



TESTING ACCOMMODATIONS POLICY

I. POLICY

It is the policy of the New Mexico Board of Bar Examiners ("Board") to administer the bar examination and all other services provided by its office in a manner that does not discriminate against a qualified applicant with a disability. An applicant with a disability who is otherwise eligible to take the bar examination may file a request for reasonable testing accommodations if, by virtue of a disability, the applicant cannot demonstrate under standard testing conditions that the applicant possesses the knowledge and skills to be admitted to the State Bar of New Mexico.

II. DEFINITIONS

For the purpose of this policy, the following definitions apply:

- A. **"Disability" means any of the following:**
 1. A physical or mental impairment that substantially limits one or more of the major life activities of the applicant and substantially limits the ability of the applicant to demonstrate, under standard testing conditions, that the applicant possesses the knowledge, skills and abilities tested on the New Mexico Bar Exam.
 2. A record of having such an impairment; or
 3. A record of having been regarded as having such an impairment.
- B. **"Physical impairment"** means a physiological disorder or condition or anatomical loss affecting one or more of the body's systems.
- C. **"Mental impairment"** means a mental or psychological disorder such as organic brain syndrome, emotional or mental illness, attention deficit disorder and specific learning disabilities.
- D. **"Qualified applicant with a disability"** means an applicant with a disability who, with reasonable modifications to rules, policies, or practices; the removal of architectural, communication or transportation barriers; or the provision of auxiliary aids and services, is capable of demonstrating that the applicant possesses the knowledge, skills and abilities tested on the New Mexico Bar Exam.
- E. **"Reasonable accommodation"** means an adjustment or modification of the standard testing conditions that ameliorates the impact of the applicant's disability without doing any of the following:
 1. fundamentally altering the nature of the examination or the Board's ability to determine the through the bar examination whether the applicant possesses the "minimal competence" to practice law in New Mexico;
 2. imposing an undue burden on the Board;
 3. compromising the security of the examination;
 4. compromising the validity of the examination.

III. REQUESTS FOR REASONABLE TESTING ACCOMMODATIONS

A. Regular Requests

1. A regular request for reasonable testing accommodations must be submitted on forms prescribed by the Board and shall consist of the following:
 - a. A statement of the applicant describing the applicant's disability; describing the reasonable accommodations requested; and providing an explanation as to how the accommodation will ameliorate the applicant's disability. **(Form A)**
 - b. A statement from the applicant's treating physician or licensed treating professional. **(Form B)**
 - c. A supplemental statement from the applicant's physician or treating professional when the request is based on a learning disability. **(Form C)**
 - d. A statement from the applicant's law school. **(Form D)**
 - e. Documentation of accommodations received for other testing such as another bar exam, the MPRE or LSAT. If accommodations were not requested or received, a written explanation as to why they were not requested or were denied.
 - f. Such additional documentation supporting the request as is deemed necessary by the Board's medical consultant

B. Repeat Applicant

1. An applicant who has taken the New Mexico Bar Examination on a prior occasion may request reasonable testing accommodations on any subsequent examination. Such requests will be reviewed and evaluated prior to each examination. Accommodations previously granted, as well as the accommodations actually used by the applicant on previous examinations, will be taken into consideration in determining subsequent accommodations.
2. Repeat applicants must submit all required forms with current medical or other documentation, if previously submitted records are three or more years old.

C. Emergency Requests

1. An applicant who becomes disabled after the timely filing deadline, may request reasonable testing accommodations after the time prescribed in this policy, if the applicant promptly submits the following:
 - a. a written request for reasonable testing accommodations; and
 - b. medical documentation of need for accommodations, including documentation of the emergency nature of the request, and the date and circumstances under which the disability arose.
2. Decisions on emergency requests will be made in accordance with this policy, or as soon as practicable.
3. Appeals of denials and modifications of emergency accommodation requests will be determined in the manner as set forth in this policy unless impossible due to the scheduling of the exam. In that event, the request will be carried forward to the next exam without additional charge to the applicant.

IV. REVIEW OF REASONABLE ACCOMMODATION DECISIONS

A. Standards of Review of Reasonable Accommodation Decisions

1. Requests for reasonable test accommodations shall be granted if all of the following are found:
 - a. The applicant is a qualified applicant with a disability who is otherwise eligible to take the bar examination;
 - b. The testing accommodations are necessary to ameliorate the impact of the applicant's disability;
 - c. The testing accommodations are reasonable and appropriate for the disability and consistent with each of the requirements of the definition of reasonable accommodations set forth in paragraph II(E) above.

B. Review by Director

1. The Director will review all properly filed requests for reasonable testing accommodations on a case-by-case basis.
2. Requests that are not timely filed, incomplete or otherwise do not comply with the requirements of this policy will be returned to the applicant with a written explanation.
3. Within thirty business days of receipt of request for accommodations, the Director will do one of the following:
 - a. ask the applicant to submit additional information in support of the applicant's request;
 - b. submit applicant's documentation of need for reasonable accommodations to an independent physician or licensed professional, along with a request for an expert opinion as to granting or denying the applicant's request;
 - c. confer with the applicant in order to reach a mutually agreeable modification of the requested accommodation;
 - d. grant the request and inform the applicant in writing of the accommodation to be provided;
 - e. modify the request and inform the applicant in writing of the applicant's right to accept the offered modification or to appeal the Director's determination;
 - f. deny applicant's requested accommodation and inform the applicant in writing of the reasons for the denial and the applicant's right to appeal.
4. When expert opinion is sought, a determination upon the request will be made within five business days of the Director's receipt of the expert's evaluation.
5. An applicant who agrees to the accommodations shall return a signed copy of the letter outlining the accommodations as evidence of his/her agreement to the accommodations.

- C. **Appeal of Determination by Director**
1. An applicant who is adversely affected by the Director's modification or denial of a request for reasonable testing accommodations may appeal to the Chairperson of the Board.
 2. Such appeal must be in writing, addressed to the Chairperson and received in the office of the Board within five business days of the applicant's receipt of the Director's notice of denial or modification.
 3. An expedited hearing before the Chairperson or designated Board Member will be scheduled in response to the applicant's request for appeal.
- D. **An Expedited Hearing before the Chairperson or Designated Board Member will be scheduled in response to applicant's Request for Appeal**
1. A reasonable testing accommodation hearing will be heard by the Chairperson of the Board or a member of the Board designated by the Chairperson to hear the matter. Written notice of the date, time and place of the hearing will be sent to the applicant within a reasonable period of time of receipt of the written appeal.
 2. The Board will attempt to schedule the reasonable testing accommodations hearing within 10 business days of receipt of the request for hearing.
 3. At the hearing, the applicant has the right to be represented by counsel, and may call live witnesses for whom testimony cannot be provided in affidavit form. The hearing will be tape-recorded or recorded by court reporter and a copy of the tape or transcript will be provided to the applicant upon request.
- E. **Determination**
1. Upon conclusion of the hearing, the Chairperson or designated Board member will prepare brief written findings of fact and conclusions. A copy will be mailed to the applicant by certified mail, return receipt requested, within five business days of the hearing.

Forms A, B & D must be printed, completed & sent in. All required forms and evaluations MUST be submitted at the time your application for admission is filed. There are no exceptions to this requirement.