



# President's Perspective

## PRÊT-À-PRACTICE: MEASURING THE QUALITIES REQUIRED FOR SUCCESS IN LAW SCHOOL AND BEYOND

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### PRESIDENT'S PERSPECTIVE

**H**ow many of us walked into the courthouse for the very first time as an attorney and felt like we had any idea what we were doing? No hands? I'm not surprised.

To get into law school, we had, in part, to have a decent score on the LSAT, which meant we demonstrated skill in reading comprehension, reasoning, and writing. The American Bar Association, which accredits law schools, currently requires either the LSAT or the GRE be a component of any accredited law school's admissions standards.

Many will tell you the LSAT is the best way to predict success in law school and ultimately on the bar examination. Others argue the LSAT reflects the built-in inequities in the educational system, which makes marginalized students less likely to pass. In fact, data shows white examinees are significantly more successful on the LSAT than their peers of color.

Once someone gets into law school, are they learning the skills and qualities important to the overall practice of law? Students learn

research skills, critical thinking, ethics, issue spotting, and an understanding of the foundation of the American legal system. But are they also cultivating tact, emotional intelligence, humility, coping, and curiosity?

Most law school classes follow the same general format. Students are assigned a chunk of old case opinions to read (and brief, if they're really on the ball). Professor Soandso then puts Janie Lawstudent on the spot, asking pointed questions about the holding, the underlying analysis, and the law on which it is based. (It can be terrifying, especially when you didn't do the reading, but even if you did.) The Socratic method is designed to cultivate critical thinking, help students develop ideas, and lead to a better understanding of one's own thought process. It's a sound method for teaching the obvious skills we need as lawyers.



Then comes the bar exam, where law school graduates spend months memorizing restatements of law so they can regurgitate them (and promptly forget all of it when they leave the testing site). It's supposed to measure minimum competence to practice law (whatever that means), and the

experience can be a life-defining one. Those of us who got our results back in the day when they were delivered by your friendly neighborhood mail carrier can remember exactly when and how we learned our professional fates. (I was in a motel room in Bentonville, Arkansas, with my parents on our way to visit my Nana in Plano, Texas, when I was told by telephone—the old-timey kind that plugs into a wall—that my results came in the mail.) I would venture to say most seasoned lawyers would not pass a bar exam without taking a fair

necessary for new lawyers to have, but it also then analyzed how legal education and admissions standards are—or are not—ensuring law students and new admittees are minimally competent. Some of these are obvious, but some are less so; we often forget that qualities not directly related to the law are just as important to do what we do really well.

The abilities that seem obviously important to what lawyers *do* include:

- acting professionally and in

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amount of time to study—*a lot*.

The idea, then, is those who pass the bar exam have enough knowledge and skill to immediately start practicing law. Up until recently, there was very little effort to specifically define “minimum competence.” Doing so seems to be a great start as we work to better explain to the public not just what lawyers do, but who lawyers *are*, that makes us uniquely qualified to provide certain legal services.

In December 2020, the Institute for the Advancement of the American Legal System issued its report titled, “Building a Better Bar: The Twelve Building Blocks of Minimum Competence.” Not only did it outline what skills and qualities are

accordance with the rules of professional conduct

- understanding legal processes and sources of law
- understanding threshold concepts in a variety of subjects
- interpreting legal materials
- spotting legal issues
- conducting research

But these other named qualities are more about who lawyers *are*:

- interacting effectively with people
- communicating clearly, thoughtfully, tactfully, and respectfully
- seeing the big picture
- managing time, stress, and life in general
- coping, in a healthy way,





- with stress, anxiety, pressure, and conflict
- desiring to learn new things on one's own

The top six seem to be well covered in law school and, to some extent, by the bar exam. Law school admissions strive to ensure its admittees can learn and progress in those skills. But does the LSAT (or GRE) effectively measure whether an applicant has the capacity for developing qualities in the second set of abilities? Does the bar exam show examiners that prospective licensed lawyers learned how to demonstrate those qualities?

Those who believe the answer is no have ideas about how to do better. For example:

The ABA's Section of Legal Education and Admissions to the Bar has proposed amending its accreditation standards to make standardized admissions tests optional for law school admissions. This proposal will be considered at the ABA's February 2023 House of Delegates meeting.

The Oregon Supreme Court has approved two new attorney licensing options *in addition* to the bar exam:

licensure after completing a law school experiential learning program; licensure after completing a certain number of hours of supervised practice after graduation. California, Massachusetts, Minnesota, Nevada, New York, Utah, and Washington also are studying alternatives to the bar exam.

The ABA has allowed accredited law schools to teach online and is considering more flexibility in providing remote learning opportunities. Syracuse University has a hybrid program, Loyola University and St. Mary's University were allowed to transition part-time JD programs to remote learning.

If any of these alternatives concern you, as they do many lawyers, what might you define about such efforts that do not cultivate the desired abilities necessary for the practice? In better defining our concerns in ways that avoid accusations of mere protectionism, we give ourselves a seat at the table that will allow us not only to voice those concerns but also listen to the possibilities for improving the system in ways that perhaps everyone can live with.

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