

Louisiana Bar Examination Proposals for Change

Louisiana Supreme Court

December 8, 2010

Study and analysis

- ▶ Since 2001, the Committee has been studying possible changes to the Louisiana Bar Examination.
- ▶ Internal review and analysis have been performed.
- ▶ Testing systems in other jurisdictions have been reviewed, compared and considered.
- ▶ Expert advice and data analysis have been sought from the NCBE, Legal Examination Consultants and Experts in Psychometrics.

Dynamic Public Process

- ▶ Meetings have been held with members of the Louisiana Supreme Court, LSBA Presidents, LSBA Study Committee Members, Law School Deans, Bar Advisory Committee Members and Law Professors.
- ▶ Information has been disseminated via the web.
- ▶ Comments have been solicited and collected.
- ▶ Presentations have been made to the LSBA General Assembly and to Local and Specialty Bar Associations.
- ▶ Proposals have been adjusted at every step to address concerns.

The Proposals

Proposal #1

(Short term)

**Compensatory
Scoring**

**Target Date
February 2012**

Proposal # 2

(Long term)

Restructure the Exam

**Target Date
February 2015**

Indicators of Test Quality

- ▶ Validity – competent to practice
- ▶ Reliability – decision consistency (includes candidate and reader consistency)
- ▶ Fairness – all candidates treated alike, multiple test types, consistent pass/fail standards
- ▶ Efficiency – resource/cost effective methods

Problems

- ▶ **Validity**
 - ▶ “Spotting”
 - ▶ Rote memorization
- ▶ **Reliability**
 - ▶ Conjunctive rule
 - ▶ Conditional fail rule
- ▶ **Fairness – Variation in standards**
 - ▶ Within an administration across tests
 - ▶ Between administrations
 - ▶ Effect of idiosyncratic reader(s)
- ▶ **Efficiency – Reliance on essays**

Proposal #1: Compensatory scoring

▶ Compensatory Scoring

- ▶ Retain the current 3 day, 9 subject essay examination.
- ▶ Change the way it is scored.
- ▶ Streamline the grading process.
- ▶ Eliminate the conditional failure status.

Why adopt compensatory method?

- ▶ Reliability and Fairness

- ▶ Increases reliability and decision consistency
 - ▶ Reduces impact of grading and test variability.

- ▶ Validity: Reduces Incentive to “Spot”

- ▶ Spotting is a strategy used by some applicants to game the exam by skipping subject examinations.
- ▶ Encourages candidates to study for all 9 tests.

Projections indicate that using a compensatory scoring model will put Louisiana's exam within the recommended range for reliability and will significantly increase decision consistency.

Scoring

Current System

- ▶ Conjunctive Approach
- ▶ Applicants must score 70/100 on 7 of 9 subjects to pass and can fail only one Code subject.
- ▶ Applicants who pass 5 of 9 “condition”.

Proposed Model

- ▶ Compensatory Approach
- ▶ Combine scores on all subject examinations for a total passing score. An applicant who scores 70% passes.
- ▶ Eliminates the conditional failure status.

Pass Rate, Reliability and Decision Consistency

Index	Compensatory (630)	Hybrid (630/350)	Current Conjunctive
Percent passing	78%	75%	69%
Score reliability	0.90	0.81	0.77
Decision Consistency	90%	84%	80%

Modeling based on final scores of 2,721 first timers
who sat for the Feb. 07 – July 10 exams

Rules:

Compensatory = total raw score of 630 or higher on 9 tests

Hybrid = total raw score of 630 or higher **AND** 350 or higher on code tests

Current conjunctive = pass at least 4 of 5 code tests and 7 of 9 total tests



Weighting the Code Subjects

- ▶ Giving Code tests twice the weight of Non-code tests:
 - ▶ Would not negatively impact reliability or decision consistency.
 - ▶ Would have virtually no effect on who passes or fails.
- ▶ Candidates are generally as proficient in Code subjects as in Non-Code subjects and vice versa.
- ▶ This is true both for candidates educated within Louisiana and those educated outside of Louisiana.

Code and Non-Code Performance

Table 2
Mean Code and Non-Code Scores by School: February 2007 – July 2010

Test Type	LSU	Loyola	Southern	Tulane	Other	Total
Code	77.57	75.06	73.25	77.44	72.80*	75.13
Non-Code	78.01	75.15	72.75	76.89	71.87	74.88
Difference	-0.44	-0.09	0.50	0.55	0.93	0.25
N	605	672	412	378	654	2,721

* The “other” category includes all schools other than the four listed.

