

FIELD NOTES



Empirical Study of Legal Education and the Legal Profession Spring 2022 Newsletter

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MESSAGE FROM THE CHAIR

As I sit down to write this brief message, the end of the academic year is rapidly approaching and the usual sense of reflection is compounded by the realization that we will soon mark the five-year anniversary of this Section's founding. Though the last two years have been uniquely challenging, time spent remembering our aspirations during the pre-pandemic "old normal" provides some hope and some much-needed



Section Chair
Trent Kennedy

energy as we forge a "new normal" that is even brighter. For all the

things we may work to change, I am optimistic that this Section's sense of community and excitement to collaborate will remain just as strong in the years to come.

"We hope to safely bring the community back together, support more new empirical projects, and discuss future developments that may inspire new empirical research questions."

That optimism is buoyed in no small part by the AALS member engagement we saw during the January 2022 Annual Meeting. Under the thoughtful moderation of Cynthia Nance (Nathan G. Gordon Professor of Law & Dean Emeritus, University of Arkansas School of Law), *What Research Can Tell Us About How Law Schools, Lawyers, And Leaders Can Nourish Democracy* was co-sponsored by the Sections on Election Law, Leadership, Legislation & Law of the Political Process, and Professional Responsibility. In turn, we were proud to co-sponsor the excellent *Creating Inclusive Cross-Disciplinary Research to Advance the Common Good* from the Sections on Law and the Social Sciences and Law and the Humanities. Taking full advantage of the virtual format, we were even more excited to host the Section's first workshop for Works in Progress, sharing new empirical projects with the community and coordinating comments to help them advance toward impactful publication.

"We" is the operative word in much of my reflection about the Section and I would be remiss if I did not thank our outgoing and continuing Section leaders as well as share my enthusiasm for the new leaders joining the Executive Committee. Joel Chanvisanuruk and Meera Deo have been wonderful colleagues and I very much look forward to working with them in new capacities now that their terms on the Executive Committee have ended. Swethaa Ballakrishnen, Jennifer Gundlach, Rachel Moran, and Jeremy Paul remain stalwart and invaluable leaders in both the Section and the field while Tracey George, CJ Ryan (Chair-Elect), Ann Southworth, and Amy Widman (Secretary) bring fresh perspective and renewed energy to our work. While Section founder Judith Welch Wegner sadly passed away in December, her legacy lives on in every program organized by the Section, every CLE earned at the UNC Festival of Legal Learning, every citation

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to the Carnegie Report, and much more. Given her stature in the field and her generosity in lifting up others, we are coordinating with AALS on additional ways to celebrate that legacy.

Finally, the approach of summer once again allows us to look forward to (virtual) mid-year Section events and to the next AALS Annual Meeting. The next annual meeting is expected to take place in San Diego, CA, where we hope to safely bring the community back together, support more new empirical projects, and discuss future developments that may inspire new empirical research questions. In this newsletter, I encourage you to meet our new Section leaders, learn more about member scholarship, and keep an eye out for news about Section events in the months to come.

Trent Kennedy, Chair
Georgetown University Law Center

MORE THAN THE NUMBERS: EMPIRICAL EVIDENCE OF AN INNOVATIVE APPROACH TO ADMISSIONS

Anahid Gharakhanian, Vice Dean / Director of the Externship Program / Professor of Legal Analysis, Writing, and Skills, Southwestern Law School



*Anahid Gharakhanian
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Whether or not involved in admissions policies and processes, we all know that the power in the hands of those making admissions decisions is enormous – gatekeeping as to who gets the benefit of a legal education and entry into the profession, and controlling whether the public's interest is served when entry into the profession is unduly restricted.

I'd been interested in these questions for a while and appreciated my school (Southwestern Law School) taking more of a holistic approach to the admissions process, going beyond law schools' hyper focus on numerical factors, specifically LSAT scores. But I wanted to explore an empirically based approach to more fully and methodically assess applicants' law school potential.

