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Charles W. Penrod
University of West Florida, cpenrod@uwf.edu

Lindsay Fryer
University of West Florida, lfryer@uwf.edu

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**WHAT'S IN A NAME?
THE USE OF THE TITLE "DOCTOR" BY JDS IN ACADEMIA**

Charles Penrod & Lindsay Fryer***

* Charles Penrod, Associate Professor of Legal Studies, University of West Florida.

** Lindsay Fryer, Adjunct Professor of Legal Studies at the University of West Florida.

INTRODUCTION

“Doctor Proteus – this is Mr. Haycox.” Mr. Haycox seemed annoyed and disappointed. “Don’t call that kind a doctor at all. Three kinds of doctors: dentists, vets, and physicians. You one of those?” “No. sorry.” “Then you ain’t a doctor.” “Well,” said Doctor Pond, “you can go to college and learn to be a specialist in all sorts of things besides making people or animals well. I spent seven years in the Cornell Graduate School of Realty to qualify for a Doctor of Realty degree.” “Call yourself a doctor, too, do you?” said Mr. Haycox. “I think I can say without fear of contradiction that I earned that degree,” said Doctor Pond coolly. “Real-estate salesman,” said Mr. Haycox.¹

The excerpt above comes from Kurt Vonnegut’s 1952 novel “Player Piano.”² Substitute “Juris Doctor” for “Doctor of Realty” and “lawyer” for “real-estate salesman,” and the same conversation could occur in academia today. Those who graduate from law school typically earn the Juris Doctor, commonly known as a JD. The name itself clearly indicates that those holding the degree earn a doctorate. Unlike PhDs, however, JDs are routinely thought of as just “attorneys” and not perceived as true doctors. Many JDs teaching in either undergraduate business law or legal studies courses consistently find themselves having to defend the legitimacy of their degrees and their worthiness to teach.³ All too often, many in academia refuse to formally refer to a professor with a JD as “doctor,” although JDs in academia are commonly tenure-tracked and receive the same opportunities for advancement as PhDs or EdDs.⁴

Although students often reflexively call any instructor in front of them “doctor,” faculty in other disciplines heavily filled with PhDs insist on making a concerted effort to deny JDs the dignity that comes with this title.⁵ More alarming is when formal university correspondence refers to a JD holder as “Mr./Ms.” Regardless if this is a misguided attempt to accurately term its faculty or a more subversive way to minimize the credentials of JD faculty, it has repercussions that extend beyond the faculty member involved.

Consider the following example: a college within a university awards tenure every year to those who have shown excellence in teaching, research, and service. To commemorate this important achievement, the university issues a press release that reads, “Congratulations to all of the recipients of tenure and promotion in the 2020-2021 academic year. The following is a list of those conferred tenure in the past academic cycle: Dr. John Doe (History), Dr. Jane Doe (Physics), Mr. Tom Thumb (Business Law), Dr. John Roe (Music), and Dr. Jane Roe (Mathematics).” One

¹ KURT VONNEGUT, *PLAYER PIANO* 154-55 (Pdf Corner 2018) (1952) (some language removed for conciseness).

² *Id.*

³ See David Monsma, *The Academic Equivalence of Science and Law: Normative Legal Scholarship in the Quantitative Domain of Social Science*, 23 T.M. COOLEY L. REV. 157, 198 (2006).

⁴ While the advantages or disadvantages of having an EdD is the subject of debate, that degree falls outside the scope of this paper. Indeed, EdDs can be subjected to the same level of criticism for using the term “doctor”. For a recent example, Dr. Jill Biden was criticized for using the term “doctor” outside of an academic setting. See Joseph Epstein, *Is There a Doctor in the White House? Not If You Need an M.D.*, WALL ST. J. (May 17, 2021, 5:56 PM), <https://www.wsj.com/articles/is-there-a-doctor-in-the-white-house-not-if-you-need-an-m-d-11607727380> [https://perma.cc/28KN-GCHG]. While intriguing, the focus of this article will be constrained to the interplay between PhDs and JDs.

⁵ See Stewart Manley, *Degree (Un)Equivalencies: The Confounding Case of the Juris Doctor*, 68 J. LEGAL EDUC. 392, 404 (2019); Gertrude Block, *The Punctuated Lawyer*, 44 FED. L. 50, 50 (1997).

of these is not like the other. Someone reading this press release might think that there was something lesser about Mr. Thumb's status within the university. His achievements would inevitably be dulled because the title he earned is not being used. Those reading might suspect that Mr. Thumb has no doctoral degree and perhaps just a master's degree.

So what is the big deal? The consequences go far beyond the simple title used. A student, an external reviewer, or even an interested community reader might rightfully think that history, physics, music, and mathematics are highly regarded degrees deserving of a place in the academy. Business law, on the other hand, may be seen as a less rigorous course of study since their faculty do not attain the same doctoral status. Of course, this is not true, but the uninformed reader might not realize that and have no interest in thoroughly researching the issue. An example of where this misleading title can bring about tangible results is in the mind of a high school student. That student who wants to pursue a prestigious degree might see that press release and immediately cross it off the list, figuring that only lesser students enroll in that degree. Perhaps the student views the discipline as more of a "trade school" and, without any further investigation, has a false notion of what the degree entails.

As will be seen below, the negative outcomes for the improper withholding of the term "doctor" from legitimate doctoral degree-holders go beyond this scenario. At some level, it is a matter of being unnecessarily offensive. People have a reasonable expectation of having their earned degrees respected, and the refusal to do so can be seen as insulting. Academics with an earned doctorate should be called by the earned name they prefer, just as we would do with any individual in society. The ideals of inclusiveness, acceptance, and understanding that academia regularly, and correctly, implore should equally apply to faculty titles. Making a specific point to minimize a faculty peer with "Ms." or "Mr." is exactly the kind of pointless elitism that all scholars should avoid. This approach does nothing more than poison collegial dialogue. Having administrators, faculty colleagues, and students routinely refer to JD faculty as "doctor" will ameliorate this issue and give JDs the respect they deserve. There is no need to be rude.

This article attempts to explain why administrators and faculty should consistently refer to JD colleagues as "doctor" in both formal and informal settings. Part I of this article explores the background and origins of the JD and how it relates to tenure-track positions in academia, including specific reference to undergraduate legal studies and business law professors. Part II discusses why terminology matters and how its impact influences the perceived value of both faculty and the programs in which they teach. Part III rebuts the arguments against the use of "doctor" for JDs and illustrates why JDs, who do the same teaching, research, and service as any other doctorally qualified professor, should demand the identical level of respect as their peers. Part IV concludes with a discussion of how others outside academia view JDs, including reasonable limitations of the use of the title "doctor," and recommends that law school professors lead the movement to insist on the use of the "doctor" title.

I. BACKGROUND

The JD has a unique history. It took law schools approximately 70 years to adopt the JD as the first official post-graduate degree in law.⁶ Law schools accredited by the American Bar Association (ABA) have only awarded the JD degree since 1971.⁷ The JD degree evolved from

⁶ David Perry, *How Did Lawyers Become 'Doctors'? From the LL.B. to the J.D.*, 84 N.Y. BAR ASS'N J. 20, 20 (2012).

⁷ *Id.*

the bachelor of laws, known as the LL.B., which was originally a second undergraduate degree.⁸ The move to a doctorate reflected the idea that the more robust and intense course of study to practice law was better suited for a doctoral degree.⁹

Lawyers have not always been required to have a degree or a license to practice law.¹⁰ Many years ago, study within a law office was considered acceptable for bar admissions because there was a time that almost no jurisdiction required a college degree to practice law.¹¹ Those times are long behind us. Prior to the introduction of the JD, those seeking degrees to practice law would obtain two degrees, a bachelor's degree and then an LL.B., while other graduate students would receive a graduate degree within their field of study after the bachelor's.¹² However, the depth, complexity, and rigor of the law degree was not accurately conveyed with the conferral of two bachelor's degrees.¹³ The degree was reconstituted as a JD, in part to indicate its professional doctoral nature.¹⁴ The JD is now the universally and nearly exclusively accepted degree needed to practice law.¹⁵

Once a JD is earned, a recent law school graduate must take and pass a state's bar exam to obtain a license to practice law and be otherwise eligible under the rules of the state in which the JD will practice.¹⁶ For example, in order to be licensed in the state of Florida, a JD graduate is required to meet the Educational Qualification (a JD from an ABA-accredited law school); Technical Competence (the passing of the General Bar Examination, Multistate Bar Examination, and the Multistate Professional Responsibility Examination); and Proof of Character and Fitness (proof of satisfactory evidence of good moral character via a thorough background check).¹⁷ The bar exam serves as an external confirmation that the JD-holder is competent in a wide range of areas of the law.¹⁸ While this is a pre-requisite for practicing law, many academic institutions require or prefer practice experience, which of course cannot be done without passing the bar exam.¹⁹

JDs, unlike other degrees, must continue their education long after the academic institution confers the degree.²⁰ For example, once a Ph.D. is earned, the degree is completed.²¹ However, for a JD graduate to practice law, most states require a licensed attorney to take continuing legal

⁸ *Id.*

⁹ Manley, *supra* note 5, at 401.

