
ANALYZING LAW SCHOOL CHOICE

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The contemporary crisis in law school enrollments presents a timely opportunity to evaluate a subject that has received little academic attention: student choice in legal education. In order to address the present lack of understanding about what motivates post-Recession law students to enroll in law school, this Article examines several of the factors that bear on the choice to attend law school from the results of an original survey distributed to current law students at four law schools—a private elite law school, a public flagship law school, a public regional law school, and a private new law school—in the 2017–2018 academic year. This survey—the Law School Choice Survey—and this Article analyze the salience of location, information, opportunity cost, and cost sensitivity in the context of a law student’s decision to enroll in law school. The results from the responses to the Law School Choice Survey indicate that legal education is a highly stratified market for consumers on the basis of their preferences. It is hoped that these results will shed greater light on and knowledge of the most understudied group in professional graduate education—law students.

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I. INTRODUCTION

The national discourse about higher education in the 21st Century commonly depicts the sector as a commercialized marketplace.¹ And from a market standpoint, the value of a good, such as a graduate professional degree, is assessed by the cost and benefits of its consumption. Thus, the discussion of legal education as, simultaneously, both a good and a marketplace is not new.² As part of the broader higher education sector, legal education can be said to contribute to private benefits realized by its consumers, such as increased salary and career and economic mobility that have traditionally accrued to law school graduates.³ Legal education also produces positive public externalities, such as better-trained lawyers to perform a variety of jobs in a progressively complex and specialized legal sector. Significant declines in law school outcomes since 2013, however, are indicative of the costs and negative externalities of legal education. These externalities shape perceptions of the economic value associated with legal education and influence demand for legal education.

As a subset of the higher education sector, legal education has recently encountered challenges unique to its own ecosystem within the higher education sector. Enrollments at law schools have been dramatically reduced since 2010; comparing Fall 2017 to Fall 2010 enrollments, losses to enrolled students exceed 10,000 first-year students and 37,000 total J.D. degree-enrolled students, a 28.75% and 25.33% reduction, respectively.⁴ Yet, more than 37,000 first-year

1. See, e.g., DEREK BOK, *UNIVERSITIES IN THE MARKETPLACE: THE COMMERCIALIZATION OF HIGHER EDUCATION* 5 (2003); SHEILA SLAUGHTER & LARRY L. LESLIE, *ACADEMIC CAPITALISM: POLITICS, POLICIES, AND THE ENTREPRENEURIAL UNIVERSITY* 9 (1997).

2. The discussion of legal education as a market place is not new. See, e.g., RICHARD L. ABEL & PHILLIP S.C. LEWIS, *LAWYERS IN SOCIETY* 197, 223–38 (1988) (discussing the place of lawyers in society and classifying this place in terms of public and private good); see also Yves Dezalay & Bryant G. Garth, *The Economy of Legal Practice as a Symbolic Market: Legal Value as the Product of Social Capital, Universal Knowledge, and State Authority*, 10 *ECON. SOC.*, July 2009, at 8–13, http://econsoc.mpifg.de/archive/econ_soc_10-3.pdf#page=8 (submitting that legal markets are artificially scarce because of the restricted supply of lawyers by law schools).

3. LARRY L. LESLIE & PAUL T. BRINKMAN, *THE ECONOMIC VALUE OF HIGHER EDUCATION* 17 (1988); ERNEST T. PASCARELLA & PATRICK T. TERENCE, *HOW COLLEGE AFFECTS STUDENTS* 535 (2005).

4. Christopher J. Ryan, Jr., *The Economics of Attending Law School in the 21st Century* 10–11 (June 30, 2018) (unpublished Ph.D. dissertation, Vanderbilt University), https://etd.library.vanderbilt.edu/available/etd-06222018-184714/unrestricted/Ryan_CJ.pdf.

students and more than 110,000 total students are enrolled in J.D. degree programs as of Fall 2017, notwithstanding less-than-desirable employment prospects and mounting debt that await many graduating law students.⁵ That many students still choose to pursue legal education despite economic disincentives to do so raises important questions about these students' motivations to attend law schools and the information on which these students relied in making their decision to attend law school. In order to address the trend of declining enrollment, law schools must better understand and satisfy the preferences, needs, and desires of current and potential consumers—students.⁶

While little academic attention has been paid to the role of choice in graduate education, the contemporary crisis in law school enrollments presents a timely opportunity to evaluate student choice in legal education. In order to address the present lack of understanding about what motivates post-Recession law students to enroll in law school, this Article examines several of the factors that bear on the choice to attend law school from the results of an original survey distributed to current law students in the 2017–2018 academic year. This Article discusses the student choice literature in higher education, the survey, and its results.

II. STUDENT CHOICE

The literature on student choice, which indicates that choice decisions are complex and multifactorial, is well established in the undergraduate context. A considerable number of studies in this area address how students decide how much education to acquire,⁷ what college to attend,⁸ and whether to continue

5. *Id.* at 11.

6. Demetris Vrontis, Alkis Thrassou & Yioula Melanthiou, *A Contemporary Higher Education Student-Choice Model for Developed Countries*, 60 J. BUS. RES. 979, 980 (2007) (citing Lynn Eagle & Ross Brennan, *Students as Customers: Why the Customer Concept May Not Be Right . . . and Students Might Not Know What They Need*, 31 (Middlesex U. Bus. Sch. Working Paper Series, Marketing Vol. 31 2005)); *see also* Matthew Rabin, *Psychology and Economics*, 36 J. ECON. LIT. 13–33 (1998) (reviewing a large number of studies from psychology, economics, and other fields demonstrating how, under some circumstances, individuals have changing preferences, make errors in judgments, do not pursue their own self-interest, and process information in ways that are not accounted for in typical economic models).

7. *See, e.g.*, GARY S. BECKER, *HUMAN CAPITAL: A THEORETICAL AND EMPIRICAL ANALYSIS, WITH SPECIAL REFERENCE TO EDUCATION* 11 (1993); JACOB MINCER, *SCHOOLING, EXPERIENCE, AND EARNINGS* 2 (1974); George Butlin, *Determinants of Post-secondary Participation*, 5 EDUC. Q. REV. 9, 9 (1999); Elchanan Cohn & Terry G. Geske, *Private Nonmonetary Returns to Investment in Higher Education*, ECON. OF AM. HIGHER EDUC. 173, 173 (1992); Elchanan Cohen & W.W. Hughes, Jr., *A Benefit-Cost Analysis of Investment in College Education in the United States: 1969–1985*, 13 ECON. EDUC. REV. 109, 109 (1994); James Monks, *The Returns to Individual and College Characteristics: Evidence from the National Longitudinal Survey of Youth*, 19 ECON. EDUC. REV. 279, 279–80 (2000).

8. SLAUGHTER & LESLIE, *supra* note 1, at 39–68; MICHAEL B. PAULSEN, ASHE-ERIC HIGHER EDUC., COLLEGE CHOICE: UNDERSTANDING STUDENT ENROLLMENT BEHAVIOR 23 (rep. no. 6, 1990); Randall G. Chapman, *Toward a Theory of College Selection: A Model of College Search and Choice Behavior*, 13 NORTH AM. ADVANCES IN CONSUMER RES. 246, 246 (1981); Stephen L. DesJardins, Halil Dundar & Darwin D. Hendel, *Modeling the College Application Decision Process in a Land-Grant University*, 18 ECON. EDUC. REV. 117, 118 (1999); James C. Hearn, *Determinants of Postsecondary Education Attendance: Some Implications of Alternative Specifications of Enrollment*, 10 EDUC. EVAL. & POL'Y ANALYSIS 171, 171 (1988); Don Hossler & Karen S. Gallagher, *Studying Student College Choice: A Three-Phase Model and the Implications for Policymakers*, 62

toward degree completion or drop out.⁹ The leading factors that contribute to a student's decision to enroll at a particular institution can be distilled by the academic disciplinary methods for studying student choice. Sociological studies in the area identify family socioeconomic status, academic ability, and environmental contexts as playing the largest roles in student choice.¹⁰ Studies rooted in the psychological sciences demonstrate that reputation of the institution and recommendations of authority figures play predominant roles in student choice.¹¹ Policy studies instruct that federal and state funding patterns and financial aid programs can influence students in the selection of certain types of higher education institutions.¹² And economic studies indicate that cost, including opportunity cost and perceived cost, is the strongest predictor of student choice.¹³

Yet, little is known about whether the model of student choice applies to graduate education, and legal education in particular.¹⁴ Specifically, there is a

C. & U. 207, 207 (1987); Gregory A. Jackson & George B. Weathersby, *Individual Demand for Higher Education: A Review and Analysis of Recent Empirical Studies*, 46 J. HIGHER EDUC. 623, 640 (1975); Laura W. Perna, *Differences in the Decision to Attend College Among African Americans, Hispanics, and Whites*, 71 J. HIGHER EDUC. 117, 121 (2000); Robert K. Toutkoushian, *Do Parental Income and Educational Attainment Affect the Initial Choices of New Hampshire's College-Bound Students?*, 20 ECON. EDUC. REV. 245, 246 (2001).

9. JOHN BRAXTON ET AL., *REWORKING THE STUDENT DEPARTURE PUZZLE* 1 (2000); JAMES L. PRICE, *THE STUDY OF TURNOVER* 6 (1977); John P. Bean, *The Application of a Model of Turnover in Work Organizations to the Student Attrition Process*, 6 REV. HIGHER EDUC. 129, 129–30 (1983); Alberto F. Cabrera, Amaury Nora & Maria B. Castaneda, *College Persistence: Structural Equations Modeling Test of an Integrated Model of Student Retention*, 64 REV. HIGHER EDUC. 123, 123 (1993); Charles F. Manski, *Anatomy of the Selection Problem*, 24 J. HUMAN RES. 343–44 (1989); Vincent Tinto, *Dropout from Higher Education: A Theoretical Synthesis of Recent Research*, 45 REV. EDUC. RES. 89, 89–90 (1975).

10. See, e.g., ROBERT ZEMSKY & PENNEY OEDEL, *THE STRUCTURE OF COLLEGE CHOICE* 29 (1983) (noting that as students' family income, educational aspirations, aptitude, and achievement, and parent's educational attainment increase, their choices become more likely to include high cost, highly selective, more distant, private colleges and universities); Laura W. Perna, *Studying College Access and Choice: A Proposed Conceptual Model*, in 21 HIGHER EDUC. HANDBOOK OF THEORY & RES. 99, 101 (2006) (highlighting socioeconomic status and context as factors that both predict student choice as well as perpetuate institutional stratification).

11. David G. Erdmann, *An Examination of Factors Influencing Student Choice in the College Selection Process*, 100 J.C. ADMISSIONS 3, 5–6 (1983) (noting that reputation—in addition to pre-established factors like cost, location, etc.—is an important consideration in choice); Hossler & Gallagher, *supra* note 8, at 210–11 (suggesting that the student choice process is in fact a three-part decision-making process, comprised of the search and information gathering, the application, and the choice or decision, where at each level the student making the choice is potentially concerned with the opinions and recommendations of others).

12. See, e.g., Bridget T. Long, *How Do Financial Aid Policies Affect Colleges? The Institutional Impact of the Georgia HOPE Scholarship*, 39 J. HUMAN RES. 1045, 1045–46, 1062–63 (2004) (finding that a statewide merit scholarship policy did stem “brain-drain”); Laura W. Perna & Marvin A. Titus, *Understanding Differences in the Choice of College Attended: The Role of State Public Policies*, 27 REV. HIGHER EDUC. 501, 502, 519–20 (2004) (concluding that enrollment patterns are stratified by socioeconomic status and state policies addressing affordability are related to enrollment patterns).

13. See, e.g., WILLIAM IHLANFELDT, *ACHIEVING OPTIMAL ENROLLMENTS AND TUITION REVENUES* 20 (1980); Michael B. Paulsen & Edward P. St. John, *Social Class and College Costs: Examining the Financial Nexus Between College Choice and Persistence*, 73 J. HIGHER EDUC. 189, 193–93 (2002); Girish N. Punj & Richard Staelin, *The Choice Process for Graduate Business Schools*, 15 J. MARKETING RES. 588, 588 (1978); Michael L. Tierney, *Student College Choice Sets: Toward an Empirical Characterization*, 18 RES. HIGHER EDUC. 271, 273 (1983).

