COVID CAREGIVING

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I. INTRODUCTION

The COVID-19 pandemic created numerous challenges for virtually everyone. Although law professors are a relatively privileged bunch, there are nevertheless hierarchies within academia that result in vulnerable populations facing greater struggles in times of crisis. Past research on legal academia confirms that caregivers shoulder extra burdens at home and at work, which can stymie their professional success when they are without the necessary support.[1] Research conducted during the pandemic confirms that mothers, in particular, suffered disproportionately during the pandemic in terms of economic security and personal needs.[2]

This article shares findings from the only formal, empirical study of law faculty conducted during the pandemic that centers the experiences of caregivers and other vulnerable populations of faculty (women of color and

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1. *See generally* MEERA E. DEO, UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA (2019).

2. *E.g.*, Meera E. Deo, *Investigating Pandemic Effects on Legal Academia*, 89 FORDHAM L. REV. 2467, 2485-86 (2021).

untenured professors).[3] Unsurprisingly, existing inequities were heightened in the first years of the COVID pandemic, such that those who were at risk of failing to maximize their professional success became even more likely to leave academia due to the pandemic and the (lack of) responses and resources offered to support them.[4] Caregivers managed uniquely difficult circumstances during the terrible first years of the pandemic and are continuing to struggle through its lingering effects. Administrators and policymakers should take immediate steps to show they recognize the burdens caregivers have been carrying and provide the necessary support to sustain them as law faculty.

Part II reviews research on caregiving challenges in academia, as well as the struggles caregivers more generally endured during COVID. It also introduces the empirical study at the heart of this article. Part III shares empirical findings of how caregivers battled to stay afloat during the pandemic, looking individually at the difficulties of parenting, elder-care, caretaking of students, and even attempts at self-care. A short section compares and contrasts caregivers with non-caregivers to provide clarity for the distinctions between the groups. Part IV delves into the next steps, considering the serious implications of this research, the specific impact on mothers, and, finally, the strategies and solutions drawn from these data to ameliorate the struggles revealed in Part III. This article concludes by emphasizing the need to support caregivers in both legal academia and society more generally.

II. PRE-EXISTING CHALLENGES

Previous scholarship on legal academia, as well as more recent research on the pandemic, reveal unique challenges facing caregivers. This article adopts the broad definition of a caregiver as "a person who provides direct care (as for children, elderly people, or the chronically ill)."[5]

A. Past Research on Caregivers in Academia

Existing hierarchies in legal academia have been well documented. My own past scholarly work has analyzed empirical data to reveal challenges facing women of color law professors, from hiring through tenure and

3. *Id.* at 2471.

4. *See id.* at 2475.

5. *Caregiver*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/caregiver (last visited Sept. 22, 2023).

advancement.[6] This, coupled with the work of many other legal scholars, provides a baseline for understanding ongoing inequities in legal academia.

My 2019 book, *Unequal Profession: Race and Gender in Legal Academia*, shares intersectional barriers to faculty recruitment and retention in myriad forms.[7] The book, and previous articles drawing from the same data set, emphasize the importance of the *raceXgender* lens, considering the ways in which the combination of a person's racial identity and gender identity present unique experiences.[8] For instance, women of color suffer through silencing, mansplaining, and hepeating from colleagues who nevertheless expect them to take notes at meetings, organize events, and provide other gendered forms of invisible labor.[9] Though they are tasked with providing more "academic caretaking" to both students and faculty colleagues, women of color also manage confrontations from students in the classroom as well as biases on imperfect course evaluations.[10] Questions about belonging, confusion with vague or unwritten policies, and outright discrimination plague the processes of faculty hiring, promotion, and leadership advancement.[11] Women of color faculty who are mothers face additional barriers: not only are they usually the default parent at home, but they are also seen by students as more accessible and available and by colleagues as more suited to service duties; thus, they tend to provide extra caregiving at home as well as on campus.[12]

Other scholars have also contributed to the literature on hierarchies in academia, though without a central focus on caregiving. For instance, in their ambitious study of tenured law faculty, Professors Elizabeth Mertz and

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6. *See generally* Meera E. Deo, *A Better Tenure Battle: Fighting Bias in Teaching Evaluations*, 31 COLUM. J. GENDER & L. 7 (2015).

7. DEO, *supra* note 1, at 7 (defining *intersectionality* as a "framework that acknowledges the challenges facing particular individuals whose background combines multiple devalued identity characteristics[,]" including gender, race and class, "which intersect and meld together to affect outcomes.").

8. DEO, *supra* note 1, at 8 (explaining that bias based on *raceXgender* refers to "the compound effects often caused by holding multiple devalued identity characteristics, namely the intersection of race and gender.").

9. *See* DEO, *supra* note 1, at 36; *see* Meera E. Deo, *The Ugly Truth about Legal Academia*, 80 BROOK. L. REV. 943, 978 (2015).

10. DEO, *supra* note 1, at 57; Deo, *supra* note 6, at 11, 22-31.

11. DEO, *supra* note 1, at 80; Meera E. Deo, *Trajectory of a Law Professor*, 20 MICH. J. RACE & L. 441, 460 (2015); Meera E. Deo, *Intersectional Barriers to Tenure*, 51 U.C. DAVIS L. REV. 997, 1001 (2018).

12. M. Blazoned, *The Default Parent*, HUFFPOST (Dec. 6, 2017), http://www.huffingtonpost.com/m-blazoned/the-default-parent_b_6031128.html (explaining that the *default parent* is the one responsible for not only the day-to-day childrearing, but also "the emotional, physical, and logistical needs of the children" more broadly); *see* Meera E. Deo, *The Paradox of Faculty-Student Interactions*, 69 J. LEGAL EDUC. 36, 42-43 (2019).

Katharine Barnes reveal "that traditional outsiders on U.S. law school faculties were having differentially difficult times both with the tenure process and in terms of overall satisfaction with their work situations."[13] Professor Renee Allen has explored the unique barriers facing Black women in legal academia,[14] and Professors Cyra Choudhury, Rosa Kim, Katrina Lee, and Shruti Rana have written about Asian American inclusion and invisibility in the U.S. legal academy.[15] Numerous others have written about existing hierarchies, including Dean Darby Dickerson analogizing legal academia to a "caste system" that privileges tenure line professors while relegating contract-based faculty to a realm of little opportunity for upward mobility or faculty governance, less pay, and a lack of support.[16]

B. COVID-Era Challenges

Since the COVID crisis upended the world in March 2020,[17] documented inequities have only grown.[18] Newspaper articles have tracked the exodus of women from the workplace, as professional opportunities dwindled while caregiving responsibilities (especially for children and the elderly) exploded.[19] What was called the "great resignation" affects

13. Elizabeth Mertz, *Canaries in the Mines of the U.S. Legal Academy*, *in* POWER, LEGAL EDUCATION, AND LAW SCHOOL CULTURES 263, 272 (Meera E. Deo et al. eds., 2019).

14. Renee Nicole Allen, *Get Out: Structural Racism and Academic Terror*, 29 WM. & MARY J. RACE, GENDER & SOC. JUST. 599 (2023).

15. Cyra Akila Choudhury & Shruti Rana, *Addressing Asian (In)Visibility in the Academy*, 51 SW. L. REV. 287 (2022); Rosa Kim & Katrina Lee, *Asian American Inclusion in Legal Academia*, MICH. ST. L. REV. F. (Mar. 31, 2022), https://www.michiganstatelawreview.org/vol-2021-2022/2022/3/28/asian-american-inclusion-in-legal-academia.

16. Darby Dickerson, *The Power of Words: The Meeting of the AALS House of Representatives*, ASS'N OF AM. L. SCHS. (Jan. 4, 2020), https://www.aals.org/about/publications/newsletters/aals-news-winter-2020/2020-aals-presidential-address/; Renee Nicole Allen et al., *The "Pink Ghetto" Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525 (2019); Priya Baskaran, *Taking Our Space: Service, Scholarship, and Radical Citation Practice*, 73 RUTGERS U. L. REV. 101 (2021); DeShun Harris, *Cultural Modesty in the Academy: A Trait Exploited and Penalized Through Service*, 51 SW. L. REV. 275 (2022); Rachel López, *Unentitled: The Power of Designation in the Legal Academy*, 73 RUTGERS U. L. REV. 923 (2021); Alexa Z. Chew & Rachel Gurvich, *Saying the Quiet Parts Out Loud: Teaching Students How Law School Works*, 100 NEB. L. REV. 887 (2021); L. Danielle Tully, *What Law Schools Should Leave Behind*, 2022 UTAH L. REV. 837 (2022).

17. Arielle Mitropoulos, *2 Years into Pandemic, Americans Still Feeling Deadly Impact of COVID-19*, ABC NEWS (Mar. 11, 2022, 2:26 AM), https://abcnews.go.com/US/years-pandemic-americans-feeling-deadly-impact-covid-19/story?id=83211757.

18. Francisco H. G. Ferreira, *Inequality in the Time of COVID-19*, INT'L MONETARY FUND (June 2021), https://www.imf.org/external/pubs/ft/fandd/2021/06/pdf/inequality-and-covid-19-ferreira.pdf.

19. As early as September 2020—less than six months after the pandemic crisis began in earnest—865,000 women had already left the workforce ("four times the number of men who did"

academia as much as the rest of society.[20] Articles have documented fewer publications submitted by women authors,[21] increased caregiving toward students and dependents carried by women professors,[22] and a lack of support for women faculty.[23] Despite many being eager to put the pandemic behind us, the lingering effects from multiple years of challenges will continue long after the COVID health crisis has subsided--unless we make an immediate intervention. Academia is a workplace like any other. What will happen to parents on the tenure track who have been unable to publish for a year or two because they have been providing all-day childcare at home due to school closures for ongoing outbreaks or staff shortages? Whose voices will be missing from law review scholarship if these vulnerable populations do not have the space or time to conduct research? How will future advancement (into chaired positions, for lateral hires, onto higher salary tiers) be affected if even tenured faculty spend summers minding children instead of producing scholarship?

C. The Pandemic Effects on Legal Academia (PELA) Study

My own empirical data leads the way on research on legal academia during COVID. During the 2020-2021 academic year,[24] I collected survey and interview data from law faculty around the country for the Pandemic Effects on Legal Academia (PELA) study.[25] The PELA study uses a target

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so); these women left their jobs mainly to become primary at-home caregivers for children. Andrea Hsu, *Even the Most Successful Women Pay a Big Price*, NPR (Oct. 20, 2020, 5:07 PM ET), https://www.npr.org/2020/10/20/924566058/even-the-most-successful-women-are-sidelining-careers-for-family-in-pandemic.

20. Noam Scheiber, *Pandemic Imperils Promotions for Women in Academia*, N.Y. TIMES (Oct. 6, 2020), https://www.nytimes.com/2020/09/29/business/economy/pandemic-women-tenure.html.

21. Giuliana Viglione, *Are Women Publishing Less During the Pandemic? Here's What the Data Say*, 581 NATURE 365, 365 (2020).

22. *See* Holly Else, *Pandemic Pressures Made Parents Consider Quitting Academia*, NATURE (June 28, 2021), https://www.nature.com/articles/d41586-021-01761-x.

23. Women faculty lack support and are leaving academia "due to a lack of advancement, opportunity and lingering pandemic-related issues." *Post Pandemic Research Shows Academia is Losing Women at Alarming Rates*, BUSINESS WIRE (Feb. 22, 2022, 8:24 AM EST), https://www.businesswire.com/news/home/20220222005755/en/Post-Pandemic-Research-Shows-Academia-Is-Losing-Women-at-Alarming-Rates.

24. Deo, *supra* note 2, at 2491.

25. *Id.* at 2468. All quotations from the PELA study subjects in this article are original empirical data from the qualitative (interview) portion of the PELA study. As required by Institutional Review Board protocols and the protection of human research subjects, all transcripts from the PELA study will remain on file with the author while dissemination of the data is ongoing. The transcripts will not be shared with others or released to the public to maintain confidentiality and preserve anonymity.

sampling approach to gather quantitative and qualitative data from a sample of law professors that is purposefully diverse with regard to race, gender, tenure status (tenured, pre-tenure, contract-based), area of expertise (podium professors as well as skills-heavy faculty), region, school selectivity, leadership status, and more.[26] The result is a sample that includes women and men who are Black, Latinx, Asian American, Native American, Middle Eastern, and white, working at various ranks and stages of their careers, at elite through access-oriented institutions in all regions of the country.[27] Drawing from this sample and the data they produce, I can generate findings that broadly represent the law faculty experience during the pandemic.[28]

Every participant in the PELA study completed an online survey through Qualtrics and then met with me personally for a one-on-one interview over Zoom.[29] The survey questions asked for information on how participants have coped with the COVID pandemic, including the amount of time spent on research, service, sleeping, and caregiving; the level of institutional support received; and plans for their future in academia (or elsewhere).[30] The interviews covered pathways to academia and general experiences, as well as specific challenges during the pandemic—discussing faculty expectations, balancing teaching with service and scholarship, timing and location of work, caregiving responsibilities, and more.[31]

Preliminary published findings from the PELA study shared a general overview of the negative effects COVID has had on vulnerable populations, revealing "disturbing findings of worsening inequities, a lack of structural support, and negative health effects, especially for caregivers, women of color, white women, and untenured faculty."[32] Subsequent scholarship drawing on this dataset reviews the struggle to satisfy basic needs (from housing concerns to financial pressures), accompanying mental health strain (including loneliness, depression, and anxiety), and resulting constraints on professional success (especially because increased service and teaching responsibilities coupled with increased caregiving duties meant "women faculty have even less time to devote to scholarship").[33]

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26. *See* Deo, *supra* note 2, for more on the PELA study methodology.

