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## Analyzing the Necessity to Modify Standardized Test Statutes

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## **Abstract**

In recent years, standardized tests have been challenged by many academic scholars, legal journalists, psychologists and scientific researchers. They claim these tests are an arbitrary form of measuring academic success. Across many grade levels, from elementary to graduate school, there has been concern over the efficacy of these tests. Yet, many neglect to consider the benefits of standardized testing and the reasons why they were implemented and continue. Many educational systems have made standardized tests optional to combat issues of regarding arbitrary content, bias and discrimination. Yet, as those pushing for standardized test reform continue to suggest otherwise, there is validity to be found in high-stake assessments such as the SAT or LSAT which happen to be the same assessments that reformists aim to weaken. It is, however, clear that ways need to be found to manage issues created by standardized testing. This work will demonstrate efforts that have contributed to standardized tests' evolution and the role that they play. Standardized tests serve as a yardstick for applications to institutions. They hold institutions accountable for the quality of the education they provide and how that education prepares students to be academically successful. Is it necessary to modify current statutes pertaining to standardized testing to eliminate elements that are arbitrary, bias and discriminatory? Although some of the proposed assessments presented in this work may be appealing, it is clear that there are many positive attributes to standardized test, as a benchmark for furthering education as well as a quantifiable way to measure the improvement of an education system's curriculum. What may well be considered the focal issue regarding standardized testing is whether politicians should move toward further regulations and modifications of standardized testing.

ANALYZING THE NECESSITY TO MODIFY STANDARDIZED TEST STATUTES

by

ASHLEY HERNANDEZ

A Master's Thesis Submitted to the Faculty of

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In Partial Fulfillment of the Requirements

For the Degree of

Master of Arts

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2019

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## *Chapter 1: The Evolution of Standardized Tests*

### **The Origin of the No Child Left Behind Act**

The face of standardized test statutes is attributed to the *No Child Left Behind Act of 2001* (NCLB). The statute's full title states it aimed to "close the achievement gap with accountability, flexibility, and choice, so that no child is left behind."<sup>1</sup> This was meant to fund impoverished schools as an incentive to improve their academic education. Yet, rarely acknowledged, No Child Left Behind is not the first act of its kind, nor is it the last. Although the titles have changed over time, several acts have been ratified throughout our recent history in order to reauthorize the previous laws.<sup>2</sup> The NCLB is simply a "reauthorization of the Elementary and Secondary Education Act, originally signed into law by President Lyndon Johnson in 1965, [which] was signed into law by President George W. Bush in 2001".<sup>3</sup>

In short, NCLB placed a direct connection between standardized tests and federal funding. "The federal No Child Left Behind Act (NCLB) requires states, as a condition of receiving federal funds, to establish higher academic standards and periodic testing to measure the extent to which the standards are being met."<sup>4</sup> Low scores mean less or no funds for school districts. Specifically, the standardized tests associated with NCLB were called "high-stakes tests", a name which came to be as a result of the reliance on these tests for school funding; severe financial loss which was implicit when an institution did not meet the goals set by such an

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<sup>1</sup> *No Child Left Behind Act of 2001, P.L. 107-110, 20 U.S.C. § 6319* (2002).

<sup>2</sup> See the following statutes which the most notorious reauthorizations of the Elementary and Secondary Education Act (1965) regarding standardized testing: Improving America's Schools Act (1994), No Child Left Behind Act (2002) and Every Student Succeeds Act (2015).

<sup>3</sup> Renalia Smith DuBose, "New State Laws Reflect the Rethinking of Excessive Mandated Standardized Testing in America's Public Schools," *Fla. A&M U. L. Rev.* 11 (2015): 221.

<sup>4</sup> Len Biernat, "Reducing the Achievement Gap: There is Only One Real Solution," *Wider J.L. Econ & Race* 3 (2012): 58.

examination.<sup>5</sup> “The sanctions included public reporting of school and district report cards, financial rewards for schools that met specified goals, public censure and corrective actions for schools that did not meet goals, student options to leave failing schools, and teacher and administrative changes at unsuccessful schools.”<sup>6</sup> The intended goal of these sanctions was to improve the quality of the United States’ education system which had been degrading due to education sectors with low income. It was meant to reverse the low expectations in U.S. schools and “to ensure that all children have a fair, equal, and significant opportunity to obtain high-quality education.”<sup>7</sup> In other words, a somewhat aggressive form of motivation binds educators and other members of the educational system to heighten the quality of their institutions through the administration of state-designed examinations which would systematically test students to succeed academically as well as to measure the success of institutional curriculums. NCLB is praised by some as an act that has reduced the achievement gap by requiring states to “provide supplementary education services to low-income students in low-performing schools.”<sup>8</sup> As well intended as this may sound, the issue is that when low-income schools do not perform well, government takes over the institution which causes unemployment for those who were running the institution while it was in failure. This is what is referred to as so-called supplementary education services.

Since the NCLB became law, the number of standardized tests administered by the federal government has increased exponentially. Whether in an attempt to simplify these examinations by breaking them down or the desire to test and research students’ knowledge in specific subject matters, several tests were devised over time. This is only one of several issues

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<sup>5</sup> DuBose, 221.

<sup>6</sup> DuBose, 221.

<sup>7</sup> Maria Braun Kenny, “Legislative Update: No Child Left Behind Is Standardized Testing Leading to Progress?” *Child. Legal Rts. J.* 24 (2004): 73.

<sup>8</sup> Biernat, 79.

that have arisen bringing scholars to debate over the reduction of standardized tests, their complete removal or supplemental assessments that allow for a more substantial measurement of academic success. One may note that NCLB simply requires the administration of assessments and is not limited to standardized tests, however the language has gradually abandoned other ideals for potential modernized assessments. The law requires that a state's academic assessments "objectively measure academic achievement" and provide "itemized score analyses."<sup>9</sup>

Another backlash of standardized testing came from the concern that many of subject areas not covered in standardized tests would be neglected. The NCLB places priority on subjects that involve literacy, sciences and mathematics. One instance in which an attempt to address this issue occurred when "Congressmen George Miller and Buck McKeon proposed five-year grants for school districts to increase instruction in non-tested subjects, including music, the arts, foreign languages, and physical education."<sup>10</sup> However, this did not cause a great impact in the educational system of California. Admittedly, this could not change the fact that high-stake tests were still prevalent: "unless assessment and accountability systems are reformed at the state or federal level, local districts will remain motivated to focus on tested subject areas."<sup>11</sup> Efforts to improve educational system dilemmas regarding standardized testing and No Child Left Behind were not halted.

### **Analysis of Statutes and Regulations Subsequent to NCLB**

The antecedent statute to NCLB was signed into law by President Barack Obama, the *Every Student Succeeds Act of 2015* (ESSA), which was another reauthorization of the

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<sup>9</sup> Marc Pilotin, "Finding a Common Yardstick: Implementing a National Student Assessment and School Accountability Plan through State-Federal Collaboration," *Cal. L. Rev.* 98 (2010): 551.

<sup>10</sup> Pilotin, 555.

<sup>11</sup> *Ibid.*, 555.



*Elementary and Secondary Education Act*.<sup>12</sup> This reauthorization modified aspects of the NCLB. The act rejected many of its controversial issues and pushed towards the consideration of the effects these high stake exams had on institutions as much as its effect on students. The most significant part of this modification was to give more freedom to states to create their own goals that address proficiency in test-taking, English-language proficiency and graduation rates which abdicates power that the federal government had over these matters. “The enactment of the Every Student Succeeds Act (ESSA) not only unwound federal shifts achieved through NCLB but also may have shifted K–12 policymaking authority back to the states and local districts more so than before NCLB. According to some scholars,”<sup>13</sup> this change was extremely relevant because the federal government held a power over education and this transition was meant to diffuse that power. Each state could then work more swiftly to improve their internal workings toward better education. The statute maintained, however, the importance of standardized tests as a measurement tool. Similar to all its predecessors, ESSA upholds the ideal of providing an equal education for all despite their origin. The way ESSA is meant to achieve this is through state-driven goals coupled with measures of student learning and progress.<sup>14</sup>

The ESSA had ambitious plans with regard to students with disabilities. Students would receive the same quality of education as anyone else and would still be accountable in challenging themselves academically. Furthermore, few students with disabilities were allowed the opportunity to be exempt from standardized test examinations. The true concern of this portion of the statute was that each state was given the individual power to dictate their definition

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<sup>12</sup> *Elementary and Secondary Education Act of 1965*, P. L. 89-10 § 79 *Stat. 27* (1965).