14. As the Law School Choice Survey was being administered, on which this Article is based, the American Association of Law Schools (in conjunction with several other organizations including the National Association for Law Placement and Gallup) administered the *Before the JD* survey. This survey focused on different constructs of choice and surveyed largely college seniors about their graduate education aspirations. A policy

knowledge gap about the sources of information on which current law students rely to shape their perceptions of the value of legal education and how these perceptions relate to their decision to enroll in professional law degree programs; the extent to which their risk tolerance relates to their decision to invest in legal education; and their perceptions of the value their legal education has added to their job prospects and career preparation. In fact, the literature about law students, beyond demographic changes over time, and graduate student choice is scarce.¹⁵ Moreover, while a robust body of literature links risk tolerance to other unsound behavioral economic responses, scholars have yet to connect risk tolerance to risks associated with debt and under-matching among students and recent graduates of professional graduate schools, such as law school students and recent graduates of law schools.¹⁶ This Article endeavors to address the paucity of understanding about the decision-making process of law students in attending law school and seeks to contribute to the growing literature connecting risk tolerance and the decision to invest in higher education.

III. THE LAW SCHOOL CHOICE SURVEY

A. Purpose and Research Question

While institutional surveys and a notable national survey of law students exist,¹⁷ this Article centers on the analysis of a novel survey instrument of law students. The Law School Choice Survey¹⁸ surveyed current law students in a post-Recession context; given that many of these students have information about the diminished opportunities for jobs after graduation prior to their enrollment in law school, the survey asked:

Upon what sources of information did these law students rely in making the decision to enroll in law school?¹⁹

report by the AALS since the administration of that survey sheds greater light on the subject of student choice in legal education but focuses primarily on the sources of advice students rely on in deciding to enroll in law school, their aspirations, and when they first considered going to law school. See *Highlights from Before the JD: Undergraduate Views on Law School*, AM. ASS'N L. SCHOOLS, <https://www.aals.org/wp-content/uploads/2018/09/BJDReportsHghlights.pdf> (last visited Jan. 19, 2020).

15. See, e.g., Girish N. Punj & Richard Staelin, *The Choice Process for Graduate Business Schools*, J. MKTG RES. 588–98 (1978) (investigating the application of choice to graduate business education, which was the only rigorous extant study of student choice in graduate professional education before this study and *Before the JD*).

16. Stephen L. DesJardins & Robert K. Toutkoushian, *Are Students Really Rational? The Development of Rational Thought and Its Application to Student Choice*, in 20 HIGHER EDUC. HANDBOOK OF THEORY AND RES. 191, 233 (2005) (noting that rationality is “always defined relative to each person’s preferences and taste for risk. . . . [and] does not hold that given like information individuals will make the same decisions or make the decisions that an individual observing the situation would have made”). It should also be noted that, as described below, because not every law school’s students received a survey instrument that contained questions about risk tolerance, a full discussion of risk tolerance will not be present in these pages.

17. See, e.g., *The Law School Survey of Student Engagement*, <http://lsse.indiana.edu> (last visited Jan. 19, 2020) [hereinafter *Law School Survey*].

18. See Christopher J. Ryan, Jr., *The Law School Choice Survey*, 108 (2019) (unpublished survey) (available on request to the author).

19. *Id.* at 141.

What factors played the largest roles influencing their decision to attend their law school?²⁰

What choices of law schools did these students have?²¹

Whether the following constructs were salient to these law students, influencing their decision to attend their law school:

The location of the law school;²²

The reputation of the law school;²³

The institutional financial aid package offered by the law school; and²⁴

The student's marginal opportunity cost?²⁵

What levels of price sensitivity do these students demonstrate?²⁶

These research questions, and others, are answered descriptively from the results of an original survey that was administered at four ABA-accredited law schools, helping to describe how current law students' perceptions of the value of legal education relate to decisions and actions. As each law school corresponds not only to a particular typology of law school, but also to the four tiers of academic reputation,²⁷ the data provide an illustrative portrait of current law students' perception of the economic value of legal education.

The questions employed in the Law School Choice Survey came from a variety of sources, but most are original framings. Most of the descriptive questions, such as the student's background information (race, gender, parental education, undergraduate major, etc.), derived from existing national surveys of students.²⁸ Answer choices about previous employment experience and industry, as well as prior income, were drawn from Bureau of Labor Statistics classifications of labor industries.²⁹ Questions about a student's confidence in their training and job prospects were modified from surveys such as the Strada-Gallup College

20. *Id.* at 139.

21. *Id.* at 122.

22. *Id.* at 140.

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* at 147.

27. For instance, the private elite law school is a top-ranked law school in national rankings. The public flagship law school falls just outside of the top 50 law schools ranked by the *U.S. News & World Report*. The public regional law school is ranked outside the top 100 law schools by *U.S. News & World Report*, and the private new law school is ranked outside the top 150 law schools as ranked by the same publication. As such, these schools are illustrative of their peers on the basis of these ubiquitous rankings.

28. See, e.g., *Law School Survey*, *supra* note 17; *The National Survey of Student Engagement*, <http://nsse.indiana.edu> (last visited Jan. 19, 2020).

29. See, e.g., *Industries at a Glance*, BUREAU LAB. STAT., <https://www.bls.gov/iag/> (last visited Jan. 19, 2020).

Student Survey.³⁰ Questions about price sensitivity, however, were totally original applications of an existing economic concept.³¹ Additionally, several questions in this survey, notably those related to the research questions described above, were completely novel inquiries in studies of students.³² The data collected from responses to these survey questions included information on the sources of information on which law students relied when making the decision to enroll in law school, their risk tolerance, and their perceptions of value associated with their law training, among other constructs.³³ The survey instrument sought to fill in the research gap related to student perceptions of the value of their investment in law school, the utility gained from their learning experiences in their law school environment, and their projected prospects of bar passage and employment in the legal labor market.³⁴ This survey is the first to collect this information on law students for public research purposes.³⁵

B. Data

Six law schools, including one unaccredited law school, were invited to participate in the Law School Choice Survey. Three law schools formally agreed to participate, and one law school allowed its students to be surveyed but did not formally endorse its students' participation in the survey. Two law schools, including the unaccredited law school, declined to participate in the survey. The law schools were chosen because they closely track the several typologies of law schools and come from all four tiers in the *U.S. News & World Report*. As a condition of their participation in the survey, the law schools cannot be specifically identified. The law schools that participated in this survey, however, can be described as follows: a private elite law school; a public state-flagship law school; a public regional law school; and a private new law school.

Data collection for the survey commenced in the Fall semester of 2017, with a response period of October 1 to November 15, 2017. The survey was administered on the Qualtrics survey online platform and included a modest respondent incentive for participation in the survey.³⁶

30. See, e.g., *The Strada-Gallup College Student Survey*, GALLUP, <http://news.gallup.com/reports/225161/2017-strada-gallup-college-student-survey.aspx> (last visited Jan. 19, 2020).

31. See Peter Van Westendorp, *NSS-Price Sensitivity Meter: A New Approach to Study of Consumer Perception of Price*, PROCEEDINGS FROM ESOMAR CONGRESS (1976), <https://www.researchworld.com/a-new-approach-to-study-consumer-perception-of-price/>.

32. See, e.g., Ryan, *supra* note 18, at 147.

33. *Id.* at 151.

34. *Id.* at 146–51.

35. *Id.* at 108.

36. Responding students were entered into a drawing for one of ten \$50 Amazon gift cards at each participating law school. This respondent incentive was supported through the generosity of the funders of the survey: Vanderbilt University, the American Bar Foundation, and the AccessLex Institute.

TABLE 1: SURVEY RESPONSE RATES

Law School Type	Percentage
Private Elite Law School	44.70
Public Flagship Law School	33.62
Public Regional Law School	39.71
Private New Law School	42.54

The response rates within this sample of law students were quite robust, given that the population of college and graduate students trends lower for response rates relative to other populations of sampled students.³⁷ For example, a recent national survey of undergraduate students averaged a response rate of 29% with private university students outpacing their public university peers in terms of response rates.³⁸ In fact, given that the response rate was around or exceeding 40% at three of the four law schools surveyed, the response rate for this survey was close to the highest response rate among law students for any survey of law students. Even if the response rate was lower than the robust participation rate realized by the Law School Choice Survey, there would still be strong support that the descriptive claims made herein are unbiased, given the population studied.³⁹ Additionally, respondents to the survey were representative of their law school's entire population on the basis of race and gender, within 2%, in each category.

The survey instrument consisted of thirty-six questions, of which five questions contained multiple parts generated by the respondent's response to the first part.⁴⁰ Because an agreement with one of the law schools required the omission of ten questions, however, one law school received an abridged version of the survey, with these ten questions removed. The descriptive analysis in this Article makes use of the common data across all four law schools (*i.e.*, the twenty-six questions to which all participating law schools' students responded).

The first part of the survey covered background information about the respondents. The first cluster of questions asked students to indicate: the law school

37. See generally *NSSE Response Rate FAQ*, NAT'L SURVEY OF STUDENT ENGAGEMENT (2016), http://nsse.indiana.edu/pdf/Resp_Rate_FAQ.pdf.

38. *Id.* The phenomenon of private university participants exceeding their public university counterparts in terms of survey participation has been born out in a meta-analysis of university student survey research, which also indicated that students with the highest and lowest academic credentials are most likely to participate in survey research. See Stephen R. Porter & Paul D. Umbach, *Student Survey Response Rates Across Institutions: Why Do they Vary?*, 47 RES. IN HIGHER EDUC. 229, 232 (2006).

39. See, e.g., Douglas S. Massey & Roger Tourangeau, *Where Do We Go from Here? Nonresponse and Social Measurement*, 645 ANNALS AM. ACAD. POL. & SOC. SCI. 222, 222 (2013); Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 121 (2016); Andy Peytchev, *Consequences of Survey Nonresponse*, 645 ANNALS AM. ACAD. POL. & SOC. SCI. 88, 88 (2013); *2016 Annual Survey Results*, LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, <http://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE-2016-Annual-Report-1.pdf> (last visited Jan. 19, 2020); *2007 Annual Survey Results*, LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, http://lssse.indiana.edu/wp-content/uploads/2016/01/EMBARGOED_LSSSE_2007_Annual_Report.pdf (last visited Jan. 19, 2020).

40. See Ryan, *supra* note 18.

they attend; their enrollment status; their law school year; whether they transferred to the law school they attend; their ethnicity; their gender; their age; their parents' highest level of education; their parents' income; the distance from their law school to the home in which they last lived before attending law school; their law school grade point average; their class rank; their undergraduate grade point average; and their Law School Admissions Test ("LSAT") score.⁴¹ The next three questions asked students to indicate their approximate income in the year immediately prior to entering law school, their employment status prior to law school, and whether they had an additional graduate degree.⁴² Based on responses to these questions, students were asked about their previous sector of employment, the area of their previous graduate studies, degree, and their degree granting institution.⁴³ Students were also asked about the area of their undergraduate studies, degree, and degree granting institution.⁴⁴

The next part of the survey dealt with choice, specifically: the law schools to which students applied and were admitted; whether the law school they attend was their first, second, third, fourth, or more choice at various times from the period before they applied to law school to the date on which they responded to the survey; and their second choice law school to which they were admitted.⁴⁵ This section also queried students about the factors influencing their choice as well as information available to law students in making their decision to attend law school. Specifically, this section surveyed students about the factors of greatest, average, and least consideration in making their decisions to attend law school and the information upon which students relied in making their decisions to attend law school.⁴⁶

The final section of the survey covered several constructs, including: the respondent's post-graduation career interests and preferred occupational field; how the respondent was paying for legal education; the annual cost of attendance at the respondent's law school and the respondent's second choice law school; and the respondent's price sensitivity to legal education in general.⁴⁷

C. *Objective and Analytic Framework*

The Law School Choice Survey assessed current law students' choice of law school and various factors related to their cost sensitivity and projected outcomes that frame their perceptions of the economic value of legal education.⁴⁸ It also tested the limits of central economic theories, such as the rationality of economic agents, organizational and firm behavior, and the education production function, as applied to the context of the competitive legal education marketplace

41. *Id.* at 108–13.

