



## **Golden Rule Forgotten?**

*Exposing Persistent Racial Disparities and Other Irregularities in Insurance Licensing Exams 25 Years After Golden Rule*

## **Summary**

On November 28, 1984, the *Associated Press* reported the news of a settlement in the lawsuit brought by Golden Rule Insurance Company against Educational Testing Service (ETS). Golden Rule had sued ETS eight years earlier, claiming that the insurance licensing exam ETS administered in Illinois was racially biased and ETS had failed to fix it.

The settlement announced by the *AP* that day would be debated by advocates and opponents of standardized testing for decades to come. Curiously, while the case has made its mark on the academic debate surrounding testing, it has largely been forgotten within the industry where it started: life insurance.

On this 25<sup>th</sup> anniversary of the settlement between Golden Rule and ETS, the Coalition for Financial Security (CFS) has published this new survey. The survey looks back at the events surrounding the Golden Rule case and uses new data to suggest that racial bias and other issues of fairness that led Golden Rule to the courts in the 1970s may still persist in insurance licensing today.

## Methodology

The following survey contains pass rates and other demographic statistics related to life producer licensing examinations in 17 states. An effort was made to include all states that publicly release their pass rates or publish the demographic information of those who take their state's producer licensing exam. In an effort to include in this survey states that represent every region and population of the country, CFS supplemented the publicly available information by acquiring other state figures through a 2009 state survey.

Where possible, an attempt was made to remove demographic categories from state reports where less than 50 test takers provided their demographic information. The survey is limited to Life Only or Life and Annuity exams. In all states, demographic data was collected voluntarily. Historical numbers from Illinois were acquired from news coverage of the Golden Rule/ETS settlement.

The states of Alabama, Delaware, Iowa, Massachusetts, New Mexico and Utah declined to participate in the CFS survey.

STATE	TIME PERIOD OF DATA	POPULATION	SOURCE
AZ	2008 Partial Year Pass Rate	Total Testers	Arizona Department of Insurance
CA	January 2009 - Sept 2009	First-Time	California Curriculum Board Meeting
FL	2008 Demographic Report	Total Testers	State of Florida, Annual Report of Life Insurance Examinations Calendar Year 2008, <a href="http://www.fldfs.com/Agents/Industry/News/docs/FL%20DFS%20Life%20Ins%20Examinations%202008-4-23-09.doc">http://www.fldfs.com/Agents/Industry/News/docs/FL%20DFS%20Life%20Ins%20Examinations%202008-4-23-09.doc</a>
HI	2008 Pass Rate	First-Time	CFS 2009 State Survey
IL	2007 Demographic Report	Total Testers	State of Illinois, Candidate Performance Report, Life Examination Parts 1 and 2, 2007.
IN	January 2009 - June 2009 Pass Rate	Total Testers	Indiana Department of Insurance
LA	October 2008 - June 2009 Demographic Report	First-Time	State of Louisiana, Special Results Report on the Louisiana 1401 Life Insurance Exam, Table 1, October 6, 2009, <a href="http://www.lidi.state.la.us/Documents/Licensing/Producer/SpecialResultsReportontheLouisiana1401LifeInsuranceExam090429.pdf">http://www.lidi.state.la.us/Documents/Licensing/Producer/SpecialResultsReportontheLouisiana1401LifeInsuranceExam090429.pdf</a>
MD	2008 Pass Rate	Total Testers	Maryland Insurance Administration
MN	2008 Pass Rate	First-Time	CFS 2009 State Survey
Missouri	2008 Pass Rate	First-Time	CFS 2009 State Survey
MO	2008 Pass Rate	First-Time	CFS 2009 State Survey
NJ	2008 Pass Rate	First-Time	New Jersey Department of Banking and Insurance
NY	September 08 - December 08 Demographic Report	Total Testers	State of New York, Report on Insurance Agent Licensing Examinations, July 2009, Pg. 3, Accessed on October 19, 2009, <a href="http://www.ins.state.ny.us/licensing/rpt_sec214_07142009.pdf">http://www.ins.state.ny.us/licensing/rpt_sec214_07142009.pdf</a> .
OK	2008 Pass Rate	First-Time	CFS 2009 State Survey
RI	2008 Pass Rate	First-Time	CFS 2009 State Survey
VA	July 2008 - September 2008 Demographic Report	First-Time	Commonwealth of Virginia, Report of the State Corporation Commission, Bureau of Insurance on Certain Demographic and Other Information From Agent Licensing Examination Candidates for the Period of July 1, 2008 through September 30, 2008, Table F1, 23, Acc
WI	2008 Pass Rate	First-Time	CFS 2009 State Survey

# Golden Rule Forgotten?

*Coalition for Financial Security*     *November 2009*

November 2009 marks an important anniversary for advocates of financial security. Twenty-five years ago, Golden Rule Insurance Company and Educational Testing Service, (ETS), settled a long-running lawsuit in which Golden Rule argued that the life insurance licensing exam conducted by ETS for the state of Illinois was racially biased.<sup>1</sup>

While history has recorded the settlement as a ground-breaking moment in the world of standardized exams, the motivations of the lawsuit were less about testing and more about ensuring equal access to jobs in the insurance profession.