Formula: Weighting Code Subjects

▶ Weight Code Subjects 2:1

- ▶ Applicant must score 700/1000 or 70% to pass.
- ▶ Assign a maximum score of 100 for each of the 9 subject exams.
- ▶ Multiply each Code score by 1.3334 and each Non-Code score by 0.8333.
- ▶ Compute the sum of these two scores for a total score.

$$(400 \times .8333) + (500 \times 1.3334) = 333.3 + 666.7 = 1000$$

Passing score is 70% of 1000 or 700.

Grading

- ▶ Efficiency: Streamline the re-grade process
 - ▶ Calculate scores after Assistant Examiner grading.
 - ▶ Re-grade the ≤ 70 papers of any applicant whose total score falls within two standard deviations below the cut score.
 - ▶ Range includes any candidate likely to benefit from a re-grade.

When?

- ▶ When? Implement Feb. 2012
- ▶ Transition: Those who currently hold a “conditional fail” status allowed two additional attempts to pass in Feb. or July 2011.
- ▶ Special sessions will allow for pre-testing La. MCQ's

Proposal #2: Restructure the exam

- ▶ Rather than an all-essay exam, adopt an exam that uses three testing forms:
 - ▶ Performance: a written exam that tests practice related skills. A “library” of the law and source documents are provided.
 - ▶ Objective: multiple choice testing is highly reliable. It allows for breadth of topic coverage and for equating and scaling to assure test consistency over time.
 - ▶ Essay: a written exam that tests issue identification, organizational, analytical and communication skills.

New Test Format

Three Types of Tests

- ▶ MPT
- ▶ MCQ
- ▶ Essay

Three Days of Testing

- ▶ Eighteen hours of testing
 - ▶ Two 90 minute performance tasks
 - ▶ 9 one-hour essay questions
 - ▶ 200 MCQ's

Test calendar

	Tuesday	Wednesday	Thursday
9:00 a.m. To 12:00 noon	NCBE MPT: Two 90-minute tasks	La. MC: 100 items	La. Essay: Three 1-hour essay questions
1:30 p.m. To 4:30 p.m.	La. Essay: Three 1-hour essay questions	NCBE MC: 100 items	La. Essay Three 1-hour essay questions

Why restructure?

Limitations of Short Term Plan

- ▶ Fairness and reliability compromised by variation in question difficulty and reader leniency within and between administrations.
- ▶ Validity, reliability, and efficiency restricted by total reliance on essay questions.
- ▶ The 9 tests are not on a common scale and thus not weighted equally.

Strengths of Long Term Plan

- ▶ Multiple assessment methods fairer.
- ▶ Increased reliability (use of MCQ's and new grading practices).
- ▶ Scaling and equating allow for consistent standards across administrations.
- ▶ Passing rate can be set depending on cut score chosen.
- ▶ Continued emphasis on Louisiana law.

MPT

- ◎ The MPT tests fundamental lawyering skills. Applicants are provided with source documents containing facts and a library consisting of cases, statutes, etc. The applicant is to complete a specific assignment described in a memorandum from a supervising attorney.

MCQ

Wednesday a.m.

- ▶ La. MCQ
 - ▶ Three hours
 - ▶ 100 questions
 - ▶ Code subjects only

Wednesday p.m.

- ▶ NCBE MC for LA
 - ▶ Three hours
 - ▶ 100 questions
 - ▶ Criminal Law, Evidence, Constitutional Law and Federal Jurisdiction and Procedure

Essay Test

- ▶ 12 hours of 18 hour exam devoted to Louisiana law.
 - ▶ 9 essays drawn from these subjects:
 - ▶ Codes I, II and III, La. CCP, Torts, BE/NIL, La. Rules of Professional Conduct .
 - ▶ Shorter fact patterns designed to elicit analysis, organization and writing skills, rather than rote memory and term recognition.
 - ▶ Subjects not labeled.
 - ▶ Cross-over questions may combine subjects.

Weight and Scoring

- ▶ LA Essay: 3
- ▶ LA MC: 1
- ▶ NCBE MC: 1
- ▶ MPT: 1
- ▶ Scaled to NCBE MC.
- ▶ Set passing score based on past standards.
- ▶ Louisiana topics weighted 67% and non-code topics 33%.
- ▶ 2/3 of the total testing time devoted to written questions; 1/3 to objective questions.