¹⁰ Perry, *supra* note 6, at 20-21.

¹¹ *Id.*

¹² *Id.* at 21.

¹³ Manley, *supra* note 5, at 401.

¹⁴ Larry Moore, *Is the Lawyer a Doctor?*, 17 ATL. L.J. 72, 78 (2015).

¹⁵ Manley, *supra* note 5, at 399.

¹⁶ *Overview of Bar Admissions Information*, A.B.A. (June 26, 2018), https://www.americanbar.org/groups/legal_education/resources/bar_admissions/basic_overview/?https://perma.cc/5UZV-3NQ9.

¹⁷ *Admission Requirements*, FLA. BOARD OF BAR EXAM'RS, <https://www.floridabarexam.org/web/website.nsf/52286AE9AD5D845185257C07005C3FE1/F8FE824E0EECACE885257C0B00672021> [https://perma.cc/HW9J-4P9U] (last visited June 7, 2021).

¹⁸ *Overview of Bar Admissions Information*, *supra* note 17.

¹⁹ *See generally* HIGHEREDJOBS, www.higheredjobs.com [https://perma.cc/D26A-82Q7] (last visited Nov. 5, 2021) (listing many legal studies and business law positions that include preferences for work experience).

²⁰ *See 10 Professions That Require Continuing Education*, COLL. CLIFFS, <https://www.collegecliffs.com/professions-require-continuing-education/> [https://perma.cc/6HMA-Z3EP] (last visited Oct. 28, 2021).

²¹ *See Ph.D. General Requirements*, BROWN UNIV., <https://www.brown.edu/academics/gradschool/phd-programs> [https://perma.cc/D565-4NXH] (last visited Oct. 28, 2021).

education (CLE) courses to maintain a license within a specific state.²² These CLE courses are above and beyond the coursework required for the JD and generally are required until the JD retires or reaches a certain age.²³ Thus, JDs are required to remain abreast of the most current developments of the law in a way other degree-holders are not.

Twenty states require newly licensed attorneys to complete additional requirements to satisfy the CLE requirements.²⁴ If the CLEs are not completed in the required time frame, the attorney may lose their license to practice law in that state.²⁵ Alaska and Hawaii have the least mandatory CLE requirements, which require three hours of CLE within a one-year reporting period; whereas Colorado, Minnesota, North Dakota, Oregon, and Washington require forty-five hours within a three-year reporting period.²⁶ Many of the states that require completion of a specific number of CLEs also require the attorney to take CLEs in specific areas related to their fields of expertise.²⁷

While many JDs use their legal training to practice law, JDs are also commonly found in academia.²⁸ The most common and prevalent faculty positions are in law schools.²⁹ Most professors in law schools have at least a JD.³⁰ JDs are also found throughout various undergraduate majors where law is the cornerstone of the degree.³¹ While JDs can also be found in criminal justice, political science, communications, or even education programs, legal studies and business law generally consist primarily of JD-holding professors.³² All of these aforementioned degrees

²² *Mandatory CLE*, A.B.A., <https://www.americanbar.org/events-cle/mcle> [https://perma.cc/JR4M-2KPD] (last visited June 7, 2021). Maryland, Michigan, and South Dakota do not have mandatory CLE requirements for licensed attorneys.

²³ *See generally Rules for Continuing Education*, LA. SUP. CT. (May 15, 2017), https://www.lasc.org/Supreme_Court_Rules?p=RuleXXX [https://perma.cc/XYV4-LMBY] (indicating that military personnel and those over 65 years old need not comply with CLE requirements); *Illinois MCLE Requirements and Fees*, MINIMUM CONTINUING LEGAL EDUC. BD. OF THE SUP. CT. OF ILL., <https://www.mcleboard.org/files/AttorneyMCLERequirement.aspx> [https://perma.cc/DTS2-3Q7T] (last visited June 7, 2021) (inactive and retired attorneys exempt from CLE requirements).

²⁴ *Mandatory CLE*, *supra* note 22.

²⁵ *See generally Minimum Continuing Legal Education*, THE STATE BAR OF CAL., <http://www.calbar.ca.gov/Attorneys/MCLE-CLE> [https://perma.cc/VJU6-5NU6] (last visited June 7, 2021) (noting that, "With a few exceptions, all attorneys who are actively practicing law in California must complete ongoing legal training").

²⁶ *See generally Comparison of Jurisdiction Rules to ABA MCLE Model Rule by State*, A.B.A. (July 1, 2017), https://www.americanbar.org/content/dam/aba/directories/policy/aba_model_rule_comparison_by_state_meet_mode_l_rule_noted.pdf [https://perma.cc/MXU7-UYQY].

²⁷ *Model Rule for Minimum Continuing Legal Education*, A.B.A. 1, 5 (Feb. 6, 2017), http://www.americanbar.org/content/dam/aba/directories/policy/2017_hod_midyear_106.pdf [https://perma.cc/DZT6-RLTV]. These fields include areas such as ethics, professionalism, competency, elimination of bias, substance abuse, mental health, diversity and inclusion, technology, attorney wellness, avoidance of harassment and discrimination, and malpractice prevention.

²⁸ Alexander Whitaker, *Why Those With Juris Doctor Degrees Are Not Called "Doctor"*, LINKEDIN (Feb. 27, 2020), <http://www.linkedin.com/pulse/why-those-juris-doctor-degrees-called-alexander-whitaker/> [https://perma.cc/V3AQ-LEAL].

²⁹ Manley, *supra* note 5, at 394.

³⁰ Lynn LoPucki, *Dawn of the Discipline-Based Faculty*, 65 J. LEGAL EDUC. 506, 514 (2016) (finding that 91 percent of law school faculty surveyed had a JD).

³¹ Whitaker, *supra* note 28.

³² *See generally* Bus. Accreditation Task Force, *2020 Guiding Principles and Standards for Business Accreditation*, ASS'N TO ADVANCE COLLEGIATE SCHS. OF BUS. (July 28, 2020), <https://www.aacsb.edu/-/media/aacsb/docs/accreditation/business/standards-and->

are equally legitimate, rigorous, and valuable in a thriving undergraduate institution. However, it is legal studies and business law faculty who tend to bear the brunt of the minimization of their degrees, careers, and research.

A related question is whether the JD is a terminal degree. It undoubtedly is. In order to begin the study to obtain a JD, a student must first obtain a bachelor's degree.³³ The JD gives a student a general education in law and is a professional degree typically classified as a terminal degree, much like the Doctor of Medicine.³⁴ More importantly, no degree better provides a legal studies or business law professor with the expertise and content knowledge needed to competently teach those subject areas.

Although it is undisputed that a Ph.D. is an esteemed terminal degree, it is not the only one.³⁵ Indeed, the majority of law professors hold only a JD.³⁶ The JD brings with it an inherent advantage that other doctorates might lack, and this advantage is ideally suited for legal studies and business law professors. JDs are trained in the practice of law and its real-world application and thus fit well within law-based programs.³⁷ While law schools are replete with theoretical and research-based instruction as well (to the consternation of some), law schools often balance both perspectives throughout the three years of law school.³⁸ Most JD-only professors have had some type of legal experience prior to starting in academia, whereas their JD-PhD counterparts are much less likely to have practiced before teaching.³⁹ Additionally, part-time or adjunct professors at the undergraduate and law school level are often actively working within the legal field, and it is precisely this experience that is attractive for the schools hiring them.⁴⁰ Fortunately, as will be seen below, JDs are widely considered to be terminal degrees that are equally qualified for tenure as their PhD peers.⁴¹ Given that fact, the next question is whether the JD is also entitled to the concomitant title of “doctor.”

II. WHY TITLES MATTER

Names matter. The de facto title for most undergraduate professors is “Dr.” Students customarily refer to all of their professors as “doctor” as a sign of respect for the person teaching them.⁴² By and large, students are unconcerned with the nuances of the doctorate earned by the professors.⁴³ It is not uncommon for students to refer to masters-level instructors as “doctor,” either because they are unaware of the instructor’s credentials or they simply deem, by definition, a

tables/2020%20business%20accreditation%20standards.ashx?la=en&hash=E4B7D8348A6860B3AA9804567F02C68960281DA2 [https://perma.cc/4RXW-7DFA].

