



# RAISING THE BAR

A PUBLICATION DEDICATED TO THE EXCHANGE OF EVIDENCE-BASED THINKING ABOUT THE BAR EXAM

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## TABLE OF CONTENTS

<b>From the Director:</b> Sara Berman, Director of Academic and Bar Success .....	1
<b>Distinguished Thinker Commentary:</b> Judy Perry Martinez, President, American Bar Association .....	2
<b>Organization Updates:</b> Testing Task Force of the NCBE .....	3
<b>Research Spotlight:</b> Professor Deborah Jones Merritt, The Ohio State University .....	5
<b>Perspectives on Student Success:</b> Professor Marsha Griggs, Washburn University School of Law .....	6
<b>Bar Success Program Profiles:</b> Professor Nancy Paine Sabol, Ohio Northern University College of Law.....	8
<b>Distance Learning Perspectives:</b> .....	9
Sara Berman, Director of Academic and Bar Success	
Greg Brandes, St. Francis School of Law	
David Thomson, University of Denver Sturm College of Law	
<b>Conference Corner</b> .....	11
<b>Publications and Posts</b> .....	11
<b>Featured Publication Summary:</b> .....	13
David Jaffe, American University Washington College of Law	
Janet Stearns, University of Miami School of Law	
<b>Resources for Legal Educators and Law Students</b> .....	13
<b>Announcements</b> .....	14
<b>Continuing the Conversation</b> .....	14

## FROM THE DIRECTOR

*I wrote the column below in January. Little did I know that the coronavirus outbreak this spring would require an unprecedented re-imagining of legal education. Nor could I have predicted when leading my panel, "The Future is Here: Legal Education in a Hybrid World" at the [2019 Denver Online and Hybrid Learning Pedagogy Conference](#), that our 2030 hypotheticals would actually happen in 2020.*

*As faculty, administrators and students embrace the new online learning reality in legal education, we will be collecting and publishing relevant resources, and sharing them in our Summer issue of Raising the Bar. Please send posts, articles, and other content to [RTB@accesslex.org](mailto:RTB@accesslex.org).*

*Please stay safe. And please let us know how we can help.*

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Every now and then, especially when we seek to innovate, we must reflect not simply about changing what is, but about entirely re-imagining (or better still, imagining anew) what could be. Spring, a time of rebirth and renewal in many cultures, is precisely a season for such reflection.

As I welcome readers to this Spring 2020 *Raising the Bar*, I invite all of you to imagine how we might best serve society in the future, considering changes to many aspects of the professional formation continuum, from admission to law school and the law school experience through the licensing process and into the profession.

I was deeply inspired by panelists from eight law schools in a session I moderated this past Fall entitled, *The Future is Here: Legal Education in a Hybrid World* at the [2019 Denver Online Pedagogy conference](#). The following deans and professors lit the room on fire with infinite

possibility and optimism, picturing how legal education might differ and in many ways be *better* in the year 2030: [Nina Kohn](#), Syracuse; [Bruce Smith](#), Denver; [Andrew Strauss](#), Dayton; [Kirk Walter](#), Loyola Chicago; [Eric Janus](#), Mitchell Hamline; Andrea Funk, Santa Barbara & Ventura Colleges of Law; [Jack Graves](#), Touro; and [Megan Carpenter](#), New Hampshire. You can hear the presentation by visiting the [conference schedule link](#), and read more about distance learning in the bar-related context in one of the many features in this issue.

We are particularly thankful to ABA President Judy Perry Martinez for her Distinguished Commentary, to the NCBE for updates regarding the Testing Task Force, to Professor Marsha Griggs and her students for their reimagining of the bar exam, to Professor Nancy Sabol for profiling the ASP program at Ohio Northern University, to my co-authors, Dean Greg Brandes and Professor David Thomson, for their thoughts on distance learning, and to Deans of Students David Jaffe and Janet Stearns for their publication summary. And, thank you to everyone else whose contributions added significantly to this Spring 2020 issue.

All the best until the summer,

Sara Berman, Esq.



Director, Programs for Academic and Bar Success  
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## DISTINGUISHED THINKER COMMENTARY

### Focus on conduct, not mental health history

*Judy Perry Martinez is a New Orleans attorney and president of the American Bar Association.*

Six years ago, the U.S. Justice Department issued a landmark letter to the Supreme Court in my home state of Louisiana. It declared that the court's then-practice of asking bar applicants about their mental health diagnoses and treatments violated the Americans with Disabilities Act. Such questions "tend to screen out individuals with disabilities based on stereotypes and assumptions about their disabilities and are not necessary to assess the applicants' fitness to practice law," the letter said.