I was fortunate to have the school's support and the benefit of working with wonderful colleagues Associate Dean Natalie Rodriguez of Southwestern, as well as Dr. Elizabeth Anderson of Embraced Wisdom Resource Group to develop a novel evidence-based and scalable toolkit that is connected to preparation for practice, may improve diversity outcomes, and is a low cost supplement to other admissions tools (that create an unjustified barrier for many).

The approach employs an empirically designed waitlist interview tool to assess law school potential for applicants whose application shows promise but may raise concerns about law school readiness (e.g., perceived weaknesses could include low LSAT score(s)). The interviewers, members of the full-time faculty, receive specific

training, including on implicit bias. The assessment through the waitlist interview tool is based on a set of competencies that new attorneys need – given that the ultimate goal is entry into the profession. The competencies are selected from the national empirical study Foundations for Practice Study that identifies the foundations that are necessary for first-year attorneys.

Our admissions project is driven by the moral imperative that law schools – as gatekeepers to the legal profession – should commit to innovative and rigorous admissions processes that define merit broadly and provide opportunities based on a spectrum of factors, beyond the traditional numerical indicators. Three years in, this project, based on hundreds of waitlist interviews, has produced initial reliability and validity metrics for the measure developed – i.e., a tool that could be used with confidence in the admissions process.

The following comment from one matriculant, who went through this admissions process, sums up why law schools should do more when it comes to admissions.

Vulnerability was a big part of the application process and it's scary for someone who's wanted to be an attorney since seventh grade to feel that the door to realizing your dream might be closed to you because of the LSAT score and the socio-economic issues that impact LSAT performance. I put a lot of trust in the schools' review of my application. I didn't have the numbers and may not have been admitted but for Southwestern's waitlist interview. But now I'm in my last year of law school, top 30%, in an honors program and have done really well.

“More than the Numbers”: Empirical Evidence of an Innovative Approach to Admissions, Anahid Gharakhanian, Natalie Rodriguez, Elizabeth A. Anderson Minnesota Law Review, Forthcoming 2022

MEET NEW SECTION LEADERSHIP



Chair Elect
CJ Ryan



Executive Committee Member
Ann Southworth



Secretary
Amy Widman

Field Notes: How did you become interested in using empirical methods to address issues in legal education and the legal profession?

CJ: I have almost always had a fascination with statistics as a way to learn about trends and to relate stories about the trends that pique my interest. When I was a law student and began to think about my career

path, this fascination grew to include the application of empirical methods to study legal education and the legal profession. My interest flourished over the next several years because it was nurtured by the law professors for whom I served as a research assistant in law school and my mentors in graduate school, including Tracey George (also profiled in this newsletter), and my colleagues and mentors at the American Bar Foundation, especially Beth

Mertz: I am proud to be able to research in the field that I love because of the care and direction that I received from my mentors.

Ann: I first became interested in using empirical methods to study the legal profession when I was a young lawyer working with civil rights organizations in San Francisco and D.C. What I was seeing in practice did not seem entirely consistent with the existing literature, and I decided to investigate myself. That launched me on my first empirical project. Since then, almost everything I've written has been based on empirical research on lawyers and their organizations and networks: civil rights and poverty lawyers in Chicago; lawyers involved in various aspects of national policy making; lawyers for causes of the political right; and now lawyers on both sides of a litigation campaign to resist the regulation of money in American politics.

Amy: I am fascinated by how justice institutions work, and when they don't work. Data can help illuminate these gaps on a larger scale. My first step into empirical work was as a co-author on a study that examined how public enforcers use different strategies to protect consumers. I loved learning how to collect and assess data on a national scale that could then be used to inform stakeholders.

Field Notes: What empirical question is top of mind for you this year?

CJ: With the coming enrollment cliff that law schools are facing, I am interested in research projects that both anticipate this cliff and suggest ways to prepare and weather the cliff. To that end, I am pursuing a study of the efficacy of two mechanisms—scholarship awards and tuition discounting—not only to attract certain students to a given law school but also to increase enrollments in a given year at the law school. It seems to me that, with fewer students enrolling in and graduating from undergraduate degree programs, law schools must cast a broader net to stay competitive. Reducing costs to students goes hand in hand with casting the broader net in order to make law school an attractive proposition to prospective students.

