Moderator

Catherine (Cassie) Christopher

Professor of Law

Texas Tech University School of Law

Panelists

Robert Kuehn

Professor of Law

*Washington University
School of Law*

Tiffane Cochrane

Vice President – Research

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Christopher Swoboda

Associate Professor
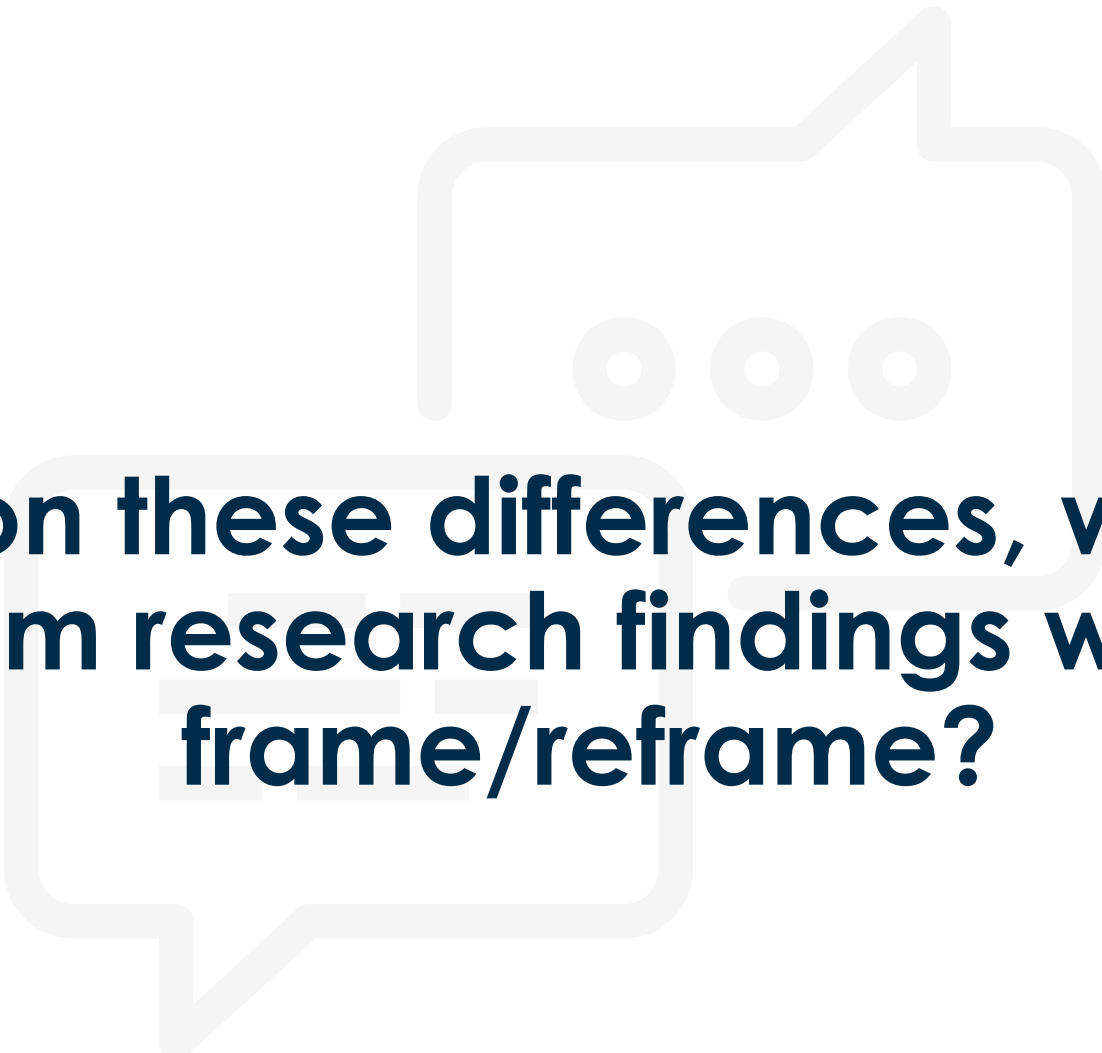
*Teachers College, University of
Cincinnati*

Quick Summary of Bar Exam Changes

Key Distinction	UBE	NextGen Bar Exam
Fewer subjects tested	12-14 subjects	8-9 subjects
Shorter exam	2 days (12 hours) 6 hrs/day	1.5 days (9 hours) 6 hrs – Day 1; 3 hrs – Day 2
Different question mix and types	3 Components	Integration of question types
Less knowledge, more skill	More knowledge/ memorization tested	More skills/application required
Fewer and different multiple-choice questions	200 multiple choice questions (1/2 exam)	80+ multiple choice questions (under 1/2 exam)

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Based on these differences, what prior bar exam research findings would you frame/reframe?