The court's response was swift. It agreed to stop asking applicants about their mental health histories "which did not effectively predict future misconduct as an attorney."

What followed was a nationwide revolution, albeit slow-moving, in protecting the privacy of bar applicants—and an improvement in evaluating the character and fitness of future lawyers. Yet some states persist in asking the kind of invasive and unnecessary questions that triggered the Louisiana review.

Partly in response to this development, the American Bar Association in 2015 called on **all** state bar licensing agencies to eliminate questions about mental health history, diagnoses or treatment. Instead, the ABA said, agencies should use questions that focus on conduct "that impairs an applicant's ability to practice law in a competent, ethical and professional manner." The Conference of Chief Justices agreed.

Since then, several states—including California, Connecticut, Florida, Michigan, New York and Virginia—have joined Louisiana in eliminating

these objectionable questions or have started the process of doing so. To their credit, law students and law schools are at the forefront of demanding reforms.

Even so, many states still include these improper questions. That must stop.

We know that lawyers struggle with alcoholism, drug use and mental health issues at rates much higher than the general population and higher than other well-educated professionals. Yet many students while in law school—an important time when counseling or other intervention could assist—do not seek help for these problems. They fear doing so will hurt their ability to be admitted to the bar.

In other words, the very act of asking applicants about their mental health issues discourages them from getting the treatment they need. It may even stop some from applying to law school.

The irony is that asking bar applicants about their mental health history doesn't improve the quality of individuals who are members of the profession, nor does it improve the quality of legal services delivered to the public. Certainly, state licensing agencies should continue to evaluate bar candidates for character and fitness. That is their responsibility. But they must not place roadblocks in the paths of men and women who struggle with treatable addictions and mental health issues.

Every state should stop asking discriminatory, ineffective questions of bar applicants. It's a critical step toward removing the stigma of treatment that plagues our profession and hinders our ability to deliver the highest quality of legal services to those whom we serve.

## ORGANIZATION UPDATES

We are grateful to the NCBE for this update on their Testing Task Force.

### Testing Task Force Phase 2 Report

The Testing Task Force finalized its comprehensive Phase 2 report on the nationwide practice analysis survey it developed and administered last year. The practice analysis was a huge endeavor involving careful research and planning that paid dividends by providing rich empirical data on the knowledge, skills, and abilities newly licensed lawyers (NLLs) need to perform their job activities. The Phase 2 report is available on the Task Force's website ([www.testingtaskforce.org](http://www.testingtaskforce.org)); a brief overview follows.

### Developing the Practice Analysis Survey

NCBE completed a job analysis in 2012, but due to changes in the profession, the Task Force determined early in its study that it needed current job data to support its work and ensure that the bar exam continues to test relevant competencies for entry-level practice.

The development of the 2019 practice analysis survey happened between October 2018 and July 2019 in three consecutive stages: 1) an environmental scan of profession-related information that was done to develop draft lists of tasks typically performed by NLLs and the knowledge, skills, abilities, and other characteristics (KSAOs) necessary to perform those tasks, as well as a list of technologies used by NLLs to accomplish their work; 2) focus groups of NLLs and supervisors of NLLs who reviewed and edited the draft lists, which were then refined by the Task Force; and 3) pilot testing the practice analysis survey to finalize the lists and survey structure.

### Survey Design

The practice analysis survey was structured so that the survey data would identify core job tasks, KSAOs, and technologies that are important for all NLLs regardless of their practice specialties. The survey asked NLLs and attorneys who have, or have had, direct experience working with NLLs to rate lists of job tasks, KSAOs, and technologies required in practice (NLLs were defined as lawyers who have been licensed for three years or less). The job tasks were grouped into the four broad categories of General, Litigation/Dispute Resolution, Transactional/Corporate/Contracts, and Regulatory/Compliance, but were otherwise practice-area neutral.

The instructions and ratings scales were customized depending on whether the respondent was an NLL or not. To keep the survey to a reasonable length, respondents were randomly assigned to rate one of the four groups of items below:

- 49 General tasks and 24 technologies
- 74 Trial/Dispute Resolution tasks
- 41 Transactional/Corporate/Contracts tasks and 36 statements of skills, abilities, and other characteristics (SAOs)
- 15 Regulatory/Compliance tasks and 77 areas of knowledge

For the tasks, respondents rated the criticality and frequency of each; for the knowledge areas, importance was rated; SAOs were rated only on criticality; and for the technology statements, proficiency was rated. All respondents were presented with the same demographic questions, which included their primary practice setting, the number of lawyers in their organization, their gender and race, the jurisdiction(s) in which they are licensed, the jurisdiction where they have their primary practice, and their area(s) of practice.

