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Don't Hire Me as a Token: Best Practices for Recruiting and Supporting Externs from Historically Marginalized Backgrounds

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**DON'T HIRE ME AS A TOKEN:
BEST PRACTICES FOR RECRUITING AND SUPPORTING EXTERNS FROM
HISTORICALLY MARGINALIZED BACKGROUNDS**

Alexi Freeman*

I. INTRODUCTION	359
II. THE STATUS OF EXTERNSHIPS AND DIVERSITY-BASED RECRUITMENT PROGRAMS	362
III. SUMMARY OF THE LAW SCHOOL EXPERIENCE FOR STUDENTS FROM HISTORICALLY MARGINALIZED BACKGROUNDS	366
A. <i>Students of Color</i>	366
B. <i>Students Who Identify as LGBTQ+</i>	373
C. <i>Students with Disabilities</i>	375
IV. PRINCIPLES FOR WORKING WITH STUDENTS FROM HISTORICALLY MARGINALIZED BACKGROUNDS	376
A. <i>Pre-Recruitment</i>	377
1. <i>Work Toward Cultural Proficiency</i>	377
2. <i>Ensure Committed and Supportive Upper-Level Management</i>	378
3. <i>Recognize That Diversity Statistics Are Just the First Step</i> ...	378
4. <i>Find Ways to Incentivize Attorney and Staff Engagement on Diversity, Equity, and Inclusion Efforts</i>	379
5. <i>Confirm the Accessibility of Materials</i>	379
B. <i>During Recruitment and Hiring</i>	379
1. <i>Provide Clear Information on Application Procedures to Ensure Accessibility and Broad Reach</i>	379
2. <i>Use Authentic Images and Inclusive Language on Promotional Materials</i>	380
3. <i>Have a Clear Statement on the Purposes Behind the Organization's Diversity Statement; Diversity Recruitment Plan; and Values of Diversity, Equity, and Inclusion</i>	381

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4.	<i>Be Open About Diversity Recruitment, Retention, and Philosophy</i>	381
5.	<i>Be Proactive About Discussing the Value of Perspective of Law Students and Lawyers from Marginalized Backgrounds Generally and with Office Culture and Work in Particular</i>	381
6.	<i>Recognize That Actively Recruiting Students from Marginalized Backgrounds Can Have Detrimental Effects on Students' Engagement with Peers and Take Steps to Minimize Such Effects</i>	382
7.	<i>If Pay Is a Viable Option for an Organization, Proactively Suggest Students Receive Credit and Pay Simultaneously</i>	382
8.	<i>Understand Disability Accommodation Requirements if Working with a Student for Credit</i>	383
9.	<i>Commit to a Holistic Review of Applicants</i>	383
10.	<i>Be Supportive of Candidates' Experience and Possible Interest in Activism</i>	384
11.	<i>Consider the Recruitment Schedule and Interview Locations for Accessibility</i>	384
12.	<i>Do Not Be Afraid of a Candidate that May Need Accommodations</i>	384
13.	<i>Create an Intentional Interviewing Process</i>	385
14.	<i>Ensure All Individuals Participating on Recruiting and Interviewing Teams Fully Understand the Organization's Interest and Experience in Working with Marginalized Students</i>	385
C.	<i>During the Position</i>	386
1.	<i>Build Connections with Similarly Situated Organizations</i>	386
2.	<i>Identify Mentors or Establish a Buddy System</i>	386
3.	<i>Avoid "Flaunting" the "Diverse Extern"</i>	386
4.	<i>Be Mindful of News in the Legal Profession and Society More Broadly That Might Particularly Affect Students from Historically Marginalized Communities</i>	387
5.	<i>Ensure Equity in Assignments</i>	387
6.	<i>Provide Individuals with Equal Access As Much As Possible, Being Mindful of Internal Power Dynamics and Unwritten Rules</i>	388
7.	<i>Ensure Equity in Knowledge As Much As Possible</i>	388
8.	<i>Promote Culturally Conscious Community Building, Networking, and Social Events</i>	389

2020]	DON'T HIRE ME AS A TOKEN	359
9.	<i>Be Mindful of Different Learning Styles and Take Steps to Learn About Students' Learning Preferences, Abilities, and Strengths</i>	389
10.	<i>Demystify the Post-Graduate Job Search Process and Do So Early to Give Students a Genuine Opportunity for Employment</i>	390
11.	<i>Set Up an Ongoing, Two-Way Street for Formal Feedback and Evaluation Measures</i>	390
V.	CONCLUSION.....	391

I. INTRODUCTION

Diverse students strongly encouraged to apply. Seeking diverse perspectives. This program is only for students who identify as racial or gender minorities. Interested in a diverse applicant pool. Committed to recruiting students from historically marginalized groups.

If you were to take a quick perusal of advertisements seeking law student externs, summer associates, or semester law clerks, you would likely see similar phrases clearly targeting students of color and students who identify as LBGTQ+ for such positions. A lack of racial, ethnic, and sexual orientation diversity is nothing new for legal education or for the legal profession more broadly. But even before the amplified attention to racial inequities during the summer of 2020, there was heightened interest in recruiting individuals who

identify as part of historically marginalized groups¹ for student positions.² At the same time, law schools are responding to this call for a greater emphasis on practical learning³—making efforts to integrate, promote, and expose students to the day-to-day realities of the art of lawyering.⁴

The challenge is that while legal offices actively recruit students from historically marginalized populations, perhaps with some exceptions, their efforts and programs often do not appear to be directly (or even indirectly) connected to law schools' experiential education models.⁵ In fact, there does

1. Cf. Joachim von Braun & Franz W. Gatzweiler, *Marginality—An Overview and Implications for Policy*, in MARGINALITY: ADDRESSING THE NEXUS OF POVERTY, EXCLUSION AND ECOLOGY 1, 3 (Joachim von Braun & Franz W. Gatzweiler eds., 2014) (defining “marginality” as “an involuntary position and condition of an individual or group at the margins of social, political, economic, ecological, and biophysical systems, that prevent them from access to resources, assets, services, restraining freedom of choice, preventing the development of capabilities, and eventually causing extreme poverty”); Aaron N. Taylor, *The Marginalization of Black Aspiring Lawyers*, 13 FIU L. REV. 489, 492–93 (2019). Professor Aaron Taylor describes, in depth, the definition of marginalization, which is aligned with how this Article defines it broadly:

The Oxford dictionary defines *marginal* as “[r]elating to or situated at the edge or margin of something.” Therefore, *marginal* is a relative construct denoting deviation or distance from some notion of normality, center, or power. Building on this basic conception, *marginality* has been conceived as a “complex condition of disadvantage;” “the temporary state of having been put aside;” and “an involuntary position and condition” of existing at the margins. *Marginalization* has been defined as “a process of becoming peripheral,” representing the “convergence of political, cultural, economic and environmental problems.”

Id.

2. See, e.g., Allison E. Laffey & Allison Ng, *Diversity and Inclusion in the Law: Challenges and Initiatives*, AM. BAR ASS'N (May 2, 2018), <https://www.americanbar.org/group/s/litigation/committees/jiop/articles/2018/diversity-and-inclusion-in-the-law-challenges-and-initiatives/> [<https://perma.cc/AZW2-4357>] (noting the “increased emphasis on diversity and inclusion within the legal field over the past decade”); see also *12 Months of Diversity & Inclusion Opportunities*, LEADERSHIP COUNCIL ON LEGAL DIVERSITY, <https://www.lclldnet.org/12-months-of-diversity-opportunities/> [<https://perma.cc/7YH6-2PQD>] (listing diversity scholarships, clerkships, mentorships, internships, conventions, and job fairs available to law students); *Member Diversity Fellowships & Scholarships*, NALP, <https://www.nalp.org/memberdiversityinitiatives> [<https://perma.cc/KH9C-YC6A>] (listing fellowship and scholarship opportunities available to law students from diverse backgrounds).

3. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 87–88, 93 (2007). In 2007, the Carnegie Foundation for the Advancement of Education published *Educating Lawyers: Preparation for the Profession of Law*. See generally *id.* It discussed the gap that exists between thinking like a lawyer and being able to act like a lawyer, recommending a greater focus on learning practical skills and developing students' sense of professional identity. See *id.* at 87, 124–25.

4. *Id.* at 88–89.

5. See, e.g., *Member Diversity Fellowships & Scholarships*, *supra* note 2 (listing legal offices that actively recruit marginalized populations); Nicholas Gaffney, *Big Law's Relentless Diversity Problem—What Firms Need to Do Now*, LAW PRAC. TODAY (Dec. 14, 2017),

not appear to be scholarship, research, or best practices externally published that discuss how to best support the historically marginalized law student during a diversity-based clerkship program or during any other fieldwork, internship, or externship.⁶ This is in spite of the challenges, bias, and discrimination that such students will inevitably face when they join the profession.⁷ It is also in spite of extensive research documenting that minority students' law school experience is distinct from majority students' and that such a distinction is, oftentimes, highly problematic and traumatic.⁸ These problematic and traumatic experiences do not simply disappear when minority students leave the confines of the law school building; students will carry those experiences into legal offices.⁹ And, depending on what occurs in that new legal setting, the impact of those experiences can be exacerbated or

<https://www.lawpracticetoday.org/article/big-laws-relentless-diversity-problem-firms-need-now/> [https://perma.cc/6M2J-Q8NR] (recommending that law firms expand recruitment efforts to include regional career fairs, more law schools, and schools outside the local geographical area); AM. BAR ASS'N, DIVERSITY IN THE LEGAL PROFESSION: THE NEXT STEPS, 30 (Cie Armstead ed., 2010) (recommending law firms partner with law schools to implement "third-year residencies" for law students and begin sponsoring and participating in externship and scholarship programs).

6. Of course, various programs at law schools and sites may have their own standards and internal guidelines, and lessons learned may be shared among similarly situated placements.