Discussion

Gayle Murphy, Senior Director, Admissions, California Bar Examiners:

"The [bar] examination is not designed to predict success as a lawyer or even that a lawyer is ready for the practice of law. . . . the examination is confirmation that the necessary skills and knowledge were learned during the three or four years of law study."

Erica Moser, President, National Conference of Bar Examiners:

Among factors to account for drop in MBE scores:

- Lower LSAT scores for recent entering classes

- The rise of experiential learning may have crowded out time for students to take additional "black-letter" courses that would have strengthened their knowledge of the law

- Fewer required courses, or of fewer hours in a given required course, thereby permitting students to miss (or avoid) core subjects that will appear on the bar exam, or diminishing the amount of content coverage in a given course.

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Erica Moeser, *President's Page,* THE BAR EXAMINER (Dec. 2014)

LSAC National Longitudinal Bar Passage Study

Linda F. Wightman

Correlation of selected factors with bar examination pass/fail outcome

Factor	Correlation
Cumulative 3-year law school average (adjusted)	.41*
Cumulative 3-year law school average (standardized within school)	.38*
LSAT score	.30*
Undergraduate grade-point-average	.18*
Astin index of undergraduate school selectivity	.08*
Socioeconomic status	.06*
Stratum of attended law school	-.09*
Sex (1 = male; 2 = female)	.03*
Asian American (1 = Asian American; 0 otherwise)	.05*
Black (1 = black; 0 otherwise)	-.21*
Hispanic (1 = Hispanic; 0 otherwise)	-.10*

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"But a model that includes only these two [LGPA & LSAT) variable leaves a substantial amount of the variability in bar examination outcomes (approximately 68 percent) still unexplained."

SLU/Hofstra Study:
Subject Matter Courses vs. Bar Passage

- No relationship between number of bar subject-matter courses and bar passage for students graduating in first (top), second, or fourth (bottom) GPA quartiles or bottom 10%

- Was relationship for graduates in third quartile, but number of courses explained only 4% of the difference in group's passage rate, with 96% due to other factors

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Douglas K. Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Examination Passage?*, 57 J. LEGAL EDUC. (2007)

Texas Tech Study:
Coursework and Performance on Exam

Graduates' performance on the 2008-2014 Texas bar exam:

- Relationship of performance in bar subject-matter courses to the related subcomponent of the bar was mixed — higher performance in some was related to a higher score on that subcomponent, while higher grade in others did not correspond to a higher score

- Performance in civil procedure and first-year legal research and writing, though not tested on exam at the time, strongly predicted exam scores

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Katherine A. Austin et al., *Will I Pass the Bar Exam?: Predicting Student Success Using LSAT Scores and Law School Performance*, 45 Hofstra L. Rev. (2017)

University of Cincinnati Study:
Bar Courses and Exam Performance

- Cumulative GPA and number of bar courses are statistically significant predictors of bar passage

- Those who passed exam averaged 1 bar course more than those who failed (for both at-risk and not-at-risk students)

- First year GPA provides considerable insights into bar passage; LSAT and UGPA are weak predictors

- Post-3L model (LSAT + UGPA + final LGPA + number bar courses) identified 78% of students who did not pass exam

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Amy N. Farley et al., *A Deeper Look at Bar Success: The Relationship Between Law Student Success, Academic Performance, and Student Characteristics*, 16 J. EMPIRICAL L. STUDIES (2019)

Washington University/Wayne State Study: Coursework vs. Bar Outcomes

For both WashU and Wayne State:

- "Graduates in the bottom quartile who take fewer bar-subject courses than the approximate average at their school were associated with a significantly increased risk of bar failure."

- "On the other hand, for students most at risk of bar failure based on their law school academic performance, enrollment in bar courses beyond the approximate average for the school is not associated with increased success on the bar exam."

