



Eye on Legal Ed: What is the LSAT and Why Does Harvard Not Need It?

by Morgan Dodd

You might have heard the recent news that Harvard Law School has joined a few other law schools in not requiring its applicants to take the Law School Admission Test, or LSAT. I can hear the relieved sighs of numerous hopeful applicants across the country now.

I took the LSAT not so long ago, and I still teach and tutor young aspiring law applicants in addition to my law practice, so I am quite intrigued by this action and its possible effect on legal education. How big of a ripple could this cause in the pond of legal education? The short answer, I have come to believe, is not much.

What is the LSAT Anyway?

As a first matter, in case you are wondering and are not familiar, let's ask—what is the LSAT designed to test? We often say logic, which is a poor choice of words, because most of us just lump logic in with common sense, and everybody should have that, right? But it goes much deeper and tests skills that must be honed and refined. It tests reasoning ability, and put another way, it tests your ability to sniff out when somebody is trying to trick you.

For example, there have been claims recently by President Trump that crime is out of control, whereas those on the other side have said that it has actually been declining for 20 years. For argument sake, let's say that new Attorney General Jeff Sessions has said that crime this year is 20% higher than it was last year as a rebuttal.¹ Do we believe him? How could this be converted into a useful question for the LSAT? First, an LSAT taker might be asked how the AG's argument is flawed, and the short answer is that the difference between last year and this year should have no impact on the 20-year trend. Maybe your doctor has you on a new fitness routine and you can jog a little farther than you could last year; but I bet both years do not really compare to 10 or 20 years ago. We have to know when someone is pushing irrelevant information. Second, an LSAT taker might be asked to take the AG's argument and pick an answer choice that makes it even weaker. Well, if one answer choice says that an inordinate proportion of any year's crime is committed in the first few months of the year and Sessions was comparing the pace of the first two months of this year to all of last year, well then those are not apples to apples. Of course this year would look worse than last year and look like it is on pace to be worse than last year. This is sort of like seeing the Thunder go 65-17 one year and then the

next seeing them go 10-6 in their first 16 games. Of course they are on a worse pace, but any sports fan knows such anomalies happen at the beginning of a year. Do they happen in crime statistics? How do I know! But the job of an LSAT taker is to think of possibilities where someone is trying to slip something by you--to fool you. This is a very important thing to test for a rising law school applicant because it is a very important skill for a lawyer.

Now Back to Harvard...

Now, why does the fact that Harvard will no longer require the LSAT not matter? Doesn't Harvard lead and then others follow? Well, no. Harvard is Harvard. Some of the elite schools, like Harvard and Yale, do not even give grades in the same way anymore but have things like Pass, High Pass, and other things that I do not even know about because I did not go to Harvard. Almost every other law school is completely different from Harvard and Yale. And one sensible reason is that Harvard Law School sees a lot of international applicants for whom taking the LSAT is a much more cumbersome endeavor than the more widely-administered GRE.

The real thinker is how The University of Arizona Law School is no longer requiring the LSAT. Arizona is not one of the Ivy League Schools (plus Stanford and a few others) that can almost do what they want. So what gives? Well, the median LSAT score of a school's incoming class factors into a law school's ranking. Not requiring the LSAT is a way to subtract out some students whose tuition dollars you want and who seem like great applicants otherwise but whose scores might drag your median down. This is a way to either play the rankings game and work the system, or on the other hand, to step back and allow your school a break from the rankings game, however you choose to look at it.²

Another thing to remember is that Harvard is not saying that no applicant needs to take the LSAT—it is saying that it does not require the LSAT. The difference is slight but huge. This frees up Harvard to pick those students that it really likes who do not have LSAT scores in their application file—but if you still want to look good and set yourself apart, then you might need to ace the LSAT. (For example, it's not a rule that you must be big or fast or strong or athletic to play for the Oklahoma Sooners football team. But if you are none of those things, then I would recommend that your last name be Stoops or Boren; otherwise, it does not look good for you.)

Could This Mean Anything Else?

Those different implications for different applicants are exactly why I am interested to see if there could be potential ramifications in the legal sphere. If this is used just by Harvard and just to plead with the next twenty-something Nobel Peace Prize winner to come join its hallowed halls, then I cannot imagine much of an issue. But what if this is used by more state schools and not just to play the game of balancing rankings and tuition? What if, instead, they use it to prop up certain underrepresented groups, finding good candidates overall based on plenty of metrics and the overall profile, but then other, more heavily represented candidates still have the same rules that law school applicants have had to play by for decades? What if it can be shown that a school accepts a much higher number of applicants without LSAT scores from one group and hardly any from another?

Maybe Harvard is just trying a new way to make affirmative action jurisprudence exciting again! But, of course, thank goodness that that is not my area of practice.

¹ I have no record of this. But then, that is not the point. Say that Ronald McDonald said it. Or your uncle. Whoever. The point is that, for argument sake, someone has made this claim, and you are trying to find reason to be skeptical. This is only a jumping off point. New Attorney General Sessions has argued that crime is on the rise recently, but to my knowledge he has not made this exact claim regarding a 20% rise in 2017 compared to 2016.

² For a larger discussion on some of these points, see: Susan Sviuga, Harvard Law School will no longer require the LSAT for admission, The Washington Post, https://www.washingtonpost.com/news/grade-point/wp/2017/03/08/harvard-law-school-will-no-longer-require-the-lsat-for-admission/?utm_term=.f8e815ef42ba (last visited Mar 28, 2017).