Additional Weight to the Code

If giving even more weight to the Code subjects is desired, 70% weighting can be achieved by applying this formula to compute an applicant's total examination scaled score:

$$\text{Total} = (5 \times \text{Essay scale score}) + (2 \times \text{NCBE Multiple Choice scale score}) + 2 \times \text{Louisiana Multiple Choice scale score} + \text{Performance Test scale score}.$$

Setting the Pass/Fail line

- ▶ Convert all scores to a common scale

Convert LA Essay, LA-MC, and MPT raw scores to the equated scale used for the MBE-MC test (adjusts for variation in test difficulty)

- ▶ Compute weighted total score

Weight scale scores in proportion to the amount of testing time devoted to them.

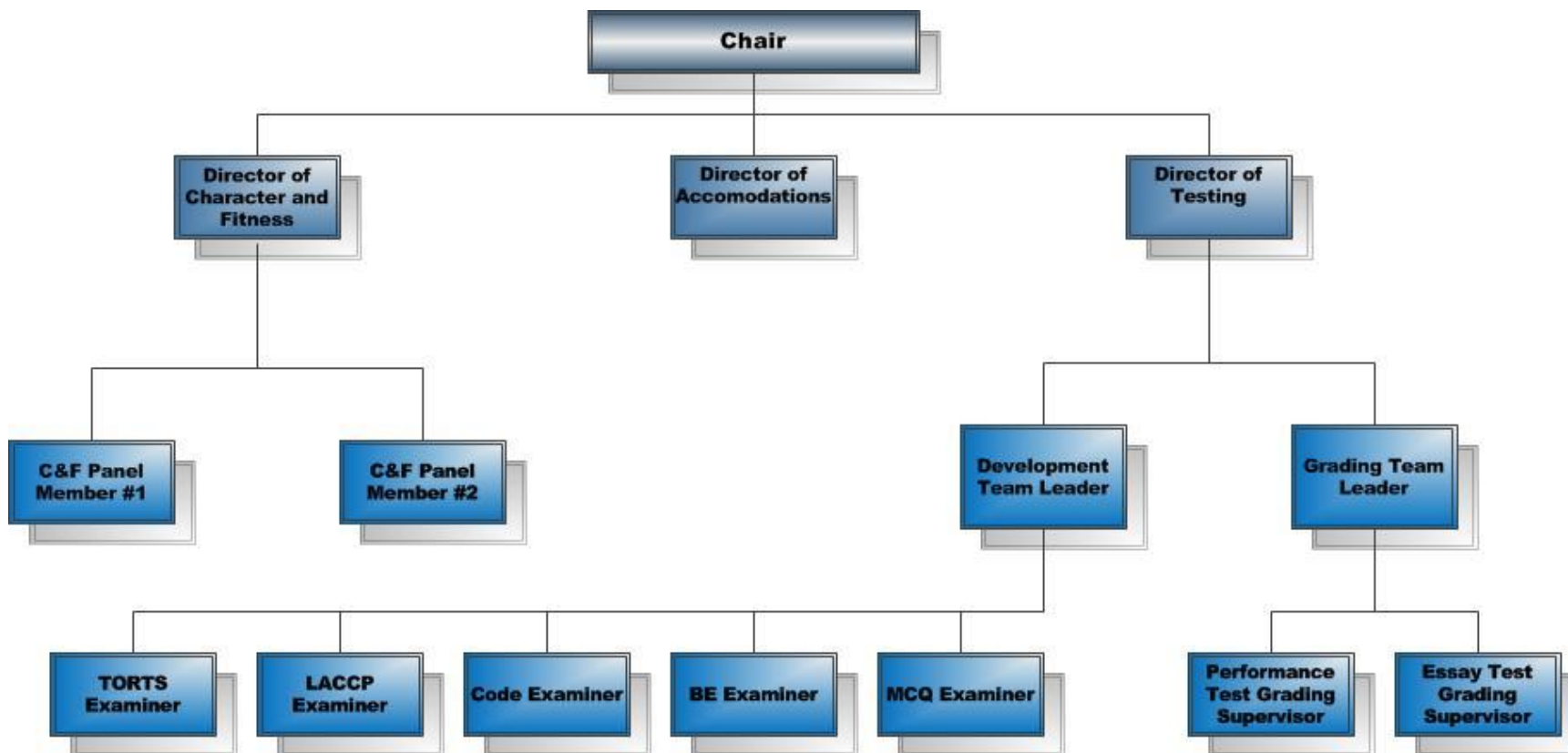
$$\text{Total} = (3 \times \text{LA-Essay}) + \text{LA-MC} + \text{MBE-MC} + \text{MPT}$$

