

## CHAPTER 3

### Law School Admission Practices and Use of the LSAT

A reassessment of how law schools do the job of admitting a class is both timely and necessary. Classroom diversity and the benefits that it provides are threatened by legal challenges to affirmative action and by the increasing power of law school rankings to corrupt law school admission decisionmaking. Both of these factors may promote test misuse, particularly overreliance on LSAT scores and undergraduate grades as proxies for merit.

The extreme view that test scores and grades alone define merit, which often lies at the heart of challenges to affirmative action, has compromised the freedom of some law schools to select the student bodies that best reflect their educational missions. Test scores and grade point averages should play only a limited role in the admission process. Defining them as the sole or overwhelming indicators of merit is inaccurate. Most, if not all, law schools claim to consider many factors beyond the LSAT and GPA in making selections among applicants, in part because these other factors sometimes say more about an applicant than his or her numbers. It is not, however, common for law schools to articulate clearly the other criteria they use, nor to make a case-by-case record of the other information considered in making individual admission decisions. Further, applicants with high test scores and grades are usually admitted to all but the most highly selective schools regardless of the other factors they may or may not bring to the mix. This has fostered an assumption that high scores and grades alone define merit and entitle admission. To understand and improve law school admission decisionmaking in the current climate, there must be a far greater understanding of the value and limitations of the standard numerical predictors. The breadth of other factors that can and should contribute to the decision, and how these factors contribute both to the learning environment and to the health of the legal profession, also must be acknowledged. Further, it is prudent to be prepared to relate admission criteria and individual admission decisions to the institutional mission.

It is generally acknowledged that too few resources are dedicated to the increasingly complex law school admission process. There was a time when the number of faculty and staff allocated to this function was adequate to the demand, but that was before recruiting, marketing, counseling, customer service, computer expertise, research, e-mail, data management, continuing education, and many other functions became a part of the admission operation. Law schools with staff that are too small, with too little power to effect change, may have contributed to expedient uses of standard predictors and the resulting thin records of other criteria used to make decisions.

Regardless of the understandable and perhaps justifiable reasons for current admission practices, the public misunderstanding of the process, the concern about test overreliance, the growing misuse of average or median test scores to measure institutional merit, and restrictions on the freedom of law schools to select their students as they see fit, all suggest that it is time to take a new look at the process of admitting law students to see if improvements can be made.

#### A Look at the LSAT

The LSAT is one of the best standardized admission tests in use today and the Law School Admission Council works continuously to evaluate and improve it. Research projects explore every aspect of the test, and research scientists within LSAC and among the testing and research communities have made hundreds of studies of the test over the years. Appendix A is a listing of recent LSAC research on the LSAT and

admission-related topics. One current LSAC research project is exploring how a computerized test might offer more and better information than the current test yields. Another such effort, the Skills Analysis Project, is attempting to discover skills used in law school, such as listening skills, that the current LSAT does not measure. We know a great deal about the LSAT and have high confidence in it, yet its strength does not justify its overuse in the admission process.

### **The LSAT as a Predictor of Law School Performance**

The LSAT is designed to predict academic performance in law school. It measures a limited set of reading and verbal reasoning skills. These are acquired skills; the LSAT is not an aptitude or intelligence test. Every year LSAC conducts validity studies that correlate LSAT scores and undergraduate grades (separately and combined) to actual first year law school grades. The most recent national median correlation was .41, with a range among law schools of .01 to .62. This median correlation of .41 is strong. When combined with the undergraduate GPA, the correlation becomes even stronger, showing a median correlation of .49. (The UGPA alone has a range of correlations from .02 to .49 with a median of .25.) These correlations are statistically significant and suggest that the LSAT and UGPA have value in predicting performance in the first year of law school. But, they also suggest that these two measures do not account for all of the factors that contribute to an individual student's law school performance.

A sound admission program is not merely an exercise in predicting first-year academic performance. Its goal is much broader—assembling a class of individuals who contribute to each other's learning experiences, and who possess talents and skills that will contribute to the profession, frequently talents and skills *not* measured on the LSAT or captured in undergraduate grades. It is important to remember that admission criteria need not be formally validated against law school performance to have value in the admission process. These kinds of criteria (leadership, for example) are currently used in admission practices at all levels of education and add great value to the selection process.

The LSAT score tells us two things: (1) the extent to which an applicant has the necessary verbal reasoning skills to succeed in a law school's first-year program and (2) the probability that one student will do better than another student. Remember: these are probabilities, not certainties. These probabilities will be different for different law schools depending on the range of students they admit, the rigor of their academic programs, and their past experience with students with various predictors. A review of your school's validity study is very instructive in explaining how numerical predictors perform at your law school.

The following chart may help explain what a correlation of .40, .50, and .60 mean when applied to a hypothetical class of 200, half of whom have an LSAT score of 150, and half a score of 160. (Remember that the median correlation for law schools nationally is .41.)