42. *Id.* at 113–19.

43. *Id.* at 116–19.

44. *Id.* at 117–19.

45. *Id.* at 121–39.

46. *Id.* at 140–41.

47. *Id.* at 142–51.

48. *Id.* at 147.

and its participants.⁴⁹ Specifically, the constructs from which the survey questions originated were derived from the literature on student choice, the economics of higher education, and related theories of decision-making.⁵⁰ In its novel application of these constructs for the first time to the context of professional graduate education, this survey, above all, assessed behavioral responses of consumers of legal education to incentives that exist within the legal education marketplace.⁵¹ By assessing the salience and sources of information about which students rely to inform their decision to attend law school, the Law School Choice Survey also points to informational monopolies and sources of informational asymmetry.⁵² This section of the survey explored the link between risk

49. Adherents to rational choice theory posit that, given certain social, psychological, or economic constraints, an actor will behave rationally. For a lengthier discussion of the rationality of economic agents, see, in order of contribution to the knowledge about the merits and limits of rational choice theory, Herbert A. Simon, *A Behavioral Model of Rational Choice*, 69 Q.J. ECON. 99 (1955); Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk*, 47 ECONOMETRICA 263 (1979); JAMES S. COLEMAN & THOMAS J. FARARO, *RATIONAL CHOICE THEORY: ADVOCACY AND CRITIQUE* (1992). Specifically, the analysis of the survey in this chapter seeks to test the limits of the rationality of economic agents in the legal education market, given that “wealth maximizing” activities are fundamentally at odds with risk aversion in the current legal education market. For more information on the organizational and firm behavior frame that this analysis will employ, see Ronald H. Coase, *The Nature of the Firm*, 4 ECONOMICA 386 (1937). Coase’s theory of the firm finds purchase in relation to legal education’s responses to various market conditions. That is, when viewing legal education as a good provided to consumers, law school firm behavior appears to have emerged in response to (perverse) incentives created by: the *U.S. News and World Report* law school rankings; the impact of the recession on the demand for legal education; and the emergence of an increasingly crowded market for the provision of legal education. For example, law schools may bear the transaction costs of delivering the legal education required to be eligible for bar passage and later practice, but they transfer the transaction costs of paying for the good and the value of the good in the market by relying on student performance on bar examinations and success in practice to set the external signaling mechanism and the value of the good. While this model of firm behavior is not entirely unique to law schools, the response of law schools to continue to enroll increasingly less qualified law students, despite the unlikelihood that these students will successfully pass the bar and secure a job in law, law schools are at the center of the factors contributing to the uncertainty of the legal professional market. See also Jerry Organ, *Changes in Composition of the LSAT Profiles of Matriculants and Law Schools Between 2010 and 2015*, L. PROFESSOR BLOGS: THE LEGAL WHITEBOARD (Jan. 18, 2016), <https://lawprofessors.typepad.com/legal-whiteboard/2016/01/in-late-december-2014-i-posted-a-blog-analyzing-how-the-distribution-of-matriculants-across-lsat-categories-had-changed-si.html?platform=hootsuite> (analyzing this recent trend). See generally E. Gordon Gee & Donald W. Jackson, *Bridging the Gap: Legal Education and Lawyer Competency*, 1977 BYU L. REV. 695 (1977) (discussing this trend historically). For an explanation of the education production function, see Peter Arcidiacono, Patrick Bayer & Aurel Hizmo, *Beyond Signaling and Human Capital: Education and the Revelation of Ability*, 2 AM. ECON. J.: APPLIED ECON. 76, 76–80 (2010) (relating the revelatory ability of educational credentials, via signaling, to the labor market); Paul Glewwe & Hanan G. Jacoby, *Economic Growth and the Demand for Education: Is There a Wealth Effect?*, 74 J. DEV. ECON. 33, 44–50 (2004) (studying the relationship, in a comparative national sense, between human capital investment, national wealth, and the demand for education); Alan B. Krueger, *Experimental Estimates of the Education Production Function*, 114 Q.J. ECON. 497, 528–31 (1999) (equating, through causal estimates, the effect of schooling inputs on developmental outcomes).

50. Perna, *supra* note 10, at 116.

51. See, e.g., Oriana Bandiera, Iwan Barankay & Imran Rasul, *Social Preferences and the Response to Incentives: Evidence from Personnel Data*, 120 Q.J. ECON. 917, 918–33 (2005) (examining the “causal effect of the change in incentive schemes on worker productivity”); Donald R. Lichtenstein, Nancy M. Ridgway & Richard G. Netemeyer, *Price Perceptions and Consumer Shopping Behavior: A Field Study*, 30 J. MARKETING RESEARCH 234, 234–36 (1993) (discussing how consumers’ price perception impact consumer behavior). See generally RICHARD L. OLIVER, *SATISFACTION: A BEHAVIORAL PERSPECTIVE ON THE CONSUMER* (2014) (discussing various consumer satisfaction, what can affect it, and its impact).

52. In the higher education context, the idea of informational asymmetry is not new. See, e.g., David D. Dill & Maarja Soo, *Transparency and Quality in Higher Education Markets*, in *MARKETS IN HIGHER*

tolerance and investment in graduate education.⁵³ Perhaps most importantly, this section of the survey collected information about student buying behavior and choice of law school.⁵⁴

An analysis of responses to this survey reveals the factors that relate to law school choice and the extent to which perceptions of value motivate consumer action in the legal education marketplace vis-à-vis the norms of their institution and cohort and values they place on their legal education. This Article presents timely findings on the present and persistent crisis in legal education, developing more clarity around the incentives created by market forces and market players in the legal education space and the responses by consumers to these forces. As one of the first studies of these constructs in legal education—rooted in the economics of higher education literature, and informed by a behavioral economic framework—this Article not only uncovers trends in legal education but also law students' experiences with these trends, providing insight into how the economics of legal education affect its most important constituent group—law students. Indeed, the findings from this survey contribute to the necessary dialogue about the critical areas of reform in the business model of legal education.

IV. ANALYSIS

A. Overview

The results from the survey, reported below, are a function of the responding sample of students at each of the four participating law schools. In addition to the typological descriptions of the law schools, context about the students at these law schools helps to frame the survey results. The descriptions that follow provide this context from the 2017 ABA Rule 509 Disclosure Reports data.⁵⁵

Like their law school, students at the private elite law school were among the top students in the nation. First-year students beginning their legal studies in 2017 recorded a median LSAT score higher than 165 and a median undergraduate grade point average higher than 3.70. Overall, the private elite law school was racially diverse, with roughly 30% of J.D. degree-enrolled students from underrepresented minority groups. It would be fair to say that these students had good odds of admission at any law school in the country.⁵⁶

EDUCATION, 61, 63–68 (2005); Michael Rothschild & Lawrence J. White, *The Analytics of the Pricing of Higher Education and Other Services in which the Customers Are Inputs*, 103 J. POL. ECON. 573, 582–85 (1995).

53. DesJardins & Toutkoushian, *supra* note 16, at 192–93, 224.

54. Punj & Staelin, *supra* note 13, at 588 (investigating the extent to which buying power relates to student choice in the context of graduate business education).

55. See *2017 Standard 509 Information Report Data Overview*, A.B.A. (Dec. 14, 2017), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2017_509_enrollment_summary_report.pdf.

56. Admissions decisions, like enrollment decisions, are multifactorial processes. See, e.g., *JD Application Requirements*, L. SCH. ADMISSION COUNCIL, <https://www.lsac.org/applying-law-school/jd-application-process/jd-application-requirements> (last visited Jan. 19, 2020). To provide the reader with a better sense of the model student enrolled at each of the participating law schools, however, the author compared entering law student

First-year students at the public flagship law school had a LSAT median score between 155 and 159 and a median undergraduate grade point average between 3.5 and 3.6 with less than one-quarter of all students coming from underrepresented minority groups. The average credentials of these students suggest that they would be competitive with the next tier of law schools, placing them around the top third of all first-year law students nationally.⁵⁷

Law students in their first-year at the public regional law school had a median LSAT score between 150 and 154 and a median undergraduate grade point average between 3.25 and 3.35, with roughly one quarter of all law students at this law school identified with underrepresented minority groups. Based on these entering credentials, students from the public regional law school would be competitive applicants for admission at slightly less than half of all law schools.⁵⁸

Students in their first-year of law school at the private new law school had a median LSAT score between 145 and 149 and a median undergraduate grade point average between 3.05 and 3.15, with less than 30% of all law students reporting their race as belonging to an underrepresented minority group. The students from this law school could be expected to compete for admission among a much smaller group of law schools, likely comprising just less than one quarter of all law schools.⁵⁹

In sum, the law schools participating in this survey are illustrative of their peer institutions, roughly corresponding to the common typological descriptions of law schools and each of the four quartiles of law schools based on their reputation in the *U.S. News* rankings.⁶⁰ Likewise, these students are relatively good proxies for peer students at law schools that share a similar reputational ranking. The results of the survey, which follow below, can thus be read as providing a

credentials of students at these law schools to other law schools nationally and reports these comparisons for the facility of the reader to draw his or her own conclusions.

57. Statistics on file with author. See, e.g., *University of Missouri Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Missouri, University of", click "Generate Report", see downloadable .pdf document); *Pennsylvania State University—Penn State Law Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Pennsylvania State – Penn State Law", click "Generate Report", see downloadable .pdf document).

58. Statistics on file with author. See, e.g., *University of Akron Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Akron, University of", click "Generate Report", see downloadable .pdf document); *University of Arkansas—Little Rock Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Arkansas, Little Rock, University of", click "Generate Report", see downloadable .pdf document).

59. Statistics on file with author. See, e.g., *Capital University Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Capital University", click "Generate Report", see downloadable .pdf document); *Faulkner University Standard 509 Information Report*, AM. BAR ASS'N, <http://www.abarequreddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Standard 509 Information Reports" box, select "2017" and "Faulkner University", click "Generate Report", see downloadable .pdf document).

60. *Methodology: 2020 Best Law Schools Rankings*, U.S. NEWS & WORLD REP., <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology> (last visited Jan. 19, 2020).

representative illustration of law students at law schools that are similar to the participating law schools by typological description and reputation.

B. Location

For years, studies of undergraduate student choice have determined that the salience of location ultimately relates to student choice of higher education institution, particularly for students living in low socioeconomic communities or geographically remote areas.⁶¹ Yet, the salience of location in the context of choice in professional graduate education, and more specifically legal education, has not yet been specifically established, even though the regional employment footprints of law schools is known.⁶² As such, in one of the first questions, the Law School Choice survey asked respondents about the proximity of the location of the law school at which they are currently enrolled to the home in which they last lived before they began law school.⁶³ The answers vary by institution type but tend to coalesce around a dominant response for each institution.

The patterns indicated by the survey responses demonstrate that the typological descriptions of the law schools used in this Article are relatively fitting. The private elite law school's students were overwhelmingly drawn from not only outside of the metropolitan area in which the law school is located, but also from outside the state and region (83.09%) in which the law school is located.⁶⁴ As such, judging by the response to the survey, the private elite law school is as national as its status would indicate.

By contrast, the greatest balance between response categories can be found within the responses at the public flagship law school. Students at the public flagship law school came mostly from the state and region (38.61%) with more than one quarter of respondents at the public flagship law school also coming from the metropolitan area (26.71%) in which the law school is located, such that only one-third (34.67%) came from outside of the region in which the law school is located.⁶⁵ Taken together, responses from students at the public flagship law school would seem to suggest a more regional pool from which the law school sources its students, especially when compared to the private elite law school.

61. See, e.g., David Card, *Using Geographic Variation in College Proximity to Estimate the Return to Schooling* 1–29 (Nat'l Bureau of Econ. Research, Working Paper No. 4483, 1993) (discussing the relationship between university location, enrollment, and outcomes, for among the very first time); William R. Doyle & Benjamin T. Skinner, *Estimating the Education-Earnings Equation Using Geographic Variation*, 53 *ECON. EDUC. REV.* 254, 257 (2016) (employing a latter-day application of the Card analysis).