7. See JOAN C. WILLIAMS ET AL., YOU CAN'T CHANGE WHAT YOU CAN'T SEE: INTERRUPTING RACIAL & GENDER BIAS IN THE LEGAL PROFESSION 3, 7–8 (2018), <https://www.mcca.com/wp-content/uploads/2018/09/You-Cant-Change-What-You-Cant-See-Executive-Summary.pdf> [https://perma.cc/J2WG-SYX9]. Among other reports, this study documented a number of biases, divided into four main categories: (1) "Prove-It-Again" describes how "[w]omen of color, white women, and men of color reported that they have to go 'above and beyond' to get the same recognition and respect as their colleagues." (2) "Tightrope" describes how "[w]omen of all races reported pressure to behave in feminine ways, including backlash for masculine behaviors and higher loads of non-career-enhancing 'office housework.'" (3) "Maternal Wall" describes how "[w]omen of all races reported that they were treated worse after they had children; that is, they were passed over for promotions, given 'mommy track' low-quality assignments, demoted or paid less, and/or unfairly disadvantaged for working part-time or with a flexible schedule. Women also observed a double standard between male and female parents." (4) "Tug of War represents the conflict between members of disadvantaged groups that may result from bias in the environment." *Id.* at 3, 7–8. The report also shared that gender and racial bias were reported in all seven basic workplace processes: hiring, performance evaluations, mentorship, high-quality assignments, networking opportunities, compensation, and promotion. *Id.* at 8.

8. See, e.g., Taylor, *supra* note 1, at 508–09 (discussing "how law schools can be isolating and marginalizing environments for Black law students and others from underrepresented backgrounds.").

9. See *id.* at 511 (describing the "endur[ing] marginaliz[ation]" of "Black people who aspire to be lawyers"); cf. WILLIAMS ET AL., *supra* note 7, at 7–8 (examining how gender and racial bias affects workplace experiences in the legal profession).

deflated.¹⁰ Law firms earnestly trying to recruit students from historically marginalized groups must be informed about those students' experiences in law school and work to create learning spaces that support them.

In fact, all organizations should undergo thoughtful and intentional internal reviews, even if they have received feedback that their organization is a "good place" for a student from a historically marginalized group to extern. And, while this might be obvious, internal reviews are not a one-size-fits-all approach. An organization may have a supportive, inclusive environment for a student of color but may not be as supportive for students who identify as LGBTQ+, for example. Inclusivity needs to be an ongoing effort. Even if organizations see themselves as inclusive, there are steps almost every organization can take to create a stronger sense of belonging.

This Article aims to offer a set of best practices for supporting law students from historically marginalized backgrounds in internship, externship, and associate programs. Part I presents some brief context for the current state of legal externships, identifies a key potential partner with such programs, and outlines diversity-based recruitment initiatives. Part II provides a snapshot of the existing research documenting experiences that students of color and students who identify as LGBTQ+ have in law school. This Part also discusses the experiences of students with disabilities as some diversity recruitment programs include this population as well. Finally, Part III offers a series of steps—some short-term and some long-term—that legal offices should take to best support these students at three different stages: (1) pre-recruitment, during recruitment and hiring, and (3) during the position. Amidst a pandemic and a lack of attention to racial inequities, it is imperative that offices look inward to act more intentionally in their support of students.

II. THE STATUS OF EXTERNSHIPS AND DIVERSITY-BASED RECRUITMENT PROGRAMS

Law schools have embraced the call for a greater emphasis on practical learning.¹¹ In particular, externship enrollment has grown across the country.¹² Externships are defined as:

10. Cf. Brian Owsley, *Black Ivy: An African-American Perspective on Law School*, 28 COLUM. HUM. RTS. L. REV. 501, 541 (1997) (describing how asking about firms' minority recruitment policies during interviews created tension with interviewers).

11. Stephen Ellmann et al., *Measuring the Values and Costs of Experiential Education, Report of the Working Group on Cost and Sustainability*, 7 ELON L. REV. 23, 25 (2015) ("In the past forty years, legal education has greatly expanded its reach into teaching lawyering skills other than legal analysis and issue-spotting.").

12. James H. Backman & Cory S. Clements, *Significant but Unheralded Growth of Large Externship Programs*, 28 BYU J. PUB. L. 145, 150, 186 (2013); see ROBERT R. KUEHN & DAVID

[A] collection of courses within a school's clinical legal education program that provide[] students with the opportunity to integrate academic inquiry with work experiences in the law for academic credit. Students are immersed in legal practice settings external to the law school, and supervision of students is shared by faculty and field supervisors. The field supervisors, "not employed by the law school," have ultimate responsibility for the client or legal matter. They also provide direct feedback and guidance to the students, while faculty have overall responsibility for assuring the educational value of the learning in the field and the academic inquiry at the law school.¹³

To put it simply, in many ways, an externship is the modern iteration of the apprenticeship: an opportunity to learn how to be an attorney by working under the supervision of a practicing attorney.

In a study conducted by the National Association for Law Placement (NALP), 36.2% of responding associates reported they had taken part in an externship during law school.¹⁴ Further, in that same survey—designed to explore the "usefulness" of different types of law courses—legal clinics and externships were ranked most useful among participants.¹⁵ More recent data shows even greater growth.¹⁶ For example, the median range of students participating in a field placement course before graduation in a 2016–2017 survey was 51%–55%, up from 31%–35% in 2010–2011.¹⁷ Specifically, at the University of Denver's Sturm College of Law, 91% of class of 2018 graduates completed at least one externship, with many completing more than one.¹⁸ Additionally, "almost 58% of schools now allow students to extern full time during a fall or spring academic term."¹⁹ Ten percent of schools permit

A. SANTACROCE, CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., THE 2016–17 SURVEY OF APPLIED LEGAL EDUCATION 11–12 (2017), https://uploads-ssl.webflow.com/5d8cde48c96867b8ea8c6720/5da859d8ad42af693e72957d_Report_on_2016-17_CSALE_Survey.pdf [<https://perma.cc/E5R5-UNKR>] (showing how enrollment in experiential learning has grown).

13. Cynthia Adcock et al., *A Glossary for Experiential Education in Law Schools*, 7 ELON L. REV. 12, 18 (2015).

14. NAT'L ASS'N FOR L. PLACEMENT, 2010 SURVEY OF LAW SCHOOL EXPERIENTIAL LEARNING OPPORTUNITIES AND BENEFITS 6, 13 (2010), <https://www.nalp.org/uploads/2010ExperientialLearningStudy.pdf> [<https://perma.cc/UV86-EK3J>].

15. *Id.* at 26.

16. See KUEHN & SANTACROCE, *supra* note 12, at 11–12 (updating data on law clinic and field placement course participation).

17. *Id.* at 12.

18. See *Externships*, STURM COLL. OF L., <https://www.law.du.edu/academics/practical-experience/externships> [<https://perma.cc/H4HY-UVJZ>].

19. KUEHN & SANTACROCE, *supra* note 12, at 14.

compensation and credit simultaneously, including at Denver Law, and “another 10% allow[] compensation but with certain limiting conditions.”²⁰

To be clear, students can definitely take part in legal work experiences outside of law school without earning academic credit. However, students may prefer to earn credit for their work, especially if unpaid. Students may also seek the advisement of externship faculty and staff when seeking out any legal work experience, regardless of credit.

While externship growth is clear, the majority of law schools still restrict externships to private law firms (85%) and for-profit entities (50%).²¹ These statistics are significant for many reasons, one of which is that many diversity-based recruiting programs are housed in the private sector.²²

For purposes of this Article, “diversity-based recruiting programs” are programs that specifically recruit students from historically marginalized backgrounds²³—typically students of color, students who identify as LGBTQ+,²⁴ and sometimes students with disabilities—for clearly defined work opportunities and that oftentimes, but not always, compensate those students in an effort to expand access to opportunity and diversify legal offices and the profession.²⁵ Sometimes, offices employ distinct standards just for these programs.²⁶ Many times, these are programs in which students will work at one office for a summer associate position or semester-based externship or internship; however, programs that offer a creative element, such as allowing

20. *Id.* at 15; *Externships*, *supra* note 18 (stating that students at the Sturm College of Law are permitted to receive both pay and credit simultaneously).

21. KUEHN & SANTACROCE, *supra* note 12, at 15.

22. See, e.g., *Multiple Opportunities & Varying Deadlines*, postings from *12 Months of Diversity & Inclusion Opportunities*, LCLD, <https://www.lclldnet.org/12-months-of-diversity-opportunities/multiple/> [<https://perma.cc/N7B3-VPYG>] (showing that opportunities in the private sector are more numerous than those in other legal sectors).

23. Some programs may also include other populations such as veterans, students from low-income backgrounds, and first-generation law students, among others.

24. LGBTQ+ stands for lesbian, gay, bisexual, transgender, and queer-identifying; the plus represents that the description is all-inclusive. THE NAT’L LGBT BAR ASS’N & FOUND., LGBTQ+ BEST PRACTICES FOR LAW SCHOOLS: A GUIDE TO INSTITUTIONAL EQUITY 2 (Apr. 2019), <https://lgbtbar.org/wp-content/uploads/sites/6/sites/8/2019/04/Law-School-Campus-Climate-Toolkit-April-2019.pdf> [<https://perma.cc/4GR3-JNA3>].

25. See, e.g., *Member Diversity Fellowships & Scholarships*, *supra* note 2 (demonstrating that law firms offer compensation for diversity programs).

26. For example, a GPA requirement may be lowered (or nonexistent). *Cf.* Jonathan P. Feingold & Doug Souza, *Measuring the Racial Unevenness of Law School*, 15 BERKELEY J. AFR.-AM. L. & POL’Y 71, 72 (2013) (discussing how looking to GPA is not enough in law firm hiring decisions); AM. BAR ASS’N, *supra* note 5, at 43 (arguing for consideration of more than GPA in firm hiring decisions); Roy Maurer, *GPA Minimums May Be Spoiling Your Diversity Goals*, SHRM (June 24, 2020), <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/gpa-minimums-may-be-spoiling-diversity-goals.aspx> [<https://perma.cc/R8K-R-MFDJ>] (discussing how some companies have dropped GPA requirements in the college recruiting context).

a student to work with a corporation and its outside counsel,²⁷ also exist—perhaps in response, at least in part, to efforts by general counsels demanding more diverse representation.²⁸

The Minority Corporate Counsel Association (MCCA), whose mission is to advance the “hiring, retention and promotion of diverse lawyers in law departments and law firms by providing research, best practices, professional development and training[] and through [offering] pipeline initiatives,”²⁹ shares information on its website of almost thirty private sector diversity-based recruiting programs, most of which are summer opportunities for 1Ls and 2Ls.³⁰ The NALP, whose members namely include law school career staff and professional development staff in the private sector, recently hosted a webinar discussing the value of diversity fellowship programs.³¹

While the American Bar Association (ABA) and the MCAA recently published a report and corresponding set of toolkits to address the bias that occurs in multiple phases of a lawyer’s career,³² this is the extent of practical research that touches upon both the biases law students may encounter in the workplace and the tools needed to face these biases.³³ Legal scholarship has not addressed this topic either, perhaps because many scholars see these diversity-based recruitment programs as being limited to summer, as solely offering pay (which may mean no credit), or as solely being within the private sector. However, a greater number of law schools now allow pay and credit

27. See *How Diversity & Inclusion Collaboration Deepens Relationships Between Law Firms and Clients*, LEGAL EXEC. INST. (Aug. 15, 2019), <http://www.legalexecutiveinstitute.com/diversity-inclusion-collaboration/> [https://perma.cc/6GKS-XMHR].