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California State Bar Study:
2013, 2016 and 2017 July Bar Applicants

- "Performance in any given course is not uniquely related to performance on the [bar exam as a whole]"

- "Performance (or attendance) in course covering any of 13 bar related topics was <u>not</u> uniquely related to performance on [California bar exam] question or [Multistate Bar Exam] subtest covering the same content"

- Possible a student's aggregate GPA in all bar-subject courses may indicate their overall bar exam score as there may be a positive cumulative effect from taking multiple courses

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ROGER BOLUS, PERFORMANCE CHANGES ON THE CALIFORNIA BAR EXAMINATION (2018)

Texas Tech Study:
Clinic Participation and Performance on Bar Exam

Performance on the 2008-2014 Texas bar exam:

- "Those who participated in clinic activity had a statistically significant, higher mean grade point average (3.05 vs. 3.02) and a lower bar exam score (723 vs. 728)"

- "Although the mean bar exam score for clinic participants is lower than that of non-participants, the mean of 723 is well above the passing score of 675"

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Katherine A. Austin et al., *Will I Pass the Bar Exam?: Predicting Student Success Using LSAT Scores and Law School Performance*, 45 HOFSTRA L. REV. (2017)

University of Denver Study:
Externship Participation and Bar Exam Scores

Graduates' performance on 2008-10 Colorado bar exam:

- "Externship participation seems to correspond to beneficial improvements in bar exam outcomes [first-time pass rate] across all LGPA quartiles" – particularly for LGPA Q4

- However, when controlling for additional variables (e.g., LSAT), externship participation or number of externship courses has no statistical influence on bar exam scores

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Scott Johns, *A Statistical Exploration: Analyzing the Relationship (if any) Between Externship Participation and Bar Exam Scores,* 42 OKLA. CITY U. L. REV. (2018)

Washington University/Wayne State Study: Coursework vs. Bar Outcomes

- Enrollment in law clinic or externship did <u>not</u> have a statistically significant relationship with passage for any GPA group

- Those who failed graduated with more experiential credits than those who passed, but difference was less than 1 credit and not statistically significant for any GPA quartile or bottom 10%

- No evidence students with lower GPAs migrate disproportionately toward experiential courses and away from other courses:
  - WashU: Bottom quartile had same number of experiential credits as school average
  - Wayne State: Bottom half had only 0.29 fewer than average

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California State Bar Study:
2013, 2016 and 2017 July Bar Applicants

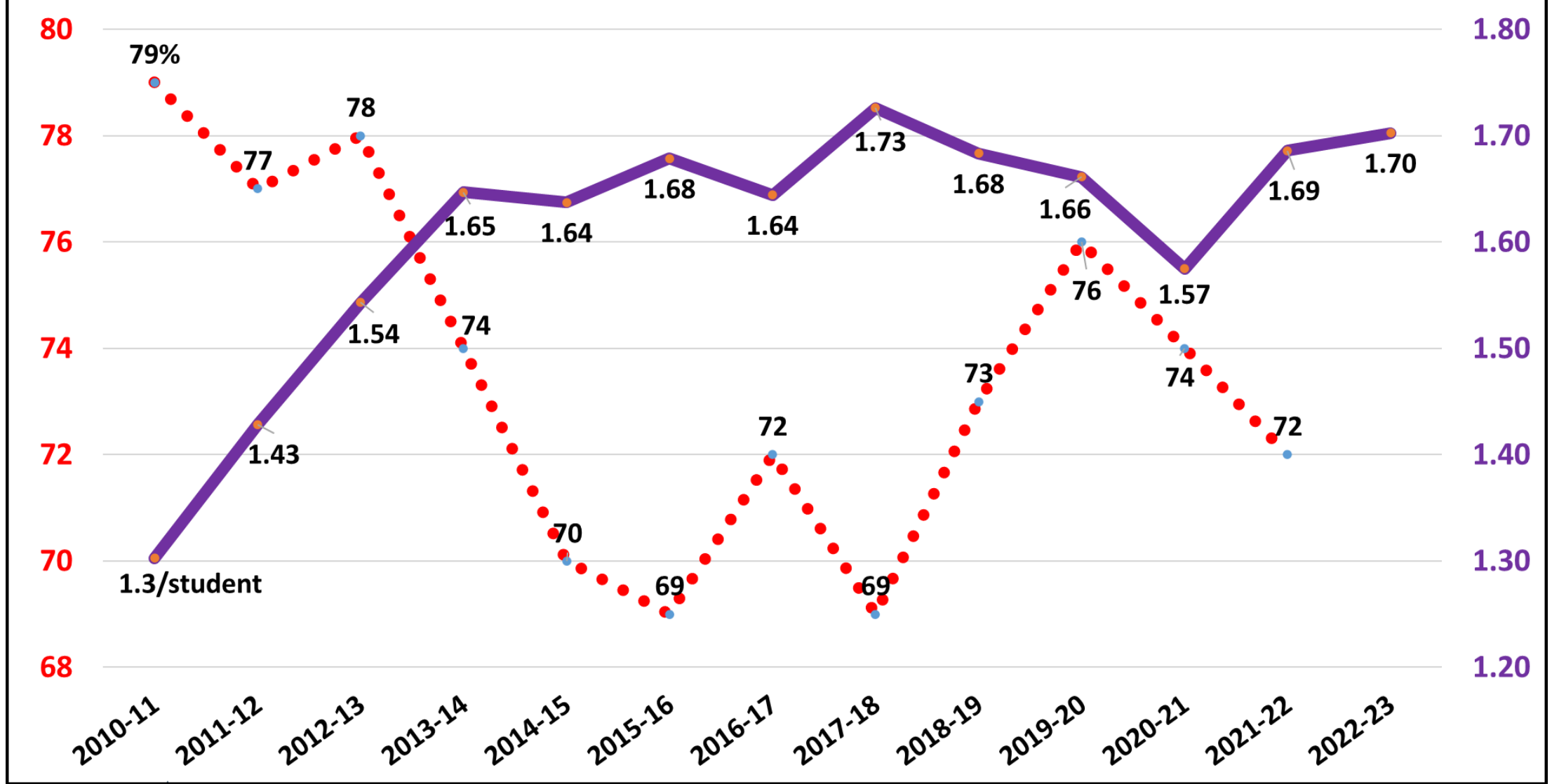Review of courses for 7,500 applicants from 11 California schools:

