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Clarifying  
Complex  
Education  
Issues

# A Closer Look at California's Test Results

*Public schools in California will begin the year 2000 by being ranked according to their students' performance on a state-mandated test of basic skills. The scores from the SAT-9 portion of California's Standardized Testing and Reporting (STAR) program have already been used to label over 3,000 of the state's schools as "under-performing."*

*In short, standardized tests suddenly carry high stakes in a state that did not even have a statewide exam two years ago.*

**A**long with intense media and parental interest, California's increased focus on standardized testing has created additional pressure for public schools, raising many questions about what test results really mean, or do not mean. While test scores are often seen as an easy way to measure school and student performance, interpreting their significance is far from simple. The sheer numbers and the state's diversity are certainly part of the reason for this. Over four million California students in about 8,000 public schools took STAR in the spring of 1998 and again in 1999. Almost every student in grades 2 to 11 was tested in either four or five subjects.

To facilitate a better understanding of the results, this EdSource report explores the many ways they can be reported, explains some variations in how they are interpreted, and provides information about the larger context in California. In the course of doing this, it also takes a more thorough look at the following findings:

- ✓ Results vary substantially by subject and grade.
  - ✓ Scores for poor students and English language learners are low across the board.
  - ✓ Gender makes almost no difference in student performance, except on the Spanish-language test.
  - ✓ First-year results on standards-based questions (often called the augmented items) are inconclusive, in part because California does not yet have performance standards to measure the results against.
  - ✓ High school scores are troubling — the same or lower than the previous year, with only a few bright spots. The particularly poor performance in high school reading and mathematics suggests the need for an intense look at the interaction of the high school curriculum, the state content standards, and the national test.
- These observations generate more questions than they answer, to the dismay of anyone impatient to know the reasons behind the results. However, with only two years of test scores to examine, conclusions or causal connections are premature. At best, the current STAR scores suggest issues that warrant further attention. Along with explaining the above findings, this EdSource report raises some of those issues as well as some questions about the future direction of testing in California.

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## **A Closer Look at California's Test Results**

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10/99 v/g

Association of Mexican-American Educators v. State of California and the California Commission on Teacher Credentialing

The Department of Justice Civil Rights Division (DOJ/CRD) has expressed interest in participating in the en banc review by the Ninth Circuit Court of Appeals of a July 12, 1999 decision (amended October 28, 1999) of a panel of the Ninth Circuit (published at 195 F.3d 465 (1999)). DOJ has been asked by plaintiffs' counsel to participate in this case. DOJ has requested the Department of Education's views on seeking such participation. Oral Argument has been scheduled for June 20, 2000.

Minority educators brought this class action lawsuit against the State of California and the California Commission on Teacher Credentialing (CTC) challenging the use of the California Basic Educational Skills Test (CBEST) as a requirement for certification to teach in California public schools as a violation under Title VI and Title VII of the Civil Rights Act of 1964. The CBEST is a test of basic skills which candidates can take an unlimited number of times in their effort to pass.

The Ninth Circuit panel concluded that--

- Title VI did not apply to CTC before 1996, because it did not receive federal funds and because, under the Civil Rights Restoration Act, Title VI applies only to the particular State agencies that receive federal money, not to the State of California as a whole, which imposes CBEST as a statutory requirement.
- Title VII does not apply to CBEST, because it is a licensing exam, not an employment test.
- In the alternative, the district court's ruling on the merits was not clearly erroneous. The district court had ruled in 1996 that even though CBEST has a disparate impact on minorities, the test was properly validated and the test therefore does not violate Titles VI or VII.
- The district court abused its discretion in denying any costs to defendants.

**DOJ/CRD Proposal**

DOJ/CRD proposes to file on the issues of whether there is jurisdiction under Title VI and Title VII of the Civil Rights Act to challenge CBEST, and perhaps on the issue of whether the panel used the proper test on the issue of awarding costs to the defendants. It does not propose to file on the underlying merits of whether the CBEST was properly validated and whether it therefore complies with Title VI and Title VII under a disparate impact analysis.

Title VI

California's en banc pleadings argue that there is no Title VI jurisdiction because the disparate impact standard in the Title VI regulations applies only to the specific program assisted, not to the entire agency assisted, as provided under the Civil Rights Restoration

Act. This is the analysis used by the Third Circuit in the Cureton decision. Although that issue will be prospectively cured by the regulations that are being issued for all federal agencies incorporating the Civil Rights Restoration Act provisions, DOJ/CRD proposes to address that issue so as not to create the implication, by only addressing the Title VII issue, that we support the State's argument that there is no Title VI jurisdiction.

### Title VII

DOJ/CRD is extremely concerned about the panel's conclusion that CBEST is not covered by Title VII because it is a licensing exam. It believes that examinations imposed by a state as a condition for public employment must properly be viewed as employment exams subject to Title VII. It disagrees with the panel's conclusions that-- (1) CBEST is a licensing exam (which properly would be exempt from Title VII) despite the fact that it does not apply to teachers hired for private schools and (2) CBEST would only be an employment exam if the teachers were to be hired by the state itself, and not by local districts, which are instrumentalities of the state under California law. DOJ/CRD is very concerned that, if the full court adopts the position of the panel, DOJ will lack authority to pursue non-education-related employment cases in California that are being closely assessed by DOJ.

### The Merits

DOJ/CRD does not propose to file on the merits--the issue whether the CBEST can be applied to teachers consistent with civil rights laws. There is no question that CBEST has had a disparate impact on the basis of race. The question has been whether the test was properly validated. When we reviewed the district court decision in 1997, ED's informal view was that the test could be supported, at least based on a 1995 validation study. Also, based on the Acting Deputy Secretary's strong view, formed from his personal familiarity with the test, that it measured basic skills at a 6<sup>th</sup> to 8<sup>th</sup> grade level, ED argued that it did not make sense to challenge the test on the merits. EEOC strongly disagreed, arguing that while teachers should have basic skills, the state had failed to meet professional validation standards and in particular had failed to validate the test questions as measuring the basic skills that teachers needed. An effort was made to develop a compromise brief, but no agreement was reached.

### Options

1. File on the jurisdictional issues in support of plaintiffs, as recommended by DOJ/CRD, but subject to the inclusion in the brief of strong language supporting high standards for teachers that exceed the type of standards reflected in CBEST.
2. File on the jurisdictional issues in support of the plaintiffs, but also take a position supporting CBEST on the merits as a properly validated test. However, EEOC and DOJ/CRD do not agree that CBEST was properly validated, and there would appear to be little prospect of timely developing a consensus government position on this issue.

### 3. Don't file.

#### Reasons to File

DOJ has serious concerns about the limits on their ability to address public employment discrimination if the Title VII jurisdictional issue is wrongly decided. Filing on the jurisdictional issues maintains the Administration's consistent position that civil rights laws and high standards are, and must be, in harmony; that standards and tests must be consistent with civil rights laws and cannot come at the expense of discrimination. Particularly if the government's brief includes strong language that the United States supports high standards for teachers, even much higher standards than reflected in the CBEST (perhaps quoting the President and Secretary) -- together with statements that we also insist that states properly validate their tests to ensure that they do not discriminate, and that we are not taking a position on whether this test was properly validated -- we are sending a consistent message to the public and our stakeholders. Although it is not in the record of this case, the Department of Education in fact has given California and the CTC a \$10 million grant to assist in California's reform of its teacher licensing process, including the development of a new standardized assessment for teachers. Not filing at all at this juncture may be viewed in the civil rights community as a signal that our policy for high standards trumps the civil rights laws, and that we are prepared to embrace ways to exempt those tests from civil rights coverage.

#### Reasons Not to File

The Administration has made teaching and high standards of teacher quality one of its top priorities, both in message and legislative agenda. (The Administration's proposal to reauthorize ESEA includes support to states to "redesign[] and strengthen[] professional licensure systems for educators" and to "develop[] or strengthen[] assessments to test the content knowledge and teaching skills of new teachers;" it also puts particular emphasis on recruiting and hiring only teachers who have met rigorous standards of quality.) The CBEST measures very basic skills. By filing a brief that seeks to overturn two of the three grounds on which the Court of Appeals affirmed the District Court's decision regarding the test, the Administration could well appear to be siding exclusively with those who object to this basic skills test for teachers. Also, the Administration's silence on the CBEST issue itself would be conspicuous.

Thus, there is a significant risk that filing on behalf of plaintiffs on the jurisdictional issues alone, and not filing on the merits, will be interpreted by the public as Administration inconsistency and lack of commitment to high standards for teachers; that we talk about high standards, but then join in a challenge to a test of basic standards for teachers.

DIALOG(R)File 739:The Fresno Bee  
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10206053

## TESTING TEACHERS COURT UPHOLDS CBEST AND DRIVE FOR CLASSROOM COMPETENCY.

Fresno Bee (FB) - SUNDAY, July 25, 1999

Edition: HOME Section: VISION Page: G2

Word Count: 1,171

### MEMO: EDITORIALS

#### TEXT:

See if you can make these two contradictory facts add up: Over the last several years California has begun to demand higher achievement of its 5.6 million public school students. Meanwhile, a persistent group of minority educators has been suing to prevent the state from administering a basic skills test, which they call discriminatory, to teaching and administrative candidates before giving them credentials.

Fortunately for California schools, the courts have consistently sided with the state. Last week, the U.S. 9th Circuit Court of Appeals upheld the decision of a lower court judge who ruled that the Commission on Teacher Credentialing has the right to use the California Basic Educational Skills Test, or CBEST, to assess would-be teachers' academic competency and fundamental fitness for the job.

CBEST was established 16 years ago in response to understandable concern that some California teachers couldn't read, write or do math problems as well as the average high-school sophomore. Its difficulty is set at about the college level in reading and writing; the math portion is considered to be at about the ninth-grade level.

The test includes 100 multiple choice questions and two short essays over a four-hour period, which can be used to work on any or all of its three sections. A person can take the test as many times as he likes until he passes, and doesn't have to pass all three sections at one sitting.

To pass the reading and math sections, about three-fourths of the questions must be answered correctly. Who would argue that the state ought not to be able to ensure that its teachers -- themselves college graduates -- are capable of such minimal performance?

Yet eight people who repeatedly failed the test, along with the Association of Mexican-American Educators, the California Association for Asian-Pacific Bilingual Education and the Oakland Alliance of Black Educators, have spent the past seven years doing just that.

They argue that CBEST's questions are not necessarily relevant to a number of jobs that require teaching credentials, such as coaching, counseling or administrative posts. And they point to wide racial disparities in the first-time passage rate: 80% for white test takers, 60% for Asian-Americans, 49% for Latinos and 38% for African-Americans.