According to the writings of then-Golden Rule CEO, the late J. Patrick Rooney, Golden Rule began to suspect Illinois' licensing exam might be unfairly impacting minorities in 1975, based on information that 69 percent of all applicants were failing to pass the exam required to sell insurance in the state. Rooney and others questioned why so few were experiencing success on the exam and who stood to profit from their failure. Golden Rule's theory was that the exam had become an artificial barrier to entry for otherwise qualified candidates for an insurance license. Even as the overall pass rate in Illinois rose, Golden Rule remained concerned about the motives of the for-profit testing industry and the impact an unfair test could have on the minority community, where new licensees had virtually disappeared<sup>2</sup>.

While ETS never admitted to the presence of any bias or issues of fairness in its licensing exams, it did agree to settle with Golden Rule in 1984. That settlement resulted in a number of licensing and test reforms in Illinois, ranging from the state collecting and analyzing the demographic information of those applying for a license, to ETS agreeing to phrase test questions at an appropriate reading level<sup>3</sup>.

In the world of standardized testing, history is mixed on the consequences of Golden Rule, but in the world of insurance licensing, Illinois stands as a leader today. In 25 years, Illinois has gone from a licensing test with a 25-point disparity between Whites and African Americans to a test where both demographic groups are passing at a rate well above 70 percent<sup>4</sup>.

Of course, the progress in Illinois goes beyond cold statistics. It goes to the heart of what Golden Rule was fighting for to begin with. A fairer test in Illinois has meant more opportunities for those who once faced an arbitrary obstacle getting into the insurance profession. In turn, this has meant more middle-class and minority families in Illinois having access to the agents they need to help them acquire the tools necessary to achieve financial security.

Unfortunately, this new survey by the Coalition for Financial Security (CFS) reveals that Illinois is the exception, not the rule. Among the nearly 20 states surveyed and examined by CFS this year, only Illinois achieved a pass rate at or above the 70 percent pass rate recommended by the National Association of Insurance Commissioners (NAIC) in the organization's producer licensing handbook. Moreover, among states that collect and publish the demographic information of licensing examinees, only Illinois succeeded in nearly eliminating disparities by race, education and gender.

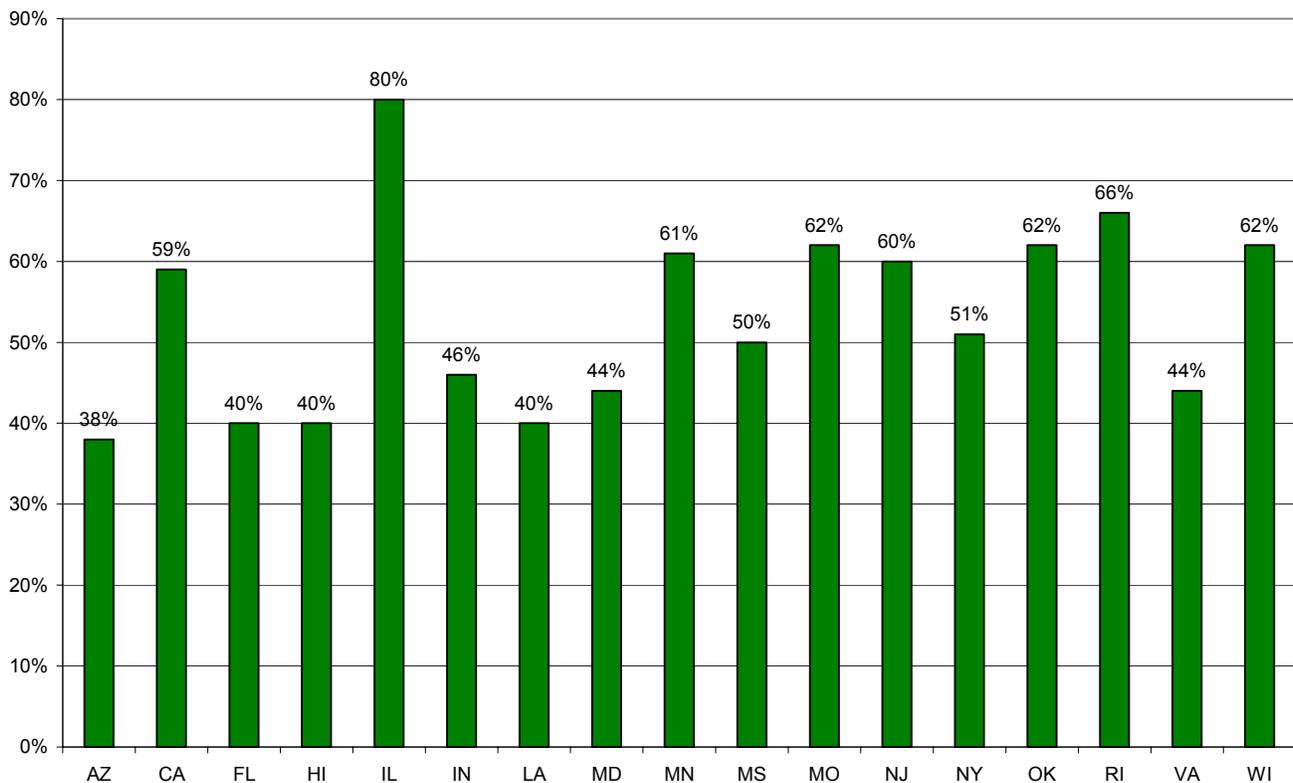
What follows is a survey looking at state insurance licensing using new numbers compiled by CFS and viewed through the lens of the Golden Rule anniversary.