28. See Christine Simmons, *170 GCs Pen Open Letter to Law Firms: Improve on Diversity or Lose Our Business*, AM. LAW. (Jan. 27, 2019), <https://www.law.com/americanlawyer/2019/01/27/170-gcs-pen-open-letter-to-law-firms-improve-on-diversity-or-lose-our-business/> [https://perma.cc/L683-EZAC].

29. *About MCCA*, MCCA, <https://www.mcca.com/about/> [https://perma.cc/6PVC-XQJT].

30. *Diversity Scholarships, Fellowships and Internships*, MCCA, <https://www.mcca.com/pipeline/scholarship-program/related-scholarship-links/> [https://perma.cc/3DFG-J39C].

31. *Diversity Fellowships—Why They Work and How to Utilize Them*, NALP (Dec. 10, 2019, 2:00 PM), <https://www.nalp.org/webinars> [https://perma.cc/X8TU-KK5E].

32. See WILLIAMS ET AL., *supra* note 7, at 3.

33. Of course, various programs at law schools and placement sites may have their own standards and internal guidelines, and lessons learned may be shared among similarly situated placements.

simultaneously.³⁴ Students in both the public and private sector may choose to receive credit for summer work, whether paid or unpaid.³⁵

III. SUMMARY OF THE LAW SCHOOL EXPERIENCE FOR STUDENTS FROM HISTORICALLY MARGINALIZED BACKGROUNDS

To best understand how to make externships and associate programs more responsive to the needs of students from diverse backgrounds, it is necessary to examine the situations these students face in the law school setting.

A. *Students of Color*

In almost every law school in the country, the majority of the student body is comprised of students who identify as white.³⁶ Specifically, studies have shown the racial distribution amongst law students to be “9% Black/African American, 5% Latinx, 9% Asian Pacific Islander (API), 2% Multiracial, 73% White, and 2% Other[.]”³⁷ Unfortunately, these statistics build on the historical lack of racial diversity in law schools.³⁸

“[T]he admission rates of Native Americans, African-Americans, and Hispanics [into law school] are consistently lower than for whites and Asian-

34. See KUEHN & SANTACROCE, *supra* note 12, at 15 (stating that since the ABA recently allowed students to receive both compensation and academic credit, 10% of schools permitted compensation and “another 10% allowed compensation with certain limiting conditions”); see also Karen Sloan, *ABA Approves Pay for Law Students For-Credit Externships*, LAW.COM (Aug. 8, 2016, 3:19 PM), <https://www.law.com/sites/almstaff/2016/08/08/aba-approves-pay-for-law-students-for-credit-externships/> [<https://perma.cc/NFK8-VYKA>].

35. See, e.g., *Summer Judicial Internship Diversity Project*, JUST THE BEGINNING, <https://jtb.org/summer-judicial-internship-diversity-project-for-law-students/> [<https://perma.cc/C5WE-E84Z>] (providing unpaid summer judicial internships for law students from communities underrepresented in the legal community); *Judicial Intern Opportunity Program*, AM. BAR ASS’N, <https://www.americanbar.org/groups/litigation/committees/jiop/program/> [<https://perma.cc/F6TU-BK4C>] (stating that the ABA’s Judicial Intern Opportunity Program, a full-time summer internship program open to law students from diverse backgrounds, provides interns with a \$2,000 award for their work during the summer). For example, at the University of Denver Sturm College of Law, over 200 students earn credit for externships during each summer. *Cf.* University of Denver Sturm College of Law, *DU Sturm College of Law Welcome Video June 2020*, YOUTUBE (July 7, 2020), https://www.youtube.com/watch?v=A7AZfkRZ7LM&feature=emb_logo [<https://perma.cc/4U9J-S5XW>].

36. See Meera E. Deo et al., *Struggles & Support: Diversity in U.S. Law Schools*, NAT’L BLACK L.J. 71, 78 (2009) (reporting the racial distribution of first-year students consulted in a 2004 survey).

37. *Id.*

38. See Cruz Reynoso & Cory Amron, *Diversity in Legal Education: A Broader View, A Deeper Commitment*, 52 J. LEGAL EDUC. 491, 492 (2002) (noting the “historical exclusion” of people of color from law schools).

Americans,” with such gaps growing since 1990.³⁹ While the percentage of students of color enrolled in law school grew from 1971 to 1995, data shows that the rate of increase is slowing.⁴⁰ In fact, the rate of enrollment for students of color increased by only 0.3% from 1995 to 2001.⁴¹ A study by Columbia Law professor Conrad Johnson shared similarly concerning data.⁴² Johnson’s study indicated that “[t]he number of African American and Mexican American students admitted to law schools has decreased in the last 15 years[.]” Specifically, the admission of African-American students has decreased by 7.5%, and the admission of Mexican-American students has decreased by 11.7%.⁴³ This is true even though 3,000 spots for first-year students were added, class sizes grew, the overall number of law schools grew, and applications from these populations were constant or slightly on the rise during this same time frame.⁴⁴ This is not surprising given the applicant admissions yield for students of color.⁴⁵ For example, “[i]n the 2016–17 admission cycle, it took about 1,960 Black applicants to yield 1,000 offers of admission, compared to only 1,204 among [w]hite applicants and 1,333 overall.”⁴⁶

Due at least in part to the lack of diversity in law schools, many students of color have described feeling alienated.⁴⁷ For example, qualitative data from a study at Boalt Hall demonstrates that many students of color “see themselves in an uphill fight to challenge the status quo.”⁴⁸ “Some believe that they must struggle not only against the professor’s unquestioned authority,” as discussed below, “but also against their [peers’] discomfort and anxiety in addressing racial issues” in the classroom.⁴⁹

Research also indicates that students of color endure daily microaggressions.⁵⁰ Microaggressions are defined as “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or

39. *Id.* at 493.

40. *Id.*

41. *Id.*

42. See *Why Are Law Schools Denying Black and Mexican American Students?*, PEOPLE’S WORLD (Jan. 20, 2010, 1:52 PM), <https://www.peoplesworld.org/article/why-are-law-schools-denying-black-and-mexican-american-students> [https://perma.cc/AR2Y-DBPE].

43. *Id.*

44. *Id.*

45. See Taylor, *supra* note 1, at 490.

46. See *id.*

47. Anastasia M. Boles, *Seeking Inclusion from the Inside Out: Towards a Paradigm of Culturally Proficient Legal Education*, 11 CHARLESTON L. REV. 209, 233 (2017); see, e.g., Owsley, *supra* note 10, at 542–44 (recounting the African-American author’s feelings of alienation in law school).

48. Rachel F. Moran, *Diversity and its Discontents: The End of Affirmative Action at Boalt Hall*, 88 CALIF. L. REV. 2241, 2283 (2000).

49. *Id.*

50. Deo et al., *supra* note 36, at 74.

unintentional, that communicate hostile, derogatory, or negative . . . slights and insults toward the target person or group.”⁵¹ Microinsults, a type of microaggression, can be particularly common.⁵² They “include behaviors that are insensitive, rude, or inconsiderate of a person’s identity”⁵³ and “tend to be subtle in nature and may be unconscious and unintentional, but [they] nonetheless demean the target or their group.”⁵⁴ An example of this occurs when students are repeatedly asked about or accused of being recipients of affirmative action policies or when students are asked more frequently than others about their LSAT scores.⁵⁵ As one African-American student noted, some peers viewed fellow African-American students as “thieves stealing a more qualified and talented white student’s rightful place.”⁵⁶ A video made by thirty-three Black students at the University of California, Los Angeles, in 2014 shared similar stories of isolation.⁵⁷

In some cases, blatantly openly hostile environments exist.⁵⁸ For example, the ABA Commission on Women in the Profession reported:

[There is a] hostile law school environment often created by peers, teachers, and administrators who cling to stereotypes or even engage in racial or sexual harassment. [Because of this,] particularly women of color are less likely to participate in class and are more likely to report feeling isolated or alienated, even by the language and culture of the law itself. When they do participate, they are less often recognized for their contributions, and their comments are more likely to be devalued.⁵⁹

Navigating peer relationships is just one challenge. At a glance, the majority of administrators, faculty members, and staff in legal education are

51. Ronald Wheeler, *About Microaggressions*, 108 LAW LIBR. J. 321, 321 (2016) (internal quotation marks omitted).

52. *Id.* at 324.

53. *Id.* (internal quotation marks omitted).

54. *Id.* (alteration in original) (internal quotation marks omitted).

55. Stephen Carter discusses “the peculiar uncertainty provoked by affirmative action” and his “outrage at being reminded of its reality” as being undiminished. STEPHEN L. CARTER, REFLECTIONS OF AN AFFIRMATIVE ACTION BABY 24 (1991).

56. Owsley, *supra* note 10, at 515.

57. RecordtoCapture, 33, YOUTUBE (Feb. 10, 2014), <https://www.youtube.com/watch?v=5y3C5KBcCPI> [<https://perma.cc/2JG6-FVJZ>].

58. See Reynoso & Amron, *supra* note 38, at 491; see also Deo et al., *supra* note 36, at 73 (discussing how the inhospitable campus climate of law schools is more difficult for students of color).