Those numbers are undeniably troubling, but more so as an indicator of

unequal educational opportunities than as an indictment of the test itself. CBEST has been field tested to ensure that none of its questions contain racial or cultural bias; two federal courts have now been convinced on that score. And while perhaps not all vice principals use basic math principles in their daily duties, all ought to display some modicum of academic accomplishment to credibly run what is, after all, an institution centered on academic achievement.

Doing away with CBEST, as minimal a test as it is, would only have exacerbated the very problems that are responsible for the lower passage rates of minority test-takers. The schools that failed to help prepare them adequately will never improve if their teachers and administrators lack basic academic skills.

The following are six sample questions, three in reading and three in math, from the CBEST test.

Read the passage below; then answer the three questions that follow.

(1) The way emperor penguins care for and protect their unhatched eggs is one of the wonders of nature. (2) The only land creatures able to survive the Antarctic winter, these birds must care for their young while withstanding 24-hour darkness, gale-strength winds, and temperatures of 60 to 80 degrees below zero.

(3) Each year, at the start of the Antarctic autumn, female emperor penguins each lay a single egg on bare ice. (4) Then, after transferring care of the eggs to their mates, they take off across the open ice for the nearest fishing site. (5) The males spend the next 60 days with neither food nor light, living off their considerable body fat and balancing the eggs on their feet under a protective flap of skin. (6) During this time, they adapt to the brutal temperatures by huddling together in flocks of hundreds. (7) Although penguins are unable to fly, they are superb swimmers. (8) If all goes well, the females return from the sea with a meal of fish just as the eggs are hatching.

1. Which of the following numbered sentences of the passage best expresses an opinion rather than a fact?

- A. Sentence 1
- B. Sentence 2
- C. Sentence 3
- D. Sentence 4
- E. Sentence 5

2. Which of the following numbered sentences is least relevant to the main idea of the second paragraph?

- A. Sentence 4
- B. Sentence 5
- C. Sentence 6
- D. Sentence 7

## E. Sentence 8 :

3. Which of the following best summarizes the main points of the passage?

- A. The brutal climatic conditions of the Antarctic prevent female emperor penguins from producing more than one egg a year.
- B. During the bitter Antarctic winter, male emperor penguins protect unhatched eggs, while females hunt for food.
- C. A major difference between emperor penguins and other species of birds is that females rather than males are responsible for food gathering.
- D. Without their substantial body fat, emperor penguins could not feed their young during harsh Antarctic winter.
- E. Emperor penguins live in the Antarctic, where they manage to survive by fishing for food and huddling together for warmth.

Sample math questions (no calculators allowed):

1. Ms. Gutierrez needs to order rope for her gym class of 32 students. Each student will receive a piece of rope that is 5 feet 8 inches long. What is the total length of rope Ms. Gutierrez needs to order for her class?

- A. 106 feet 8 inches
- B. 154 feet 8 inches
- C. 160 feet 4 inches
- D. 181 feet 4 inches
- E. 185 feet 6 inches

2. The Mills Library has 1,007,199 books. The Springvale Library has 907,082 books. Which of the following is the best estimate of how many more books the Mills Library has than the Springvale Library?

- A. 100,000 books
- B. 80,000 books
- C. 10,000 books
- D. 8,000 books
- E. 1,000 books

3 Last week Mario walked  $7\frac{3}{4}$  miles. This week he walked  $15\frac{5}{6}$  miles. What is the difference between the distance he walked this week and the distance he walked last week?

- A. 8 miles

B.  $8 \frac{1}{12}$  miles

C.  $8 \frac{1}{3}$  miles

D. 9 miles

E.  $9 \frac{1}{12}$  miles

\* Reading answers: 1. A; 2. D; 3. B, Math answers: 1. D; 2. A; 3. B.

What do you think?

\* Readers may respond to this editorial on testing teachers or share opinions on the CBEST test with the public by logging onto [fresnobee.com](http://fresnobee.com) and going to the Opinion Section to participate in our ongoing education forum.

Readers may also submit letters by e-mail on this subject to [letters@fresnobee.com](mailto:letters@fresnobee.com). Letters must be no more than 250 words and have the author's name and telephone number for verification.

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10194107

MINORITY CHALLENGE OF TEACHERS TEST REJECTED

Sacramento Bee (SB) - TUESDAY, July 13, 1999

By: Claire Cooper Bee Legal Affairs Writer

Edition: METRO FINAL Section: MAIN NEWS Page: A4

Word Count: 458

TEXT:

SAN FRANCISCO - A federal appellate court Monday upheld the exam used in California to test prospective teachers in basic reading, writing and arithmetic, rejecting a civil rights complaint by minorities who failed it and were denied teaching jobs.

In a 2-1 vote, the 9th U.S. Circuit Court of Appeals affirmed a ruling three years ago by U.S. District Judge William Orrick in San Francisco. Orrick said the test was a valid measure of pertinent skills, although he agreed it had a disparate impact on minorities.

In the first 14 years it was used, the California Basic Educational Skills Test, known as CBEST, screened out 20 percent of white applicants, 62 percent of African Americans, 51 percent of Latinos and 47 percent of Asian Americans.

The 9th Circuit decision didn't analyze those numbers or Orrick's decision that, despite them, CBEST isn't in violation of civil rights laws. Instead, the appellate court said the civil rights laws -- Titles VI and VII of the 1964 Civil Rights Act -- are inapplicable.

Title VI prohibits discrimination in programs receiving federal funds. It doesn't apply, said the court, because while California gets federal money, that's not true of either the Legislature, which mandated CBEST, or the California Commission on Teacher Credentialing, which administers the test.

Title VII, which bars discrimination in employment, is inapplicable because CBEST isn't an employment exam, the court said.

The opinion was written by U.S. District Judge Stephen Wilson of Los Angeles, who was temporarily assigned to the 9th Circuit, and signed by Circuit Judge Andrew Kleinfeld of Fairbanks, Alaska. Circuit Judge Robert Boochever of Pasadena dissented, saying the majority diminished the civil rights of teachers in a way that the 1964 Congress did not intend.

The court also ruled that the minority plaintiffs and the civil rights organizations that have represented them in court must reimburse the state for its legal costs. The case was returned to Orrick to figure out how much. The tab could exceed \$200,000.

The opinion acknowledged long-standing precedents against assessing high defense costs against civil rights plaintiffs with limited resources. Those precedents were superseded, Wilson wrote, by a more recent ruling that requires unsuccessful plaintiffs to pay for the defense.

However, Boochever's dissent urged Orrick to keep in mind that a high

(6)

tab could bankrupt the plaintiffs and discourage valid discrimination cases in the future.

Lawrence Ashe, the state's lawyer in the case, called the ruling a total victory. He said CBEST is an 8th-grade to 10th-grade test, a 'low-level screen' that protects schoolchildren from unqualified teachers.

John Affeldt, who represented the minorities, said he'll consult them before deciding whether to appeal the case further. He said the opinion holds the potential of allowing any employer to evade civil rights laws.

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01521357 (THIS IS THE FULLTEXT)

EDUCATION / AN EXPLORATION OF IDEAS, ISSUES AND TRENDS IN EDUCATION

Court to Reconsider Claim That Teacher Skills Test Is Biased

, From Associated Press

Los Angeles Times , Home Edition ed, colB, p2

Wednesday March 29, 2000

TEXT:

SAN FRANCISCO - A federal appeals court has agreed to reconsider claims by minority educators that California's teacher-qualifying test is discriminatory.

The 9th U.S. Circuit Court of Appeals said Monday that a majority of its judges voted to set aside a panel's 2-1 ruling upholding CBEST, and order a new hearing before an 11-judge panel.

The California Basic Educational Skills Test has been required by state law for teaching, counseling and administrative credentials since 1983.

It consists of multiple-choice questions in reading comprehension and mathematics and two essays to measure writing skills. It is given six times a year and can be repeated indefinitely.

The most recent state figures showed that 100,000 people a year took the test, 70% passed on their first try and 82% to 85% passed eventually.

But there were significant differences among ethnic groups, particularly in first-time passage rates: 80% for whites, 60% for Asians, 47% for Hispanics and 37% for blacks.

The state says the test is set at an eighth- to tenth-grade level and screens out only the unqualified.

Organizations of Latino, black and Asian educators contend that there was no proven connection between CBEST and teaching skills, and that teachers should be judged on their classroom performance.

Upholding the test guarantees that qualified teachers will be arbitrarily excluded and that the state's teaching corps will remain racially skewed, argued John Affeldt, a lawyer for the minority educators.

U.S. District Judge William Orrick of San Francisco upheld CBEST after a nonjury trial in 1996. He said the test had an adverse impact on minorities but measured essential job skills better than other alternatives.

In last year's ruling, the appeals court panel agreed with Orrick but also said the test wouldn't violate federal law even if it discriminated against minorities.

The panel majority said federal civil rights laws don't cover statewide teacher-licensing tests. Affeldt contended that the law applies not only to employers but also to "anyone who interferes with employment relationships in a discriminatory manner."

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01506977 (THIS IS THE FULLTEXT)  
A Step in Meeting Teacher Crisis  
Los Angeles Times , Home Edition ed, colB, p6  
Wednesday February 16, 2000

**TEXT:**

California schools, already burdened by a shortage of fully qualified teachers, will need to hire at least 300,000 more teachers over the next decade to replace retirees, accommodate projected growth and reduce the number of those who hold emergency credentials. Because state college programs can't meet the demand, many school districts will need to recruit qualified and experienced teachers from other states.

At least applicants from other states will no longer face a ridiculous California licensing procedure that took up to five years, including duplicative course work and repeat practice teaching, no matter what the teacher's qualifications. So far, 130 out-of-state teachers have received their credentials under regulations that resulted from a 1998 law sponsored by Assemblyman Jack Scott (D-Altadena) to encourage good teachers from other states to come to California.

The California Basic Education Skills Test, an examination of reading, writing and low-level mathematics, is still required, as it should be, but other requirements have been relaxed by the California Commission on Teaching Credentialing.

Under the reforms, teachers with three years of experience and positive evaluations can earn a full credential by participating in a program of support and mentoring intended for all inexperienced teachers in California. Teachers who have five successful years of experience in another state automatically get a credential if they meet state requirements and take the same professional growth courses, approximately 150 hours every five years, that California requires of all veteran teachers.

In addition, beginning out-of-state teachers will have an easier time earning credentials if they graduated in one of 18 states that have teacher training programs and academic standards equivalent to California's. Some states not on the list, for instance Texas, deserve reconsideration in March in the next round of evaluations for raising student achievement through well-planned programs.

