

# RAISING THE BAR

EVIDENCE-BASED THINKING ABOUT THE BAR EXAM

Spring 2022  
Volume 5 Issue 2

[AccessLex.org](https://www.accesslex.org)

## TABLE OF CONTENTS

|   |    |
|---|----|
| <b>From the Director</b> .....  | 1  |
| <b>Distinguished Thinker Commentary</b> .....   | 2  |
| William E. Adams, Jr., ABA Section of Legal Education and Admissions to the Bar           |    |
| <b>Featured Publication Summary</b> .....   | 4  |
| Meera E. Deo, Southwestern Law School and Law School Survey of Student Engagement (LSSSE) |    |
| <b>Organization Update</b> .....  | 8  |
| Deb Quentel, CALI   |    |
| <b>Research Spotlights</b> .....  | 9  |
| Tiffane Cochran, AccessLex Institute  |    |
| Seth Gershenson, American University  |    |
| <b>Conference Corner</b> .....  | 12 |
| <b>Publications, Posts and Podcasts</b> .....   | 13 |
| <b>Resources for Legal Educators</b> .....  | 14 |
| <b>Continuing the Conversation</b> .....  | 15 |

# FROM THE DIRECTOR

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Welcome! As the new Director of Programs for Academic and Bar Success, I am honored to serve as Editor of *Raising the Bar*. Since its launch in 2018, *Raising the Bar* has delivered on its primary mission to host the exchange of evidence-based ideas about the bar exam. A secondary benefit of *Raising the Bar* is delivered through conveying new ideas and opportunities that seed research questions by practitioner-researchers in the field. Indeed, Founding Editor Sara Berman would close out each issue with a short item entitled “Continuing the Conversation.” I look forward to providing the forum and structure to host this exchange of ideas while continuing these important conversations.

With the hope that you will join this conversation, I share with you the general themes of our upcoming *Raising the Bar* Summer and Fall Issues. Our Summer issue will address research and ideas around the Bar Exam (present, future, and alternatives). Our Fall issue will take up the topic of methodologies – how we engage in valid and meaningful research. Like any good conversation, other related, and some seemingly unrelated, ideas and commentaries will arise within these issues. But with these specific and broad topics, I invite you to join the conversation. Reach out with ideas and questions on these topics to [RTB@accesslex.org](mailto:RTB@accesslex.org).

Finally, we are proud to announce the renewal of the AccessLex-AASE ASP Faculty Scholarship Grant, a continued collaboration between AccessLex Institute and the Association for Academic Support Educators (AASE). This grant supports the publication of scholarship by AASE members and, in very real terms, results in the contribution of five new scholarly works in the field of law student academic and bar success. Scholar applications for the 2022-2023 cohort can be found [here](#). We look forward to presentations by last year’s inaugural Scholars at the AASE Annual Meeting in May.



Joel Chanvisanuruk, M.P.A., J.D.

Director, Programs for Academic and Bar Success  
AccessLex Center for Legal Education Excellence®

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# DISTINGUISHED THINKER COMMENTARY

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## Legal Education During a Pandemic and Beyond

*William E. Adams, Jr. is Managing Director of Accreditation and Legal Education for the ABA Section of Legal Education and Admissions to the Bar.*

When I applied for the position that I currently hold, I had a number of topics that I hoped to discuss with the Council regarding challenges faced by legal education. Unfortunately, coinciding with my assumption of the position, a pandemic descended upon the world. In trying to assist schools in navigating the ever-changing circumstances that the COVID virus has presented, much of that discussion has been delayed or given lower priority.

Despite providing these obstacles, the office and Council have engaged in discussions and actions in a number of areas. Several roundtable discussions have been held to seek input from a variety of groups and persons involved with legal education. These events have both provided opportunities for more voices to be heard by the Council and more time to discuss matters of interest. The topics covered include lawyer wellbeing and professionalism; diversity, equity and inclusion issues; transparency; student debt and law school financial data collection.