<sup>13</sup> Michael Heise, “From No Child Left behind to Every Student Succeeds: Back to a Future for Education Federalism.” *Columbia L. Rev.* 117 (2017): 1861.

<http://ezproxy.montclair.edu:2048/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=bth&AN=133451475&site=eds-live&scope=site>.

<sup>14</sup> *Every Student Succeeds Act of 2015*, P.L. 114-95 § 114 *Stat. 1177* (2015-2016).

of what qualifies a student as disabled. Severe issues could arise if a student considered disabled in one state was not qualified in another when transferring to an institution out of state. These attempts to offer equality to handicapped students have backfired in the past when ESEA was applied and coupled with other handicapped student acts of the time.

In *Board of Education v. Rowley*, Amy Rowley was a deaf daughter of deaf parents. She attended the Furnace Woods School in the Hendrick Hudson Central School District, Peekskill, New York.<sup>15</sup> As Amy reached first grade, an Individualized Educational Program (IEP) was created for her. The IEP did not include an interpreter, which her parents believed to be essential for her learning.<sup>16</sup> The IEP was required by the Education for All Handicapped Children Act of 1975.<sup>17</sup> The court held that the Act did not require a school system to provide a sign language interpreter to a deaf child who is otherwise receiving some educational benefit from her instruction, which in this case were all the other aids that were granted to Amy as a result of the IEP.<sup>18</sup> The case raised the question of “free appropriate public education” guaranteed by the EHA. “In examining the need for the Education for *All Handicapped Children Act of 1975*, Congress found that despite previous legislation, over fifty percent of the nation’s eight million handicapped children failed to receive ‘appropriate educational services which would enable them to have full equality of opportunity and that one million of these children were totally excluded from public schools.’”<sup>19</sup> This raises questions about whether the ESSA will have a similar effect over time on students with disabilities. Furthermore, there is room for

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<sup>15</sup> Laura C. Henry, “Crippling the Education for All Handicapped Children Act,” *Stetson L. Rev.* 12 (1983): 791.

<sup>16</sup> Henry, 791.

<sup>17</sup> *Ibid.*, 791.

<sup>18</sup> *Ibid.*, 792.

<sup>19</sup> *Ibid.*, 795.

improvement when it comes to certain statutes and their function in serving the students it protects rather than the institution.

### **Where Does Positive Law Find Itself Now on Standardized Testing?**

Soon after President Trump began his presidency, he utilized the *Congressional Review Act (CRA)* to eliminate the federal accountability regulations within the ESSA.<sup>20</sup> The accountability regulations essentially called for the reporting of academic progress of each institution by state. The President extended the power of the states in regulating their assessments for accountability. This created mixed feelings towards the merit of these assessments. Although there was an overwhelming amount of support across parties in favor of President Obama's ESSA, many fear that the further extension of power to the states will actually harm rather than aid minorities and low-income institutions. Some institutions have been known for manipulating their Annual Year Progress reports in order to receive federal funding.<sup>21</sup> For this reason, many are skeptical that states and institutions will create assessments that truly challenge students to be academically proficient.

Despite concerns, there are several changes that have occurred in the educational realm because of a standardized test reform movement. This is evident in the legal field, the Law School Admissions Test (LSAT) may be headed towards its gradual extinction. The Standards Review Committee of The American Bar Association (ABA) met on April 13, 2018 concerning the removal of the ABA requirement for a "valid and reliable test" to be included in applications

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<sup>20</sup> *Congressional Review Act*: Subtitle E of the Contract with America Advancement Act of 1996, *P.L.* 104-121 § 101 Stat. 84 (1996).

<sup>21</sup> Peters, 268.

to ABA-approved law schools.<sup>22</sup> Essentially, ABA-approved law schools would have the ability to select any assessment of their choosing as part of their admissions process, or to a more drastic extent, no assessment at all. Some law schools have begun to rely on The Graduate Record Exam (GRE) but this assessment also remains in question.<sup>23</sup> Speculation was advanced at the time regarding the Council’s meeting in May 2018: “if the Council approves the changes for Standards 501 and 503 of the ABA Standards and Rules of Procedure for Approval of Law Schools, the earliest they could go before the ABA House of Delegates for its concurrence would be August [2018].”<sup>24</sup> Indeed, in May 2018 the panel met and it has become official that the LSAT is optional. In essence, law schools that choose to utilize an assessment other than the LSAT must have said assessment validated as an effective way of measuring academic success.<sup>25</sup> Many have been concerned that this would have meant the complete extinction of the LSAT since it was thought that these decisions would have stalled longer than they did.<sup>26</sup> Despite this, the president and CEO of the ABA’s council, Kellye Y. Testy, affirmed that this would not be the case:

We expect that our member schools will continue to use the LSAT for substantially all of their admissions to provide transparency and fairness by evaluating all applicants using common and consistent standards. As a result, while these changes shift the responsibility for fair admission practices from the ABA to law schools, we do not anticipate significant changes for the vast majority of law schools or their applicants.<sup>27</sup>

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<sup>22</sup> American Bar Association. “SRC moves proposal ahead to make standardized test optional for law schools.” *ABA News Archives*, April 16, 2018, [https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/src\\_moves\\_proposal.html](https://www.americanbar.org/news/abanews/aba-news-archives/2018/04/src_moves_proposal.html) (accessed April 25, 2018).

<sup>23</sup> For further information see American Bar Association’s *ABA News Archives*.

<sup>24</sup> This may also be found in the *ABA News Archives*.

<sup>25</sup> Scott Jaschik, “ABA Panel Moves to End LSAT Requirement,” *Inside Higher Ed*, May 14 2018, <https://www.insidehighered.com/admissions/article/2018/05/14/aba-panel-votes-end-lsat-requirement-accreditation> (accessed April 2, 2019).

<sup>26</sup> See for more information Scott’s news article “ABA Panel Moves to End LSAT Requirement.

<sup>27</sup> See the above footnote for additional information.

When the House of Delegates was presented with the resolution, it withdrew it. Indeed, this was a great victory for the Law School Admissions Council. Yet, there were concerns regarding the over twenty law schools that have already taken measures to implement the GRE as their assessment requirement. Any attempt to eradicate the LSAT will be more latent than anti-LSAT supporters may have hoped for. What may be deduced about where positive law stands? Currently, there is no current regulation of accountability for standardized assessments. This could lead to issues of merit or discrimination.

The subsequent chapter explores those issues that have existed with standardized testing in the past. The goal of these statutes on academic success is to provide fair education for all and to eliminate the educational gap, yet it would be difficult to determine an appropriate solution for bettering high-stakes assessments without isolating outside factors that contribute to the role of standardized testing. Meaning, it is clear that standardized tests result in an institution's allocation of funds affects opinions that support that these assessments should be loosened for the sale of low-income schools. Yet loosening high-stake assessment tests will affect the motivation of students to succeed in that they see no incentive that challenges them academically and an assessment would which hurts institutions who admit students who overall may have weaker academic skills than needed to succeed at that institution. Standardized tests have a lot of room for improvement. "A major rationale for relying on standardized admissions tests in addition to prior grades is their incremental predictive power when considered in combination with applicants' grades."<sup>28</sup> For this purpose, it should be understood that standardized tests are an effective assessment of academic success, yet they do require other supplemental items that may validate the assessments prediction. GPA, personal statements, resumes and even the ability to

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<sup>28</sup> Kimberly West-Faulcon, "More Intelligent Design: Testing Measures of Merit," 13 U. Pa. J. Const. L. (2011): 1269.

write a thesis such as this one may be a better assessment of a student's success in school and beyond. Proposed improvements to standardized tests will be explored later in this work.