59. Reynoso & Amron, *supra* note 38, at 496.

white,⁶⁰ presenting many challenges to students of color as well.⁶¹ “In 2016, only 15% of law school faculty were people of color.”⁶² This is significant because “[a]t practically every level of education, students of color have been found to attain better grades when they are exposed to same-race teachers.”⁶³ This tends to occur due to the benefit of having “role models in a position of authority; teachers of color tend to have higher expectations of students of color . . . and teachers of color may possess more cultural dexterity in their teaching and discipline methods.”⁶⁴ In fact, reports indicate that outside of law schools affiliated with historically Black institutions or those located in Puerto Rico, there is only one law school among the top thirty in the country with a “majority minority” faculty.⁶⁵ White males account for 59% of all law faculty, which shows that the lack of diversity in law schools plays a large part in presenting the curriculum.⁶⁶ Indeed, students reveal that the way in which law professors approach cases depends on their identity and life experiences.⁶⁷ A lack of faculty diversity not only heightens the already challenging campus climate but also contributes to feelings of discomfort and intimidation for minority students.⁶⁸ Many students have, in fact, voiced concerns that their race affects how they are treated by law professors.⁶⁹

Relatedly, white faculty members often feel they are unable to deal with issues of race.⁷⁰ Even further, “white faculty members either fail to perceive [issues of race] affecting legal education” or fail to conversationally confront the issues.⁷¹ Professor Rachel Moran’s research shows how professors sometimes avoid identity topics by simply “dropping them from the curriculum.”⁷² She discussed how this occurs in criminal law courses, noting: “Even when faculty attempt to use philosophical abstractions to contain heated discussions about race and gender, emotions break through and influence the discussion.”⁷³ Elision and avoidance are typical tactics.⁷⁴ For

60. Meera E. Deo, *Trajectory of a Law Professor*, 20 MICH. J. RACE & L. 441, 446 (2015).

61. Meera E. Deo et al., *Paint by Number? How the Race and Gender of Law School Faculty Affect the First-Year Curriculum*, 29 CHICANA/O-LATINA/O L. REV. 1, 9–10 (2010).

62. Taylor, *supra* note 1, at 508.

63. *Id.*

64. *Id.* at 508–09.

65. Kevin R. Johnson, *How and Why We Built a Majority-Minority Faculty*, THE CHRON. OF HIGHER EDUC. (July 24, 2016), <https://www.chronicle.com/article/HowWhy-We-Built-a/237213> [<https://perma.cc/P43P-U3VU>].

66. See Deo et al., *supra* note 61, at 18.

67. *Id.*

68. *Id.* at 10.

69. Deo, et al., *supra* note 36, at 74.

70. Boles, *supra* note 47, at 225.

71. *Id.* at 226.

72. Moran, *supra* note 48, at 2334.

73. *Id.*

74. See *id.*

example, in Professor Moran's study, students shared how a professor "muted racial questions by changing the identity" of individuals in hypothetical questions.⁷⁵ Another professor used an analogy from his own personal experiences to discuss *People v. Goetz* but still did not reveal the race of the individuals who frightened the defendant until a student asked.⁷⁶ With these situations, emotions can become heightened as students become frustrated with the lack of dialogue.⁷⁷ Professor Moran recalls a student who described a discussion as "egregious" when race came up only after avoidance.⁷⁸ These emotional discussions can reinforce and affect students' fear, anxiety, and nervousness.⁷⁹

Research indicates that students are generally unhappy with the ways in which a majority of law faculty handles conversations regarding diversity in the classroom.⁸⁰ Relatedly, as stated by Professor Moran, "[t]he fear that students' personal concerns will disrupt the learning process can lead professors to avoid certain topics and issues," like race and gender, where there is a fear that "emotions will divert students from mastering doctrine and irreparably damage the classroom climate."⁸¹ She further shared that because much of the pedagogy is "rooted in Christopher Columbus Langdell's efforts to convert law into a respectable academic discipline by treating it as a kind of 'science[.]'"⁸² social context and personal narrative is discussed less in the classroom.⁸³ The idea of "'thinking like a lawyer' means learning to transcend one's personal experience by adopting abstract reasoning and universal techniques for argument";⁸⁴ "[a] student's background and experience are a distraction to be overcome, rather than a resource to be developed through the instructional process."⁸⁵ Accordingly, because students tend to perceive the classroom as a hierarchical setting where their views matter less than the professor's,⁸⁶ discussions often go unheard.⁸⁷

75. *Id.* (discussing how a professor would change the identity of Blacks to Jews in hypothetical questions).

76. *Id.* (referencing *People v. Goetz*, 497 N.E.2d 41 (N.Y. 1986), a case addressing whether race is relevant to a person's reasonable fear for safety).

77. *See id.*

78. *Id.* at 2334–35.

79. *See id.* at 2335.

80. Boles, *supra* note 47, at 226.

81. Moran, *supra* note 48, at 2332.

82. *Id.*

83. *See id.* at 2337.

84. *Id.* at 2331.

85. *Id.*

86. *Id.*; see Duncan Kennedy, *Legal Education as Training for Hierarchy*, in *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* 56 (David Kairys ed., Basic Books 3d ed. 1998) (describing the hierarchical nature of law school classes).

87. *See* Moran, *supra* note 48, at 2332.

Kimberlé Crenshaw further links students' isolation with the law school curriculum, specifically observing that:

[L]egal education objectifies, subjectifies, and alienates students of color. Objectification occurs when, for example, a student of color is asked in criminal law to evaluate the reasonableness of a (implicitly white) police officer's decision to arrest a [B]lack person in a white neighborhood. The student is "essentially required to look back at herself to determine whether her own presence in a white neighborhood would be sufficient cause for her to arrest herself." Subjectification arises when students of color are asked to testify to their experiences of racism in a class that is otherwise conducted as though everyone is objective, neutral, and unbiased. Finally, students of color often feel alienation due to what is left unsaid in law school classrooms. They may feel that race is an unspoken subtext, or that the choice of topics and problems favor white, middle- and upper-class interests rather than legal issues more relevant to poor communities of color.⁸⁸

Because the majority of law schools are historically structured to accommodate white, male students, "[s]tudents of color are often less comfortable in law school than their [w]hite peers[.]"⁸⁹ Jonathan Feingold and Doug Souza argue this creates "particular burdens that uniquely tax" students of color.⁹⁰ Feingold and Souza call this "racial unevenness"—"the presence of any burden that arises solely because of a person's race."⁹¹

In addition to a lack of representation, "the 'race neutral' manners in which courses are often designed and presented" adds to this unevenness.⁹² The unevenness is perpetuated by the method of teaching black letter law.⁹³ For example, Crenshaw discusses the "norm of perspectivelessness" that occurs when professors offer an "analytical stance that has no specific cultural, political[,] or class characteristics."⁹⁴ The norm has a strong impact on students of color who are essentially told to ignore context and become

88. Kim Brooks & Debra Parkes, *Queering Legal Education: A Project of Theoretical Discovery*, 27 HARV. WOMEN'S L.J. 89, 107–08 (2004).

89. Meera E. Deo, *The Promise of Grutter: Diverse Interactions at the University of Michigan Law School*, 17 MICH. J. RACE & L. 63, 101 (2011).

90. Feingold & Souza, *supra* note 26, at 72.

91. *Id.* at 77. "Racial unevenness in legal education is rooted in the centrality of [w]hite racial and cultural norms." Taylor, *supra* note 1, at 509.

92. *Id.*

93. See, e.g., Moran, *supra* note 48, at 2304 (discussing how the task orientation of study groups on learning black letter law may make race and ethnicity seem largely irrelevant).

94. Brooks & Parkes, *supra* note 88, at 108 (internal quotation marks omitted).

“colorless legal analysts.”⁹⁵ This entire dynamic, of course, can cause isolation from fellow students and perhaps cause law students to think their particular life experiences do not matter, even though “[l]egal discourse that excludes the views of a distinctive, significant minority group provides those who participate . . . with a distorted vision of reality, leaving them ill-equipped to confront and make sense of society’s present circumstances.”⁹⁶ Indeed, Professor Moran sums up this situation for marginalized students with personal observations from her classroom:

Students who arrive at law school believing that they can make unique contributions based on their background and experience are likely to be disappointed. They soon discover that their values and attitudes are at best irrelevant and at worst an obstruction to learning to think like a lawyer. Raising personal views in class is apt to be seen as a blunder or a diversion: the student is either disagreeing with the professor or distracting the class from learning the law.⁹⁷

Given these ostracizing factors, it should come as no surprise that, academically, students of color struggle more overall.⁹⁸ “Law students of color have higher attrition rates and lower academic outcomes than white[] [students].”⁹⁹ “A recent study that analyzed [ten] years of data from a private ‘elite’ law school found that having an other-race professor significantly reduced a student’s course grade[.]” particularly for nonwhite female students of color.¹⁰⁰ A longitudinal study of students at Case Western Reserve University and the University of Colorado showed how identifying as a person of color was a negative predictor of law school GPA, even after controlling for factors like LSAT score and undergraduate GPA.¹⁰¹ More broadly, research demonstrates that many Black and Latinx students, along with female students and students from low-income backgrounds, suffer academically from classroom environments that do not encourage them to excel.¹⁰²

95. *Id.* (internal quotation marks omitted).

96. Jeffrey G. Sherman, *Speaking Its Name: Sexual Orientation and the Pursuit of Academic Diversity*, 39 WAYNE L. REV. 121, 125 (1992).

97. Moran, *supra* note 48, at 2341.

98. See Deo et al., *supra* note 36, at 73.

99. *Id.* at 74.

100. Taylor, *supra* note 1, at 509.

101. See Alexia Brunet Marks & Scott A. Moss, *What Predicts Law Student Success? A Longitudinal Study Correlating Law Student Applicant Data and Law School Outcomes*, 13 J. EMPIRICAL LEGAL STUD. 205, 208, 243 (2016).

102. Sean Darling-Hammond & Kristen Holmquist, *Creating Wise Classrooms to Empower Diverse Law Students: Lessons in Pedagogy from Transformative Law Professors*, 33 CHICANA/O-LATINA/O L. REV. 1, 7 (2015).