³³ See *First Law Degree Programs*, LLM GUIDE, <https://llm-guide.com/llm-faq/llm-basics-types-of-law-degrees> (last visited June 7, 2021) [https://perma.cc/D7FK-SVN8].

³⁴ See generally Sofia Tokar, *What is a Terminal Degree?*, S. N.H. UNIV. (2021), <https://www.snhu.edu/about-us/newsroom/2017/11/terminal-degrees> [https://perma.cc/54EV-GRZA].

³⁵ *Id.*

³⁶ LoPucki, *supra* note 30, at 514 (finding that 74 percent of surveyed law school faculty have only a JD).

³⁷ *Id.* at 529.

³⁸ Esther Barron, *Experiencing Business Associations in the Classroom*, 59 ST. LOUIS U. L.J. 787, 787–88 (2015) (noting that the criticism levied on law schools for failing to provide practical skills can at times be “vigorous”).

³⁹ LoPucki, *supra* note 30, at 529.

⁴⁰ Laura Duncan, *The Advance of the Adjunct*, 24 STUDENT L. 15, 15 (1995).

⁴¹ Whitaker, *supra* note 28.

⁴² Moore, *supra* note 14, at 82.

⁴³ Whitaker, *supra* note 28.

college instructor to be a doctor.⁴⁴ The term "doctor" is also used by faculty, chairs, deans, and other college administrators in formal correspondence. Often, the term used (or not used) connotes real insight into the intrinsic value placed on the professor.

The term "doctor" is an honorific title that comes with achieving a post-baccalaureate degree.⁴⁵ Every person who graduates from an ABA-accredited law school leaves the university as a "doctor of law."⁴⁶ Yet far too often, JDs in academia are hesitant to refer to themselves as "doctor."⁴⁷ That hesitancy could arise either out of fear of condemnation from their colleagues or a general feeling of low self-esteem.⁴⁸ Indeed, law school professors, who are insulated from their PhD peers and face no such inter-college pressures, continue to refer to themselves as "professor"—indicating that the hesitancy to adopt the title "doctor" may lie within the collective psyches of those who have the degree.⁴⁹

The withholding of the title can be the cudgel used to implicitly support the discrimination that most JDs in academia face. Despite the fact that some scholars argue that it is a "perplexing degree to value," this disagreement can provide a justification for intentional discrimination.⁵⁰ Many PhD holders, to put it mildly, would not "welcome" JDs being addressed as "doctors."⁵¹ This could be due to the perceived lack of a sufficient research component or because JDs are professionals who are stereotypically seen as nothing more than ambulance chasers.⁵² For some reason, JDs seem to more commonly face this exclusion despite the fact PhDs often consider other doctorates to be just as lesser as the JD.⁵³ Degrees such as the MD or the DSW (Doctor of Social Work), for example, have been criticized as too professional and not as rigorous.⁵⁴ Yet virtually no one refrains from calling a DSW-holder a "doctor"—that disdain appears restricted to JDs.⁵⁵

Particularly, entire academic articles have been written with the sole purpose of criticizing or de-valuing JDs to the point of advocating their total exclusion from certain programs.⁵⁶ One article dismissively contends that JDs are "not tailored towards the demands of social science scholarship and research."⁵⁷ Criminal justice advertisements for faculty commonly include

⁴⁴ Block, *supra* note 7.

⁴⁵ Moore, *supra* note 16, at 74.

⁴⁶ Perry, *supra* note 6, at 23 (noting that since 1971, the J.D. is the standard degree offered after completion of law school).

⁴⁷ Moore, *supra* note 14, at 81.

⁴⁸ Whitaker, *supra* note 28.

⁴⁹ Moore, *supra* note 14, at 80.

⁵⁰ Manley, *supra* note 5, at 393.

⁵¹ *Id.* at 404–05.

⁵² Block, *supra* note 7 (addressing the idea that lawyers should not have their students refer to them as "doctor").

⁵³ See generally Jaelyn Schildkraut & Mark Stafford, *Researching Professionals or Professional Researchers? A Comparison of Professional Doctorate and PhD Programs in Criminology and Criminal Justice*, 40 AM. J. CRIM. JUST. 183, 193 (2014).

⁵⁴ *Id.*

⁵⁵ See Milard King Roper Jr., *Ethics: Informal Opinion 1151 – Lawyers and the Title "Doctor"*, 6 AKRON L. REV. 83, 88 (1973) (noting that other doctorates, such as the MD, that do not require a dissertation are still commonly referred to as "doctor").

⁵⁶ See Craig Hemmens, *Waist Deep in the Big Muddy: The JD/PHD Debate in Criminal Justice Education*, 19 J. CRIM. JUST. EDUC. 19, 19 (2008) (arguing that because JD training is not the same as PhD training, JDs are not normally qualified to teach in criminal justice departments); H. Michael Dreher & Mary Ellen Smith Glasgow, *Global Perspectives on the Professional Doctorate*, 48 INT'L J. NURSING STUD. 403, 403 (2011) (questioning whether a professional doctorate, which includes the JD, is a "real" doctorate).

⁵⁷ Nolasco et al., *Building Legal Competency: Foundations for a More Effective Criminology and Criminal Justice Discipline*, 26 J. CRIM. JUST. EDUC. 233, 236–37 (2015).

language stating JDs are not terminal degrees, which besides being untrue, outwardly signals that JDs are not valuable.⁵⁸ Admittedly, a social science discipline can choose whomever they want in their respective programs, and if they deem JDs to be unqualified, that is their right. Law schools can do the same with PhDs, who do not have the same real-world legal experience as a JD.⁵⁹

Why this distinction matters is the underlying implication that the JD is not a “real” degree in academia. The impact is magnified when this notion permeates academia and comes from several sources. Even the American Bar Association has recognized this disparagement and issued a proclamation that calls for the end of “discriminatory employment practices against JD degree-holders who hold academic appointment in education institutions.”⁶⁰

Legal studies, for example, is a stand-alone degree in over 80 universities.⁶¹ These programs generally prepare students for law school or a career as a paralegal, and JDs are the terminal degree-holders who are the most qualified to teach these courses.⁶² Business Law is a common course taught in most AACSB-approved undergraduate programs, primarily taught by undergraduate JD-holding professors.⁶³ Business law professors in particular often confront the sometimes hostile view that JDs are not scholarly degrees.⁶⁴ Despite these uninformed allegations, these JDs deserve an equal place at the university table because they are the most qualified professors to teach their respective subject areas. But JDs are commonly viewed as second-class faculty and continue to face the consequences of having their degrees disrespected.⁶⁵

The benefits of the term “doctor” are wide-ranging. The psychological benefit of the title provides not only a professional benefit but also a social one.⁶⁶ More importantly, tenure-track status and promotion are directly tied to the perception and prestige of the individual’s academic credentials.⁶⁷ Typically, tenure-tracked positions require a terminal degree in the field, which as discussed earlier, includes a JD teaching either Legal Studies or Business Law courses.⁶⁸ Academic tenure is defined as a faculty appointment for an indefinite time.⁶⁹ It provides career protection from arbitrary disciplinary actions and ensures that professors have the academic freedom necessary to teach.⁷⁰ It is often looked at amongst co-workers in academia with prestige and respect.⁷¹ Academic tenure is usually tied to promotion to the ranks of associate or full professor,

⁵⁸ Roger Enriquez, *The Vanishing JD – How ACJS Certification Ensures Extinction of the Species*, 18 J. CRIM. JUST. EDUC. 254, 254 (2007).

⁵⁹ LoPucki, *supra* note 30, at 538 (noting that “by hiring PhDs, the law schools are, in large part, hiring statisticians”).

⁶⁰ A.B.A., ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2013-2014, 148 (2013), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2013_2014_final_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_body.pdf [<https://perma.cc/M949-V8MD>].

⁶¹ See *Best Legal Studies colleges in the U.S. for 2021* (2021), UNIVERSITIES.COM, <https://www.universities.com/find/us/best/legal-studies-degrees> [<https://perma.cc/EC8Y-XT9A>].

⁶² Carol J. Miller & Susan J. Crain, *Law-Based Degree Programs in Business and Their Departments: What's in a Name?*, 24 J.L. STUD. EDUC. 235, 245 (2007).

⁶³ See generally Bus. Accreditation Task Force, *supra* note 32.