## State Pass Rates

The Golden Rule case was sparked when the pass rate for first time test takers in Illinois reached 31 percent. According to reports of the events, the life insurance licensing exam had become so difficult that in order to get *anyone* to pass, it was only necessary to answer 40 percent of the exam questions correct. Even with this low threshold, 69 percent of test takers were failed.<sup>5</sup>

So how do states compare today? While one might expect progress in state licensing exams since this issue was first brought to light, the CFS survey found a number of states with pass rates dangerously close to approaching the Golden Rule low of 31 percent.

Overall Pass Rate by State



As illustrated above, the highest pass rate CFS found in its survey was Illinois with an 80 percent pass rate in 2007. Rhode Island followed with 66 percent. Minnesota, Missouri, Oklahoma and Wisconsin were next with pass rates in the mid- to low-sixties. California Mississippi and New Jersey followed with pass rates in the 50s. Arizona, Florida, Hawaii, Indiana, Louisiana, Maryland and Virginia rounding out the survey with pass rates in the high 30s and low 40s.

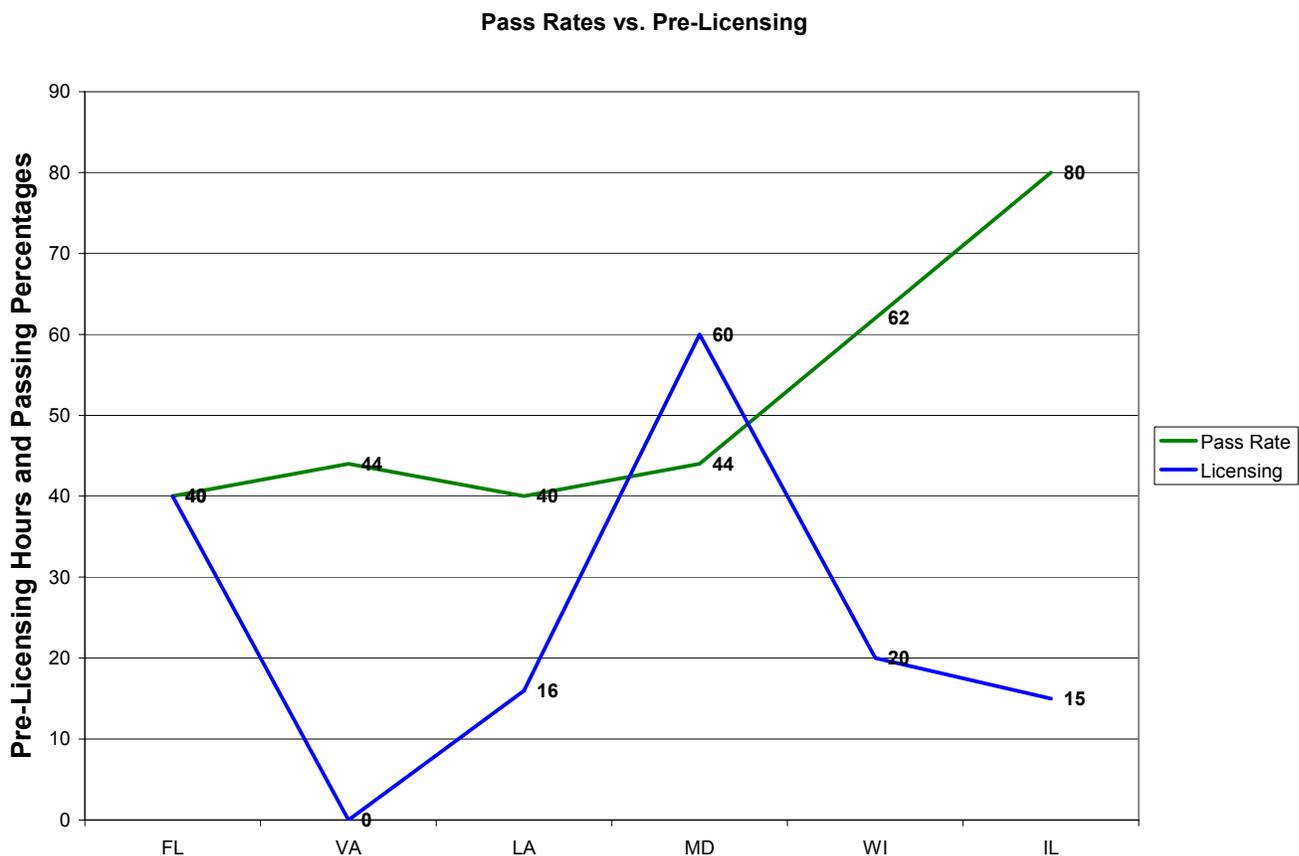
The 42-point spread in pass rates between states raises troubling questions. It is commonly accepted that life insurance regulations do not differ dramatically by state. Indeed, testing vendor Prometric advises its state clients that state exam results are “comparable” because they are “for the same profession” and share “equivalent” content.<sup>6</sup>

Given that fact, one would not expect to see such dramatic differences in pass rates by state.

So why the disparity?

One variable that can be ruled out is the different state pre-licensing requirements. A majority of states require candidates to take prep-courses before they sit for the licensing exam. These courses cover issues such as ethics and the insurance code. Requirements differ by state, but usually dictate some number of hours candidates must study online or in the classroom before they sit for the exam. The required number of hours varies by state from 60 hours to none at all.

