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The Impact of Admission Policies on Racial and Socioeconomic Diversity in New Orleans' Selective Admission Schools

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**THE IMPACT OF ADMISSION POLICIES ON
RACIAL AND SOCIOECONOMIC DIVERSITY IN
NEW ORLEANS' SELECTIVE
ADMISSION SCHOOLS**

*Robert A. Garda, Jr.**

New Orleans has four schools that determine admission based in part on student performance on academic tests: Lake Forest Charter School, Audubon Charter School, Benjamin Franklin High School and Lusher Charter School. These are among the top performing schools in New Orleans. The racial and socioeconomic composition of these schools is significantly different than the same demographics for the public school population as a whole in New Orleans. Overall, these schools have significantly more white students and significantly less low-income students than the district. Furthermore, there is significant variance in the racial and socioeconomic demographics between these schools. This Essay explores the relationship between the admission practices of these schools and their racial and socioeconomic diversity. It finds that while admission practices partially account for the different demographics, other factors may have a larger impact. It concludes with recommendations to create selective admissions schools that more closely align with the racial and socioeconomic demographics of the school districts these schools serve.

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* Fanny Edith Winn Distinguished Professor of Law at Loyola University of New Orleans College of Law. I would like to thank the *Fordham Urban Law Journal* for organizing this symposium on an important topic that has received far too little scholarly attention. I would also like to thank all the presenters at the symposium for educating me well beyond my narrow view of this subject in New Orleans. Finally, I would like to thank my tireless, and patient, research assistants: Makala Graves and John Rossi.

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INTRODUCTION

The New Orleans education system is unique in many ways. It is the only school district in the United States that is comprised of nearly all charter schools.¹ Its schools have one of the highest rates of economically disadvantaged students — 86% — and the city overall has the highest poverty rate among the fifty largest metro areas.² It also has the highest rate of students in private schools — 25%.³ New Orleans has, in short, one of “the most unusual school system[s] in America.”⁴ But New Orleans is

1. During the 2020–21 academic year, only four schools in Orleans Parish were not charter schools. See LA. LEGIS. AUDITOR, IDENTIFYING PRACTICES THAT IMPACT ACADEMIC OUTCOMES IN ORLEANS PARISH CHARTER SCHOOLS 1 n.1 (2021); *Who We Are*, NOLA PUB. SCHS., <https://nolapublicschools.com/about/whoweare> [<https://perma.cc/N83L-PWB8>] (last visited Aug. 8, 2022); Kristen Buras, “*We Have to Get Certain Numbers to Stay Open*”: *Has a Charter School Network in New Orleans Failed to Draw the Line?*, 50 J.L. & EDUC. 1, 2 (2021).

2. *New Orleans by the Numbers*, NEW SCHS. FOR NEW ORLEANS (Mar. 2022), https://drive.google.com/file/d/1zW1-SmpTLel3d-Z-ik_UeYBXI9zbUQdG/view [<https://perma.cc/9KP8-2X46>]; see *New Orleans Poverty Rate Top Among U.S. Metros*, LA. BUDGET PROJECT (Sept. 13, 2018), <https://www.labudget.org/2018/09/new-orleans-poverty-rate-tops-among-u-s-metros/> [<https://perma.cc/4FXH-GWJS>]; Andre Perry, *New Orleans Students Are Still Vulnerable to Ida and Other Future Storms*, HECHINGER REP. (Sept. 7, 2021), <https://hechingerreport.org/new-orleans-students-are-still-vulnerable-to-ida-and-other-future-storms/> [<https://perma.cc/29K2-KVVK>].

3. See *Enrollment Landscape Analysis Phase 1*, NEW SCHS. FOR NEW ORLEANS (Feb. 17, 2022), <https://newschoolsforneworleans.org/data-resources/nola-by-the-numbers/> [<https://perma.cc/9PWT-W32C>]; *Top 10 U.S. Metros with the Highest Private School Enrollment*, TRULIA, <https://www.trulia.com/blog/top-10-us-metros-highest-private-school-enrollment/> [<https://perma.cc/U9UP-M6JR>] (last visited Aug. 8, 2022); Paula Pant, *Where “Back to School” Means Private School*, TRULIA (Aug. 13, 2014), <https://www.trulia.com/research/private-vs-public-school/> [<https://perma.cc/C3KM-C4CT>].

4. See Danielle Dreilinger, *What’s Next in New Orleans*, 21 EDUC. NEXT, Summer 2021, at 32–40.

similar to other large metropolitan school districts in one critical way: it has controversial selective admission schools.⁵

Half of the states have selective admission high schools and there are roughly 165 such schools nationwide.⁶ New Orleans is again, unique, in that it has both selective admissions high schools and selective admission primary schools. The four academically selective admission schools in New Orleans — Benjamin Franklin High School (Ben Franklin), Lusher Charter School (Lusher), Lake Forest Elementary Charter School (Lake Forest) and Audubon Charter School (Audubon) — have been the subject of numerous critiques, such as under-serving students with disabilities,⁷ failing to disclose the names of their admissions tests,⁸ among many others.⁹ This Essay does not cover these topics or the propriety of selective admission schools in general.¹⁰ These schools are, quite simply, here to stay. Rather, this Essay determines whether these schools' selective admission policies and practices, or other factors, account for the racial and socioeconomic disparity between these schools and the New Orleans public school system as a whole.

New Orleans selective admission schools, just like selective admission schools throughout the United States, are economically and racially unrepresentative of the school districts in which they exist.¹¹ There are

5. See Nghana Lewis, *After Katrina: Poverty, Politics, and Performance in New Orleans Public Schools*, 11 LOY. J. PUB. INT. L. 285 (2010) (describing how New Orleans transitioned from a traditional public school system to an all-charter school system while at the same time retaining selective admission schools); see also Richard V. Reeves & Ashley Schobert, *Elite or Elitist? Lessons for Colleges from Selective High Schools*, BROOKINGS INSTIT. (July 31, 2019), <https://www.brookings.edu/research/elite-or-elitist-lessons-for-colleges-from-selective-high-schools/> [<https://perma.cc/N6Q8-H4DJ>] (noting that selective admission schools around the country are under “pressure to become more representative of the cities they serve”).

6. See Reeves & Schobert, *supra* note 5.

7. See Marta Jewson, *NOLA Public Schools Sends Warning Letters to Three Schools Over Special Education Concerns*, LENS (Nov. 4, 2019), <https://thelensnola.org/2019/11/04/nola-public-schools-sends-warning-letters-to-three-schools-over-special-education-concerns/> [<https://perma.cc/PZQ2-3XS7>].

8. See Marta Jewson, *When a Top NOLA Charter Won't Reveal Its Admission Test – For Kindergarten*, HECHINGER REP. (July 17, 2015), <https://hechingerreport.org/when-a-top-nola-charter-wont-reveal-its-admission-test-for-kindergarten/> [<https://perma.cc/MK3W-UT3N>].

9. See, e.g., Jessica Williams, *Lusher Charter School Embroiled in School Funding Lawsuit, Faces Questions Over its Services for Gifted Students*, NOLA (Sept. 13, 2016), https://www.nola.com/news/education/article_ef751e27-5ef5-5fb0-9ebf-a109471b830d.html [<https://perma.cc/H7DL-7HVJ>]; Marta Jewson, *Lusher Suspends Renaming Study Group after Threat of Lawsuit*, LENS (Nov. 18, 2021), <https://thelensnola.org/2021/11/18/lusher-suspends-renaming-study-group-after-threat-of-litigation/> [<https://perma.cc/SMJ7-FABJ>].

10. See Carol Kocivar, *Are Selective Admission Schools Evil?*, ED100 (Feb. 28, 2021), <https://ed100.org/blog/selective-high-schools> [<https://perma.cc/QJZ6-BTB7>] (discussing critiques of selective admission schools).

11. Reeves & Schobert, *supra* note 5.

currently only eight “A” rated public schools in New Orleans: the academically selective admission schools constitute four of those schools.¹² And these schools are much whiter and wealthier than the public schools as a whole.¹³ Only two high schools in New Orleans are not majority Black — Lusher and Ben Franklin.¹⁴ In 2019, White students made up nine percent of the student body, but eight in ten attended schools rated A or B by the state accountability metric.¹⁵

This Essay examines these demographic differences and then compares the admission criteria and practices of each school. While the admission standards certainly account for some of the demographic variance between these schools and the other public schools, I conclude that other factors, such as location and transportation, play a larger role than admission criteria in explaining the racial and socioeconomic differences between these schools.

Part I of this Essay identifies the racial and socioeconomic composition of New Orleans, its public schools, and its selective admission schools and shows that these schools are unrepresentative of the school system as a whole. It also identifies the admission policies and practices of each school. Part II determines the impact of the admission practices on the school demographics and considers other factors impacting the racial and socioeconomic composition of the schools. It concludes with policy suggestions, many tried in other cities, to create more representative selective admission schools.