⁶⁴ Monsma, *supra* note 3, at 159 (noting that those in business disciplines may also greet a JD with cynicism on the grounds that they lack the requisite business background to fully participate in their respective programs).

⁶⁵ See Michael Bard, *The J.D. Degree – a Pyrrhic Victory*, 14 STUDENT L.J. 14, 17 (1969).

⁶⁶ *Id.*

⁶⁷ Jonathan Paretsky, *Judicial Review of Discretionary Grants of Higher Education Tenure*, 83 EDUC. L. REP. 17, 18 (1993).

⁶⁸ *Id.*

⁶⁹ *Id.* at 17.

⁷⁰ Ralph Brown & Jordan Kurland, *Academic Tenure and Academic Freedom*, 53 L. & CONTEMP. PROBS. 325, 329 (1990) (arguing that academic tenure reinforces academic freedom).

⁷¹ Paretsky, *supra* note 69, at 17.

which generally comes with financial compensation.⁷² If a college or university were to deny a JD terminal degree status, it could keep undergraduate JD professors from being able to obtain tenure. Denying tenure to a JD faculty member would be much easier and likely considered more acceptable when the person is called "Mr./Ms." instead of "doctor."

Even where JDs overcome the terminal degree hurdle needed for tenure and respectability, JDs may confront another obstacle. Nearly every tenure process in academia requires proof of excellence in the three pillars of faculty life—teaching, research, and service.⁷³ It requires more than a baseline minimum showing of competence; instead, the faculty should demonstrate distinction in at least two of these areas.⁷⁴ The degree earned rarely, if ever, impacts the ratings for teaching and service, as the credentials earned do not generally prepare one for those two areas.⁷⁵ It all comes down to research.

The primary reason often given for refusing to grant JDs the privilege of the term "doctor" is the supposed lack of research training in their degree of study.⁷⁶ Since research is a vital part of the tenure and promotion package, some may view JDs as presumptively unqualified to obtain tenure. Given that tenure guidelines are infamously vague, PhD-holders reviewing the tenure and promotion file of a "non-doctor" JD might require JDs to prove themselves more and raise the bar higher than for their PhD peers.⁷⁷ This tangibly could mean that the number of articles needed for tenure and promotion could arbitrarily heighten due to the misunderstanding of what a JD actually entails.

More concerning, though, is that due to this misperception, the standard research conducted by JDs might be minimized or outright disregarded as unacceptable. Even if the mischaracterization is an innocent one, non-JDs may not be able to adequately overcome the inherent preference for the quantitative research of many social scientists with the traditionally normative research done by legal academics.⁷⁸ Again, the rejection of the term "doctor" to JDs reinforces this notion. Law faculty typically research in law reviews.⁷⁹ Most law review articles explore theoretical approaches to the law or the development of novel ideas relating to current legal problems.⁸⁰ While law schools accept these sorts of articles without any reservation, undergraduate social science disciplines are accustomed to quantitative analyses and may not see the utility of law review articles in the same way.⁸¹ Further, the fact that law reviews do not undergo a traditional peer-review process again can be used as a way to detract from the JD-

⁷² See generally *Frequently Asked Questions about Promotion and Tenure*, PENN STATE UNIV., <https://www.ist.psu.edu/sites/default/files/faculty-affairs/promotion-tenure-faq.pdf> [https://perma.cc/5F9R-BB4X] (last visited June 7, 2021) (noting that there is a presumption of promotion accompanying tenure decisions); *Tenure and Promotion Guidelines*, UNIV. OF HOUS., <https://www.uh.edu/class/sociology/about/governance/p-and-t-guidelines.php> [https://perma.cc/FEC4-54LW] (last visited June 7, 2021) (noting that, in general, "tenure and promotion to the rank of Associate Professor occur together as one, inseparable process").

⁷³ Monsma, *supra* note 3, at 213.

⁷⁴ *Id.*

⁷⁵ *Id.* at 214.

⁷⁶ Manley, *supra* note 3, at 404.

⁷⁷ Monsma, *supra* note 3, at 214 (noting that tenure-track criteria "are often opaque").

⁷⁸ *Id.* at 161.

⁷⁹ *Id.* at 204.

⁸⁰ *Id.* at 197 (noting that law review articles involve the "resolution of divergent legal opinions," "the application of newly-enacted laws," or "the forward-looking analysis of events under proposed changes under the law").

⁸¹ *Id.* at 161 (noting that the bias against law review articles represents "a cerebral pageant owing more to the culture of academia than its ideal").

holder's accomplishments.⁸² The PhDs refusal to call the JD a “doctor” is a symptom of this underlying prejudice.

Despite the lack of a peer-reviewed process, these professionally edited journals are quite long and notoriously particular on accuracy and completeness, thus indicating a level of rigor suitable for scholarly academic research.⁸³ The law schools themselves produce law reviews, and since the brand of the university is on the line, they reflect a certain level of scholarly integrity.⁸⁴ Essentially, law reviews and peer-reviewed journals are not better or worse—they are just different. Individuals have a natural tendency to value the rigor of their own work over others.⁸⁵ However, recognizing that legal research generally has a different focus than the social sciences can go far to alleviate any concerns about the legitimacy of the research produced by JD faculty.

Of course, JDs also engage in empirical research, even if it is not the norm.⁸⁶ Empirical legal research is becoming more common and even encouraged in law reviews.⁸⁷ Journals such as the *Journal of Empirical Legal Studies* and the *American Business Law Journal*—two highly prestigious journals—are outlets for law-based research that use a traditional peer-reviewed social science structure.⁸⁸ Thus, having a JD does not preclude a faculty member from conducting empirical, peer-reviewed research if that is what the university program requires. Although JDs commonly write theoretical articles that are just as acceptable as empirical works, the same avenues of data-driven research are available to JDs as PhDs.⁸⁹

The failure to use the term “doctor” can have other consequences outside of the tenure and promotion realm. Salaries for non-PhDs could be influenced by the perception that PhDs are the only true doctorates. Thus, wages for JDs could disproportionately shrink for reasons outside their control. Irrespective of whether the disparity is the subject of unconscious or conscious bias, the terminology used only fuels this misperception even further. Additionally, JD-holders in academia might face an arbitrary ceiling when it comes to advancement to the highest levels of administration. Universities might be hesitant to hire a president, provost, or dean if the person is not a “doctor,” even though these positions are administrative rather than focused on teaching or research. Perception matters; hiring committees could easily be swayed away from a JD if they feel that the person could not be called “doctor” in official public relations. Many would rightfully cringe when a university introduces its new president as “Ms. Smith,” indicating a lower level of prestige at the highest level of the institution. Given the reluctance or outright refusal among many PhD academics to acknowledge the well-earned credentials of the degree, a JD-holding academic might find themselves unfairly limited to faculty roles.

Additionally, the impact that mislabeling of JD faculty has on prospective students, and potentially their parents, is important. Upon learning that faculty in a legal studies or business law program are not “doctors,” students or parents might feel less inclined to join that program.

⁸² *Id.* at 179 (noting that law review articles tend to be student-edited rather than peer-edited).

⁸³ Monsma, *supra* note 3, at 199.

⁸⁴ *Id.* at 202.

⁸⁵ Schildkraut & Stafford, *supra* note 55, at 185.

⁸⁶ Monsma, *supra* note 3, at 159.

⁸⁷ *Id.*

⁸⁸ See generally *Journal of Empirical Legal Studies, Aims and Scope*, WILEY ONLINE LIBR., <https://onlinelibrary.wiley.com/page/journal/17401461/homepage/productinformation.html> [https://perma.cc/CEC8-MLP5] (last visited June 7, 2021); *American Business Law Journal, Author Guidelines*, WILEY ONLINE LIBR., <https://onlinelibrary.wiley.com/page/journal/17441714/homepage/forauthors.html> [https://perma.cc/3F3U-EE8K] (last visited June 7, 2021).

⁸⁹ Monsma, *supra* note 3, at 198.

Ambitious students, particularly those planning to attend law school, rightfully want the best possible preparation from a well-respected university and program. Without any other information, students might wrongfully infer that programs taught by non-PhDs are inferior to competing programs and could choose a major that does not best align with their needs. This incorrect messaging is bad for everyone—students (the most important stakeholders) would not be positioned for maximum success. Faculty within these programs would suffer from enrollment drops that could lead to less funding and fewer faculty lines.

Finally, this can also impact the psychological well-being of the JD who might internally feel a sense of unworthiness and ultimately deter JDs from teaching at a university. If a JD is constantly bombarded with the term “Ms.” or “Mr.,” some JD-holding professors will realize that their peers do not respect them as much as others. They can feel like second-class citizens in academia. Not only can this impact morale and the affinity the professor has for their university but it could also lead to undeserved feelings of self-doubt or imposter syndrome. At worse, feelings of resentment could infiltrate the college to foster hostility—both from the PhD who resents the JD using the word “doctor” and the JD who resents not being called what they rightfully have earned.