Pursuant to these discussions and the ongoing work of the Standards Committee, several revisions to the Section's Standards and Rules have been passed or proposed. Amongst others, the Council has proposed amendments to our diversity standards, some of which have been approved and others are ready to be sent to the American Bar Association House of Delegates. These amendments were proposed pursuant to the Council establishing that enhancing diversity, equity and inclusion be priority goals. There are also amendments to distance education standards which will be sent to the House.

Also relevant to diversity, equity and inclusion, the office is reviewing its diversity and other data collection. As mentioned above, the roundtables on the topic provided helpful input on what should be collected and reported. The office is working with the Questionnaire and Template Committee to expand the demographic categories collected and which areas will include demographic information. It is also discussing increasing the collection of data related to student debt. Relevant to these issues, as with all our data collection and reporting, is collecting information that is accurate and provides helpful information that is understandable by the public.

Of particular relevance during the pandemic is the need for increased distance education. Prior to COVID's appearance, the Council had raised its limits on the provision of virtual options, permitting up to one-third of the credits required for graduation and ten credits during the first third of the program of legal education. These limits were too constraining however once the virus required schools to halt in-person classes for everyone or for persons at high risk. The Council has therefore granted temporary variances to schools which asked to provide remote options for health-related reasons.

As schools have experience with distance education, the Council will have more information to review to consider whether further expansion of distance education limits is in order. Aside from the pandemic, the Council has now granted nine variances for schools proposing experimental programs that offer expanded distance education offerings. Although most are still in the early stages, some students in these programs are beginning to graduate and take bar exams. The office is collecting information from these programs and plans to issue a report in the near future that will discuss the outcomes being achieved. Additionally, the office has just sent out surveys to schools and 3L students seeking observations about the experience that each have had in the provision of remote learning during the pandemic. The Council will also review the survey results conducted by AccessLex and others about law student opinions about distance education.

It is premature to predict what the Council will conclude about expanding the ability of schools to provide distance education. Already, it is proposing that the definition of distance education be changed so that no longer would the virtual participation of one student convert a class into a distance education class for all of the students. Beyond that, the Council will need to review the outcomes of the schools with variances to see if students in those programs are performing comparably to students with similar credentials in residential programs. Our limits on distance education are more restrictive than that of other accrediting agencies. It is not clear that those limits can be justified as opposed to regulating the quality of distance education being provided. The offering of virtual options makes legal education available to some who could otherwise not be able to obtain a law degree.

As mentioned at the beginning of this article, I had hoped to discuss a number of the challenges legal education faces with the Council when I accepted this position. As challenges posed by the pandemic lessen or strategies to deal with them become normalized, the Council and the office will begin to work on some of those.

# FEATURED PUBLICATION SUMMARY

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## Addressing the COVID Crisis in Legal Education

*Meera E. Deo is the Honorable Vaino Spencer Professor of Law at Southwestern Law School and Director of the Law School Survey of Student Engagement.*

Our priority at the [Law School Survey of Student Engagement](#) (LSSSE) is to share data on the law student experience to improve legal education. We have been conducting an [annual survey](#) of law students since 2004, asking them about everything from time usage to the quality and frequency of interactions between students, faculty, and staff. In addition to our core survey, LSSSE (pronounced “LESS-see”) invites participating schools to select from [topical survey modules](#) – short sets of questions organized around a particular theme – to get more in-depth information on specific topics. Then we share our data with individual schools, in [blog posts](#), with [partner scholars](#), and in [published reports](#) that document and influence trends in legal education.