I. EQUITY AND SELECTIVE ADMISSION SCHOOLS

Selective admission schools are controversial across the United States because they routinely admit significantly less Black, Hispanic and poor

12. See *School Performance Letter Grade: A*, NOLA PUB. SCHS., <https://nolapublicschools.com/directory/browse-by/school-performance-letter-grade?value=A> [<https://perma.cc/WSP2-NNW9>] (last visited Aug. 8, 2022); see also LA. LEGIS. AUDITOR, *supra* note 1, at 3.

13. See C.C. Campbell-Rock, *The Charter School Experiment: A Case for Action*, LA. WKLY. (Jan. 24, 2022), <http://www.louisianaweekly.com/the-charter-school-experiment-a-case-for-action/> [<https://perma.cc/F7G7-UN4N>] (“90 percent of white students go to the best schools . . . Fully 89 percent of white students and 73 percent of Asian students in New Orleans attend Tier 1 schools. However, only 23.5 percent of African American students have access to these schools. And whereas 60 percent of students who are above the poverty line (i.e. those who can pay for their school lunch) attend Tier 1 schools, only 21.5 percent of students whose family income is low enough to be eligible to receive a free lunch have access to these schools.”).

14. See Alena Slapak, *Economic Discrimination in the New Orleans School System*, ARCGIS STORYMAPS (Dec. 7, 2020), <https://storymaps.arcgis.com/stories/f25ebb32837745338c652261dd9967a5> [<https://perma.cc/35QD-M4MY>].

15. Dreilinger, *supra* note 4, at 7.

students than the school districts they serve. There are long-simmering concerns in nearly every city that their selective admission schools discriminate against poor, and Black and Hispanic students and exacerbate segregation.¹⁶ School districts and states have made numerous attempts to address the racial and socioeconomic disparities, such as the use of quotas, but face tremendous political opposition and court challenges.¹⁷

These same concerns have long existed in New Orleans. New Orleans historically had a large number of selective admission schools — technically called “City Wide Access Schools” but more commonly known as magnet schools.¹⁸ Prior to Hurricane Katrina in 2005, there were 25 magnet schools with varying degrees of selectivity. Unlike magnet schools in most parts of the country that were created to desegregate school districts, New Orleans magnet schools were defined more by their programs than their enrollment. In 1998, nearly 90% of White students in the New Orleans public school system attended magnet high schools (while making up only 6% of the high school population) compared to 40% of African Americans (while making up 90% of the high school population).¹⁹

The most selective of these schools — particularly Ben Franklin — were controversial because, according to opponents, they created a caste system discriminating in favor of Whites and high-income African Americans.²⁰ In 1996, two complaints were filed with the United States Department of Education Office of Civil Rights alleging racial discrimination in magnet school admissions. As a result, the Orleans Parish School Board (OPSB) considered significant alterations to the admission policies of its magnet

16. See, e.g., Eliza Shapiro, *New York City Will Change Many Selective Schools to Address Segregation*, N.Y. TIMES (Sept. 15, 2021), <https://www.nytimes.com/2020/12/18/nyregion/nyc-schools-admissions-segregation.html#:~:text=Mayor%20Bill%20de%20Blasio%20announced,and%20exacerbated%20segregation%20in%20the> [https://perma.cc/547C-GUNZ]; Samar A. Katnani, *PICS, Grutter, and Elite Public Secondary Education: Using Race as a Means in Selective Admissions*, 87 WASH. U. L. REV. 625, 626–27 (2010); Corey Hirsch, *Constitutional Diversity in New York’s Specialized High Schools: The SHSAT, the Discovery Program, and the Fourteenth Amendment*, 41 CARDOZO L. REV. 1627, 1629 (2020); Kocivar, *supra* note 10.

17. See Katnani, *supra* note 16, at 645–46 (explaining the legal fight over Boston Latin); Coal. for TJ v. Fairfax Cnty. Sch. Bd., No. 22-1280, 2022 U.S. App. LEXIS 8682, at *5 (4th Cir. Mar. 31, 2022); see, e.g., Alia Wong, *The Cutthroat World of Elite Public Schools*, ATLANTIC (Dec. 4, 2014), <https://www.theatlantic.com/education/archive/2014/12/the-cutthroat-world-of-elite-public-schools/383382/> [https://perma.cc/F246-R5XL].

18. Magnet schools are typically schools designed to induce white and upper-class parents back into a school system. See James E. Ryan & Michael Heise, *The Political Economy of School Choice*, 111 YALE L.J. 2043, 2064–65 (2002).

19. See Jeffrey Meitrodt, *N.O. Magnet Schools Are Criticized as Elitist*, TIMES-PICAYUNE, Mar. 29, 1998, at B1.

20. See *id.*

schools in 1998.²¹ After a series of racially divisive school board meetings, the OPSB banned the use of racially discriminatory IQ tests and required magnet schools to use multiple admission factors beyond mere test scores.²² But it also permitted over-enrolled schools to admit the top scoring students on the new approved admission standards to fill half of the available seats and conduct a lottery for the remaining spots.²³

The formal admission policies of 1998 were replaced after Hurricane Katrina wiped away the school system, but selective admission schools and their admission practices persisted, as did the controversy over racial and socioeconomic discrimination.²⁴

Selective programs are always controversial, but selective primary and secondary schools are “particularly contentious, given that they are believed to have a unique institutional role to play in providing, shaping, and either expanding or restricting opportunity to large numbers of citizens at a very early stage of their lives and development.”²⁵ With such high perceived stakes,²⁶ the fight for admission into selective admission schools is fierce, as is the desire to keep these schools as high performing as possible.

Selective schools in New Orleans, and across the country, use a variety of factors to select students. But one method they all have in common is placing great weight on standardized test results. Test performance, it is believed, is the best (and sometimes only) objective indicator of student ability and ensures a student body that can handle the rigorous curriculum at a selective

21. See Dennis Persica, *Magnet School Parents Jam Hall*, TIMES-PICAYUNE, Apr. 2, 1998, at B1; Rhonda Nabonne, *Board Drops Magnet Admissions Rules*, TIMES-PICAYUNE, May 21, 1998, at B4; Rhonda Nabonne, *Conflict Strains Magnet Panel*, TIMES-PICAYUNE, Sept. 13, 1998, at A1; Jeffrey Meitrodt, *Magnet School Plan Has Sweeping Changes*, TIMES-PICAYUNE, Oct. 4, 1998, at A1.

22. See *id.*

23. See Rhonda Nabonne, *Magnet Proposal Presented*, TIMES-PICAYUNE, Nov. 7, 1998, at A1; Coleman Warner, *Magnet School Forms Ready*, TIMES-PICAYUNE, Jan. 7, 1999, at 10A; Rhonda Nabonne, *Magnet School Hopefuls Should Get News Soon*, TIMES-PICAYUNE, Mar. 19, 1999, at A1.

24. See *Are the Top New Orleans Public Schools Weeding Out Certain Kids*, WWNO – NEW ORLEANS PUB. RADIO (Jan. 30, 2018, 7:23 AM), <https://www.wwno.org/education/2018-01-30/are-the-top-new-orleans-public-schools-weeding-out-certain-kids> [<https://perma.cc/EU3D-REXS>]; Slapak, *supra* note 14.

25. Michael S. Merry & Richard Arum, *Can Schools Fairly Select Their Students?*, 16 THEORY & RSCH. EDUC. 330, 331 (2018).

26. Access to selective admission schools may create greater social mobility. See Reeves & Schobert, *supra* note 5; Syed Ali & Margaret M. Chin, *What’s Going On with New York’s Elite Public High Schools?*, ATLANTIC (June 14, 2018), <https://www.theatlantic.com/education/archive/2018/06/new-york-high-schools-stuyvesant-brooklyn-bronx/562772/> [<https://perma.cc/D4VW-B786>]. But some studies indicate high performing students do well whether or not they attend such schools. See Reeves & Schobert, *supra* note 5 (discussing the scholarship concluding that selective admission schools do not add value).

admission school.²⁷ Nearly the entire controversy surrounding selective admission schools revolves around the use of these tests.²⁸

The use of standardized tests to determine admission to selective schools is controversial because poor and Hispanic and Black students do not perform as well on them as higher income and White and Asian students.²⁹ But these discrepancies are not exclusively the result of ability or motivation — critical assumptions that underlay the use of tests in the first place — because these tests are simply not the indicator of talent and effort that many believe. The disparity in standardized test results between races and income levels are explained by many factors other than ability, such as: stereotype threat,³⁰ family background,³¹ social capital,³² substandard education prior to taking the test,³³ test preparation measures,³⁴ test reliability,³⁵ and opportunity gaps such as housing insecurity, food insecurity, parental unemployment, and access to health care.³⁶ The use of tests, which is merely a snapshot of one moment, is also problematic because “motivation to learn is not fixed, and both talent and hard work can be cultivated.”³⁷

Using test scores for high school admission, as Lusher and Ben Franklin do, is particularly problematic in New Orleans because of the disparity of educational opportunity in the city. New Orleans is exclusively “school choice,” meaning students must affirmatively select the school they wish to attend.³⁸ There are no default neighborhood schools. Most wealthy and

27. See, e.g., Wong, *supra* note 17.

28. See, e.g., Ali & Chin, *supra* note 26; John McWhorter, *Don't Scrap the Test, Help Black Kids Ace It*, ATLANTIC (May 9, 2019), <https://www.theatlantic.com/ideas/archive/2019/05/dont-abolish-nyc-high-school-admission-test/589045/> [<https://perma.cc/G2US-DMM2>].