One might expect states with more stringent pre-licensing requirements to have higher pass rates. After all, it stands to reason that those who take more time to study a profession will experience more success on a professional licensing exam. However, the CFS survey showed no correlation between pass rate and hours of study.



Louisiana has 16 hours of study and a 40 percent pass rate. Illinois had 15 hours of study in 2007 and an 80 percent pass rate. Maryland has 60 hours of study, but the state has nearly the same pass rate as Virginia, which does not require any licensing courses at all<sup>7 8 9 10</sup>.

The disconnect between pass rates and pre-licensing suggests something is amiss. Either the pre-licensing process is failing to impart entry level insurance knowledge on test takers, or the exams are not being properly designed to measure whether candidates possess the knowledge to satisfactorily perform an entry level job.

Whichever is the case, the variations in pass rate from state to state raise a basic issue of fairness. Specifically, an individual’s opportunity to work as an agent appears to depend more on WHERE they live than WHAT they know.

Consider the pass rates of Maryland (44 percent) and California (59 percent). Aspiring agents in Maryland appear to face a much higher licensing threshold than agents in California. Interestingly, there is no evidence that consumers in Maryland benefit from this higher threshold in the form of fewer complaints about agents or their insurance products.<sup>11</sup>

Equally troubling from the pass rate standpoint is how many states appear out of compliance with the suggestions published in the NAIC’s producer licensing handbook. The handbook recommends that if a “licensing examination exhibits an overall pass rate of less than 70 percent... that examination should immediately be reviewed.”<sup>12</sup>

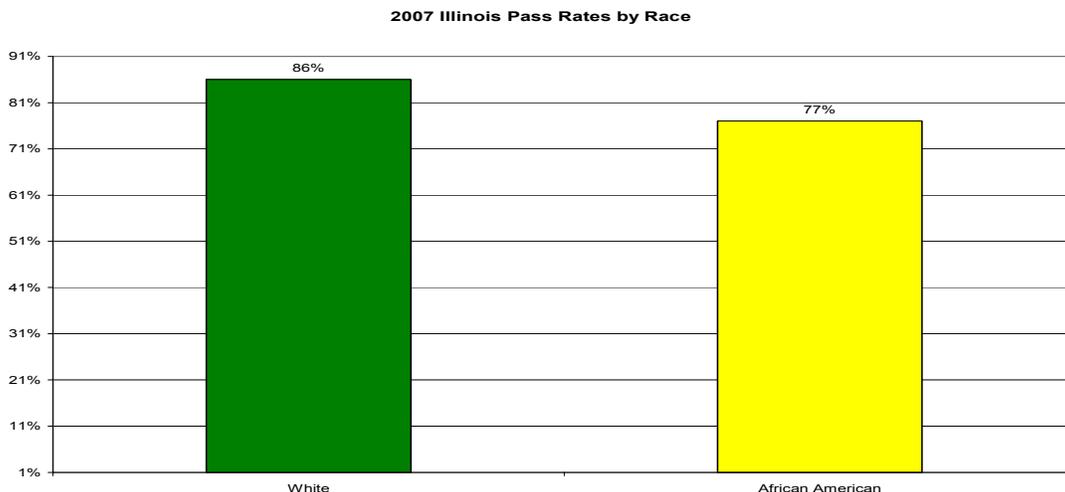
Only one state included in the CFS survey, Illinois, was above that mark. Notably, the state appears to enjoy that high pass rate without suffering from an increased instance of consumer complaints.