Continued from page 3

## Survey Administration

The practice analysis survey was administered from August 1, 2019, to October 2, 2019, by ACS Ventures LLC (ACS)—an independent psychometric consulting firm—using a web-based survey software. Over the course of the two months that the survey was open, the Task Force received assistance from bar associations and state supreme courts across 54 jurisdictions to inform attorneys around the country about the opportunity to participate. The survey was also publicized on the Task Force’s website and through its social media accounts.

## Preview of Survey Results

A total of 30,970 people accessed the survey, and the total effective sample size of people who provided ratings was 14,846, as shown in the table below. Respondents generally were representative of the overall population of lawyers based on a demographic comparison to data in the *American Bar Association (ABA) Profile of the Legal Profession 2019* report.

Survey Respondents by Number of Years Licensed		
Years Licensed	Number	%
0 to 1 years	1,421	9.6%
2 to 3 years	1,732	11.7%
4 to 6 years	1,428	9.6%
7 to 10 years	1,499	10.1%
11 to 15 years	1,579	10.6%
16 or more years	7,187	48.4%
<b>Total</b>	<b>14,846</b>	

Many more details and in-depth analysis of the results are available in the report, but the following are a few of the highest rated responses.

The most common areas of practice by survey respondents were: Contracts; Business Law; Commercial Law; Administrative Law; Real

Estate; Criminal Law; Torts; Employment Law and Labor Relations; Appellate; and Wills, Estates, and Trusts.

Among the knowledge areas rated as important for newly licensed lawyers were Rules of Professional Responsibility, Civil Procedure, Contracts, Evidence, and Legal Research Methodology, while skills and abilities that were rated as important included Reading Comprehension, Analytical Thinking, Written Expression, Identifying Issues, and Fact Gathering.

The following tasks were rated highest among respondents: Identify issues in client matter including legal, factual, or evidentiary issues; Research case law; Interpret laws, rulings, and regulations for client; and Research statutory and constitutional authority.

Word Processing Software, Electronic Communication Software, and Research Software or Platforms were the highest rated technologies NLLs should be proficient in.

## Phase 3

The practice analysis results, along with the feedback stakeholders provided during the listening sessions in Phase 1 of the study, will be the basis for the final phase of the Task Force’s work, which will focus on redesign of the bar examination. Phase 3 will consist of two main activities: 1) developing a test blueprint detailing what content will be tested on the bar exam, and 2) deciding on a test design specifying how the content will be tested. The Phase 3 activities will be led by ACS, and stakeholder comments will be sought before the blueprint and design are finalized. To receive updates on the study, subscribe at [www.testingtaskforce.org/subscribe](http://www.testingtaskforce.org/subscribe).

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with bar-related updates from your organization.

## RESEARCH SPOTLIGHT

*In this column series, Raising the Bar features summaries of important advances in research related to academic and bar success. We thank [Deborah Jones Merritt](#), Distinguished Professor at The Ohio State University, for this update.*

The *Building a Better Bar (BBB)* project, funded in part by a generous grant from AccessLex, is exploring the work that new lawyers do, as well as the knowledge and skills they need for that work. This research, based on insights from dozens of focus groups, will enhance the profession's understanding of the minimum competence needed to practice law.

The researchers designed the study to complement findings from NCBE's [practice analysis survey](#) by providing more nuanced insights into the knowledge and skills required for law practice. Many new lawyers, for example, [reported](#) on the practice survey that knowledge of "civil procedure" was important for their practice. But what do those lawyers mean by "civil procedure"? Are they exploring complex jurisdictional issues? Drafting complaints, answers, and discovery documents? Checking and abiding by local court deadlines? Data from the *BBB* focus groups are helping to answer those questions.

The *BBB* research team includes more than 30 researchers from twelve states, headed by principal investigators [Logan Cornett](#) (at the University of Denver's [Institute for the Advancement of the American Legal System](#)) and me. By early February, the team had completed 28 focus groups in twelve locations nationwide—from a rural county in Maine to California's Silicon Valley. The study's urban sites include some of the nation's largest metropolitan areas (New York, Los Angeles, Chicago, and Houston), as well as a range of other cities (Denver, Minneapolis, Las Vegas, Atlanta, Raleigh, and Orlando). At least 15 more groups are planned.