B. *Students Who Identify as LGBTQ+*

Students who identify as LGBTQ+ are also highly underrepresented in legal education.¹⁰³ While less has been published on their qualitative experiences in law schools, it appears that, like their peers of color, students who identify as LGBTQ+ report feelings of alienation within law school.¹⁰⁴ Two percent of GLBT¹⁰⁵ respondents to a survey conducted by the Law School Admissions Council anticipated discrimination during law school, and “a quarter of GLBT respondents . . . reported they had witnessed or experienced discrimination in law school because of their sexual orientation or identity.”¹⁰⁶ A significant number of students reported hiding their sexual orientation or identity—at least partially—after entering law school, “perceiv[ing] that the environment in law schools and in the legal profession is essentially conservative and unwelcoming.”¹⁰⁷

These feelings can be particularly heightened during discussions or lectures that address LGBTQ+ status.¹⁰⁸ For example, after a troubling exchange with a professor while discussing *Bowers v. Hardwick*, University of Minnesota law student Scott Ihrig conducted a mail-in survey among fellow queer students asking them to describe their experiences as GLB¹⁰⁹ law students.¹¹⁰ Of thirty-two responding students from eighteen different law schools, a number of them described alienating experiences,¹¹¹ and some even shared experiences of vandalism and targeting.¹¹² Other qualitative accounts have demonstrated similar feelings of ostracism and isolation.¹¹³

103. See Brooks & Parkes, *supra* note 88, at 106, 108.

104. See Brooks & Parkes, *supra* note 88, at 93, 108.

105. Kelly Strader et al., *An Assessment of the Law School Climate for GLBT Students*, 58 J. LEGAL EDUC. 214, 220 (2008).

106. *Id.* at 215, 220–21.

107. *Id.* at 220–21.

108. See, e.g., Scott N. Ihrig, *Sexual Orientation in Law School: Experiences of Gay, Lesbian, and Bisexual Law Students*, 14 LAW & INEQ. 555, 555–59 (1996) (recounting the author’s troubling experience during a classroom discussion involving LGBTQ+ rights).

109. The author noted that he “did not receive survey responses from any transgender individuals, and no school indicated the presence of any transgender students at their institutions.” *Id.* at 559 n.23. “The omission of transgender students is not meant to imply that there are no transgender individuals currently in law school in the United States.” *Id.* “The population of students receiving a survey for this essay was admittedly not comprehensive.” *Id.*

110. See *id.* at 555–59 (referencing *Bowers v. Hardwick*, 478 U.S. 186 (1986), which upheld as constitutional a state criminal prohibition on sodomy).

111. See *id.* at 566–73.

112. See *id.* at 568.

113. See, e.g., Brad Sears, *Queer L*, 1 NAT’L J. SEXUAL ORIENTATION L. 235, 240–44 (1995), <http://www.ibiblio.org/gaylaw/issue2/sears.html> [<https://perma.cc/K2BR-MQ8J>].

Situations also arise when students feel like all eyes are on them.¹¹⁴ For example, one of the first pieces of scholarship documenting the qualitative experience of a gay student in law school shared the following about students anticipating his perspective:

This response from other students sometimes made me clam up on topics I very much would have liked to discuss. When our Criminal Law class discussed *Bowers v. Hardwick*, for example, I didn't say anything because I felt several glances my way in anticipation of my comments. I felt so put on to say something I couldn't say anything. It would seem like I was engaging in a piece of over-determined theater rather than making a substantive point.¹¹⁵

While there is not as much data on the number of faculty who identify as LGBTQ+, a recent study with only sixty-seven law schools responding indicates low numbers of identified faculty.¹¹⁶ The effects of this have yet to be studied, but given the classroom climates described by students and the research demonstrating the impact of a faculty lacking color, this disparity likely contributes to feelings of alienation.

This alienation can extend to situations outside of the classroom as well.¹¹⁷ One lawyer who identifies as lesbian shared a story of going through on-campus interviewing, noting that a mentor stressed that she was the “‘perfect’ LGBT candidate because . . . [her] somewhat feminine presentation would allow a firm to check the diversity box without fear of how [her] presentation might challenge traditional gender norms in the conference or court room.”¹¹⁸ Overall, although situations outside of the classroom have not been studied as often as those inside, they likely tend to greatly contribute to feelings of isolation as well.¹¹⁹

114. *See id.* at 237–38.

115. *Id.* at 244.

116. *LGBT Bar's Law School Climate Survey-2019*, THE LGBT BAR (2019), <https://lgbtbar.org/climate-survey/climate-survey-2019/> [<https://perma.cc/C3H5-EVJC>] (providing the known number of LGBTQ+ faculty at each respondent law school).

117. *See, e.g.*, Kelly L. McNamee, *Other than Gay*, 91 N.Y. STATE BAR J. 48, 49 (2019) (describing an alienating experience of a summer associate).

118. *Id.*

119. *Cf.* R. Kyle Alagood & Andrew Hairston, *Breaking the Code of Silence on Race in Law School*, HUFFPOST (Dec. 23, 2014), https://www.huffpost.com/entry/breaking-the-code-of-sile_1_b_6035224?guccounter=1 [<https://perma.cc/WM82-96QQ>] (sharing how, for example, a white professor commented on a group of Black law students sitting together in a law school lobby and asking them whether it was a game of craps).

C. *Students with Disabilities*

Like their peers of color and those who identify as LGBTQ+, students with disabilities may encounter particularly challenging situations in law school. During the 1994–1995 academic year, of law students requesting reasonable accommodations, 1,187 of them reported having a physical or mental disability.¹²⁰ “Approximately 54% of the requests for exam modifications were from [law students with learning disabilities.]”¹²¹ As shared by Professor Susan Johanne Adams:

The emotional and physical demands of law school can aggravate the affective and behavioral characteristics that are common in students with learning disabilities. Inevitably, the . . . student has suffered more or less negative responses from peers and teachers over the years and carries some scars. Aggravating this history is the fact that many such students suffer from an impulsiveness or an inability to read subtle signals from others that makes them unpopular in social situations. The effect is a certain amount of isolation, even depression. Not surprisingly, this combination can create serious physical and emotional consequences for the first-year law student facing enormous—often unprecedented—academic demands.¹²²

Additionally, some students with disabilities, particularly those with learning disabilities or mental health challenges, may try to engage in “passing” to avoid alienation.¹²³ Disability status, whether mental or physical, causes reactions of “pity, helplessness, distrust, uneasiness, and even fear.”¹²⁴ This means that even when students may be entitled to educational assistance or reasonable accommodations, they either will not reach out to access them or will reject any help “because of the stigma attached to anything less than hegemonic concepts of ‘whole-bodiedness.’”¹²⁵ As articulated by Professor Alfreda Sellers Diamond:

120. Donald Stone, *The Impact of the Americans with Disabilities Act on Legal Education and Academic Modifications for Disabled Law Students: An Empirical Study*, 44 U. KAN. L. REV. 567, 568–69 (1996).

121. *Id.* at 570.

122. Susan Johanne Adams, *Leveling the Floor: Classroom Accommodations for Law Students with Disabilities*, 48 J. LEGAL EDUC. 273, 289–90 (1998).

123. Alfreda A. Sellers Diamond, *L.D. Law: The Learning Disabled Law Student as a Part of a Diverse Law School Environment*, 22 S.U. L. REV. 69, 76–77 (1994).

124. *Id.* at 83 (internal quotation marks omitted).

125. *Id.* at 76–77.

Individuals place great stock in being “normal.” Many learning disabled law students feel the need to hide. They remain bound in the guise of the frog, hoping that a kiss will free them, and turn them into something or someone else, someone more acceptable to others, someone not different in any way that might subject them to oppression.¹²⁶

It is also worth thinking about the challenges that students with physical disabilities may face. Consider the setup of most moot courtrooms; they likely assume an able-bodied lawyer. The podium alone is a challenge. Many law schools may have accommodations for this, but there are likely zero situations where moot arguments or courtrooms make these accommodations.

IV. PRINCIPLES FOR WORKING WITH STUDENTS FROM HISTORICALLY MARGINALIZED BACKGROUNDS

Ultimately, when students from historically marginalized backgrounds arrive at legal offices, whether specifically recruited or not, they arrive with these frameworks. An experience in the field can likely never rid students of their feelings and realities entirely, but an experience can certainly dilute or exacerbate them. Although the law school classroom is a different setting, a lack of inclusivity remains pervasive in the legal profession.¹²⁷

While legal organizations cannot change law school diversity statistics and the overall profession’s diversity and inclusion problem overnight, they must try to avoid repeating—or worse, increasing—such isolation and alienation. This is particularly true if organizations are in the business of heavily recruiting students from marginalized backgrounds.

126. *Id.* at 77.

127. According to the ABA’s 2019 *Profile of the Legal Profession*, only 5% of lawyers are African-American, 5% are Hispanic, and 2% are Asian. AM. BAR ASS’N, ABA NATIONAL LAWYER POPULATION SURVEY (2019), https://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-demographics-2009-2019.pdf [https://perma.cc/6CNV-S8ZM]. Of note, none of these statistics regarding specific minority percentages have changed over the past decade, even though the overall minority populations in the United States have increased over that same time frame. *Id.* Similarly, 4.7% of lawyers in 2015 identified as Asian-American. ERIC CHUNG ET AL., YALE L. SCH. & NAT’L ASIAN PAC. AM. BAR ASS’N, A PORTRAIT OF ASIAN AMERICANS IN THE LAW 4 (2017), https://static1.squarespace.com/static/59556778e58c62c7db3fbe84/t/596cf0638419c2e5a0dc5766/1500311662008/170716_PortraitProject_SinglePages.pdf [https://perma.cc/RN5X-27XL]; see Meredith Hobbs, *Talent or Token? Lawyers Say Diversity Still Can be Just for Show*, DAILY REP. (Mar. 28, 2019), <https://www.law.com/dailyreportonline/2019/03/28/talent-or-token-lawyers-say-diversity-still-can-be-just-for-show/?slreturn=20200025010214> [https://perma.cc/XA9T-T8J8] (noting how minority partners’ representation in Big Law national has scarcely increased in the last decade).

What follows is a set of principles that externship programs, career offices, summer associate programs, diversity fellowship personnel, and practitioner supervisors should consider and implement in order to best support students from historically marginalized communities. These principles will elevate and enrich students' opportunities to learn and thrive as future lawyers.

