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BEYOND THE LSAT

Law Prof Enlists Volunteers
to Test New Exam That
Measures Practice Skills,
Not Academics

BY JERRY SOVERINSKY

Few events carry more emotional trauma for prelaw undergrads than sitting for the LSAT examination. And for aspiring lawyers, it's no wonder: While the nationwide bar exam pass rate for law grads hovers at around 75 percent, the median acceptance rate for law school applicants falls somewhere around 27 percent—and far lower at elite schools.

So should prospective law school students sit for an additional battery of tests designed to measure not academic ability, but the skills necessary to succeed as a lawyer?

And is helping future law-school hopefuls enough to motivate licensed lawyers to go through that ordeal again? A law professor hopes so, and she plans to have thousands of graduates of two San Francisco-area law schools do so online this month.

Clearly, a critical juncture en route to lawyerhood occurs during the Law School Admission Test. It's during this half-day standardized test, administered by the Law School Admission Council, that the future crop of our nation's lawyers may be most influenced.

But while the LSAT plays a significant role in shaping our country's pool of lawyers, its main objective is not geared toward determining professional success, but toward law school achievement. As the LSAC states on its Web site, "The LSAT is ... designed to measure some of the skills considered essential for success in law school: the reading and comprehension of complex texts with accuracy and insight; the organization and management of information and the ability to draw reasonable inferences from it; the ability to think critically; and the analysis and evaluation of the reasoning and arguments of others."

And while successful law students and successful lawyers are not mutually exclusive groups, there are some who feel the LSAT shortchanges the profession out of a large number of potentially effective and culturally diverse lawyers. According to law professor Marjorie Shultz of the University of California at Berkeley's Boalt

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Hall, that's an end result that's unacceptable, and one that she'd like to see changed.

"After passage in 1996 of California's Proposition 209 [which prohibited race-based admissions policies for public institutions], my sense at the time was the way admissions is done was not quite optimal and fair," says Shultz, a co-author of the book *Whitewashing Race: The Myth of a Color-Blind Society*. "In fact, the justification for the way admissions was done was pretty thin. And my concern for diversity was a major issue."

Jim Vaseleck, LSAC associate counsel, says the organization takes pains to ensure its questions are not racially biased. Though the last major revision of the test was in 1991, annual reviews are made to compare success on the test with success during the first year of law school. "As a part of that annual correlation study," Vaseleck says, "we do look at race and ethnicity, and we find that the test performs its prediction function equally well for minority students."

Shultz, however, says her concern is that so much of admission to law school is based on the LSAT, which "is based only on three abilities—logic, analysis and reading as per LSAC's own description—[which] doesn't make sense when less than 5 percent of graduates will become academics."

"At the same time," Shultz says, "there is no effort to select law students based on predicted success or effectiveness as a lawyer. ... The relevance of this to race is that school-type cognitive tests like the LSAT produce significant disparities between racial groups, but evaluation of a wider area of abilities relevant to job performance shows much closer similarity in racial groups."

In 2001, working with Berkeley psychology professor Sheldon Zedeck and backed by four years of LSAC grants, Shultz began identifying factors that lead to effective lawyering. Interviewing hundreds of law alumni, faculty, judges, clients and law-firm hiring partners, Shultz and Zedeck compiled a list of 26 "effectiveness factors" that legal professionals deem commensurate with successful lawyering.

The list includes expected factors such as analysis and reasoning, researching the law and writing. But it adds in psychological elements such as passion and engagement and the ability to see the world through the eyes of others, and then mixes in practice-oriented skills such as influencing and advocating, networking and business development, and strategic planning. (The full list is included at the end of this attached [article](#) about Shultz and Zedeck's efforts.)

Once Shultz and Zedeck determined the factors, they set about developing a battery of tests that predict excellence in those 26 areas. Now an ongoing refinement process is about to receive its first large-scale evaluation.

In the next two weeks, Shultz says, 25,000 graduates of Boalt Hall

and the University of California's Hastings College of the Law in San Francisco will receive e-mail invitations to take the test. The e-mails will include a hyperlink and a password so those who accept the invitation can begin test-taking when they choose.

"We mailed to 10,000 Boalt alums three years ago in the first phase of our research," she says, "and got over 2,000 responses." She says more than 200 people have already volunteered to take the test.

Test results from the lawyers will be especially useful as their performance will be compared with firsthand feedback from their supervisors and peers, all with an eye toward assessing professional effectiveness. The evaluation process is confidential and private.

Even if the testing proves reliable, there's still a long way to go before the new test might become part of the law school admission process, Shultz concedes.

"First, the test needs to be empirically valid," Shultz says. "Next, it needs to be widely embraced. And finally, the LSAC or an analogous organization would need to administer the test, persuading law schools as to its merit."

At least one law school, which has defended its program for diversity in admissions to the U.S. Supreme Court, sees some potential in Shultz's test.

"I strongly believe that the LSAT does an excellent job at what it purports to do—predicting first-year law school grades," says Sarah C. Zearfoss, assistant dean and director of admissions at the University of Michigan Law School. "On the other hand, while an excellent tool, it is a tool with only one function, and a rational admissions process looks for much more than a student who can do well in first-year exams. I would certainly welcome a well-designed test that could be shown to predict with accuracy whether a candidate has skills that would make him or her a successful lawyer. ... But rather than use the new test to replace the old, I would simply want to add it to our tool kit. ... A hammer is a useful tool, but it doesn't perform the functions of a saw, and it would be nice to have both if you want to make a bench."

Still, even if law schools adopt a new addition to the test, there's little chance the emotional trauma for test-takers will recede: There's just too much riding on the process.

Hastings and Boalt alumni interested in taking the test can contact Joseph Plaster at jplaster@law.berkeley.edu. Tests will be online and administered in strict confidence, and MCLE credit will be offered. For more information, visit the [site](#) of Boalt Hall's Law School Admissions Project.