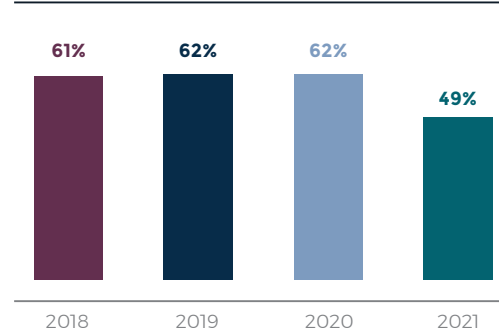
The 2021 LSSSE Annual Report explored data from the main survey as well as two modules: *Coping with COVID* and *Experiences with Online Learning*. As you might imagine, the findings of student challenges during COVID are deeply disturbing. Our Report, [The COVID Crisis in Legal Education](#), reveals barriers facing students as a whole and especially vulnerable populations of students. Challenges abound at all levels, from striving to meet their basic needs to performing at their best academically.

On the plus side, LSSSE data revealed in this new report suggest that the core of legal education remained relatively unchanged through the first year of COVID. Students reported consistently high levels of satisfaction with their overall law school experience as well as with faculty interactions and relationships with classmates. However, the “intangibles” were negatively affected, with potentially significant implications regarding the professional competency of future lawyers. Students had fewer opportunities to learn from peers of different backgrounds, discuss career plans or job search activities with faculty, or participate in special learning opportunities such as internships or field placements.

**Satisfaction with law school, by Year**

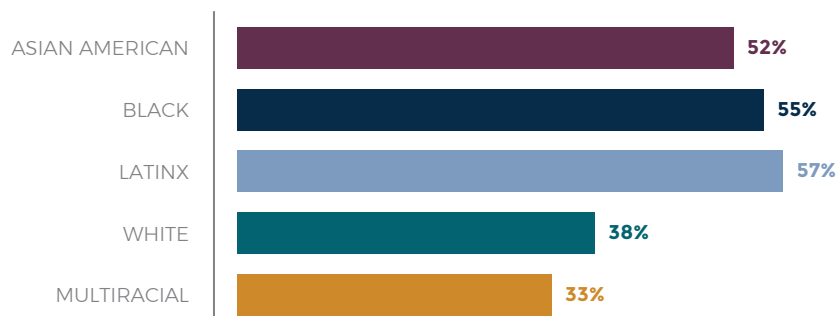


**Frequently had serious conversations with students with different religious beliefs, political opinions, or personal values, by Year**



And just below the surface, there was significant pressure. A full 43% of law student respondents – and a shocking 50% of students of color – reported increased concern about having enough food to eat due to COVID. Almost two-thirds of student participants (63%) worried more than pre-pandemic about whether they could pay their bills. First-gen students (those who are the first in their families to graduate from college) and students with higher educational debt levels were especially concerned about whether they could continue to afford law school and pay for living expenses during COVID.

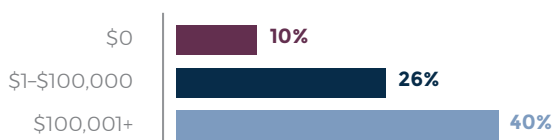
**Increased concern about having enough food, by Race**



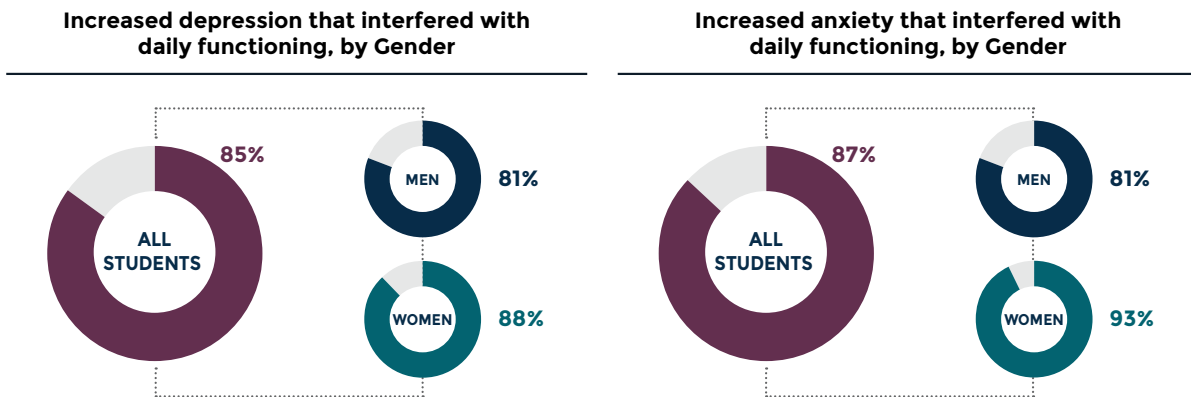
**COVID interfered very much with ability to pay for law school and living expenses, by First-Gen Status**