Making it easier to get into the classroom will help attract good teachers. The next step, of course, is making California's schools places where they want to stay.

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01412726 (THIS IS THE FULLTEXT)  
California and the West  
Court Upholds State's Test for Would-Be Teachers  
RICHARD LEE COLVIN, TIMES EDUCATION WRITER  
Los Angeles Times , Home Edition ed, colA 1, p3  
Wednesday July 14, 1999

TEXT:

The state can continue to require potential teachers to pass a test of reading, writing and low-level mathematics even though minorities are far more likely to fail, a federal appeals court has ruled.

Eight unsuccessful test takers and three groups representing minority educators had challenged the legality of the California Basic Educational Skills Test, saying that it was discriminatory and poorly designed.

The state's right to use the test was upheld in 1996, but the plaintiffs had appealed the case to the U.S. 9th Circuit Court of Appeals. They had sought damage awards for more than 60,000 minorities who had failed the test since 1983, making it the nation's largest employment discrimination case.

This week's ruling said the test is the best available means of measuring essential job skills.

The ruling departed from the decision by a San Francisco federal court judge, however, in saying that the test should be treated as a licensing exam, rather than an employment test--meaning federal civil rights protections do not apply.

Moreover, the ruling said that the state agency that administers the exam, the California Commission on Teacher Credentialing, is not subject to federal employment discrimination protections because it does not receive federal funds directly.

According to the ruling, the state does not employ teachers, local school districts do. Therefore, the state cannot be liable for violations of the federal civil rights statute that school districts commit in the course of making hiring decisions.

State Secretary of Education Gary Hart, who as a state senator wrote the legislation creating the test, said Monday's ruling supports the state's efforts to raise academic standards for the public schools.

"It would be a bizarre twist of fate if our very modest standards for entering the teaching profession in terms of CBEST were somehow thrown out when we're trying to get students to world-class standards," Hart said.

But John T. Affeldt, an attorney for the plaintiffs, said the ruling was based on a contorted analysis that treated the state teacher commission as if it were an independent entity and not part of the state's school system. He said the court erred in saying that the state could not be held liable for discrimination that occurred as a result of its own regulations, even if the state does not directly hire and fire teachers.

He also criticized the ruling's conclusion that the test is a licensing exam.

"It means we're going to continue to see a predominantly white teaching force in California and that qualified teachers of color will be disproportionately hindered from applying," Affeldt said of the ruling.

About 41% of California's students are nonwhite; 77% of the teaching

force is white.

Statistics presented in the course of the litigation said that about 80% of white test takers pass the first time, compared with 38% for African Americans, 49% for Mexican Americans and 60% for Asian Americans.

Affeldt said his clients have not decided whether to appeal the ruling.

But T. Lawrence Ashe, the private attorney who represented the state in the case, said he was confident that the ruling would withstand an appeal. He said the state would have to show only that the test bears a reasonable relationship to its goal of ensuring that teachers possess minimal academic skills.

An expert analysis of the difficulty of the test submitted by the state said the reading and writing portions of the test were at a college level. But Ashe cited parts of the math test to show that it was no more difficult than what an eighth- to 10th-grader would be expected to master.

The question missed most frequently on the math part of the test asked how many students could be served a half pint of milk from a five-gallon container. If one knows that a gallon contains 16 half pints, it's only a matter of multiplying to find the correct answer of 80.

The state has spent well in excess of \$1 million to defend the test since 1992 when the suit was filed.

"The real winners in this case are the children who attend public school in California because they won't be exposed to teachers who can't pass a ninth- or 10th-grade test in reading, writing and arithmetic," Ashe said.

The ruling in the case was written by Los Angeles District Judge Stephen V. Wilson, who was serving on the Appeals Court, and joined by Judge Andrew Kleinfeld.

Judge Robert Boochever dissented in the case, saying that the ruling exempts the state's public schools' hiring practices from civil rights laws, "however invidious, discriminatory or harmful those requirements may be." He also argued that the state could reasonably be considered the employer of teachers.

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10194103

APPEALS COURT UPHOLDS CBEST STATE TEACHER CERTIFICATION EXAM NOT COVERED  
BY

CIVIL RIGHTS LAWS.

Fresno Bee (FB) - TUESDAY, July 13, 1999

By: BOB EGELKO ASSOCIATED PRESS

Edition: HOME Section: TELEGRAPH Page: A1

Word Count: 698

MEMO:

IT'S YOUR CALL

TEXT:

SAN FRANCISCO - A federal appeals court upheld California's teacher-qualifying test Monday in a sweeping ruling that said the test would not be covered by federal civil rights laws even if it discriminated against minorities.

In a 2-1 decision, the 9th U.S. Circuit Court of Appeals said the California Basic Educational Skills Test, or CBEST, was valid for two reasons: because it measured job skills and because civil rights laws don't apply to statewide teacher-licensing tests.

To R. Lawrence Ashe, a lawyer for the state agency that administers the test, the ruling means California schools and students will remain protected from teachers who lack basic skills.

To John Affeldt, a lawyer for organizations of Hispanic, Asian and African-American educators, the ruling guarantees that qualified teachers will be arbitrarily excluded and that the state's teaching corps will remain racially skewed. As of several years ago, 80% of the teachers were white, compared to 41% of the students.

"It opens the way for states to create discriminatory exams beyond the purview of federal civil rights statutes," Affeldt said. He said no decision has been made on an appeal.

Minority educators argued that there was no proven connection between the CBEST and teaching skills, and that teachers instead should be judged on their classroom performance.

Manuel Nunez, a Fresno Unified School District board member, has long been a critic of the CBEST. He is familiar with the test as a student counselor at California State University, Fresno.

"Just because you pass it doesn't mean you're going to be a good teacher. It has no relevance to whether you're going to be a good teacher," Nunez said.

The CBEST has been required by state law for teaching, counseling and administrative credentials since 1983.

It consists of multiple-choice questions in reading comprehension and mathematics and two essays to measure writing skills. It is given six times a year and can be repeated indefinitely.

The most recent state figures showed that 100,000 people took the test in one year, with 70% passing on their first try and 82% to 85% passing eventually.

But there were significant differences among ethnic groups, particularly in first-time passage rates: 80% for whites, 60% for Asians, 47% for Hispanics and 37% for African-Americans.

The state says the test is set at an eighth- to tenth-grade level and screens out only the unqualified.

Gordon Lindberg, interim associate superintendent of human resources for Fresno Unified, could not be reached to comment on the decision late Monday afternoon.

U.S. District Judge William Orrick of San Francisco upheld the CBEST after a nonjury trial in 1996. He said the test had an adverse impact on minorities but measured essential job skills better than alternatives.

The appeals court, which heard the case in November 1997, upheld Orrick's decision Monday, saying two state-commissioned studies adequately surveyed teachers and education experts and compared job skills to test questions.

But the court also said those findings were unnecessary because the test is not covered by two provisions of the 1964 Civil Rights Act: Title VI, which applies to public school systems and other federally funded programs, and Title VII, which applies to employment.

The Commission on Teacher Credentialing, which administers the CBEST, receives no federal funds and is not part of any local public school system, the court said. It said Title VII doesn't apply because the state is not the teachers' employer.

The court also said the minority educators' groups who lost the case must pay part or all of the state's legal expenses.

The ruling was written by U.S. District Judge Stephen Wilson of Los Angeles, temporarily assigned to the appeals court, and joined by Judge Andrew Kleinfeld.

In dissent, Judge Robert Boochever said the ruling exempts California's public school hiring requirements from civil rights laws, "however invidious, discriminatory or harmful those requirements may be."

He contended the state, which extensively regulates the schools, should be considered the teachers' employer, but he stopped short of saying whether the CBEST was biased.

The case is Association of Mexican-American Educators vs. State of California, 96-17131.

Fresno Bee staff writer Anne Dudley Ellis contributed to this report.

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TESTING: THE CONVOLUTED ROUTE TO COMMON SENSE

Sacramento Bee (SB) - WEDNESDAY, July 21, 1999

By: Peter Schrag

Edition: METRO FINAL Section: EDITORIALS Page: B9

Word Count: 1,006

MEMO:  
OPINION

TEXT:

You'd think that among the things that should be self-evident in public education is a requirement that the teachers know at least as much as the kids. But maybe not in America -- and certainly not in California, where "self-evident" seems to be no barrier to million-dollar federal lawsuits that should never have been brought in the first place.

Exhibit A is the suit challenging the legality of the CBEST, the California Basic Educational Skills Test, a proficiency exam in reading, writing and math pegged at roughly a ninth- or 10th-grade level, which California's would-be public-school teachers and administrators must pass in order to get a state credential.

Last week in a 2-1 decision, a three judge panel of the 9th U.S Circuit Court of Appeals upheld the test requirement. That was as unsurprising as it was sensible. But in an ironic development for the civil rights lawyers who filed the case and this appeal, the two-judge majority gave the state -- and testing in general -- a great deal more leeway than had the trial judge who upheld the test requirement three years ago. That could have consequences far beyond CBEST, and maybe beyond California.

CBEST, which became a requirement in the early 1980s, was written into law to make certain that, at a minimum, teachers possess the academic skills of the average high school junior. It was hardly something that you expected anyone to take issue with. Even people who never teach math or literature ought to be exemplars of at least minimal academic skills

But because whites pass the test at a considerably higher rate than blacks or Latinos, some minority educators organizations filed a federal suit back in 1992, charging that while CBEST was an employment test, it was unrelated to the requirements of the job. It was therefore discriminatory, they argued, and violated federal civil rights law. Among the named plaintiffs were people who had been identified as good teachers but who could not pass the test, even after five or more tries.

In 1993, U.S. District Court Judge William Orrick of San Francisco agreed with the civil rights lawyers that CBEST was an employment test. Since it had a disparate impact on minorities, Orrick required the state to prove that it was closely related to the skills required to be a good teacher or administrator.

The state managed to do that, but only after the state's Commission on Teacher Credentialing (CTC) dumbed down the test by dropping all questions

requiring any knowledge of algebra or geometry. It was on that basis that Orrick upheld its validity.

But in their decision last week, Judges Steven V. Wilson, a Los Angeles trial judge temporarily assigned to the appellate bench, and Andrew Kleinfeld went much further. Because the CTC, which administers the test, did not get any federal funds (even though the state gets billions), Wilson and Kleinfeld reasoned, it was not covered by Title VI, which prohibits recipients of federal funds from discriminating by race or gender.

More broadly, Wilson and Kleinfeld also held that because the state is not the employer of teachers -- that it is the districts -- neither CBEST nor the CTC are covered by Title VII, the section that prohibits employers from using any test that has a disparate impact on women or minorities if it's not specifically tailored to the requirements of the job.