27. *See* Meera E. Deo, *Pandemic Pressures on Faculty*, 170 U. PA. L. REV. ONLINE 127 (2022), for more on the PELA study final sample.

28. *Id.* at 129-130.

29. *See id.* The PELA study survey instrument is on file with the author.

30. *Id.* at 130.

31. *See id.*

32. *Id.* at 128.

33. Meera E. Deo, *Equity in Legal Education*, 63 SANTA CLARA L. REV. 95, 139 (2023).

III. THE STRUGGLES OF CAREGIVERS DURING COVID

Caregivers struggled in various ways throughout the pandemic.[34] This Part shares findings on the various ways that caregivers contributed to others. First, many were overwhelmed with childcare responsibilities, while others spent considerable time and effort navigating eldercare duties. Also, students often took center stage, particularly in light of their intensifying needs and because there were few people they trusted in legal education to help them overcome those barriers. Not surprisingly, the data reveals that self-care took a back seat, given all of the other caregiving responsibilities that were prioritized. The final section shares findings from PELA study participants who had little to no responsibilities to others, showing how distinctive the pandemic experience of caregivers truly has been.[35]

A. Pandemic Parenting

The most obvious caretaking challenges during the pandemic revolved around childrearing. For the first three to six months of COVID (and much longer for some), many parents had no childcare assistance.[36] As an Asian American assistant professor named Alice notes, "The biggest thing is we're not able to get any external help with childcare." Alice and her husband are on their own, working full-time from home with a toddler running loose. Particularly because schools, camps, and daycare facilities were closed and many people could not risk exposing their household to COVID by bringing in outside help to bridge the gap (whether a babysitter or a non-household relative), parenting took on outlandish form during the first year of the pandemic. A Black junior scholar named Fred had two toddlers at home while he and his wife try to keep up with their demanding careers. During his interview in 2021, he joked, "I've literally probably changed like 1,000 diapers [in the year] since last March." Because no babysitters, family members, or friends have stepped foot in their home for a full year, Fred notes, "There have been no days off."

As a Native American law professor named Kyle did, many of us figured out how to teach our law students online while teaching elementary school too. Because Kyle's wife works in a similarly demanding profession, both parents were expected to keep performing at a high level while assuming full responsibility for two young children at home. Thinking back on those early days of COVID, Kyle recalls, "We became, at that time, third and first grade

34. Deo, *supra* note 2, at 2494-95.
35. *See id.* at 2492-93.
36. *See* Deo, *supra* note 27, at 140.

teachers." Recall that law professors in 2020 were also learning to teach their own law-related courses online—often requiring a completely new format, as well as delivery methods. Arthur, a Black assistant professor with two young children who participated from home in online school, notes, "I will literally wrap up teaching law school and then transition to teaching kindergarten and third grade—and the latter harder than the former!" Many parents recognized there was little they could do to support their children's learning, particularly when administrators demanded they put greater attention toward online law school. Alexis, a Black junior scholar, jokes, "The three-year-old? I'm hoping she learns by osmosis because I just don't even know how to put together a preschool curriculum." Many parents echoed a white professor named Julia who shared, "My son was in kindergarten. He needed a lot of hands-on help going through his PowerPoint every day," which is how his elementary school expected children to learn. Similarly, a white professor and administrator named Elizabeth had three children in Zoom school; while her older children could manage online learning relatively independently, she notes, "My six-year-old, he's in first grade. He just needs someone constantly there." Overall, she says, "It just took tremendous oversight," because even the older ones were learning a new skill: "Your kids know how to go to school, but they don't know how to do virtual school." Parents—usually mothers—had to teach them how.[37]

A Black professor named Fay was under considerable stress juggling two children at home along with her high-pressure academic priorities. Although her kids need "parental assistance" with "Zoom school" and "are incredibly persistent" when "they want attention," she also realizes it could be much worse: "It's so much easier for us than it is for people who have little, little kids. This would have been unbearable if we had a four-year-old or a toddler. Or a baby, for that matter. Or if I was nursing." Paulette, a Black assistant professor who had an infant and toddler at home, lived that scenario herself. She notes, "You can't really be in the house with a nursing baby . . . and get work done." She continues that both children are "so young that if they see me, it's all, 'Mommy!,' or 'Stop working!,' or 'Come here!' especially with breastfeeding the baby." There were no full or structured workdays for Paulette. Instead, she says, "[T]he hours when I was actually teaching live or on a panel live, then that was a little bit protected. Everything else was just . . . really, just survival every day, trying to get everything fit in and done."

Even conscientious and well-meaning colleagues did not always appreciate the stress parents of young children were under during the first

37. *See infra* Part IV.B, for more on motherhood separate from parenthood and fatherhood.

year of COVID restrictions. A white PELA study participant named Dana, who started the pandemic with two kids under five, juggled both children along with increasing faculty and administrative responsibilities. Often, one child or the other was on her lap for important Zoom meetings. Despite the fact that her colleagues were generally understanding of her family situation, simultaneously wearing so many hats was a huge ordeal for Dana. She recalls, "I was in a meeting and the Dean of Finance was like, 'This is what makes it fun, right? It's interesting, we get to meet each other's kids!'" While Dana appreciated the inclusive gesture, she also would have preferred to keep her personal and professional lives separate, thinking to herself at the time, "'I really don't want their best friends to be you guys. I don't want to be doing this.'" Although she did not say it out loud to her co-workers, Dana expressed her frustration in her PELA interview, noting that she wished she could have shared her true feelings openly at the time: "'You think it's all cute but, like, I want to be able to have a grown-up conversation without him screaming.'"

Whether to focus on work or have time to ourselves, many parents would have given anything for a few hours of alone time, without children wandering into our temporary workspaces, demanding snacks at all hours, or needing help logging into Zoom school. As a Native American professor named Jean told me, "There's Saturdays when I'm like, 'OK, I don't care what activity it was, I just wish there was anywhere I could drop the kids off for an hour.'" Few faculty members had been entirely responsible for their children all day, every day before COVID forced communities into lockdown. Many with children who were in daycare or school had also cobbled together various extracurricular activities so they could add time to their workday, though that option no longer existed in lockdown. As an Asian American professor named Maya says, "[The c]omplete dissolution of my reproductive labor support systems. Poof. Gone. So much of the stuff that we farmed out in order to make our life work. So, childcare. Cleaning this filthy house. The ability to have our kid in activities and classes that engage her." All of that disappeared. Jean shared a parallel observation, noting, "That kind of informal support is missing too."

By fall 2020, with vaccines in sight and some COVID measures in place, schools and other facilities began opening up. Yet things remained complicated and uncertain for months, if not years, more. Some parents were comfortable—or pressured—to pay high prices for babysitting. However, things rarely went as planned due to shifting responsibilities, health concerns, and local, state, and national responses. Maya was thrilled when she and her husband "managed to hire a sitter." The babysitter they found was only available because her own college classes had moved online. However,

Maya notes, "Then we lost that sitter because her university reopened and she was . . . forced back to campus to complete her degree." Luckily, Maya "managed to secure a second sitter." However, she notes "that sitter, about two months into [my university's] semester, contracted COVID, and then was gone for seven weeks during which we had no childcare, in virtual kindergarten." Months later, the elementary school Maya's child had attended resumed in-person learning; but after-care had disappeared. So, Maya is still working full-time with only part-time childcare, noting, "[O]ur child is in school, but we only have coverage from 9:25 in the morning until 3:30 when school lets out." Those times are Maya's core working hours and she fits in whatever else she can around it.

Many other parents shared Maya's experience of initial relief followed by ongoing frustration even after daycares and schools had reopened. Updated COVID safety protocols rarely worked well for infants, toddlers, or even elementary-aged children.[38] As a multiracial law professor named Sara told me, "My one-year-old, we started her daycare, but she got a runny nose last week and you can't be in school with a runny nose," due to updated policies requiring children with any COVID symptoms (runny nose, scratchy throat, cough, etc.) to remain home until symptoms resolve. As anyone who has spent time around young children knows, it is not uncommon for toddlers to have cold symptoms for months on end. Which means when Sara says, "[M]y one year old will be home for as long as it takes to get over a runny nose," she is aware it could take months.

B. Caregiving Beyond Kids

The PELA study data also made clear that caretaking extends far beyond children, particularly in the COVID Era.[39] While parents spoke at length about the challenges of managing children through the pandemic, many professors (parents and non-parents alike) felt responsible for the safety, security, and well-being of parents and other elders. A Latino professor named Cristobal worried, "My parents have gotten older, so now they're 75." Although "they're pretty independent," they needed more help during the pandemic "due to exposure" risks. So, in the fall of 2020, Cristobal relocated to be closer to them, teaching his courses online; being near his brother (who had his own young child to care for) and their parents to make it "easier to

38. *See* Carolyn Jones, *Covid Testing Was Supposed to Keep Schools Safe. What Happened?*, EDSOURCE (Sept. 7, 2021), https://edsource.org/2021/covid-testing-was-supposed-to-keep-schools-safe-what-happened/660721.

39. Deo, *supra* note 27, at 133.

help." Olivia, a junior white scholar without children, nevertheless has "additional family responsibilities." She says:

> [M]y mom has serious mental health issues and sometimes threatens to harm herself, or try to get COVID, and so sometimes this has required driving to where she is, other times this just requires contacting professionals where she is and trying to do wellness checks, or being on the phone with her or my siblings, trying to figure out what is going on.

Women of color have additional burdens because so many are first-gen, the children of immigrants, and have the privilege and burden of assisting parents who are unfamiliar with high tech American bureaucracy.[40] Irene, a Latina law professor, also relocated to be near her mother, who is "a very independent woman," but still takes advantage of every opportunity to see her daughter. Irene jokes, "I think sometimes she breaks stuff just in order for me to spend some hours there [in her home]," and notes, "I always reserve Sundays for her. So, Sundays I go to her house and I stay there for however many hours she wants me to." Irene appreciates the opportunity to spend this time with her mother, though of course it takes away from leisure time, self-care, and professional pursuits. A Latina junior scholar named Ariana stresses, "Even though I don't have children, being a female and being a wife [and daughter], there are just caretaking responsibilities that I have." As the first lawyer in the family, she spends a lot of time and energy navigating networks for her mother, saying, "I'm the one that sort of made it out and then like the educated one," resulting in more parental caretaking. The connection between *raceXgenderXclass* is particularly salient in Ariana's case. She notes:

> I think folks who are not first-gen don't have to worry about taking care of their parents in the same way that I had. Like, you take care of your parents when they're older, but not in the same way as someone whose parents don't have those systems and networks and privilege to manage all of this. It's not that extra stress.

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40. The definition of "first-gen" students used in this article, and in most research on the topic, refers to students whose parents did not earn a college degree. It similarly refers to "students who are the first in their families to earn a college degree," Meera E. Deo & Chad Christensen, THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2020 ANNUAL SURVEY RESULTS: DIVERSITY & EXCLUSION 8 (2020), https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf; or "neither parent having earned a bachelor's degree;" Michael J. Stebleton & Krista M. Soria, *Breaking Down Barriers: Academic Obstacles of First-Generation Students at Research Universities*, 17 LEARNING ASSISTANCE REV. 7, 7 (2012), https://files.eric.ed.gov/fulltext/EJ1002281.pdf; However, the ABA and some law schools define "first-gen" status in law schools as referring specifically to those who are the first in their families to enter *law school* (not college); Evan Mandery, *How White People Stole Affirmative Action—and Ensured Its Demise*, POLITICO (June 16, 2023, 4:30 AM EDT), https://www.politico.com/news/magazine/2023/06/16/supreme-court-affirmative-action-college-00101963.