The focus group members are quite diverse by race, gender, practice area, and employer type. Recently licensed solo practitioners, government attorneys, in-house counsels, public interest lawyers, and associates from firms of all sizes have gathered to discuss the knowledge and skills they needed during their first year in practice. Similarly, diverse groups of more senior attorneys have offered their insights into the knowledge and skills needed by new lawyers they supervise.

The study authors will deliver their report to AccessLex by late December 2020. For further information, feel free to contact Logan Cornett at [logan.cornett@du.edu](mailto:logan.cornett@du.edu) or me at [merritt.52@osu.edu](mailto:merritt.52@osu.edu).

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with bar-related updates from your organization or law school.

# PERSPECTIVES ON STUDENT SUCCESS

## B.Y.O.B. or Build Your Own Bar

*Marsha Griggs is the Associate Professor and Director of Academic Support and Bar Readiness at Washburn University School of Law.*

Bar examiners in numerous states have undertaken studies to review the sufficiency and effectiveness of state law exams. In 2018, the National Conference of Bar Examiners launched a three-year study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21<sup>st</sup> century. In the vein of bar exam assessment and reform, I asked third-year students at Washburn School of Law what type of bar exam they would create if they had the ability to build their own bar exam. As part of a course assignment entitled, *Build Your Own Bar* (“BYOB”), students proposed well-thought changes to the content, scoring, and existence of our present-day bar examination process. Excerpts from the submissions, credited to the student authors, follow.

### **Gabriella Ferraro**

*Third-year law student*

I looked to my third year of law school with much anticipation, as well as trepidation. For with the end of 3L year came the daunting task that is the Bar Exam. I could no longer shake the thought that by next summer, I will be sitting in a testing room for two long days, fighting to demonstrate the knowledge that I had worked so hard to learn in law school.

A Bar Exam built my way would adopt the UBE with three significant changes: 1) redistribute the weight of the MBE, MPT, and MEE; 2) adopt a uniform cut score; and 3) implement a “take-as-you-go” method to taking the bar. The MBE should count for thirty percent; the MEE, for thirty

percent; and the MPT, for forty percent. The MBE seems to be the least applicable to the day-to-day practice of law. Because the UBE’s purpose is to test one’s competency to practice law, the MBE should count for thirty percent of one’s score, because it fails to test bar takers in such a way that mirrors how they will be tested in day-to-day practice. The MEE and the MPT better personify real-world circumstances.

My second implementation for UBE improvement is to establish a single cut score for all UBE states. Currently, UBE allows states to establish their own cut scores. It is both inconsistent and shocking that a test based on national uniformity fails to provide uniformity in the most important aspect of an exam, the determinative measure of competency: the score. Currently, fourteen states plus the District of Columbia and the Virgin Islands have cut scores of 266 or below; twenty states have cut scores of 270 or above. Thus, I suggest a uniform cut score of 268 as the average between the two scores. This score requires each state to compromise. Additionally, rather than encouraging bar takers to forum shop to circumvent the current discrepancies in cut scores, this score allows bar takers the freedom to focus on bar passage where they are, instead of bar passage somewhere else.

### **Clarissa Harvey**

*December 2019 graduate, February 2020 bar taker*

As a student, my biggest concern is why my education at an ABA-accredited law school, alone, is not sufficient to pass the bar exam. If a law school education, which is on average \$60,000 and 90 credit hours, itself is not sufficient for most students to be admitted to practice without additional preparation, then we must consider the financial burden this places on students. Bar exam applications can cost \$1,000 or more. Many graduates cannot afford to pay up to \$4,000 for commercial bar preparation courses. Add to these costs, the opportunity cost of taking time off from a paying job to focus

*Continued from page 6*

solely on bar prep. This inequity has become an economic barrier to minority bar applicants. Bar prep materials need to be free or at the very least affordable for all students. I agree with Nicholas W. Allard, President and Dean of Brooklyn Law School, that the UBE is building inequity into our system.

If we can't make the test affordable for low income students, then I believe law schools should change what and how they teach to help more students pass without the need for a commercial course. Law professors need to be using multiple-choice questions as a testing tool. At the very least, professors who use only essay exams, should take steps to ensure that the exams questions comply with UBE guidelines. It was not until my second or third year in law school career that I wrote an essay on a bar tested subject without my notes and under time constraints. That to me seems very problematic! The UBE needs to address the inequity and financial burden it places on the student. Additionally, professors need to be more mindful of how they reinforce and teach bar tested material. Testing tools that may have worked successfully for several decades are no longer effective to conquering the new and improved UBE.