### Disparities by Race

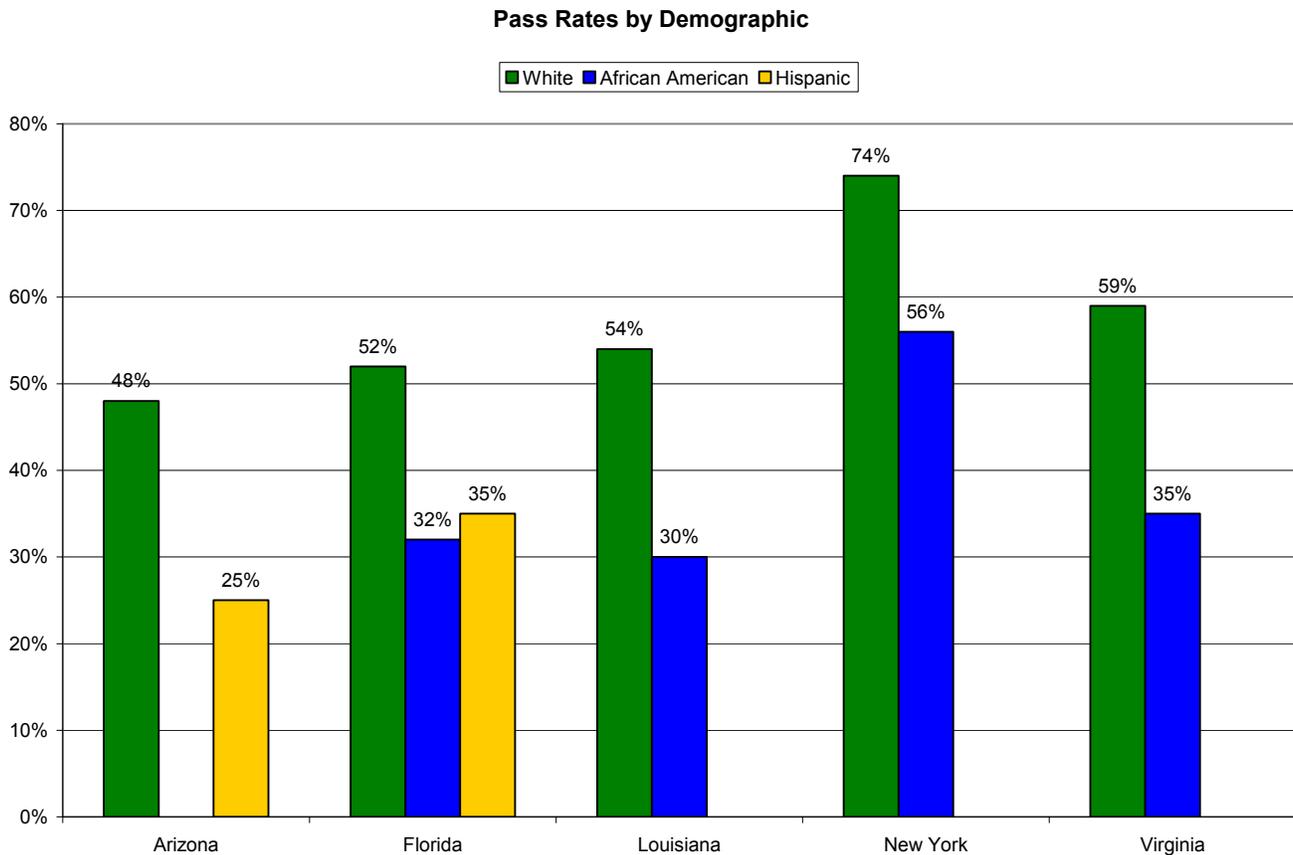
While it was the overall pass rate on the Illinois exam that sparked Golden Rule’s interest in the licensing exam, it was the exam’s impact on minorities that led the company to the courts. According to accounts of the Golden Rule case, there was a 25-point disparity on Illinois’ licensing exam in the late 1970s. Seventy percent of Whites passed a revised Illinois exam, compared to 52 percent of African Americans.<sup>13</sup>

Golden Rule concluded that the exam had become an unnecessary barrier to entry for otherwise qualified minority agents. They suspected that there was evidence that Illinois regulators and ETS knew of the discriminatory effect that their test was having and were taking no steps to correct it.<sup>14</sup>

In 2007, Illinois published a demographic report showing that the severe gap between African Americans and Whites that spurred the Golden Rule case no longer existed. The report showed Whites passing at 86 percent compared to 77 percent for African Americans.



Unfortunately, the progress seen in Illinois since Golden Rule does not extend across the nation. The CFS survey uncovered demographics reports in Arizona, Florida, Louisiana, New York and Virginia that look more like Illinois in 1977 than Illinois in 2007.



Louisiana, according to an October 2009 demographic report, had a 40 percent pass rate on its life insurance exam, with a 24-point disparity between the pass rates for African American and White candidates. Virginia’s first demographic report showed a 44 percent pass rate on its life exam, with a 24-point disparity (35 percent to 59 percent) between African American and White candidates.

In 2008, Florida had a 40 percent overall pass rate on its life exam with a 20 percent disparity (32 percent to 52 percent) between African Americans and Whites and a 17-point disparity between Hispanics and Whites.

Unfortunately, there is evidence that racial disparities are not just isolated to those states that already publish demographic reports. Maryland’s insurance administration is just beginning to collect demographic data but recently reported that the state had a 44 percent pass rate in 2008 with a 27 percent pass rate for African American test takers who voluntarily reported their race during the last quarter of 2008.

As with the state-by-state fluctuations in pass rate, the disparities by race raise a number of flags about the design of state licensing exams.