The pandemic intensified much of that stress. A woman of color professor and administrator named Lila noticed a shift in her extended family roles during COVID, saying, "It's sort of hard because my parents have always been like a big source of support, but this year I'm exhausted with all of the caretaking of them I've had to do." For months, she says, "[I was managing] the ordering of everything" as well as fielding "non-stop texts from my parents" for things they needed; although "they were really self-sufficient before, they don't have the English skills or the computer skills to do some of this stuff, and so I've just had to step in to do a lot of it." The vaccine appointment stress that most of us went through for ourselves and our family members is compounded when parents are not fluent in English; as Lila notes, "My mom has been so stressed out and nervous about getting the vaccine and wanting to get it. Every single day I'm online, checking in the morning, noon and then in the afternoon." While it "took up a lot of time" for most of us, there was extra pressure on Lila, who says, "There's a lot of misinformation out there and then they don't understand things and I've gotta explain it and I'm like trying to translate it and yeah, all of that." Rose, a senior Black professor, feels responsible for her elderly father. As an only child, she has to "get him food" and take care of other essentials; plus, she is grateful she lives close enough that "if anything happens, I can just go right there and handle it." And she managed to get him a vaccine appointment, though she compares the booking process to both *The Hunger Games*[41] and "whack-a-mole" because, although appointments would sometimes appear on "websites that would go up, they would fill up really quickly."

Maya notes specifically, "I feel really bad for some of my other colleagues who are the sandwich generation—so they both have caretaking responsibilities for younger children but then also for older parents and that makes it really, really hard." Like Lila, a woman of color named Sara is both a proficient multi-tasker and a perfect representative of the "sandwich generation." For much of 2020, Sara was taking care of two kids under five and elderly parents with significant health issues—all while working full time as a professor and administrator. She says, "I'll be making dinner and also ordering my dad's groceries on the app and talking to my kids a little bit." A Latino professor named Marco, like many others, cares for young children at home but also elderly parents who live an ocean away. Although he downplays his involvement, saying, "It's not something that you have to do so many things as much as worry about [them]," he admits there is "a lot of stress related to our parents being [far away] and being in danger with the

41. SUZANNE COLLINS, THE HUNGER GAMES (2008) (a dystopian novel in which children are selected by lottery to fight to the death in an annual battle royale).

pandemic and just generally getting older." When pressed, Marco acknowledges that his actual list of caretaking responsibilities is quite long, including being "in touch with doctors [and] with their neighbors, just making sure they're not leaving the stove on or something, you know?" Plus, "talking to the banks, making sure that [I'm] authorized to do changes if anything happens." Ultimately, Marco took over complete control of his mother's finances, noting, "This time around when she was here [visiting], I sat down at the computer and took over all her financial accounts."

A few PELA study participants were fortunate to have parents or in-laws offer to help with childcare. Alexis says, "My mother comes on Tuesdays and Thursdays, because those are my teaching days." She is especially grateful to have even just "a few hours" two days a week so she can focus on teaching, noting, "But otherwise, I have no help." While they welcomed the help at home, having elders around created unexpected and additional caretaking responsibilities too. For instance, a Native American professor named Katie shares that her mother provides a significant amount of childcare in her household, caring for her school-aged children, helping them with Zoom school, and making meals for the family. She notes, "My mom is a huge help, but she's not very comfortable with the homework aspect of supervising kids. She's more inclined to help clean up, which is super helpful, and help cook, so that's super helpful too." But this leaves extra work for Katie to do, including logging into two different apps on her phone that track her kids' progress, following up with her children on missing assignments, and even additional caretaking for her mother. The trade-off to her mother being physically present is that Katie provides care for her too. She mentions, "Since she tends to be at my home, more often than not it's me that takes her to the hospital or talks with her through her appointments." Although Katie very much appreciates the help with her children, she is also taking care of her mother more, noting, "I definitely have responsibilities to my mother as a result [of her being here more]." Kyle's mother-in-law was in his home throughout much of the pandemic. However, she "was not able to help much. She did the dishes, and that was great, it really was. But in terms of helping the kids with school, that was not gonna happen." Instead, because of her age, Kyle notes, "[W]e just had another mouth to feed, another person to take care of because she's elderly." At one point, she also got injured and needed emergency care, which necessitated Kyle and his wife debating how to manage the basics, thinking to themselves, "'In the middle of a pandemic, are we okay with going to the emergency room?' Like, 'Is that gonna work out okay for everybody?'" They worried about themselves, but also about her, recognizing, "She's not vaccinated, she's old," there was a risk in getting treatment. That stress was compounded because the injury

necessitated her having surgery, which ultimately meant a lot more caretaking for Kyle and his wife. He says by that point they realized "now she really can't do much. And so, she can't sleep, she's in pain all the time, she doesn't handle medicine well, can't take painkillers because it makes her sick." All of that added up to extra caretaking for Kyle, on top of what he was already doing for his children.

C. Student Caretaking

In addition to family caretaking responsibilities focused on children as well as elderly relatives, many law professors also provided extra caretaking for students. A national survey of law students during spring 2021 conducted by the Law School Survey of Student Engagement (LSSSE) found that many students struggled to meet their basic needs, enduring food insecurity, housing concerns, and financial stress.[42] Even students who had the basics covered suffered from anxiety, depression, and loneliness, which in turn affected their academic success.[43] Fortunately for these students, their professors were there to help. A full 93% of respondents believed their professors showed them "care and concern" during the pandemic.[44] In fact, students reported positive relationships with faculty and overall law school satisfaction at similarly high rates as pre-COVID.[45]

Previous research suggests many of the professors providing students with ongoing and critical support are women, especially women of color, many of whom are caregivers.[46] During COVID, these caregivers extended care to students too. Some faculty felt pressure from the administration to become student caretakers, even at significant cost to themselves. As Alice notes, "There's this pressure on faculty to try to provide more support and more time to the students. At the same time, though, faculty, like myself, are also struggling to handle our own situations." Alice was not comfortable confiding in her colleagues or administrators how much she was struggling with a first-time class preparation while juggling full-time caretaking of a

42. MEERA E. DEO, JACQUELYN PETZOLD & CHAD CHRISTENSEN, THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2021 ANNUAL REPORT: THE COVID CRISIS IN LEGAL EDUCATION 5 (2021) https://lssse.indiana.edu/wp-content/uploads/2015/12/COVID-Crisis-in-Legal-Education-Final-10.28.21.pdf.

43. *Id.*

44. *Id.* at 7.

45. *Id.* (the LSSSE data from 2021 reveals that 72% of students reported positive relationships with faculty (compared to 76% from the year before) and their overall law school satisfaction rate remained a surprisingly high 78% (compared to 81% in 2019 and 2020)).

46. DEO, *supra* note 1, at 58-60.

toddler at home. She did admit in the interview, "I do two all-nighters every week just to prep for class."

Sometimes, the burden is somewhat self-imposed, with professors realizing their students are struggling at unprecedented rates and in distinct ways. Beyond the regular assistance with course material, many professors had previously been a shoulder to cry on or the voice of reason for their students.[47] But just as the pandemic intensified challenges for students, it increased burdens on the professors trying to help students through it. Maya was always interested in academia rather than practice, willing to forgo a big paycheck to make a difference in the lives of her students. She says, "I'm not interested in making partner. I took this job because I care about the work and I care about students, and I thought that the schedule would be better." Yet, the tradeoff she expected of a flexible and accommodating schedule "sort of disappeared because of COVID." Some PELA participants echoed the words of Paulette, who notes, "I feel like I'm trying to carry the weight of a therapist in addition to being a faculty member."

Many professors recognized they had to triage because it was impossible to get done all the things on their list. Instead, they focused on immediate needs. For almost everyone, that was teaching. One Black assistant professor named Renee said, "[T]o get through this, I'm going to do only the things that I have to do. And I have to teach, you know, my 1Ls must be taught."[48] She explains, "And it's something that's set-in stone, you know: on this date, this date, and this date, this is what you have to do. And so I have solely focused on teaching." That meant Renee and many others had little time for anything else, at least professionally. Junior scholars in particular agonized over the lack of scholarly productivity, worried they could lose their place on the tenure track without regular publications.[49] At the other end of the career spectrum, administrators were particularly strapped for time, always prioritizing immediate crises and keeping everything else on the back burner. As an Asian American professor and administrator named Mindy said, "[Y]ou focus on what's on fire. Whatever's on fire—or the biggest fire—will get your attention first."[50]

PELA survey data show that despite this significant increase in student caretaking, over a quarter of law professors "have taken up to a 15% salary

47. This extra service work with students is particularly prevalent among women faculty and especially women of color faculty—two of the groups that comprise the population of vulnerable faculty discussed in this article. See *id.*, for more on the pre-pandemic service overload of these professors.

48. Deo, *supra* note 27, at 135.

49. See *id.* at 135-37, for more on how other personal and professional duties left little time for scholarship during COVID; Deo, *supra* note 33, at 135-42.

50. Deo, *supra* note 27, at 135.

reduction since the start of the pandemic."[51] Over one-third of law professors have been working with decreased or eliminated research funds or stipends, and no sabbaticals, research assistants, teaching assistants, or pay for overload teaching, as well as the elimination of other benefits, since March 2020.[52]

D. Self-Care

Caretaking generally references childcare and sometimes extends to include responsibilities to elderly parents and other relatives.[53] Yet, we should also consider self-care in the context of caregiving. Not surprisingly, while most PELA study participants were overburdened by caregiving duties towards others, few could devote time to their own well-being.[54] Alice explains, "I gave up on—essentially gave up—my biggest hobby, which is running." That used to be her "main private alone time, which is at a premium these days." Because "there's so many competing priorities," and she feels "guilt to take some time off," particularly to spend with her family, she has no time left for herself. Although she recognizes, "I think [this] is a familiar feeling with all moms," she knows too that it did "get amplified during this time." Lila is even more direct, noting, "I don't have time to take care of myself. So that's the hardest thing." Many other things get in the way, and mothers often prioritize themselves last. Ironically, many do not even recognize what they have given up. Paulette admits, "[I]t kind of starts to feel normalized. So, you don't think of them as personal sacrifices—like, not sleeping and not eating." In the abstract, she realizes it "is just not healthy" to "not hav[e] breaks during the day to eat," or to not find time for "getting out and getting fresh air and getting exercise." Eventually, she says, "That's one thing I did make a commitment to just for my own mental sanity. I had to get a little exercise in. So that was one of my coping mechanisms."

For those who did not implement necessary comping mechanisms, the pandemic tended to wear down parents over time. Nicole, a white professor, says, "In the beginning, I think I did a really good job of trying to make sure that I balanced things like exercise and sleep and things to make sure that I didn't lose it all." While she managed that initially, it was not sustainable. Ultimately, she notes, "[T]he workload went up so much in the fall [of 2020] that I really was just constantly working and I kind of stopped being able to do any of those [other] things." Similarly, Maya says directly, "Health-wise,

51. *Id.* at 134.
52. *Id.* at 134-35.
53. *Id.* at 133.
54. *Id.* at 137-39.

it has not been great because I just don't have any 'me' time." She notes specifically about exercise, "There's a Peloton right there, staring at me. I never get on it because there's just not enough time in the day." The lack of exercise also impacts her mental health, which she says "was really bad at the beginning of the pandemic. The summer did help with a little bit of a reset. And then, the first semester went well but I'm starting to flag now, and really feeling the pressures of it." Kyle is in a similar boat. He says, "I'm pretty certain this is taking years off my life. I mean, my diet is garbage. I'm in the worst shape of my life. I can't exercise. I'm in a way worse space." He knows he is not alone in trying to handle the pressures of a pandemic while worrying about and managing children at home, adding, "I don't think anybody that has kids is well." Victor, a Latino contract-based professor, thinks back to the anxiety-filled summer 2020 and how it impacted him as well as his family, community, and students. He recalls, "A lot of the Black Lives Matter protests and the circumstances surrounding what happened in Minnesota and other places were particularly challenging times, both as a person of color but also knowing that my students were being impacted as well." There was not just one crisis at a time, but instead, it became a blur: "Everything that was going on . . . in terms of the protests, in terms of social justice, in terms of COVID. Like, I don't think we can get around it. That was just a stressful and frustrating time for many people."

