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Aaron Jay Saiger

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PROFESSIONAL EXPERIENCE

Fordham University School of Law

Professor of Law 2010–present
Associate Professor of Law 2003–2010

Buchmann Faculty of Law, Tel Aviv University Law School

Visiting Professor of Law (teaching short course) Spring 2018

Columbia University School of Law

Adjunct Professor of Law 2013
Research Fellow 2002–2003

RAND Corporation, Santa Monica CA

Resident Consultant, Criminal Justice Program and Drug Policy Research Center 1989–1993

CLERKSHIPS

Supreme Court of the United States

Law Clerk to the Honorable Ruth Bader Ginsburg 2001–2002

United States Court of Appeals, District of Columbia Circuit

Law Clerk to the Honorable Douglas H. Ginsburg 2000–2001

EDUCATION

Ph.D., Princeton University, School of Public and International Affairs
(then the Woodrow Wilson School of Public and International Affairs) 2004

J.D., Columbia University School of Law 2000

A.B., Harvard College 1988

PUBLICATIONS

SCHOOLHOUSE IN THE CLOUD (forthcoming, Oxford University Press).

Derailing the Deference Lockstep, [103 Boston University L. Rev. 1879](#) (2022).

More than Merit: Exam Schools in the Political Whirlwind, [50 Fordham Urban Law Journal 1003](#) (2022).

School Funding under the Neutrality Principle: Notes on a Post-Espinoza Future, [88 Fordham Law Review Online 213](#) (2020).

Unbundling School, [5 Education Law and Policy Review 1](#) (2019).

- Deconstitutionalizing Dewey*, [13 Florida International University Law Review 765](#) (2019).
- Homeschooling, Virtual Schools, and the Erosion of the Public/Private Binary*, [10 Journal of School Choice 297](#) (2016) (reprinted in Robert Maranto & Debra A. Bell, HOMESCHOOLING IN THE 21ST CENTURY: RESEARCH AND PROSPECTS, Routledge 2018).
- Agencies' Obligation to Interpret the Statute*, [69 Vanderbilt L. Rev. 1231](#) (2016).
- Local Government as a Choice of Agency Form*, [77 Ohio State L.J. 423](#) (2016).
- Chevron and Deference in State Administrative Law*, [82 Fordham L. Rev. 555](#) (2014).
- What We Disagree About When We Disagree About School Choice* (response), [99 Iowa L. Rev. Bulletin 49](#) (2014).
- Charter Schools, The Establishment Clause, and the Neoliberal Turn in Public Education*, [34 Cardozo L. Rev. 1163](#) (2013).
- Religious Consumers and Institutional Challenges to American Public Schools*, [1 Journal of Law, Religion, and State 180](#) (2012).
- Changing the Conversation in Education Law: Political Geography and Virtual Schooling*, [41 Journal of Law and Education 337](#) (2012).
- Obama's "Czars" for Domestic Policy and the Law of the White House Staff*, [79 Fordham L. Rev. 2577](#) (2011).
- The School District Boundary Problem*, [42 Urban Lawyer 495](#) (2010).
- Local Government without Tiebout*, [41 Urban Lawyer 93](#) (2009).
- School Choice and States' Duty to Support "Public" Schools*, [48 Boston College L. Rev. 909](#) (2007).
- The Role of Empirical Research in Informing Debates about the Constitutionality of School Choice*, [1 J. School Choice 123](#) (2006).
- The Last Wave: The Rise of the Contingent School District*, [84 North Carolina L. Rev. 857](#) (2006).
- Legislating Accountability: Standards, Sanctions, and School District Reform*, [46 William & Mary L. Rev. 1655](#) (2005).
- Constitutional Partnership and the States*, [73 Fordham L. Rev. 1439](#) (2005).
- Taking Over: Federalism, Deterrence, and the Search for Educational Accountability*. Doctoral dissertation, Princeton University (2004).
- The Edward Byrne Memorial Systems Improvement and Drug Control Block Grant Program: An Evaluation* (with Terence Dunworth and Peter Haynes). Washington, D.C.: United States Department of Justice, 1997.
- Drug Legalization: The Importance of Asking the Right Question* (with Mark Kleiman), [18 Hofstra L. Rev. 527](#) (1990).