### **Garrett Heath**

*December 2019 graduate, February 2020 bar taker*

For a law student, ultimately all that matters is the Bar Exam. The Bar Exam has far too much power as it is currently implemented. I believe that the Bar Exam should be eliminated in its entirety and be replaced with something more functional and practical. In my opinion, the process for becoming a lawyer should all be centered around your schooling and your successes in law school.

Making a student's future rely almost entirely on a single test does not produce the best possible attorney. The best possible attorney is built from the knowledge and experiences that students

take and keep with them from their time in the halls and classrooms of their law schools, not from cramming in definitions from common law in order to pass a two-day test. The test for whether someone is adequately prepared and ready to be an attorney should take place during law school. There should be a minimum Grade Point Average (GPA) requirement that students must meet or face the risk of removal from the school. In general, classes should have more frequent testing than just a midterm and a final exam (at best).

Getting rid of the Bar Exam might be a stretch and maybe even impractical, but I believe that getting the most out of your time actually at the school and with your peers and professors is the most beneficial piece that you will carry with you into your career.

### **Cynthia Zaczyk**

*Third-year law student*

As a measure of minimum competency, the bar exam should focus more on the use of critical skills than on memorization. While the current version of the Uniform Bar Exam tests the critical skills to some level, it relies too much on rote memorization of general, common law, or modern view rules. With some modification, the UBE can better measure the minimum competency of law students and future attorneys.

My proposed modified Uniform Bar Exam would consist of four MPT tasks. My UBE would include an objective memo, a persuasive brief, a demand or settlement letter, plus one additional task that changes every administration. While I would not propose doing away with the MBE entirely, I do propose reducing the number of questions. My modified UBE would include the MPRE within the UBE itself, rather than as a separate exam.

My modified UBE would be worth a total of 300 possible points. The major difference between the current version of the UBE and the modified UBE is that the score would remain as a raw



Continued from page 7

score. Scores would not be scaled. Takers either get the point or they do not. Scores would be based on the content of the answer. Comparative, subjective, or holistic scoring would not be permitted. One is either competent or is not. One's competency is not impacted by the competency of others, so one's score should not be impacted by the score of another.

## John Cummings

*Third-year law student*

If we want people to become competent lawyers, we should let them train with mentors who will give them the chance to do, thus become good at it. The new third year anywhere program here at Washburn is a great idea. It allows students to earn credit while working in their respective positions, actually learning how to do the work of an attorney. It should be extended to all students.

My idea of the best way to train lawyers is to spend two or three years learning the basics of law. All of the required 1L and 2L classes should be continued, but then allow people to work for a year with an active attorney, doing the kind of work the student plans to do. Whether that be an externship in a law office or something like a position in a law clinic. If at the end of their education a person has passed all of the required classes and performed acceptably in their work assignment, they should be granted a license to practice law.

We welcome submissions for future Perspectives on Student Success columns at [RTB@accesslex.org](mailto:RTB@accesslex.org).

## BAR SUCCESS PROGRAM PROFILES

### Many Targeted Interventions and a Lot of Hard Work by Students: A Winning Formula for Phenomenal Success

*This Program Profile is authored by Nancy Paine Sabol, Associate Professor of Law and Director of Academic Success at Ohio Northern University ("ONU") College of Law. For more information about Professor Sabol's program and extraordinary results, contact her at [n-sabol@onu.edu](mailto:n-sabol@onu.edu).*

Our graduates have historically outperformed their predictors on the bar exam based on LSAT and other factors. This last year's phenomenal results of 100% first-time pass rates in Ohio and ten other jurisdictions have been a culmination of all the efforts of our students, faculty, and administration. At ONU Law, the administration and faculty have always supported and recognized that to graduate good practitioners, we must also do everything we can to help them succeed on the bar exam. To that end, our first-year curriculum has six credits in many of the traditional first-year courses that are also on the MBE. All students take a Torts lab in the fall of their first year, which is considered part of their Torts grade. In the lab, taught by the Assistant Director of Academic Success, students work on analytical and writing skills in the context of Torts. In the spring of their third year, over 98% of third-year students take a bar prep course with me as the Director of Academic Success, in which they re-learn three MBE subjects and do practice multiple choice and essays in those subjects. They self-assess their progress, but they also receive detailed individualized feedback from me. We also offer additional academic success and bar prep courses for students at risk of failing the bar exam. These include a second-year course that requires students to apply analytical skills in the

Continued from page 8

context of Evidence, and a fall third-year course that covers the MBE subjects not covered in the spring third-year course.