29. See, e.g., Letter from Debo P. Adegbile et al., NAACP Legal Def. & Educ. Fund, to the N.Y. Off., Off. For Civ. Rts., U.S. Dep't of Educ. 15–16 (Sept. 27, 2012), <https://www.naacpldf.org/wp-content/uploads/Specialized-High-Schools-Complaint.pdf> [<https://perma.cc/QGH3-V29A>] [hereinafter New York City Specialized High School Complaint].

30. See Katnani, *supra* note 16, at 626–27.

31. See Merry & Arum, *supra* note 25, at 331.

32. See *id.* at 343; Wong, *supra* note 17.

33. See Hirsch, *supra* note 16, at 1633–34; see also Ali & Chin, *supra* note 26; Wong, *supra* note 17.

34. See Hirsch, *supra* note 16, at 1634; Wong, *supra* note 17.

35. See Hirsch, *supra* note 16, at 1635; Reeves & Schobert, *supra* note 5 (explaining how the tests in Boston and New York are not aligned with the curriculum).

36. See PRUDENCE L. CARTER & KEVIN G. WELNER, CLOSING THE OPPORTUNITY GAP: WHAT AMERICA MUST DO TO GIVE EVERY CHILD AN EVEN CHANCE 2–3 (2013).

37. Merry & Arum, *supra* note 25, at 331.

38. See J. Celeste Lay, *Ignorance Is Bliss: Information Sources and Attitudes About School Choices in New Orleans*, 52 URB. AFFS. REV. 973, 974 (2016).

White students in New Orleans send their children to private schools.³⁹ And those that remain in public schools “gather a more diverse set of information about schools than lower-income parents, [and are] less likely to use other parent, family, and friends as sources than their lower income counterparts.”⁴⁰ Low-income and African American students are more likely to enroll in lower performing schools,⁴¹ which means by the time selective admission tests are taken, high-income families have either attended private⁴² or high-performing public schools and are more likely to score well on the entrance exam. High school admission tests, therefore, may be measuring educational disparity more than ability or effort.

Using tests for young children, as is done in Lake Forest, Lusher, and Audubon, is also problematic. Standardized tests for young children are notoriously bad predictors of future performance.⁴³ One reason is that young children develop at extremely different rates. “Any brief snapshot of a child’s skills and abilities taken on a single occasion is simply unable to capture the shifts and changes in that child’s development.”⁴⁴ A young student may perform poorly on an exam, but six months later the same child might perform very differently; even a matter of months can be significant.⁴⁵ At early ages this variation is even greater among low-income children.⁴⁶ As stated by the Association for Childhood Education International, testing of K-2 students “does not provide useful information.”⁴⁷

39. Slapak, *supra* note 14.

40. Lay, *supra* note 38, at 976.

41. *Id.* at 988.

42. *See* Slapak, *supra* note 14 (noting that most white students at Ben Franklin attended private schools).

43. *See* Valerie Strauss, *Why Giving Standardized Tests to Young Children is ‘Really Dumb’*, WASH. POST (July 19, 2011), https://www.washingtonpost.com/blogs/answer-sheet/post/why-giving-standardized-tests-to-young-children-is-really-dumb/2011/07/18/gIQAB7OnMI_blog.html [<https://perma.cc/5SM5-3CWV>] (discussing longitudinal studies showing that achievement test scores did not predict scores a few years later “well at all”); Anna Weinstein, *Kindergarten Testing: The Realities and Dangers*, EDUCATION.COM (Jan. 5, 2011), <https://www.education.com/magazine/article/testing-kindergarten-realities-dangers/> [<https://perma.cc/9ZET-BSSJ>].

44. *See* Strauss, *supra* note 43; *see also* Derrick Vargason, *Making Sense of Early Childhood Assessment – Four Things to Consider*, NWEA (July 19, 2019), <https://www.nwea.org/blog/2019/making-sense-of-early-childhood-assessment-four-things-to-consider/> [<https://perma.cc/QBU4-GG73>] (summarizing four problems with early childhood testing).

45. *See* Merry & Arum, *supra* note 25, at 346.

46. *See* Strauss, *supra* note 43.

47. Edward Miller & Joan Almon, *Crisis in Kindergarten: Why Children Need to Play*, ALL. FOR CHILDHOOD (Mar. 2009), https://archive.org/stream/ERIC_ED504839/ERIC_ED504839_djvu.txt [<https://perma.cc/B3DK-JL7S>].

In summary, low-income, Black and Hispanic students are disproportionately denied admission into New Orleans' selective admission schools because of their performance on entrance examinations. But these entrance exams measure circumstance as much, if not more than, ability.⁴⁸ This violates basic notions of equity: "a school that selects or excludes on the basis of criteria irrelevant to the opportunity being offered or on the basis of expanding opportunity to an otherwise privileged group clearly violates basic equity standards."⁴⁹

On a positive note, New Orleans has at least eliminated the onerous and time-consuming admission practices of selective admission schools that created barriers for low-income and minority families. Parents used to have to enroll at each individual school, traversing town to submit different applications at each school, which each had different enrollment forms. Now, all selective admission schools participate in the unified enrollment system known as OneApp or Enroll NOLA.⁵⁰ This allows parents to apply to all New Orleans charter schools on a website or a central enrollment location.

II. THE DEMOGRAPHICS AND ADMISSION PRACTICES OF NEW ORLEANS' SELECTIVE ADMISSION SCHOOLS

Before examining the racial and socioeconomic composition of the selective admission schools, it is important to recognize that New Orleans public schools are not representative of the city. The public schools have more Black (74% of the school population v. 59% of the parish population), more Hispanic (12% v. 5%), more Asian (3% v. 2%), and less White (10% v. 33%) students than the city as a whole.⁵¹ The percentage of economically

48. Merry & Arum, *supra* note 25, at 346.

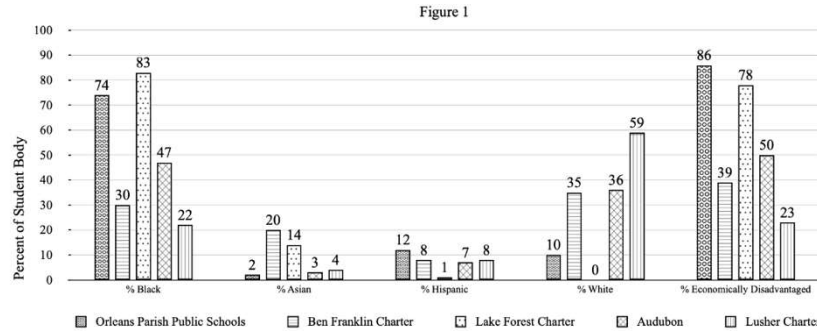
49. *Id.* at 336.

50. See *Are the Top New Orleans Public Schools Weeding Out Certain Kids*, *supra* note 24; Danielle Dreilinger, *How 3 Top New Orleans Public Schools Keep Students Out*, NOLA.COM (Apr. 20, 2020, 12:18 PM), https://www.nola.com/news/education/article_114d7731-da01-531f-a67c-099100e12ba1.html [https://perma.cc/85CT-8TQR].

51. NEW SCHS. FOR NEW ORLEANS, *supra* note 3, at 39; *Quick Facts, New Orleans City, Louisiana*, U.S. CENSUS BUREAU (2020), <https://www.census.gov/quickfacts/neworleanscitylouisiana> [https://perma.cc/Y39D-KYL4]. The precise demographic data varies based on the source – I have used the most recent reported data provided by New Schools for New Orleans. Cf. *About*, NOLA PUB. SCHS., <https://nolapublicschools.com/about> [https://perma.cc/Ry2N-Q8ML] (last visited Sept. 6, 2022); ORLEANS PARISH SCH. BD., STRATEGIC PLAN 2021–2025 5, 6 (2021), <https://heyzine.com/flip-book/96117c19ec.html#page/6> [https://perma.cc/YZ5S-VKZF]; *Student Attributes*, LA. DEP'T OF EDUC., <https://www.louisianabelieves.com/resources/library/student-attributes> [https://perma.cc/2NHX-2EBU] (last visited Sept. 6, 2022).

disadvantaged students is 86% compared to a poverty rate in the city of 23%.⁵²

These demographic differences are starker amongst the academic selective admission schools. Figure 1, below, summarizes the racial and socioeconomic composition of the four academically selective schools in New Orleans in comparison to each other and all New Orleans public schools.