The principles developed are broken down into three phases: (1) pre-recruitment, (2) during recruitment and hiring, and (3) during the position. Some of the principles can be implemented fairly easily, while others require more preparation, more analysis, or both.

A. Pre-Recruitment

1. Work Toward Cultural Proficiency

Cultural proficiency is defined as the “policies and practices of an organization, or the values and behaviors of an individual, which enable that agency or person to interact effectively in a culturally diverse environment.”¹²⁸ This is an ongoing process that requires honest assessment and evaluation to determine the culture of an office. To begin the pathway toward proficiency, offices can:

1. Require or strongly encourage all employees to complete Implicit Association Tests, which are online tools shown to accurately assess one's implicit biases across a broad range of topics (race, disability, gender, and more). Then, follow up with individual testing, individual conversations, and honest group dialogue.
2. Review organizational policies, with an eye toward identifying implicit or explicit biases and microaggressions. Look for potentially problematic language regarding religious holidays, hair, dress, and other issues that may disadvantage or offend a group. Use employees' proper gender pronouns¹²⁹ and ensure relevant human resources paperwork has options other than just male or female.
3. Address preexisting biases before students come to work. Look at the organization's history as it relates to diversity and inclusion and have

128. *Web Tutorial: Cultural Competence Continuum*, UCSD CULTURALLY COMPETENT MGMT. PROGRAM (emphasis omitted), https://webtutorials.ucsd.edu/ccmp/01_02_005.html [<https://perma.cc/KKE2-UMV6>].

129. “Misgendering can trigger gender dysphoria, may ‘out’ an individual to others without their permission in potentially unsafe environments, may result in . . . people feeling targeted and humiliated, and may make [such] individuals feel erased because their gender identity is ignored.” THE NAT’L LGBT BAR ASS’N & FOUND., *supra* note 24, at 16.

tough, courageous conversations about that history prior to launching any concentrated outreach.

4. Consider organizing and promoting professional development opportunities that focus on biases, microaggressions, diversity, and inclusion.¹³⁰ These could include informational seminars, role-playing exercises, and book groups that include reading works from different cultures or studies on relevant topics.

2. *Ensure Committed and Supportive Upper-Level Management*

Often, the attorneys who work with externs and clerks are more junior—i.e., they are not members of management.¹³¹ While individuals in positions of power often do not have the capacity to work with students, when it comes to diversity and inclusion, it is critical that leaders believe in these efforts, vocalize their beliefs, and participate in the organization's conversations around inclusion. Such management participation helps ensure that inclusive values are implemented when students begin.

3. *Recognize That Diversity Statistics Are Just the First Step*

Opening up access is critical, but it does not fulfill the “commitment to diversity.”¹³² As Cruz Reynoso and Cory Amron note:

Inviting a diverse group into an unyielding institution will not advance the goal of diversity, even if all those invited make an appearance. The quality of the interactions that [individuals from historically marginalized groups] experience once inside is as much a part of achieving diversity as ushering them through the door.¹³³

Relatedly, “attention should be on creating conditions in which the diversity of students . . . is not just welcomed and solicited, but actively fostered.”¹³⁴ Organizations need to ensure that their employees

130. For example, “studies have shown that when employees receive training about gender transitions, sensitivity and understanding is increased toward transgender employees.” Wheeler, *supra* note 51, at 329.

131. See, e.g., SANDY BROWN & HARIS KHAN, MINORITY CORP. COUNS. ASS'N, THE IN-HOUSE LEGAL INTERNSHIP PROGRAM HANDBOOK 15 (2010), https://www.mcca.com/wp-content/uploads/2018/11/Full_Legal_Internship_Program_Handbook.pdf [<https://perma.cc/9PCY-JVLP>] (discussing how Microsoft found that junior attorneys had the most time to mentor interns).

132. Reynoso & Amron, *supra* note 38, at 492.

133. *Id.*

134. *Id.*

understand that the work of diversity and inclusion is not complete merely because the office hired an extern from a historically marginalized background.

4. *Find Ways to Incentivize Attorney and Staff Engagement on Diversity, Equity, and Inclusion Efforts*

With attorneys' busy schedules and competing interests, incentivizing engagement can help ensure that diversity and inclusion become interests and priorities for everyone. Some ways to do this include counting diversity engagement as billable hours;¹³⁵ allowing work on diversity initiatives to be a part of leadership, inclusivity, or service competencies that are measured during evaluations and assessments; or both. Diversity engagement can be measured by which activities attorneys participated in; how attorneys were evaluated by externs; and whether they brought topics, speakers, and relationships to the legal entity that were relevant to diversity and inclusion.

5. *Confirm the Accessibility of Materials*

Visitors to an organization's website may have visual impairments that make accessing information challenging without screen readers or other technological tools. In many instances, the words on a web page are accessible with a screen reader, but photos are not. Organizations must commit to working with technology teams to ensure their entire website is accessible via screen readers.

B. *During Recruitment and Hiring*

1. *Provide Clear Information on Application Procedures to Ensure Accessibility and Broad Reach*

Organizations should be very transparent about the application process. They should share how to apply, where to submit, and whether any applicable deadlines and requirements exist. Creating and publishing clear standards helps ensure all applicants understand the application procedures. Further, clear standards are likely to expand the network of applicants instead of risking that students receive the information only if they have certain access,

135. For example, one law firm, Dorsey & Whitney, has implemented a new "Diversity Hours" policy allowing associates to count work and training that promotes diversity toward their billable hours requirement. Patrick Smith, *Diversity Meets the Billable Hour at Dorsey & Whitney*, AM. LAW. (July 23, 2019), <https://www.law.com/americanlawyer/2019/07/23/diversity-meets-the-billable-hour-at-dorsey-whitney/> [<https://perma.cc/UQJ2-S6AP>].

relationships, or both. Organizations should not only utilize law schools' externship programs and career offices but also reach out directly to leadership associated with affinity organizations, diversity personnel at law schools, and bar association affinity groups that may have connections to either law school students with similar identities or to those students' respective law school affinity groups.

2. *Use Authentic Images and Inclusive Language on Promotional Materials*

Recently, colleges and business entities have come under fire for doctoring images to show a group of individuals from diverse backgrounds interacting.¹³⁶ Images on an organization's website and promotional materials should be authentic reflections of the organization (in terms of staff and clients, with permission). They should not be staged.

Websites and promotional materials should embed inclusion and equity throughout, instead of stating only that people from diverse backgrounds are encouraged to apply at the end of a job listing. For example, while having a diversity tab on a website is important, diversity and inclusion topics should not be limited to that tab alone. Broader integration helps signal a broader commitment to students.

Organizations should also be mindful of language that may be unfamiliar to some individuals due to their background or status as first-generation law students. For example, the overuse of acronyms might favor students who have more familiarity with the law and the legal profession.

Organizations should be mindful of using language that is stereotypically associated with certain cultures or genders. For example, an organization that indicates it wants a student who is assertive—a word typically associated with males—might indirectly discourage women from applying. It may also discourage individuals from certain cultures from applying.

136. For a discussion of how York College doctored a photo and replaced white students with diverse students to portray a more diverse campus, see Scott Jaschik, *When Colleges Seek Diversity Through Photoshop*, INSIDE HIGHER ED (Feb. 4, 2019), <https://www.insidehighered.com/admissions/article/2019/02/04/york-college-pennsylvania-illustrates-issues-when-colleges-change> [https://perma.cc/U9EH-UUZM]. For a discussion of how the University of Wisconsin photoshopped a student from a diverse background onto the cover of its admissions brochure, see Deena Pritchep, *A Campus More Colorful Than Reality: Beware That College Brochure*, NPR (Dec. 29, 2013, 10:31 AM), <https://www.npr.org/2013/12/29/257765543/a-campus-more-colorful-than-reality-beware-that-college-brochure> [https://perma.cc/R2EQ-WZYU].

3. *Have a Clear Statement on the Purposes Behind the Organization's Diversity Statement; Diversity Recruitment Plan; and Values of Diversity, Equity, and Inclusion*

If an organization has already internally thought through its history and goals associated with diversity and inclusion, this should be a relatively easy step to take. It signals to students that the organization is taking this outreach seriously and that the organization has thought deeply about it.

In addition to having a clear statement of purpose and sharing it at recruitment events, organizations can signal their commitment by developing specific recruitment materials; highlighting the ways in which they support historically marginalized students; and sharing about diversity-related programming, including details of upcoming meetings and activities.¹³⁷

4. *Be Open About Diversity Recruitment, Retention, and Philosophy*

Some large law firms share quantitative data about their demographic makeup through organizations like the NALP.¹³⁸ Regardless of whether organizations are required to share this information, sharing statistical data is important. It can be hard to do when numbers do not correspond to what an organization believes its philosophy and values to be, but it gives students information on what to expect, thus taking away the tough moment of surprise. It also provides organizations with an opportunity to share where they want to go—both quantitatively and qualitatively.

5. *Be Proactive About Discussing the Value of Perspective of Law Students and Lawyers from Marginalized Backgrounds Generally and with Office Culture and Work in Particular*

In conjunction with having a recruitment plan, when organizations explain why they believe in such intentional recruitment, this increases students' confidence and validates their expertise and experience. Relatedly, discussing diversity and inclusion in the interview process—with any prospective extern, regardless of identity—encourages dialogue on these topics and signals to students that they matter to the organization.

137. A legal organization can signal its commitment in ways similar to those a law school uses to signal its commitment to such students. See THE NAT'L LGBT BAR ASS'N & FOUND., *supra* note 24, at 6–7 (describing how law schools can signal to prospective students a commitment to LGBTQ+ equality).

138. See NALP Directory of Legal Employers, NALP, <https://www.nalpdirectory.com/> [<https://perma.cc/54GE-JMUR>].

6. *Recognize That Actively Recruiting Students from Marginalized Backgrounds Can Have Detrimental Effects on Students' Engagement with Peers and Take Steps to Minimize Such Effects*

While organizations seeking a student cannot control how other students feel about extern selections or diversity programs, diverse students can be ostracized and targeted by majority students because of these programs.¹³⁹ This can lead students from diverse backgrounds to feel they need to prove that they belong in the office regardless of their diversity status, which is an additional burden not faced by majority students.¹⁴⁰ While organizations cannot control peer reactions, they can avoid scheduling diversity-focused interviews and events during class time. This helps limit the circumstances where other students see that only “certain students” are missing class. Organizations can also develop clear answers as to why there is not a “white male, cisgendered” recruitment program. They can share this idea with students from diverse backgrounds and other students who may reach out for information on their recruitment processes.