Ariana, who is married and child-free, performs so much caretaking for others that she nevertheless has little left for herself. She says, "When I'm home, my husband doesn't . . . like he gets it, but at the same time he's like, 'What's for dinner?' and 'Can you run these errands?' And I'm not just home like watching TV, I'm trying to work." She understands those with children likely have greater responsibilities, but she also admits, "[T]rying to have children has been stressful during all of this. And I can't imagine if [kids were] in the mix, but it's been equally as stressful to think, to plan, and to try to start a family during all of this." She says, "I've definitely been depressed, anxious. I'm like losing hair, which you can see me trying to comb it over. I've gained weight. It's not good." Her plan is for summer to be the opportunity to find "some time taking care of myself," ideally to "get a regular exercise routine and spend more time being deliberate with regards to self-care." But now, she says, "If you go on the [law school] website, there is a very glamorous picture of what I was before all of this." Looking at the picture she notes, "That is not me. I do not feel like that anymore."

Sara has faced similar physical and mental health challenges. She says, "I would say I'm less healthy. It's hard to pinpoint it exactly. I've definitely gained some weight and my clothes aren't fitting as well." When she thinks about why, she realizes, "There's less walking in the day, I would say. I've

started to have a back problem. Pain, I think, from not walking and sitting more and also just being cramped. Her "office" space at home is actually "this two-by-two area in a corner [with] a leaf desk, so I can't put my legs under it, so I'm cramped and uncomfortable." Despite regular attempts at exercise, she says, "[M]y health has decreased." Her mental health has also taken a beating. After her mother died in fall 2020, Sara assumed primary responsibility for her mother's estate and also for her elderly father. She acknowledges, months later, "I've been feeling stressed, and then I have additional stress, from my mom's death, and parent caretaking." When pressed about support to sustain her through this emotionally taxing time, she admits, "I haven't done anything to address that, aside from talking to some friends." While she has thought about doing more, she put off even that basic level of self-care, asking herself, "'When would I schedule that grief counseling?'" There is not enough time even to grieve.[55]

E. The Experience of Non-Caregivers

Every participant in the PELA study struggled during the first years of the pandemic.[56] Yet, some professors juggled more than others—including caregivers (particularly mothers), women of color, and professors who did not have the security of tenure.[57] As a point of comparison and contrast, this section shares findings from professors who had more time on their hands, less pressure to perform at work, and fewer responsibilities at home. To be clear, many of them still felt anxious about the virus, worried about their relatives, and overwhelmed by job expectations. However, they found time and ways to mitigate their stress—rather than having that time eaten up by childcare responsibilities that added to their stress, as in the case of their colleagues who were caregiving.

Professors without caregiving responsibilities had much more free time than their colleagues who did. Jean was stunned to realize the disparity between her situation as a mother caring full-time for children at home while attempting to meet significant work expectations, noting, "I've had to sit in meetings with older male colleagues telling me how bored they are during the pandemic. To which, like, I am just shocked." Many professors, particularly men, had no caregiving responsibilities at all—whether because they did not have children or elderly relatives, or because they left caring for those family members to others while they focused on work and leisure. For

55. See Deo, *supra* note 33, at 128-31, for more on mental health challenges for faculty during COVID.

56. *See* Deo, *supra* note 2, at 2468-70.

57. *See id.*

instance, a white professor named Ted says, "I have managed to work out every single day, since the pandemic has started. It's a streak and at this point it's a matter of pride. So even if it's raining, I do workout videos in the morning." An Asian American named Sam moved across the country to live with his parents, though they do not need caretaking. He says, "I maximize the downtime just to hang out and just be there and be present. Watch TV or cook something with my mother or something like that." He is grateful for this time with his mother "because you never get those moments back, right? And that's important." He is also aware of his privilege, noting, "I don't have kids and I don't have a significant other so those are things that are easy for me to not have to worry about." He is also aware others have much more challenging circumstances: "I think a lot of other people in this time have had other kinds of responsibilities that I didn't have." As a result, he has much more freedom and flexibility, saying, "I can carve out the weekends for myself, I can devote time to family members in the way they can't. So, I felt that that was really something very, very lucky for me during this time." Cristobal was purposeful about "making sure that you have time to rest, because since you're all the time at home, you never detach really from the work." Eventually, he scheduled "some fixed hours in terms of work, exercise, and doing all the other things that I have to do," which includes an hour of exercise every morning.

Those who did not carry caregiving burdens also had the opportunity to use their time and space to think, write, and work. This put them at a tremendous advantage compared to colleagues overburdened by caregiving duties. Ariana notes, "[My life has] been like really, really stressful, and at the same time, I'm thinking about my colleagues who are men that have been super productive because they're home and they can write, and they're not worried about all of these things. So, it's been tough."

An Asian American assistant professor named Neel knows he is lucky to not have caregiving duties, which is why he wrote over half a dozen pieces the first year of COVID. When asked how family members might describe him now, he responds, "I think my wife would say that—perhaps jokingly, but probably somewhat honestly—'He's got exactly the life he wants right now.'" The pandemic has not been idyllic for Neel, but he admits it has made many things in his life "much easier," including that it "set conditions which were easier to be productive in." Continuing how his wife views his life, Neel says, "She's like, 'You like to work, and you like to write, and you like to think about these things, and now you just spend a lot of time doing that.'"

A white professor named Ben first credited his work ethic for his productivity before realizing how a lack of caregiving responsibilities probably also played a role. He says, "I usually don't miss a deadline and I

worked a lot beforehand to meet the deadline. I did submit my article in the beginning of the cycle." He pauses and then adds, "I didn't have to wait because of caregiving responsibilities or things that other people probably did have." Although Ben admits caregivers had "a lot of struggle[s]," he also asserts, "I don't think that *not* having caregiving responsibilities allows you to be [more] productive," claiming, "I didn't feel like COVID did something good for me in terms of my productivity." Both Neel and Ben were pleased with article placements from the February 2021 submission cycle, though many women and particularly women of color could not get an article written in time for submission.[58]

There also are women professors without caregiving duties, including a white professor named Zoe who acknowledges, "I do not have any caregiving duties. I'm not taking care of anybody. I am single. I live by myself. And I'm lucky to do that. So, I am relatively unaffected in the caregiving part of things. So that's a positive." Amy, a white professor, was also able to submit an article "the first week of February [2021]," ahead of schedule for the spring 2021 submission season. She is clear about the reason why, noting, "The only reason I could do that was because I don't have kids and I don't have caretaking responsibilities." She continues:

> I happen to be in a demographic that was able to write around the clock and get it in when I did. And I think that I'm not alone. I suspect there are a lot of folks who didn't have caretaking responsibilities that had an advantage that had nothing to do with merit or quality in the last submission cycle.

The vast majority of PELA participants without caregiving duties, however, are men.[59] And some of these men are fathers whose wives have picked up the lion's share of caregiving responsibilities, freeing up the men to focus almost exclusively on work. Ted says, "[B]ecause my wife . . . has taken over a lot of the organizational and logistical heavy lifting in our family life, that has freed up an incredible amount of time for me to stay on track with teaching, research, and service." Contrast Ted's experience with that of the many caregivers who found it impossible to stay on track, who had to triage crises to focus on the most important priorities or stay up all night just to prep for class. Parents of adult children, including a Black professor named Nina, are relieved too. Nina says, "My kids are adults, so that helps a lot. I don't know how people with younger kids do it."

Like Nina, many non-caregivers in the PELA sample were fully aware of the privilege they enjoyed compared to the caregiving challenges some of

58. *See* Deo, *supra* note 27, at 143.
59. *See id.* at 128, 133, 140.

their colleagues faced.[60] Jay, an Asian American professor, admits, "My personal situation has not changed a ton, because I am single and I don't have family, I don't have children or parents or other family living with me." He knows the lack of childcare responsibilities has freed up his time to be more productive as a scholar and to engage in leisure activities that mitigate the stress that has been building since the start of the pandemic. And this makes him uncomfortable:

> [A]s a man who identifies as a feminist and has seen how many women have suffered disproportionately, like it does feel icky to have a bout of professional success in this environment. As a man, as a single man with no kids, when so many women and non-binary people—you know, people who are not men—have suffered more and had to shoulder more.

Jay is not sure how he can push back against a biased system currently working in his favor, even though he would like to. He says, "I think I can only focus on my own experiences and try[] to pull my weight with my own family and friends circle and just try to continue to be an ally, to be supportive of people who are in those situations." Jay raises the question: How *do* we move forward?

IV. NEXT STEPS

To make sense of, fully understand, and implement meaningful responses to the challenges outlined above, administrators and policymakers must first recognize their implications for law professor caregivers and the profession generally, as well as mothers in particular. Only then can we work together toward strategies and solutions to ameliorate disparities and support caregivers in the ways they need.

A. Implications for Caregivers and the Profession

To fully comprehend the implications of caregiving burdens not only during COVID, but also as they persist into the future, we must consider how caregiving intersects with other devalued characteristics and existing hierarchies in legal academia. The participants of the PELA study explain this in their own voices. One intersection involves a lack of structural support for vulnerable populations of faculty at the same time that institutions tout increased diversity, equity, and inclusion (DEI) efforts. Recall that many law schools shared anti-racism statements in response to George Floyd's murder

60. *See id.* at 136-37.

and the Black Lives Matter protests that occurred throughout summer 2020.[61] Yet finger-pointing highlighted how change was needed at police departments rather than looking inward at how legal education itself could do better. Multiple PELA study participants note the hypocrisy of schools publicly promoting DEI efforts while driving out those who are different, and of shifting blame onto individuals rather than recognizing how the institution is complicit in enforcing structural constraints. Maya says explicitly, "I'm tired of the lip service." Rose notes, "There's some hypocrisy about what it is that we say we're doing as opposed to some of the direction that we seem to go in. Anything that goes not as we expect, we shift the blame away from the institution and towards individuals." Fred, who has been caretaking for two young children while continuing his full-time academic obligations, also sees how particular individuals—especially women—are burdened by systemic challenges; he notes, "[I]t seems like in most circumstances it's women and families that have to bear the brunt." From Lila we learn to look past the surface to discover what true challenges lay beneath; even women who have always seemed to weather crises are now falling apart. She says, "The people I know with children are struggling—especially the women I know with children are struggling at a level that I have never seen, including people who I thought were so on top of it before and just seem like they're drowning [now]." Lila sees how the system is working against them, and individuals rarely win against structural constraints. She laments, "I don't know how to respond to that part. I don't know what good solutions there are." This means we must be creative in brainstorming solutions. We cannot simply expect existing structures to support us appropriately, or return to our previous flawed system and expect it to be enough—especially because the consequences of failing to act are so dire. As Amy says, "I'm petrified about the women that we're going to lose for the profession or women that are made to feel like they can't catch up."

PELA survey data show that a full 43% of law professors have considered leaving academia, with even higher rates among vulnerable faculty—women of color, caregivers, and untenured professors.[62] Two out of the thirty-five participants in the PELA study, both from vulnerable populations, have left already.[63] When we think about those who choose to leave law teaching, we must remember too that they all had the elite credentials to enter the profession in the first place, as well as incredible

61. *See Law Deans Antiracist Clearinghouse Project*, THE ASS'N OF AM. L. SCHS., https://www.aals.org/antiracist-clearinghouse/ (last visited Sept. 9, 2023), for a repository of law faculty resolutions and antiracism statements circulated by institutions in 2020.

62. *See* Deo, *supra* note 27, at 132-33.

63. *Id.* at 132.

opportunities to work at firms, agencies, and institutions that pay them well, value their contributions, and treat them with respect.[64] There are plenty of other options waiting for vulnerable faculty if academia pushes them out; thus, it is truly the profession's loss if they leave due to a lack of support that they can find elsewhere.

B. The Motherhood Penalty

Mothers face unique tensions navigating their personal and professional obligations, especially because they are expected to be nurturing while both their students and their children compete for extra attention. When given an opportunity for self-reflection, many mothers in the PELA study share that they feel intense guilt for not being the kind of parent they saw themselves as pre-pandemic. Women who work for pay outside the home as well as those who stay home to care for children have provided disproportionate levels of childcare throughout the pandemic; for many working women, this increase in caregiving comes at the cost of their professional success.[65] Mothers were not only more likely to leave the workforce altogether in the first year of the pandemic, but also more likely to continue risking "promotions, future earning power and also their roles as leaders" due to its ongoing effects.[66] Those who managed to juggle both motherhood and professorships struggled in both. Many women professors in the PELA study lament that while they have a greater quantity of time with their children, they have less quality time. In the past, they would come home from a day spent on campus and leave work behind to fully decompress with their families. Now, spending all day at home together while trying to simultaneously work and provide childcare, they never feel present or engaged. They hear themselves constantly saying, "No." Dana, a white professor and administrator who has two young children at home, shares that "every day, not being able to spend like real quality time with the kids and forcing them to feel second to work feels like a sacrifice." She continues, "[E]very minute that I'm on the computer means I'm telling these kids, 'No, I can't talk to you right now,' 'No, you have to go entertain yourselves,' and, like, I do that all day." This affects Dana's mental health as well, especially given that motherhood is such a central part of her identity, as it is for most mothers.