62. See Jerry Organ, *Location, Location, Location Revisited—Most Law Schools Have a Regional Employment Footprint*, L. PROFESSOR BLOGS: THE LEGAL WHITEBOARD (Mar. 5, 2017), <https://lawprofessors.typepad.com/legalwhiteboard/2017/03/location-location-location-revisited-most-law-schools-have-a-regional-employment-footprint.html> (noting the regional employment outcomes for law school graduates in the law school classes of 2010, 2011, 2014, and 2015). The results in Table 2 provide ostensible support for Prof. Organ's findings that law schools' footprints are largely regional in terms of employment outcomes and additionally that geographic inertia may disproportionately impact students in the lower end of the LSAT distribution.

63. See Ryan, *supra* note 18, at 112.

64. See *infra* Table 2.

65. *Id.*

The public regional law school drew heavily from students nearby, with a majority of its students responding that they last lived within the metropolitan area in which the law school is located (51.89%) and an additional one-quarter coming from regional and out-of-region locations (24.05%).⁶⁶ This would indicate that the regional law school's functional pool of law students is essentially a local one, and only to a lesser extent drawing from the national region and areas outside of its national region.

Finally, a preponderance of student respondents at the private new law school indicated that they come from the state or region (46.16%) or the local area (30.77%) in which the law school is located, while less than a quarter of respondents were attracted to the law school from areas out of the region (23.08%).⁶⁷ This implies that the private new law school draws students from a fairly regional area. Although the proportion of students who indicated that they last lived in the metropolitan area, state, or region as their law school was virtually identical at both the private new law school and the public regional law school, the responses demonstrated that the public regional law school is predominately local—somewhat contrary to how it promotes itself—while the private new law school is largely a regional law school.

TABLE 2: LOCATION

Distance from Law School	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
Metropolitan Area (0 – 50 miles)	4.48	26.71	51.89	30.77
State or Region (51 – 250 miles)	12.44	38.61	24.05	46.16
Out of Region (251+ miles)	83.09	34.67	24.05	23.08

While the literature on undergraduate choice indicates that location influences enrollment decisions,⁶⁸ the patterns from the responses to the Law School Choice Survey suggest that a law school's location was salient only for certain types of students. Clearly, the location of the law school was least salient for students at the private elite law school.⁶⁹ Location was of greater significance to students at the other tiers of schools, however. While the public flagship law school did not draw from the metropolitan or regional footprint as much as the public regional or private new law schools, as over one-third of its students were from outside of the region in which the public flagship law school sits, still more

66. *Id.*

67. *Id.*

68. See, e.g., Amanda L. Griffith & Donna S. Rothstein, *Can't Get There from Here: The Decision to Apply to a Selective College*, 28 *ECON. EDUC. REV.* 620, 620–22 (2009); Nicholas W. Hillman, *Geography of College Opportunity: The Case of Education Deserts*, 53 *AM. EDUC. RESEARCH J.* 988, 988–89 (2016); Ruth N. López Turley, *College Proximity: Mapping Access to Opportunity*, 82 *SOCIOLOGY EDUC.* 126, 126 (2009).

69. See *supra* Table 2.

than two-thirds come from the metropolitan and regional area of the law school.⁷⁰ Finally, more than 75% of the public regional law school and the private new law school's students came from the metropolitan area, or the state or national region, with the public regional law school's students principally coming from the metropolitan area and the private new law school's students mostly coming from the state or national region, somewhat contrarily to the public regional law school's billing.⁷¹

Of course, these responses represent only a portion of each law school's total population of law students. Moreover, this survey assessed the composition of a law school, as taken from the students who applied, who were admitted, and who actually enrolled at the law school.⁷² Yet, directors of admission have anecdotally described the relationship between applicant pool, admitted pool, and yield pool as strong over the last several years, with admission rates topping 50% nationally since 2011.⁷³ This trend, taken together with the survey's descriptive findings, would support the notion that certain law schools, and particularly lower-tier law schools, may geographically target potential students. Alternatively, these results show that potential law students with nonelite backgrounds tend to enroll in law schools within a closer proximity of their home. Regardless of the explanatory source of this trend, these results suggest a multiplicity of legal education sub-markets within the broader legal education market, which cannot be ignored and should be considered by both law schools and potential law students.

C. *Choice and Factors of Consideration*

A principal concern of this survey was to identify the sources of information on which students relied when applying to law school and the role that this information played in shaping their preferences and eventual law school choice. The first question dealing with the relationship between preferences and choice asked students to rank the law school they currently attend according to their preferences at the following time frames: before applying to law school; when they applied to law school but had not yet received acceptance letters; when they received all of their acceptance letters; and today—or the date at which they were taking the survey.⁷⁴ This question, more than any other question, introduced temporality into a cross-sectional survey but helps gauge, better than any other question, how the student felt about their law school, not only the net of a variety

70. *Id.*

71. *Id.*

72. Ryan, *supra* note 18.

73. As a service to each of the law schools that participated in my survey, I presented the preliminary findings of my research to deans at each of the participating law schools, including deans or directors of admission. At each of these meetings, deans or directors of admission shared with me that their admission rates have risen as applicants have fallen. In my conversations with other deans or directors of admission at law schools that did not participate in my survey, I have learned that admission rates have risen dramatically over that same time period and is borne out by the ABA Rule 509 Disclosure Reports for individual schools.

74. *See infra* Table 3.

of factors that are discretely measured in the survey but also in terms of the process of “updating” or coming to terms with a decision that the behavioral economics literature identifies.⁷⁵ The responses from this question are described in Table 3. Additionally, Figure A1.1 in the Appendix, which follows this Article, maps the proportion of respondents in each category by law school for the facility of the reader in interpreting these relationships visually.

TABLE 3: FIRST-CHOICE LAW SCHOOL

Time Period	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
Before applying to law school	28.89	53.76	64.38	38.30
When you had applied to law school but not received acceptance letters	30.00	56.53	71.43	41.30
When you had received all of your acceptance letters	68.89	75.00	87.50	73.91
Today	82.22	83.52	84.51	85.42

An interesting pattern emerges from these responses. First, across all law schools, students ranked their current law school as their first choice law school at the time of the survey at a rate exceeding 82%, implying a “coming to terms” with their decision to enroll at their law school.⁷⁶ The law student respondents at the private elite law school, however, averaged only 28.89% in indicating their law school was their first choice when they applied to law school or before, providing evidence that they may have had the greatest overall choice of law

75. An early application of the updating phenomenon is outlined in Kevin F. McCardle, *Information Acquisition and the Adoption of New Technology*, 31 MGMT. SCI. 1372, 1372 (1985). A more recent application, particularly involving a decision to incur risk, like the investment in additional credentialing, is outlined in Gary Charness & Dan Levin, *When Optimal Choices Feel Wrong: A Laboratory Study of Bayesian Updating, Complexity, and Affect*, 95 AM. ECON. REV. 1300, 1300 (2005). Other research describes the phenomenon of individuals coming to terms with their decision, especially in the face of risk. See, e.g., Helena Chmura Kraemer et al., *Coming to Terms with the Terms of Risk*, 54 ARCHIVES GEN. PSYCHIATRY 337, 340 (1997).

76. This idea has been more fully discussed in recent behavioral economic research on accepting a decision in the face of ultimatums. See, e.g., Daniel Kahneman, *Maps of Bounded Rationality: Psychology for Behavioral Economics*, 93 AM. ECON. REV. 1449, 1457 (2003); Alan G. Sanfey et al., *The Neural Basis of Economic Decision-making in the Ultimatum Game*, 300 SCIENCE 1755, 1755 (2003).

schools.⁷⁷ This number more than doubled by the time these students had received all of their acceptance letters and reached 82.22% at the time of survey,⁷⁸ seeming to demonstrate the “coming to terms” phenomenon most clearly of any of the four law schools.⁷⁹

Figures for students at the public flagship law school remained relatively constant between their preference for their law school before they applied to law school (53.76%) and when they applied to law school (56.53%).⁸⁰ But this number jumped to 75.00% once these students received their letters of acceptance and 83.52% at the time of the survey.⁸¹ Thus, that three-quarters of students at the public flagship law school responded that their law school was their first choice when their letters of admission had been received indicates that these students felt best matched when they knew what all of their options were.

Respondents from the public regional law school overwhelmingly thought of their current law school as their first choice before they applied to law school (64.38%), and by the time they applied to law school, 71.43% indicated that their current law school was their first choice.⁸² This number increased to the highest percentage of students from any law school that thought of their law school as their first choice once they received all of their letters of admission (87.50%) but dropped to 84.51% at the time of taking the survey—the only such decrease between the last two time periods.⁸³ Thus, students at the public law schools appear to be better “matched” with their choice of law school when they knew all their options. Additionally, students at these law schools registered the highest percentages of students who indicated that their law school was their first-choice law school from the outset of the enrollment decision process,⁸⁴ and these numbers only increased from that baseline (even with the slight decrease in preference at students at the public regional law school at the time they took the survey),⁸⁵ which may also illustrate a lower overall choice of law schools among these students.

The private new law school students indicated in nearly equal numbers that their law school was their first choice before applying (38.30%) and once they had applied to law schools (41.30%).⁸⁶ This number increased greatly once these students received all letters of acceptance (73.91%)⁸⁷ and again to the date of their participation in the survey (85.42%).⁸⁸ These responses indicate not only that law students in this survey sample “came to terms” with their decision over

77. *See supra* Table 3.

78. *See supra* Table 3.

79. *Id.*; *see sources cited supra* note 76.

80. *Supra* Table 3.

81. *Supra* Table 3.

82. *Supra* Table 3.

83. *Supra* Table 3.

84. *Supra* Table 3.

85. *Supra* Table 3.

86. *Supra* Table 3.

87. *Supra* Table 3.

88. *Supra* Table 3.

time, but also that, as the respondents gathered new information, this new information led them to believe, overwhelmingly, that their decision was the right one for them.⁸⁹ In all, these responses tend to show that students in the middle of the distribution of law students are best matched with their law school, while students on the tails of the distribution, for better and for worse, come to terms with their decision incrementally as they receive more information about their candidacy for admission.

The next set of questions asked students about what factors were among the greatest, average, and least considerations influencing their decision to enroll in their law school.⁹⁰ Respondents had a host of options to sort and rank into these categories. Among them were academic reputation; alumni network; bar passage rate; campus or law building's aesthetic appeal; city or town amenities; co-curricular opportunities; diversity of faculty; diversity of students; extra-curricular opportunities; faculty interaction; financial aid package; job placement rate; law career opportunities in the local area; law career opportunities in the regional area; location in the student's preferred bar jurisdiction; proximity to home or family; religious affiliation; size of the classes and law school; social opportunities; sports teams; and reputation, as defined by the *U.S. News & World Report* ("*U.S. News*") rankings, among others.⁹¹ The top five factors of greatest consideration for each law school follow in Table 4.

The convergence of responses on similar factors across all law school students surveyed is somewhat surprising, as several of the top-five factors of greatest consideration are common between law schools. For instance, respondents from all four law schools indicated that job placement, including local or regional career opportunities, was among the very most important factors for them,⁹² an important change in the consumer mindset which may have resulted from the disaggregated reporting of employment outcomes since 2010.⁹³ Additionally, a

89. The responses also capture a recent trend where law students are attriting, and transferring, in fewer numbers in the previous academic year, 2016–2017: the private elite law school had two first-year students attrit and three first-year students transfer out; the public flagship law school had one first-year law student attrit and one first-year student transfer out; the public regional law school had nineteen first-year students attrit and one transfer-out; and the private new law school had fourteen first-year law students attrit and zero first-year students transfer out. While the attrition numbers at the public regional and private new law schools may seem large, they are common for law schools of the same peer reputation. See Jerry Organ, *Updated Analysis of Law School Attrition Data—2018*, TAXPROF BLOG (Jan. 16, 2018), https://taxprof.typepad.com/taxprof_blog/2018/01/updated-analysis-of-attrition-data-2018.html; *Standard 509 Required Disclosures*, AM. BAR ASS'N, <http://www.abarequireddisclosures.org/Disclosure509.aspx> (last visited Jan. 19, 2020) (under "Compilation—All Schools Data" box, select "2017" and "Attrition", click "Generate Report", see downloadable spreadsheet). These attrition and transfer rates, taken together with the results from this survey, tend to corroborate a coming to terms with the decision to enroll in law school.