III. WHY JDS DESERVE TO BE CALLED “DOCTOR”

Clearly, the title of “doctor” matters. The important question to consider is whether JDs should be deprived of the right to use “doctor” before their names—a word that literally is one of the two words in the name of the degree. The obvious answer is that JDs in academia should be equally referred to as “doctor” no differently than their PhD peers.

To begin, the JD is the terminal degree for those teaching in legal studies or business law.⁹⁰ In law schools, the majority of faculty members earned a JD as their highest degree.⁹¹ Although the number of PhDs in law faculty continue to rise, the JD still remains the most prevalent degree.⁹² While the LL.M. (Master of Laws) and S.J.D. (Doctor of Juridical Science) degrees are available, those degrees, especially the SJD, are rarely pre-requisites for application to an undergraduate or law school faculty position.⁹³ Typically, the LLM and SJD are used to explore a specific area of law, just as a medical residency would do for a physician.⁹⁴ They are not broad continuations of the same degree, as is common with master’s degrees to PhDs.⁹⁵ Unlike physicians who have appropriately retitled their additional advanced education as “residencies,” JDs are “cannibalizing” their doctoral degree by mislabeling LL.M. and S.J.D. degrees to wrongly indicate they are distinct, superior degrees to the JD.⁹⁶ Similarly, some could view the last step for PhD-holders to

⁹⁰ See Monsma, *supra* note 3, at 157–58 (noting that the terminal degree for business law faculty is a degree in law and not a “research doctorate”); see also Manley, *supra* note 5, at 407 (noting that the JD is sufficient to teach law-based classes); *Faculty Credentialing Requirement*, UNIV. OF TENN. KNOXVILLE, <https://sacs.utk.edu/wp-content/uploads/sites/59/2014/09/UTK-Faculty-Credentialing.v18.pdf> [<https://perma.cc/JBR5-3Q7Y>] (last modified June 2017) (noting that the JD is a terminal degree for purposes of credentialing).

⁹¹ Manley, *supra* note 5, at 395.

⁹² LoPucki, *supra* note 32, at 507.

⁹³ Manley, *supra* note 5, at 407 (noting that neither an LLM nor SJD is required to teach law at the university level).

⁹⁴ *First Law Degree Programs*, *supra* note 35 (stating that LLM seekers are “graduates from another field seeking specialist knowledge of an area of law” and that SJD seekers, “apply to the program with a specific research focus”).

⁹⁵ *Id.*

⁹⁶ Moore, *supra* note 16, at 76–77.

be post-doctorate (post-doc).⁹⁷ Not calling a JD-only degree-holder a “doctor” because the LLM/SJD exists would be no different than not calling PhDs a “doctor” because they were never a post-doc researcher.

If the term “terminal degree” refers to the best degree to teach the subject matter of the discipline, then there is no doubt that the JD qualifies. Legal studies, business law, and law school faculty usually teach the development, application, and understanding of the law in a practical context, which is precisely what a JD-trained faculty member can provide.⁹⁸ Therefore, the degree that offers the most direct expertise and the best preparation for teaching those courses is the JD. If the terminal degree—and the degree most directly related to expertise in the field—is the JD, then those faculty teaching within those disciplines deserve an equal place in academia. A PhD is simply not required for teaching law and, in fact, may be counterproductive to successfully doing so. Professors with only JDs are more likely to have legal experience to share with their students.⁹⁹ Law schools continue to face criticism that their students are not actually prepared to practice law, and the hiring of JD/PhDs will accelerate that trend.¹⁰⁰ If this is the case, it makes no sense to insist upon a PhD or SJD for an undergraduate legal studies professor. Refusing to call a JD “doctor” penalizes JD faculty for having the correct degree for the program.

The single most common justification for denying an academic JD the term “doctor” is the lack of research training needed to obtain a JD. No one can reasonably dispute that the PhD carries with it a significant research expectation—the dissertation alone can take year(s) to complete and is the culminating artifact for the completion of the degree.¹⁰¹ It is indisputably focused on statistical analysis and the exploration of original ideas.¹⁰² Because of its “lighter” research load, some critics hold the misguided belief that law school lacks academic rigor.¹⁰³ To the contrary, the first year of law school is notoriously difficult and rigorous, with countless hours spent learning and mastering the fundamentals of the law.¹⁰⁴ The culminating artifact for the JD, while technically outside the degree itself, is the bar exam—a grueling written test that thoroughly ensures that the JD has retained the requisite knowledge needed to understand the law.¹⁰⁵ The bar exam is taken after

⁹⁷ Irina Tiper & Ian Street, *The Postdoc Path: Understanding the Value of a Postdoc Before You Commit*, NAT'L POSTDOCTORAL ASS'N, https://www.nationalpostdoc.org/page/postdocket_08171 [<https://perma.cc/PL7X-J552>] (last visited June 7, 2021) (defining a post doc as “generally a short-term research position that provides further training in a particular field, and for individuals planning research careers in academia”).

⁹⁸ LoPucki, *supra* note 32, at 521.

⁹⁹ *Id.* at 522 (noting that 78 percent of the law school faculty surveyed with JDs only had practical experience (defined as the practice of law after law school but before academia), while only 53 percent of JD/PhDs had practical experience).

¹⁰⁰ *Id.* at 541 (noting that discipline-based faculty will endure a larger burden in ensuring that students learn the practical side of the law).

¹⁰¹ See generally Manley, *supra* note 5, at 405 (noting that PhD students typically write “lengthy” dissertations).

¹⁰² Schildkraut & Stafford, *supra* note 55, at 191.

¹⁰³ Anders Walker, *Bramble Bush Revisited: Llewellyn, the Great Depression and the First Law School Crisis, 1929-1939*, 64 J.L. EDUC. 145, 147 (2014).

¹⁰⁴ Emily Zimmerman, *An Interdisciplinary Framework for Understanding and Cultivating Student Enthusiasm*, 58 DEPAUL L. REV. 851, 877 (2009) (calling the first year of law school “an intense experience” filled with distress); Stephanie Panico, *Reflections on Professor Allan Axelrod*, 61 RUTGERS L. REV. 28, 28 (2008) (describing law school as an “overwhelming and difficult time”). Indeed, entire movies, such as *The Paper Chase*, have been produced focusing exclusively on the challenges of the first year of law school.

¹⁰⁵ Daniel R. Hansen, *Do We Need the Bar Examination? A Critical Evaluation of the Justifications for the Bar Examination and Proposed Alternatives*, 45 CASE W. RESV. L. REV. 1191, 1204 (1995).

completion of approximately 90 credit hours of coursework packed into a three-year time window—an extremely challenging undertaking for anyone.¹⁰⁶

Further, to argue that the JD has *no* research component misunderstands the nature of the three years of law school. First-year law students usually take a course in Legal Research and Writing to introduce basic principles of legal research.¹⁰⁷ High achieving law students serve as editors of law reviews, which requires a student note published in the school's law review.¹⁰⁸ These student notes are emblematic of the kinds of research faculty will eventually produce and is excellent training for future law faculty. Many students work with law faculty on independent research articles in their second or third years.¹⁰⁹ While it is true that a student can escape law school without either of these experiences, it is highly unlikely that such a student would be considered for a faculty position in the first instance. Law faculty typically are the top students from their class who would be unlikely to have a top spot without also placing on law review.¹¹⁰ Indeed, one author recommends that any prospective law school professor should already have authored three separate "excellent" research publications before even considering applying.¹¹¹ Clearly, almost any law faculty member will have significant research experience prior to being hired.

The word "doctor" comes from the Latin word "docere," meaning "to teach."¹¹² Thus, the focus of the word is not predicated on the amount, quality, or nature of the research done by the faculty member. Indeed, no one would question whether a PhD faculty member who accepts an added teaching load in lieu of research is a "doctor." The standard should be whether the faculty member holds a terminal degree within the field in which they are appointed to teach. A PhD teaching Criminal Justice and a JD teaching Legal Studies equally satisfy that standard.

At the end of the day, however, the research training received in the nascent stages of an academic's life is wholly irrelevant to whether that person is a true academic "doctor." PhD and JD faculty have the same research requirements; the product of the research of social scientists and legal researchers is simply different. The standard is the same—produce a certain number of publications with a certain quality and journal impact factor.¹¹³ In other words, all tenure-track faculty are researchers regardless of whether a dissertation was written or a bar exam was passed. It makes no sense to penalize one set of faculty for what they did pre-academia, perhaps ten or twenty years prior, when everyone arrived at the same place with the same publication

¹⁰⁶ *Id.* at 1191.