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64. *See* DEO, *supra* note 1, at 13, for more on the "hypercredentials" required for entry-level law teaching.

65. Hsu, *supra* note 19.

66. *Id.*

Maya is in a similar boat, noting, "I was not necessarily taking a lot of joy in parenting and it [was] because I just felt so stressed about the amount of work that was piling up." There is a clear motherhood penalty, separate from parenthood and from gender. Nicole sees these distinctions clearly, noting, "I identify much more with being a mother than being either a parent or a woman at this point." She says, "[M]y experience, especially this year, working with women in academia who don't have kids? It's just we have very different experiences right now." Similarly, she notes, "[M]en who have kids also have very different experiences than me."

Mothers with different-sex partners tend to be the default parent at home, doing more of the hands-on childrearing and long-term planning for children than fathers. This certainly is evident in the PELA data. Marco has had increased childcare duties due to COVID with two children home from school, though he admits, "Well, for sure, my wife carries the brunt of that." He notes that her duties include entertaining the children in the summer and teaching them during the school year, saying, "[Our daughter] doesn't do all of her homework, she doesn't do all the classwork, and my wife is not working right now, and so she's been sitting with her during class more recently;" furthermore, he notes, "[I]n the summer, [my wife] got a summer pass [for a local public pool] and she spent almost every day in the pool with the kids." Similarly, Jean does more to care for her children, both in terms of their emotional and educational needs. Not surprisingly, it takes a toll on her. She notes, "The bulk of the kids' education, I've taken on and I've dealt with. And that's been exhausting. Basically, I have been the primary at-home caregiver of my kids since last March [2020]." Katie also is tracking her children's progress at school and making sure their work gets done. To help just one of her children, she says, "I have two apps on my phone," one that tracks "homework assignments that are assigned and what's missing and what still has to be done," and the other "that tells me about what his current grade is and what assessment he's getting on his assignments." She is vigilant about supervising, saying, "I literally check that like every couple of hours throughout every day." Katie admits she and her partner do not share childcare equally, saying:

> I don't know why, but the truth is—he would feel bad if I said this, but—[my husband] has not downloaded these apps and doesn't do that. I'm the one that takes responsibility for making sure that all the homework gets done and following through on how things are going in school, so that there's some accountability.

There are, of course, fathers who are equal co-parents to their children. Kyle, for instance, says, "I make dinner four nights a week now because my wife [got busier at work] and she's like, 'Kyle, I just can't, I can't do this.'"

His response was, "'All right, well, let's learn how to cook!'" Although he is happy to do more, he also admits, "Everybody suffers! Everyone suffers when I'm cooking, right? It's really not great." He does it anyway, noting, "But this is the moment when you got to pitch in, and you got to do it." Kyle knows not every father or husband acts similarly, admitting, "I just see so many men not doing that and it's embarrassing. So that stereotype is in my mind all the time, like, 'Don't be the incompetent guy.' Like, 'How do you make couscous? Figure it out.'" Kyle's wife is grateful to him for figuring it out when many mothers are doing too much on their own.

C. Strategies & Solutions

Instead of receiving greater institutional support, PELA survey data show that over a quarter of law professors have taken salary reductions and over one-third are working with fewer benefits due to COVID.[67] In fact, my survey data indicate that only 40% of law faculty felt supported by their institutions during the first year of COVID. As Maya notes, rather than support, "We've had a bunch of pandemic-related benefits cuts." Due to the lack of structural support, many professors in the PELA study implemented individual strategies to help themselves. Many who can afford it feel they are subsidizing their own work. Some paid for extra for in-home help, Ethernet cables, ring lights for Zoom, upgraded screens and keyboards, and other equipment they needed to do their jobs. As Fay notes, "There are so many ways in which we are subsidizing our ability to work." Renee was lucky to have mentors guide her through her personal and professional struggles, including the suggestion that she ask for teaching relief; although she got what she asked for, it was not easy. She notes, "I had to fight to get teaching relief [through a] very anxiety-filled process." Despite some faculty asking for what they need, many feel the administration is not particularly accommodating. As Alice notes, "It's unclear whether the institution is willing to make any more concessions."

Piecemeal, individual strategies also create opportunities for bias and unequal application of fluid and flexible policies. For instance, a professor and administrator named Mindy says, "[My law school's] M.O. is one-off agreements. So [accommodations] may be happening, but they're not policy." In Mindy's opinion, "That's part of the problem: it's not transparent. It's not a policy. It's not discussed. People don't know it's available." This leads to unequal application: "So, there may be a one-off like, 'OK, it's OK for *you* to go on leave,' or, 'We will reduce *your* workload,' but it's very much [dependent on] if somebody likes you or if you are high up in the caste

67. *See* Deo, *supra* note 27, at 134-35.

system enough to negotiate that for yourself." Similarly, Renee wishes her school had addressed the junior scholars directly rather than waiting for individuals to come begging for what they needed. She notes, "The administration should've sat down with each junior faculty member to evaluate their situation and address it instead of a free-for-all." At Alexis's school, even asking for accommodations yielded nothing. All Legal Writing faculty were required to teach in person; even medical documentation did not exempt them from in-person instruction during the height of the pandemic. She says, "Even if you have medical reasons saying you shouldn't be in the building, you're still forced to be in the building. And when you raise it with the dean, it just feels terrifying to do that," given the power dynamics at play. Alexis continues, "We are essentially being the sacrificial lambs and you are not given any choice about that whatsoever."

Of course, some institutions made efforts to support faculty as a whole—and faculty need structural support, rather than simply counting on individual strategies to combat systemic challenges. As Paulette notes, institutions should have structural supports in place rather than relying on individuals to do the work: "Pay attention to this stuff without us having to come to you." She adds, "I want them to prioritize it without us having them make a big fuss and put up a bit [of a] fight about it."

The most common structural accommodation thus far has been tenure delay. At Ariana's school, for instance, she says, "The university gave us the option, those of us who were on the tenure track, they gave us the option of an additional year to meet the tenure requirements." Although this was a welcome immediate stopgap, it does not work for everyone and does not fully address the challenges. Some PELA study participants were reluctant to forego the pay raise that came with tenure, especially considering the long-term, negative consequences of being "behind" on the pay scale. Amy could have delayed tenure by one year, but says, "I knew I didn't want to because it comes with the most significant raise and I didn't want to delay promotion for that reason." Many institutions that instituted a tenure delay provided for a one-year pause—which does little to help caregivers who struggled through over two years of actual disruptions, let alone the lingering effects on their children, home life, and professional work that continue today. As Renee notes, "I could've delayed [tenure], but my publication record wasn't going to get better if I waited for a year, rather than doing it now. [It's been a year.] We're still in COVID; COVID is now."

Furthermore, tenure delays were offered equally to all faculty, regardless of their unique circumstances or the ways the pandemic interrupted their lives. Remember for some, the pandemic provided additional opportunities for scholarly productivity, while others found it nearly impossible to work.

Application of this blanket policy, again highlights how equity (treating everyone fairly) is preferable to equality (treating everyone the same), particularly when all faculty do not share similar circumstances.[68] Caregivers recognized that even if they delayed tenure, they nevertheless would be compared against non-caregivers who had plenty of time to write, including those who got bored with their free time and produced even more scholarship than usual. As Renee explains:

> What if I'm up against men who took the additional year, and they have more pieces than I do? And to the extent to which I'm going to be compared to the people in my cohort, who are all going up for tenure at the same time. So that's also a little concerning. Which is another reason not to take the additional year.

Finally, although tenure delay could in certain circumstances be useful for pre-tenure faculty, it does nothing to account for tenured faculty struggling through the pandemic and nothing to support contract-based faculty who are often at the bottom of the hierarchy in legal academia, often with lower pay, little academic freedom, and no faculty governance.[69] At Lila's school, where senior administrators meet every three years to discuss their tenured colleagues who "go up for merits, which is essentially like what bump up you get in pay," those who published more during the pandemic will likely get greater increases in pay for years to come because of it. Alexis, a Legal Writing professor with contract-based employment notes, "I have not heard about the promotion clock being stopped for us or getting more time. We've not heard of any changes." Amelia, a white contract-based professor who works in Academic Support, similarly says, "I think that they have offered a tenure clock extension to people who need it. It's not relevant to me, so I don't know the details." Likewise, a clinical professor named Sara, who is on a renewable contract and not eligible for tenure, says, "For other people, there's a pause on the tenure clock. But that just doesn't apply to us."

What structural supports might work better? For those not on the tenure track, Sara suggests, "[I]t would make sense to give people more time as well . . . if they wanted just like an extension on the contract." Schools should consider an automatic extension for contract-based faculty and for those pursuing tenure based on what faculty had produced pre-pandemic and pro-rate the expectations. Amy suggests we "reduce the scholarship requirement" such that we "just evaluate people based on what they were able to do," rather than "just moving the date." Succinctly, she says, "Just

68. *See* Deo, *supra* note 33, at 144; Meera E. Deo, *The End of Affirmative Action*, 100 N.C. L. REV. 237, 276 (2021), for more on distinctions between equality and equity in the context of legal education.

69. Allen et al., *supra* note 16, at 525, 527.

pro-rate what people have done. We know how to do that. We're lawyers." Some schools gave all clinical faculty automatic teaching reductions; as Jay says, "We were all allowed for clinic student reductions in teaching, which I think we all took." In fact, all clinical professors at his law school took advantage of this opportunity. Jay continues, "Everyone took a two-student reduction. So right now, I would normally have eight [students], and I have six instead." Similarly, teaching responsibilities and service assignments could take account of personal challenges. Fred notes, "I think the faculty probably could have been more intentional about reassigning people to different committees, based on their personal situation." Lila adds, "If someone was having a really tough time [the school could have] cut them some slack in their teaching assignments." Most schools, like Sam's, did not do this; he notes, "They haven't done anything to do course reductions or service reductions, so that's kind of still the same, which is why I think a lot of people are exhausted." Jean provides even more detail for this plan, which includes individualized attention for structural support:

> I think that what the law school should have done is they should have looked at teaching assignments, and they should have looked at committee assignments, and they should have said, "These five people have adult children. They don't have [as much] to do, they can spend more time doing committee work or they can teach more students and take more of the burden, right now, because these five people have little kids at home, the schools are shut down, and they are trying to do their jobs, but they are also trying to take care of their families."

Again, rather than spread the load *equally*, Jean suggests splitting it *equitably* so that the burdens are shared more fairly in this time of crisis. She notes in particular that requiring everyone to teach the same amount while juggling widely varying caregiving duties actually prioritized the ability of some faculty to produce scholarship while stymying others: "We have enough faculty that they could have made it so that some of us that have kids at home didn't have to teach full loads so that we could continue to take care of our families and I might have actually been able to write something."

In fact, many institutions increased both formal service expectations (as policies needed to quickly change) and teaching loads (to have smaller class sizes on Zoom). Neel, who teaches a large, first-year course, says, "I was going to be teaching two [sections] and then a week before [fall 2020 courses began], they just doubled it to four. It was sort of like, 'Oh, you're going to be doing the same thing, just do it two more times,' which is a lot." Jean also had planned to teach one section of one large course, but the administration had other ideas; she recalls, "They insisted that I teach Civil Procedure and that I teach two sections. We broke our section smaller." In addition, Jean,

like many other invested and engaged faculty, made significant changes to her course content and delivery, stating:

> I actually reworked my class so that it would adapt to the online session. I have a lot more formative assessments that we do. I have a lot more in-class exercises that we do. I have watching assignments that the students have to do. I have quizzes that the students have to do.

All of that took more time.

Now, faculty who did more throughout COVID hope to be acknowledged for that extra work. Those who provided more service to students, innovated their teaching to go online (and later to be hybrid), and worked to put together trainings or new policies to meet changing needs were rarely given a bonus, reward, or recognition for the extra work they put in. Although the pandemic is "officially" behind us (as the WHO and CDC have declared an end to the COVID Global/Public Health Emergency), its effects still linger—not only in the public health arena but in legal academia as well. Administrators should now look back to notice all the work that went into keeping their institution afloat and consider how to remedy its disparate effects. Amy says, "We need a reckoning with uncounted work undertaken by women." While women often perform invisible labor—work that goes unnoticed by colleagues who benefit from it but fail to see its value—we must find ways to make it clear how valuable it is.[70] She continues, "To the extent that we need to like track hours the way we do in a law firm, in some ways, I think we need to be objective about what that extra work looks like." Sara agrees, noting, "[T]here should actually be something done to account for all of that extra work and other extra work that people are taking on." For instance, a white library professor named Zoe took on the role of a computer specialist as well as a COVID tester during the first year of the pandemic. These roles are not her areas of specialty and clearly outside the scope of her employment. She says, "Librarians are not IT. I can tell you there's not enough support for online learning."