## *Chapter 2: Constitutional Challenges and Policy Failures*

### **Unfairness and Discrimination**

The most significant issue which discredits standardized tests are claims of discrimination and unfairness. Standardized tests are said to encourage the cultivation of a narrow form of intelligence, relegate people to low-level jobs, and contribute to slow decline of the societies that rely on testing to select undergraduate students.<sup>29</sup> This is the exact opposite of what was originally intended with NCLB, as mentioned in the previous chapter. Again, this is evident in the issue of discussions of the many proposals and research performed in high-stake tests. This is why some scholars suggest that there is a need for a supplemental assessment. One argument in support of this is theory is that, “rewarding one skill exclusively may not be like having half a loaf of bread, better than none at all.”<sup>30</sup> For instance, if experts determined that the most successful basketball players in history were above six feet in stature, they may attribute their success to this single form of measurement. Then any basketball player above six feet would be considered as someone with the potential to be athletically successful and anyone below would not. As the studies in logic suggest, although height may give an advantage that does not mean it would be impossible for someone shorter than six feet to succeed in their basketball career. Similarly to how height is weighed too heavily as measurement of success in this example, standardized tests are relied on too heavily. Students who score below what may be considered a median score does not necessarily suggest that they are incapable of succeeding in the future. In essence, standardized tests may determine with certainty who will succeed but may

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<sup>29</sup> Richard Delgado, “Standardized Testing as Discrimination: A Reply to Dan Subotnik,” *U. Mass. L. Rev.* 9 (2014): 101.

<sup>30</sup> Delgado, 101.

not necessarily determine who cannot. For this reason, researchers and political officials seek an appropriate balance in which a standardized test can be more inclusive.

There is also concern about how standardized tests affect students once they transition into their careers. “The race for university rankings and invidious comparisons over test scores, subtly shift attention away from achievement and toward numerically measurable merit.”<sup>31</sup> Although No Child Left Behind does not apply to assessment tests beyond secondary education, it is curious to see that this mentality of tailoring education for lucrative purposes is still seen at the college level. University rankings are kept high out of self-interest; students become attracted to the university for its high standards which the institution can utilize to raise tuition to a price which would correlate with their ‘high quality’. In the end, students cannot achieve academically when the educational system is designed to favor a numerical value of capacity rather than other factors like extracurriculars and internships. Some explain that successful college graduates learn that professionalism is born from networking and have encouraged instructors to tailor their courses to include the refinement of these skills.”<sup>32</sup> However, how do high-stake tests take skills such as networking into account? How will assessment tests be made more inclusive? It is up to universities to come up with new ways of making more appropriate assessments.

Standardized tests can be a poor assessment of academic success when a failing grade results in difficulty to have a better academic future. The LSAT, according to some researchers, “can keep you out of law school, it can determine which law school you attend, and it can greatly affect the way you feel about yourself and your potential for success while in law school.”<sup>33</sup> Simply because a student does not succeed on an assessment which is exceedingly more brief

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<sup>31</sup> Delgado, 104.

<sup>32</sup> Harvey Gilmore, “Standardized Testing, Learning, and Meritocracy: A Reply to Professor Dan Subotnik,” *Touro L. Rev.* 32 (2016): 388

<sup>33</sup> Leslie G. Espinoza, “The LSAT: Narratives and Bias,” *Am. U. J.* 1 (1993): 121.



than the years of education in attempts to represent does not mean this student will be academically unsuccessful. Many people claim that they are not good test-takers or that standardized tests are their *kryptonite*. As lighthearted as it sounds, once a person imbeds in their mind that they truly cannot succeed on assessments test, they lack the confidence needed to tackle these academic challenges which can hinder the student mentally when indeed that person is a straight-A student. As a solution to this problem, some universities have considered completely removing standardized tests as a requirement for admissions. “Many colleges and universities have voluntarily eliminated admissions and financial aid policies that rely solely on standardized test scores.”<sup>34</sup> However, “confidence in the merit-measuring capacity of conventional standardized tests like the SAT is so great” to the point that when a university employs non-test admissions criteria, they “are often accused of presiding over a ‘best sob-story’ sweepstakes and of granting illegal ‘preferences’ to minority applicants.”<sup>35</sup> Although it may seem very opinionated, it is true that institutions may suffer when making assessments optional. The “illegal preferences” that this theorist suggests are situations in which institutions support option assessments for admissions processes to allow them to manipulate who they admit with the goal of potentially creating a more diversified incoming class which universities tend to utilize as a form of advertisement. This is only one of several precautions that lawmakers must consider when considering to opt-out assessments. Yet, universities are at a great disadvantage when they solely rely on test scores. “At their current levels of predictive power--explaining less than 20% of the variation in test-takers' future academic performance, conventional standardized admissions tests are sufficiently imperfect that institutions placing inappropriately heavily reliance on them are potentially vulnerable to policy critiques and legal challenges on ‘test

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<sup>34</sup> Rachel Kane, “Standardized Testing,” *Georgetown Journal of Gender and the Law* 2 (2001): 448.

<sup>35</sup> West-Faulcon, 1245.

deficiency' grounds."<sup>36</sup> Thus, it is clear that over reliance on standardized tests as a focal means of evaluating student success in regards to the admissions process of an institution affects the institution's merit before the public.

### **The Arbitrariness of Current Standardized Testing**

Test-making becomes arbitrary when the calculations gathered are not an accurate representation of the results it claims to yield. Revisiting issues with disabled students and standardized tests, annual yearly progress scores become an unclear representation of a school's proficiency when said students are expected to meet the grade/age level proficiency requirement when they are provided special education that acknowledges their inability to keep up with their fellow counterparts.<sup>37</sup> Low academic achievement can be a result of lack of preparation for tests linked to children who are at an economic disadvantage. "One-fifth of children under age 6 live in poverty and nearly half of all children face one or more risk factors associated with inadequate school preparation."<sup>38</sup> This inadequate school preparation then affects the ability for a student to succeed academically. Although it is not an identical case, this scenario resembles the *Brookhart* case; the students involved nearly did not receive their diplomas due to lack of preparation for the new assessments instituted.<sup>39</sup> Preparation is the key to passing standardized testing (in most cases), thus the lack of it would signify a student's academic downfall.

*Figure 1* is presented by Skrtic (1995) who developed a diagram meant to demonstrate the function of a "machine bureaucracy" system.<sup>40</sup> "Schools are responsible for students'

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<sup>36</sup> Ibid., 1254.

