

# AALS EDUCATION LAW SECTION NEWSLETTER

## JANUARY 2018

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*Greetings from Eloise Pasachoff, Education Law Section Chair*

Dear Section Colleagues:

It was wonderful to see many of you at the AALS annual meeting earlier this month. Our section's program -- "Law, Politics, and the Public University" -- was well attended and drew a long line of questions and comments from the very engaged audience. We were honored to have five interesting presentations from our panelists: **Erwin Chemerinsky**, the Jesse H. Choper Distinguished Professor of Law and Dean of the law school at the University of California at Berkeley; **Todd Zywicki**, the George Mason University Foundation Professor of Law at the Antonin Scalia Law School; **Osamudia James**, Vice Dean & Professor of Law at the University of Miami School of Law; **Lee Strang**, the John W. Stoepler Professor of Law and Values at the University of Toledo College of Law; and **Michael Olivas**, the William B. Bates Distinguished Chair in Law at the University of Houston Law Center and the Director of the Institute for Higher Education Law and Governance at the University of Houston. Their different perspectives and serious engagement with each other enriched everyone in attendance. We are grateful to them for participating.

We now begin the planning for next year's program in New Orleans, and there is no shortage of possibilities for what to discuss, as changes emerge from Congress and the Department of Education, federal and state courts, and state and local administrative agencies. Following our tradition of alternating between programs focusing on higher education and on K-12, we will turn to elementary and secondary education next year. If you have ideas for the program or would like to participate in the planning process, please send me an email ([eloise.pasachoff@law.georgetown.edu](mailto:eloise.pasachoff@law.georgetown.edu)) letting me know.

In the meantime, I look forward to working with everyone as the Section's chair this year. I send particular thanks and admiration to our Section's recent chairs, including Aaron Saiger, whose conduct under health challenges was inspiring. May 2018 be a happy, healthy, and professionally productive year for you all.

With all best wishes,  
*Eloise Pasachoff*

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### 2018 AALS EDUCATION LAW SECTION RECORDING

The session was recorded. When the recording becomes available, a link will be sent to section members.

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AALS EDUCATION LAW SECTION 2018 PANELISTS

Photo Credit: Kristi Bowman

### *Remarks from Aaron Saiger, Education Law Section Outgoing Chair*

Dear Section Colleagues:

This year's section newsletter comes to you amidst avulsive change in the legal environments that shape both K-12 and higher education. At no time in recent memory have our collective efforts as scholars and practitioners of education law seemed more vital. I am therefore delighted to be able to highlight the accomplishments of our members over this past year, along with the work of the section itself. I know you all join me in hoping for even greater levels of scholarly insight, impact, and professional community in 2018.

It has been a privilege to work with many of you in my role as Section chair. I am particularly grateful to my fellow officers and members of the executive board. I was sidelined by a series of medical problems for much of 2017, and therefore offer special, heartfelt thanks to Professor Eloise Pasachoff, who, as vice chair of the Section, uncomplainingly took up much of the labor to organize and moderate our panel and other activities at the 2018 meeting. I look forward to seeing the Section thrive under her leadership in the coming year.

With best regards,  
*Aaron Saiger*

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## Section Members' Professional Updates:

**Kristi Bowman** is in her third year as Vice Dean of Academic Affairs at Michigan State University College of Law. In 2017, she also published *The Failure of Education Federalism* with the University of Michigan Journal of Law Reform, participated in the creation of the ALI Restatement of Children and the Law, and filed an amicus brief in *Gary B. v. Snyder*, the right to literacy case filed in Federal District Court in Michigan in 2016 (the state's motion to dismiss is still pending).

**Maurice Dyson** published the following: *Helen Palsgraf: Invisible, Silent, & Marginalized in A Feminist Critique of Tort Judgments*, (work in progress, forthcoming Cambridge University Press (2018-19)); *Excessive Force, Bias & Criminal Justice Reform: Proposals for Congressional Action*, 63 Loyola Law Review 27 (2017) reprinted in Civil Rights Litigation and Attorney Fees Annual Handbook, Vol. 33 (2017); and *Rethinking Rodriguez After Citizens United: The Poor As A Suspect Class In High Poverty Schools*, 24 Georgetown Journal on Poverty Law and Policy 1 (2016) reprinted in Civil Rights Litigation and Attorneys Fees Annual Handbook, Vol. 33 (2017). He is also scheduled to speak at the Law & Society Meeting, Speaker, Feminist Judgments in Tort Law, forthcoming June (2018). He participated on the joint panel, On the Constitution in an Era of Increasing Inequality, of the AALS Sections on Constitutional Law and Poverty Law at the AALS Annual Meeting in San Francisco, CA (2017). He has also written op-eds, *Beyond Stereotype & Slogans: The Time For Change Is Now*, The Jeffersonian, available at <https://the-jeffersonian.school.blog/2017/04/27/beyond-stereotype-slogans-the-time-for-change-is-now/> and *Differing Opinions: Free Speech In The Law School*, The Jeffersonian, available at <https://the-jeffersonian.school.blog/2017/04/27/differing-opinions-free-speech-in-law-school/>

**Michael Olivas** completed an 18 month service as Interim President of the University of Houston-Downtown, and is on a research leave, preparing for his December 2018 retirement from UH, where he joined the faculty in 1982. He is completing the final touches on *Perchance to DREAM: A Legal and Political History of the DREAM Act and DACA* (forthcoming, NYU Press), and is at work on the fifth edition of his casebook *The Law and Higher Education* (with Amy Gajda, Carolina Academic Press). He published *Within You Without You: Undocumented Lawyers, DACA, and Occupational Licensing*, 52 *Valparaiso University Law Review* (2018). He also received the Howard Bowen Lifetime

Achievement Award from the Association for the Study of Higher Education (ASHE).