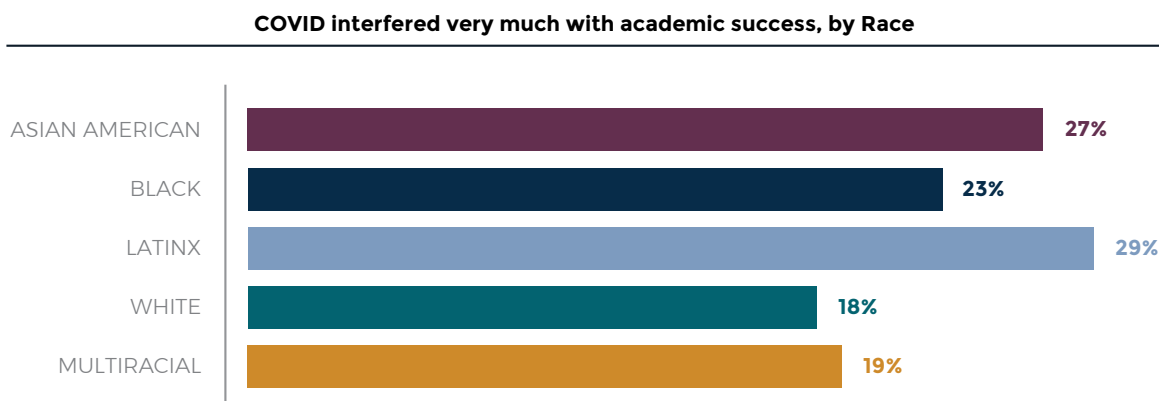
**COVID interfered significantly with ability to pay for law school and living expenses, by Debt**



Students also faced considerable emotional upheaval. The vast majority of student respondents noted increased depression (85%) and anxiety (87%) that interfered with their daily functioning. The effects were even more pronounced for women than for men. Furthermore, almost all law students in the LSSSE survey (91%) reported that they suffered at least some increase in mental or emotional exhaustion due to the pandemic. Students were also lonely, with 69% reporting that they were lonelier during COVID than before.



Given these heightened personal challenges and despite considerable tenacity, it is no surprise that academic success suffered. The overwhelming majority of law student respondents (90%) noted that the pandemic negatively affected their ability to concentrate, again including higher percentages of women than men. Over three-quarters (79%) of LSSSE participants acknowledged that COVID interfered with their ability to succeed as a student, with pronounced racial and gender-based disparities indicating that the pandemic particularly impacted the academic success of women law students and students of color.



What should law school administrators and policymakers do with this information? There are some immediate and obvious next steps. For instance, schools should open food pantries and find other ways to increase access to meals to ensure students do not face food insecurity on campus. Additionally, emergency funds must be made available to help ease immediate financial anxieties for students. Mental health services must be made available and accessible to students.

But we can think bigger, moving beyond the obvious and necessary advances. We should use the COVID crisis as an opportunity to improve legal education as a whole, to make law schools more equitable and more inclusive for vulnerable populations, including women students and students of color, who faced considerable barriers pre-COVID and will continue to feel the effects long after the pandemic has subsided.