The convoluted and unnecessary legal logic that got the judges there is open to all sorts of questions. If the CTC can be thus exempted from federal civil rights law, so can scores of other public agencies. But what's almost certain is that the decision, which might have been reached by simpler means, could have far broader consequences for testing.

It comes at a time when race preferences in education and employment are under growing attack, both in the federal courts and at the ballot box. In response, civil rights groups, seeking to preserve ethnic diversity in areas such as college admissions, are trying to challenge admissions tests -- which blacks and Latinos pass at much lower rates than whites or Asians -- under the same disparate impact theory.

Two months ago, in what seemed like a direct attempt to support such challenges, the Department of Education's Office of Civil Rights issued a controversial draft guideline warning colleges that they could put themselves in legal jeopardy if they relied too heavily on standardized tests, such as the SAT, that have a disparate impact by race or gender if the colleges could not prove that they are educationally necessary as predictors of success in college.

In a congressional hearing in June, Norma Cantu, assistant secretary of education for civil rights, denied that the administration was going after the use of standardized admission tests. But she also promised that the draft guidelines would be revised to reduce the impact on colleges. A new draft is to be ready in the fall.

If the California decision stands, such challenges to educational tests could become legally more difficult. There has long been a dispute about whether disparate impact theory, which has dealt largely with employment issues, applied to things such as college admissions tests. Civil rights groups argue that it does; many university lawyers say it does not.

The 9th Circuit's CBEST decision in effect shifts the burden from the defendant to the plaintiff. Where Title VI and VII apply and disparate impact can be shown, the burden of proof falls on the defendant to show that the test is necessary and that there are no alternatives that have less disparate impact. Where Title VI and VII don't apply, and where there is no overt evidence of discriminatory intent, the burden falls on plaintiffs to prove discrimination under the Constitution's equal

protection clause, The difference -- and the consequences for educational testing and standards -- could be considerable.

Peter Schrag's column appears in The Bee on Wednesday. He can be reached by fax at 321-1996; or by letter at Box 15779, Sacramento, CA, 95852-0779.

DIALOG(R)File 640:San Francisco Chronicle  
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CBEST IDEA FOR HIGH SCHOOL EXIT EXAM  
San Francisco Chronicle (SF) - FRIDAY, March 26, 1999  
By: Debra J. Saunders  
Edition: FINAL Section: EDITORIAL Page: A31  
Word Count: 688

MEMO:  
DEBRA J. SAUNDERS

TEXT:  
GOOD FOR Governor Davis for pushing his four education bills through the Legislature. The bills show a commitment to improvement in a system that has fought reform to the teeth. It won't be easy, so here's some advice for Davis and others who want to see his reforms work.

Use the CBEST teacher exam for the high school exit exam.

Skeptics expect Davis' touted exit exam -- which high school graduates of the class of 2004 would have to pass in order to graduate -- to be a piece of fluff. There's an argument for not writing too tough a test. It wouldn't be fair to kids who go to bad schools to make the test rigorous, then not graduate students who, through little fault of their own, couldn't pass.

The solution. Take the CBEST test -- which would-be teachers and administrators have to take in order to work in California public schools -- and make that the high-school exit exam.

It's a natural. CBEST is a tenth-grade level test in reading and writing, eighth grade level in math. High school kids, who would start taking the exit exam in the ninth grade and, like teachers, would only have to retake the parts they flunked, should be able to pass it.

And truth be told, schools shouldn't be graduating kids who can't answer this level of question: "A teacher wishes to cut a strip of paper into two parts with lengths in a ratio of 2 to 4. If the strip is 18 inches long, what should be the length, in inches, of the longer strip? A. 3 B. 4 1/2 C. 9 D. 12 E. 15."

That many California teachers flunked CBEST the first time they took it is an indictment of teaching schools and high schools. That the California Teachers Association supported a lawsuit intended to further dumb down CBEST -- don't worry, the case failed in court -- is a blot on the union. But just maybe, if Davis picked the CBEST test for the exit exam, that would shame teacher groups into demanding a teacher test that's tougher.

Maybe they'd even agree to a 12th-grade level test, or if they feel plucky, something along a college sophomore level.

Besides, it's not fair to expect high school seniors to pass a tougher test than their teachers had to pass.

An added bonus: If CBEST stays the same, at least would-be teachers shouldn't flunk the test after four years of college and education classes.

Watch implementation of the reading bill like a hawk. Davis supporters wisely revised an earlier version of the bill that did not explicitly call for direct systematic phonics instruction. Nice revise, but telling educators to teach phonics and getting them to do it are different matters.

Whole language -- the trendy approach to teaching reading that relies on kids learning to read in a manner similar to the way they learn to talk -- is, as Roger Magyar, Assembly GOP education consultant quipped, "the Bermuda grass of education." Davis lieutenants should keep an eye on teaching institutions and make sure that they are promoting methods that work, not sneaking in methods that don't.

Be ready for abuses in peer review. In general the Davis plan of having teacher peer review panels is a good one. The panels' first goal will be to improve teaching. Teachers who don't improve will have an extra incentive to leave the profession.

Some districts, however, may use the system to punish good teachers with an independent streak. Watch to see how many abuses follow, and if the number is too high, be ready to change.

Be tight with accountability numbers. It was shrewd to include financial incentives for lower-half schools to participate in the accountability project. The bad news: The Academic Performance Index -- which would be used to measure improvement -- mandates that test scores determine at least 60 percent of its weight -- leaving up to 40 percent for fluff and self-esteem.

Never give a 40 percent fluff margin to the same folks who believe a high-school level test is a toughie for starting teachers

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10100105  
CRISIS IN EDUCATION RUNS DEEP  
Fresno Bee (FB) - SATURDAY, April 10, 1999  
By: DAN WALTERS  
Edition: HOME Section: TELEGRAPH Page: A15  
Word Count: 507

MEMO:  
DAN WALTERS

TEXT:  
SACRAMENTO - Gov. Davis said this week that in seeking public education reforms, he would "begin to change the culture . . . from excuses for poor performance to high expectations."

Those are certainly noble sentiments, although it's uncertain whether the relatively modest, four-bill package he shepherded through the Legislature will have more than a marginal impact on a public education system in deep crisis.

This is illustrated by a book entitled "California Teachers Examinations," compiled and published by a Santa Barbara printing company in 1888.

The publishers gathered samples of teacher licensing tests then administered by California's 52 counties and compiled them to help aspiring teachers prepare for exams. At the time, as the book explained, there were fewer than 5,000 public school teachers in a mostly rural California. The vast majority of those seeking teaching certificates had fewer than four years of college.

Typically, a licensing test covered 20 or more subjects and applicants had to score 80% or better to be certified.

The tests were, to put it mildly, very tough by late 20th-century standards. Applicants were confronted with complex mathematical problems, some of which had to be solved without even paper and pencil, as well as questions and problems on grammar, geography, American history, physiology, penmanship, writing, spelling, reading, bookkeeping, music, and other disciplines.

Here's one example from the Fresno County test on grammar: "Define and make sentences illustrating the following: Attribute complement, objective complement, copula, compound sentence and complex sentence."

Here's another from the Yolo County geography test: "Name four of the leading exports of the following countries: Chile, Central America, West Central States, Argentine Republic, France, Russia, British India, Australia, Barbary Coast, Soudan."

The 1888 teacher tests stand in stark, almost humiliating, contrast with the California Basic Educational Skills Test (CBEST), which today's teachers must pass. The 100 CBEST questions and two brief essays cover just

reading comprehension and mathematics, are infinitely easier in content -- no more than high school level -- and offer multiple-choice answers rather than the precise responses of 1888.

Here's an example of a recent CBEST test: "In an election for club president, Sari received 70% of the votes. If her opponent received the remaining 21 votes, how many people voted in the election?" The respondent could pick from five answers: 91, 70, 64, 49 and 30.

That's junior high school-level material, and CBEST requires a passing score of barely 50%. Even so, huge numbers of would-be teachers with four or five years of college education fail each year.

One suspects that 90% of today's teachers would flunk the 1888 teacher tests, which is not so much a criticism of them as an observation about educational expectations in general. Over the years, we've simply expected less of students, partly because it was easier on society and educators and partly, one suspects, because maintaining very rigorous standards would result in a politically intolerable number of failing pupils.

Restoring true intellectual rigor to California's public schools would take years of effort and be politically costly.

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10119079

STATE WILL ASSIST FLEDGLING TEACHERS

Sacramento Bee (SB) - THURSDAY, April 29, 1999

Edition: METRO FINAL Section: MAIN NEWS Page: A5

Word Count: 158

MEMO:

STATE DIGEST

TEXT:

Gov. Gray Davis and California State University Chancellor Charles Reed unveiled a program Wednesday to allow thousands of elementary school teachers with emergency credentials to get full certification while they work.

CalStateTEACH, which will debut this fall, combines self-study with Internet work and personal coaching. The program takes 18 months.

Currently, 15,000 California classrooms are staffed with teachers who hold either a waiver or emergency permit. As a result of the class-size reduction program, it's estimated that California will need as many as 300,000 additional teachers by 2008.

In order to be eligible for CalStateTEACH, applicants must have a bachelor's degree, a passing score on the CBEST test and meet the same admission criteria of traditional CSU teacher education programs. Prior to admission, applicants also must secure a teaching position on their emergency credential or find a public school that agrees to supervise their teaching.

For more information, look on the Internet at [www.calstateteach.net](http://www.calstateteach.net)

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Employment Testing -- Law & Policy Reporter

November 1996

SECTION: Case Law; Assorted Testing; Pg. 176

LENGTH: 469 words

HEADLINE: Ass'n of Mex.-Am. Educators v. State of Cal., No. C-92-3874 WHO (N.D. Cal., 17 Sept. 1996).

BODY:

In this class action, a federal district judge found that the state of California did not violate the 1964 Civil Rights Act by requiring applicants for teaching and certain nonteaching jobs in public schools to pass an examination certifying their competency in basic skills.\* Although the plaintiffs convincingly showed that the challenged test--the California Basic Educational Skills Test (CBEST)--had an unintentional but nonetheless adverse impact on African Americans, Asians, and Latinos, they failed to prove the existence of an alternative selection device that would adequately replace CBEST. The defendants, by contrast, successfully showed that CBEST is a valid, job-related test for teaching and nonteaching jobs in California public schools.

The undisputed statistical evidence presented by both parties at trial indicated that "all of the groups represented by the plaintiff class have a pass rate that is less than 80 percent of the white pass rate." The judge determined, moreover, that each time a candidate fails to pass the CBEST examination, "that candidate is deprived of an employment or advancement opportunity" in the public school system.