7. *If Pay Is a Viable Option for an Organization, Proactively Suggest Students Receive Credit and Pay Simultaneously*

Students, regardless of diversity status, may perform better when juggling fewer priorities.¹⁴¹ When organizations allow credit and pay to be received simultaneously, students can enroll in fewer classes and devote the time necessary to their placement. Externship credit also provides organizations and students with additional support should questions or challenges arise. For students from historically marginalized communities, this can provide support for learning “behind-the-curtain” aspects of legal practice and can help level the playing field for students with less knowledge about the legal profession.

139. See Tessa L. Dover et al., *Diversity Policies Rarely Make Companies Fairer, and They Feel Threatening to White Men*, HARV. BUS. REV. (Jan. 4, 2016), <https://hbr.org/2016/01/diversity-policies-dont-help-women-or-minorities-and-they-make-white-men-feel-threatened> [<https://perma.cc/VPU7-8RCD>] (discussing how diversity policies can make white men feel threatened and thus cause them to resist efforts that make the workplace more inclusive).

140. Jayne Reardon, *Can Improving Attorney Well-Being Solve Law's Diversity Problem?*, 2CIVILITY (July 11, 2018), <https://www.2civility.org/attorney-well-being-solve-diversity-problem/> [<https://perma.cc/3R69-X4PS>]; cf. Carmen G. González, *Women of Color in Legal Education*, FED. LAW., July 2014, at 48, 51 (discussing how female faculty members of color encounter constant pressure to prove themselves and overcome the resentment of their colleagues by making extraordinary efforts to fit in).

141. See *How to Get It All Done: Tackling Time Management Challenges in Your Practice*, AM. BAR ASS'N, <https://www.americanbar.org/careercenter/career-development-series/how-to-get-it-all-done-tackling-time-management-challenges-in-your-practice/> [<https://perma.cc/DJN3-XSJ7>].

8. *Understand Disability Accommodation Requirements if Working with a Student for Credit*

If a student is earning credit through a legal externship, organizations should be mindful of possible disability accommodation requirements. They can reach out to the student's law school externship program to best understand what might be required in advance. Students with disabilities are entitled to absolute confidentiality; however, if externship faculty or personnel believe a student may benefit from disclosure, the faculty member may encourage disclosure by the student and offer to act as go-between.¹⁴² The school may also be able to provide some support or assistance at minimal or no cost.¹⁴³ If the student requires an accommodation, there is a question about whose responsibility it is to facilitate and pay for the accommodation.¹⁴⁴ An early conversation about this is recommended to see whether cost sharing is available,¹⁴⁵ perhaps at least in public sector placements.

9. *Commit to a Holistic Review of Applicants*

Organizations should consider looking beyond GPA and class rank to assess candidates. A more holistic review that does not focus solely on test scores can help expand an organization's pool and is more likely to include candidates from marginalized backgrounds.¹⁴⁶ Organizations should start by thinking through the most meaningful and relevant indicators of commitment, work ethic, and aptitude for their organization. They should then identify which competencies and characteristics matter most and use those as a guidepost for reviewing and assessing prospective candidates. More broadly, organizations should consider referring to the landmark study on foundations for practice, which was developed by the Institute for the Advancement of the American Legal System, when considering what skills and competencies are needed for success as a lawyer generally and as a new lawyer specifically.¹⁴⁷

142. See Adams, *supra* note 122, at 279.

143. *Id.* at 283.

144. Laura Rothstein, *Forty Years of Disability Policy in Legal Education and the Legal Profession: What Has Changed and What Are the New Issues?*, 22 AM. U. J. GENDER SOC. POL'Y & L. 519, 607 (2014).

145. *Id.*

146. Deborah J. Merritt, *The White Bias in Legal Education*, LAW SCH. CAFE (July 16, 2015), <https://www.lawschoolcafe.org/2015/07/16/the-white-bias-in-legal-education/> [<https://perma.cc/6DXD-P6WX>] (discussing how the effects of unconscious bias in grading, stereotype threat, lack of social capital, and socioeconomic challenges may affect performance in law school classes by students of color as compared to white students).

147. Alli Gerkman & Logan Cornett, *Foundations for Practice: The Whole Lawyer and the Character Quotient*, IAALS (July 26, 2016), <https://iaals.du.edu/publications/foundations-practice-whole-lawyer-and-character-quotient> [<https://perma.cc/VXH9-R33P>].

10. Be Supportive of Candidates' Experience and Possible Interest in Activism

Some, but not all, students from historically marginalized groups have engaged in service or political activism that focuses on identity.¹⁴⁸ Students may shy away from discussing these activities or including them on application materials.¹⁴⁹ Even if inapplicable to the day-to-day work of an organization or the position the student is seeking, organizations can signal interest in these activities by inquiring about them during the interview process, expressing support, or both.¹⁵⁰ This is especially important in times of unrest and active movements, such as in the summer of 2020.

11. Consider the Recruitment Schedule and Interview Locations for Accessibility

Does an organization plan to have candidates visit with a handful of attorneys as part of the interview process? Do the organization's attorneys have offices on multiple floors of a building? Will a student in a wheelchair be able to easily navigate the organization's messiest associate's office? Organizations should think about whether it makes sense from an accessibility perspective to have interviews all conducted in a conference room where their employees can come to the candidate rather than the candidate trying to navigate the office space in a wheelchair or with a seeing eye dog, for example.

12. Do Not Be Afraid of a Candidate that May Need Accommodations

If organizations are worried or concerned about how they might accommodate a student with a disability, they can reach out to their law school contact about what that student's needs may be (though the school may be unable to share specific information because of privacy mandates).¹⁵¹ Organizations should also feel comfortable asking new students if there are any accommodations that they need to be successful in the office environment. First, proactively asking about this has an impact on students; it

148. See THE NAT'L LGBT BAR ASS'N & FOUND., *supra* note 24, at 9 (discussing how some LGBTQ+ student groups engage in regular activism).

149. *Cf. id.* at 11 (discussing how the decision whether to be "out" on one's résumé and during a job search process is an intensely personal one for a law student).

150. *Cf. id.*

151. See, e.g., Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (describing the inability for an institution to receive funds if there is a policy of releasing education records without consent).

may decrease their anxiety about disclosure or their ability to succeed.¹⁵² Second, students have often dealt with their disability for many years; they can tell organizations what they need. Finally, in many cases, students will need no accommodation at all, despite what organizations might assume. At the same time, as organizations host different events, whether at restaurants or other firms, they should consider whether the location is accessible to ensure access and full participation.¹⁵³

13. Create an Intentional Interviewing Process

As much as feasible, organizations should assemble a consistent group of interviewers to allow for appropriate comparison. With as much advanced notice as possible, organizations should identify the interviewers so students can prepare and potentially have information about their interviewers' identities as they relate to race, gender, and the like. This is particularly important given the profession's lack of diversity.

Once interview groups are established, organizations should consider creating a standardized list of questions for interview sessions, as well as an evaluation form or rubric for post-interview discussion to help facilitate the discussion and ensure consistency in all aspects of interviewing. Such standardized questions should include opportunities for storytelling, which will allow students to bring in their lived experiences. The questions should also include behavioral interviewing techniques¹⁵⁴ to gauge critical skills that the organization has already identified.

14. Ensure All Individuals Participating on Recruiting and Interviewing Teams Fully Understand the Organization's Interest and Experience in Working with Marginalized Students

Everyone directly involved in the interviewing and recruiting processes must be well-versed in diversity and inclusion matters. The interviewing team should be fully informed of the risks of implicit bias, aware of microaggressions, and conversant about the organization's interests and goals around both these issues and inclusion more broadly.¹⁵⁵

152. See Adams, *supra* note 122, at 279–80.

153. Rothstein, *supra* note 144, at 614.

154. Such questions are designed to learn how a candidate would respond to a specific situation, how a candidate would solve problems, or both. *Types of Interviews*, CAREERONESTOP, <https://www.careeronestop.org/JobSearch/Interview/job-interviews.aspx> [https://perma.cc/F7RT-KJL3].

155. See THE NAT'L LGBT BAR ASS'N & FOUND., *supra* note 24, at 7.

C. *During the Position*

1. *Build Connections with Similarly Situated Organizations*

Increasing students' exposure and legal connections gives them a better, broader sense of the field and also creates a sense of community. In a profession with room for improvement in the areas of diversity and inclusion, increased exposure expands the pool of individuals that students can connect with, get advice from, and learn from.

2. *Identify Mentors or Establish a Buddy System*

Extensive research documents the value of mentors.¹⁵⁶ While organizations can and should identify mentors within, they can also look outside and form alliances with bar associations, affinity bar groups, law schools, and alumni from the organization or school. If a mentor is not from a diverse background, ensuring that the mentor is equipped and interested in supporting a student from a historically marginalized background is critical.¹⁵⁷

3. *Avoid "Flaunting" the "Diverse Extern"*

While it is a positive step to work with students from an underrepresented population, it can be counterproductive to continually publicize their diversity status. This is especially important if there are other students in the office during the same semester. Organizations should be mindful not only of what they advertise about their programs but also of whether students are given a distinct "label" (e.g., Diverse Summer Extern). Such labeling may make students feel uncomfortable or feel like they are present only because of their identity. As described in a piece by the current chair of the Association of American Law School's Section on Sexual Orientation and Gender Identity Issues:¹⁵⁸

156. See, e.g., González, *supra* note 140, at 55.

157. See Jeffrey A. Dodge, *Supporting Diversity: From Pre-Law to the Legal Profession*, ADVOC., June–July 2019, at 26, 28 ("Colleagues who actively encourage diverse attorneys to engage with these associations will be seen as allies."); THE NAT'L LGBT BAR ASS'N & FOUND., *supra* note 24, at 11.