	Orleans Parish Public Schools	Ben Franklin Charter	Lake Forest Charter	Audubon	Lusher Charter
Percent Black	74	30	83	47	22
Percent Asian	2	20	14	3	4
Percent Hispanic	12	8	1	7	8
Percent White	10	35	0	36	59
Percent Economically Disadvantaged	86	39	78	50	23

A. Lusher Charter School

Lusher is a K-12 school with two campuses located in the Uptown neighborhood, which is significantly wealthier and whiter than the rest of New Orleans.⁵³ The primary school was founded in 1917 and the middle

52. NEW SCHS. FOR NEW ORLEANS, *supra* note 2; U.S. CENSUS BUREAU, *supra* note 51.

53. *Race, Diversity, and Ethnicity in New Orleans, LA*, BEST NEIGHBORHOOD, <https://bestneighborhood.org/race-in-new-orleans-la/> [https://perma.cc/F2FY-S5FF] (last visited Aug. 18, 2022); Ben Horwitz, *Geographies of Poverty*, DATA CTR. (Dec. 19, 2012), <https://www.datacenterresearch.org/maps/poverty/> [https://perma.cc/L5NW-3ZYU]; *Map of Race and Ethnicity by Neighborhood in New Orleans*, STAT. ATLAS, <https://statisticalatlas.com/place/Louisiana/New-Orleans/Race-and-Ethnicity> [https://perma.cc/LU6Z-Y3Q7] (last visited Aug. 18, 2022). As of July 1, 2022, Lusher has been renamed The Willow School. This Essay will refer to the school as Lusher throughout. *See Lusher Has Officially Been Renamed The Willow School as of July 1st, 2022!*, WILLOW SCH., <https://www.willowschoolnola.org/lusher-officially-renamed-the-willow-school-on-july-1st-2022/> [https://perma.cc/NE8P-W6BV] (last visited Oct. 4, 2022).

school and high school were founded in 1990 and 2006 respectively.⁵⁴ The primary school was one of the first six schools in the city to desegregate.⁵⁵ The K-8 and high school are “A” schools under the Louisiana accountability standards.⁵⁶

Lusher has the most opaque admission criteria of the four selective admission schools. It uses an admission matrix for all grades. The test is given at Lusher Charter School on prescribed dates. Students are awarded between one to ten points for their GPA (Grades 2-12), math assessment percentile, and reading assessment percentile; up to three points for an art profile; and seven points for parental participation (attendance at a meeting and completing a questionnaire).⁵⁷ Open seats for Kindergarten are first filled by siblings of enrolled students and “a certain number of openings” are reserved for the children of Tulane University affiliated parents.⁵⁸ In addition, “a percentage” of the available spots per grade are set aside for a second chance drawing for economically disadvantaged students that qualify. For the remaining open seats, applicants are ranked by their total matrix score and 75% of available openings are filled by the highest scores. The remaining 25% are filled by a matching process of qualified applicants.⁵⁹ When the number of qualified applicants exceeds the available seats — which is always the case — a lottery is held for each grade level.⁶⁰ There is no explanation how the lottery works in conjunction with the percentage groupings and preferences. But put simply, after the priority groups, Lusher reserves a vast majority of its remaining open spots for students with the

54. Ned Hemard, *Lusher Lore*, NEW ORLEANS BAR ASS’N (2010), <https://www.yumpu.com/en/document/read/47687866/lusher-lore-new-orleans-bar-association> [https://perma.cc/C83M-B4ES].

55. LIVA BAKER, *THE SECOND BATTLE FOR NEW ORLEANS: THE HUNDRED-YEAR STRUGGLE TO INTEGRATE THE SCHOOLS* 378, 461 (1st ed. 1996).

56. *Lusher Charter School Overview*, LA. DEP’T OF EDUC., <https://louisianaschools.com/schools/WBE001/about-our-school/Lusher%20Charter%20School,%205624%20Freret%20Street,%20New%20Orleans,%20LA,%2070115> [https://perma.cc/BHC7-XF7Q] (last visited Sept. 6, 2022).

57. *See Round 2 NCAP: Lusher Charter School Admissions Criteria, Policies and Procedures*, LUSHER CHARTER SCH., https://docs.google.com/document/d/1WYgGUvKjPO0eZC_zeLcsfxYCWFDm-K5WQB1zAobePGk/edit [https://perma.cc/G9VW-J2TH] (last visited Sept. 7, 2022).

58. *See id.*

59. *See id.*

60. *See Application, Policies and Calendar*, LUSHER CHARTER SCH., <https://www.lusherschool.org/admissions/application-policies-and-calendar/> [https://perma.cc/G9VW-J2TH] (last visited Sept. 7, 2022).

highest scores.⁶¹ The admission practice has been heavily criticized as opaque and quite onerous.⁶²

Lusher looks nothing like the city or its schools. It has six times more white students than the public schools (59% v. 10%), twice as many Asian students (4% v. 2%), one third the expected Hispanic students (8% v. 12%) and over two-thirds the expected Black students (22% v. 74%). It also has three-quarters fewer economically disadvantaged students compared to New Orleans public schools (23% v. 86%).⁶³

B. Ben Franklin High School

Ben Franklin is located in Gentilly, which is majority Black and has a wide mix of household incomes.⁶⁴ It is also an “A” rated school under the Louisiana accountability standards.⁶⁵ It was founded in 1957 as a selective admission school based exclusively on IQ scores. Six years later it became the first public high school in New Orleans to integrate since the Reconstruction era, which was three years after Ruby Bridges and three other black students integrated primary schools.⁶⁶

The Ben Franklin admission criteria is straightforward and its process simple. Students are awarded between five and 30 points for their GPA, reading test score, language score and math score. The test is given at Ben Franklin on prescribed dates. Any applicants with a score of 88 or greater get in. There are no lotteries, preferences, or admission priorities — every

61. See Dreilinger, *supra* note 50.

62. See *id.* (stating the admission process involves “mind-numbingly complex application processes that test a parent’s savvy, access to transportation and ability to get off work”).

63. See *Lusher Charter School: Academic Performance*, LA. DEP’T OF EDUC., https://louisianaschools.com/schools/WBE001/academic-performance/breakdown_student_groups [<https://perma.cc/Q3C9-2UB8>] (last visited Aug. 22, 2022).

64. *Race, Diversity, and Ethnicity in New Orleans, LA*, *supra* note 53; Horwitz, *supra* note 53; *Map of Race and Ethnicity by Neighborhood in New Orleans*, *supra* note 53.

65. *School Performance Letter Grade: A*, *supra* note 12.

66. Graham Cooper, *Broad Shoulders, Hidden Voices: The Legacy of Integration at New Orleans’ Benjamin Franklin High School 1*, 7 (2015) (M.A. thesis, University of New Orleans), <https://scholarworks.uno.edu/td/1971/> [<https://perma.cc/N3AC-2PBE>]. At that time the school was located in the Uptown neighborhood. Even in 1957 white students constituted only 38% of the public school population. *Id.* at 11.

qualified applicant is guaranteed a spot.⁶⁷ There is also very little required in terms of paperwork compared to the other selective admission schools.⁶⁸

In terms of demographics, Ben Franklin looks more like the city and its schools than Lusher but is still quite different. It has three and a half times more White students than the public school system (35% v. 10%), ten times more Asian students (20% v. 2%), one-third fewer Hispanic students (8% v. 12%) and two-fifths fewer Black students (30% v. 74%). It also has less than half the expected low-income students compared to New Orleans public schools (39% v. 86%).⁶⁹

C. Audubon Charter School

Audubon was established in 1981 with a focus on Montessori education and in 1986, it opened a French immersion component.⁷⁰ It currently has three locations. The Pre-K through third grade and fourth grade through eighth grade campuses are located in the Uptown neighborhood, which is wealthier and whiter than the rest of New Orleans.⁷¹ The other Pre-K through fifth grade school is located in Gentilly, which is majority Black and has a wide mix of household incomes.⁷² Audubon is a “B” school.⁷³

Audubon is divided into two programs — a Montessori Program, which requires academic testing for admission, and a French Program, which requires a French Language Proficiency exam for admission.⁷⁴ This Essay

67. *Admissions Criteria*, BEN FRANKLIN HIGH SCH., <https://www.bfhsla.org/admissions> [<https://perma.cc/N993-TZ3U>] (last visited Aug. 20, 2022); *How to Calculate your Admissions Matrix Score*, BEN FRANKLIN HIGH SCH., <https://docs.google.com/document/d/1rko8yQuhdFiN5U-ujeSksY1IqoealgW8mFV-z0rDnVo/edit> [<https://perma.cc/UA2P-CAB2>] (last visited Aug. 20, 2022).