Although the test is discriminatory, the defendants succeeded in showing the judge that basic skills in reading, writing, and mathematics are important skills for the jobs requiring CBEST certification and that the test is valid, that is, it effectively measures those skills. The judge carefully examined three content validity studies and found that they "amply" demonstrated the test was job related. He asserted, moreover, that the state "is entitled to ensure that teachers and others who work in the public schools possess a minimal level of competency in basic reading, writing, and math skills before they are entrusted with the education of our children."

The judge also concluded that the required passing scores did not violate the plaintiffs' civil rights. The judge found that the pass-fail cutoffs "reflect reasonable judgments about the minimum level of basic skills competence that should be required of teachers." Furthermore, the judge asserted that, "if anything, the passing scores should have been raised rather than lowered" as the plaintiffs wanted.

The judge rejected the plaintiffs' contention that the existing credentialing requirements excluding CBEST would suffice to assure minimum competency in basic skills. The judge pointed out that the requirements for a bachelor's degree vary from institution to institution, as do state accreditation standards for institutions as a whole and teacher accreditation programs in particular.

\*1996 U.S. Dist. LEXIS 13787. For a summary of the judge's decision to treat the teacher certification exam as an employment test, see Employment Testing 3 (March 1994): 52.

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The Fresno Bee

September 23, 1996 Monday, HOME EDITION

SECTION: METRO,

Pg. B4,

EDITORIALS

LENGTH: 411 words

HEADLINE: Upholding CBEST;

A judge's ruling upholding the skills test that California teachers are required to pass is welcome news.

BODY:

In upholding the legality of the basic academic skills test that California requires all new public schoolteachers to pass, a federal judge has restored a little sanity to an area where things seemed ready to get entirely out of hand.

The decision by U.S. District Judge William H. Orrick rejected legal claims by eight unsuccessful test-takers that CBEST, the California Basic Educational Skills Test, discriminated against minorities and was unrelated to the teaching skills for which it screened applicants. That claim, in turn, was based on the finding that members of some minority groups failed the test in higher proportions than whites.

But Orrick ruled that, such claims notwithstanding, "the state is entitled to ensure that teachers and others who work in the public schools possess a minimal level of competency in basic reading, writing and math skills before they are entrusted with the education of our children."

Given the fact that CBEST demands little more than the academic competence that any high school junior should be expected to command, it shouldn't have taken months of federal court proceedings, much less Solomonic wisdom, to reach that conclusion.

Orrick should have booted this one out of court long ago. Instead, in a preliminary ruling he held that CBEST was an employment test within the meaning of federal law and thus had to be related to the skills required of the job for which it was used to screen applicants.

But in fact CBEST is nothing more than a declaration that those who teach in public schools, or who work there in other administrative capacities, ought to be models of at least minimal levels of general education, even if they do nothing more than enforce attendance regulations. To do otherwise would be to undercut the legitimacy and importance of the whole enterprise.

Fortunately, Orrick seems to have come to the same understanding. As former state Sen. Gary Hart, the author of the bill that established CBEST, said, "If this had gone the other way, it sure would have sent the wrong message." Particularly at a time when the country is swamped with reports about the inadequate education of teachers, a decision making it still harder to assure such competence would have been little short of perverse.

The plaintiffs, backed by some civil rights organizations, say they'll appeal. One hopes that higher courts won't take as long to decide what should have been obvious from the start.

LOAD-DATE: September 25, 1996



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### Don't dumb-down

It's truly unfortunate that nonwhite teachers don't do as well as whites on the test, but that's an indictment of other factors, perhaps the quality of their educations, not the test itself. Indeed, one could argue that they may have been the victims of incompetent teaching themselves, although one still must wonder how they could have been awarded college degrees if they cannot pass a high school-level competency exam.

But what good would it do those who fail the test, or the students they would be teaching, for the test to be dumbed-down? It might raise passage rates, but it would also undercut the basic reason the test is required in the first place, and that's to improve the quality of the educations of public school students.

We wouldn't consider modifying competency tests for doctors or engineers to produce feel-good results when lives are at stake. Why should we do it for teachers when the quality of students' lives are at stake?

It was a good decision.

LOAD-DATE: September 24, 1996

(25)

Copyright 1996 The Chronicle Publishing Co.  
The San Francisco Chronicle

SEPTEMBER 20, 1996, FRIDAY, FINAL EDITION

SECTION: EDITORIAL; Pg. A24; EDITORIALS

LENGTH: 388 words

HEADLINE: A Reasonable Ruling On Testing Teachers

BODY:

STUDENTS WERE the victors this week when U.S. District Court Judge William Orrick upheld a requirement that California teachers pass a basic skills test.

Orrick rejected a challenge by minority educators who charged that the California Basic Educational Skills Test (CBEST) is discriminatory. About 80 percent of whites, 53 percent of Asians, 49 percent of Hispanics and 38 percent of blacks pass the exam on their first try.

But the villain here is the inadequate education of those who fail the 10th grade-level test, not the test itself. The discrepancy in the passing rates among different ethnic groups is shocking and cause for alarm, but that problem cannot be solved by pretending that evidence of academic competence is not necessary.

As Orrick wrote in his decision, "School teachers who use improper grammar or spelling, or who make mistakes in simple calculations, model that behavior to their students -- much to the detriment of their education."

Where the discrepancy should be addressed is at the elementary, secondary and college level in the training of future teachers. A rigorous education should be available to all races.

Mastery of academic basics is not the only factor that makes a good teacher, but it is an essential ingredient in the mix. Students are the losers if their teachers -- no matter what their ethnicity and no matter how nurturing and supportive they are -- do not possess the skills to pass a high school-level exam.

California is only one of 30 states that requires teacher candidates to pass a basic skills exam. To meet federal requirements barring discrimination and requiring that the test material be directly related to job performance, the exam was modified last year.

The algebra and geometry portion of the test was eliminated and test-takers were given more time to complete the exam. The CBEST (whose questions were featured yesterday on The Chronicle's Op-Ed page) also is given six times a year. There is no limit to the number of times it may be taken and mini-courses on the exam are available throughout the state.

In this era of reform, students are being held up to increasingly tougher standards. Besides needing smart teachers to guide them, they need to know that as much is demanded of the teachers as of them.

LANGUAGE: ENGLISH

LOAD-DATE: September 20, 1996

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Copyright 1996 Times Mirror Company  
Los Angeles Times

September 19, 1996, Thursday, Home Edition

SECTION: Part A; Page 3; Metro Desk

LENGTH: 1061 words

HEADLINE: TEST GIVEN TO TEACHING JOB CANDIDATES UPHELD AS LEGAL;  
EDUCATION: IN DISCRIMINATION LAWSUIT, MINORITY JOB SEEKERS SAID THE CBEST EXAM, WHICH  
HAS BEEN USED BY THE STATE SINCE 1983, VIOLATED THEIR CIVIL RIGHTS.

BYLINE: RICHARD LEE COLVIN, TIMES EDUCATION WRITER  
BODY:

A federal judge has upheld the legality of the test used by the state since 1983 to ensure that candidates for teaching jobs possess the equivalent of 10th-grade reading, math and writing skills, rejecting a claim that it violated the civil rights of minority test-takers.

The order issued late Tuesday by Judge William H. Orrick of the U.S. District Court of Northern California came in the nation's largest-ever employment discrimination lawsuit, which sought damage awards for more than 50,000 minority job seekers who have failed the California Basic Educational Skills Test over the past 14 years.

The plaintiffs in the case--filed in 1992 on behalf of eight unsuccessful test-takers and three groups representing minority educators--contended that the test was partly to blame for the state's failure to hire enough minority teachers to reflect the diversity of the state's 5.4 million students. Forty percent of those students are white compared to 80% of their teachers.

But Orrick ruled that "the state is entitled to ensure that teachers and others who work in the public schools possess a minimal level of competency in basic reading, writing and math skills before they are entrusted with the education of our children."

Passage of the test is one of several requirements for those seeking teaching, counseling and administrative credentials. It consists of multiple-choice questions in reading comprehension and mathematics and two essays to measure writing skills. It is given six times a year, and test-takers can take the portions they do not pass as many times as necessary. Every public schoolteacher in California must pass the CBEST before entering a classroom.

San Francisco attorney John Affeldt, the lead attorney for the plaintiffs, said he expects to appeal the ruling to the Ninth Circuit Court of Appeals. The state already has spent more than \$2 million defending the test.

Affeldt said eliminating or reducing the scope of CBEST is even more important, now that the state is engaged in an unprecedented drive to recruit as many as 19,000 teachers to reduce the ratio of students to teachers to 20 to 1 in primary grade classrooms.

"The state . . . is going to need new teachers and if they are all monolingual, white teachers, then we're going to have done a tremendous disservice to the students of color in the future work force," Affeldt said.

State Supt. of Public Instruction Delaine Eastin welcomed the ruling, saying that had the CBEST been invalidated, it would have set back the state's efforts to improve the quality of its teaching force.

"We ought to be having a very serious discussion about how to bring more minority teachers in, but it ought not be at the expense of standards," Eastin said.

Gov. Pete Wilson said the ruling should reassure parents. "This judgment makes a strong and prudent statement about CBEST as a fair and practical measure of teachers' knowledge and ability to instruct our children."

Former state Sen. Gary Hart, who authored the legislation that created the test and who testified on its behalf during the trial earlier this year, also applauded the ruling.

"If this had gone the other way . . . it sure would have sent the wrong message," he said. "If you can't have something as fundamental and straightforward and relatively easy as the CBEST, I don't know where we could turn."

A key issue in the case had been whether the CBEST, which was created amid concern in the California Legislature over the skills of the state's teaching force, constituted an employment test.

Orrick decided, in a 1993 pretrial ruling, that the CBEST was indeed an employment test because it was required by the state only for public schoolteachers. And, as such, it had to satisfy stringent federal standards barring discrimination and had to cover material directly related to job performance.

In response, the state modified the exam last year to give test-takers more time and removed most of the algebra and geometry from the math portion of the test.

In his 71-page ruling Tuesday, Orrick said the new test met federal standards even though different ethnic groups pass it at dramatically different rates.

\*

Eighty percent of white applicants pass on their first try, while the rate is 38% for African Americans, 49% for Mexican Americans and 60% for Asian Americans.

Orrick acknowledged that the test had an "adverse impact" on minorities. But the judge agreed with state experts who testified that its purpose was not to predict who would make the best teacher but only to ensure that all teachers had a minimum level of basic skills in reading, writing and math.