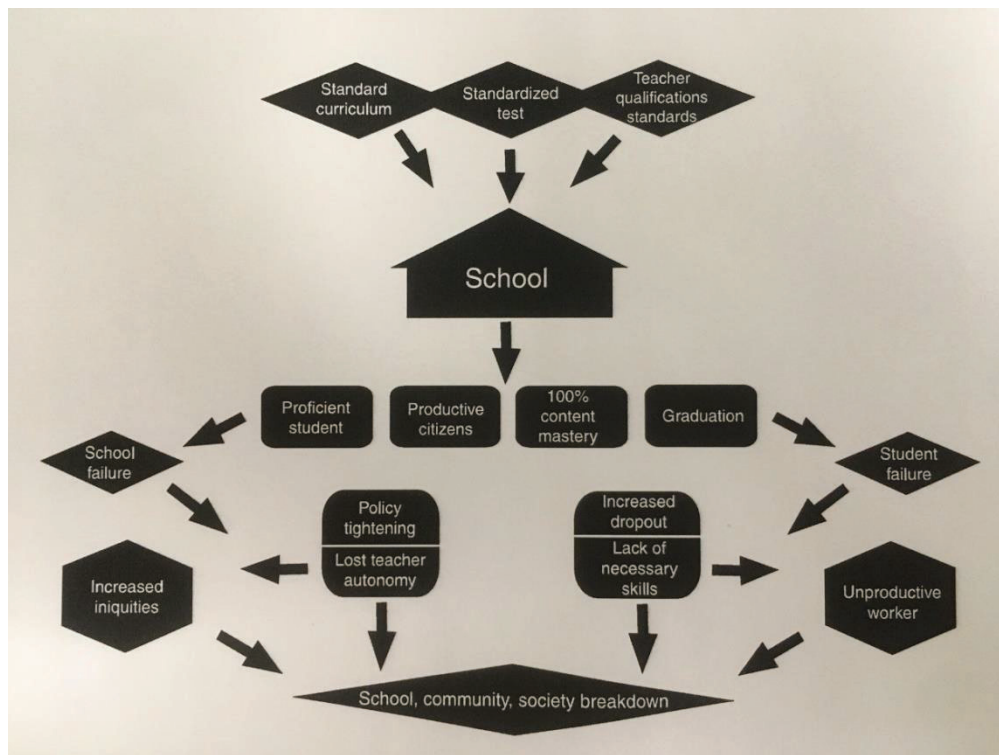
<sup>37</sup> Susan Peters and Laura Ann Oliver, "Achieving Quality and Equity through Inclusive Education in an Era of High-Stakes Testing," *Prospects: Quarterly Review Of Comparative Education* 39, no. 3 (2009): 269.

<sup>38</sup> Peters, 271.

<sup>39</sup> For further information see *Brookhart v. Illinois State Board of Education*, 697 F.2d 179 (7th Cir. 1983): 180.

<sup>40</sup> Peters, 273.

academic achievement and teachers are expected to produce the desired outcomes.”<sup>41</sup> The major flaw Skrtic meant to shed light on through this diagram is that this is “a system of punishment [which] functions to control and regulate those schools, teachers and students who are considered ‘successful’ or ‘unsuccessful’ in meeting pre-established standards for what counts as learning.”<sup>42</sup> The academic goals of the students are set aside for the sake of maintaining an institution’s reputation. The punishment-based system turns students and teachers into slaves that must function to meet mediocre state regulations that do not benefit the academic achievement or education growth of anyone involved.



**Figure 1: Machine Bureaucracy Model<sup>43</sup>**

<sup>41</sup> Ibid., 273.

<sup>42</sup> Peters., 273.

<sup>43</sup> Ibid., 272.

It is harmless for a law school to select a few aspiring lawyers with high LSAT scores over those who have a middling one but if all students are chosen this way “without making an effort to measure other, more intangible skills, we may end up with a much worse legal profession than what we would have created if we had discarded the paper-and-pencil test scores altogether and relied on “soft” measures, such as essays, grades, letters of recommendation, and personal interviews.”<sup>44</sup> Although the above statement may well be a great assumption regarding the consequences of overlooking soft measures, it is still within the realm of reason that scholars should continue to explore alternatives to standardized testing as a requirement for law school admissions.

### **Questions of Integrity, Merit and Reliability**

The reliability of standardized testing begins at its birthplace, No Child Left Behind, as was seen in the earlier chapter. “The No Child Left Behind (NCLB) education law enacted in the United States in 2002 and legislation like it in other countries: (a) assumes that all students must meet the same standards; (b) fails to recognize individual differences, talents and achievements; (c) promotes a culture that blames, stigmatizes and excludes students and their teachers; and (d) establishes mechanisms that all but guarantee segregation, retention or dropping-out of school.”<sup>45</sup> These are the four main reasons why standardized tests are disqualified from possessing any reliability. “All students do not progress at the same rate, learn the same things at the same time, or represent their learning the same way; yet, standardized tests demand that test takers perform within an instrument’s closed universe of ‘measurable responses.’”<sup>46</sup> Robert E. Wright performed the study on the Educational Testing Systems MBA tests in which he

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<sup>44</sup> Delgado, 104.

<sup>45</sup> Peters, 266.

<sup>46</sup> Peggy L. Maki, “Moving Beyond a National Habit in the Call for Accountability,” *Peer Review* 11, no. 1 (2009): 14.

concluded that it lacked reliability due to the unrealistic setting of the test. One of his conclusive statements:

Faculty spend an entire semester with students, talk with them, discuss material with them, have multiple measures of their learning, yet a three hour test, with questions developed by "outside experts" is needed to assess student performance. Given that the test measures 5 subparts, each subpart would be given about 36 minutes. Can any test assess properly the knowledge and information gained in a semester' worth of classes in 36 minutes?<sup>47</sup>

These are the shared thoughts of many scholars and researchers when analyzing the merit and validity of standardized tests. It is difficult to understand how a test score produced in one day has become the most relevant part of an admissions application, above one's GPA in some instances. Guangming Ling sought to rebut Wright in his own analysis of the Major Field Test for MBA (MFT-MBA). Ling sought to clarify Wright's misinterpretation of the statistical evidence on the ETS, concluding that the MFT-MBA is effective when outside information is combined with its results. "ETS strongly recommends that these scores and comparative information be used in conjunction with other information when making decisions about programs or individuals."<sup>48</sup> He suggested that locally developed tests can be factored into the MFT-MBA score to render a more accurate result of academic success. He added that the ETS "cautions test users against the practice of using a cut score or percentile on the MFT-MBA as a condition for a student's graduation."<sup>49</sup> This warning speaks to the idea that standardized tests should not be utilized on their own; they are insufficient at measuring academic success without the aid of supplemental assessments that may bring more clarity to the original score.

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<sup>47</sup> Robert E. Wright, "Standardized Testing For Outcome Assessment: Analysis Of The Educational Testing Systems MBA Tests," *College Student Journal* 44, no. 1 (2010): 144.

<sup>48</sup> Guangming Ling, "Standardized Testing For Outcomes Assessment: Reanalysis Of The Major Field Test For The MBA (MFT-MBA), With Corrections And Clarifications," *College Student Journal* 45, no. 3 (2011): 508.

<sup>49</sup> Ling, 508.

Standardized testing must move away from over reliance in the admissions process. This does not necessarily suggest that standardized testing is not helpful for the admission decision processes however solely relying on a score harms the potential of good students to succeed. It also may well be that institutions may need to reassess their curriculums in that they prepare students to be better test takers in light of the fact that in most cases they will be required to take a high-stakes assessment if considering furthering their education beyond high school.

### *Chapter 3: Arguments For and Against Modifications*

#### **Over Reliance of Standardized Tests**

According to the analysis from the previous chapter, standardized tests alone do not seem provide a satisfactory predictive ability to measure academic achievement in its current state. It can be understood that the issues mentioned in previous chapters question the merit and validity of these exams. The solutions proposed to eliminate this over reliance vary immensely, ranging from complete eradication of standardized testing to supplemental assessments to accompany high-stake exams that are meant to add a creative component to the admissions process. Although it is time to eliminate the over reliance on standardized testing, these tests can still be utilized for their original intended purpose as a mechanism that exists for the improvement of an academic curriculum, in which case they would be a valuable asset to students and institutions alike.