BOOK CHAPTERS

Academic Freedom in Universities That Take Sides, in 1 *The Free Inquiry Papers: Free Inquiry and its Discontents* (Robert Maranto et al. eds, forthcoming 2023).

[Education in Virtual Environments](#), in *The Oxford Handbook of U.S. Education Law* (Kristine Bowman ed., Oxford University Press 2021).

[State Regulation of Curriculum in Private Religious Schools: A Constitutional Analysis](#), in *Yeshivas versus the State of New York: A Case Study in Religious Liberty in Education* (Jay Greene & Jason Bedrick eds., Rowman & Littlefield 2020).

Homeschooling, Virtual Schools, and the Erosion of the Public/Private Binary, in *Homeschooling in the 21st Century: Research and Prospects* (Robert Maranto & Debra A. Bell eds, Routledge 2018). (reprinted from [10 Journal of School Choice 297](#) (2016)).

The Unintended Consequences of School Vouchers, in *Educational Policy Goes to School: Case Studies on the Limitations and Possibilities of Educational Innovation* (Gilberto Q. Conchas, Michael Gottfried, Briana M. Hinga & Leticia Oseguera eds., Routledge 2017).

The Federal Role in Crime Control (with John J. DiIulio, Jr. and Steven K. Smith), in *Crime* (James Q. Wilson and Joan Petersilia eds., ICS Press 1995).

Drug Policies and Problems: The Promise and Pitfalls of Cross-National Comparison (with Robert MacCoun et al.), in *Psychoactive Drugs and Harm Reduction: From Faith to Science* (N. Heather et al. eds., Whurr Publications 1993).

SHORT-FORM WRITING

[Contributor](#), *Notice and Comment* blog (blog of the *Yale Journal on Regulation* and the ABA Section of Administrative Law & Regulatory Practice), July 2018 – present.

The Tactics of Title IX, [13 Journal of School Choice 438](#) (2019) (reviewing R. Shep Melnick, *The Transformation of Title IX: Regulating Gender Equality in Education* (2018)) (VoR [here](#)).

Test Unrest, [20 CityLaw 1](#) (January/February 2015).

[Real Diversity: Beware Fix for NYC's Top Schools](#), *New York Post*, 15 December 2014.

[Guest contributor](#), *Concurring Opinions* blog, March/April 2013.

PRESENTATIONS

The Post-Makin Shape of the American School Choice Landscape: Short, Medium, and Long Term, to be presented at International School Choice and Reform Conference, Fort Lauderdale, Florida, January 16, 2023.

Public School Curricula and the Who-Decides Problem, to be presented at the annual meeting of the Association of American Law Schools, Section on Education Law, San Diego, CA, January 4, 2023.

Derailing the Deference Lockstep, The C. Boyden Gray Center for the Study of the Administrative State, Antonin Scalia Law School at George Mason University, Arlington, VA, August 26, 2022.