During the trial, the state's attorneys introduced as evidence what experience had shown to be the hardest question on the revised math test.

That question asked how many students could be served a half-pint of milk from a five-gallon container. Knowing that a gallon contains 16 half-pints, it's a matter of simple multiplication to determine that 80 students could be served. But only two of every five test-takers answered that item correctly last year.

The plaintiffs contended that the test was too hard, citing the fact that about a quarter of recent college graduates and 45% of teachers now in the classroom who take the test while seeking promotions fail it.

"The fact that such an extraordinary number of college graduates, many of them from elite institutions, fail the CBEST is convincing evidence that the CBEST cut score is too high," plaintiffs argued, in a post-trial brief filed with the court.

On the contrary, the state's legal team argued, the high number of failures demonstrated that many applicants lack basic skills and that "the higher the failure rate . . . the greater the demonstrated need for the test." Affeldt charged that CBEST was created "for symbolic political reasons and not for reasons . . . related to improving educational outcomes for kids."

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They suggest a range of remedies, such as lowering the test's passing score, eliminating certain items they feel reflect bias or, at least temporarily, adjusting test results based on the race of the test-taker.

But Orrick rejected those alternatives, contending that college degrees, classwork and grade point averages cannot guarantee that applicants possess the knowledge essential for teachers.

LANGUAGE: English

LOAD-DATE: September 19, 1996

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The Recorder

September 19, 1996, Thursday

SECTION: NEWS; PG. 1

HEADLINE: FEDERAL JUDGE UPHOLDS STATE EXAM FOR TEACHER LICENSE

BYLINE: Paul Elias;  
Reporter Paul Elias' e-mail address is pelias@counsel.com

BODY:

Public school teachers in California must pass a standardized test to be accredited, even though a disproportionately high percentage of minorities flunk the exam on their first try, a federal judge ruled Monday.

Plaintiffs challenging the California Basic Educational Skills Test argued unsuccessfully that the exam violates the 1964 Civil Rights Act by discriminating against minority test-takers. Only 37 percent of blacks and fewer than 50 percent of Latinos taking the test for the first time pass. Based on those statistics, plaintiffs in the four-year-old case had hoped to have the test — mandated by the California Legislature in 1983 — declared unconstitutional.

But, while Senior U.S. District Judge William Orrick Jr. agreed minorities have more difficulty than whites passing the CBEST, he rejected the civil rights argument, ruling the test serves a legitimate purpose. He also pointed out that the plaintiffs failed to explain why minorities were having the problems and did not offer alternatives to the test.

"Plaintiffs have met their burden of proving that the CBEST has an adverse impact," Orrick wrote in his 71-page opinion. "Defendants, however, have successfully rebutted . . . by showing that the CBEST is a valid, job-related test for the teaching and nonteaching positions in the public schools for which it is a requirement."

Orrick relied heavily on three studies used as evidence by the state and the California Commission on Teacher Credentials in support of their argument that the test is a basic, high-school-level test of reading, writing and arithmetic that all teachers should be able to pass.

On the eve of the original trial date in November 1993, Orrick ruled that the test was job-related, easing the plaintiffs' burden. In the wake of that ruling, the test administrators eliminated 40 percent of the math questions and expanded the time of the test from three hours and 15 minutes to four hours.

The state argued from the outset that the test was simply meant to ensure basic competency, in line with parents' expectations. "It is a 12th-grade-level test meant to measure basics," defense attorney Nancy Rafuse, an associate with the Atlanta office of Los Angeles' Paul, Hastings, Janofsky & Walker, reiterated Wednesday.

Orrick agreed.

"The CBEST is not a cure-all for the ills of California's public schools, but it is not meant to be," Orrick wrote. "It is simply a threshold measure."

The test is administered six times a year and teaching candidates can take the exam as many times as they like. Of those who take the test more than once, 85 percent pass, officials said.

The plaintiffs' lead lawyer, John Affeldt, a staff attorney with San Francisco's Public Advocates Inc., said an appeal is planned.

But Affeldt pointed to the changes made on the test last year as a small victory.

"Those were the first changes made to an unfair test in 14 years," Affeldt said. "But we are disappointed the judge did not order further changes."

LANGUAGE: ENGLISH

LOAD-DATE: September 19, 1996

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SEPTEMBER 19, 1996, THURSDAY, FINAL EDITION

SECTION: NEWS; Pg. A1

LENGTH: 712 words

HEADLINE: State Test Upheld for Teachers  
Minority groups called it biased

BYLINE: Nanette Asimov, Chronicle Staff Writer

BODY:

Declaring that teachers are academic role models, a federal judge ruled yesterday that anyone hoping to teach in California public schools must still pass a basic skills test to qualify for the job.

U.S. District Court Judge William Orrick's decision disappointed minority educators who have tried for four years to eliminate the California Basic Educational Skills Test, or CBEST.

Thousands of would-be teachers -- blacks, Latinos and Asian Americans -- sued the state and the Commission on Teacher Credentialing in 1992 because whites were passing CBEST at a faster rate than people in other ethnic groups. Three organizations claimed in the suit that having to take the exam was a violation of civil rights.

Yesterday, Orrick said that was not so.

"Schoolteachers who use improper grammar or spelling, or who make mistakes in simple calculations, model that behavior to their students -- much to the detriment of their education. The same can be said for school principals, librarians and guidance counselors," Orrick wrote in his 71-page opinion.

The pass/fail test consists of two essays and 100 multiple-choice questions in reading and math.

Orrick's decision comes one week after a panel of prominent educators and business executives released the scathing results of a study showing that across the country, standards for the hiring and credentialing of teachers are too lax -- particularly when compared with other professions.

#### OVERHAUL OF PROFESSION

The study urged states to strengthen credentialing requirements and overhaul standards for the entire profession.

Orrick's decision appears to endorse the panel's findings. In his ruling, the judge steps back from the debate to reflect on the purpose of teaching itself.

"Teachers occupy a special position of trust in our society," he wrote. "They are entrusted with the education of our children, the importance of which one would be hard-pressed to exaggerate. A child's education is crucial not only to that child's individual prospects . . . (but) the education of all children has a profound effect on the future of the state, and indeed the country, in which we live."

#### SUCCESS RATE

At the heart of the issue is that, on average, 80 percent of whites pass CBEST on the first try, compared with 53 percent of Asian Americans, 49 percent of Latinos and 38 percent of African Americans.

Minority test-takers said that because the test questions often don't relate directly to what they would teach, using the results is discriminatory.

On behalf of some 50,000 people who have failed the test, three groups filed a class-action lawsuit: the Association of Mexican-American Educators, the California Association for Asian-Pacific Bilingual Education and the Oakland Alliance of Black Educators.

"We're disappointed, and we expect to appeal," said the groups' attorney, John Affeldt of Public Advocates Inc., San Francisco.

Despite their loss, the groups had already succeeded last year in making the test easier than at any time since it began in 1983.

Because of the suit, the math section no longer contains questions in geometry or advanced algebra. Hopefuls can now take up to four hours on each of the three sections of the test, which is given six times a year. Would-be teachers have three years to keep trying.

Sam Swofford, executive director of the state Commission on Teacher Credentialing, which administers CBEST, urged anyone having trouble with the test to attend any of several CBEST preparation days offered at colleges and universities throughout the state.

#### 'WE'RE DELIGHTED'

"We're delighted," he said of the ruling. "This is a necessary screening tool in ensuring that teachers have basic competencies prior to entering the teaching force."

Nancy Raffuse, an Atlanta attorney representing the state and the Commission on Teacher Credentialing, was less reserved.

"Boy, we're ecstatic," she said. "We have this vicious cycle — if you keep bringing children through the schools and don't teach them basic skills, then you let the same people back into the public schools to teach, your children are never going to learn."

"You want smarter kids? Then you need smarter teachers."

LANGUAGE: ENGLISH

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SEPTEMBER 19, 1996, THURSDAY, FINAL EDITION  
Correction Appended

SECTION: EDITORIAL; Pg. A19

LENGTH: 4456 words

HEADLINE: Can You Pass the State Teacher Exam?  
Test Yourself

BODY:

In the wake of last week's harsh national assessment of U.S. teachers' academic acuity, all eyes have turned with sudden interest toward the head of the class -- if Johnny still can't read or compute, is it because his teacher is having the same problems?

The question comes at a pivotal time in California. U.S. District Court Judge William Orrick decided yesterday to uphold the basic skills test required for a state teaching credential.

Known as CBEST, the California Basic Educational Skills Test consists of 100 multiple-choice questions and a pair of short essays. To win a credential, test-takers must correctly answer 28 of the 50 reading questions, and 26 of the 50 math questions. The maximum score for both essays is 16, with 12 passing. Hopefuls have up to four hours to complete the test, and may take it six times a year for three years.

Below are 40 sample CBEST questions, 20 each from the reading and math sections, and one sample essay topic. We invite you to try the test yourself and to report your experiences to us via e-mail, at cbest You have 1 1/2 hours to complete the test -- but you may try again 18 times between now and the end of the century.

#### SECTION 1: READING

Directions: Each statement or passage in this test is followed by a question or questions based on its content. After reading a statement or passage, choose the best answer to each question from among the five choices given. Answer all questions following a statement or passage on the basis of what is stated or implied in that statement or passage.

1. The calotype photographic process was patented in England and the United States; the daguerreotype photographic process was patented only in England. The necessary licenses to make calotypes were costly; for Americans the daguerreotype was free. Thus, commercial common sense made the American calotype a rarity.

Based on the information in the passage above, which of the following best explains why "the American calotype" was a rarity?

A. American photographers had found that daguerreotypes sold more successfully in the United States than did calotypes.

B. American photographers preferred to use a photographic process that was well known in the United States rather than one that was known only in England.

C. Americans had failed to obtain a patent for calotypes in the United States; they therefore were not permitted to make calotypes.

D. In the United States it was necessary to purchase an expensive license in order to make the patented calotypes, but no license was needed to make the unpatented daguerreotypes.

E. In the United States it was much more expensive to obtain a patent than in England; therefore daguerreotypes were not patented in the United States, while calotypes were.

2-3. Read the passage below; then answer the two questions that follow:

The proposition that some things are true for me and others are true for you is appealing only so long as the discussion remains abstract. If you are riding in a car and you are of the opinion that it is heading for a cliff, but the driver does not share this opinion, it is doubtful that you will be comforted by the idea that some things are true for you and other things are true for the driver.