A common refrain was that administrators rarely asked faculty what they needed, or if there was a nod toward asking, nothing came of it. Instead, institutions tried to respond to the basics, though that did not always happen well either. As Maya notes, "It has to be more than, 'Is there enough hand sanitizer?' right? And there was not enough hand sanitizer." Daniel, a white male professor, says, "I don't feel like [administrators] are listening to faculty any more than they have before COVID. I feel like they just expect faculty to do their job, teach the class, finish the semester, grade the exams, and move on to the next semester." Simply giving faculty, a survey is not enough.

70. *See* Deo, *supra* note 2, at 2480.

Irene notes, "It is not good enough that you send a questionnaire and then you take the results and put it in the trash, or in a file, to show some accreditor that you did something." Pretending to care is not enough. Administrators need to ask out of a genuine desire to help; only then will faculty get the support they need. Instead, Irene continues, "They are not listening." Faculty were understandably anxious about how talk about support would translate into action. Dana notes, "They talk about like, 'Oh, it's OK if you're not doing as much committee work or scholarship,' [but because] that's not reflected at all in the policies," faculty are left with uncertainty about what the true expectations are. Jean echoes the disappointment of many caregivers, noting, "I'm exhausted. I just want this to end. I am very frustrated that the university and the law school don't seem to understand that parents with children are in a very, very different situation."

V. CONCLUSION

Overall, PELA study data make clear that caregivers struggled disproportionately during COVID. Rather than receiving the structural support they needed to lighten their loads, most caregivers navigated increased demands, both at home and at work. The implications of these challenges are severe and dangerous—including the loss of more women of color, and particularly mothers, from legal academia as they return to workplaces with greater pay and support. PELA interviews also uncovered a number of strategies many caregivers employed to meet their work expectations, including negotiating with administrators by sharing their personal circumstances (with mixed results). Ultimately, many women realized they could not do it all.

Elizabeth, a professor and administrator, compares herself to another administrator at her institution "who has a wife who stays home [so he can be] in the office every day." Elizabeth is not. She admits, "Even though I feel like I am devoting most of my time to administration, it's not nearly what they are." Although she knows "this just is not the time that I can take on all the projects or do all the things," she admits, "That's hard for me. It's very hard for me to see my colleagues working harder than I am." Yet, she is working at least as hard, managing three children who are home full-time; she says, "I've also just had to accept that I'm going to be there as an advisor but I'm not going to take on [additional] big administrative tasks." Amelia also does not want to be offered fewer opportunities; she just wants people to understand how challenging it will be to meet unreasonable expectations. She admits, "I'm so worried about people giving less opportunities to women and caregivers. I think I just want compassion. I want someone to say to me, 'It's OK. It's OK not to be perfect.'" Ultimately, Sara decided to prioritize

only the critical parts of her life, recognizing some things would fall through the cracks—and she could turn to them later. She says, "There's some quote that someone has [that says], you just are juggling and some of those balls are glass and very precious—like this sleeping baby." The glass balls must be handled with utmost care. She continues, "And then some of them [are less important and] are going to fall," and we have to allow that to happen, recognizing they are less precious or fragile, telling ourselves, "Like, 'Oh, I'll just pick them back up again.' That's the philosophy."

However, law professors who let some balls drop may suffer long-term professional consequences for doing so. Scholarship tends to be the main factor in academic advancement, securing tenure, being named to chaired positions, or getting ahead through a lateral move to a new institution.[71] The inability to produce scholarship for a year or two can therefore have devastating effects—whereas extra time on research yields significant rewards. We are seeing the effects of those disparities between caregivers (most of whom had little to no time for scholarship) and non-caregivers (many of whom devoted extra time to scholarship) play out in legal academia already. Thus, this disparity in productivity is somewhat quantifiable. PELA data suggest that faculty without increased caregiving duties not only maintained their prior rate of publication, but actually published more than they had previously.[72] By contrast, many faculty with increased caregiving responsibilities due to COVID could not publish at all during that same time period. After data collection for the PELA study ended, faculty participants have continued on the trajectories that were laid out and intensified during COVID. This is an example of the effects of COVID lingering into the future. Over the past two years, eight PELA participants (23%) who are not primary caregivers for children or elderly relatives have accepted lateral positions at new schools (compared to just one (2.9%) who was a primary caregiver); this is likely a direct result of their increased productivity during COVID. Conversely, two participants (5.7%) who are caregivers have since left legal academia altogether.[73]

Structural change is needed to maximize caregivers' professional potential. COVID intensified existing challenges, but caregivers were stretched thin pre-pandemic and are continuing to navigate a system that is not set up for their success. To support caregivers, administrators and policymakers must immediately reach out to them, listen to them in order to understand their needs, and then respond in a way that recognizes their unique contributions, both at home and at work.

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71. *See* Deo, *supra* note 27, at 139-40.
72. *See* Deo, *supra* note 2, at 2485-86.
73. *See* Deo, *supra* note 27, at 145-46.

COVID-19 PANDEMIC AND LAW STUDENT CAREGIVING

Chad Christensen* & Jacquelyn Petzold**

I. INTRODUCTION

The COVID-19 pandemic demanded flexibility and resilience in the face of seemingly unending uncertainty and hardship.[1] Although every law student felt the influence of the pandemic on their educational experience, certain groups of students had to make more complicated adjustments to their multi-faceted lives.[2] Law students who were parents or who provided care for other individuals living in their households had to adapt to changes in legal education alongside the changes brought on by virtual school, virtual medical appointments, and the foreign inconveniences of previously familiar routines like acquiring groceries and securing childcare.[3]

The annual Law School Survey of Student Engagement (LSSSE) has been surveying law students on many different aspects of the law school experience since 2004.[4] In addition to questions about classroom habits and satisfaction with various parts of their educational experiences, LSSSE asks students about how they spend their time during an average week, including how many hours they spend working, socializing, preparing for

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1. *See* JACQUELYN PETZOLD, MEERA E. DEO & CHAD CHRISTENSEN, THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2022 ANNUAL REPORT: SUCCESS WITH ONLINE EDUCATION 5 (2022), https://lssse.indiana.edu/wp-content/uploads/2022/10/Success-with-Online-Education-Final-10.26.22.pdf [https://perma.cc/TE88-4L8Y].

2. *See* ORG. FOR ECON. CO-OPERATION AND DEV., THE IMPACT OF COVID-19 ON STUDENT EQUITY AND INCLUSION: SUPPORTING VULNERABLE STUDENTS DURING SCHOOL CLOSURES AND SCHOOL RE-OPENINGS 2 (2020), https://read.oecd-ilibrary.org/view/?ref=434_434914-59wd7ekj29&title=The-impact-of-COVID-19-on-student-equity-and-inclusion [https://perma.cc/FXY4-AXVR].

3. *See* Federica Dellafiore et al., *The Impact of COVID-19 Pandemic on Family Caregivers' Mental Health: A Rapid Systematic Review of the Current Evidence*, 93 ACTA BIOMED 1, 2 (2021).

4. *Who We Are*, LSSSE, https://lssse.indiana.edu/who-we-are/ [https://perma.cc/E6HE-DPPG] (last visited Oct. 7, 2023).

class, sleeping, and exercising.[5] One of these questions asks about how many hours students spend providing care for dependents living with them (parents, children, spouse, etc.) on a weekly basis.[6] This allows us to examine how the experiences of law students who have people who depend on them at home differ from the experiences of law students who do not.

In this analysis, we have divided the law student population into "no caregiving" (zero hours per week), "some caregiving" (1-30 hours per week), and "high caregiving" (more than 31 hours per week). Certainly, the presence or absence of dependents in the home cannot completely explain the law school experience in isolation since the choices people make about how and why they enroll in law school are correlated to some degree with other demographic factors.[7] For example, there are all sorts of reasons why the experience of a young, single full-time law student without children is likely very different from that of an older, married part-time law student with children.[8] However, given the demands that the COVID-19 pandemic placed on caregivers across the globe, we want to provide some context for how caregiving affected law students' stress levels, their perception of the support provided by their law schools, and their overall satisfaction with the law school experience.[9] We show that attending law school is indeed different for people whose identities are shaped at least in part by their relationships with others who require their regular presence and care.

II. DEMOGRAPHICS OF CAREGIVING

Although the work- (and study-) from-home transition triggered by the pandemic brought the existence of our household members more obviously into our professional and educational spheres, law students have long been caring for children, spouses, parents, and others.[10] In 2004, just over a third (35%) of law students spent at least one hour per week providing care for

5. Jakki Petzold, *Work/Life Balance*, LSSSE, https://lssse.indiana.edu/tag/work-life-balance/ [https://perma.cc/HK65-4FCY] (last visited Oct. 7, 2023).

6. *Id.*

7. *See* Stephen Daniels & Shih-Chun Chien, *Guest Post: Beyond Enrollment: Why Motivations Matter to the Study of Legal Education and the Legal Profession?*, LSSSE: BLOG (Sept. 24, 2020), https://lssse.indiana.edu/blog/guest-post-beyond-enrollment-why-motivations-matter/ [https://perma.cc/T6XC-9W3T].

8. *See* Morgan Stone, *A Growing Minority – Law Students with Children*, 36 STUDENT LAW. 21, 21 (2007).

9. *See* Petzold, *supra* note 5; *see also* Dellafiore et al., *supra* note 3, at 2, 8.

10. *See* Stone, *supra* note 8.

dependents who live with them.[11] By 2021, that number climbed to two in five law students (42%).[12] Certain groups of law students are more likely than others to have ongoing responsibilities to provide care for others, and the intensity of the caregiving load also varies among students.[13] For example, women are slightly less likely than men or people of other gender identities to have no caregiving duties and slightly more likely to have a high caregiving load.[14] Around 9% of women law students spend over thirty hours per week on caregiving duties compared to 6% of male law students and 5% of law students of other gender identities.[15]

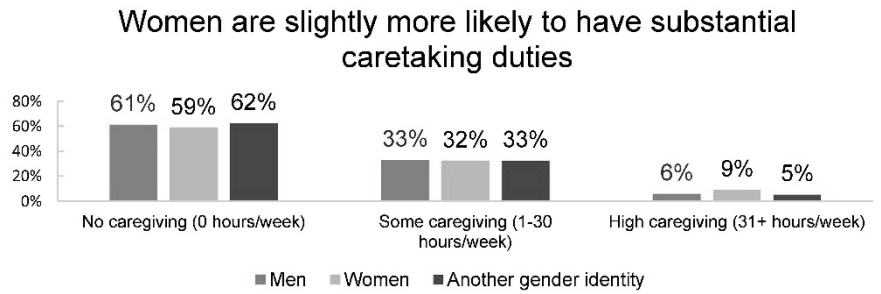

Fig. 1[16]

People tend to accumulate dependents across their lifespans through some combination of partnering with another person, having children, and helping aging parents.[17] Most law students under age thirty do not spend time caring for others during the week, while most law students over thirty do.[18] In fact, half of students over age forty spend between one and thirty hours per week caring for somebody else in their household, and another

11. THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2004 ANNUAL SURVEY RESULTS: STUDENT ENGAGEMENT IN LAW SCHOOLS: A FIRST LOOK 9 (2004), https://lssse.indiana.edu/wp-content/uploads/2016/01/LSSSE-2004-Annual-Survey-Results.pdf [https://perma.cc/MVK3-8VG6].

12. MEERA E. DEO, JACQUELYN PETZOLD & CHAD CHRISTENSEN, THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2021 ANNUAL REPORT: THE COVID CRISIS IN LEGAL EDUCATION 11 (2021), https://lssse.indiana.edu/wp-content/uploads/2015/12/COVID-Crisis-in-Legal-Education-Final-1.24.22.pdf [https://perma.cc/TNA3-Q3DF].

13. *See* Jakki Petzold, *Time Use*, LSSSE, https://lssse.indiana.edu/tag/time-use/ [https://perma.cc/P8FE-PAX3] (last visited Oct. 7, 2023).

14. DEO et al., *supra* note 12.

15. *Id.*

16. *Id.*

17. *See* Petzold, *supra* note 5.