¹⁰⁷ A.B.A., *supra* note 62, at 21.

¹⁰⁸ Enriquez, *supra* note 60, at 257.

¹⁰⁹ See *Entering the Law Teaching Market*, YALE L. SCH., 1, 10 (2018),

https://law.yale.edu/sites/default/files/area/departments/cdo/document/cdo_law_teaching_public.pdf

[<https://perma.cc/5NUV-9YQY>] (last visited June 7, 2021) (recommending that "[w]orking as a research or teaching assistant for a professor can offer you a different perspective on law teaching, give you research or teaching experience, and provide the opportunity to develop a strong relationship with a faculty mentor and recommender").

¹¹⁰ Brian Leiter, *Paths to Law Teaching*, UNIV. OF CHI. L. SCH.,

<https://www.law.uchicago.edu/careerservices/pathstolawteaching> [<https://perma.cc/EM3G-Z88W>] (last visited June 7, 2021) (noting that the traditional path to a law school faculty position begins with, "an exceptional academic performance in law school (e.g., graduating Order of the Coif), service on the law review, preferably in a senior editorial position").

¹¹¹ Brad Areheart, *Advice on Becoming a Law Professor*, UNIV. OF TEX. AT AUSTIN SCH. OF L.,

<https://law.utexas.edu/career/paths/academic/advice-on-becoming-a-law-professor> [<https://perma.cc/58E3-JW7L>] (last visited June 7, 2021).

¹¹² *Doctor*, MERRIAM-WEBSTER DICTIONARY (11th ed. 2021).

¹¹³ Monsma, *supra* note 3, at 214.

requirements. To say a JD is not skilled enough to produce scholarly publications is belied by the hundreds of law review and peer-reviewed articles published by JD faculty.¹¹⁴ Nearly all JD-holding professors are required to research on the same level as their PhD peers without regard to their credentials.¹¹⁵ While all research has its particular complexities, it is incredulous to claim that writing a 20,000-word, fully-cited law review article is easy.

If PhDs are eager to differentiate their pre-academic training, using the word “doctor” is not the vehicle to do so. The degree is a “Juris Doctor,” just as a Ph.D. is a “Doctor of Philosophy.”¹¹⁶ In academia, the term “doctor” should do no more than signal a terminal degree used by someone teaching at a university. If PhDs want to ensure that their specific credentials are known, they could use another word. Perhaps PhDs could refer to themselves as “Philosopher Smith,” rather than “Dr. Smith,” to point out that the person as a PhD. A JD has no claim to that term—it is unique to the PhD. While that might seem unnecessarily territorial and even petty, it could satisfy the need to broadcast the nature of their pre-academic training. What should not be allowed, however, is for one particular degree to monopolize the use of a word that is common to several other degrees. Far too often, that is exactly the case.

Although not in a scholarly publication, one of the strongest voices against the use of “doctor” for JDs is from Alexander Whitaker, a lawyer and president of a university. In his article, Mr. Whitaker forcefully argues that JDs are not entitled to be referred to as doctors and takes umbrage at those who do.¹¹⁷ Despite his admission that JDs count as terminal degrees, he argues that only the SJD is “indisputably entitled to use the title ‘Doctor’” among the law-based degrees.¹¹⁸ He further questions the rigor of the JD degree to justify his view that a JD should not be called “doctor.”¹¹⁹

Whitaker relies on three main points for this contention, each of which should be rejected. First, Whitaker argues that using the term “doctor” would “harm our credibility with our PhD colleagues.”¹²⁰ He contends that JDs who use the term would inevitably “diminish their own” title and suggests that lawyers would be damaging inter-college relationships by doing so.¹²¹ This line of thinking seems like blaming the victim. JDs, who are not given the respect of the title, should not have to consider the implications of relationship-building when it is their peers who are creating the conflict. Further, it is mystifying how allowing a bigger tent of doctorates to use the term would detract from their own credentials. Instead, the better logic is that relationships improve when others are accepting, open, and tolerant of the achievements of others. As one author has stated regarding the term “doctor,” “To use titles correctly can go far towards improving mutual respect between related professions, and the improvement of interprofessional relationships is an end devoutly to be desired.”¹²² This approach seems far more conducive to a productive working environment.

¹¹⁴ See generally *id.* at 185–86 (citing common criticisms of the legal research regularly produced by JDs).

¹¹⁵ *Id.* at 215.

¹¹⁶ Tokar, *supra* note 34, at 2.

¹¹⁷ Whitaker, *supra* note 28. In this article, I refer to the author as “Mr. Whitaker”, even though he has a JD. It is important to respect the wishes of individuals as to what name, title, or pronoun they prefer. Even though I unequivocally believe he has the right to be called “Dr. Whitaker”, no one should have a title thrust upon them that they are not comfortable using.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Rex Collier, *An Invitation to Precision in the Use of Titles*, 12 AM. PSYCH. 39, 39 (1957).

Second, Whitaker says that insisting upon using the term “doctor” suggests that JDs are insecure about their academic qualifications.¹²³ Alternatively, he contends that JDs should show “confidence and humility” to set a good example for those who are overly concerned with their academic status.¹²⁴ While it might be true that JDs are insecure, there are valid reasons for feeling that way. The insecurity JDs feel derives from external sources. When JDs are constantly referred to as “Ms.” or “Mr.,” JDs might eventually get the message that their academic qualifications are in fact being called into question. It is not paranoia when the signs are everywhere; instead, it is an acceptance of the reality of the situation. Showing humility is no different than raising the white flag of surrender and accepting the unfair mischaracterization of the degree. Ultimately, the issue with the term is not about an arbitrary sense of one’s own self-worth—as mentioned earlier, there are real-world, tangible consequences to the constant mislabeling some JDs face.

Third, Whitaker argues that using “doctor” separates JDs from the larger community of lawyers.¹²⁵ Academic JDs using the term might appear to be “pompous and pretentious, if not narcissistic,” which would create a clear demarcation from their practicing colleagues.¹²⁶ Whitaker implies that because “we are still lawyers,” using the “doctor” term would actually be counterproductive, as it would send a signal to colleagues and students alike that academic JDs are different.¹²⁷ To the contrary, many JD professors no longer consider themselves lawyers and in fact do not practice at all.¹²⁸ The career of a professor is profoundly different than that of a practicing attorney.¹²⁹ That is neither positive nor negative but no different than an engineering professor who no longer works as an engineer. Perhaps JD faculty are not even licensed to practice law in the state in which they teach, further separating those lines. Attorneys certainly understand the roles that non-practicing attorneys play; it is relatively common for JD professors and attorneys to work on projects together with the understanding that each serve different roles.¹³⁰ Calling the professor “Dr.” would not undermine these relationships but could instead reaffirm the distinct roles each play.

To be clear, this article is not going so far as to argue that the JD and PhD are identical in all disciplines and all respects. For example, Kenneth Mwenda has openly argued that a JD is not a true doctorate and is not in the same class as a Ph.D.¹³¹ If a program, whether it be Engineering, History, Criminal Justice, or Communications, decides that the PhD is the only appropriate credential for its tenure-track faculty, that is a legitimate decision based upon the needs, perception, and curriculum of the program. There is no argument against such a practice—a discipline can choose what credential best represents it and should have the freedom to do so even if it excludes otherwise qualified people from its faculty lines. Again, the JD and PhD are simply different—serving different purposes for different disciplines. For the same reason, most if not all Legal Studies programs would not accept a PhD-only candidate given the content knowledge necessary

¹²³ Whitaker, *supra* note 28.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ Amy Cohen, *The Dangers of the Ivory Tower: The Obligation of Law Professors to Engage in the Practice of Law*, 50 LOYOLA L. REV. 623, 623 (2004).

¹²⁹ Dan Canon, *Law Practice vs. Legal Academia: Can we Build a Bicultural World?*, ABA J. (Apr. 29, 2020, 8:30 AM), <https://www.abajournal.com/voice/article/building-a-bicultural-legal-world> [<https://perma.cc/HPN8-W7TQ>].

¹³⁰ For a relevant example, the two authors on this article are a full-time JD-holding professor and a full-time Assistant State Attorney.