- ▶ Set passing score to conform to past standards

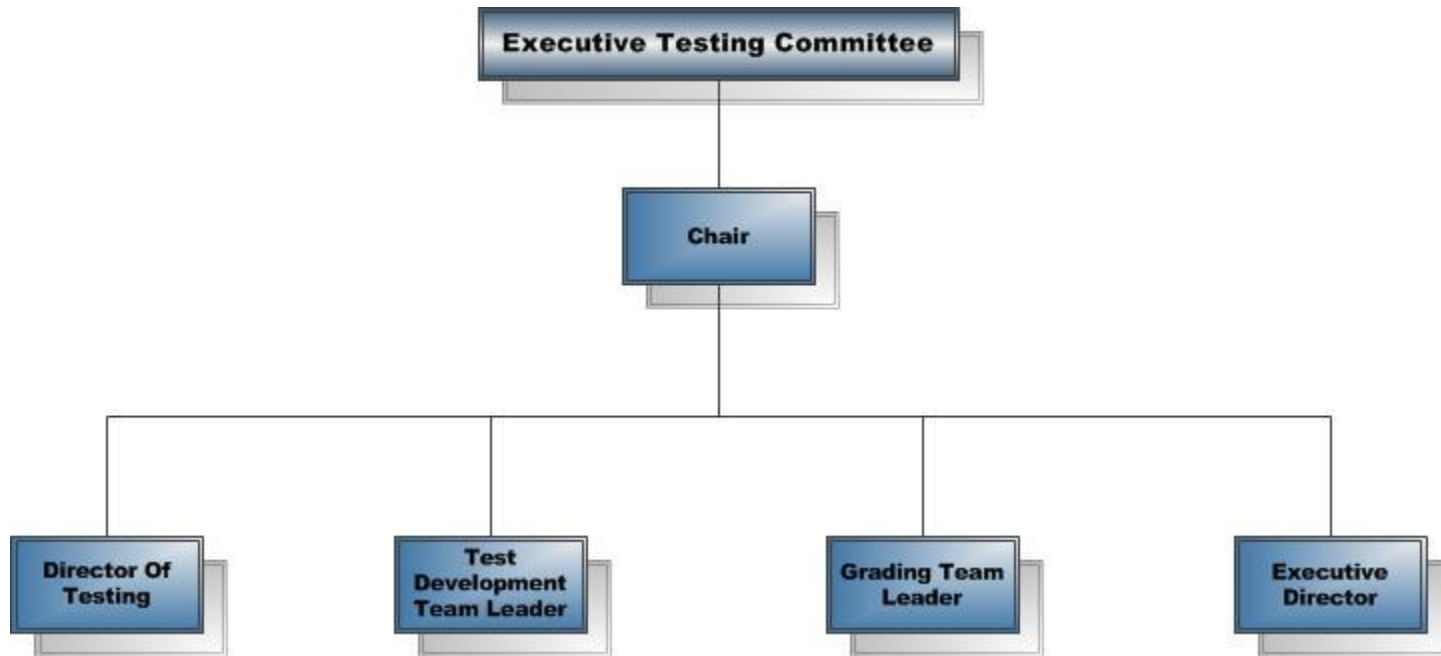
Committee restructure

Operating procedures to establish new organizational structure to facilitate improved exam development and grading processes.