We believe that all of these programs, courses, and changes have made a real difference in the pass rate. But what set this last year apart were the tremendous efforts of our graduates studying for the exam. They outperformed the national averages in completion of their respective commercial bar preparation programs, and the preparation companies treated their relationships with the school as partnerships where we could work together to help all our student pass. One company would have regular webinars where they would use the extensive and comprehensive data available to them to show each school where their students were comparatively in terms of completion of the program and practice scores. They would also point to the data to let us know that if a student falls behind even a small amount early on and doesn't immediately address it, the gap snowballs over time. By having this detailed data, I was able to provide even more individualized and specific guidance and counseling to each graduate. The graduates took the message to heart, as evidenced by their participation rates and most importantly, their pass rates.

*The purpose of this Bar Success Program Profile feature is not to endorse particular programs but to cultivate a community dialogue and share ideas about bar success programming.*

Please contribute to the collective and growing body of knowledge about academic and bar success efforts by submitting a profile of the programming at your law school to [RTB@accesslex.org](mailto:RTB@accesslex.org) for future inclusion in issues of *Raising the Bar*!

## DISTANCE LEARNING PERSPECTIVES

### Distance Learning in Law Schools: The Future is Here

By Sara Berman, Greg Brandes, and David Thomson

*Sara Berman, the Director of Programs for Academic and Bar Success at Accesslex Institute's D.C.-based Center for Legal Education Excellence, served on the faculty and senior administration of Concord Law School for more than 15 years and currently acts as an ABA fact finder for law school hybrid variances; Greg Brandes is Dean of St. Francis School of Law and was one of the founders of Concord Law School; and David Thomson is Professor of Practice and the John C. Dwan Professor for Online Learning at the University of Denver Sturm College of Law. Combined, the authors have more than 75 years' experience teaching law in online and hybrid context.*

The first US online law school launched in 1998, using teaching and learning techniques that were revolutionary in legal education but well supported by learning science. Ever since, legal education has been embracing modern, proven means of designing, delivering, and measuring learning, often powered by distance learning. Most law school classes now include some online components, starting with syllabi posted on an LMS (learning management system). Many have numerous online formative assessments, and some are fully flipped classrooms (where most learning tasks occur online, outside the classroom, and faculty use classes for practical application, skills development, and assessment). With new ABA standards, combining fully online courses and online components of in-person courses, half of an ABA-approved J.D. program can occur outside the physical classroom.

*Continued from page 9*

Bar exam preparation has also transformed in the last decade, into an almost exclusively online format. Even “live” classes are live streamed over the internet. Some legal educators have speculated that there may be a correlation between the shift to online learning in bar review and declining bar pass rates; to our knowledge this has not yet been, but needs to be, studied in an empirically sound manner.

Despite these changes, and despite studies in other disciplines indicating that hybrid education (combining online and residential training) has the potential to improve learning more effectively than either wholly in-person or wholly online delivery systems, (see, *Evaluation of Evidence-Based Practices in Online Learning: A meta-Analysis and Review of Online Learning Studies*, 2009 United States Department of Education), the 150-year Langdellian “sage on the stage” model remains, mostly, the law school norm. This may be in part because there is little reliable research regarding online legal education. Some findings exist in clinical education, see [Roy Stuckey’s seminal 2007 work, “Best Practice for Legal Education”](#) and its [ongoing blog](#) and the [2015 Working Group on Distance Learning in Legal Education’s \*Distance Learning in Legal Education: Design, Delivery and Recommended Practices\*](#). However, as became clear at the [2019 Denver Online Pedagogy conference\\*\\*](#), the time for empirically sound study of online and hybrid legal education is now.

Note that most sessions at the [Denver conference](#) were archived and can be accessed at the [conference schedule](#) by clicking “View Video of this Presentation” or session PowerPoint links. Following the 2019 Denver conference, several similarly themed conferences were announced, including the Institute of Teaching and Learning’s conference on June 11–13, 2020, at University of Arkansas at Little Rock William H. Bowen School of Law, *Effective Instruction in Online*

*and Hybrid Legal Education*; Mitchell Hamline School of Law’s conference on September 24–26, 2020, *Designing the Law Student Experience in Blended Learning*; and the 2nd Annual Midwestern Consortium on Academic Support and Bar Programs Conference, March 13, 2020 at Chicago-Kent College of Law. The 2020 Southeast Association of Law Schools (SEALS) conference will also feature a track on online and hybrid learning. And, mark your calendars: the second bi-annual *Online Learning Pedagogy Conference* will take place at the University of Denver Sturm College of Law on September 23–25, 2021.