158. Jeffrey Dodge is the Associate Dean for Academic and Student Services at Dickinson Law and the current chair of the Section on Sexual Orientation and Gender Identity Issues. He recently served on the national Law School Admission Council's Diversity Committee. *Jeffrey A. Dodge*, PENN STATE DICKINSON L., <https://dickinsonlaw.psu.edu/jeffrey-dodge> [<https://perm.a.cc/N3AD-LWFL>].

Few things are more off-putting than feeling tokenized or having one's difference on display and used for the benefit of others. As diverse attorneys enter new spheres of our profession, avoid over-relying on their identity as a basis for placing them on hiring or climate committees, assigning them a certain type of client, or limiting them to matters before certain courts. These attorneys deserve the richness of experiences provided by their employer and shouldn't carry the burden of the sole representative of diversity through service or unseen and unbillable work.¹⁵⁹

4. *Be Mindful of News in the Legal Profession and Society More Broadly That Might Particularly Affect Students from Historically Marginalized Communities*

Organizations should consider whether their offices address issues that affect individuals from historically marginalized communities when events occur on national and local scales. Organizations may be able to have active conversations about such incidents, acknowledge their occurrence, or both. With that said, these conversations should be with all members rather than only with particular students.

5. *Ensure Equity in Assignments*

Students have a sense of belonging when they receive quality work and when they feel like their work is equally important in comparison to other students' work.¹⁶⁰ If organizations have larger offices, a "coordinator" can be assigned to review assignments and ensure they are meaningful, robust, and challenging. The coordinator can also manage student workflow and compare assignments and opportunities across students, both of which are critical for ensuring equity. Additionally, this coordinator can help with active communication should there be questions or concerns at any point.

Students from historically marginalized groups do not need to work only on projects involving issues of marginalization. Organizations should determine students' particular interests at the outset of the experience and work to find mutually beneficial projects in those interest areas when possible.

Relatedly, organizations should not treat diverse students differently than other students. While every student, regardless of how they identify, arrives

159. Dodge, *supra* note 157, at 28.

160. See ANNE BRAFFORD, ENABLING LAWYER WELL-BEING THROUGH DIVERSITY AND INCLUSION 4, 6, https://lawyerwellbeing.net/wp-content/uploads/2020/04/Braffprd_Diversity-and-Wellbeing.pdf [<https://perma.cc/V9JQ-3VZE>].

with their own set of skills and areas for growth, organizations should try not to distinguish the type of work given to majority and minority students.

6. *Provide Individuals with Equal Access As Much As Possible, Being Mindful of Internal Power Dynamics and Unwritten Rules*

Some students are naturally more extroverted and willing to reach out to people in an office setting. Some cultures promote this type of engagement more than others. And individuals from historically marginalized backgrounds sometimes do not feel empowered to reach out to those they do not regularly interact with.¹⁶¹ Organizations should develop social and networking activities for all students to help ensure that they are included in the regular flow of activities and that certain students do not have particular access over others. For example, offices can organize brown bag lunches with key individuals so that everyone has the same access to and opportunity for discussion.

Externship coordinators can ensure all students have the opportunity to work with different individuals within the office. Coordinators can also clearly lay out the processes for communication, assignment distribution, and broader engagement so that all students—regardless of their natural inclinations or cultural frameworks—understand what is permitted, expected, and promoted.

7. *Ensure Equity in Knowledge As Much As Possible*

While there will always be some students who arrive with greater knowledge than others, organizations can arrange group trainings on topics ranging from substantive law to skills training to communication, helping ensure that all students have a baseline knowledge. Professional development, professionalism, and ethical practices are also important topics for trainings. Relatedly, organizations should be mindful of who is delivering these trainings in terms of race, gender, and other identities.

If certain baseline knowledge is critical to understanding and succeeding, organizations should consider requiring that students complete certain classes at the outset.

161. See Denise M. Sharperson, *Moving Beyond the Illusion of Inclusion: Appreciating the Importance and Value of Inclusion in Creating a Diverse Profession*, AM. BAR ASS'N (Feb. 7, 2020), https://www.americanbar.org/groups/diversity/DiversityCommission/vol5-issue1/Illusion_of_Inclusion/ [https://perma.cc/YC87-GSKJ].

8. *Promote Culturally Conscious Community Building, Networking, and Social Events*

Organizations should try to increase methods that foster community with all students and should diversify both what they are doing and where they are doing it. For example, looking critically at where events are held, what cuisine is being served, and what books are read can help ensure different groups and cultures are represented and feel welcome. Countless resources currently exist that organizations can proactively incorporate into their programs.

9. *Be Mindful of Different Learning Styles and Take Steps to Learn About Students' Learning Preferences, Abilities, and Strengths*

There is a growing understanding that individuals acquire, process, and subsequently learn information in many different ways.¹⁶² This may be amplified for students with learning disabilities¹⁶³ or students from different cultural backgrounds.¹⁶⁴ Organizations should attempt to share assignments in multiple formats and offer professional development and other trainings using a range of mediums.

If budget allows, organizations can consider having students participate in the Myers-Briggs Type Indicator, the Kolb Experiential Learning Theory, or the StrengthsFinder to help both the organization and their students understand individual strengths, weaknesses, and learning styles.¹⁶⁵ Organizations can ask if students have already taken these tests, and if so, organizations can save costs and time if students are willing to share their results.

162. Adams, *supra* note 122, at 286.

163. *Id.* ("There are many learning disabilities that make certain processing patterns difficult or even impossible.").

164. Johanna K.P. Dennis, *Ensuring a Multicultural Educational Experience in Legal Education: Start with the Legal Writing Classroom*, 16 TEX. WESLEYAN L. REV. 613, 614–15 (2010).

165. Adams, *supra* note 122, at 287; see *MBTI Basics*, THE MYERS & BRIGGS FOUND., <https://www.myersbriggs.org/my-mbti-personality-type/mbti-basics/> [https://perma.cc/K276-HVRM] (stating that the Myer-Briggs Type Indicator measures personality types); Saul McLeod, *Kolb's Learning Styles and Experiential Learning Cycle*, SIMPLY PSYCH. (2017), <https://www.simplypsychology.org/learning-kolb.html> [https://perma.cc/HS6D-HVVS] (stating that Kolb's Experiential Learning Theory is concerned with the learner's internal cognitive processes to develop more appropriate learning opportunities); *Looking for StrengthsFinder? You're in the Right Place.*, GALLUP, <https://www.gallup.com/cliftonstrengths/en/strengthsfinder.aspx> [https://perma.cc/RK5M-MKPU] (outlining how the CliftonStrengths assessment, more commonly known as the StrengthsFinder assessment, helps individuals uncover their learning strengths).

10. Demystify the Post-Graduate Job Search Process and Do So Early to Give Students a Genuine Opportunity for Employment

While externships are initially learning experiences, they can often lead to employment. The challenge is that some students have no idea that they can gain employment from an externship or what steps they can take to gain information.¹⁶⁶ While law school representatives coach students on these topics, organizations can host sessions that include information on their hiring practices, their area of work more broadly, and the steps students can take to enhance their competitiveness for future employment. This again ensures a baseline of information for students who are less extroverted or who more clearly feel the power dynamics in the office.

Organizations can also consider guaranteeing an interview for all interested students who have worked for their organization within a particular time frame (e.g., within the last two years). This can help temper the implicit and sometimes explicit biases that exist when reviewing résumés from applicants belonging to historically marginalized groups.¹⁶⁷

11. Set Up an Ongoing, Two-Way Street for Formal Feedback and Evaluation Measures

If a student is enrolled for credit, the externship program will likely require the completion of written evaluations.¹⁶⁸ However, organizations may consider doing more to align with the ABA's standard requiring ongoing, contemporaneous feedback to students regardless of credit enrollment.¹⁶⁹ Organizations can also seek out a multitude of voices in these evaluations—from attorneys with whom students worked to staff persons that students may have interacted with—to help ensure a robust, well-rounded evaluation.

Organizations should also actively seek out feedback from students. It can be hard for a student to share honest feedback in light of power dynamics and their potential interest in future employment, but asking all students about

166. See Kennedy, *supra* note 86, at 64 (describing how “[s]tudents confronted with the choice of what to do after they graduate experience themselves as largely helpless”).

167. See, e.g., Marianne Bertrand & Sendhil Mullainathan, *Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination*, 94 AM. ECON. REV. 991, 991–92 (2004) (observing a discriminatory impact on candidates whose resumes contained an “African American sounding” name); Nicolas Jacquemet & Constantine Yannelis, *Indiscriminate Discrimination: A Correspondence Test for Ethnic Homophily in the Chicago Labor Market*, 19 LAB. ECON. 824, 830 (2012) (observing discriminatory impact on resumes containing “[f]oreign sounding” names).

168. See ABA STANDARDS & RULES OF PROC. FOR APPROVAL OF L. SCH. 2019–2020 Standard 304, at 17–18 (AM. BAR ASS'N 2019) (requiring faculty member feedback for experiential courses and faculty evaluation of student achievement in field placement courses).

169. See *id.*

diversity and inclusion can help organizations assess their efforts and signal the importance of these issues. Organizations should consider developing and administering quantitative and qualitative measures to assess students' experience and evaluate the perceived value and effect of their diversity-related efforts.¹⁷⁰

V. CONCLUSION

Efforts by legal offices to proactively diversify their staff, including at the law student level, are critically important. However, these efforts cannot and should not occur without intentional planning and processes that recognize the distinct, often alienating, climate that law students from historically marginalized groups experience each and every day in American law schools. With the rise in experiential learning, legal offices can work harder to connect to students and understand their law school experience so that these offices are prepared to support students from diverse backgrounds—particularly students of color and students who identify as LGBTQ+—at every stage of engagement. Organizations cannot simply use students from historically marginalized backgrounds to increase statistics or help with marketing. To truly support diversity and inclusion, legal offices promoting diversity-based recruitment programs must do more internally before focusing on external benefits. They must invest time and energy, and they must be critically introspective. While each office, each law school, and each individual student offer their own unique strengths, challenges, and particularities, this Article and its principles provide a strong foundation for offices to build upon so that law students from historically marginalized groups feel heard, feel supported, and have an opportunity to thrive and succeed while learning how to be a lawyer.

170. See AM. BAR ASS'N, *supra* note 5, at 28.