2. It can be inferred from the passage that the author believes that the reaction of the passenger to the driver's opinion about where the car is heading is most likely to be one of:

- A. Amusement
- B. Belittlement
- C. Calm
- D. Distress
- E. Boredom

3. The method used by the author to make the point about the "proposition" is to:

- A. Quote authorities
- B. Develop an analogy
- C. Present an extreme case
- D. Offer newly discovered evidence
- E. Refer to a past experience

4. The Great Depression of the 1930's in the United States accelerated a trend in the field of education already underway -- the rise in educational standards for teachers. The difficulty of finding jobs encouraged prospective teachers to stay in school longer; school districts could now insist that teachers have a college degree, often without raising salaries or improving working conditions.

Based on the information in the passage, which of the following is a true statement about trends in education during the Great Depression in the United States?

- A. College degree programs increased their requirements.
- B. Standards of education for teachers rose because jobs were scarce.
- C. School districts encouraged teachers to accept lower salaries.

D. Prospective teachers insisted on improved working conditions.

E. Working conditions declined as educational standards increased.

5 After touring the plains toward the close of the cowboy era, journalist Richard Harding Davis observed, "The inhabited part of a ranch, the part of it on which the owners live, bears about the same proportion to the rest of the ranch as a lighthouse does to the ocean around it."

Based on Richard Harding Davis's observation, which of the following can be inferred about a ranch toward the close of the cowboy era?

A. Most of a ranch was uninhabited by its owners.

B. The size of a ranch rivaled the size of an ocean.

C. Inhabitants of a ranch typically lived in privacy and seclusion.

D. The working area around a ranch was uninhabitable by humans.

E. The inhabitants of a ranch, like those of a lighthouse, should be viewed as caretakers.

6-9. Read the passage below; then answer the four questions that follow:

In California, gold-bearing gravels were sometimes found far from any source of water to wash them in, and the gravel from such "dry diggin's" had to be hauled to the nearest stream. It was easier to bring water to the gravel. However, this solution conflicted with the common-law doctrine of riparian rights, which prohibited diverting water from a stream (save for household consumption) unless it was returned to its source undiminished. The miners therefore evolved their own doctrine of "appropriate and beneficial use," which permitted water to be diverted from its course for use elsewhere without having to be returned to the original stream. It solved the miners' problems and became the basis for the California water laws that permit irrigation.

6. According to the passage, "dry diggin's" were:

A. Mines whose gold had been exhausted.

B. Dumps where miners could put gravel from their mines.

C. Depleted sources of the water that miners used for washing gravel.

D. Places where miners found gold but no water.

E. Water sources from which the water had been diverted.

7. According to the passage, the common-law doctrine of riparian rights permits the diversion of water when the:

A. Same amount of water is returned to the body of water from which it was taken.

B. Same amount of diverted water is returned to any naturally occurring body of water.

C. Diverted water is used for mining.

D. Diverted water is used for irrigation.

E. Diverted water is used for an "appropriate and beneficial use."

8. The passage implies that the diversion of water for irrigation and for gold mining is:

A. A special form of domestic consumption.

B. Unprofitable except when performed on a large scale.

C. An activity permitted under the common-law doctrine of riparian rights.

D. Permitted in states other than California.

E. Considered an appropriate and beneficial use of water in California.

9. The passage suggests which of the following about the evolution of laws?

A. Laws with far-reaching application can evolve from the specific concerns of special interest groups.

B. Laws that have been in effect for many years are seldom changed.

C. Laws are seldom changed unless varied groups make their specific objections known to legislators.

D. Laws based in common-law doctrine are generally impracticable and difficult to change.

E. Laws that contradict each other can often motivate legislative change.

10-13. Read the passage below; then answer the four questions that follow:

Some Africans who lived 1,600 years ago were protected against disease by natural antibiotics in their food. This unexpected discovery was made accidentally by a student learning to prepare bone sections for microscopic observation. She happened to use the only microscope available at the time, a fluorescing microscope used to identify samples by shining ultraviolet light on them. Bands of yellow green, characteristic of the antibiotic tetracycline, glowed on her samples.

The bone, it turned out, came from mummified remains from a Nubian cemetery in the Sudan and dated from between A.D. 350 and A.D. 550. Apparently the tetracycline got into the Nubians' diet by accident, through *Streptomyces*, a bacterium that manufactures tetracycline and makes up more than half of the bacteria in Nubian soils. Researchers believe it grew on grain stored at the bottom of mud bins.

Probably the Nubians used such contaminated grain only during famines; tetracycline imparts a bitter taste and would otherwise be avoided. Since the drug is deposited only on actively growing bone surfaces, banded patterns on bone samples support the theory that the antibiotic was only an occasional part of the Nubians' diet. Struck by periodic famine, the Nubians should have been plagued by infectious diseases, but studies of scar tissue in the bone samples indicate a very low incidence of such disease. Surprisingly, tetracycline levels found in the bone samples equal levels prescribed by modern doctors.

10. The findings discussed in the passage could most logically be used by a scientist writing a book on which of the following?

A. The use of drugs in ancient medicine

B. Methods of embalming among ancient peoples

C. The diets of ancient peoples

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D. The causes of epidemics of infectious diseases E. The long-term effects of the use of antibiotics

11. According to the passage, the Nubians benefited from tetracycline because it helped to:

- A. Ward off famine
- B. Purify food stuffs
- C. Prevent infectious disease
- D. Preserve bone tissue
- E. Heal bone fractures.

12. According to the passage, the low incidence of infectious diseases among the Nubians has been established by:

- A. Written historical records from between A.D. 350 and A.D. 550
- B. The discovery of mummified remains of many elderly persons
- C. The levels of tetracycline found in the Nubian bone samples.
- D. Studies of scar tissue in the Nubian bone samples.
- E. Studies of genetic materials in the mummified remains,

13. According to the passage, which of the following is a true statement regarding Streptomyces?

- A. It makes up an insignificant part of the Nubian soils.
- B. It occurs only in contaminated food supplies.
- C. It was a regular part of the Nubians' diet.
- D. It is a common cause of food poisoning.
- E. It is a natural source of the antibiotic tetracycline.

14. People who run for the presidency of the United States are amateurs; there is no way of becoming a professional at running for the office. And all of the candidates, whether they win or lose, are forever altered in spirit and character by the ordeal.

Which of the following restates an idea found in the passage above?

- A. The experience of running for the presidency makes one a professional.
- B. Only amateurs are likely to run for the presidency.
- C. The outcome of a presidential race is determined by the candidates' characters.
- D. Successful presidential candidates are characterized by political professionalism.
- E. Running for the presidency changes the character of the candidate.

15. All fruit juices contain the sugar fructose, and there is no doubt that some kinds of sugar are harmful.

Which of the following can be correctly inferred from the statement above? A. All fruit juices are harmful.

B. Some, but not all, fruit juices are harmful.

C. Grapefruit juice does not contain any sugar.

D. Fruit juices are more harmful than vegetable juices.

E. Orange juice contains at least one kind of sugar.

16-18. Read the passage below; then answer the three questions that follow:

The idea that the computer revolution will cause schools to disappear ignores the crucial fact that groups of people do things that individuals in isolation do not do. The presence of other people is invigorating -- even in a classroom. Teachers should take advantage of this fact. Students who are forced to be quiet all the time might as well be in individual carrels, learning by means of computer.

16. It can be inferred from the passage that the author considers the idea that computers will cause schools to disappear to be:

A. New and revolutionary.

B. Diminishing in popularity.

C. Ethically and politically dangerous.

D. Open to question.

E. Susceptible to several interpretations.

17. The passage suggests that the author would be most likely to approve of which of the following actions by a teacher?

A. The instigation of frequent parent-teacher conferences.

B. The supplementing of a lecture with slides and other visual materials.

C. The assignment of individual students to their own computers for most of the class period.

D. The encouragement of debate among the members of the class.

E. The use, whenever possible, of verbal praise for student performance.

18. It can be inferred from the passage that the author would consider the use of a computer by a student in his or her own carrel an experience that is:

A. Invigorating

B. Soothing

C. Limiting

D. Daunting

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E. Misleading

19-20. Read the passage below; then answer the two questions that follow.

Anti-slavery fiction and poetry first appeared in North American magazines during the late 1770s. The misery of slaves' lives in the New World was contrasted in these pieces with an "idyllic and pastoral" life in Africa. The African environment itself was rarely described, primarily because few of the authors knew much about it. Instead, they gave unusual names to their characters and made passing reference to distant places (notably the Gold Coast) to provide an air of authenticity. In fact, few authors were themselves black; one remarkable exception was ex-slave Phillis Wheatley, whose lyric verse was published in Boston magazines in the 1770s.

19. The author of the passage puts the words "idyllic and pastoral" in quotation marks in line 3 most probably in order to:

- A. Emphasize the difference between life in Africa and life in the New World.
- B. Suggest that the depiction of life in Africa appearing in most anti-slavery fiction and poetry was inaccurate.
- C. More fully describe African environments and cultures.
- D. Give an example of the style of most anti-slavery fiction and poetry.
- E. Emphasize the originality of applying such adjectives to African life.

20. Which of the following can best be inferred about the majority of the authors of the anti-slavery fiction and poetry described in the passage?

- A. Many of them were ex-slaves.
- B. They were not experienced writers.
- C. They had not lived in the southern United States.
- D. They had never been to Africa.
- E. Most of their work described landscape instead of characters.

## Section 2: MATH

Directions: Each of the questions or incomplete statements below is followed by five suggested answers or completions. Select the one that is best in each case.

21. Amy drinks  $1\frac{1}{2}$  cups of milk three times a day. At this rate, how many cups of milk will she drink in one week?

- A.  $4\frac{1}{2}$
- B.  $7\frac{1}{2}$
- C.  $10\frac{1}{2}$
- D.  $21\frac{1}{2}$
- E.  $31\frac{1}{2}$

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22. Jack worked for several days and earned \$290.50. If his average daily wage was \$41.50, how many days did he work?

- A. Five
- B. Six
- C. Seven
- D. Eight
- E. Nine

23. In an election for club president, Sari received 70% of the votes. If her opponent received the remaining 21 votes, how many people voted in the election?

- A. 91
- B. 70
- C. 63
- D. 49
- E. 30

24. Which of the following methods could be used to solve the problem below?

The moon is about 238,000 miles from the earth, and the sun is about 93,000,000 miles from the earth. The sun is about how many times as far from the earth as the moon is?

- A. Multiply 238,000 by 93,000,000.
- B. Divide 93,000,000 by 238,000.
- C. Add 238,000 and 93,000,000.
- D. Subtract 238,000 from 93,000,000.
- E. Divide 238,000 by 93,000,000.