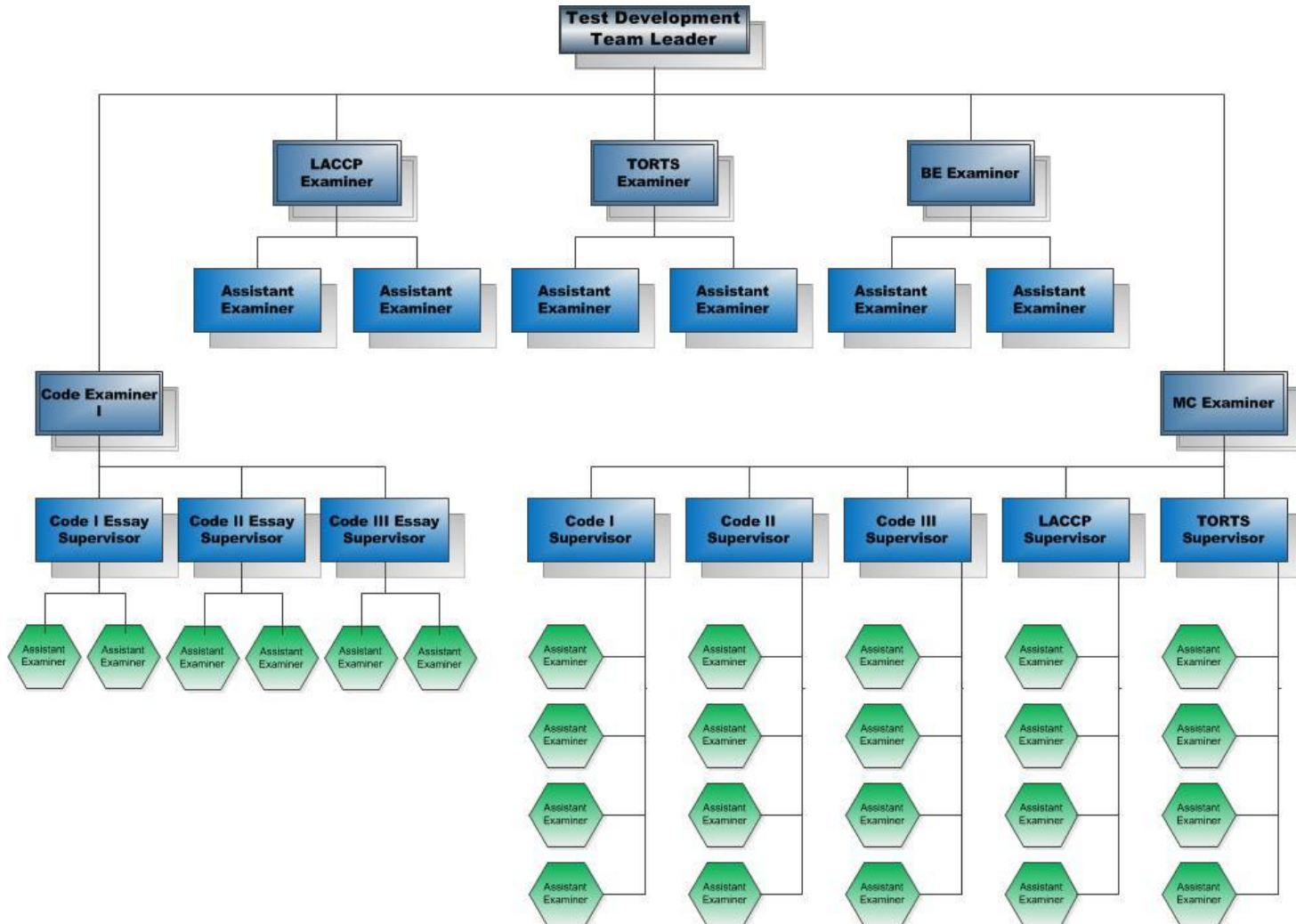
Executive Testing Committee



Exam development

- ▶ Team approach
- ▶ Question banks
- ▶ Editing processes
- ▶ Pretesting
- ▶ Question selection