\*\*AccessLex was the Sustaining Sponsor of the 2019 Denver *Online Learning Pedagogy Conference*.

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) about upcoming bar-related conferences and conferences with bar exam-related sessions that may interest Raising the Bar readers.

## CONFERENCE CORNER

Upcoming conferences with sessions related to academic and bar success:

UPDATE: Due to coronavirus, most, if not all, of these conferences will be canceled, rescheduled or held in online formats. Contact individual conference coordinators for the most current updates.

- [Conference on Clinical Legal Education](#) (AALS, May 3–6)
- [AASE National Conference](#) (American University School of Law, May 19–21)
- [ILTL - Effective Instruction in Online and Hybrid Legal Education](#) (University of Arkansas at Little Rock William H. Bowen School of Law, June 11–13)
- [NALSAP Conference](#) (University of Denver, June 17–19)
- [LWI Biennial Conference](#) (Georgetown University, July 15–18)

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with recent and forthcoming bar-related publications, posts, and podcasts to be included in future issues of *Raising the Bar*.

## PUBLICATIONS AND POSTS

Below are selected, recent bar-related publications.

### Publications

- Megan Bess, *Grit, Growth Mindset, and the Path to Successful Lawyering* (September 23, 2019). Available at SSRN: <https://ssrn.com/abstract=3458632> or <http://dx.doi.org/10.2139/ssrn.3458632>
- Jonathan Garcia, *How Do Law Students Develop Writing Expertise During Summer Internships?: An Interview-Based Study*, 23 *Legal Writing: J. Legal Writing Inst.* 129 (2019). Available at: <http://www.legalwritingjournal.org/wp-content/uploads/2019/03/Garcia-Summer-Externship.pdf>
- Bryant G. Garth, *Having it Both Ways. The Challenge of Legal Education Innovation and Reform at UCI and Elsewhere: Against the Grain and/or Aspiring to Be Elite*, 10 *U.C. IRVINE L. REV.* 373 (2020). Available at: <https://scholarship.law.uci.edu/ucilr/vol10/iss0/5>
- David Jaffe and Janet Stearns, *Conduct Yourselves Accordingly: Amending Bar Character and Fitness Questions To Promote Lawyer Well-Being*, *THE PROF. LAW.* Vol. 26 No. 2 (2019) [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/jaffe-stearns-november15-bluebooked.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/jaffe-stearns-november15-bluebooked.pdf)

Continued from page 11

- Robert R. Kuehn, *Refuting the False Trope on Clinical Courses and Bar Passage* (January 2, 2020). CLINICAL LEGAL EDUC. ASS'N NEWSL., Vol. 28 (Winter 2019-20); Washington University in St. Louis Legal Studies Research Paper. Available at SSRN: <https://ssrn.com/abstract=3518079> or <http://dx.doi.org/10.2139/ssrn.3518079>
- Katerina P. Lewinbuk, Taci Villarreal & Elena Bolonina, *The Voice of the Gods is Crippling: Law School for Helicoptered Millennials*, 10 ST. MARY'S J. ON LEGAL MALPRACTICE & ETHICS 30 (2020). Available at: <https://commons.stmarytx.edu/lmej/vol10/iss1/6>
- Raul Ruiz, *Leveraging Noncognitive Skills to Foster Bar Exam Success: An Analysis of the Efficacy of the Bar Passage Program at FIU Law* (February 11, 2020). Florida International University Legal Studies Research Paper No. 20-03. Available at SSRN: <https://ssrn.com/abstract=3524423>
- Sarah J. Schendel, *What You Don't Know (Can Hurt You): Using Exam Wrappers to Foster Self-Assessment Skills in Law Students*, 40 PACE L. REV. 154 (2020). Available at: <https://ssrn.com/abstract=3441382>
- Steven L. Schooner, *Look Up and Around: Musings on Mentors, Role Models, and Professionalism* (Revised and Updated) (January 2020). 60 CONT. MGMT., Issue 1, 34, 2020; GWU Legal Studies Research Paper No. 2020-02; GWU Law School Public Law Research Paper No. 2020-02. Available at: [https://scholarship.law.gwu.edu/faculty\\_publications/1475/](https://scholarship.law.gwu.edu/faculty_publications/1475/)

- Kennon M. Sheldon and Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test and Extension of Self-Determination Theory* (July 2006). FSU College of Law, Public Law Research Paper No. 206. Available at SSRN: <https://ssrn.com/abstract=913824> or <http://dx.doi.org/10.2139/ssrn.913824>
- David I. C. Thomson, *Online Learning and the Future of Legal Education* (January 7, 2020). SYRACUSE L. REV., Forthcoming; U Denver Legal Studies Research Paper No. 20-01. Available at SSRN: <https://ssrn.com/abstract=3515416>

## Selected Posts

- <https://testingtaskforce.org/2020/01/what-to-watch-for-in-2020/>

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with recent and forthcoming bar-related publications, posts, and podcasts to be included in future issues of *Raising the Bar*.