*Expected Number of Students in Each Quartile in a First-Year Class of 100*

Correlation Between LSAT and First Year Average	LSAT Score	Quartile				Total
		Bottom	3rd	2nd	Top	
.4	150	32	27	23	18	100
	160	18	23	27	32	100
.5	150	34	27	23	16	100
	160	16	23	27	34	100
.6	150	36	29	21	14	100
	160	14	21	29	36	100

The chart illustrates that, at a school with a correlation of .40, 41 (23+18= 41) of the 100 students with a 150 LSAT would end up in the top half of the class, 18 of them in the top quarter. At a school with a correlation of .50, 39 of the students with a 150 would end up in the top half, with 16 in the top quarter. A correlation of .60 predicts 35 in the top half, with 14 in the top quarter. So, even these substantial gains in correlation result in only minor changes in expected results. A higher or lower probability at your school would suggest somewhat different results. Remember that a correlation of 1.0 would result in all of the students with a 160 performing better than all of those with a 150. A correlation of 0.0 would produce random results.

An even more realistic hypothetical is a law school class of 200, with five groups of 40 students having one of five scores (140, 145, 150, 155, and 160), and a correlation of .5. This scenario is shown below.

*Expected Number of Students in Each Quartile in a First-Year Class of 200*

Correlation Between LSAT and First Year Average	LSAT Score	Quartile				Total
		Bottom	3rd	2nd	Top	
.5	140	18	11	7	<b>4</b>	40
	145	13	12	9	<b>6</b>	40
	150	9	11	1	<b>9</b>	40
	155	6	9	12	<b>13</b>	40
	160	4	7	11	<b>18</b>	40

The table above tells us, for example, that four students with the lowest LSAT score (140) will perform better than at least 22 (4+7+11=22) of the students with the highest LSAT score (160).

These tables demonstrate that small score differences are unimportant, and that the test, while predictive, tells only part of the story. Many other factors are at play when it comes to the real grades that real students earn in law school.

### Criticisms of the LSAT

Test critics attack the LSAT on two principal bases. First, they assert that the LSAT, like all standardized tests, is biased against minorities. This claim is predicated on differences in group performance on the test and is buttressed by an assumption that any test that produces different results by race or ethnic group is inherently biased—that is, differential results, standing alone, equal bias. The second attack on the LSAT states that the test is unrelated to performance as a lawyer.

Test skeptics may be unaware of the significant steps LSAC takes to identify and eliminate test questions that show evidence of bias. LSAC staff psychometricians engage in numerous statistical and content reviews to eliminate bias both from individual test questions and from test forms as a whole.

Moreover, test critics' focus on group-performance differences misses the point—differential performance, by itself, does not prove that the test is biased. Rather, differential validity is the key question. The test is designed to predict performance in law school, specifically the first year. It performs that prediction function equally well for all subgroups despite the differences in group performance. Thus, in terms of the test's function and purpose, it performs equally well regardless of race.

As to the second objection, that the test is unrelated to success as a lawyer, that is a moot point. The test is designed for admission use only and does not purport to say anything about performance as an attorney. Nevertheless, LSAC's recent Bar Passage Study revealed a positive correlation between success on the LSAT and bar passage. One clearly cannot be a success in practice if one cannot obtain a license to practice.

### Opponents of Affirmative Action

Opponents of affirmative action tend to view test scores as the sole or predominant measure to be used in the admission process. They have misused the LSAT most egregiously because their litigation theory clearly assumes that one who achieved a higher score on the LSAT is presumptively entitled to admission over one who receives a lower score. If taken to their logical conclusion, the attacks on affirmative action suggest that schools have no or only limited discretion in selecting law students, and must admit them strictly on the score achieved on the LSAT. This is wrong-headed and would result in misuse of the LSAT.

The test is designed to be one of many factors that schools consider when admitting applicants. LSAC's Cautionary Policies counsel against using the score as a single admission criterion and against placing undue weight on small score differences, and against the use of cut-off scores. The LSAT measures just one set of skills that bear on performance in law school—it tells us nothing about other skills or character traits that also play a role. Moreover, it cannot tell a law school how well a particular applicant will fit into the school and its culture, mission, goals, and aspirations.

No one has a right to a seat in law school based on LSAT scores and grades alone. The challenge facing law schools is to use numerical predictors appropriately without allowing them to dominate the process. It is important to keep in mind that admission criteria need not solely address academic qualities, but that other qualities that contribute to classroom diversity and professional achievement have great value as well.