- What is the Constituency of Local School Government?*, 8th Annual International and Comparative Urban Law Conference, Allard Law School, University of British Columbia, Vancouver, July 15, 2022.
- The Critique of Chevron in the Laboratory of the States*, presented at State Judicial Deference Research Roundtable, Antonin Scalia Law School at George Mason University, October 15, 2021.
- [*Unbundling School*](#), Apocatastasis Institute Podcast, November 12, 2020.
- Webinar panelist, *The State of Deference in the States: The End of Deference?*, American Bar Association, Administrative Law and Regulatory Practice Section, Judicial Review Committee, via Zoom, October 30, 2020.
- States May Constitutionally Require Private Religious Schools to Provide a Robust Program of Secular Instruction*, presented at conference, Jewish Education and Religious Freedom: What is at Stake?, sponsored by Department of Education Reform, University of Arkansas, held at New York, New York, September 17, 2019, and at International School Choice and Reform Conference, Fort Lauderdale, Florida, January 19, 2020.
- Unbundling School Choice*, presented at International School Choice and Reform Conference, Lisbon, Portugal, January 11, 2019.
- The Pedagogy of Barnette*, presented at Symposium, *Barnette at 75: The Past, Present, and Future of the 'Fixed Star in Our Constitutional Constellation,'* Florida International School of Law, Miami, Florida, October 5, 2018.
- Exercising Rights Beneath the Virtual Schoolhouse Gate*, presented at Public Law and Human Rights Workshop, Faculty of Law, Hebrew University, Jerusalem, Israel, April 25, 2018.
- Is it Better Not to Know?: The Problem of the Big-Deal Guidance*, presented at Symposium, Executive Power and Administrative Law, University of Wisconsin Law School, Madison, Wisconsin, April 15, 2017.
- An Environmental Paradigm for Education Law*, presented at Symposium, The Legacy of Constance Baker Motley: Education and the Law in the United States, Columbia Law Review, Columbia Law School, New York, NY, March 31, 2017.
- [*Interpretive Guidance and Prosecutorial Discretion: The Case of the Obama Department of Education*](#), presented at the 19th Annual Federalist Society Faculty Conference, San Francisco, CA, January 6, 2017.
- What Deference Demands*, presented at the annual meeting of the Law & Society Association, New Orleans, LA, June 2, 2016.
- Homeschooling, Virtual Schools, and the Erosion of the Public/Private Binary in Primary and Secondary Education*, presented at Global Home Education Conference 2016, Rio de Janeiro, Brazil, March 10, 2016.
- [*Accommodating Students with Disabilities Using Social Robots and Telepresence Platforms: Some Legal and Regulatory Dimensions*](#), presented at First Annual New Friends Conference, Almere, Netherlands, October 23, 2015.

Ethical Statutory Interpretation in Agencies Subject to Deferential Judicial Review, presented at Symposium, *Lawyering in the Regulatory State*, Fordham Law School, October 16, 2015; also presented at Fordham Law School Faculty Workshop, October 1, 2015.

[*The Past and Future of Mayoral Control in New York City Schools*](#), presented at CUNY Law School, New York, NY, March 13, 2015.

The Interaction of Local Government Law and State Administrative Law, presented at Symposium, *State Constitutional Law*, Ohio State University Moritz College of Law, Columbus, OH, March 6, 2015.

Interactions of Religious, Charter, and Public Schools: The Evolving Legal Landscape, presented at Saint Joseph's University, Philadelphia, PA, January 21, 2015.

[*Toward Information Regulation in Virtual K–12 Schools*](#), presented at Princeton University, Center for Information Technology Policy, Princeton, NJ, May 1, 2014.

[*Robots in School: Disability and the Promise \(or Specter?\) of Radical Educational Equality*](#), presented at Third Annual We Robots Conference, University of Miami Law School, Miami, FL, April 4, 2014; also presented at the Liverpool Law School, Liverpool, UK, July 16, 2014.

[Podcast] [*Religion and Charter Schools*](#), Baylor University *Research on Religion* series, March 30, 2014.

Chevron in the States, presented at Symposium, *Chevron at 30: Looking Back and Looking Forward*, Fordham University School of Law and Fordham Law Review, New York, NY, March 7, 2014.

Virtual Education in the Smart City, presented at Symposium, *Smart Law for Smart Cities*, Fordham University School of Law and Fordham Urban Law Journal, New York, NY, February 27, 2014.

Religious Charter Schools: Constitutional? Desirable?, presented at the Program for Research on Religion and Urban Civil Society, University of Pennsylvania, Philadelphia, PA, October 24, 2013.

Virtual Schooling and the Law of Equality of Educational Opportunity, presented at the annual meeting of the Law and Society Association, Boston, MA, May 30, 2013.

Charter Schools in the United States and Their Impact upon Public and Private School Markets, presented at the Association for Public Policy Analysis and Management (APPAM) Conference on Collaboration among Government, Market, and Society, Shanghai, China, May 25, 2013.