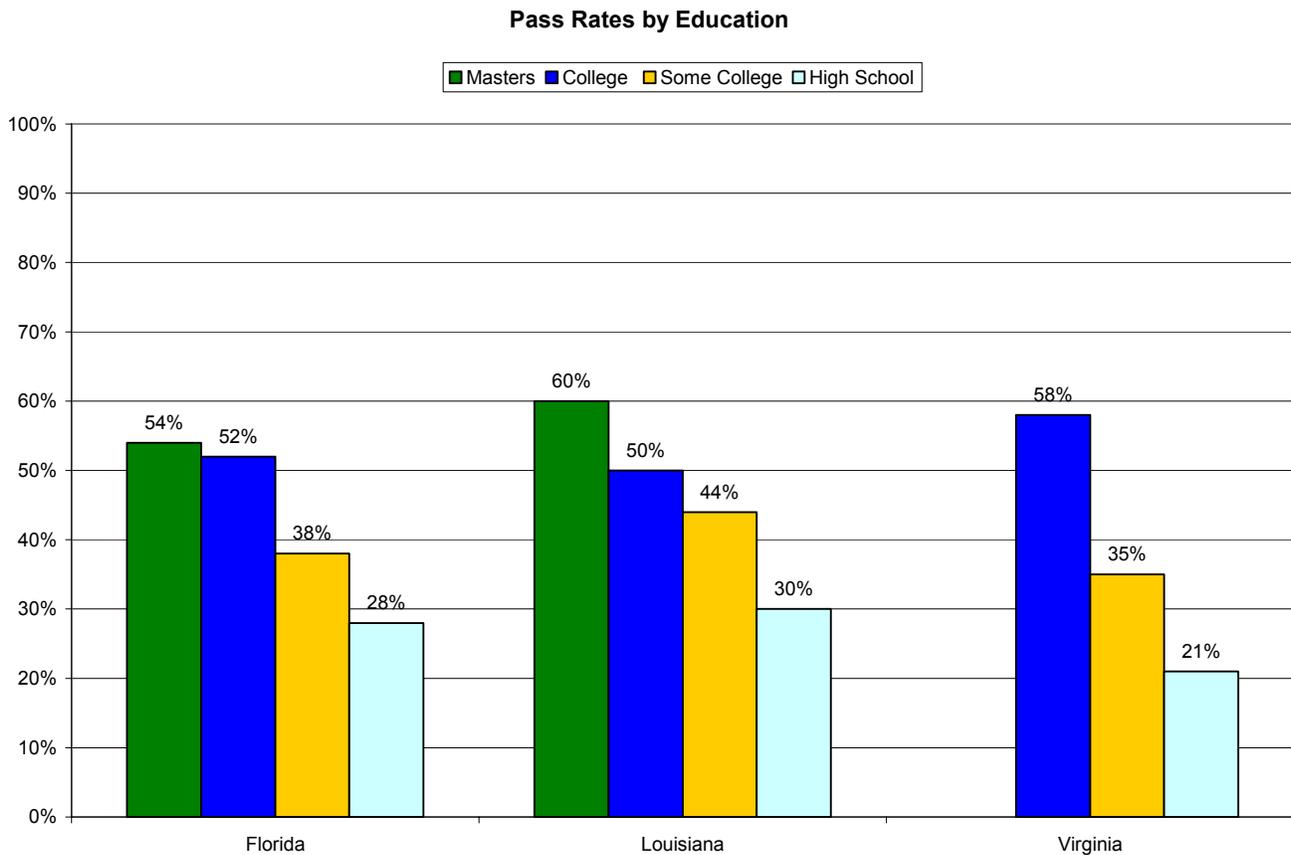
## Disparities by Education

Of course, test takers come from a variety of educational backgrounds. This fact is often cited by those seeking to explain racial, gender and other disparities in exams like the SAT.<sup>15</sup>

When it comes to insurance licensing exams, the education explanation appears to carry less weight.

It has long been accepted by regulators and leaders in the industry that selling insurance should not require a college education. As Marvin Owens, National Urban League VP for Economic Development argued in the *Dallas Morning News*, “College doesn’t teach the skills that make a great agent. People from many different backgrounds excel in this business.”<sup>16</sup>

Unfortunately, the CFS survey shows that a college degree may be the minimum education one needs in some states to enjoy a 50 percent chance of acquiring a license. Indeed, demographic reports show that even test takers with advanced degrees in Florida, Louisiana and Virginia were struggling to pass above the NAIC’s recommended rate.