68. Danielle Dreilinger, *No. 1 Public High School in Louisiana has Simple Admission Process*, NOLA.com (July 19, 2019, 11:27 AM), https://www.nola.com/news/education/article_a1291fc1-19dc-5b25-988f-d5c810394690.html [<https://perma.cc/36V8-JM42>].

69. *Benjamin Franklin High School: Academic Performance*, LA. DEP'T OF EDUC., https://louisianaschools.com/schools/WBB001/academic-performance/breakdown_student_groups [<https://perma.cc/3A2Q-KW6V>] (last visited Aug. 20, 2022).

70. *History, Vision and Mission*, AUDUBON SCHS., https://www.auduboncharter.org/apps/pages/index.jsp?uREC_ID=496195&type=d [<https://perma.cc/U9ET-WCKD>] (last visited Aug. 20, 2022).

71. *Id.*

72. *Race, Diversity, and Ethnicity in New Orleans, LA*, *supra* note 53; Horwitz, *supra* note 53; *Map of Race and Ethnicity by Neighborhood in New Orleans*, *supra* note 53.

73. *School Performance Letter Grade: B*, NOLA PUB. SCHS., <https://nolapublicschools.com/directory/browse-by/school-performance-letter-grade?value=B> [<https://perma.cc/4FK8-NYWU>] (last visited Aug. 29, 2022).

74. *Admissions*, AUDUBON UPTOWN, https://uptown.auduboncharter.org/apps/cross.jsp?wREC_ID=7132&crossPath=/apps/pages/

focuses exclusively on the Montessori Program admission standards, which are unique among the selective admission schools described herein.

The Montessori Program is open admissions in Pre-K through second grade and students enrolled in Pre-K(4) through seventh grade do not need to apply to the next grade level. Pre-K seats are highly sought after and are determined through the Enroll NOLA program — the New Orleans unified enrollment system.⁷⁵ Pre-K costs \$5,100 per school year and a “limited number” of the seats are reserved for low-income students that do not pay tuition through the LA 4 Early Childhood Program.⁷⁶ Put simply, Audubon admits a small number of low-income students in its Pre-K programs that automatically advance into its selective admission program.

New applicants for third through eighth grade must take an exam, which is given at Audubon on prescribed dates. Students are scored on an admission matrix and are awarded between one to ten points for their GPA, math assessment percentile, and reading assessment percentile, and up to three points for attendance. Students attaining a matrix score of greater than 22 are placed in an admission lottery. Siblings are not subject to the lottery and parents must attend an open house/curriculum meeting to be eligible for admission.⁷⁷

Audubon schools look more like the city and its schools than either Lusher or Ben Franklin, but is still quite different. It has three and a half times more White students than the public schools (36% v. 10%), one and a half times more Asian students (3% v. 2%), two-fifths the expected Hispanic students (7% v. 12%) and over one-third the expected Black students (47% v. 74%). It also has two-fifths of the expected economically disadvantaged students compared to Orleans City schools (50% v. 86%).⁷⁸

[index.jsp?uREC_ID=496199&type=d&termREC_ID=950144](https://www.auduboncharter.org/apps/pages/index.jsp?uREC_ID=496199&type=d&termREC_ID=950144) [https://perma.cc/8ZM8-FGMX] (last visited Aug. 29, 2022).

75. *Enroll NOLA*, NOLA PUB. SCHS., <https://enrollnolaps.com/> [https://perma.cc/Z7AE-8XRD] (last visited Aug. 20, 2022).

76. *See Pre-K Application Information*, AUDUBON SCHS., https://www.auduboncharter.org/apps/pages/index.jsp?uREC_ID=496199&type=d&termREC_ID=950146 [https://perma.cc/3PHX-67SJ] (last visited Aug. 20, 2022); *Publicly Funded Providers*, LA. DEP’T OF EDUC., <https://www.louisianabelieves.com/early-childhood/early-childhood-programs> [https://perma.cc/4TV6-GWC2] (last visited Aug. 20, 2022) (“The Cecil J. Picard LA 4 Early Childhood Program is the primary preschool program in Louisiana, serving more than 16,000 children. It provides full day pre-K programming in public schools to four-year-olds from disadvantaged families.”).

77. *Admissions*, AUDUBON SCHS., https://www.auduboncharter.org/apps/pages/index.jsp?uREC_ID=496199&type=d&termREC_ID=950144 [https://perma.cc/8ZM8-FGMX] (last visited Aug. 20, 2022).

78. *Audubon Charter School: Academic Performance*, LA. DEP’T OF EDUC., https://louisianaschools.com/schools/WAZ001/academic-performance/breakdown_student_groups [https://perma.cc/C9YP-F99S] (last visited Aug. 20, 2022).

D. Lake Forest Charter School

Lake Forest is a K-8 school located in New Orleans East, which is primarily Black and Asian and has primarily low-income households, though the school is in a small pocket of high-income households.⁷⁹ It is an “A” school and is known as “the Beacon of New Orleans East.”⁸⁰

The Lake Forest admission standards are similar to Lusher. It uses an admission matrix for all grades. The test is given at Lake Forest Charter School on prescribed dates. Kindergarten and first grade applicants are awarded between one to ten points each for their math percentile and reading percentile and granted three points for submitting a portfolio and six points for completing an orientation and survey. These students must score 20 points to be eligible for admission. Second through third grade applicants are awarded between one and ten points each for math percentile, reading percentile and GPA, up to five points for attendance and six points for completing an orientation and survey. These applicants must score at least 33 points on the matrix to be eligible for admission. Both age groups need minimum test scores to be eligible, no matter the overall matrix score.⁸¹

Open seats for kindergarten are first filled by siblings of enrolled students. For the remaining open seats, applicants are ranked by their total matrix score and 75% of available openings are filled by the highest matrix scores. The remaining 25% are filled by a lottery drawing.⁸² Applicants are required to submit a supplemental admission form and additional supporting documentation.⁸³

Lake Forest is the demographic outlier among the four selective admission schools in New Orleans and might be unique in the United States. It has slightly more Black students than the New Orleans schools (83% v. 74%), seven times more Asian students (14% v. 2%), one-twelfth the expected Hispanic students (1% v. 12%) and no White students (0% v. 10%). It has

79. *Race, Diversity, and Ethnicity in New Orleans, LA*, *supra* note 53; Horwitz, *supra* note 53; *Map of Race and Ethnicity by Neighborhood in New Orleans*, *supra* note 53.

80. *Mardele Simmons Early, Lake Forest Elementary Charter School, New Orleans, LA*, NAT'L BLUE RIBBON SCHS. PROGRAM U.S. DEP'T OF EDUC., <https://nationalblueribbonsschools.ed.gov/mardele-simmons-early-lake-forest-elementary-charter-school-new-orleans-la/> [<https://perma.cc/D7MW-VQH3>] (last visited Aug. 20, 2022); *School Performance Letter Grade: A*, *supra* note 12.

81. *Matrix Calculations*, LAKE FOREST CHARTER SCH., <https://www.lakeforestcharter.org/matrixcalculations> [<https://perma.cc/J6VW-T6PB>] (last visited Aug. 20, 2022).

82. *Placement Procedure*, LAKE FOREST CHARTER SCH., <https://www.lakeforestcharter.org/placementprocedure> [<https://perma.cc/DTE6-FK8E>] (last visited Aug. 10, 2022).

83. *Admissions Phases*, LAKE FOREST CHARTER SCH., <https://www.lakeforestcharter.org/admissionprocess> [<https://perma.cc/U7WP-5696>] (last visited Aug. 10, 2022).

slightly fewer economically disadvantaged students compared to Orleans Parish schools (78% v. 86%).⁸⁴

In summary, all four selective admission schools are not representative of the public school demographics in different ways and to different degrees. Lusher is the most skewed both racially and socioeconomically, followed by Ben Franklin and then Audubon. Lake Forest is also unrepresentative because it has no white students and a disproportionate number of Asian and Black students, but it is closer to matching the public school demographic than any of the other schools.

The admission practices are also significantly different at the four schools. Unlike most cities, where the selective admission schools are uniform either throughout the state or the school district, there is no standardized admission policy across the schools because they each operate under independent charters with Orleans Parish School Board. All of the schools utilize more than just test scores to determine admission, though test scores play a predominant role. Ben Franklin admits all students over a particular matrix score, Audubon admits its pre-existing students and holds a lottery for all students over a particular score, and Lusher and Lake Forest both admit the highest scores with a lottery for only 25% of their seats. The impact of these varied admissions policies on the racial and socioeconomic composition of these schools is discussed next.