Finally, to provide necessary support, we must adjust our own priorities and expectations. Reminding students to practice self-care is meaningless if professors assign excessive levels of work. Expressing an institutional commitment to diversity, equity, and inclusion must be coupled with meaningful policies and processes if we strive to make real change. It is far past time to recognize the wake-up call within the pandemic: an urgent appeal to create structural improvements to legal education which will bolster all students on the path to success.



# ORGANIZATION UPDATES

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## Collaboration Furthers CALI's Mission

*Deb Quentel is Director of Curriculum Development and Associate Counsel at the Center for Computer-Assisted Legal Instruction (CALI). CALI advances global legal education through computer technology, employs research, collaboration, and leadership to assist a diverse audience in the effective use of this technology in legal education, and promotes access to justice through the use of computer technology.*

The Center for Computer-Assisted Legal Instruction (CALI) includes collaboration in its Mission Statement because collaboration brings together faculty with diverse ideas and approaches to teaching. Additionally, a partnership between CALI and law faculty allows CALI to expand its talent pool by relying on already existing expertise in subject areas.

As an AccessLex grant recipient for the Law School Success Fellowships, CALI has collaborated with leading academic success faculty. The initial seven-member Fellowship launched in June 2019. Within twelve months, Renee Nicole Allen, Courtney Abbott Hill, Steven Foster, Melissa Hale, Nicole Lefton, Laura Mott, and Allie Robbins had authored 35 new interactive lessons covering essential topics designed to assist all students in achieving success in law school.

Lessons authored during the first Fellowship included topics such as IRAC, thinking like a lawyer, metacognition, case briefing, and note-taking, among others. All of the lessons addressed foundational skills all law students should master to achieve their best results in law school.

Rather than designating lessons for a student's specific year, such as 1L, [the list](#) divides lessons by the type of knowledge needed or time in the semester when the information is most useful. For example, lessons under **"Class Prep - Before, During, After"** cover rule synthesis, memorization, and case briefing. All these lessons would be helpful for a first-semester law student. However, without labeling these lessons as suitable for the first semester, they are equally appealing and valuable to an upper-level student working to improve their law school performance.

The first set of lessons has been used extensively by students and assigned by some faculty. The original Fellowship produced 35 law school success lessons representing 11% of all CALI Lesson run between August 2020 and January 2021.

In addition, with a second grant from AccessLex, CALI has brought together four of the original group to create more interactive lessons, podcasts, and video explanations. Foster, Hale, Lefton, and Mott's new materials will provide additional aid to students in preparing for law school and, eventually, the bar.

CALI is grateful for the support from AccessLex which has been essential in helping CALI advance these collaborations.

# RESEARCH SPOTLIGHTS

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## Learning from Emergency Remote Teaching to Advance Distance Learning in Legal Education

*Tiffane Cochran is the Managing Director of Research and Strategic Implementation at AccessLex Institute.*

Last year, [AccessLex Institute](#) partnered with [Gallup, Inc.](#) to survey students about their experiences with emergency remote teaching following the onset of the COVID-19 pandemic. Through the study, we sought to uncover insights that could inform efforts to broaden distance learning in legal education in more sustained, intentional ways. Although the survey largely revealed that most law students strongly prefer in-person learning (unsurprising since most signed up for a brick-and-mortar J.D. program), it also uncovered characteristics of programs and students most likely to yield positive ratings of online J.D. courses. For instance:

- Students who had more prolonged exposure to distance learning during the 2020–21 academic year were more likely to rate their experience positively, suggesting that as students and faculty acclimated to a fully online J.D. experience, the quality of those experiences improved.
- 1L and 2L students were more likely to promote online J.D. courses than 3L students, perhaps signaling that students with limited prior exposure to in-person law school courses were more receptive to online learning.
- Of the students who took at least half their courses online in Spring 2021, those who “strongly agreed” their professors used engaging teaching methods were 3.5 times more likely to promote online J.D. courses than those who did not strongly agree.

These findings and others from last year’s report offer a glimpse of potentially promising practices for expanding online learning opportunities in J.D. programs.