Contemporary Challenges in American Legal Education, presented at the Fudan University School of Law, Shanghai, China, May 24, 2013.

Virtual Schools, Virtual Speech, Virtual Communities, presented at the Freedom of Expression Scholars Conference (FESC), Yale Law School, New Haven, CT, May 4, 2013.

The Re-emergence of Religion in America's "Quasi-Public" Charter School Sector, presented at the Conference on Religion and American Life, King's College, London, England, February 24, 2013.

- Disability and the Legal Etiology of Educational Neoliberalism*, presented at the annual meeting of the Law and Society Association, Honolulu, HI, June 5, 2012.
- Organizing the White House for Agency Oversight*, presented at the annual meeting of the Association of American Law Schools, Section on Administrative Law, Washington, DC, January 7, 2012.
- Religious Participation in the Emerging American Educational Quasi-Market*, presented at the annual meeting of the Law and Society Association, San Francisco, CA, June 3, 2011.
- Religious Participation in the Emerging American Educational Quasi-Market*, presented at Conference on Religious Law and State's Affairs, Law Faculty, Bar Ilan University, Ramat Gan, Israel, May 31, 2011.
- Presidential Authority and Obama's Domestic Policy "Czars,"* presented at Symposium, Presidential Influence over Administrative Action: Recent Developments, Fordham University School of Law and Fordham Law Review, New York, NY, November 12, 2010.
- Redistricting American School Districts*, presented at the XIV World Congress of Comparative Education Societies, Istanbul, Turkey, June 17, 2010.
- The School District Boundary Problem*, presented at the annual meeting of the Urban Affairs Association, Honolulu, HI, March 11, 2010.
- Redistricting Local Government and School District Borders*, presented at the annual meeting of the Association of American Law Schools, Section on State and Local Government Law, New Orleans, LA, January 8, 2010.
- Religious Establishment in the Educational Quasi-Market*, presented at the Fordham Law School Faculty Workshop series, New York, NY, October 1, 2009.
- U.S. Election Law as a Model for Seeking Educational Equity*, presented at the annual meeting of the American Educational Research Association, Washington, DC, March 2008.
- A Voting Rights Paradigm for Addressing Educational Inequity*, presented at the annual meeting of the National Academy of Education, Washington, DC, October 19, 2007.
- An Emerging Constitutional Moment in Educational Governance*, presented at the annual meeting of the Northeastern Political Science Association, Philadelphia, PA, November 2005.
- The Last Wave: The Rise of the Contingent School District*, presented at the Fordham University School of Law Faculty Workshop series, New York, NY, September 15, 2005.
- Constitutional Partnership and the States*, presented at Symposium, Theories of Taking the Constitution Seriously Outside the Courts, Fordham University School of Law and Fordham Law Review, New York, NY, November 19, 2004.
- Intergovernmental Dimensions of State Takeovers of Local School Districts*, presented at the annual meeting of the American Political Science Association, Boston, MA, September 1998.

SERVICE, FELLOWSHIPS, HONORS, AND AWARDS

International Conference on School Choice

Conference planning committee (2018–present)

Best paper award committee (2022)

Dean’s Distinguished Research Scholar, Fordham Law School (2017–2018)

Chair, Section on Education Law, American Association of Law Schools (2017); Vice Chair (2016); Secretary (2015)

National Academy of Education/Spencer Foundation Postdoctoral Fellowship (2006–2007)

Spencer Foundation Dissertation Fellow

H.B. Earhart Foundation Fellowship

National Science Foundation Graduate Research Fellow

Articles Editor, *Columbia Law Review*

Columbia Law School: James Kent Scholar; E.B. Convers Prize for Best Legal Essay; James A. Elkins Prize in Constitutional Law; Class of 1912 Prize in Contracts

COURSES TAUGHT: Administrative Law; Education Law; Executive Power in the Administrative State; Legislation; Legislation and Regulation; Property; State and Local Government