90. Ryan, *supra* note 18, at 140–41.

91. *Id.*

92. See *infra* table 4.

93. In fact, this trend among law schools might evince a change in law student interest in job placement outcomes since 2010. Testimony to the Questionnaire Committee of the American Bar Association Section on Legal Education and Admission to the Bar in 2010 by students and law school career development professionals demonstrated that law students largely did not pay attention to employment outcomes, which were reported favorably for law schools until they were disaggregated into categories—such as "J.D. required," "J.D. Advantage," etc.—after these meetings. See Rachel Littman, *Comments for the ABA Questionnaire Committee Hearings*, AM.

majority of respondents from three law schools indicated that reputation (private elite, public flagship, and private new law schools), bar passage (public flagship, public regional, and private new law schools), and financial aid (private elite, public regional, and private new law schools) were among the most important factors.⁹⁴ Alumni networks were only salient to respondents from the private elite law school, and proximity to home and family was only important to students from the public regional and private new law schools.⁹⁵

These results tend to show that outcomes, such as job placement and career opportunities, are extremely important for all law students, while bar passage is most salient for students at lower-tiered law schools. Other factors that are traditionally identified as important to prospective students were also important but vary in their importance in terms of the institution that a law student attends. These factors include: reputation, which was of supreme importance to students at the private elite law school, a secondary factor at the public flagship law school, and a distant fourth factor of importance at the private new law school; and financial aid, which was a primary factor only at the public flagship law school, a secondary factor at the private new law school, a distant tertiary factor at the private elite law school, and the fourth factor of importance at the public regional law school.⁹⁶ Factors, such as alumni networks and proximity to home and family are generally less important but still an important factor for some law students.⁹⁷ This distribution of responses would suggest that, even though each law school's students' factors of greatest admission consideration were held largely in common with students from other law schools, the importance of each factor truly differs in weight between law schools and the students they enroll.

BAR ASS'N (Dec. 13, 2013), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/20101213_littman_pace.pdf.

94. Reputation was profoundly important for students at the private elite law school, of less importance at the public flagship and private new law schools, and did not rank in the top five factors for students at the public regional law school. While bar passage was primarily important at the public regional law school and the private new law school, it ranks only as the fourth factor of importance at the public flagship law school and not among the top five factors of importance for the private elite law school. *See* Ryan, *supra* note 18, at Table 4.

95. These results are consistent with the discussion about the regional footprint from which lower-tiered law schools draw. *See* Ryan, *supra* note 18, at table 4; *see also* Organ, *supra* note 62.

96. *Infra* Table 4.

97. *Infra* Table 4.

TABLE 4: TOP FIVE FACTORS OF GREATEST CONSIDERATION IN
ATTENDING LAW SCHOOL

Top Factor	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
(1)	Reputation (98.85)	Financial Aid (79.52)	Bar Passage (79.69)	Bar Passage (90.91)
(2)	Job Placement (81.29)	Reputation (77.38)	Local Career Opportunities (67.21)	Financial Aid (84.09)
(3)	Financial Aid (73.59)	Local Career Opportunities (56.76)	Job Placement (67.19)	Job Placement (69.57)
(4)	Regional Career Opportunities (60.71)	Bar Passage (56.41)	Financial Aid (62.90)	Reputation (61.36)
(5)	Alumni Network (45.68)	Job Placement (50.00)	Proximity to Home (55.93)	Proximity to Home (56.82)

Relatedly, students were asked to identify the factors that had the least bearing on their decision to enroll in the law school they currently attend.⁹⁸ Results to this question are indicated in Table 5. Respondents identified several factors across all law students that did not play a part in the student's decision to enroll in law school, but it should be noted that none of the law schools participating in this survey had a religious affiliation. Among all law students, religious affiliation and sports teams were identified as factors that contributed least to a student's decision to enroll.⁹⁹ Diversity of faculty ranked as a top five factor of least significance to students at the private elite law school, the public flagship law school, and the private new law school.¹⁰⁰ Social opportunities were also among the top five factors of least significance to students at public law schools, and diversity of students was among the top five factors of least significance to students at the public regional and private new law schools.¹⁰¹ *U.S. News* ranking was the fourth factor of least significance to students at the public regional law school, and students at the private elite law school ranked the law school's location in their preferred bar jurisdiction and proximity to home as the third and fifth factors of least significance, respectively.¹⁰² The convergence of these patterns suggest that, for these students, significant factors that may play a factor in a student's decision to enroll in an undergraduate institution—such as religious affiliation and sports teams—do not bear on the decision to enroll in law school,

98. Ryan, *supra* note 18, at 140–41.

99. *Infra* Table 5.

100. *Infra* Table 5.

101. *Infra* Table 5.

102. *Infra* Table 5.

and furthermore, diversity and social opportunities are less important to law students as they are to students in their decision to enroll in a particular institution at the undergraduate level.

TABLE 5: TOP FIVE FACTORS OF LEAST CONSIDERATION IN ATTENDING LAW SCHOOL

Top Factor	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
(1)	Religious Affiliation (13.53)	Religious Affiliation (13.65)	Religious Affiliation (13.64)	Sports Teams (12.66)
(2)	Sports Teams (11.80)	Sports Teams (9.44)	Sports Teams (13.13)	Religious Affiliation (11.08)
(3)	Location in Bar Jurisdiction (9.45)	Diversity of Students (9.04)	Social Opportunities (8.84)	Diversity of Faculty (9.49)
(4)	Diversity of Faculty (8.41)	Diversity of Faculty (8.63)	<i>U.S. News</i> Ranking (7.84)	Social Opportunities (9.49)
(5)	Proximity to Home (6.85)	Social Opportunities (8.43)	Diversity of Students (6.82)	Diversity of Students (9.18)

D. Information

The next series of questions asked students to select and rank the top five sources of information they considered when deciding to attend the law school they currently attend from the following choices: ABA 509 Disclosure Reports; *Above the Law* rankings; Law School Admission Council (“LSAC”) data; law school’s acceptance letter and materials; law school’s website; National Association for Law Placement (“NALP”) data; another newspaper or periodical; state bar website; *Vault* rankings; *U.S. News* rankings; word of mouth reputation of the law school, among others.¹⁰³ The results of responses are reported in Table 6.

Here, too, a consensus emerges across law schools regarding the primary sources of information on which they based their decisions. In fact, a majority of the same sources of information appeared in the top five responses to the question for all participating law schools.¹⁰⁴ For example, word of mouth reputation

103. Ryan, *supra* note 18, at 141.

104. It should be noted that several sources of information were not particularly useful to students. By law school, these sources of information include: state bar website (0.37%), other periodicals rankings (0.86%), and NALP data ((2.34%) at the private elite law school; state bar information (1.03%), *Vault* rankings (1.29%), and other periodicals rankings (1.55%) at the public flagship law school; *Vault* rankings (0.00%), NALP data (0.36%), and other periodicals rankings (0.72%) at the public regional law school; and *Vault* rankings (0.00%), other periodicals rankings (0.96%), and NALP data (1.44%) at the private new law school. The convergence of the responses across all law students that NALP data, *Vault* rankings (and other law school rankings not made by *U.S. News* or *Above the Law*) and state bar information are not salient to law students is instructive. In the

appeared in the top three sources of information for every law school.¹⁰⁵ While the law school's website was only the fourth-most reported source of information for the private elite and public flagship law schools, it was the first-choice source of information for the public regional and private new law schools.¹⁰⁶ The law school's acceptance letter and materials were the second-choice and third-choice source of information for the private elite and private new law schools, respectively, but the fifth-choice source of information for the public flagship and public regional law schools.¹⁰⁷ LSAC data, the fifth-choice for private elite law students, was the first choice for public flagship students, and was the third—or tied for third—choice for the public regional and private new law schools, respectively.¹⁰⁸ The *U.S. News* ranking was among the top two sources of information for the private elite and public flagship law schools but was only the fourth choice of students at the public regional law school and did not rank in the top five sources of information for students at the private new law school.¹⁰⁹ Interestingly, only the private new law school indicated that the ABA 509 Disclosures were among the top five sources of information, ranking fifth for these students.¹¹⁰

A priori, it was not readily determinable that a factor such as a law school's website or data from the LSAC would have such a ubiquitous influence on a student's decision to enroll; however, given that a majority of new enrollees to law school are millennials,¹¹¹ the influence of this source of information should not be discounted. Somewhat by contrast, low-tech resources, such as a law schools' admission letter and recruitment materials and word of mouth reputation, still held an important place in informing students' decisions to enroll in the law school they ultimately choose.¹¹² Based on their longevity, since 1987, it is also unsurprising that the *U.S. News* ranking of law schools continues to be a leading source of information, for better and for worse, informing a student's decision of enrollment in law school.¹¹³ Responses to this question seem to indicate a fairly strong monopoly of the same five or six sources of information upon which law students rely to inform their decision to attend law school. When these sources of information are time invariant or are not forthcoming about what they purport to be reporting, it can lead to informational monopoly and asymmetry.

same way that law students' responses converge on the same sources of salient information, it is notable that law students do not pay attention to these sources of information. See Ryan, *supra* note 18, at 141; *supra* Table 4; *supra* Table 5; *infra* Table 6.

105. *Infra* Table 6.

106. *Infra* Table 6.

107. See *infra* Table 6.

108. See *infra* Table 6.

109. See *infra* Table 6.

110. See *infra* Table 6.

111. See *infra* Table 10.

112. See *infra* Table 6.

113. See *infra* Table 6.

TABLE 6: TOP FIVE SOURCES OF INFORMATION IN ATTENDING LAW SCHOOL

Top Factor	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
(1)	<i>U.S. News</i> Ranking (93.68)	LSAC Data (79.31)	Law School's Website (89.39)	Law School's Website (85.11)
(2)	Acceptance Letter & Materials (67.24)	<i>U.S. News</i> Ranking (77.01)	Word of Mouth Reputation (81.32)	Word of Mouth Reputation (72.34)
(3)	Word of Mouth Reputation (66.09)	Word of Mouth Reputation (74.71)	LSAC Data (74.24)	Acceptance Letter & Materials (68.09)
(4)	Law School's Website (64.94)	Law School's Website (71.26)	<i>U.S. News</i> Ranking (57.58)	LSAC Data (68.09)
(5)	LSAC Data (58.09)	Acceptance Letter & Materials (56.32)	Acceptance Letter & Materials (57.58)	ABA 509 Disclosures (53.19)

The final questions of this series of questions about information and choice, particularly those relating to the other law schools to which the students applied and were admitted,¹¹⁴ were redacted from publication of this Article. This is because an analysis of these responses would likely reveal which schools participated in this survey and would violate participation agreements with these schools. A description of these schools, however, using the same typologies used to describe the participating law schools helps to provide an oblique reference to student choice, as indicated by the responses to these questions: the private elite law school's competition consisted mostly of other national, private, elite law schools; students at the public flagship law school mostly applied to and were admitted to other upper-tier public universities in the national region in which the public flagship law school is located; similarly, the public regional law school's competition consisted mostly of other mid-tier law schools in its national region; and the private new law school's competitor institutions consisted of mostly private, lower-tiered law schools in the national region. In sum, the same tiered characterization of the competitor law schools to which respondents applied and were admitted is also true of the law schools that participated in the survey.

E. Cost of Attendance

The next set of questions examined the descriptive relationship between the annual cost of attendance (which includes the cost of tuition, books, and living) at the respondent's current law school and the student's second-choice law

114. Ryan, *supra* note 18, at 122–43.

school.¹¹⁵ The student's second-choice law school was operationalized as the school to which a student was admitted and could have attended but chose not to attend. The purpose of this type of question was to see, in effect, how much money law students "left on the table" by attending the law school they currently attend—that a law student had the choice to attend a law school for the same or less money than the law school they attend. Additionally, this question sought to ascertain how much students actually spend to attend their current law school.¹¹⁶

The results from this analysis should be read within each price bracket, by law school, in terms of the percentage of students who attend their current law school as compared to the percentage of law students at that law school who could have attended another law school at the same price bracket. The results are detailed in Table 7 and Table 8, as well as graphed in Figure A1.2 in the Appendix. In Table 7, law students' responses are reported within the \$5,000 price bracket they reported paying for their cost attendance in the first column by law school. In the aggregate, all law students who could have attended law school at their second-choice law school, conditional on being admitted to that law school at that price point, are reported in the second column for each law school. In Table 8, the same percentage of respondents are reported within the \$5,000 price bracket they reported paying for their cost attendance in the first column by law school, but in the second column, the students who indicated that their cost of attendance was within the \$5,000 price bracket to attend their second-choice law school at the same price bracket are indicated (as a percentage of all student respondents) with the percentage of all law students within that same price bracket who indicated that their cost of attendance was within the \$5,000 price bracket (or less) to attend their second choice law school at the same price bracket in parentheses.