AccessLex and Gallup recently followed up with last year’s survey respondents to conduct a comparative study of their experiences this year and last. The study also investigates the extent to which students’ [emotional labor](#) varies between classroom and online learning environments. The final report will be released in May 2022.

# Extracurricular Activities and Demographic Disparities in Bar Exam Success

*Seth Gershenson is Associate Professor of Public Policy at American University's School of Public Affairs and a Research Fellow at IZA – Institute of Labor Economics.*

Does participation in extracurricular activities (ECA) help or hinder student success? This is a longstanding, much debated question in the nation's public K-12 schools. On the one hand, participating in ECA might develop important social and life skills. On the other, they may displace time and effort that would otherwise be spent on academics. The question of how participation in ECA during law school affects academic and professional success in the legal field is equally pressing, as law schools vary widely in the types of ECA available to students, and even within law schools these opportunities may not be equitably distributed.

One potential law school ECA, pro bono work, merits particular consideration given its unique place in the legal profession: the American Bar Association (ABA) requires law schools to provide pro bono work opportunities to students, not to mention the cultural expectation that lawyers perform pro bono work for the public good. Sorting out how pro bono work and other ECA affect law students' entry into the profession is difficult because participation in ECA is far from random. In other words, the students who participate in ECA are systematically different from those who don't in myriad ways, many of which are not recorded in the datasets available to researchers.

A [recent study](#) supported by AccessLex answers the thorny question of how participating in ECA – and specifically performing pro bono work – during law school affects the chances of passing the bar exam on the first attempt. Generally, participation in ECA neither helps nor hinders bar exam success, with one exception: there is a substantial penalty associated with pro bono work in lower ranked law schools. Specifically, students in tier 3 and 4 law schools who perform pro bono work are 5 percentage points (6%) less likely to pass the bar exam on their first attempt than their classmates who do not. (The estimated effect of about 0.05, or five percentage points, indicates a percentage change of about 6%:  $0.05/0.85 = 0.059$ .) The average first-attempt pass rate in Tier 3 and 4 law schools is 85%. This pro bono penalty is largest for Black and female students and may explain as much as 20% of the Black-white gap and 6% of the gender gap in initial attempt bar pass rates.

These arguably causal effects of pro bono work are identified by applying a variety of “selection on observables” techniques to nationally representative data from the After the J.D. (AJD) dataset. These data survey a national sample of lawyers admitted to the bar in 2000 from nearly every law school in the U.S. These methods attempt to identify causal effects by matching law students who did participate in pro bono work to observationally similar students who did not. Similar students are identified by looking at their socioeconomic, demographic, and undergraduate backgrounds. Intuitively, these students only differ in their pro bono participation and would otherwise perform similarly on the bar exam.

And if anything, these estimates underestimate the magnitude of the pro bono penalty because pro bono work exhibits positive selection; that is, the students who participate in pro bono work tend to be stronger students who are more apt for bar exam success.

The exact reasons for this penalty and why the penalty is most acutely felt by women and people of color remain unclear, but a likely reason is that the work done in pro bono positions is not directly relevant to bar exam preparation and, moreover, may displace time and energy from bar exam preparation. The greater penalty for certain groups may reflect that they engage in different types or intensities of pro bono work. Nonetheless, these results suggest that the cultural and institutional norm of pro bono work in many law schools might hinder diversity and inclusion efforts in the legal field. Law school administrators, mentors, and advisors should weight these concerns and acknowledge the potential tradeoffs of promoting pro bono work accordingly.