¹³¹ KENNETH K. MWENDA, *COMPARING AMERICAN AND BRITISH LEGAL EDUCATION SYSTEMS: LESSONS FOR COMMONWEALTH AFRICAN LAW SCHOOLS* 21 (2007).

for teaching pre-law or Legal Studies courses.¹³² Recognizing our differences is not tantamount to demeaning our peers—in fact, an informed understanding of our differences can give rise to healthy respect and admiration for others. The problem arises when those differences are used as an excuse to justify global elitism in academia.

IV. SUPPORT FOR AND LIMITATIONS ON THE USE OF “DOCTOR”

Accreditors have voiced their support for the intrinsic value of JDs.¹³³ Accrediting bodies, who ensure faculty credentials are sufficient to teach coursework, view the JD degree favorably.¹³⁴ What these accreditors say on the matter is vitally important—as the gatekeepers for who is and is not a qualified member of the academy, they get the final word on who is worthy to teach in higher education. They also determine the definition of “terminal degree” and what proportion of faculty should consist of qualified, credentialed professors.¹³⁵

Perhaps the most important external body for business law professors—the Association to Advance Collegiate Schools of Business (AACSB)—has recently recognized that JDs belong in business colleges.¹³⁶ AACSB defines the requirements for a “Scholarly Academic,” or “SA.”¹³⁷ An SA must have a “terminal degree related to the field of teaching.”¹³⁸ There are three illustrative examples of terminal degrees for business programs.¹³⁹ One of the examples is a faculty member with “a law degree (LL.M. or J.D.) for those teaching courses or modules related to law or aspects related to the legal environment of business (e.g., ethics, sustainability, etc.).”¹⁴⁰ Clearly, AACSB finds that any JDs who teach law-related courses are credentialed faculty within a college of business. Interestingly, while business law faculty commonly teach courses “related to the legal environment of business,” AACSB views JDs as qualified to teach courses beyond that one so long as the JD teaches a course related to law, including ethics or sustainability, among others.¹⁴¹ JDs are de facto qualified under AACSB guidelines and widely accepted terminal degrees in business colleges—even more established than other earned doctorates under AACSB’s guidelines.¹⁴² There is no doubt that JDs teaching Business Law or Legal Studies courses are respected and qualified members of business colleges.

AACSB does not stop there. Perhaps in response to the ubiquitous attack by its fellow doctorates, the accrediting guidelines explicitly state that law reviews qualify as publications in colleges of business.¹⁴³ Standard 8.1 provides that, “The school’s faculty collectively produce

¹³² HIGHEREDJOBS, *supra* note 19.

¹³³ Bus. Accreditation Task Force, *supra* note 32, at 29–30.

¹³⁴ *Id.*

¹³⁵ Tokar, *supra* note 34.

¹³⁶ Bus. Accreditation Task Force, *supra* note 32, at 29.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 30.

¹⁴¹ *Id.*

¹⁴² Bus. Accreditation Task Force, *supra* note 32, at 30. The bullet point directly following the one quoted states, “Additional terminal degrees may also be appropriate for SA status when the degree is closely related to the field of teaching and the faculty member sustains currency through scholarly activities in that field consistent with this standard”. *Id.* The implication here is that other terminal degree-holders not specifically named must take additional measures to ensure SA status. The JD is not an “additional terminal degree”, given that it is one of the listed terminal degrees that can acquire SA status.

¹⁴³ *Id.*

high-quality, impactful intellectual contributions that, over time, develop into mission-consistent areas of thought leadership for the school.”¹⁴⁴ The standards further emphasize that intellectual contributions that are “peer-reviewed” are the most sought after, stating that those are “subject to the scrutiny and evaluation of others who have recognized subject matter expertise in the same field”¹⁴⁵ The key for this discussion is the definition of “peer-reviewed.” The standards provide that “[p]eer-reviewed journal articles are scholarly publications that were submitted for critique and evaluation by one or more academics who have expertise in the discipline and/or methodology of the subject matter. *Publications in law reviews may be included in this category.*”¹⁴⁶ The guidelines leave no question that AACSB views law reviews as worthy scholarly publications. Therefore, since the JD is a credentialed, terminal degree and the JDs’ primary research product is a valued scholarly work, the logical conclusion is that JDs deserve the title of “doctor” just as much as their PhD peers.

The other prominent business program accreditor views JDs in the same manner. The Accreditation Council for Business Schools and Programs (ACBSP) similarly requires a level of credentials that a business program must maintain.¹⁴⁷ Specifically, at least 40% of all business undergraduate courses must be taught by doctorate faculty.¹⁴⁸ Importantly, doctoral degree faculty is defined as one of the following classes of faculty: “(1) Doctorate in teaching field, (2) Juris Doctorate—qualified to teach law courses, or (3) Out-of-field doctorate degree with 15 semester/22 quarter graduate credit hours or equivalent of courses in field.”¹⁴⁹ Again, the JD is unequivocally listed as an acceptable doctoral degree to teach law classes.¹⁵⁰ The inference here is that ACBSP does not even view the JD as an out-of-field doctoral degree. The third category encompasses all out-of-field doctorates, but the second category lists JDs. Thus, the implication is that the JD is a doctorate that is not out-of-field.

Finally, the regional accreditor, the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), appears to view the JD as a terminal degree.¹⁵¹ SACSCOC accredits universities, not just individual programs, and covers 11 states in the southeastern part of the U.S.¹⁵² According to its faculty credentialing guidelines, universities should strive to have faculty teaching undergraduate courses that hold a “doctorate or master’s degree in the teaching discipline or master’s degree with a concentration in the teaching discipline (a minimum of 18

¹⁴⁴ *Id.* at 50.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* (emphasis added).

¹⁴⁷ ACCREDITATION COUNCIL FOR BUS. SCHS. AND PROGS., STANDARDS AND CRITERIA FOR DEMONSTRATING EXCELLENCE IN BUSINESS DEGREE PROGRAM 31 (Jan. 1, 2021), https://cdn.ymaws.com/acbsp.org/resource/resmgr/docs/accreditation/Unified_Standards_and_Criter.pdf [<https://perma.cc/U8YP-U5JU>] (noting in Criteria 5.2 that faculty must be “qualified to teach all the required business courses”).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 32.

¹⁵⁰ It is if no concern that the JD’s acceptability is restricted to law courses. No one could plausibly make the argument that a JD is qualified to teach, for example, a management or marketing course. JDs are qualified to teach law since that is what the JD learns to obtain the degree. This definition makes it clear that JDs are doctorates suitable for either business law or legal studies courses. *See Generally* Bus. Accreditation Task Force, *supra* note 32, at 29–30.

¹⁵¹ *See* S. ASS’N OF COLLS. & SCHS. COMM’N ON COLLS., ACCREDITED AND CANDIDATE LIST (2021), <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf> [<https://perma.cc/8QYN-24QK->].

¹⁵² *Regional Accrediting Organizations*, COUNCIL FOR HIGHER EDUC. ACCREDITATION, <https://www.chea.org/regional-accrediting-organizations#new-england-institutions> [<https://perma.cc/4XJC-CNBA>] (last visited June 11, 2021).

graduate semester hours in the teaching discipline).¹⁵³ This definition allows JDs, who have terminal degrees more advanced than the master's level, to teach courses in accounting, for example, in addition to law-based courses.¹⁵⁴ Since so much of a JD's coursework covers relevant business/accounting material—such as contracts, tax, business law, business formation, and ethics—the JD is obviously a related doctorate in business disciplines.¹⁵⁵

Although not in its role as an accreditor, the American Bar Association (ABA) has affirmed the right of a JD to be called “doctor.”¹⁵⁶ The ABA's statement on “JD-PhD Equivalency” stakes out a clear position—the two degrees are “equivalent degrees for educational employment purposes.”¹⁵⁷ While that statement might appear to be overly broad, it suggests that both degrees qualify the holder for positions in higher education. Critics such as Kenneth Mwenda, who are outraged at the notion that the two degrees are equivalent, need not be so incensed.¹⁵⁸ They are certainly not identical—they serve different purposes for different disciplines in academia. Both, however, qualify the respective degree-holders to earn tenure and pursue the same career goals, albeit usually in different disciplines.

The ABA's statement also reflects an understanding that the discrimination JDs encounter manifests itself in tangible ways. It requests that all policies or practices that “disparage legal education” cease.¹⁵⁹ The statement does not enumerate those policies, but one obvious practice comes to mind—the refusal of some academics to refer to their JD colleagues as “doctor.” As stated earlier, the effect of such a refusal disparages the legal education JDs receive. JD-holders simply want to be called by the name of their degree. In an age where intolerance for the personal preferences of individuals is becoming less acceptable, higher education academics should not intentionally insult their colleagues, especially when doing so does nothing to harm the reputation of their own credentials. Inclusiveness, rather than divisiveness, should be the norm.