III. LESSONS AND RECOMMENDATIONS

Based on the above information, there is no straight-line correlation between any particular admission policy or practice and the racial and socioeconomic populations of the schools. This is particularly true when Lake Forest is considered because its admissions policies are similar to Lusher's but its demographics are nearly the opposite. This Part explores the correlations between admission standards and school demographics, considers other factors that impact enrollment and concludes by making suggestions to create equitable selective admission policies.

Admission criteria and processes certainly have some correlation to the racial and socioeconomic composition of the selective admission schools, but they cannot account for the entire disparity. For example, the whitest and wealthiest of the schools — Lusher — has the most opaque criteria and the most preferences/holdbacks. Ben Franklin, the next most white and wealthy school, in contrast, has the easiest application process and most

84. *Academic Performance, LAKE FOREST CHARTER SCH.*, https://louisianaschools.com/schools/WBH001/academic-performance/breakdown_student_groups [https://perma.cc/7BZV-93YT] (last visited Aug. 10, 2022).

straightforward criteria. Audubon, the most racially and socioeconomically diverse of these three, has a complex admission process, but it does not apply until third grade. Much of its diversity can likely be attributed to the fact that it is open enrollment — subject to the whims of the New Orleans’ admission process rather than test scores — in K-2. Students with the resources to pay for Pre-K or are part of the holdback for free Pre-K are guaranteed a spot going forward. The outlier is clearly Lake Forest, which most closely resembles the racial and socioeconomic demographics of the New Orleans public schools.

A. Admission Policies and Student Body Demographics

Setting aside the anomalous Lake Forest for a moment, some correlations can be drawn from the admissions practices of Lusher, Audubon and Ben Franklin and their student demographics. First, utilizing a lottery for all eligible students rather than admitting the highest performers creates a more racially and socioeconomically diverse school. Ben Franklin, which admits all eligible students and Audubon, which holds a lottery for all eligible students, are significantly more diverse than Lusher. Comparison to the selective admission schools in New York City emphasizes this correlation. New York selective admission schools take only the highest performers and those schools are far more unrepresentative of the district they serve than the New Orleans selective admission schools.⁸⁵

Second, multi-factor admission criteria is important in creating diverse schools. This is not evident between these three schools, which all use factors beyond mere standardized tests, but is apparent when looked at historically. As noted above, prior to the 1998 upheaval in magnet school admission practices, most schools utilized the sole criteria of standardized tests and the schools were more segregated by race and socioeconomic status.⁸⁶ The change in policy then, and continued practice of considering other factors such as GPA, attendance, and portfolios, has increased diversity in selective admission schools. This is also apparent when compared to New York City, which uses only test scores and has more significant representation gaps than New Orleans.⁸⁷

Third, setting aside a portion of seats for low-income students *can* create more diverse schools, but it must be done transparently and intentionally. Lusher sets aside an unknown portion of seats for economically disadvantaged students and its process is opaque. It has the lowest percentage of low-income students. Audubon indirectly sets aside a portion

85. See Ali & Chin, *supra* note 26.

86. See *supra* notes 20–25 and accompanying text.

87. See Reeves & Schobert, *supra* note 5.

of spots for economically disadvantaged students by admitting an unknown percentage of low-income Pre-K students that are later advanced through school once it becomes a selective admission school in third grade. An intentional set-aside, whether done by lottery preferences or a diverse pre-existing rising student body, will certainly lead to a more representative student body as shown by the systems in Boston and Chicago, discussed below.⁸⁸

The obvious challenge of tying admission policies and practices to student body demographics is that Lake Forest simply cannot be ignored. Once Lake Forest, which has no set-asides and admits the most qualified students, yet most closely mirrors the district, is considered, all correlations fall apart. Other factors must explain enrollment discrepancies apart from mere admission policies and practices. This is the subject of the next Section.

B. Other Factors

The most obvious and discernible difference between Lake Forest and the other three selective schools is location. Lake Forest lies in the heart of New Orleans East, which is much poorer, and has more Asian and more Black people than the other school locations. At the other end of the spectrum is Lusher, which is in the whitest and wealthiest part of New Orleans. Audubon has two campuses in the same Uptown area and one in a neighborhood with a higher low-income and minority population. Finally, Ben Franklin exists at an intersection of white and wealthy neighborhoods and poor and minority neighborhoods with easy access to New Orleans East, which has a high percentage of Asian, Black, and low-income households. The high correlation between neighborhood demographics and the school demographics simply cannot be ignored.

At first blush it seems a strange correlation because these schools, and all schools in New Orleans for that matter, admit students from all over the city. There are no neighborhood schools in New Orleans, but research shows that parents typically prefer schools closer to home.⁸⁹ This is particularly true in New Orleans, where transportation to school is a challenge.

Transportation is a vital characteristic of school choice in practice. “Students cannot opt into schools if they cannot reasonably get to them in the morning and back home in the afternoon.”⁹⁰ This is the case in New

88. See *infra* notes 109–15 and accompanying text.

89. JANE ARNOLD LINCOVE & JON VALANT, URBAN INST., NEW ORLEANS STUDENTS’ COMMUTE TIMES BY CAR, PUBLIC TRANSIT, AND SCHOOL BUS 3 (2018), https://educationresearchalliancencola.org/files/publications/new_orleans_students_commute_times_by_car_public_transit_and_school_bus.pdf [<https://perma.cc/AP3X-J8FN>].

90. *Id.* at v, 1; Merry & Arum, *supra* note 25, at 342 (concluding that transportation challenges can defeat equitable ends).

Orleans, where schools can fulfill their charter obligation to provide transportation by providing traditional bus service or tokens for public transportation. Most elementary schools provide traditional yellow bus service, but most high schools simply provide tokens to use public transportation. The New Orleans public transportation system is notoriously unreliable and sometimes dangerous.⁹¹ Even traditional yellow bus transportation in New Orleans is spotty, at best.⁹² And driving a child to school is not even an option for many, as 20% of New Orleans families do not own a car.⁹³

Ascertaining the transportation policies of the selective admission schools is challenging, at best. The Lake Forest information page states that Lake Forest does not provide transportation.⁹⁴ Audubon Charter School provides transportation but does not specify how.⁹⁵ Ben Franklin relies on private bus co-ops, carpools and public transportation.⁹⁶ And Lusher provides no transportation information.⁹⁷

School transportation problems, combined with a lack of access transportation information, ties school demographics to school location, even in a system of choice. The Asian populations at the selective admission schools verify this conclusion. Nearly the entire Asian population in New Orleans is concentrated in a small portion of New Orleans East⁹⁸ It is no surprise that Lake Forest, nearly directly adjacent to that neighborhood, and

91. See LINCOTE & VALANT, *supra* note 89, at 3.

92. See David Hammer, *Stranded at the Bus Stop: Shortage of Drivers, Permitted School Buses Leave Children Waiting*, 4WWLTV.COM (Aug. 10, 2021, 6:18 PM), <https://www.wwtv.com/article/news/investigations/stranded-at-the-bus-stop-shortage-of-drivers-permitted-school-buses-leave-children-waiting/289-02c43c65-11c1-4930-90eb-eb641b43fc76> [<https://perma.cc/P9ZJ-MGPR>]; David Hammer, *New Orleans Charter Schools Scrambling to Find Enough Bus Drivers to Get Kids to School*, NOLA.COM (Aug. 19, 2021, 4:30 PM), https://www.nola.com/news/education/article_e0b09ebc-012e-11ec-bc4c-ff1086ffa72b.html [<https://perma.cc/2PLE-ZJLM>].

93. *Are the Top New Orleans Public Schools Weeding Out Certain Kids*, WWNO (Jan. 30, 2018, 7:32 AM), <https://www.wwno.org/education/2018-01-30/are-the-top-new-orleans-public-schools-weeding-out-certain-kids> [<https://perma.cc/2RZF-HWZ6>].

94. *Lake Forest Elementary Charter School*, NOLA PUB. SCHS., <https://nolapublicschools.com/directory/k12/lake-forest-elementary-charter-school> [<https://perma.cc/G6NV-ED7D>] (last visited Aug. 29, 2022).

95. *Audubon Charter School: Uptown*, NOLA PUB. SCHS., <https://nolapublicschools.com/directory/k12/audubon-charter-school-uptown> [<https://perma.cc/HCD9-VDM6>] (last visited Aug. 29, 2022).

96. *Transportation*, BENJAMIN FRANKLIN HIGH SCH., <https://www.bfhsla.org/transportation> [<https://perma.cc/6XDG-DX2Y>] (last visited Aug. 29, 2022).

97. *Transportation*, LUSHER CHARTER SCH., <https://www.lusherschool.org/parents/student-assistance/transportation/> [<https://perma.cc/M8QV-SNYN>] (last visited Sept. 7, 2022).

98. *Map of Race and Ethnicity by Neighborhood in New Orleans*, *supra* note 53.

Ben Franklin, with easy access to the neighborhood, have a disproportionate number of Asian students and Audubon and Lusher do not.