As it can be seen earlier in this analysis, standardized testing adopted the title *high-stake testing* because of the over reliance placed on school funding which was bestowed, and continues to be bestowed, to those institutions that maintain a satisfactory average on institutional testing scores, which may vary from test types and state regulations. Fusarelli in 2004 found evidence of certain states that engaged in the manipulation of proficiency scores in order to avoid failure to meet annual yearly progress (AYP) in a report by the American Federation of Teachers.<sup>50</sup> These standardized scores are taken from grade levels three to eight and if scores were not met by the year 2015, penalties ranging from “take-overs by the individual state-level” to “loss of educational funding” were enforced.<sup>51</sup> This brings us back to the previous section on merit, reliability and integrity. Although many institutions do need funding, like low-income

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<sup>50</sup> Peters, 268.

<sup>51</sup> Ibid., 269.

institutions with a deteriorated educational system, other institutions have chosen to engage in this unethical behavior for the sake of receiving funds that they have not earned. “David E. Shulenburg, vice president for academic affairs at APLU, argues that use of an ‘outcomes test creates a rough comparability among participating universities and enhances public accountability.’”<sup>52</sup> Universities are also encouraged to compete against one another for their prestige and when standardized test scores are printed on every university’s brochure, this intensifies the false notion that every student must try and force himself into the mold.

Similar to the Space Race that began in 1957, test prep companies such as Pearson are competing against the organizations who develop the exams, such as the LSAC, over the monetary investment of students. The academic success of students is caught in the crossfire of this war, along with their cash, as test developers aim to create questions that behave as mental puzzles, designed to distract test takers. Adversely, test prep companies have devised marketing tactics to benefit themselves from students that are not well-read on the study methods available to them. Test developers have resorted to the previous stated methods of formulating exam questions because of the growth of test prep companies which have caught on with the skills that are necessary to pass standardized tests with high scores.

It may be arguable that the LSAT has become a filter that, rather than fleshing out students that do not demonstrate satisfactory legal performance, impedes well prepared students to obtain a passing grade through the utilization of mental games that are designed to deter the test taker. When the public thinks of the LSAT, they may picture an examination testing the knowledge of landmark cases and legal analysis (similar to how AP exams examine detailed substantive information about the subject area a student is tested on), when in reality it contains

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<sup>52</sup> Maki, 14.



information from subject areas that may be unfamiliar to students making it difficult for them to process during a short thirty-five minute window. The LSAC's rationale behind this is explained in a brief sentence within their website in its section for Analytical Reasoning: "The specific scenarios associated with these questions are usually unrelated to law, since they are intended to be accessible to a wide range of test takers."<sup>53</sup> However, most likely the intention of a student registering for this assessment is to utilize the score to be admitted into law school, which limits the *wide range of test takers* suggested above. If a student is reading a passage regarding a comparison of two distinct medical procedures relating to brain surgery, a law student may find some of the medical jargon difficult to interpret. The most sensible defense in maintaining these assorted topics within the LSAT would be the necessity that law students be well-rounded in general knowledge. Branden Frankel, a writer for *the National Jurist* presents the question most law students ask themselves, "Why does one have to do well on the LSAT to go to law school when it has practically nothing to do with the law?" and answers this by stating that "the LSAT tests one's ability to think like a lawyer, which, in turn, allows admissions officers at law schools to pick people who are more likely to succeed in law school and as lawyers."<sup>54</sup> Yet it is arguable that information provided on these subject areas goes beyond superficial knowledge and could complicate a student's ability to prepare for this aspect of the examination.

Corporate agendas create another level of analysis. Companies like Pearson have taken their marketing strategies well beyond what is logical as they present themselves, as many test prep companies, "Pearson's language implies that their measurable goals are the only

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<sup>53</sup> See the LSAC website for more information: <https://www.lsac.org/lsat/taking-lsat/test-format/analytical-reasoning>.

<sup>54</sup> Branden Frankel, "Why the LSAT?" *National Jurist: preLaw*, October 2015, <http://www.nationaljurist.com/prelaw/why-lsat> (accessed April 4, 2019).

educational goals possible.”<sup>55</sup> Students are not informed properly about all test prepping options at their disposal, especially more affordable options like purchasing/borrowing textbooks, private tutors that may be offered through the institution they attend or even the free online program offered on the LSAC’s main page, the Khan Academy. Many claim that Pearson has also resorted to spying, as the company was caught monitoring social media and making reports to the New Jersey Department of Education (NJDOE).<sup>56</sup> Much like the current privacy dilemma involving Facebook, Pearson supervises the social media of students. According to their claims, this is because the company wants to ensure that no student is sharing exclusive study materials illegally. Yet there is much skepticism; it is believed that the true reason as to why Pearson was caught rummaging through social media was to ensure their own market did not suffer: if the materials are out, they would have to restructure their own product which would harm their revenue.<sup>57</sup> Many fear that “Pearson has situated itself as part of the state enforcement apparatus” which has caused many, including parents, to reconsider, not just test prep in general, but to allow their children to submit to standardized testing, which in this instance was PARCC testing.<sup>58</sup> It may then come as no surprise that due to much controversy as well as contradictions within state laws that the PARCC exam was invalidated.<sup>59</sup>

A solution that must be considered is potentially reducing the amount of standardized tests administered in schools. Students potentially feel overwhelmed with the amount of exams

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<sup>55</sup> Zan Crowder and Stephanie Konle, “Gumbo Ya-Ya or, What Pearson Can’t Hear: Opt-Out, Standardized Testing, and Student Surveillance,” *The High School Journal* 98, no. 4 (2015): 287.

<sup>56</sup> For more information see Perry Chiamonte, “Spying on students? Education publisher Pearson monitoring social media activity.” *Fox News* March 22, 2015. Updated January 12, 2017, <https://www.foxnews.com/us/spying-on-students-education-publisher-pearson-monitoring-social-media-activity> (accessed April 5, 2019).

<sup>57</sup> See the previous citation regarding the news article regarding this information.

<sup>58</sup> Crowder, 286. In addition, see Perry Chiamonte’s article cited above.

<sup>59</sup> Adam Clark, “Court strikes down PARCC requirements for high school graduation.” *NJ Advance Media* December 31, 2018, <https://www.nj.com/education/2018/12/court-strikes-down-parcc-requirements-for-high-school-graduation.html> (accessed April 5, 2019).

they must prepare for throughout the school year, let alone a single marking period of three to four months. However, a single examination may not be enough to evaluate the success rate at an institution. It is difficult to devise an examination that may have an all-inclusive standardized test. There are exams with multiple subject matters, for example the SAT. However there are also exams which hone into a specific subject like Advanced Placement Exams where a student is able to demonstrate proficiency in a multitude of subjects such as Arts, English, History and Social Science, Math and Computer Science, Sciences, World Languages and Cultures, even a Capstone.<sup>60</sup> This type of assessment, although not mandatory, benefits high school students attempting to seek better opportunities for college applications, scholarships and grants by demonstrating their extensive knowledge in a subject area that is relevant to their college major and their career goals. Once again, this exam is optional. Most students who take courses to prepare for this exams would not let the opportunity to earn a college credits evaporate. One needs to take into account that not only mandatory tests affect students, but voluntary standardized tests play a factor as well by adding to the amount of assessments administered by an institution by local, state and federal means.

In order for a school to find the appropriate amount of standardized assessments that should be administered, evaluations must be made to determine the institutional and academic goals that every institution should achieve as many scholars in standardized testing have suggested.<sup>61</sup> It is evident President Obama intended to return that power to the states and to remove it from the federal government, arguing that states have a better gauge on how to assess their students. The goals set forth by the states should be established in favor of the students’

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<sup>60</sup>For further information please see the College Board’s website on AP Testing.

<https://apstudent.collegeboard.org/apcourse?affiliateId=ap|home&bannerId=heroa2|aps-crsindx>

<sup>61</sup> For this reason came the creation of President Obama’s *Every Student Succeeds Act*; this would eliminate a one-size-fits-all approach that derived from NCLB.

academic success while still balancing and encouraging students to explore their educative opportunities in areas outside of what most commonly known as the core four: sciences, mathematics, language arts and history. This what is meant that there needs to be a conscious balance between test preparation and a diverse curriculum.