State ethics opinions also have concluded that using the term “doctor” is generally appropriate for JD-holding university professors.¹⁶⁰ The State Bar of Texas issued an ethics opinion that found that JD-holders do not violate ethics rules when using the term “doctor” in an educational setting.¹⁶¹ The Advisory Committee on Professional Ethics in New Jersey reached a similar conclusion, finding that JD-holders on the faculty of a state college could ethically refer to themselves as “doctor.”¹⁶² An earlier New York Professional Ethics Committee opinion found no

¹⁵³ *Faculty Credentials*, S. ASS'N OF COLLS. & SCHS. COMM'N ON COLLS. (Apr. 2018), <https://sacscoc.org/app/uploads/2019/07/faculty-credentials.pdf> [<https://perma.cc/P6QP-8DLV>].

¹⁵⁴ Ramsey L. Cardwell et al., *The Accounting Doctoral Shortage: Accounting Faculty Opinions on Hiring JD-CPAs as Accounting Educators*, 9 ADMIN. ISSUES J. 19, 21 (2019) (noting SACS credentialing standards allow the JD-CPA to teach a “substantial number of accounting baccalaureate classes”).

¹⁵⁵ *Id.*

¹⁵⁶ A.B.A., *supra* note 60.

¹⁵⁷ *Id.*

¹⁵⁸ Mwenda, *supra* note 131.

¹⁵⁹ A.B.A., *supra* note 60.

¹⁶⁰ Pro. Ethics Comm. for the State Bar of Tex., *Opinion No. 550*, 67 TEX. B.J. 698, 699 (May 2004), <https://www.legalethictexas.com/getattachment/7f1a9acf-f646-42c9-9831-416a117dac97/Opinion-550> [<https://perma.cc/YQJ9-HXP3>] (noting that educators, economists, and social scientists use the term “doctor” to indicate a certain level of advanced education).

¹⁶¹ *Id.* at 698.

¹⁶² Advisory Comm. On Pro. Ethics, *Use of "J.D." and "Doctor" in Academic Position*, 98 N.J.L.J. 977, 980 (1975).

ethics violations for any JD, academic or otherwise, who uses the term "doctor."¹⁶³ All of these sources point to the same conclusion—JDs are "doctors."

However, as these opinions point out, there are some ethical limitations on the use of the term "doctor." A lawyer who describes herself as a doctor might give rise to the false implication that the lawyer is also a physician.¹⁶⁴ Outside of academia, the word "doctor" is far more commonly associated with physicians.¹⁶⁵ This could create an "unjustified expectation" that the lawyer may be more qualified to handle medical malpractice cases.¹⁶⁶ Even though a qualifier or disclaimer might be sufficient for the ethics rules, the better practice would simply be to restrict the term "doctor" to academia.¹⁶⁷ That was precisely the recommendation in New Jersey, where the Committee on Professional Ethics explicitly limited the title "doctor" to a JD in an academic position.¹⁶⁸ Lawyers should not directly or indirectly mislead potential clients as to their qualifications. Even though lawyers are certainly educational doctors, it should not be incumbent on unsophisticated clients to research to discern the distinction. Such nuance is simply impossible to convey on a billboard or in a 30-second advertisement; therefore, the better approach is to refrain from using the term in connection with a JD's work as a practicing attorney.

Limiting the use of "doctor" to academic positions not only satisfies the ethics rules but also conveniently distinguishes between academics and practitioners. Attorneys tend to use the terms "attorney-at-law" or "esquire" to denote their status as practitioners.¹⁶⁹ Just as a full-time faculty member should not use "attorney-at-law" in their communications (indeed, it could be ethically misleading if the faculty is unlicensed in the state they reside), attorneys in practice should reserve the designation of "doctor" to its traditional use in academia. Attorneys have no real need to use the term "doctor" given the absence of peers using the term. Instead, this can serve as a helpful indicator of the role that each JD plays. These terms can serve as a shorthand to third parties to signify what the JD-holder generally does as a profession. Neither term denotes superiority or preferability.

Adjunct professors who are also attorneys, however, should feel comfortable using the term "doctor" in association with their teaching duties. The adjunct's duties are clearly distinct from those in professional practice, and students would not be misled as to the nature of the adjunct's credentials. Indeed, most students are accustomed to referring to their professors as "doctor." So long as the adjunct makes no assertion to students that the term "doctor" means anything more than a professor teaching a higher education course, the adjunct should feel secure using a title that is less confusing and more representative of their status. Of course, adjuncts should refrain from using the term "doctor" as an attorney, despite their status as an adjunct, to avoid confusing their clients. Having a dual role allows adjuncts to use dual titles in the appropriate settings.

Finally, JDs, particularly law school professors, should shed their apprehensiveness around the word "doctor." As others have noted, it often is the JDs themselves that are fearful of using the word, and this reluctance may be fueling some of the resistance JDs encounter.¹⁷⁰ Some JD-

¹⁶³ N.Y. State Bar Ass'n Comm. on Pro. Ethics, *Opinion 105(a)* (1969) (stating that "A lawyer who has earned a doctor's degree in Law (J.D., S.J.D. or S.D.) may also use the title "Doctor", both professionally and socially").

¹⁶⁴ Pro. Ethics Comm. for the State Bar of Tex., *supra* note 160, at 698.

¹⁶⁵ Advisory Comm. On Pro. Ethics, *supra* note 162, at 977.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 698–99.

¹⁶⁸ Advisory Comm. On Pro. Ethics, *supra* note 162, at 977.

¹⁶⁹ See generally Kathryn Thompson, *Tussle Over Titles*, ABA J., Jan. 8, 2006, at 28.

¹⁷⁰ Moore, *supra* note 14, at 72 (noting that "through a combination of old habits, history and shortsightedness", JDs often refrain from being called "doctor").

holding academics are fearful or even embarrassed to use the title, given the hostile reception from some of their colleagues.¹⁷¹ JDs alone appear to have this hesitancy.¹⁷² While some courage might be required, uniform acceptance of JDs as doctors needs to begin with JDs respectfully requesting that colleagues use the title that they earned.

The best place for such a move to start is with law schools. Law school professors are the leaders in terms of legal educators. If the movement begins in law schools and trickles down to undergraduate institutions, it might make the title more palatable for those who might otherwise object.¹⁷³ Law school professors tend to refer to themselves as “professor.”¹⁷⁴ A transition to the term “doctor” might face less resistance there, since law schools tend to be insulated programs consisting of instructors who all have JDs.¹⁷⁵ It is a matter of respect for everyone, but those who tend to bear the brunt of this rampant mislabeling are those at the undergraduate level. Law school professors using the term “doctor” would surely give the JD a higher sense of respectability—one that is deserved because it reflects the doctoral nature of the degree.

CONCLUSION

The Juris Doctor degree is a terminally qualifying doctorate. Faculty who are hired to teach business law or legal studies courses are the best qualified to teach in their respective disciplines and deserve to be treated as such. Typically, tenure-track faculty in academia are required to meet the same quantity and/or quality of research output, regardless of the terminal degree earned by the professor. What a professor is called now should not depend upon the particular doctorate pursued decades earlier. Instead, it makes more sense to rely upon the current requirements, productivity, and demands of the position. Both PhDs and JDs generally have the same responsibilities—teaching, research, and service. Therefore, they should be called the same name—“doctor.” Refusing to call a Juris Doctor a “doctor” is nothing less than academic bullying, and it needs to stop.

Singling out a particular doctorate for discrimination does not rise to the level of tolerance, acceptance, and understanding upon which academia prides itself. We should all be sensitive to how others would prefer to be perceived. Acceptance is one of the single most important qualities a well-functioning institution can aspire to achieve. That can be accomplished simply by listening, understanding, and dignifying others—even if it runs contrary to ingrained notions of status. It causes no harm to refer to others with the title one uses for themselves—it neither denigrates nor demeans one’s own value to inclusively accommodate the preferences of others. While the trend towards greater acceptance of JDs in academia is encouraging, both law school and undergraduate professors alike should continue to insist upon using “doctor” in their professional communications.

¹⁷¹ *Id.* at 75.

¹⁷² *Id.* at 80 (noting that law tends to be the only doctoral degree that does not use the title even though all JDs since the 1980s have a doctorate).

¹⁷³ See Whitaker, *supra* note 28 (arguing that undergraduate JDs should hesitate using the title if law school professors, as the “academic standard-bearers of our profession”, only refer to themselves as “professor”).

¹⁷⁴ Moore, *supra* note 16, at 80.

¹⁷⁵ LoPucki, *supra* note 30, at 508.