The results in Table 7 seem to suggest that students at the private elite law school are leaving money on the table—or attending law school at a cost of attendance that is higher than the standard rate of attendance at the second-choice law school for these students—while students at the other three law schools may be attending their law schools because they are less expensive than their second choice options. Yet, the results in Table 8 tend to show that, in terms of \$5,000 increments, most students are attending the law school that offers them the least cost of attendance.

In Table 7, the percentage of students whose reported cost of attendance is less than \$10,000 varies by law school. At the private elite law school, only 8.29% of respondents reported attending law school at a rate under \$10,000,¹¹⁷

115. *Id.* at 146–47.

116. This Article discusses cost brackets in Table 7 in terms of dollars in \$10,000 increments, although the survey asked students about their cost of attendance—which includes tuition, books, and living expenses, net of scholarships—to respond in increments of \$5,000. That said, Tables 7 and 8 report costs of attendance in terms of \$5,000 increments.

117. In reporting statistics to the deans of participating law schools, only the dean from the private elite law school expressed some dismay at figures less than \$10,000 reported cost of attendance and indicated that some student respondents may have actually reported cost of tuition as cost of attendance, given that the number of respondents in this category likely exceeds the standard number of scholarships they provide to make this cost

but more than double that percentage of the law school's respondents reported that they would have paid in that price bracket for a total cost of attendance at their second-choice law school (19.53%).¹¹⁸ By contrast, at the public flagship law school, more than 40.19% of the respondents reported that they pay less than \$10,000 to attend law school and less than 27.83% of respondents at that law school would have paid less than \$10,000 to attend their second-choice law school.¹¹⁹ Public regional (41.53%) and private new law school (23.25%) respondents reported that their cost of attendance and their second-choice law school's cost of attendance was less than \$10,000 in almost equal numbers (30.65% and 23.08%, respectively).¹²⁰ Trends from responses in this cost of attendance bracket seem to suggest that private elite law students might either be less responsive to financial aid or also willing to pay more to attend an elite law school, public flagship students are highly responsive to the financial aid their law school offers them, and public regional and private new law school students are roughly in equilibrium between the proportion of law students that attend law school for less than \$10,000 and those that could have attended their second-choice law school for the same amount.¹²¹

In the next cost of attendance bracket, only students at the private elite law school reported that their cost of attendance fell between \$10,000–\$19,999 in fewer numbers (10.65%) than those that reported they could have attended law school in the same price bracket at their second-choice school (14.20%).¹²² At the public flagship law school (28.23%), the public regional law school (26.15%), and the private new law school (20.93%), respondents reported that their cost of attendance, in the \$10,000–\$19,999 price bracket, was proportionally less than their second-choice law school (18.30%, 20.96%, and 17.95%, respectively).¹²³ While responses in the first two annual cost of attendance brackets follow a relatively predictable pattern, heterogeneity in responses is first introduced at the next cost of attendance price bracket.

At the private elite law school, 24.85% of respondents reported a cost of attendance between \$20,000–\$29,999, with only 13.61% reporting this same cost of attendance for their second-choice law school, while 17.65% public flagship law students (versus 25.61%), 20.00% of public regional law students (versus 25.80%), and 23.26% of private new law students (versus 15.39%) reported a cost of attendance in this bracket and would have paid this same amount to attend their second-choice law school,¹²⁴ illustrating the lack of coherence in responses

of attendance reasonably related to the number of students that reported this cost of attendance. As the respondents from each law school are only a sample of their overall population, however, it is conceivable that this percentage of students whose cost of attendance is less than \$10,000 is close to accurate. Alternatively, it is conceivable that students conflated the cost of attendance with the cost of tuition in their responses to this question, even though this difference was made explicit to respondents.

118. See *infra* Table 7.

119. See *infra* Table 7.

120. See *infra* Table 7.

121. See, e.g., *infra* Table 7.

122. See *infra* Table 7.

123. See *infra* Table 7.

124. See *infra* Table 7.

between typological categorizations of law schools at this price bracket. In the next cost of attendance range, \$30,000–\$39,999, fewer public flagship law school respondents (5.88%) reported their annual cost of attendance in this price bracket as compared to their second-choice law school (9.76%),¹²⁵ indicating, once again, their preference for a subsidized cost of attendance. The lack of convergence in the responses at these price brackets suggests a differential calculus for prospective law students that depends upon the scholarship assistance that a student receives may in fact matter in terms of the student’s enrollment decision.

Similarly, at the next price bracket, \$40,000–\$49,999, only students from the private new law school recorded a greater percentage of responses (18.94%) within this cost of attendance bracket, as compared to their second-choice law school (16.57%).¹²⁶ Only the private elite law school had proportionally more respondents indicate that their cost of attendance exceeded \$50,000 (21.30%), as compared with the respondents from that law school’s second choice institution (20.12%).¹²⁷

Looking at the results from Table 8, and given that the proportion of law students who could have paid the same or less at their second-choice law school by price point is only equal to the proportion of law students who paid \$30,000 to \$34,999 at the private new law school, it would be safe to say that most students do not “leave money on the table” and are in fact responsive to scholarship awards. Importantly, across all law schools, very few law students who responded to this survey indicated that their second-choice law school had a cost at the same price or less than the law school they chose to attend.¹²⁸ Moreover, the results in Table 8 suggest that almost no law students would have attended another law school for the same or less money than the law school they currently attend. But this interpretation of the results is limiting, if not reductive. The results in Table 8 are necessarily limited by respondents in each cost attendance group by increments of \$5,000. Also, the heterogeneity between responses to this question, as represented in Table 7, particularly among respondents whose cost of attendance equals or exceeds \$20,000, suggests the multiplicity of markets of law students within the broader legal education market alluded to in the earlier sections of this Article. It also points to the responsiveness of particular law students, especially those at public law schools, to a reduced or subsidized cost of attendance, which redounds to these law students’ enrollment at schools that cost them less than their second-choice law school to which they were admitted.

125. *See infra* Table 7.

126. *See infra* Table 7.

127. *See infra* Table 7.

128. *See, e.g., infra* Table 8.

TABLE 7: COST OF ATTENDANCE (PERCENTAGE OF RESPONDENTS BY SCHOOL)

	Private Elite		Public Flagship		Public Regional		Private New	
	Law School	2nd Choice	Law School	2nd Choice	Law School	2nd Choice	Law School	2nd Choice
\$0,000 - 4,999	5.92	13.02	30.59	18.29	26.15	25.81	18.60	17.95
\$5,000 - 9,999	2.37	6.51	10.59	8.54	15.38	4.84	4.65	5.13
\$10,000 - 14,999	5.92	5.92	11.76	7.32	7.69	8.06	13.95	5.13
\$15,000 - 19,999	4.73	8.28	16.47	10.98	18.46	12.90	6.98	12.82
\$20,000 - 24,999	8.28	4.14	14.12	19.51	18.46	12.90	11.63	10.26
\$25,000 - 29,999	16.57	9.47	3.53	6.10	1.54	12.90	11.63	5.13
\$30,000 - 34,999	7.69	8.88	3.53	6.10	6.15	4.84	11.63	7.69
\$35,000 - 39,999	8.28	7.10	2.35	3.66	4.62	3.23	2.33	7.69
\$40,000 - 44,999	10.06	8.88	3.53	4.88	0.00	6.45	13.95	7.69
\$45,000 - 49,999	8.88	7.69	0.00	2.44	0.00	3.23	2.33	5.13
\$50,000+	21.30	20.12	3.53	12.20	1.54	4.84	2.33	15.38

TABLE 8: COST OF ATTENDANCE (PERCENTAGE OF RESPONDENTS BY SCHOOL)

	Private Elite		Public Flagship		Public Regional		Private New	
	Law School	2nd Choice	Law School	2nd Choice	Law School	2nd Choice	Law School	2nd Choice
\$0,000 - 4,999	5.92	4.14	30.59	11.77	26.15	20.00	18.60	9.30
\$5,000 - 9,999	2.37	0.59	10.59	1.18	15.38	3.08	4.65	2.33
\$10,000 - 14,999	5.92	0.59	11.76	0.00	7.69	1.54	13.95	2.33
\$15,000 - 19,999	4.73	0.00	16.47	4.71	18.46	4.62	6.98	2.33
\$20,000 - 24,999	8.28	2.37	14.12	7.06	18.46	3.08	11.63	0.00
\$25,000 - 29,999	16.57	1.18	3.53	0.00	1.54	0.00	11.63	2.33
\$30,000 - 34,999	7.69	1.18	3.53	1.18	6.15	3.08	11.63	2.33
\$35,000 - 39,999	8.28	1.18	2.35	0.00	4.62	0.00	2.33	0.00
\$40,000 - 44,999	10.06	1.18	3.53	1.18	0.00	0.00	13.95	2.33
\$45,000 - 49,999	8.88	1.78	0.00	0.00	0.00	0.00	2.33	0.00
\$50,000+	21.30	8.28	3.53	1.18	1.54	1.54	2.33	2.33

F. Opportunity Cost and Cost Sensitivity

The final set of survey questions discussed in this Article assessed two important economic constructs. The first, a law student's opportunity cost of attending law school, is measured by students' prior income immediately preceding their attending law school.¹²⁹ This decision is supported by the bedrock research on human capital theory and individual investment in education. In fact,

129. See *infra* Table 9.

the most significant works in this area all analyze the premise that people make most of their investments in themselves by foregoing current earnings.¹³⁰ A measurement of foregone current earnings, however, can be operationalized two ways: in terms of prior income or in terms of future income.¹³¹ Because future income is speculative and to a significant extent unknowable, this Article first analyzes students' effective opportunity costs in terms of their prior incomes. The results of responses to the question related to opportunity cost are reported in Table 9 and visualized in Figure A1.3 in the Appendix. The second, price sensitivity, measures the price at which law students exhibit price discrimination or view the cost of investing in legal education to exceed its value, relative to the student's own sensitivities to price.¹³² The analysis of law students' price sensitivity represents a completely novel application of the economic construct of price sensitivity to the context of investment in additional educational credentialing. The results of the responses to the questions related to price sensitivity are plotted in Figures A1.2–A1.3.

With regard to opportunity cost, a near majority (47.74%) of respondents from the private elite law school reported that they were paid less than \$10,000 before starting law school.¹³³ This trend indicates that the opportunity cost, as measured by prior income, of attending law school for these students is rather low, given that they likely attended undergraduate or graduate school immediately before attending law school and did not participate in the labor market. By contrast, the proportion of students earning less than \$10,000 in the year immediately before attending law school was over 10% lower at the other law schools, but not exceeding 38%, demonstrating that students at all other law schools surveyed were less likely to have entered law school directly from their studies.¹³⁴ Relatedly, the proportion of students from the private elite law school that attended law school straight out of their undergraduate studies or from an undergraduate fellowship was significantly greater than any other law school.¹³⁵

130. See generally MILTON FRIEDMAN & SIMON KUZNETS, *INCOME FROM INDEPENDENT PROFESSIONAL PRACTICE* (1945) (noting that present investment is usually made for the purpose of enjoying future returns). This idea would be borne out by Becker and Mincer: Gary S. Becker, *Investment in Human Capital: A Theoretic Analysis*, 70 J. POL. ECON. 9, 9 (1962); Jacob Mincer, *Investment in Human Capital and Personal Income Distribution*, 66 J. POL. ECON. 281, 284 (1958).