18. *See* Petzold, *supra* note 13.

quarter spend more than thirty hours per week on care tasks.[19] About a quarter (27%) of students under age twenty-six have a moderate caregiving load (1-30 hours per week), but less than 2% spend more than thirty hours per week caring for others.[20]

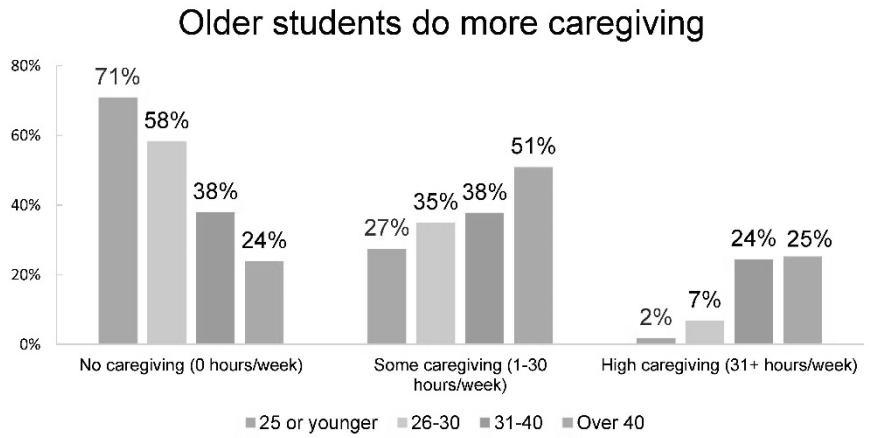

Fig. 2[21]

First-generation students—those law students whose parents do not have a bachelor's degree[22]— are much more likely to have dependent care duties than their non-first-generation classmates.[23] Thirteen percent of first-generation students spend more than thirty hours per week caring for others compared to only 6% of continuing-generation students.[24] Thus, in addition to navigating the potentially unfamiliar terrain of higher education, first-generation students are also more likely to be managing demanding care responsibilities at home.

19. DEO et al., *supra* note 12; *see also* Petzold, *supra* note 13.

20. DEO et al., *supra* note 12.

21. *Id.*

22. Melissa A. Hale, *Guest Post: The Importance of Supporting First-Generation Law Students*, LSSSE, https://lssse.indiana.edu/tag/first-generation/ [https://perma.cc/UJ7D-2538] (last visited Oct. 7, 2023).

23. *Id.*

24. *Id.*

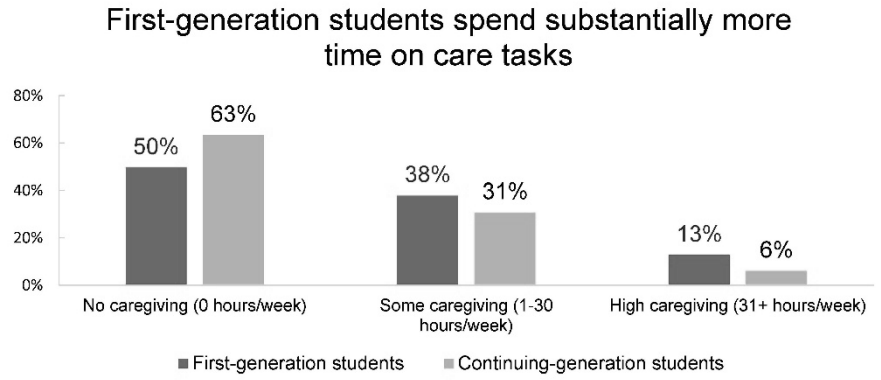

Fig. 3[25]

Perhaps unsurprisingly, part-time students are more likely than full-time students to spend significant amounts of time caring for others during the average week.[26] Nearly two-thirds (63%) of full-time students have no caregiving duties compared to only 36% of part-time students.[27] A mere 5% of full-time students spend more than thirty hours on caregiving tasks compared to almost one-quarter (23%) of part-time students.[28]

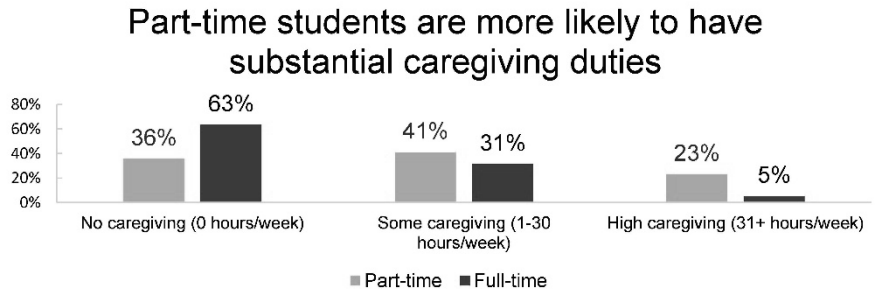

Fig. 4[29]

25. DEO et al., *supra* note 12.

26. Jakki Petzold, *Time Spent Caring for Others, Part 1*, LSSSE: BLOG (Aug. 24, 2020), https://lssse.indiana.edu/blog/time-spent-caring-for-others-part-1/ [https://perma.cc/QPG9-FDYS].

27. DEO et al., *supra* note 12.

28. *Id.*

29. *Id.*

White students are more likely than non-white students to have no caregiving duties.[30] Nearly two-thirds of white students spend zero hours per week providing care compared to only about half of students from other racial and ethnic groups.[31] Notably, American Indian, Alaska Native, and Black or African American students are more likely than other students to have demanding caregiving responsibilities, with about 16% of students from these groups providing more than thirty hours of care per week compared to only 7% of white students and 6% of Asian or Asian-American students.[32]

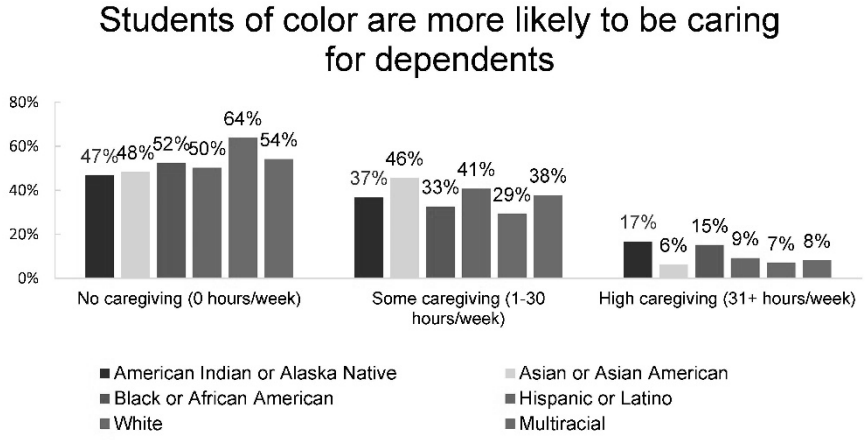

Fig. 5[33]

Students from historically marginalized groups (female, first-generation students, and people of color) are more likely than their less marginalized classmates to be caregivers and thus are likely to face more complications from the difficulties brought on by major global shifts in domestic patterns such as those caused by the COVID-19 pandemic.[34] However, as we see in the next section, the divided attention and the different life priorities of caregiver law students may have been a protective

30. *Id.*; *see also* Emma Armstrong-Carter et al., *A University-wide Survey of Caregiving Students in the US: Individual Differences and Associations with Emotional and Academic Adjustment*, 9 HUMANITIES & SOC. SCIS. COMMC'NS 1, 2 (2022).

31. DEO et al., *supra* note 12.

32. *Id.*

33. *Id.*

34. *See* Armstrong-Carter et al., *supra* note 30.

factor in some respects in terms of maintaining these students' satisfaction with the law school experience.[35]

III. CAREGIVING AND THE LAW SCHOOL EXPERIENCE

Examining the last few years of LSSSE data reveals the substantial disruption that the COVID-19 pandemic caused for law students and legal education.[36] We witnessed a significant decline in the mental, emotional, and physical health of the majority of law students.[37] The students who were most impacted were disadvantaged and underrepresented students—students of color, women, part-time students, and first-generation college students.[38] As we note above, these groups are the students who are more likely to be caregivers and also more likely to be full-time caregivers.[39] They therefore have greater competing demands vying for their time and are less able to devote time to law school activities – both in and out of the classroom. During the pandemic, caregiving duties increased for many law students, likely due to school and childcare closures.[40] Forty-two percent of law students reported spending significantly more time caring for dependents and others during COVID than before the pandemic, including roughly half (48%) of all women compared with one-third (34%) of men.[41]

We want to understand how stress and anxiety impacted law students during COVID and whether there was a differential impact on caregiving and non-caregiving law students. We also look at levels of satisfaction with legal education and at key aspects of the law school experience. There are only so many hours in the week—how do law students balance all of their responsibilities while also engaging in meaningful and enriching activities that will foster their development as future lawyers?

IV. STRESS

Stress for law students is notoriously high.[42] However, LSSSE data shows that COVID exacerbated these already high stress levels.[43] In 2019,

35. *See* DEO et al., *supra* note 12.

36. *See generally id.*

37. *Id.* at 11.

38. *Id.* at 11-12.

39. Armstrong-Carter et al., *supra* note 30.

40. *See* Molly Lipkin & Franci Crepeau-Hobson, *The Impact of the COVID-19 School Closures on Families with Children with Disabilities: A Qualitative Analysis*, 60 PSYCH. SCHS. 1544, 1545 (2022).

41. DEO et al., *supra* note 12, at 11.

42. Jakki Petzold, *Law Student Stress and Anxiety*, LSSSE: BLOG (May 11, 2022), https://lssse.indiana.edu/blog/law-student-stress-and-anxiety/ [https://perma.cc/HA95-XXKP].

50% of all law students reported high levels of stress and anxiety (6 or higher on a 7-point scale).[44] Surprisingly, the group reporting the least amount of stress were those law students who had a full-time caregiving load (31+ hours/week).[45] This pattern changed dramatically just two years later after the first wave of the pandemic took its toll.[46] For all students, stress jumped between 10 and 20 percentage points in just two years (2019-2021) with caregivers seeing a noticeably higher jump than those students without a caregiving load.[47] The percentage of non-caregivers with high stress levels jumped from 50% in 2019 to 61% in 2021.[48] The percentage of students with moderate caregiving responsibilities (1-30 hours per week) and high stress levels jumped from 52% in 2019 to 67% in 2021.[49] The most dramatic increase came from those with full-time caregiving loads.[50] Prior to the pandemic, full-time caregivers reported having the least amount of stress of the three groups (43% were highly stressed) in 2019.[51] By 2021, a full 65% of law students with high caregiving loads reported high levels of stress and anxiety, an astonishing jump of twenty percentage points in just two years.[52]

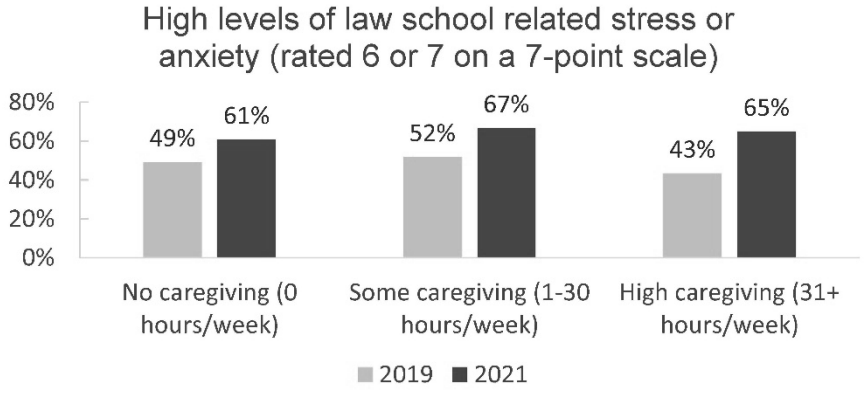

Fig. 6[53]

43. *Id.*
44. *Id.*
45. DEO et al., *supra* note 12.
46. *Id.*
47. *Id.*
48. DEO et al., *supra* note 12.
49. *Id.*
50. *Id.*
51. *Id.*
52. *Id.*
53. *Id.*

As noted above, students reported additional responsibilities to care for dependents during the COVID disruption.[54] The impact on the quality of life of law students is clear: for all students stress and anxiety jumped considerably during COVID, and the increase was particularly pronounced for caregivers.

V. SATISFACTION

Despite the differential in stress levels, law students of all caregiver levels report similar, but not identical, levels of satisfaction with the law school experience.[55] Interestingly, full-time caregivers report highest levels of satisfaction in two key areas: 81% of full-time caregivers report their entire educational experience at law school as "good" or "excellent" compared to 79% of non-caregivers.[56] Likewise, 86% of full-time caregivers would choose to pursue a law degree if they could start over compared to 78% of non-caregivers.[57] This is good news for all law students. Law students have long been overwhelmingly satisfied with their law school experience, and we noticed very little change in this during the pandemic.[58] This speaks volumes to the efforts of law school staff and faculty as they made a sharp pivot to adjust to the impact of the pandemic on legal education.

