require-the-lsat-for-admission/?utm_term=.85b5a55d6ae6.

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