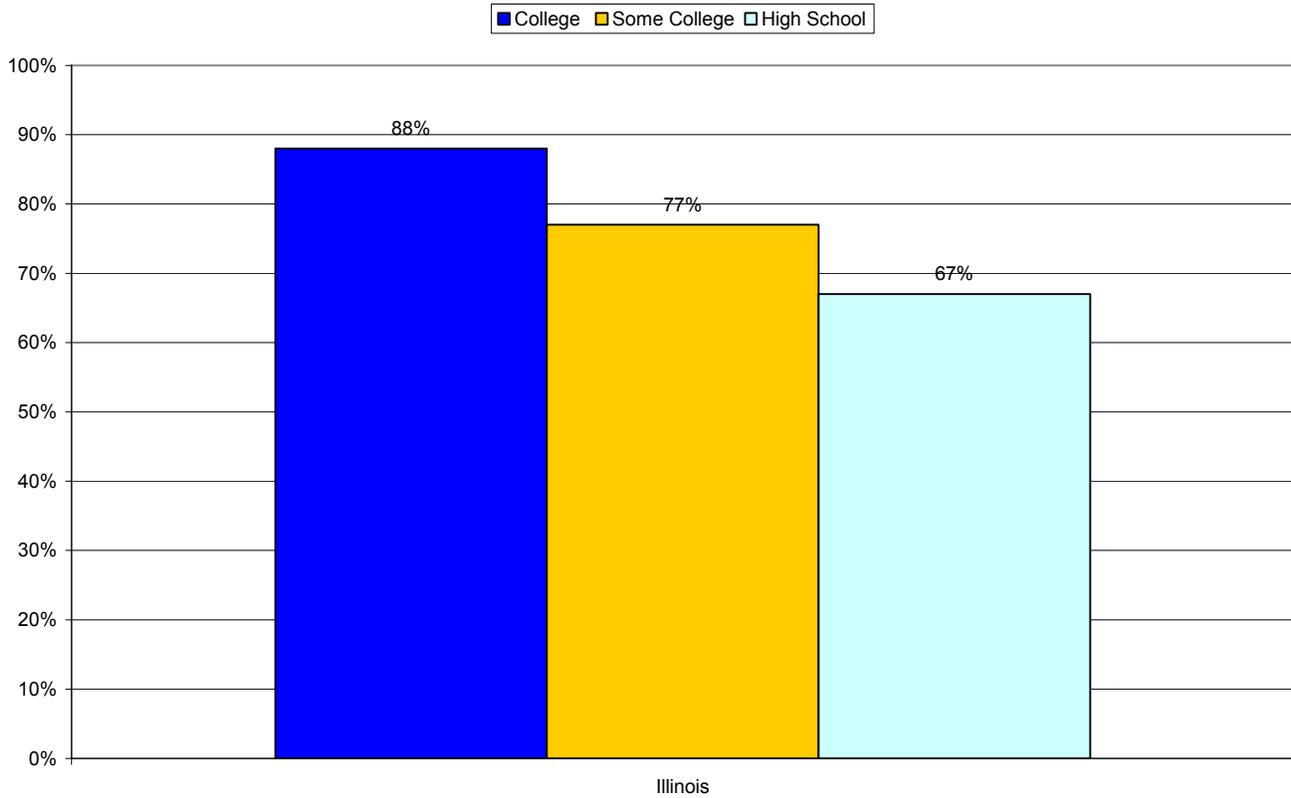


The education numbers are particularly striking when juxtaposed with the pre-licensing requirements discussed earlier. For example, Florida requires 40 hours of pre-licensing or the equivalent, yet almost 50 percent of test takers with a college degree still fail the exam. As the chart above illustrates, success levels fall precipitously from there.<sup>17</sup>

These numbers paint a disturbing picture. When combined with the fact that there is no evidence that lower pass rates translate into stronger consumer protections, the numbers above suggest some state licensing exams may be locking important segments of the population out of the insurance profession.

Interestingly, the numbers in Illinois look quite different. Even test takers who report having a high school diploma or GED pass at 67 percent.

**IL 2007 Pass Rates by Education**



## Conclusion

Similar to what Golden Rule believed about the Illinois' exam 25 years ago, many states in the CFS survey appear to have unintentionally allowed their insurance exams to become artificial barriers to entry into the insurance profession. The numbers suggest that those affected the most come from "main street" or minority backgrounds. Perhaps not coincidentally, these are the same communities that report having the least knowledge about insurance, the least contact with insurance agents and the least use of insurance products.<sup>18 19</sup>

At its heart, the Golden Rule case was not about making the Illinois licensing exam easier. It was about making sure the industry was open to everyone. On the 25th anniversary of the landmark case, this survey suggests it is time to remember Golden Rule. When nearly half of candidates with a Master's degree cannot pass an exam after 40 hours of study, as is the case in Florida, something in the process is clearly broken.

Illinois aside, all states included in the CFS survey appear to warrant a review under the standards put forward in the NAIC's handbook. That review should include an assessment to make sure exams are properly measuring the knowledge required of entry level agents. It should include a review that covers the phrasing and subject of questions by subject matter experts. In choosing experts, states should seek out a diversity of viewpoints. Experts that can weigh in on everything from vocabulary, to cultural bias, to state-specific regulations should be included in the process. Wording of questions and the words themselves should be a point of emphasis. Exams should not be permitted to become tests of vocabulary or reading comprehension, nor should they be allowed to lapse out of date with the law. As one example of what states might look for, the state of Florida recently told CFS they considered removing the word "promulgate" from their exam.

While the NAIC 70 percent pass rate recommendation provides a helpful roadmap, the fact that so many states are out of compliance suggests the need for a renewed focus on testing reform by all stakeholders.

Looking at the state-by-state numbers, one fear is that states are finding "false comfort" in low pass rates. It seems as if some states are assuring themselves that their tests are sufficiently difficult if more test takers fail than pass their exams. While this view no doubt stems from a desire to maintain rigorous standards and protect consumers, the results can be exactly the opposite. Instead of licensing agents qualified to ethically sell insurance, states end up licensing agents who know how to pass a test. Regulators should fight the culture that says exam difficulty should be judged by how many people are failed. Instead, exams should be judged by one criteria alone: are they measuring whether test takers have the knowledge they need to properly serve consumers and perform the job?

So what encourages the focus on low pass rates? In the Golden Rule case, the plaintiff pointed its finger at the for-profit testing industry, and today, there is some evidence that regulators should look there again.

Test vendors are for-profit companies who often – at the request of regulators - determine, or at least recommend, key testing parameters such as pass rates, the wording of questions, and potentially even the subject matter of tests.

Vendors may be paid on a per-test basis. For example, test takers in Maryland pay \$70 to take the exam the first time and \$70 for each subsequent retake. Maryland's recent demographic report showed that 573 test takers sat for the general portion of the state's licensing exam during the fourth quarter in 2008.

At \$70 a test, that equals \$40,110 in testing fees for the life exam alone. An additional 1,182 examinees appear to have sat for either the Accident and Health Producer exam and the Life, Accident and Health Combo exam. Combined, that represents \$122,850 in testing fees for just one quarter!

These numbers confirm that testing is big business.

The for-profit nature of testing appears to have led to trouble in some states. Indiana replaced its vendor in 2006 when state regulators believed the test provider was purposely “muddling” the state’s producer licensing exam in order to profit from retakes. Exam questions got so complicated that even department officials had trouble understanding what the test was asking.<sup>20</sup>

As the Indiana experience illustrates, the power some regulators have ceded to vendors has created a situation that is ripe for conflicts of interest. Ultimately, it is consumers and agents who suffer the consequences.

James Atterholt, the commissioner in Indiana who oversaw the change in that state’s vendor, recognized the impact that an improperly designed exam can have. Upon making the switch in Indiana’s testing vendor, he is quoted as saying, “*imagine how many people were discouraged from getting into this industry because the locations were closed, or the failure rate was too high. We’re not trying to make [the exam process] easier; we’re trying to make it fairer.*”<sup>21</sup>

Twenty-five years after Golden Rule, a fairer test is a goal many states seemingly still need to achieve.