# CONFERENCE CORNER

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- [American Educational Research Association Annual Meeting](#) (Apr. 21-26, 2022)
- [Association of American Law Schools Conference on Clinical Legal Education](#) (May 9-13, 2022)
- [AccessLex Spring Sync Workshop](#) (May 18, 2022)
- [Association of Academic Support Educators Annual Conference](#) (May 24-26, 2022)
- [Association of American Law Schools Workshop for New Law Teachers](#) (June 2-4, 2022)
- [National Association of Law Student Affairs Professionals Conference](#) (June 22-24, 2022)
- [Legal Writing Institute Biennial Conference](#) (July 20-23, 2022)
- [Southeastern Association of Law Schools Annual Conference](#) (July 28-Aug. 2, 2022)

Please email [\*\*RTB@accesslex.org\*\*](mailto:RTB@accesslex.org) about upcoming bar-related conferences.

# PUBLICATIONS AND POSTS

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- Jamie R. Abrams, *Legal Education's Curricular Tipping Point Toward Inclusive Socratic Teaching*, 49 HOFSTRA L. REV. 897 (2021).
- Rory Bahadur & Kevin Ruth, *Quantifying the Impact of Matriculant Credentials & Academic Attrition Rates on Bar Exam Success at Individual Schools*, 99 U. DET. MERCY L. REV. ONLINE 6 (2021).
- Christopher Birdsall & Seth Gershenson, *The Pro Bono Penalty: Extracurricular Activities and Demographic Disparities in Bar Exam Success* (AccessLex Inst. Rsch. Paper No. 22-01, 2022).
- Catherine Martin Christopher, *Modern Diploma Privilege: A Path Rather than a Gate* (2021).
- DEL. BENCH & BAR DIVERSITY COMM., *IMPROVING DIVERSITY IN THE DELAWARE BENCH AND BAR: STRATEGIC PLAN* (2022).
- Scott Devito et al., *Examining the Bar Exam: An Empirical Analysis of Racial Bias in the Uniform Bar Examination*, 55 UNIV. MICH. J. L. REFORM (forthcoming 2022).
- Jane Bloom Gris , *Question #1: Is There a Gender Gap in Performance on Multiple Choice Exams?* (2021).
- Antonia Miceli, *From a Distance: Providing Online Academic Support and Bar Exam Preparation to Law Students and Alumni During the COVID-19 Pandemic*, 65 ST. LOUIS L.J. 585 (2021).
- Christopher J. Ryan, Jr. & Derek T. Muller, *The Secret Sauce: Examining Law Schools That Overperform on the Bar Exam* (2022).
- Karen Sloan, *U.S. Law Students to Receive Anti-Bias Training After ABA Passes New Rule*, REUTERS (Feb. 14, 2022).
- Lael Weinberger, *Keep Distance Education for Law Schools: Online Education, the Pandemic, and Access to Justice*, 53 LOY. U. CHI. L.J. 211 (2021).

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*.

# RESOURCES FOR LEGAL EDUCATORS

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## Information about the Bar Exam

- [AccessLex Resource Collections: Bar Success](#)
- [ABA Bar Information for Applicants with Disabilities](#)
- [ABA Bar Passage Outcomes](#)
- [ABA Statistics](#)
- [Bar Exam Results by Jurisdiction](#)
- [Bar Admission Guide](#)
- [Collaboratory on Legal Education and Licensing for Practice](#)
- [NCBE Bar Exam Fundamentals for Legal Educators](#)
- [NCBE NextGen: Bar Exam of the Future](#)

## Student Resources

- [AccessLex Law School Scholarship Databank](#)
- [ABA Grants for Law Students](#)

- [ABA Scholarships and Financial Aid](#)
- [MAX by AccessLex](#)

## Research Grants

- [AccessLex Bar Success Intervention Grant Program](#)
- [AccessLex Bar Success Research Grant Program](#)
- [American Association of Law Libraries \(AALL\)](#)

## ASP and Bar Success Resources

- [The Bar Examiner](#)
- [The Learning Curve](#)
- [CALI Lessons](#)

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

# CONTINUING THE CONVERSATION

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*Raising the Bar* congratulates Associate Professor of Academic Support Sarah Schendel of Suffolk University Law School, recipient of the AALS Section on Academic Support's Trailblazer Award. The award was presented at the AALS Annual meeting in January.

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

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