## FEATURED PUBLICATION SUMMARY

### David Jaffe and Janet Stearns

While a number of states have modified or eliminated altogether those questions on the Bar Exam Character and Fitness portion pertaining to an applicant's substance use and mental health disorders, others continue to pose questions that many deem to be overly broad, invasive, and counterproductive to law students seeking help while in law school. In "Conduct Yourselves Accordingly: Amending Bar Character and Fitness Questions To Promote Lawyer Well-Being" (The Professional Lawyer magazine of the American Bar Association Center for Professional Responsibility), co-authors David Jaffe and Janet Stearns trace the history of support for, at a minimum, modifying the questions to bring them in line with a Department of Justice determination that questioning an applicant's mere status or diagnosis (an approach still taken in a number of states) is in violation of the Americans with Disabilities Act (ADA). The authors ask that states with invasive questions reconsider them or provide the basis for which the questions continue to exist and call on other entities to support these further changes. Moreover, the authors recommend that the National Conference of Bar Examiners reconsider both the Character & Fitness questions that it provides to States, and the removal of a Preamble that highlights each State's expectation of applicants around these questions.

To see the full article, please [click here!](#)

If you would like a summary of your recently published article to be featured in an upcoming issue, please email [RTB@accesslex.org](mailto:RTB@accesslex.org).

## RESOURCES FOR LEGAL EDUCATORS AND LAW STUDENTS

- [AccessLex Resource Collections: The ARC Bar Success Collection](#)
- [LibGuides](#)
- [Bar and other selected law student scholarships](#)
- [ABA Scholarships and Financial Aid](#)
- [ABA/NCBE Comprehensive Guide to Bar Admission Requirements](#)
- [ABA Bar Information for Applicants with Disabilities](#)
- [ABA Grants for Law Students](#)
- Law students get creative in providing support for peers, [in one recent case](#) helping defray the costs of interview attire with clothing swap. Lawyers take note: donating clothing to a local law school may be a helpful way to give back.
- Grant Opportunities for Legal Educators and Researchers
  - [AccessLex Grant Programs](#)
  - [American Association of Law Libraries \(AALL\)](#)
- [Distance Learning Resources](#), especially for schools adapting to the new online environment.
- Our new [Data Sources and Tools](#) collection of the AccessLex Resource Collections seeks to collect and organize the data necessary for schools, educators and policymakers to perform the most up-to-date research in legal education and to make informed decisions. In this [Collection](#), you'll find data sources and tools for law school admissions, enrollment, bar passage, employment outcomes, and more.

Continued from page 13

- With the support of a grant from AccessLex Institute, [The Center for Computer-Assisted Legal Instruction \(CALI\)](#) has launched [online skills tutorials](#) that can be incorporated into existing ASP curricula, assigned by faculty, and/or employed independently by students wishing to improve critical skills.

Please email [RTB@accesslex.org](mailto:RTB@accesslex.org) with information regarding resources for faculty and students.

## ANNOUNCEMENTS

- Congratulations to UC Hastings Law professor Laurie Zimet, [who was honored by AALS for excellence in student academic support](#) at the AALS annual meeting in Washington, D.C.
- To align with [Mental Health Awareness Month](#) in May, multiple organizations dedicated to lawyer well-being are launching [Lawyer Well-Being Week](#), which will occur May 4–8, 2020. Its aim is to raise awareness and encourage action across the profession to improve well-being for lawyers and their support teams.
- Important changes were recently made to the MPRE's registration process and testing format. For more information, see the NCBE's pages on [Registration](#) and [Preparing for the MPRE](#).

## CONTINUING THE CONVERSATION

In future issues we will feature and profile the interventions that have been shown to be effective in mitigating the barriers that were featured in last fall's issue of *Raising the Bar*. Stay tuned!

[Click here to subscribe to future issues of \*Raising the Bar\*.](#)



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### ***Raising the Bar***

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