Ann: The empirical question top of mind for me this year is how the relationship between political spending and speech has become simplified in legal doctrine and the roles that lawyers and their organizations and patrons have played in that change.

Amy: Top of mind for me is how we can use data to increase access to justice, whether in education, court administration, agency adjudication, or public enforcement strategies. I am currently surveying how people experience justice in state and local administrative hearings.

Field Notes: What are you looking forward to at our next conference?

Ann: I look forward to meeting more members of the section in San Diego and learning about others' current and planned research projects.

CJ: Every year, I am amazed at the diversity of research projects pursued by panelists and members of our section. Simply put: I enjoy learning from my colleagues, and I sincerely look forward to doing so again next year. As an added bonus, I am excited that it will be in person.

Field Notes: How do you envision the Section growing in the coming years?

CJ: Several academics in the legal academy produce research on legal education and the legal profession but are not yet involved with the work of our section. Because our section is fairly new, these scholars simply may not be familiar with our section. Now that we are recognized as a full-fledged section, thanks to past and current section leadership, I think it will be easier to bring folks who do the work that we do into the fold.

Field Notes: Anything else you would like to share with our members about your background, your work, or your interests?

CJ: I am thrilled to join the executive committee for the section and look forward to working together with my colleagues to come up with excellent programming in the coming year.

Ann: As someone who came to empirical work without a Ph.D. and without any prior training in empirical methods, I was very fortunate to find mentors who helped me get started. I want to pay that debt forward.

Amy: I stumbled into empirical work almost by accident and have learned so much from co-authors and

methodological training wherever offered. And even though I still have much to learn, I really enjoy approaching the study of the legal profession through an empirical mindset. There is so much we don't know about best practices for teaching law and structuring our justice institutions. I look forward to expanding my data skills in service of these types of questions.

UPCOMING CONFERENCES AND EVENTS

August 8-12, 2022: [11th Annual Workshop on Research Design for Causal Inference at Northwestern Law School](#), Chicago, IL

Main Workshop August 8-12

Advanced Workshop August 15-17

AND KEEP IN MIND...

October 9-11, 2022: [2022 Assessment Institute](#), Indianapolis, IN.

November 4-5, 2022: [Sixteenth Conference on Empirical Legal Studies](#), Charlottesville, VA. Call for Submissions opening soon.

November 7, 2022: [AccessLex Legal Education Research Symposium](#), Nashville, TN.

MEMBER AND OTHER PUBLICATIONS

Carpenter, Anna E. and Shanahan, Colleen F. and Steinberg, Jessica and Mark, Alyx, Judges in Lawyerless Courts (February 26, 2021). 110 Geo. L.J. ____ (forthcoming 2022). Available at SSRN: <https://ssrn.com/abstract=3793724>

Gharahanian, Anahid, Rodriguez, Natalie, and Anderson, Elizabeth A., More than the Numbers”: Empirical Evidence of an Innovative Approach to Admissions, Minnesota Law Review, (forthcoming 2022). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4063262

George, Tracey E. and Yoon, Albert and Gulati, Mitu, Gender, Credentials and M&A (January 17, 2022). Virginia Public Law and Legal Theory Research Paper No. 2022-10, Available at SSRN: <https://ssrn.com/abstract=4010301>

Ryan, Christopher, Affirmatively in Peril: Predicting Federal Judicial Decision Making in University Admissions Cases (January 24, 2022). Harvard Law & Policy Review, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=2737111>

Ryan, Christopher and Muller, Derek T., The Secret Sauce: Examining Law Schools that Overperform on the Bar Exam (January 30, 2022). Florida Law Review, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=4021458>

Silver, Carol and Ballakrishnen, Swethaa, Where Do We Go From Here: International Students, Post Pandemic Law Schools, and the Possibilities of Universal Design, Canadian Journal of Comparative and Contemporary Law (Forthcoming 2022).

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