54. *See* Timothy Casey, *Reflections on Legal Education in the Aftermath of a Pandemic*, 28 CLINICAL L. REV. 85, 100 (2021).

55. Jakki Petzold, *Time Spent Caring for Others, Part 2*, LSSSE (Sept. 7, 2020), https://lssse.indiana.edu/blog/time-spent-caring-for-others-part-2/ [https://perma.cc/BR4R-VPCB].

56. DEO et al., *supra* note 12. .

57. *Id.*

58. Jakki Petzold, *Part 1: The COVID Crisis in Legal Education: Impact on Core Mission and Enriching Experiences*, LSSSE: BLOG (Feb. 23, 2022), https://lssse.indiana.edu/blog/part-1-the-covid-crisis-in-legal-education-impact-on-core-mission-and-enriching-experiences/ [https://perma.cc/Z6BZ-6BW4].

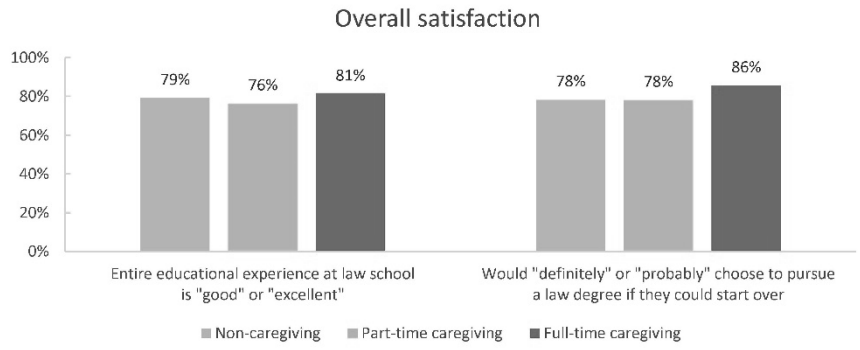

Fig. 7[59]

VI. LAW SCHOOL SUPPORT

Law students of all caregiving levels feel well-supported in the academic realm at their law schools, though we saw small declines in perceived support from 2019 to 2021 for all caregiving levels.[60] Interestingly, students with caregiving responsibilities feel slightly more supported than their non-caregiving counterparts.[61] In 2019, 71% of law students with a full-time caregiver load reported that their law school provided significant support to help students succeed academically.[62] That number stayed above 70% in 2021.[63] However, a larger dip in perceived support was seen by law students in the part-time caregiver and non-caregiver groups.[64] In 2021, only around 65% of part-time and non-caregivers reported significant academic support from their law schools.[65] Still, academic support stayed relatively high even during the pandemic, with around two out of three law students feeling well-supported in their academic pursuits.[66]

The LSSSE Survey also asks students how much support their law school provides to help them cope with non-academic responsibilities

59. DEO et al., *supra* note 12.

60. *Id.*

61. Jakki Petzold, *Law School Support for Non-Academic Responsibilities*, LSSSE: BLOG (Apr. 24, 2023), https://lssse.indiana.edu/blog/law-school-support-for-non-academic-responsibilities/ [https://perma.cc/3ANX-S83F].

62. DEO et al., *supra* note 12.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

(work, family, etc.).[67] This support is particularly important given that law students reported an increase in caregiving duties during the pandemic and that law students who are caregivers tend to be more likely to work for pay than their non-caregiving counterparts.[68] Students with the most intense caregiving loads are slightly more likely than others to feel that their law school emphasizes helping them cope with their non-academic responsibilities."[69] In 2021, 31% of full-time caregiver law students reported that they felt well-supported compared with 27% of part-time caregivers and 26% of non-caregivers.[70] However, at the other end of the scale, caregiving students are also slightly more likely to be highly dissatisfied with their law school's support for non-academic responsibilities. Thirty-eight percent of students with dependents say their law school provides "very little" support for non-academic responsibilities compared to 35% of students without dependents. Satisfaction with support for non-academic responsibilities likely varies tremendously based on law students' needs and life circumstances.

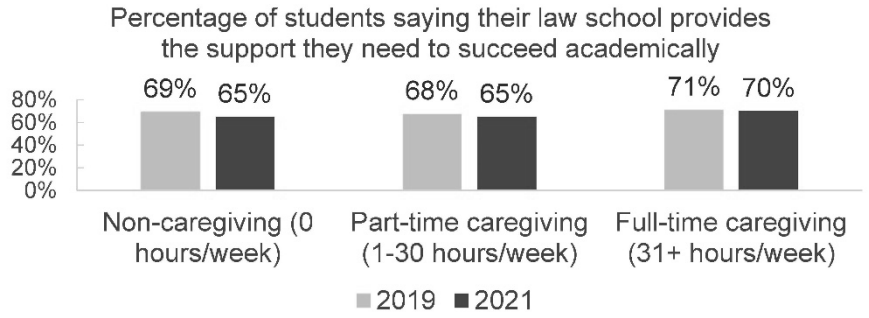

Fig. 8[71]

67. Petzold, *supra* note 61.
68. Petzold, *supra* note 55.
69. Petzold, *supra* note 61.
70. DEO et al., *supra* note 12.
71. *Id.*

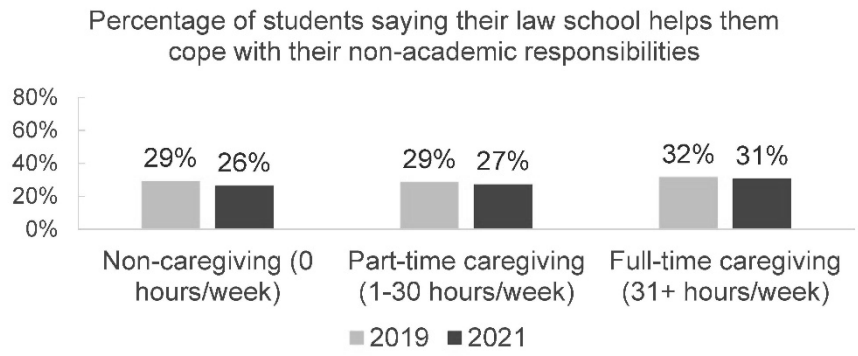

Fig. 9[72]

VII. LAW SCHOOL ACTIVITIES

Caregivers and non-caregivers differ in how they spend their time during an average week. Those without dependents tend to have more leisure time for activities such as exercising, while those with dependents are more likely to work for pay and have longer commutes. This indicates that students with caretaking responsibilities sacrifice self-care activities to meet the needs of their dependents and their duties as law students. Due to competing responsibilities, caregivers spend considerably less time socializing with peers, and the percentage drops as caregiver responsibility increases.[73] Nearly two-thirds (62%) of non-caregiving law students spend more than five hours a week socializing compared to 50% of students with moderate caregiving loads and 41% of students with high caregiving loads.[74] However, although caregivers spend less time socializing, they remain almost equally invested in participating in law school activities overall.[75]

Therefore, the competing responsibilities of being a caregiver and law student require a significant investment of time, which could otherwise be spent on studying for class, working with faculty on a project outside of class, or even engaging in leisure activities. Instead, these students are taking care of their families and loved ones.

Caregivers have historically spent significantly more time commuting to class than non-caregivers, but the switch to online learning meant that

72. *Id.*
73. *See id.*
74. DEO et al., *supra* note 12; *see also* Petzold, *supra* note 55.
75. Petzold, *supra* note 55.

this number dropped considerably during the pandemic for all groups.[76] In 2019, 50% of all caregivers reported commuting more than five hours a week. During the pandemic this number dropped to below 15%.[77]

Clearly, the way students spend their time varies depending on whether they spend time caring for others during the week, even though both groups are remarkably similar in stress levels and overall satisfaction.[78] Students with caregiving responsibilities are more likely to be more deeply embedded in their communities, spending more time working for pay and participating in community organizations than students without dependents. This means caregiving law students may draw on different strategies and sources of support relative to students without caregiving responsibilities.

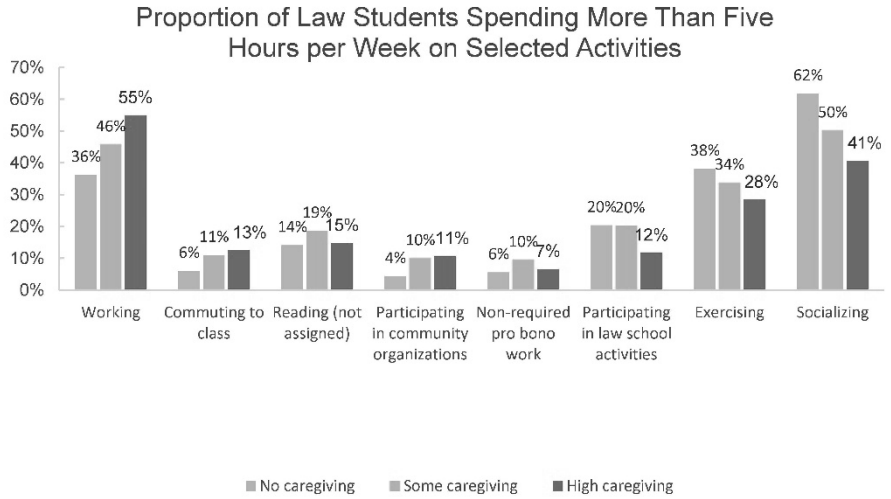

Fig. 10[79]

VIII. CONCLUSION

The pandemic had an effect on virtually all aspects of legal education and the law student experience.[80] Law schools were challenged to make significant changes to teaching paradigms, online education, and support

76. DEO et al., *supra* note 12; *see also* Yvonne M. Dutton et al., *Assessing Online Learning in Law Schools: Students Say Online Classes Deliver*, 96 DENV. L. REV. 493, 521 (2019).

77. DEO et al., *supra* note 12.

78. Petzold, *supra* note 55.

79. DEO et al., *supra* note 12.

80. *See* DEO et al., *supra* note 12, at 5.

for law students.[81] Law students faced greater challenges than ever before: from how they learn in an online environment to facing greater financial insecurities and suffering from mental, emotional, financial, and physical hardships that directly impacted their academic performance.[82] In a COVID world, the need to be a greater caregiver to loved ones was felt almost universally. This call was answered by law students as well, with 42% of law students reporting increased caregiving responsibilities during the pandemic.[83]

Though stress and anxiety levels increased for all law students, LSSSE data show that caregivers saw the highest jump in stress levels compared to other groups.[84] Surprisingly, caregivers also feel most satisfied and supported by their law school on a number of dimensions.[85] Disadvantaged and underrepresented students are more likely to be caregivers and many competing interests vie for their time and energy.[86] The trade-off appears to be that caregiving students have less time for self-care activities and thus their success likely comes at a high personal cost.[87] This echoes pre-pandemic findings about the high cost of women's success, and it is likely equally true that first-generation, non-white, and part-time students make higher short-term sacrifices in the pursuit of longer-term educational goals than their more privileged classmates.[88] Clearly, these students need additional support from law schools to ease the burden and to make the experience of attending law school a more restful, humane endeavor.

However, overwhelmed as they were by other aspects of their lives, caregivers may have found some respite in their additional identity as law students. Attending class and participating in law school life likely gives caregiving students the ability to take a break from dependent care duties in order to focus on an interesting, complex subject. Caregivers have always attended law school, and they have generally been quite happy with their decision to do so. Perhaps the experience of having dependents provides

81. *See id.* at 5, 16.

82. *See id.* at 6, 10, 12.

83. *Id.* at 11.

84. DEO et al., *supra* note 12.

85. *Id.*

86. *See* Khrystan Nicole Policarpio & Grecia Orozco, *Together But Unequal: How the COVID-19 Pandemic Exacerbated the Inequities Harming Minority Law Students*, 55 U.C. DAVIS L. REV. ONLINE 91, 11718 (2022), https://lawreview.law.ucdavis.edu/online/55/files/55-online-Policarpio_Orozco.pdf

87. Petzold, *supra* note 55.

88. *See* MEERA E. DEO & CHAD CHRISTENSEN, THE L. SCH. SURV. OF STUDENT ENGAGEMENT, LSSSE 2019 ANNUAL SURVEY RESULTS: THE COST OF WOMEN'S SUCCESS 10 (2019), https://lssse.indiana.edu/wp-content/uploads/2015/12/LSSSE-AnnualSurvey-Gender-Final.pdf [https://perma.cc/8UJY-3U8Y].

greater internal motivation to pursue their educational goals, and a framework to imagine a future legal career with its associated personal and professional benefits that will make all the current stress, anxiety, and sacrifice feel worthwhile.