131. Becker, *supra* note 130, at 11, 15.

132. This latter measure was, in effect, an adaptation of the Van Westendorp Price Sensitivity Meter, which assesses a consumer's relative price discrimination to a good based on a five-part question, asking: the price at which the consumer would believe the price of the good to be too cheap to be of good value; the price at which the consumer would believe the price of the good to be cheap but a good value; the price at which the consumer would believe the price and quality of the good to be in equilibrium; the price at which the consumer would believe the price of the good to start to get expensive but that the consumer would still consider buying it; and the price at which the consumer would believe the price of the good to be too high to consider buying it. This is the first application of such a line of questioning posed to consumers of legal education and maybe of any consumer of higher education. See generally Van Westendorp, *supra* note 31.

133. See *infra* Table 9.

134. See *infra* Table 9.

135. See, e.g., *infra* Table 9.

Less than 18% of respondents at the private elite law school earned between \$10,000–\$29,999, while no less than 25% of all remaining law school's respondents earned income in this category before beginning law school.¹³⁶ Similarly, 15.08% of private elite law students reported earning between \$30,000–\$49,999, while not less than 19% of the other law schools' respondents reported incomes in this income bracket.¹³⁷ The responses from these income brackets would seem to indicate that very few students from the private elite law school worked in lower wage positions (for baccalaureate graduates), and a greater percentage of students at the other law schools did.

In the income bracket between \$50,000–\$69,999, students at the public regional law school recorded the greatest percentage of respondents (14.28%), followed by private elite law students (11.56%), while less than 10% of the remaining law school respondents reported prior earnings in this income bracket, indicating that these law schools have a lower percentage of mid-level income earners (for baccalaureate graduates) than their peers at the private elite or public flagship law schools.¹³⁸ Between \$70,000–\$89,999, private elite respondents (6.03%) nearly doubled public flagship respondents (3.03%), and more than tripled public regional law (1.30%) and private new law school students (1.96%), indicating that the percentage, while still nominal, of higher income earners—among baccalaureate degree holders—is greatest at the private elite law school.¹³⁹ Among law schools with respondents with incomes exceeding \$90,000 prior to attending law school, the public flagship law school had the greatest proportional number of highest income earners (6.06%), followed by the private new law school (3.92%), the private elite law school (2.01%), and the public regional law school (0.00%).¹⁴⁰

Taken together, these trends indicate that the private elite law school students have proportionally the least opportunity cost—as measured by prior income—and students at the remaining law schools have a greater opportunity cost, on average. This trend corresponds with the private elite law school's respondents recording the lowest mean age among respondents (24.64 mean years of age), while respondents at all other law schools were older, on average (25.51 mean years of age at the public flagship law school; 26.64 mean years of age at the public regional law school; and 29.04 mean years of age at the private new law school).¹⁴¹ Yet, the linearity of age disparities between the mean of law student respondents evident in Table 10 does not translate to the disparity in previous earnings among respondents to the Law School Choice Survey. Among high earning students, students at the public flagship and private elite law schools have a greater proportional opportunity cost, as measured by prior wages, than their peer institutions.¹⁴² Thus, because students at the private elite law school have

136. See *infra* Table 9.

137. See *infra* Table 9.

138. See *infra* Table 9.

139. See *infra* Table 9.

140. See *infra* Table 9.

141. See *infra* Table 10.

142. See *infra* Table 9.

the least proportional prior income and the students at the public flagship and private new law schools have the highest proportional prior income, an inference can be made that the opportunity cost is greater at the latter law schools.

TABLE 9: OPPORTUNITY COST
(PERCENTAGE OF RESPONDENTS BY SCHOOL)

	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
\$0,000 - 9,999	47.74	36.36	37.66	33.33
\$10,000 - 19,999	11.56	18.18	10.39	17.65
\$20,000 - 29,999	6.03	10.10	16.88	7.84
\$30,000 - 39,999	7.54	14.14	9.09	15.69
\$40,000 - 49,999	7.54	9.09	10.39	9.80
\$50,000 - 59,999	6.53	2.02	7.79	3.92
\$60,000 - 69,999	5.03	1.01	6.49	5.88
\$70,000 - 79,999	4.02	1.01	0.00	0.00
\$80,000 - 89,999	2.01	2.02	1.30	1.96
\$90,000 - 99,999	1.01	1.01	0.00	3.92
\$100,000 - 149,999	0.50	5.05	0.00	0.00
\$150,000 - 199,999	0.50	0.00	0.00	0.00
\$200,000+	0.00	0.00	0.00	0.00

TABLE 10: AVERAGE AGE OF RESPONDENT (MEAN)

	Private Elite Law School	Public Flagship Law School	Public Regional Law School	Private New Law School
Age	24.64	25.51	26.64	29.04

Likewise, a consumer's price sensitivity for a good or service typically occurs at the point which the consumer no longer believes to be a bargain but instead that the price of the good or service starts to get expensive, such that the expense would make the consumer consider not purchasing the good or service.¹⁴³ In terms of graphical representation of this phenomenon in legal education, the general consensus is that the extent to which the lines listed third and fourth, graphed below in Figures 1–4, intersect—with the line listed third indicating a price at which legal education represents the perfect balance and value and quality and line listed fourth indicating the price at which the consumer would believe the price of the legal education to start to get expensive such that

143. See Van Westendorp, *supra* note 31.

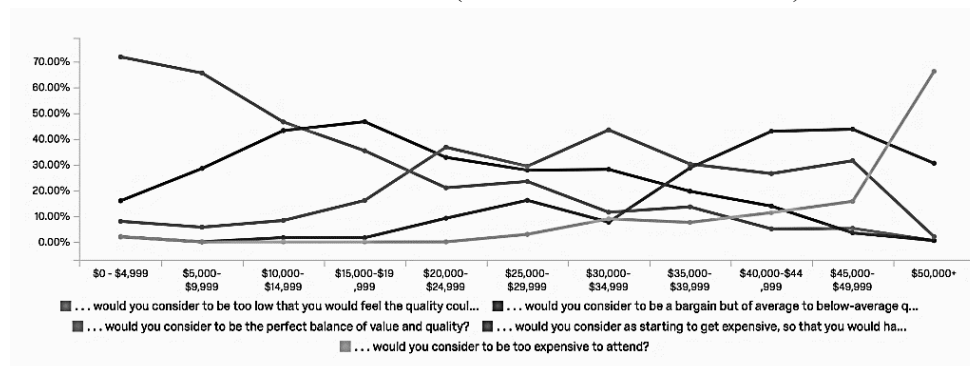
the consumer would consider not attending law school—is the point of price sensitivity.¹⁴⁴

The price point indicating the price sensitivity of the respondents to this survey may approach a national average of the average cost of attendance, net of scholarships, but the granularity provided by the visualizations in Figures 1–4 reveal that this price depends almost entirely on law school type. The key inference in these figures occurs when the line listed third (indicating when the cost of legal education is the perfect balance of value and quality) intersects with the line listed fourth (indicating when students feel that the cost of legal education starts to get too expensive to exceed its benefits).

At the private elite law school, this intersection happens at the \$35,000–\$39,999 bracket, indicated in Figure 1. At the public flagship and the private new law schools, this nexus occurs at \$30,000–\$34,999, as graphed in Figure 2 and 4, respectively. At the public regional law school, however, this point occurs \$5,000 lower still, at the \$24,999–\$30,000 bracket, reported in Figure 3. Responses to this question are illustrative of law students’ price sensitivities, which vary by institution type and exposure to a student’s particular cost of accessing legal education.

These differences further support the earlier discussion that law schools operate not only within a broad legal education marketplace but also within sub-markets of legal education—competing for students on the basis of their entering credentials, cost sensitivity, opportunity cost, and price discrimination limits. The price points at which law students reveal they would pay for legal education in the abstract also coincide, relatively closely, with the average cost of attendance, net of financial aid, at their respective law schools—another indication of coming to terms with their decision to enroll at the law school that the currently attend.

FIGURE 1: PRICE SENSITIVITY (PRIVATE ELITE LAW SCHOOL)



144. See *infra* Figures 1–4.

FIGURE 2: PRICE SENSITIVITY (PUBLIC FLAGSHIP LAW SCHOOL)

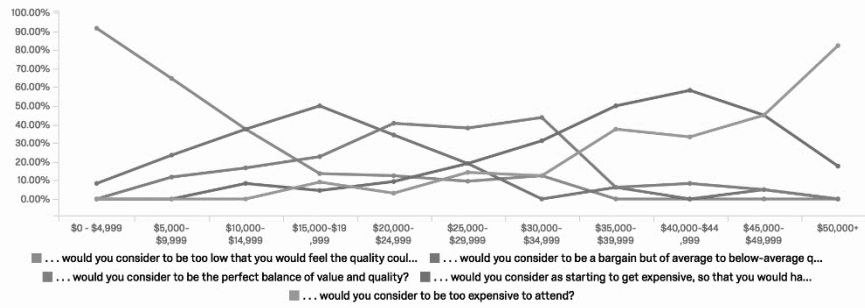


FIGURE 3: PRICE SENSITIVITY (PUBLIC REGIONAL LAW SCHOOL)

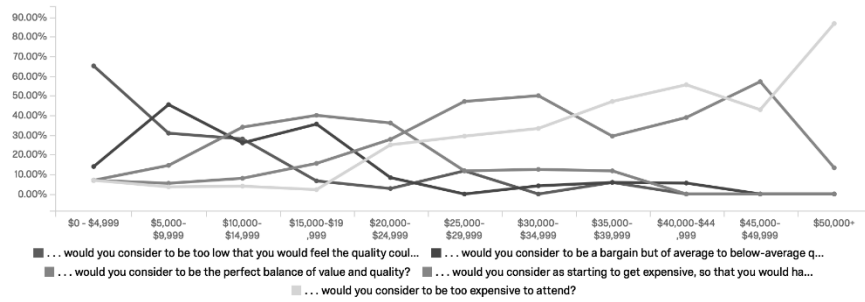
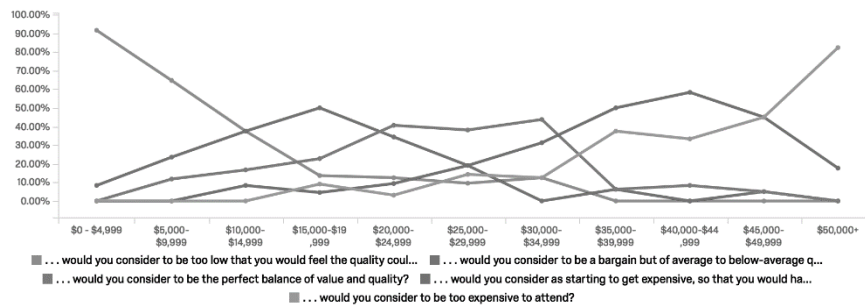


FIGURE 4: PRICE SENSITIVITY (PRIVATE NEW LAW SCHOOL)



V. CONCLUSION

To date, the study of student choice in legal education has been understudied.¹⁴⁵ Yet, the constructs developed by other academic disciplines provide guidance as to the role of the factors influencing choice in legal education. This Article analyzes the role salience of location, information, opportunity cost, and

145. See *supra* notes 14–16 and accompanying text.

cost sensitivity plays in the context of a law student's decision to enroll in law school. The results from this survey emphasize important descriptive facts about the legal education market. Principally, elements related to choice—such as location, information, opportunity cost, and cost sensitivity—which derive from the undergraduate education choice and behavioral economic literature, are applicable in the context of graduate professional education. Yet, their salience varies by educational institution typology.

The disparity between law school students' responses for each construct of choice, however, indicates a stratified market for consumers on the basis of their preferences. For example, a national reputation is most important for students at the private elite law school—but is a lesser factor for all other law student respondents—and career placement is a factor that is salient to all law students. Additionally, the results from this original survey indicate that factors that were thought to be the sole motivations of enrollment, such as financial aid and opportunity cost, are not monolithic, particularly in how private elite law students respond to these factors. Moreover, the importance of financial aid may indeed be overstated, given that decisions of consumers in the legal education market are driven by many other factors.¹⁴⁶ As such, the market for law students should be viewed, henceforth, as a heterogeneous and highly competitive market. It is hoped that these results will shed greater light on and knowledge of the most understudied group in professional graduate education—law students.