It may be evident at this point that altering the curriculum to fit the assessment hurts our educational system, yet to accomplish the reverse would be complex. The most practical route that institutions may take to create this balance is to embed knowledge necessary for the test into the curriculum. In many ways, this is what is put into place at many institutions. In some cases, it may be more beneficial to relinquish the idea of classes that are tailored for standardized assessments. Administrators and teachers should work together to encourage learning without the incentive that a standardized test may be looming around the corner. The goal of education is to allow students to educate themselves for their future. Incentives need not overwhelm standardized testing. High stake assessments are not the only possible way students can be motivated to succeed academically.

The most basic standardized tests that an institution should administer in terms of measuring the success of an institutions ability to prepare students to be academically successful are introductory and closing assessments. This implies an introductory assessment which is administered before any course work is taught in order to have a gage as to the background knowledge of students may have in that subject area. A recommendation would be to have a brief introductory examination coupled with a more extensive closing assessment. The closing assessment's goal is to make a final evaluation on the progress rate of each student who entered the course. Final examinations in certain instances may be utilized to satisfy the requirement of a closing assessment. For example, teachers in mathematics at a middle school could utilize their

final exam as a closing assessment since there may be few differences between an examination devised by teachers than to that of an institution due to the fact that it will always contain the same formulae and mathematical assessments in some way. Other subjects may call for a closing assessment devised by the institution that, inversely, can be utilized by the teacher as a final examination. The latter is recommended for schools below college level. Language arts would be a course that could benefit from this approach as boards of education and institutions work together to complete a list of readings that students should become familiar with at their grade level and testing students' knowledge on these texts is a necessary form of assessing their ability to be academically successful by viewing how they have been able to synthesize and analyze these works. Florida was able to make an advancement in this respect in 2015 when "Florida Governor Rick Scott signed Florida House Bill 7069 into law which limits hours that students spend on 'state-mandated tests.'"<sup>62</sup> "Miami-Dade Schools, which reportedly administered standardized tests on one hundred and seventy-two of the one hundred and eighty calendar school days, immediately eliminated all but ten of the three hundred required tests amid the notable failure of technical infrastructure needed to accomplish their full administration."<sup>63</sup> Note, this reduction in standardized testing was accomplished on a large scale which demonstrates that such a reduction in standardized testing is feasible and realistic. Based on the previous recommendation, if an institution were to create introductory and closing assessments only for the core four courses, there would be approximately eight assessments per school year for students in institutions below college level. This amount, depending on which approach is taken regarding whether or not the closing assessment should be merged as a final examination for grading purposes, would be coupled with other internal examinations such as midterms and

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<sup>62</sup> Crowder, 287.

<sup>63</sup> Ibid., 287.

finals in the form of written tests, oral presentation or projects. Students may find this to be overwhelming which is why there seems to be a greater sense of logic to utilize these assessments to grade students as well for GPA purposes. Midterm examinations could arguably be utilized as well as an assessment for measuring student progress. Of course, this is greatly the intention of many institutions, but it may be beneficial to strictly define them as assessments, including standardized. The best way to prepare students for standardized testing while providing them with a diversified education is to include standardized assessments as part of the regular curriculum of an institution. Students become accustomed to being challenged in ways that meaningful standardized tests will challenge them as they escalate in their educational journey. This teaches students that they will be challenged at every point in their path to a high school diploma, college degree or beyond, which is an overarching incentive that could be implemented nationwide.

This, however, becomes a complexity for low-income institutions. The purpose of the statutes mentioned in previous chapters is to close the education gap in the United States. This means bolstering the education of lower socioeconomic school districts. The major dilemma is that these institutions need the monetary allocation from the state to better the educational system but may never receive it because they are now met with standardized tests that castrate any opportunity to earn those funds. In detail, students from low-income schools may already be struggling academically for several factors and due to the fact that they may not score well on these standardized tests from lack of resources keeps them from obtaining those exact resources they need. This brings low-income institutions to be caught in a vicious cycle in which they can never live up to statutory expectations on educational proficiency which practically sentences these schools to remain indefinitely in a state of low income. Therefore low-income institutions

need a personal plan to allow them to reach the academic goals needed to close the gap in education. A recommendation would be that extensive research be conducted to understand the amount of resources these low-income institutions may need to better their system and to make feasible economic plans to implement these ideas. Additionally, these institutions need should also be provided with a grace period relative to the amount of time needed to make some notable changes in their education. If Institution X were a low-income high school that may need approximately \$20,000 allocated per year for a period of five years to begin efforts in bettering their program, the state could make some evaluations in which they may propose to offer \$10,000-\$15,000 allocated per year for a two-year grace period. The goal would be that within that grace period Institution X would prove to the state that they are making quantifiable progress with their institution. This quantifiable progress could be measured through standardized assessments as suggested previously, at the initiation and conclusion of each school year. The interesting suggestion to be made here is that the assessments could be tailored during that grace period in a way that the assessments increment their difficulty over time until they resemble those of statewide institutions.

Manyave also recommended that standardized tests should be removed from the admissions applications of all institutions and that in doing so arbitrariness in the admissions process would be reduced and other methods of measuring academic success could be implemented in the place of standardized testing. Richard Delgado states in his reply to Professor Dan Subotnik, a supporter of standardized testing, the following conclusion based on institutions that have already moved forward which these changes:

Some colleges and universities have de-emphasized standardized test scores, and it has not injured their intellectual standing or level of achievement--it may have even boosted them. These schools report that their student bodies are more engaged than ever and the campus atmosphere more vibrant and diverse. For all

these reasons, we should hesitate to continue our current emphasis on test scores and conventionally defined, numbers-based merit.<sup>64</sup>

There may be some logic in removing standardized tests as a requirement for applications for institutions such as colleges and universities. As studied in previous chapters, there are many issues raised with testing scores that make or break the academic future of students. Yet simply removing standardized tests from the equation does not seem to be a viable solution. Rather than being a requirement for admission, standardized tests should be a requirement for graduation. Similar to how graduate students must take a comprehensive exam in order to graduate, students will be incentivized to do well on these exams if they are required to pass in order to earn their diplomas, certificates of completion or degrees. This way students who are, for example, applying to colleges are not necessarily worried about a mere test score defining their future but the culmination of their overall academic efforts at their institution. Meanwhile colleges are reassured that students will have the academic capacity to handle their coursework. These assessments would have to be redesigned from those already in place and should be introduced slowly. The assessments should focus greatly on skills necessary for college success. For example, a well-rounded assessment like the SAT could be utilized to validate the completion of a student's high school education and authorize their diploma. There are several factors to be considered with this proposal that may result in a counter-intuitive way. Returning to the issue of low-income schools, it may take time to implement this idea, the translation of high-stakes assessments from a satisfaction to an admissions requirement to a graduation requirement, during the interim of the suggested grace-period method. Low-income students, who already struggle with meeting the standards of high-risk assessments, may then be subject to an even lower graduation rate if these exams hinder their opportunity to earn their high school diplomas. An

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<sup>64</sup> Delgado, 107.



intricate plan would have to be devised in order for this sort of translation to be acceptable. Yet the idea would be that the new assessment drafted would have to be challenging enough for students to study and enhance necessary skills for college and the workplace (like critical thinking and analysis skills as well as writing proficiency) while not containing any exaggerated expectations for scoring. The test should be a pass-fail exam with a raw score that can optionally be provided to institutions for applications. This way, students who score high can demonstrate they have outstanding abilities while students who may have not scored as high still have proven to have the basic skills college professors require.