**Eloise Pasachoff** received Georgetown Law's 2017 Frank Flegal Excellence in Teaching Award. Her article *The President's Budget as a Source of Agency Policy Control*, 125 Yale L. J. 2182 (2016), was honored by the American Bar Association's Section on Administrative Law and Regulatory Practice as a co-winner of the section's scholarship award. She published *Two Cheers for Evidence: Law, Research, and Values in Education Policymaking and Beyond*, 117 Colum. L. Rev. 1933 (2017), as part of the Columbia Law Review's symposium honoring the legacy of Judge Constance Baker Motley, and *Administrative Rights in Institutional Perspective*, 66 Duke L. J. Online 101 (2017), commenting on Karen M. Tani's *An Administrative Right to be Free from Sexual Violence? Title IX Enforcement in Historical and Institutional Perspective*, 66 Duke L. J. 1847 (2017), part of the Duke Law Journal's annual administrative law symposium. She also co-authored an opinion piece in Education Week with Georgetown University economist Nora Gordon, titled *Betsy DeVos Needs to Hear Your Views, So Share Them*.

**John Rumel** published the following: *Regulation of Teacher Certification in Idaho: Proceedings before Idaho's Professional Standards Commission Concerning the Denial of an Application for or Action against a Teaching Certificate*, 53 Idaho L. Rev. 527 (2017), *Public Employment Law: Answering the Unanswered and Related Questions in Lane v. Franks*, 34 Hofstra Lab. & Emp. L.J. 243 (2017), concise, practical version republished in 34 Illinois Public Employee Relations Reporter 3 (2017), *Federal Statutory Anti-Discrimination and Anti-Retaliation Law*, Chapter 5, A Guide to Employment Law and Personnel Management in Schools (Mark Paige and Adam Ross Nelson, Eds.) Education Law Association, Cleveland, OH (forthcoming February 2018), and *Retaliation Claims involving School Personnel under Federal Employment Law*, co-authored with Suzanne Eckes, Ph.D., in the Legal Matters Section of the November 2017 Issue of Principal Leadership magazine. He also presented "If You Leave Me Now" ... *The Family Medical Leave Act and K-12 Personnel*, Concurrent Session Paper Presentation at the 2017 Education Law Association Annual Conference, November 9-11, 2017, San Diego, CA.

**Charisa Smith** (City University of New York School of Law) has accepted a tenure-track position and will transition to a post as Associate Professor at CUNY School of Law this summer.

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## ANNOUNCEMENTS

### 2018 AALS EDUCATION LAW SECTION OFFICERS:

*Chair:* Eloise Pasachoff

*Chair-Elect:* Twinette Johnson

*Secretary:* Aaron Tang

*Treasurer:* Maryam Ahranjani

### 2019 AALS CONFERENCE LOCATION & DATES:

New Orleans, Louisiana

Wednesday, January 2, 2019 through Sunday, January 6, 2019

### PUBLICATION OPPORTUNITIES:

#### **Journal of College and University Law seeking student authored articles**

The Journal of College and University Law is the only law review entirely devoted to higher education legal issues in the United States. It is the official publication of the National Association of College and University Attorneys and is somewhat unique in its hybrid approach to publishing scholarly publications focused for practical application primarily for an audience of college and university counsel, attorneys representing those institutions, and education law specialists in the academic community. It has more than 4,500 subscribers.

The Journal is co-published by Rutgers Law School and NACUA, and it is now published only as an on-line publication. Law school faculty who teach courses in Education Law are encouraged to invite and/or submit well written student seminar papers to the Journal. There is no longer a student board of editors from which to draw student authored work.

Please consider papers from the last year or those being written for the current semester courses for submission. These should be papers not published elsewhere. Faculty members are encouraged to work with the students to make editorial changes before submission.

Consideration for publication is on an ongoing basis, and topics of current attention and interest will be given the highest priority.

Laura Rothstein, a member of the Education Law Section, is available to answer questions at [laura.rothstein@louisville.edu](mailto:laura.rothstein@louisville.edu).

Submissions should be sent to the co-editors, Professors Rayman Solomon and John Farmer by email: [JCUL@law.rutgers.edu](mailto:JCUL@law.rutgers.edu).

**Faculty Submissions Welcomed:** The Journal is also very interested in submissions by faculty. If you are interested in publishing in the Journal, please either contact one of the co-editors or submit an article to [JCUL@law.rutgers.edu](mailto:JCUL@law.rutgers.edu).

### REQUEST FOR INFORMATION:

The **Journal of College and University Law** is also attempting to learn how many law schools and education schools are teaching a course in higher education law. If you teach such a course, please let us know and whether it is taught annually or only occasionally. The email address is: [JCUL@law.rutgers.edu](mailto:JCUL@law.rutgers.edu).