But location and transportation cannot entirely explain Lake Forest's anomalous demographics. High-income families are willing and able to transport their children anywhere in town for an excellent education. I know — I drove my daughter 30 minutes each way to go to Ben Franklin and my son the same distance to attend a private school.

The other reason Lake Forest most closely resembles New Orleans schools is because its high percentage of minority and low-income students likely dissuades wealthier and white families from even applying. Decades of research show that when a school reaches a certain percentage of Black or low-income students — a tipping point — White and wealthy families will simply not attend.⁹⁹ What that precise tipping point is depends on a variety of factors,¹⁰⁰ but Lake Forest is well beyond it. Lake Forest's high percentage of Black and low-income students is partially — maybe mostly — the result of White families refusing to apply even though it is one of the best primary schools in the state.

In summary, the demographic mismatch between the selective schools in New Orleans and the remainder of the district, as well as the variation between the selective admission schools, cannot be explained by one single factor. Admission policies certainly play a role, but location, transportation policies, and white aversion also impact the discrepancies.

99. See Thomas C. Schelling, *Dynamic Models of Segregation*, 1 J. MATHEMATICAL SOCIO. 143, 143 (1971) (introducing the context of tipping points in residential segregation); David Card et al., *Tipping and the Dynamics of Segregation in Neighborhoods and Schools* 3, 9, 36–37 (Princeton U., Educ. Rsch. Section, Working Paper No. 17, 2006), <https://dataspace.princeton.edu/bitstream/88435/dsp01h128nd728/4/17ers.pdf> [https://perma.cc/L6DH-4END] (explaining tipping point research and concluding that white enrollment in schools drops off substantially after a certain tipping point); Charles T. Clotfelter, *School Desegregation, "Tipping," and Private School Environment*, 11 J. HUM. RES. 28, 28 (1976) (explaining racial tipping point in schools and proving that desegregation led to white flight); Gregorio Caetano & Vikram Maheshri, *School Segregation and the Identification of Tipping Behavior*, 148 J. PUB. ECON. 115, 115 (2017), https://www.dropbox.com/s/4sv3qc9y3cw5o66/Tipping_Paper.pdf?dl=0 [https://perma.cc/USL7-83GS] (summarizing the research on tipping point and concluding that tipping points in schools vary based on numerous factors); Chase Billingham & Matthew Hunt, *School Racial Composition and Parental Choice: New Evidence on the Preference of White Parents in the United States*, 89 SOCIO. EDUC. 99, 111 (2016) (concluding that white parents avoid schools with black majorities in the student body).

100. See Caetano & Maheshri, *supra* note 99 (concluding that the racial tipping point in schools varies); Howard Kurtz, *Racial Quotas and the Tipping Point*, WASH. POST (Oct. 19, 1987), <https://www.washingtonpost.com/archive/politics/1987/10/19/racial-quotas-and-the-tipping-point/a0000533-d6d4-4311-b03c-8d5971b48991/> [https://perma.cc/U436-LGQ4].

C. Recommendations for New Orleans

Selective admission schools across the country struggle to enroll a student body that looks racially and socioeconomically like the districts they serve. Most efforts to solve this problem involve increasing the applicant pool of poor or minority students and/or altering admission standards to ensure more poor and minority students are admitted. New Orleans is no exception to these ailments or the solutions it could pursue. This final Section makes recommendations for achieving selective admission schools that more closely align with the demographics of the district that they serve.

i. Location and Transportation

The first set of recommendations has nothing to do with admission policies and is designed to increase the pool of minority and low-income applicants. Based on the above information the most obvious suggestion is intentional site selection for selective admission schools. Selective admission schools located in minority or low-income neighborhoods will likely have a higher percentage of students from those groups. While it is beyond this Essay to untangle the myriad factors that result in variations in selective school demographics, the highest correlation is not with admission policies, but location. There is certainly no guarantee that moving Lusher or Audubon to Gentilly or New Orleans East would magically alter the student composition to mirror the neighborhood, but it would certainly have an impact. The lesson of Lake Forest — a selective admission school that is mostly Asian and Black and is located in a mostly Asian and Black neighborhood — simply cannot be ignored. The same is true for Ben Franklin.

If changing school sites is not feasible — and it almost certainly isn't in New Orleans — the next best step is providing quick, reliable, safe, and free transportation to the selective admission schools. If the means of transportation to school is slow, inefficient, or dangerous, many parents will not even apply to distant schools no matter their quality. The specific transportation policies must also be easy to find and understand, even down to yellow school bus routes. This lack of transparency dissuades many families from applying and instead opt for schools relatively close to home. Without easy transportation and transparent information, selective admission schools will remain bastions for higher income families that are more able to independently transport their children to school.

ii. Admission Criteria

As put by philosopher John Roemer, the goal of any reform seeking equity should be to “find that policy which nullifies, to the greatest extent possible, the effect of circumstances on outcomes, but still allows outcomes to be

sensitive to effort.”¹⁰¹ Equitable selection procedures must be aimed at mitigating inequality of opportunity.¹⁰² Because test scores often measure circumstance or opportunity rather than effort, admission policies should reduce reliance on testing.

Many changes to admission policies, ranging from minor to significant, and politically feasible to virtually impossible, could better align the demographics of New Orleans’s selective admission schools to the district they serve. As a small change, all selective admission schools could determine admission through a lottery for all eligible students rather than admitting the highest scoring students. This small step should increase racial and socioeconomic diversity because of the strong correlation between poverty and race, and standardized test scores. The students with top scores are more likely to be wealthy and White, primarily because those students have had better opportunities. Randomly selecting students from among all eligible scorers should mitigate, even to a small extent, this opportunity gap and the skewed demographics that result.

Critics of the lottery approach have long argued that it will result in the “dumbing down” of schools by admitting students that are not the best and brightest.¹⁰³ But, schools created the cut-off scores precisely to determine which students were capable of fulfilling their challenging curricula, so all eligible students fulfill the school’s missions. This argument also ignores that scores on standardized tests often reflect many factors other than intelligence. This is particularly true for young students seeking admission to primary schools.

A second small change could be to alter the weights of the different matrix scores. The two high schools — Lusher and Franklin — could increase the matrix scores for GPAs, which would decrease the discriminatory impact of standardized test scores. For example, Boston’s selective schools give 70% weight to GPA and 30% weight to test scores, which is essentially the opposite of Lusher and Franklin.¹⁰⁴ Boston implemented other significant changes to its policy in 2021, which are discussed below.

101. John F. Roemer & Alain Trannoy, *Equality of Opportunity: Theory and Measurement*, 54 J. ECON. LITERATURE 1288, 1294 (2016). See generally JOHN F. ROEMER, EQUALITY OF OPPORTUNITY (Harvard Univ. Press 2000).

102. See Merry & Arum, *supra* note 25, at 346.

103. See Meitrodt, *supra* note 21, at A23; Rhonda Nabonne, *Magnet Revisions Deadline Extended*, TIMES-PICAYUNE, Oct. 31, 1998, at A12; Coleman Warner, *Magnet School Forms Ready*, TIMES-PICAYUNE, Jan. 7, 1999, at A10 (telling stories of parent complaints after magnet schools changed admission policies to admit a portion of their students via lottery).

104. *Exam Schools*, BOS. PUB. SCHS., <https://www.bostonpublicschools.org/site/default.aspx?PageID=8809> [<https://perma.cc/DM8Z-Q35J>] (last visited Aug. 10, 2022). Because of the pandemic, Boston is considering only GPAs for 2022–23 admissions. *Exam School Admission FAQs*, BOS. PUB.

A third small change is to increase the number of factors considered for admission. Each of New Orleans's selective admission schools consider something beyond just test scores and GPA, but many more factors could be considered. For example, schools could consider teacher recommendation letters, proven leadership skills, or a commitment to community service. The NAACP Legal Defense and Educational Fund argued that New York City selective schools should consider these criteria, in addition to test scores, to reduce the discriminatory impact of test scores.¹⁰⁵ They identified ten high-performing selective admission schools that used multiple admission factors and have high percentages of Black and Hispanic students.¹⁰⁶

Milwaukee and the District of Columbia use multiple factors for admission to their selective high schools and those schools have significantly less racial and socioeconomic disparity than the New Orleans schools.¹⁰⁷ On the other hand, Louisville uses multiple criteria for admission to its selective high schools and those schools are significantly unrepresentative of their school district, though not as much as Lusher.¹⁰⁸

In New York, Mayor de Blasio went a step further and suggested eliminating the admission test and requiring the selective admission schools to admit the top 7% of performers from each school based on their GPA and performance on state assessments.¹⁰⁹ This suggestion has met fierce opposition in New York and would likely be a non-starter in New Orleans. But, any admission standard that decreases the controlling factor of standardized tests should increase racial and socioeconomic diversity in the New Orleans selective admission schools.¹¹⁰

A larger change that more directly addresses the issue would be to require admissions policies specifically tailored to account for socioeconomic status. Lusher currently utilizes a set-aside but it is for an indeterminate number of students and its application is opaque. In contrast, Boston implemented a selective school admission plan in 2021 specifically targeted to maintain rigor and ensure that “the student body better reflects the racial, socioeconomic, and geographic diversity of all students (K-12) in the city of

SCHS., <https://www.bostonpublicschools.org/Page/8890> [https://perma.cc/PGD9-2Q2H] (last visited Aug. 10, 2022); *see also* Katnani, *supra* note 16, at 646.