There is also questions about inclusive assessments that represent a student's creativity, as some scholars argue that the essay portion of a standardized test is not enough for a student to fully convey, for example, their creative writing abilities. Psychologist Robert Sternberg proposed a theory suggesting that fundamental facets of intelligence should be measured. He has chosen to define these facets as creative and practical intelligence - as well as the analytic aspect of intelligence by some form of high-stakes test. This would be an attempt to measure mental ability more broadly and completely than conventional standardized tests.<sup>65</sup> This means, rather than administering an assessment that solely focuses on analyzing multiple short stories and answer their corresponding questions within thirty-five minutes, the other half of the exam could be based on short fact-patterns where practical solutions can be applied. This way both creativity and analogical reasoning are included in the assessment. Sternberg conducted the Rainbow Project, a quantitative experiment in which triarchic tests (which were based on his triarchic theory that true intelligence can be measured through three facets which are the analytical,

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<sup>65</sup> West-Faulcon, 1278.

creative and practical abilities one has) were administered to test subjects to validate said tests as useful for practical situational prediction.<sup>66</sup>Stenberg found:

[T]he triarchic measures predict an additional 8.9% of college GPA beyond the initial 15.6% contributed by the SAT and high school GPA. These findings, combined with substantial reduction of between-ethnicity differences, make a compelling case for furthering the study of the measurement of analytical, creative, and practical skills for predicting success in college.<sup>67</sup>

Many of these proposals suggest that standardized tests are in need of an update, including the NCLB statute.

Finally, standardized tests should return to a measurement of institutional performance, which will serve as a measure to improve the curriculum of the institution. This also includes the necessity to tailor assessments tests according to the practical proficiency that certain grade/age levels should have, including appropriate assessments for disabled students. “In order to create a successful school community, all members of the community must be willing to work together with a common inclusive education vision... and authentic assessments.”<sup>68</sup> Furthermore, “in order for successful implementation of inclusive education to occur in both policy and practice, there must be a commitment to the belief that inclusive education can provide all students with a more equal opportunity to actively and productively participate in the communities to which they belong.”<sup>69</sup>

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<sup>66</sup> West-Faulcon, 1278.

<sup>67</sup> Ibid., 1279.

<sup>68</sup> Peters, 276.

<sup>69</sup> Ibid., 278.

## How Have Existing Measurements of Academic Success Fared

As the first public university in New Jersey to go SAT/ACT test optional in the Fall of 2015,<sup>70</sup> Montclair State University has developed a predictor of academic success named *The Rigor Score*.<sup>71</sup> An interview was conducted with the Director of Undergraduate Admissions at Montclair State University, Jeffrey Indiveri-Gant, to gather a better understanding about the rigor score. In summary, the rigor score is a method of measuring academic success in which courses are assigned a value based on their rigor (meaning the level of difficulty of the coursework) and the sum of these numeric values produce a score which determines the level at which students have been challenged at their previous institution, i.e. high school. This numeric system allows admissions representatives to review a student's undergraduate application to predict whether or not the student has been prepared for the rigorous coursework that the university's courses resemble. The way this score system works is as follows: rigorous courses are given a numeric value and for every one of these course types a student has taken in their high school years, the value assigned is added to the student's total rigor score. The sum of the total points reflects the amount of rigor a student has performed in his high school years. Rigorous courses such as honors classes and AP courses are classes that tend to have a higher demand on a student's performance which can be compared to the demand that will be placed on students when taking university-level courses. The objective of the Rigor Score is to take a "holistic approach to the admissions process" which facilitates admissions representatives "to focus on [one's] actual

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<sup>70</sup> Further information can be found on Montclair State University's website. <https://www.montclair.edu/admissions/apply-and-check-status/admissions-requirements/satact-test-optional-policy/> (accessed March 3, 2018).

<sup>71</sup> The Director of Undergraduate Admissions at Montclair State University Indiveri-Gant referred to the assessment by this name during an interview although it does not have a formal title according to the university's website.

accomplishments in high school.”<sup>72</sup> *Figure 2* is a chart which represents the various course types considered to be rigorous according to Montclair State University’s standards and the amount of rigor score points that are assigned to such courses.

**Figure 2: The Rigor Score Point System by Montclair State University<sup>73</sup>**

| Course Type                                  | Points Assigned |
|--|-----------------|
| Honors Classes                               | 2 points        |
| AP Classes                                   | 4 points        |
| Additional years of a world language         | 2 points        |
| Additional years of math beyond Algebra II   | 2 points        |
| Additional years of science beyond chemistry | 2 points        |

The values represented in *Figure 2* were provided directly from the Director Indiveri-Gant, who confirmed that the rigor score was devised by several research experts and that it had been slowly integrated into the admissions process long before it became an official policy in 2015.<sup>74</sup> Said research was comprised by the CollegeBoard which devised an Academic Rigor Index (ARI) which after extensive empirical testing “indicated that the ARI was positively related to measures of high school achievement and to college enrollment and college

<sup>72</sup> See Montclair State University’s website for further information. <https://www.montclair.edu/admissions/apply-and-check-status/admissions-requirements/satact-test-optional-policy/> (accessed March 3, 2018).

<sup>73</sup> \*This chart is based upon information provided directly from the Director of Undergraduate Admissions at Montclair State University.

<sup>74</sup> Jeffrey Indiveri-Gant (Director of Undergraduate Admissions, Montclair State University), interviewed by Ashley Hernandez, Montclair, NJ, February 7, 2018.

performance, and suggests that academic rigor plays an important role in preparing students for college-level work.”<sup>75</sup> Additionally, Montclair State University’s online information section on SAT/ACT Test Optional Policy states that the decision to move forward with the policy was based “on studies showing that SAT and ACT test scores are less effective predictors of college success than student performance in high school courses.”<sup>76</sup> Other studies have suggested that Advanced Placement (AP) programs may be a better assessment of academic success than non-AP. For example, in his peer reviewed article, Russell T. Warne states that “It is possible that some AP test scores are more predictive of college success than others, though few researchers have investigated this possibility.”<sup>77</sup> Despite the lack of research, Warne adds that a recent study denoted how “college admissions counselors stated that the two most important aspects of a student’s application were—grades in college preparation courses and the degree of rigor of an applicant’s high school curriculum—surpassing in importance even college admission test scores and overall GPA.”<sup>78</sup>

To better understand the chart above and for discussion purposes one may visualize, for example, according to the table above, Student X who has taken two additional years of science beyond chemistry, an additional year of a world language, one AP class and one honors class. This student would have accumulated a total of twelve (12) Rigor Score points, as shown in *Figure 3* below.

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<sup>75</sup>Jeffrey N. Wyatt, Andrew Wiley, Wayne J. Camara and Nina Proestler, *The Development of an Index of Academic Rigor for College Readiness*, The College Board, 2012. <https://files.eric.ed.gov/fulltext/ED561023.pdf> (accessed April 23, 2019).

<sup>76</sup> See Montclair State University’s website for further information. <https://www.montclair.edu/admissions/apply-and-check-status/admissions-requirements/satact-test-optional-policy/> (accessed April 9, 2019).

<sup>77</sup> Russell T. Warne, “Research on the Academic Benefits of the Advanced Placement Program: Taking Stock and Looking Forward,” *SAGE Open* 7, no. 1 (2017): 11.

<sup>78</sup> Warne, 11.

**Figure 3: Example of Application of The Rigor Score Point System by Montclair State University<sup>79</sup>**

| <b>Course Type</b>                                  | <b>Points Assigned</b> | <b>Points Earned by Student X</b> |
|---|------------------------|-----------------------------------|
| <b>Honors Classes</b>                               | <b>2 points</b>        | <b>2 points</b>                   |
| <b>AP Classes</b>                                   | <b>4 points</b>        | <b>4 points</b>                   |
| <b>Additional years of a world language</b>         | <b>2 points</b>        | <b>2 points</b>                   |
| <b>Additional years of math beyond Algebra II</b>   | <b>2 points</b>        | <b>0 points</b>                   |
| <b>Additional years of science beyond chemistry</b> | <b>2 points</b>        | <b>4 points</b>                   |
| <b>TOTAL RIGOR SCORE AMOUNT</b>                     |                        | <b>12 points</b>                  |

According to the Director of Admissions, the concept is that the rigor score, combined with the analysis of Student X’s GPA and all other supplemental application items, will produce a better prediction of said student’s academic success at Montclair State University and beyond as the student proceeds to practice in their career. It is unclear what Montclair State University’s Admissions Office considers an acceptable score, but one central concept can be understood, the higher a student’s rigor score is, the higher possibility they have of being accepted into the university.