## CHAPTER 6

### Different Approaches to Decision Making: Eight Models

Once a law school is satisfied with the criteria it employs and has a reliable method of obtaining information from applicants about them, it should review its process of evaluating applicants for admission. The following sections describe several admission models that may help a law school both use LSAT scores appropriately and incorporate the factors, qualities, and experiences that they value in their students. A common characteristic of all of these models is the incorporation of factors of the school's choice that go beyond test scores and grades. As Bok and Bowen noted in their book, *The Shape of the River*, candidates selected on a broader range of factors tend to be significant contributors to society after graduation. This, they point out, is because factors beyond academic predictors, such as leadership, achievements, and strengths of various kinds, were considered in the selection process, and these qualities followed the students through college and beyond.

These models are of two types: (1) those that can be incorporated into current admission models with little change, and (2) those that require more work but may have greater institutional value. It is also possible, and frequently desirable, to combine features of various models to form unique models that best suit your school. For several models, variations that assist with particular local situations are suggested.

Several of the models suggest the assignment of numerical weights or values to various criteria, including LSAT scores and UGPAs. Schools that choose to take this approach should consult their own validity studies to assist them in determining appropriate weights for these measures.

#### Model 1. Presumptive System, with Some Restrictions

Many, perhaps more than 90 percent of law schools, currently use what is commonly known as a presumptive admission model. This method arrays candidates on the basis of their index scores and identifies a group at the top that can be approved for admission strictly on the basis of the index score, and a group at the bottom slated for denial. In most such systems, a cursory reading of the files at the top is done to be certain that no disqualifying circumstances are present. Those with index scores too low to be considered for admission also receive a cursory review to identify any extenuating circumstances that may cause them to be referred to the admission committee for further consideration. The group remaining in the middle then receives more extensive review, usually by the admissions committee. A survey indicates that the percentage of files sent to the admission committee varies from a low of 3 percent at some schools to a high of 80 percent at others. Schools currently using the model described above are encouraged to modify it because such methods may be using the LSAT score incorrectly. Suggestions on how to modify a presumptive system are described in the following paragraphs.

One problem the presumptive model raises is that those at the top and bottom of an array based on index or test scores are admitted or denied principally on that basis alone. This may constitute test misuse. Those designated for presumptive admission and denial do not receive the full file review that is available to those in the middle range and, thus, not all files are reviewed on the same basis. This model can be made more defensible if, at a minimum, certain precautions are exercised, such as having a staff member read all files and consult a list of criteria while completing the review process. These criteria should be specific and might be designated as being of medium, high, or low importance. "Presumptive admit" and "presumptive deny"

files would be reviewed by staff, who would refer to the admission committee for more extensive review those that stand out for one reason or another. For example, a sample of candidates at the school's admit margin who offer little more than an acceptable index might be referred to the committee along with candidates with lower indexes but richer experiences. In other words, it is important for all applicants—including those at the top and the bottom—to be evaluated on the basis of the criteria established by the school. Recognizing that presumptive models are popular because they are efficient, and that it may be difficult for schools to reallocate faculty and staff time to more extensive file review, the alternative of making sure that presumptive admit and deny files are read against a common set of criteria is a workable compromise. However, methods that do not array applicants by score or index are preferable.

Under this model, the committee's review process can consist of the review methods described in the other models, or combinations or permutations of them based on the method the admissions committee believes best serves the mission of the school.

This file evaluation model could be described as a cooperative enterprise between faculty and staff based on a well-conceived process. It suggests that all files are read and ranked by staff on the basis of any of the rating systems suggested in Models 2, 3, 4, 5, or 6. Staff would then send the strongest contenders in groups to an individual faculty member for a second review based on the same evaluation technique as that used by the staff evaluator. Staff could also send to the committee any files they believe should be reviewed by the committee because of the presence of extenuating circumstances. Split decisions could go to a third committee member for resolution. This process could cut down on the amount of file reading by the committee as a whole and allow individual members to take a little more time with each file.

Another possibility is to consider the middle or "to committee" group as academically fungible and have them reviewed by the committee solely on the basis of the nonacademic aspects of the file, and add the test score or index later. Or, the committee could decide that only academically viable candidates could be referred to them and then make decisions on these files based on "other criteria" only. The important point is to give each applicant an opportunity to be evaluated on the basis of the same admission criteria as other applicants.

#### **Model 2. A Structured System that Assigns Numbers to Criteria**

This model is the most labor-intensive and is discussed next because it is the clearest illustration of a criteria-rating system. The theory underlying this method is that readers will review all files on the basis of a given set of criteria and will consistently evaluate those criteria by assigning a finite set of points to each, from zero to the maximum allowed. This model does not arrange the applicant pool on the basis of LSAT and UGPA or Index. Instead, it calls for a rating of all candidates on the basis of a fuller set of factors and admits them on the basis of a total score derived by adding subscores. One applicant's strengths in one area can balance or offset another applicant's strengths in a different area.

When evidence of a particular criterion is discovered in a file, the reader will evaluate it and give it a numerical value. The number of points available to any single criterion reflects the role the school has determined it wants that criterion to play in selecting students for its class. For example, a school might develop a list of ten criteria it seeks in students. Each criterion would be listed and examples of evidence