## *About the Coalition for Financial Security*

The Coalition for Financial Security's mission is to educate policymakers, financial providers, and the public on the growing divide between working-class and wealthy Americans' level of financial security. While the wealthy enjoy the benefits of life insurance, mutual funds, and banking products, many Americans struggle to harness financial resources to help improve their lives.

The coalition's goal is to explore effective solutions that will bridge this gap so that more hard-working Americans will learn about and secure the financial resources that have become an important part of achieving the American dream. By examining why many Americans may be unaware of the need for such resources, and why others choose not to utilize them, we hope to find answers that will help more Americans get ahead.

The Coalition for Financial Security believes that every American who dreams of investing in the future and passing their savings on to the next generation should have the opportunity to do so.

CFS is served by an advisory board that includes former New York City Mayor David Dinkins and former President and CEO of the National Council of La Raza Raul Yzaguirre

In December 2005, the Coalition for Financial Security released a poll with the League of United Latin American Citizens (LULAC) that highlighted some of the sources of financial insecurity in America.

The poll revealed a very serious knowledge gap and a savings gap among Americans who have the finances to save but do not know how to utilize financial tools and do not have contact with financial professionals who can help educate them.

In order to bridge the knowledge gap, one of our main areas of focus is on public and private-sector policies that will help put more financial professionals in contact with hard-working Americans.

Statistics show that in working class neighborhoods, there are simply not enough financial experts to help families acquire the tools necessary to achieve the American dream. The CFS poll found:

- Among Americans without an IRA, 85% do not know anyone who sells them and 88% have never been contacted about them.
- 89% of Americans without life insurance do not know anyone who sells it, and 80% have never been contacted about it.
- 90% of adults who do not own investment products like stocks, bonds or mutual funds do not know anyone who sells them, and 86% have never been contacted about them.

In order to help bridge this knowledge gap, CFS promotes and encourages the public, private and non-profit sectors to do their part.

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- <sup>1</sup> Christopher Connell, “Hails Out-of-Court Settlement,” *Associated Press*, November 28, 1984.
- <sup>2</sup> J. Patrick Rooney, “Golden Rule on ‘Golden Rule’,” *Educational Measurement: Issues and Practice*, Summer 1987, 9-10.
- <sup>3</sup> Connell, “Hails Out-of-Court Settlement.”
- <sup>4</sup> Rooney, 10.
- <sup>5</sup> Rooney, 9.
- <sup>6</sup> Prometric Statistical Report, Your Insurance Examinations, February 25, 2008.
- <sup>7</sup> State of Louisiana, Producer Licensing Information, Accessed October 19, 2009, [http://www.lidi.state.la.us/Licensing/Producer/licensing\\_information.htm#preliced](http://www.lidi.state.la.us/Licensing/Producer/licensing_information.htm#preliced).
- <sup>8</sup> State of Illinois, Continuing Education and Pre-Licensing Changes, Accessed October 19, 2009, <http://www.insurance.illinois.gov/Producer/CEPreLicChanges.asp>.
- <sup>9</sup> State of Maryland, Insurance Administration Candidate Information Bulletin, Accessed October 19, 2009, Pg 2, [http://candidate.psiexams.com/bulletin/display\\_bulletin.jsp?ro=yes&actionname=83&bulletinid=224&bulletinurl=.pdf](http://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=224&bulletinurl=.pdf)
- <sup>10</sup> State of Wisconsin, Insurance Licensing Handbook Candidate Handbook, Pg. 2, Accessed October 20, 2009, <http://www.asivcs.com/publications/pdf/125000.pdf>
- <sup>11</sup> Randolph Sergeant, “Producer-licensing testing: The case for reform,” *Investment News*, August 18, 2008.
- <sup>12</sup> National Association of Insurance Commissioners, *Producer Licensing Handbook*, Chapter 8: Testing Programs, 41.
- <sup>13</sup> Christopher Connell, “Testing Service to Overhaul Insurance Exam,” *Associated Press*, November 29, 1984.
- <sup>14</sup> Connell, “Hails Out-of-Court Settlement.”
- <sup>15</sup> Mary Beth Marklein, “SAT scores show disparities by race, gender, family income,” *USA Today*, August 26, 2009.
- <sup>16</sup> Andrew D. Smith, “Insurer Recruits Minority Agents: Nationwide, the Urban League Team Up in Dallas, 7 Other Cities to Better Serve a Growing Market,” *Dallas Morning News*, October 29, 2006, 11J.
- <sup>17</sup> State of Florida, Resident Life Including Variable Annuity Insurance Agent, Accessed on October 19, 2009, <http://www.myfloridacfo.com/agents/Licensure/General/docs/2-14.htm>.
- <sup>18</sup> Lifequote.com, “Minority Buying Power and Life Insurance,” Accessed October 19, 2009, <http://www.lifequote.com/minority-buying-power-and-life-insurance>.
- <sup>19</sup> Schender, R & Geitner, K. The Center for Financial Services Innovation, “The Insurance Industry and the Underbanked,” March 2007, Page 9.
- <sup>20</sup> Olson, Scott. “Testing undergoes changes: State hires new vendor to test insurance agents,” *Indianapolis Business Journal*, October 16, 2006.
- <sup>21</sup> Olson, Scott. *Indianapolis Business Journal*, October 16, 2006.