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**The New Realities of the  
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## The New Realities of the Legal Academy

Foreword to:

Brannon P. Denning, Marcia L. McCormick, and Jeffrey M. Lipshaw,

*Becoming a Law Professor: A Candidate's Guide*

Lawrence Solum\*

Brannon P. Denning, Marcia L. McCormick, and Jeffrey M. Lipshaw have done the legal academy a great service by writing *Becoming a Law Professor: A Candidate's Guide*. This is a soup to nuts guide, taking aspiring legal academics from their first aspirations on a step-by-step journey through the practicalities of the Association of American Law School's hiring conference, on-campus interviews, and preparing for the first semester of teaching. Although the blogosphere is filled with advice and many helpful articles have been written about the process of becoming a law professor, there is nothing comparable to *Becoming a Law Professor*—which is sure to become essential reading for anyone seeking a job as a legal academic.

One of the great virtues of Denning, McCormick and Lipshaw's guide is that it reflects the changing nature and new realities of the legal academy. Not so many years ago, entry into the elite legal academy was mostly a function of two things—credentials and connections. The ideal candidate graduated near the top of the class at a top-five law school, held an important editorial position on law review, clerked for a Supreme Court Justice, and practiced for a few years at an elite firm or government agency in New York or Washington. Credentials like these almost guaranteed a job at a very respectable law school, but the very best jobs went to those with connections—the few who were held in high esteem by the elite network of very successful legal academics and their friends in the bar and on the bench. The not-so-elite legal academy operated by a similar set of rules. Regional law schools were populated by a mix of graduates from elite schools and the top graduates of local schools, clerks of respected local judges, and alumni of elite law firms in the neighborhood. In what we now call the “bad old days,” it was very difficult indeed for someone to become a law professor without glowing credentials and the right connections.

But times have changed. When the Association of American Law School's created the annual Faculty Recruitment Conference (or FRC) and the associated Faculty Appointments Register (or FAR), the landscape of the legal academy was forever changed. The change was slow in coming. For many years, candidates were selected for interviews at the FRC on the basis of the same old credentials and connections, but at some point (many would say the early 1980s), the rules of the game began to change. In

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baseball, a similar change is associated with Billy Beane, the manager of the Oakland Athletics, who defied conventional wisdom and built winning teams despite severe financial constraints by relying on statistically reliable predictors of success.<sup>1</sup> The corresponding insight in the legal academy (developed by hiring committees at several law schools) was that the best predictor of success as a legal scholar was a record of publication. It turns out that law school grades, law review offices, and clerkships are at best very rough indicators of scholarly success. But those who successfully publish high quality legal scholarship are likely to continue to do so.

The emergence of so-called “moneyball” hiring in the legal academy is good news for some aspiring legal academics and not-so-good news for others. If they learn nothing else, readers of Denning, McCormick and Lipshaw’s guide will surely learn this: even if you are not a Supreme Court clerk, the editor of the Yale Law Journal or even the graduate of a top-twenty law school, you can get a good job at an American law school with a rich intellectual environment. Even today, if you have the right connections and credentials, you are likely to be given a chance at an elite law school, but the best jobs will go to those with more than just credentials and connections. Whatever law school you have attended, whether or not you have clerked, and whatever job you took after law school, the new reality of the legal academy is that your ability to produce excellent legal scholarship will determine how far your connections and credentials (or lack thereof) will take you.

This transformation has multiple manifestations but two developments illustrate the profound nature of the change. Here is a fact that some may find startling. It is no longer clear that a Supreme Court clerkship is the magic key to the door of the legal academy. Indeed, many of the savviest players in the law-school hiring game do not even view a stint on the Supreme Court as a substantial plus factor: a few view it as a negative. Here is another fact that has increasingly become common knowledge: the credentials of many entry-level candidates today would have qualified their possessors for tenure at almost any elite American law school two or three decades ago.

The new realities of the legal academy are connected with intellectual history of legal scholarship in the United States. Since the rise of American legal realism, it has been clear that the best legal scholarship involved more than descriptive doctrinal scholarship. Beginning with the rise of the law-and-economics and law-and-society movements in the 1950s and 1960s, interdisciplinarity has become increasingly important in legal scholarship. For decades now, the best legal scholarship has answered the question, “What should the law be?” Lawyers are trained to answer the question, “What is the law?” The tools suited to that task (case crunching, code crunching, and clause crunching) are the central focus of the core curriculum of American law schools. The normative turn in legal scholarship has required legal academics to acquire new tools—from economics, philosophy, sociology, political science, history, and elsewhere. But these new tools, the bread and butter of the legal academic, are not the explicit focus of the standard law-school course—which focuses almost exclusively on primary legal

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<sup>1</sup> Beane’s exploits were described by Michael Lewis in his book *Moneyball: The Art of Winning an Unfair Game* (2003).

materials (cases, statutes, regulations, rules, and constitutions) and rarely (indeed, almost never) includes a systematic introduction to the canon of legal scholarship.

So the aspiring legal academic faces an exhilarating but daunting task. Preparing for the academic job market requires the candidate to accomplish two tasks. The most obvious task is the development of a portfolio of scholarship—the proverbial three articles to be listed in the three spaces provided on the form submitted for the Association of American Law School’s Faculty Appointments Register. But the most important task—both for getting your first job and for long-term success in the legal academy—is the acquisition of the tools and knowledge that form the groundwork for excellent legal scholarship. Both tasks require time! Because law school (even in the elite legal academy) is focused on preparation for the practice of law, it is increasingly common for the candidates for jobs in the legal academy to pursue an advanced degree (a PhD in another discipline, an LLM, or an advanced doctorate in law) and the legal equivalent of a postdoctoral experience, usually in the form of a fellowship or visiting assistant professorship. One year of intensive preparation for the academic job market may be sufficient, although these days two is increasingly the norm and three is not uncommon.

Whatever your background, however high or low your ambitions, and whenever you make the decision to seek a job in the legal academy, one of your first steps should be to read *Becoming a Law Professor: A Candidate’s Guide* and the resources to which it points. If you are reading this introduction, you have undoubtedly heard that the job of law professor is frequently called, “the best job on earth.” That may be an exaggeration, but there is surely a kernel of truth in the aphorism. But if law professors have great jobs, they are not easy jobs—not easy to get and increasingly not easy to keep. Like Brannon P. Denning, Marcia L. McCormick, and Jeffrey M. Lipshaw, I wish you every success on the hard road you have chosen. Their sage advice will surely help you to anticipate the twists and turns on the road to becoming a law professor.