- Number of law clinic credits had no relationship with bar exam performance when examined across all schools or at each school separately

- Number of externship or internship credits "had no independent relationship" with bar exam performance, again both across or within schools

ROGER BOLUS, PERFORMANCE CHANGES ON THE CALIFORNIA BAR EXAMINATION (2018)

Bar Pass Rate vs. **Average Experiential Courses/Student** for AY

79%
78
77
74
70
69
72
69
73
76
74
72

1.3/student
1.43
1.54
1.65
1.64
1.68
1.64
1.73
1.68
1.66
1.57
1.69
1.70

2010-11 2011-12 2012-13 2013-14 2014-15 2015-16 2016-17 2017-18 2018-19 2019-20 2020-21 2021-22 2022-23

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Empirical Analysis of Successful Law Learning Strategies

Study of students' self-reported study habits at two law schools:

- Positive relationship between LGPA and: ability to explain confusing concepts; and use of practice questions to study

- Negative relationship between LGPA and: inability to organize essay answers; lack of practice writing rules; weak critical reading skills; and weak synthesis skills

- Relying solely on reading and briefing cases without retrieval or practice application is negatively correlated with LGPA

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Jennifer M. Cooper & Regan A. R. Gurung, *Smarter Law Study Habits: An Empirical Analysis of Law Learning Strategies and Relationship With Law GPA,* 62 St. Louis Univ. L. Rev. (2018)

University of Denver Study: Evaluation of Bar Program Interventions

Of Bar Passage Program elements:

- Intermediate Legal Analysis course (second year, helping improve on law school exams) does not improve bar passage

- Legal Analysis Strategies course (final semester bar prep course) and Bar Success Program (post-graduate writing projects) do improve bar passage

- Because LGPA is greatest predictor of bar scores, most of focus in achieving bar exam success should be placed on helping students achieve increased academic success

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Scott Johns, *A Statistical Evaluation of Bar Exam Program Interventions*, 54 LOUISVILLE L. REV. (2020)

FIU Study: Focus Primarily on Skills and Noncognitive Factors, Not Doctrine

- Successful bar preparation program must focus on skills development, with a sprinkle of doctrine

- Develop noncognitive skills of: academic behaviors; academic perseverance and growth mindset; and science of learning

- Advanced Legal Analysis (1st semester, final year) and Law & Procedure Courses (final semester) improved bar passage, particularly for bottom 20% of class

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Study of Schools That Overperform on the Bar Exam

Some common traits of overperforming bar exam schools:

- Prioritize first-time, not within two years, bar passage

- Do not view incoming predictors as greatest challenge to success

- Focus on early academic support and 3L bar preparation programs; less on required bar-tested subject courses

- Identify at risk students based on 1L GPA, not credentials

- Have a bar success ethos that elicits buy-in from faculty and students and take a holistic approach to bar success through multiple curricular and extracurricular avenues

Christopher J. Ryan, Jr. and Derek T. Muller, *The Secret Sauce: Examining Law Schools That Overperform on the Bar Exam*, 75 FLA. L. REV. (2023)

"NextGen bar exam will test a broad range of foundational lawyering skills, utilizing a focused set of clearly identified fundamental legal concepts and principles **needed in today's practice of law**.