105. *See* New York City Specialized High School Complaint, *supra* note 29, at 23–24.

106. *See id.* at 17–20.

107. *See* Reeves & Schobert, *supra* note 5.

108. *See id.*

109. *See* Ali & Chin, *supra* note 26; *see also* Hirsch, *supra* note 16, at 1630.

110. *See* Hirsch, *supra* note 16, at 1663–64 (discussing use of essays and recommendation letters in high school admissions).

Boston.”¹¹¹ Boston created eight socioeconomic tiers based on home address. A tier is a group of geographic areas in the city with similar socioeconomic characteristics such as poverty level, home ownership, single parent households, and education attainment. Each tier is allotted a proportional number of seats at each of Boston’s three exam schools. Students are ranked by GPA (70%) and testing (30%) and 20% of seats are reserved for the top performers. For the remaining 80%, the top ranked students in each tier are admitted.¹¹² This new policy achieved its goals of maintaining rigor while reflecting the city: seventh grade invitations to Asian students remained level over three years (21%), whereas invitations to Black students increased from 13% to 24% and invitations to Latin students increased from 21% to 26%. Invitations to white students decreased from 40% to 25%. In addition, 35% of seventh grade invitations and 63% of ninth grade invitations went to economically disadvantaged students.¹¹³

Chicago uses a similar plan. Its selective admission schools admit 30% of the highest scoring students through consideration of GPA and test scores and give the remaining 70% of seats to the highest scoring students from four different socioeconomic status tiers, which are determined by geography.¹¹⁴ This means that a student in the poorest tier can get into school with a lower score than a student from the richest tier.¹¹⁵ The results of this admission

111. *Exam Schools Admission Task Force*, BOS. PUB. SCHS., <https://www.bostonpublicschools.org/Page/8568> [https://perma.cc/QD3P-GT3C] (last visited Aug. 10, 2022).

112. *See id.*; *Exam Schools Admissions Policy*, BOS. PUB. SCHS. (July 14, 2021), <https://www.bostonpublicschools.org/cms/lib/MA01906464/Centricity/Domain/2931/Exam%20Schools%20Admissions%20Policy%20Motion%20-%20CORRECTED%20July%2026%202021.pdf> [https://perma.cc/8CVL-QZJD]; *see also Exam School Admissions: Surprise ending for the Task Force*, BOS. PARENTS SCHOOLYARD NEWS (June 30, 2021), <https://schoolyardnews.com/exam-school-admissions-surprise-ending-for-the-task-force-2b60b40fa2cd> [https://perma.cc/NJZ9-FVYZ]; James Vaznis, *Task Force Calls for Boston Exam School Admission Changes, But Gives In On Exception for High-Ranking Students*, BOS. GLOBE (June 29, 2021), <https://www.bostonglobe.com/2021/06/29/metro/task-force-calls-exam-school-admission-changes-gives-exception-high-ranking-students/#:~:text=A%20task%20force%20recommended%20that,to%20appease%20middle%2Dclass%20families> [https://perma.cc/CJ3D-DY53].

113. *See SY22-23 Exam School Invitation Summary*, BOS. PUB. SCHS. (May 4, 2022), <https://www.bostonpublicschools.org/Page/9008> [https://perma.cc/T44E-GX3L]. The three year trajectory is informative, but it must be remembered that because of the pandemic, test scores were not used for 2022–23 admissions. *See Exam School Admissions Summary for the 2021–22 School Year*, BOS. PUB. SCHS., <https://www.bostonpublicschools.org/Page/8654> (last visited Aug. 10, 2022) (comparing the 2021 and 2022 school years).

114. *See* Richard Kahlenberg, *Elite, Separate, Unequal*, N.Y. TIMES (June 22, 2014), <https://www.nytimes.com/2014/06/23/opinion/new-york-citys-top-public-schools-need-diversity.html> [https://perma.cc/34KT-K4BS].

115. *See* Reeves & Schobert, *supra* note 5.

system, while not perfectly representative of the system as a whole, are still better than most selective admission schools around the country.¹¹⁶ For example, Whitney M. Young Magnet High School is the fourth best high school in Illinois and also the second most diverse high school, with enrollment of 28% Hispanic, 26% white, 21% Asian, 19% Black, 5% Multiracial, and 37% low-income.¹¹⁷

The final, and most significant, change would be requiring a university-style holistic review of all applicants with an eye towards achieving a critical mass of minority students. Thomas Jefferson High School for Science and Technology in Fairfax County, Virginia, previously used such a system.¹¹⁸ The standards have been through a variety of iterations over the last several years, and consideration of race has been litigated up to the Supreme Court.¹¹⁹ Under the current policy, eligible students must have a minimum GPA and must have taken specified honors courses. Eligible students are then evaluated holistically on their GPA, coursework, response to a problem-solving essay, a student portrait sheet, and background of educational challenges (English language learners, economically disadvantaged, eligible for special education).¹²⁰ Each participating middle school is guaranteed a number of seats equivalent to 1.5% of that school's eighth grade class, with the remaining applicants competing for around 100 unallocated seats.¹²¹

Holistic review is the best and most direct means to achieve a student body similar to the school district, but it is controversial, subject to constitutional challenge in court, and requires significant capacity to holistically review

116. *See id.* The plan, while effective, is not as effective as race-based admission policies. *See* Glenn Ellison & Parag A. Pathak, *The Efficiency of Race-Neutral Alternatives to Race-Based Affirmative Action: Evidence from Chicago's Exam Schools* (Nat'l Bureau of Econ. Rsch., Working Paper No. 22589, 2016) <https://www.nber.org/papers/w22589> [<https://perma.cc/KES3-FH4B>].

117. *Young Magnet High School (7-12)*, ILL. REP. CARD, <https://www.illinoisreportcard.com/school.aspx?source=studentcharacteristics&source2=lowincome&Schoolid=150162990250764> [<https://perma.cc/B5SG-E2LR>] (last visited Aug. 29, 2022); *School Profile*, WHITNEY M. YOUNG MAGNET HIGH SCH. (Mar. 23, 2021), https://wyoung.org/apps/pages/index.jsp?uREC_ID=199353&type=d&pREC_ID=399064&hideMenu=1 [<https://perma.cc/X9CH-M798>].

118. Katnani, *supra* note 16, at 647-48.

119. *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, No. 22-1280 (U.S. Apr. 25, 2022) (order in pending case denied).

120. *See Regulation 3355.16*, THOMAS JEFFERSON HIGH SCH. SCI. & TECH. (May 17, 2022), [https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/CEHHLJ490428/\\$file/R3355.pdf](https://go.boarddocs.com/vsba/fairfax/Board.nsf/files/CEHHLJ490428/$file/R3355.pdf) [<https://perma.cc/3FMJ-VWND>]; *see also TJHSST Freshman Application Process*, FAIRFAX CNTY. PUB. SCHS., <https://www.fcps.edu/registration/thomas-jefferson-high-school-science-and-technology-admissions/tjhsst-freshman> [<https://perma.cc/M3A4-9SB8>] (last visited Aug. 2, 2022).

121. *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, No. 22-1280, 2022 U.S. App. LEXIS 8682, at *5 (4th Cir. Mar. 31, 2022).

each applicant's file. The most feasible solutions both politically and as a matter of capacity, is to increase the weight of GPA in comparison to test scores. The most comprehensive, yet feasible, solution is to utilize a Chicago or Boston style admission policy based on admission "preferences" for students from families of low socioeconomic status. These systems account for varying opportunity and effort much better than New Orleans's current admissions policies.

CONCLUSION

There are no admission policies or practices that will result in selective admissions schools with demographics that mirror the New Orleans public school system. No standard can produce fully equitable outcomes.¹²² Lake Forest may be the closest that New Orleans can get to an equitable selective admission school. But, *more* equitable selective admission schools can be achieved. Even small changes to admission policies will give more low-income, Black, and Hispanic students an opportunity to attend the elite selective admission schools of New Orleans.

But, ensuring equitable *opportunity*, while a Herculean task standing alone, is not enough. Achieving actual *enrollment* that more closely aligns with public schools hinges on safe, reliable, and efficient school transportation. Until selective admission schools are completely untethered from location, they will remain unrepresentative of New Orleans public schools.

122. See Merry & Arum, *supra* note 25, at 345; Wong, *supra* note 17.