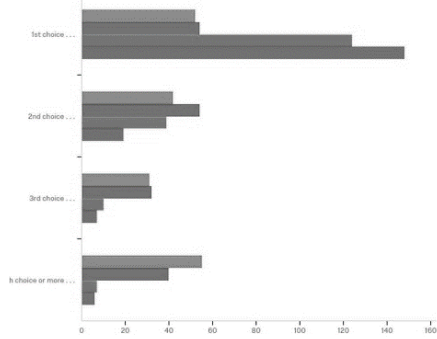
* * *

146. See Christopher J. Ryan, Jr., *Analyzing the Effect of Financial Aid on Law School Matriculation*, SSRN Working Paper (Feb. 13, 2017) (working paper), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2872364.

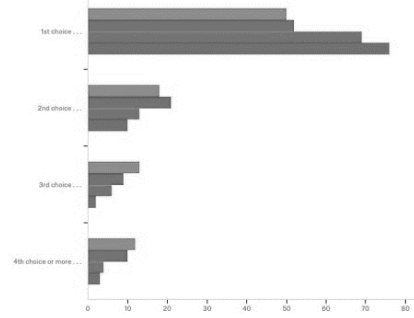
APPENDIX

FIGURE A1.1: FIRST CHOICE

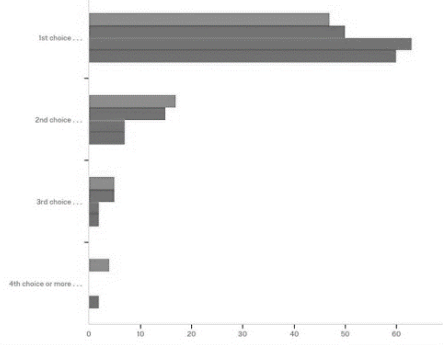
Private Elite Law School



Public Flagship Law School



Public Regional Law School



Private New Law School

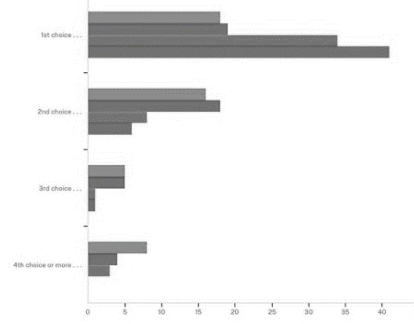
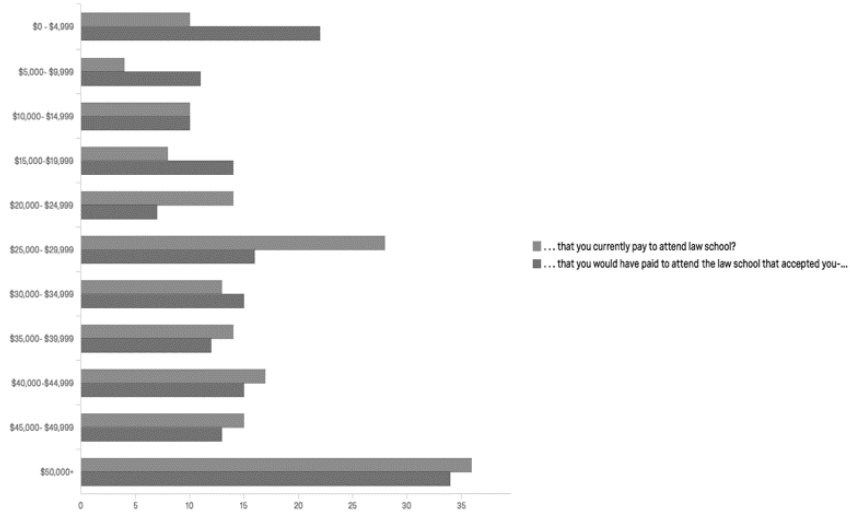
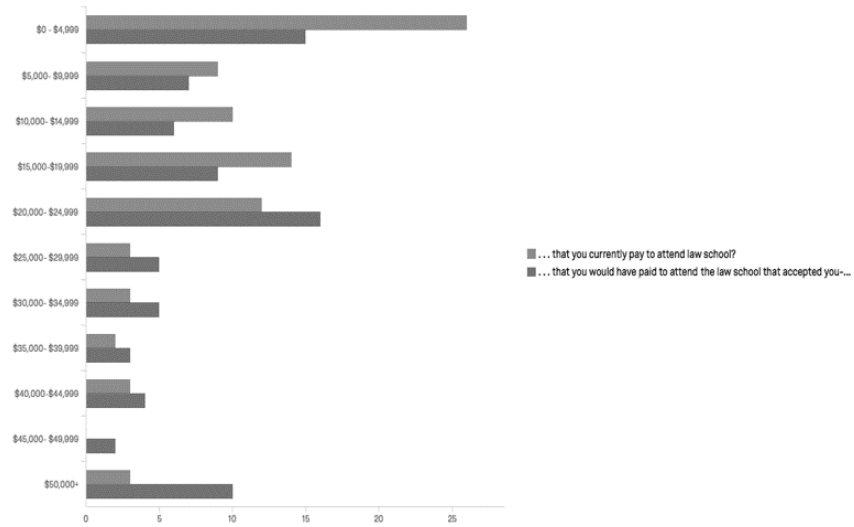


FIGURE A1.2: COST OF ATTENDANCE

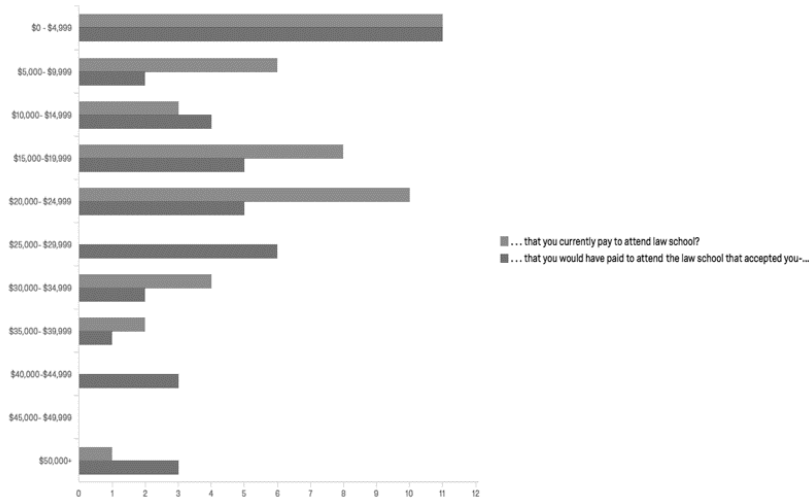
PRIVATE ELITE LAW SCHOOL



PUBLIC FLAGSHIP LAW SCHOOL



PUBLIC REGIONAL LAW SCHOOL



PRIVATE NEW LAW SCHOOL

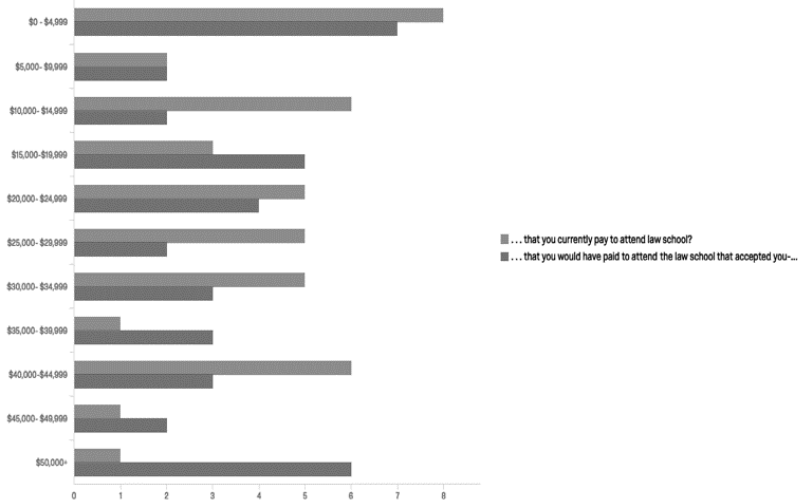
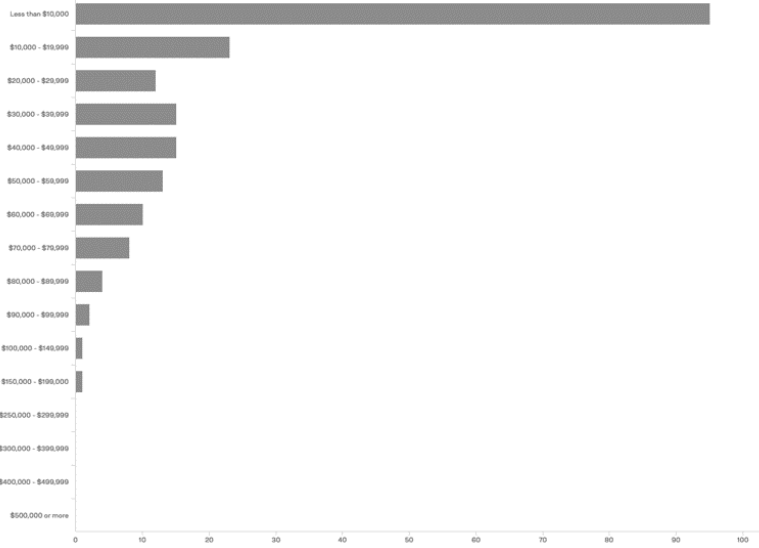
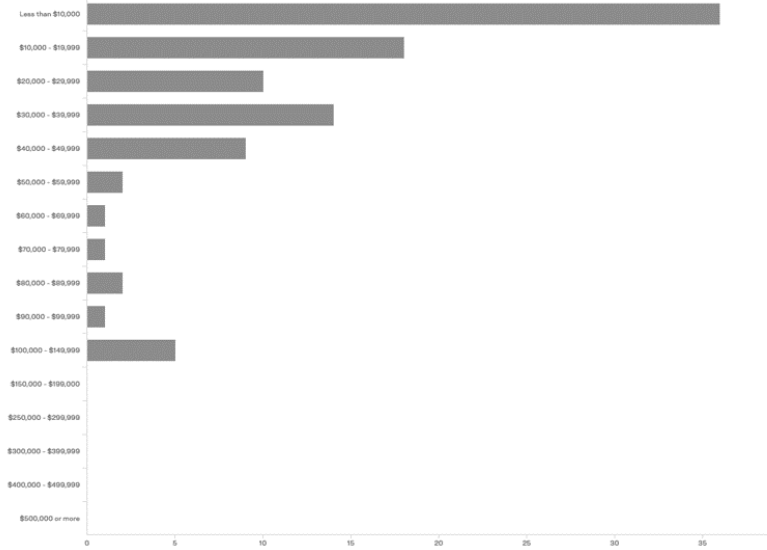


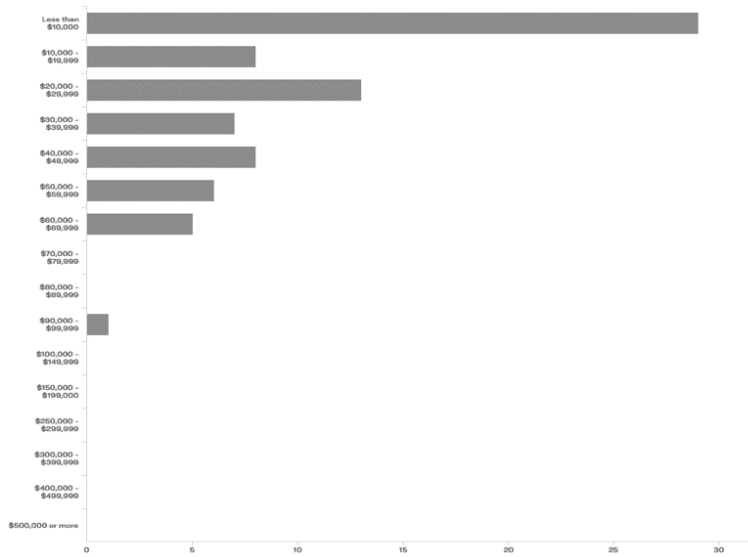
FIGURE A1.3: OPPORTUNITY COST
PRIVATE ELITE LAW SCHOOL



PUBLIC FLAGSHIP LAW SCHOOL



PUBLIC REGIONAL LAW SCHOOL



PRIVATE NEW LAW SCHOOL