Designed to **balance the skills and knowledge** needed in **litigation and transactional** legal practice, the exam will reflect many of the key changes that law schools are making today, building on the successes of **clinical legal education programs, alternative dispute resolution programs, and legal writing and analysis programs**."

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Select AccessLex Bar Exam Studies

ANALYZING FIRST-TIME BAR EXAM PASSAGE ON THE UBE IN NEW YORK STATE

Insights from a study of first-time and second-time bar exam candidates

Authors:

AccessLex INSTITUTE®

MAY 2021

It's Not Where You Start, It's How You Finish: Predicting Law School and Bar Success

National Report of Findings for the AccessLex/LSSSE Bar Exam Success Initiative

WORKING PAPER[1]
(Last Updated June 8, 2021)

Aaron N. Taylor*, Jason M. Scott*, and Josh Jackson
*These authors contributed equally to this work

EXECUTIVE SUMMARY

The AccessLex/LSSSE Bar Exam Success Initiative is the first multi-institutional investigation into the factors that help predict law school academic and first-time bar exam performance. Fixed effects linear and logit modeling techniques are used to analyze pre-admission data; law school transcript data; and bar exam performance data for almost 5,000 Spring 2018 and 2019 graduates from 20 law schools that participated in this study. Law School Survey of Student Engagement (LSSSE) response data were also analyzed for a subset of about 2,000 graduates.

Our modeling techniques allowed us to localize the impact of the factors of interest, while also accounting for other factors. For example, our analyses of the impact of various student engagement factors on bar exam performance account for other potentially relevant factors such as law school grades.

We find that:

- LSAT score and undergraduate GPA (UGPA) are modestly associated with law school GPA (LGPA). LSAT score and first year (1L) LGPA yield the strongest association. Across our sample, a one standard deviation (roughly 6 points) increase in LSAT score is associated with a 0.38 standard deviation increase in 1L LGPA (approximately 0.17 grade points). A one standard deviation (roughly 0.40 grade points) increase in UGPA is associated with a 0.27 standard deviation increase in 1L LGPA, or approximately 0.11 grade points (Figure 2).

- LGPA is the strongest predictor of bar exam performance, even at the early stages of matriculation. For example, a one standard deviation increase in 1L LGPA is associated with a student quadrupling his/her odds of bar passage (Figure 3).

[1] As a working paper, feedback is welcomed and encouraged; please email comments and questions to ataylor@accesslex.org and jscott@accesslex.org; this update reflects model changes from mixed effects regression to fixed effects regression, which did not substantively alter the results or recommendations of this report.

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APPROACHING THE BAR:
AN ANALYSIS OF POST-GRADUATION BAR EXAM STUDY HABITS

Authors:
Joshua L. Jackson
and Tiffane Cochran

AccessLex.org

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See AccessLex-Funded Research at https://arc.accesslex.org/

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Framing or Reframing Findings From These Select Studies

Academic performance, including LGPA growth, is positively associated with bar passage	This will remain a positive predictor, but to what extent will assessment of student performance change alongside the debut of the new exam?
Satisfying, developmental, and supportive law school experiences are positively correlated with bar passage	Which students are most likely to have these experiences? Where does the onus lie for students who are most at risk of failing the exam?
Extracurricular (3L) legal experience is negatively correlated with bar passage; mixed bag on skills courses	Experiential and skills courses may become positive predictors of bar passage, depending on the quality and alignment of those courses

Framing or Reframing Findings From These Select Studies (cont.)

Law school debt is negatively associated with bar passage, even after accounting for LSAT score	The bar exam is still a single event occurring twice a year in February and July. The affordability picture has not changed, so this will likely remain a negative factor.
Working during the bar exam preparation period is negatively associated with bar passage	Will post-bar exam prep remain the same for everyone? Several hybrid and online J.D. programs are available now. What works best for their graduates?

Discussion

Final Thoughts

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THANK YOU!