The Rigor Score of Montclair State University differs from a standardized test score for various reasons. The score generated by standardized testing is, generally, a product of four

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<sup>79</sup> This example has been based upon information disclosed directly from the Director of Undergraduate Admissions at Montclair State University.

hours of rigor while the Rigor Score is meant to represent four years' worth of education. Secondly, the Rigor Score is not a score that is arbitrarily produced and considered, as standardized testing tends to be. The Rigor Score can only be obtained by scrutinizing a student's high school transcript, year-by-year. It is through a meticulous evaluation, along with comparing and contrasting a student's final grade in each course, that the Rigor Score can be produced.

It is hypothesized within this thesis that the Rigor Score can be tailored according to the institution that utilizes it. For purposes of discussing the potential of the Rigor Score, below is a proposed Law School Admissions version of the scoring system, which is tailored to favor rigorous courses in the areas of law including an escalating point system based on higher levels of college education.

*Figure 4* has been designed based on the course level description utilized at Montclair State University where a 100-level and 200-level courses have little-to-no rigorous value (as most general education/introductory courses belong to this category), a 300-level course has basic rigorous value (as this level is where courses that belong to major requirements are applied), a 400-level course has a higher rigorous value (as this is the most demanding level of undergraduate courses pertaining to one's major) and 500-level courses at the highest of all rigorous values (as graduate level courses belong to this category).

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**Figure 4: The Rigor Score Point System: Law School Admissions Version<sup>80</sup>**

| Law Course Type   | Points Assigned |
|-------------------|-----------------|
| Basic (300 level) | 1 points        |

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<sup>80</sup> This is a theoretical version of the Rigor Score System created by Montclair State University adapted to a legal institution and it is not reflective of any current assessments available at legal institutions.

|                             |                 |
|-----------------------------|-----------------|
| <b>Advanced (400 level)</b> | <b>3 points</b> |
| <b>Graduate (500 level)</b> | <b>5 points</b> |

For the purposes of this Law School Admissions version, the courses being considered for a Rigor Score are those that are related to law, jurisprudence or political science.

**Figure 5: Example of Application of The Rigor Score Point System: Law School Admissions Version<sup>81</sup>**

| <b>Law Course Type</b>          | <b>Points Assigned</b> | <b>Points Earned by Student X</b> |
|---------------------------------|------------------------|-----------------------------------|
| <b>Basic (300 level)</b>        | <b>1 points</b>        | <b>3 points</b>                   |
| <b>Advanced (400 level)</b>     | <b>3 points</b>        | <b>6 points</b>                   |
| <b>Graduate (500 level)</b>     | <b>5 points</b>        | <b>5 points</b>                   |
| <b>TOTAL RIGOR SCORE AMOUNT</b> |                        | <b>14 points</b>                  |

For example, if a Montclair State Student was applying to Rutgers Law School (which institution, for the sake of the example, utilizes the Rigor Score calculation) has taken three 300-level courses, two 400-level courses and one 500-level course, the student’s Rigor Score would total fourteen (14) points.

<sup>81</sup> This is a theoretical version of the Rigor Score System created by Montclair State University adapted to a legal institution and it is not reflective of any current assessments available at legal institutions.



Further research needs to be conducted to determine if the Rigor Score can be successfully tailored for most institutions of varying career paths. Research must also be completed regarding the benefits and drawbacks of average desired scores by institutions. In other words, would it be acceptable for institutions, like a law school, to develop an average Rigor Score median similar to how institutions have a median LSAT score that is advertised in application brochures?

After exploring the potential of the Rigor Score as a replacement to standardized test scores, there still exists an unanswered question regarding the inclusivity of the admissions process: how can one be certain of a student's disposition to be academically successful? It is understood that the inclusion of recommendation letters, essays and personal statements in admissions applications is meant to provide an overview of a student's personality and work ethic. Yet there is room for a more thorough analysis. After all, when the skills that make up a good practitioner are considered, the "right balance [of qualities necessary] to operate at an optimum level" are not measurable quantitatively.<sup>82</sup> The challenge before institutions is to devise a new item in the application process which can identify these qualities in a non-quantitative way.

## **Conclusion**

Taking all these arguments into consideration, many could argue that standardized tests may not be an efficient measurement of academic success, however it certainly incentivizes students to apply themselves in their academics which may be the real contribution to academic success. It may well be that challenging incentives are what motivate students to be successful, to be concerned about passing an assessment that determines their ability to further their

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<sup>82</sup> Delgado, 104.

education and their future. The history of high-stake assessments suggests, as can be seen throughout this work, that there is a great conflict when determining what should the purpose of standardized tests be at this point in time: Is it more reliable for the academic success of the student or the institution, or should it be modified to satisfy both? Are current or proposed assessments truly attempting to close the educational gap in the nation or will they create more conflict than they may aim to resolve?

It is evident that standardized tests must have a middle ground. They should assess the school system while also challenging students to work to the best of their ability. Politicians should begin by devising proposals for accountability which were removed by President Trump. States should not be given an abundance of power at this time as there is evidence of institutions who manipulate the reports they make.<sup>83</sup> The educational system is exposed in a way that states may be able to manipulate their ability to account for their own institutions by devising assessments that may not be as valid or impartial. The goal of creating such assessments would be simply to utilize this assessment as a way to provide a state with more income through federal funding. There is great potential in a grace-period plan for low-income institutions that the state and federal government should push towards. Allowing these poorer institutions an opportunity to improve their institutions with temporary funding will also contribute to addressing funding issues that affect the importance of standardized testing. Benjamin and Pashler (2015) stated the following which serves as an appropriate addition to the conclusion made on standardized test value:

When considering the multitude of changes that the U.S. educational system is currently undergoing, it is critical that we keep multiple targets in our sight. The traditional view is that there is a separation between the acquisition of knowledge and skills and the evaluation of a student's mastery of the curriculum. Both are

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<sup>83</sup> Peters, 268.

important goals, and current research indicates that tests can facilitate progress on both fronts. Keeping in mind the ways that tests can be fruitfully used to enhance education, rather than simply measure it, allows us to take a broader view of the role of standardized tests in modern education policy.<sup>84</sup>

Much of the disparities caused by high-stake testing from a socioeconomic viewpoint can also be expunged through the use of alternate assessments created by states under the current ESSA statute. Just as the American Bar Association allowed for a brief period for law schools to utilize alternate, yet validated forms of academic success measurement, low-income institutions should be allowed to potentially devise alternate assessments, especially in elementary school levels, at least as a start.

It may be safe to say that a score alone cannot sufficiently determine whether a student is capable of succeeding in their academic goals as well as their career goals, yet completely removing these tests has shown decline in educational preparedness, especially at the college level. At a bare minimum, standardized tests, as they already are, should be influencing students to be academically successful. It is also necessary for institutions to work towards the goals of a student's future. Any assessment administered by an institution additionally to their curriculum, should be working towards preparing students for the next step. It seems that the technological era this nation is currently in does not aid in motivating students to strive for academic success. In many ways it serves as a distraction, which is why standardized tests place accountability over students to succeed.

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<sup>84</sup> Aaron S. Benjamin and Hal Pashler, "The Value of Standardized Testing: A Perspective From Cognitive Psychology," *SAGE Education* 2, no. 1 (2015): 20.

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