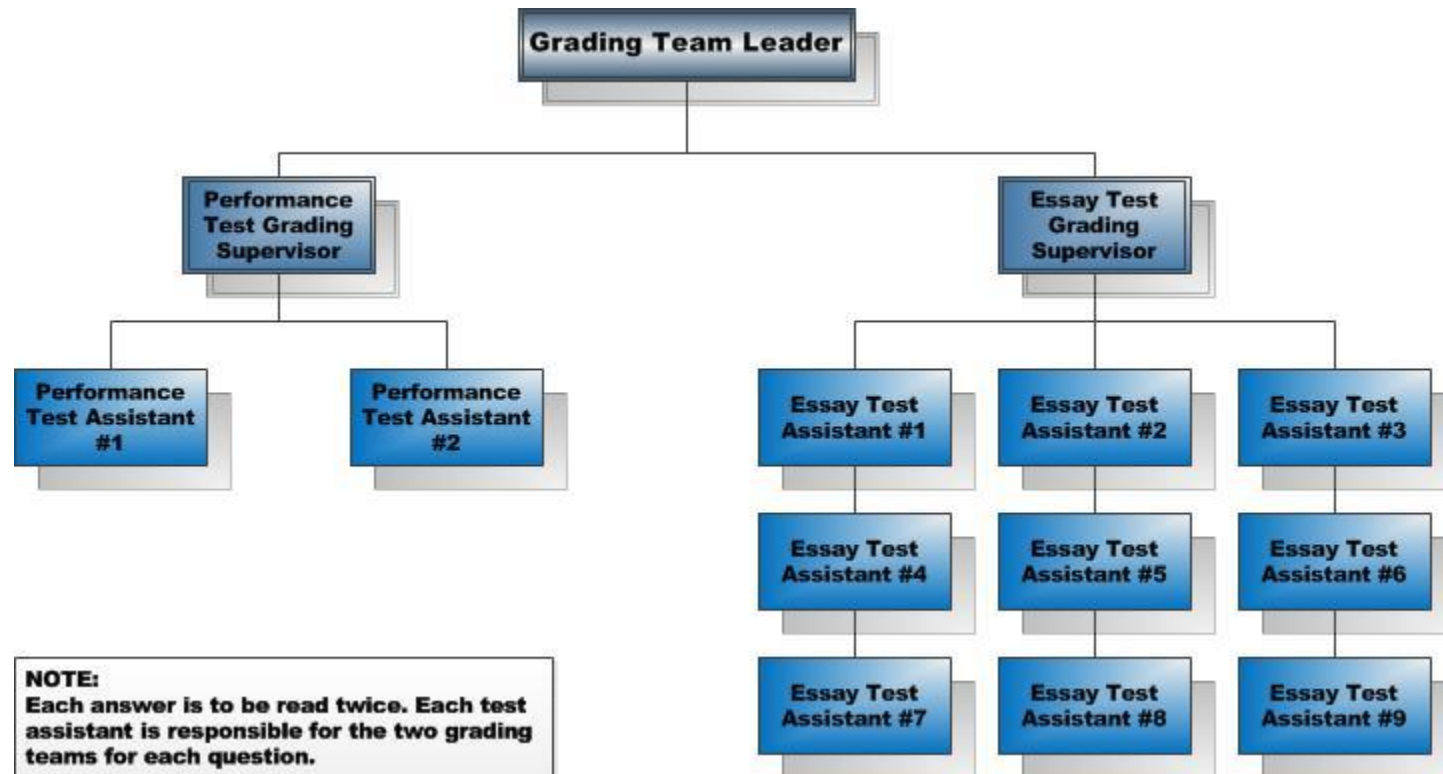
Test Development Team



Exam grading

- ▶ New grading structure
 - ▶ More reliable
 - ▶ More consistent
 - ▶ More efficient
 - ▶ Analysis of question performance
 - ▶ Vehicle for addressing aberrations
 - ▶ Back-up for contingencies

Grading Team



Comments and concerns

During the process, the Committee has accepted comments submitted by all interested groups and individuals and has considered these comments in developing the proposals. Some of the comments are reflected in the following slides.

Law Schools

- ▶ How will compensatory scoring affect pass rates?
- ▶ Will we have time to get our students ready?
- ▶ What about the Civilian tradition?
- ▶ MCQ's are difficult to write.
- ▶ Will the quality of exam questions improve?
- ▶ Currently too much depends on individual Examiners.
- ▶ How will aberrations be handled?

Practitioners

- ▶ Don't "dumb it down"!
- ▶ Young lawyers don't know how to practice.
- ▶ Young lawyers don't know how to write.
- ▶ Multiple guess?
- ▶ Three days of testing: We did it!
- ▶ What about our Civilian tradition?
- ▶ Are we really *that* different?
- ▶ Our children are leaving Louisiana.
- ▶ Wouldn't it be nice to have reciprocity or transportable scores.

LSBA Committee

- ▶ Continue to make good use of volunteer members.
- ▶ MCQ's: Use NCBE questions for common law subjects.
- ▶ Avoid overlapping/conflicting questions.
- ▶ Why buy products from the NCBE?

Applicants

- ▶ A full week of testing involves a lot of time and expense and prolongs the agony!
- ▶ No reciprocity.
- ▶ Question re-use, predictability, stability.
- ▶ Grading fairness: My failing paper looks just as good as the representative good answer!
- ▶ Do style and grammar count?

The Committee

- ▶ Testing for minimal competence.
- ▶ Fairness.
- ▶ Quality of questions.
- ▶ Test stability and new members.
- ▶ Question development.
- ▶ Variance among graders.
- ▶ Managing the workload of a volunteer system.
- ▶ Grading aberrations.

Answers

The proposals have been designed to address as many of the questions and concerns as possible.