25. Of the following fractions, which is closest in value to 0.35?

- A.  $\frac{3}{5}$
- B.  $\frac{1}{2}$
- C.  $\frac{1}{5}$
- D.  $\frac{1}{4}$
- E.  $\frac{1}{3}$

26. The numbers 4, 5, and 6 have which factors in common?

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- A. 1 only
- B. 2 only
- C. 2 and 5 only
- D. 1,4,5, and 6 only
- E. 1,2,3,4,5, and 6

27. Of the following, which is the best estimate of (SQUARE ROOT) OF 2605 ?

- A. 1300
- B. 500
- C. 60
- D. 50
- E. 26

28. Alicia's gross weekly salary is \$412.50. If 2% of this salary is deducted for state taxes and 8% is deducted for state taxes and 8% is deducted for benefits, which of the following is the closest estimate of the total amount, in dollars, of these deductions?

- A.  $(0.02)(400) + (0.08)(400)$
- B.  $(0.02)(420) + (0.08)(420)$
- C.  $(0.10)(410)$
- D.  $(0.16)(410)$
- E.  $(0.16)(420)$

29. A teacher wishes to cut a strip of paper into two parts with lengths in a ratio of 2 to 4. If the strip is 18 inches long, what should be the length, in inches, of the longer strip?

- A. 3
- B.  $4 \frac{1}{2}$
- C. 9
- D. 12
- E. 15

30. If a child was born on September 30, 1976, then, to the nearest month, how old was that child on November 1, 1984?

- A. 85 months
- B. 86 months

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C. 97 months

D. 98 months

E. 99 months

31. An airport shuttle bus can hold, at most, 20 passengers per trip. What is the least number of trips to town that the bus must make to transport 90 passengers from the airport to town?

A.  $3\frac{1}{2}$

B. 4

C.  $4\frac{1}{2}$

D. 5

E. 6

32. A traffic survey showed that there was one van pool for every 4 private cars on the highway. At this rate, how many van pools are on the highway for every 300 private cars?

A. 50

B. 60

C. 75

D. 100

E. 1200

33. The following circle graph shows the distribution of a group of students with respect to their college major. Which major accounted for approximately  $\frac{1}{3}$  of the students in the group?

A. Psychology

B. English

C. Physics

D. Mathematics

E. Business

34. Of the types of dogs listed below, which type eats the LEAST amount of food?

Collies eat more than basset hounds. Boxers eat more than collies. Beagles eat more than basset hounds, but less than collies. Boxers eat less than dalmatians.

A. Collie

B. Basset hound

C. Boxer

D. Beagle

E. Dalmatian

35. Which of the numbers in the problem below is (are) needed to solve the problem?

A certain school has 32 classrooms and 40 teachers. If the student to teacher ratio is 25:1, how many students are there?

A. 25 only

B. 25 and 32 only

C. 1, 25, and 40 only

D. 1, 32, and 40 only

E. 1, 25, 32, and 40

36. Which of the following questions can be answered on the basis of the information given below?

Juan read a certain book in exactly 8 hours. The average number of words per page was 270 and the number of pages was 392.

A. How long would it take Juan to read 2 books?

B. How long did it take Juan to read the first 100 pages?

C. How many pages did Juan read the first hour?

D. What is the average number of words per minute at which Juan read this book?

E. What is the average number of lines per page in the book that Juan read?

37. What additional information, if any, is needed to solve the problem below?

Andy purchased several shirts. Some of the shirts cost \$15 each and the remaining shirts cost \$18 each. What was the total cost of the shirts?

A. The prices of the shirts

B. The average price of the shirts

C. The total number of shirts purchased

D. The number of shirts purchased at each price

E. No additional information is needed

38. A rectangular flower garden is surrounded by a path 2 yards wide, as shown below. What is the area, in square yards, of the path?

A. 42

B. 52 C. 68

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D. 84

E. 108

39. Which of the following figures does NOT have at least one pair of parallel sides?

40. Which of the following calculations is NOT equivalent to  $18 \times 25$ ?

A.  $9 \times 50$ B.  $(10+8) \times (20+5)$ C.  $(10 \times 25) + (8 \times 25)$ D.  $(10+20) \times (8 \times 5)$ E.  $(18 \times 20) + (18 \times 5)$ 

### SECTION 3: WRITING

#### \* Sample Topics and Essays

The writing section requires essays on two topics. We have provided one, as well as answers from actual tests -- two that passed and two that failed -- supplied as samples from the state Commission on Teacher Credentialing.

This section is intended to allow prospective teachers to demonstrate their writing ability. Test-takers are instructed to organize their thoughts, address all parts of the topic, give specific examples and use multiple paragraphs.

#### \* Topic

Ernest Hemingway once commented, "As you get older, it is harder to have heroes, but it is sort of necessary." To what extent do you agree or disagree with his observation? Support your opinion with specific examples.

#### \* Pass

I agree quite strongly with Hemingway that age brings increasing difficulty in finding heroes, but that one still needs them. As skepticism increase, the number of people one can admire or hope to emulate decreases. An older person, having more experience and having acquired, one hopes, a more objective and realistic assessment of other people, tends to see more flaws than a younger person might. On the other hand, the older person is likely to recognize and value certain qualities such as careful reasoning, empathy, and kindness that a younger person might overlook or consider irrelevant. (Yet another problem is that a person's heroes tend to be older than herself, and the number of possibilities dwindles, but that has to be accepted!)

Thus, I believe that men and women of all ages need heroes. As a woman, though I find that heroes-heroines, actually are especially important because of the role of a woman is constantly being redefined. Women today are frequently expected to not just to "have it all": but to do it all; maintain successful careers; develop and nurture the kind of relationships with others that they often value so highly; and, in many cases, contribute their financial and emotional resources to the raising of a family as well. Idolizing other women can be therapeutic, eye-opening and inspirational. One can see what remarkable women have done, how they've done it and what they have to say about it all.

For example, I have always admired Maya Angelou's ability to integrate her personal and her professional life. And Toni Morrison, in works such as *The Bluest Eye* and *Beloved*, creates intelligent, honest fictional characters and

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provides a vast outpouring of thought-provoking and challenging ideas. The fact that both of these women are both female and black makes them the more admirable to me.

The older I get, the more important these "Hero women" become for me. Such people help one to keep on trying, both by exhortation and example. I like to think I can at least try to follow their lead; they are, indeed, "sort of necessary."

\* Marginal pass

I agree with Ernest Hemingway that having heroes is necessary. For the young heroes can show direction and provide examples for how life can be and the opportunities that are available for those who try. For the older person heroes can provide different options.

As one gets older illusions in life are replaced with hard realities. For example how can one cope with illness, the loss of close friends, and the many other problems that occur. Heroes for these people can give hope and courage.

A hero does not have to be a famous personality like Sister Teresa, Michael Jordan or Madonna; a hero can be a coworker, a friend who has made the best of a sticky situation, or anyone who has survived an ordeal and can demonstrate the opportunities that can come out of crisis.

Besides support heroes can provide examples of options that are available. Often when there are trying times a person could think what would my hero do in this situation. How would they solve this problem. This can enable a person to make a tragedy into a victory by opening new options.

Heroes are very important whether you're young or old because they can give hope, inspiration and support in trying times and enable you to go on through life and turn your tragedies into triumphs.

\* Marginal fail

Heroes are for the young and not the old. As you get older there is no longer a need for heroes. I disagree with Ernest Hemingway's comment "As you get older, it is harder to have heroes, but it is sort of necessary."

When you are young everyone is your hero, but most little kids think of superstars as their heroes. Children often have superstars as heroes, but they are not the only heroes. Children look up to anybody who can do something really great, according to them.

As you grow older the need for a Hero disappears. As you get older you realize that your hero was somebody you want to be just like. Now that you are older you are not interested in fighting crime as Batman or Superman. Now you are older you see things how they really are not how they seem,

I think it's important to stop chasing heroes and get on with your life.

Heroes are somebody who is greater than you and older than you. If we always have heroes then we can never be the hero.

Therefore, I disagree with having heroes as you get older. When you are older I think you should be the hero not someone else.

\* Fail

I believe everyone has heroes. But as you grow older your heroes become fewer in that they are more important. As a youngster a hero may be Ninja, Catwoman or Dick Tracy. As an adolescent heroes tend to be toward t.v. stars or musicians. As an adult, politicians or soldiers or maybe even a tremendous sports star can be a hero. These are just as

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necessary as the others. Heroes play the "perfect" role model. We use them throughout our lives as goals we set to strive for.

Sample Question: Answer Key

1. D

2. D

3. C

4. B

5. A

6. D

7. A

8. E

9. A

10. C

11. C

12. D

13. E

14. E

15. E

16. D

17. D

18. C

19. B

20. D

21. E

22. C

23. B

24. B  
25. E  
26. A  
27. D  
28. C  
29. D  
30. C  
31. D  
32. C  
33. A  
34. B  
35. C  
36. D  
37. D  
38. C  
39. E  
40. D

Hundreds of readers who took The Chronicle's sample state teacher exam, the California Basic Educational Skills Test (CBEST), pointed out a typographical error in question No. 28. The question should have read:

"Alicia's gross weekly salary is \$412.50. If 2 percent of this salary is deducted for state taxes and 8 percent is deducted for benefits, which of the following is the closest estimate of the total amount, in dollars, of these deductions?"

- a.  $(0.02)(400) + (0.08)(400)$   
b.  $(0.02)(420) + (0.08)(420)$   
c.  $(0.10)(410)$   
d.  $(0.16)(410)$   
e.  $(0.16)(420)$

The Chronicle regrets the error. (The correct answer is c.)

CORRECTION-DATE: SEPTEMBER 20, 1996, FRIDAY, FINAL EDITION

CORRECTION:

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LANGUAGE: ENGLISH

LOAD-DATE: September 24, 1996 November 18, 1996

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September 19, 1996, Thursday

SECTION: NEWS; Ed. 1,2,3,4,5,6,7,8; Pg. A-3

LENGTH: 132 words

HEADLINE: Teacher test ruled fair

SERIES: REGION UPDATE

From Union-Tribune news services

BODY:

California's basic-skills test for teachers got a passing grade yesterday from a federal judge, who said the state can require applicants to show their knowledge even if minorities fail at a higher rate.

The California Basic Educational Skills Test, or CBEST, has been required by state law for teaching, counseling and administrative credentials since 1983.

As of February, when a suit by minority educators went to trial, the state said 538,000 people had taken the test, 73 percent passed on their first try and 85 percent eventually passed. But there were significant differences among racial and ethnic groups.

According to one analyst, 80 percent of whites passed on their first try, compared to 37 percent of blacks, 47 percent of Hispanics and 60 percent of Asians.

LANGUAGE: ENGLISH

LOAD-DATE: September 21, 1996