

New York State Board of Law Examiners

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John J. McAlary
Executive Director

[Redacted], 2020

Via E-mail [Name, Address, and Date Redacted.]

Re: Determination - REVISED
Application for Accommodations

Dear [Redacted]:

As a threshold matter, since you have indicated that you are considering applying for the September 2020 New York State bar examination (rescheduled from July 2020) please note the following announcement on the Board of Law Examiners' website:

Our efforts to seat as many candidates as possible remain ongoingHowever, given current conditions in New York - including ongoing public health concerns, social distancing guidelines, and limitations on large gatherings - it is clear that our seating capacity for the September exam will be sharply limited, and therefore the Board likely will not be able to seat all applicants who wish to take the exam. As a result, the application process for the September exam will proceed on a rolling basis as space permits. From Tuesday, May 5, 2020 at 12:00 A.M. through Friday, May 15 at 11:59 P.M., applications will be accepted from any J.D. or LL.M. candidate who is sitting for the bar examination for the first time and who has graduated (or will graduate in Spring 2020) from one of the fifteen law schools located in New York State...Given the constraints caused by the public health crisis, candidates are strongly encouraged to consider sitting for the UBE at a later date or in other jurisdictions that may be better positioned to accommodate test-takers.

After careful review of your Application for Test Accommodations for the February 2021 New York State bar examination (i.e. the UBE) and the June 2020 New York Law Exam (NYLE) the Board has agreed to grant, in part, your application.

Uniform Bar Examination (UBE)

You will receive the following reasonable accommodations on the UBE:

- Double time (100% extra) for each session of the examination. The examination will be held in accordance with the attached schedule. Please note that the order of your examination components will be MEE, MBE, and then MPT.
- Seating in a private room away from the general testing population with a proctor.

- Board will provide candidate with MEE, MPT, and MBE on external USB flash drives in Microsoft Word format. Proctor will monitor use. Candidate will be required sign Electronic MBE Use Agreement in advance of the exam.
- Permission to use candidate's laptop with JAWS for UBE. All notes and study materials must be removed from laptop prior to the exam. No pre-recorded macros may be used during the exam. Board will inspect laptop before and after exam.
- Permission to bring/use headphones and/or microphone for use with laptop.
- Candidate will submit answers to MEE and MPT via USB drive that Board staff will provide instead of ExamSoft. Candidate is responsible for saving essays onto the USB drive.
- Board will provide candidate with a scribe who will record candidate's answers to MBE questions on the scantron answer sheet.
- Permission to bring and use candidate's electronic braille reading and writing device for all parts of the UBE (MEE, MPT, and MBE). Candidate may bring and use a blank drive for use with braille device.

Candidate may use Microsoft Word's spell and grammar check while composing responses to MEE and MPT.

Your testing center will be determined at a subsequent date. You will receive a notice from the Board with your testing center and where to report.

These accommodations are awarded for this examination only. Should you request accommodations for a future examination, your request will be re-evaluated. **Please note that the New York State bar examination now consists entirely of the Uniform Bar Examination (UBE).** Details are on [our UBE webpage](http://www.nybarexam.org/UBE/UBE.html), located at www.nybarexam.org/UBE/UBE.html.

This letter relates only to your test accommodations. **It does not confirm that you will be able to apply for the UBE in New York due to limitations on seating that may be imposed as a result of the COVID-19 pandemic.** It also does not confirm that you are registered or otherwise eligible to sit for the bar examination. Candidates who fail to complete all registration and eligibility requirements that apply to them will not be permitted to sit for the bar examination, regardless of whether they have been awarded test accommodations.

You may use the allotted time in the manner set forth in the enclosed Schedule. All testing rooms are in close proximity to restrooms.

Your assigned seat number will be on your Seating Ticket which must be accessed on our website approximately two weeks prior to the examination. You will need your BOLE ID and date of birth to access your Seating Ticket. You must bring your Seating Ticket and a government issued photo ID with you to the examination.

The Board's Security Policy will be strictly enforced so you should thoroughly review it by

visiting our [website](#), located at www.nybarexam.org, to familiarize yourself with what may and may not be brought into the examination room. The Security Policy is periodically changed, so we advise you to carefully review it the day before the examination starts so that you are reviewing the most recent version. Notwithstanding the Security Policy, you may bring any additional items that are listed on this letter as accommodations for a disability. Any non- permitted item(s) brought to the exam site must be dropped off in the designated Personal Belongings area and left AT YOUR OWN RISK before you report to your exam room. Please allot enough time to be in your seat by your Report Time as the oral instructions and exam start time will not be delayed if you report late.

New York Law Exam (NYLE): June 11, 2020

You will receive the following reasonable accommodations on the NYLE given on the date set forth above:

- Double time (100% extra). Your exam will commence at 12:00PM ET and will end at 4:00PM ET. You will have a total of 4 hours to work on the NYLE.
- You will be taking the NYLE at <https://www.nybarapply.org/NYLE/> instead of using ExamSoft. Please monitor your time carefully. Any answers recorded on the website before the start time or after the end time set forth in this letter will not be counted in your final score. Do not expect the website to automatically close at the end of your allotted time.

These accommodations are awarded for the stated NYLE only. Should you request accommodations for a future administration of the NYLE, your request will be re-evaluated. In addition, this letter relates only to your test accommodations. Candidates must still timely complete the New York Law Course (NYLC) and timely register for the NYLE and follow all subsequent instructions, or else will not be eligible to take the examination. Please note: If you take the NYLE with these accommodations and fail, you must submit a re-application and any required supporting documentation by the applicable deadline for any subsequent NYLE, or else you will not receive testing accommodations.

The Board has denied your request for additional breaks, as your request for breaks does not appear to be based on your documented disability. Moreover, in comparing the supporting letter from [Name and Date Redacted] to the Schedule, it appears that all required prayer times can be observed before 8:30 AM, after 4:00 PM, or during the lunch break (12:00 Noon to 1:00 PM). Food and beverage may be consumed during the testing session under the Board's Security Policy.

The Board's Guidelines for documentation of disabilities may be found in the *Handbook for Requesting Test Accommodations* (<http://www.nybarexam.org/Docs/NTAHandBook.pdf>).

Section 6000.7 (e) of the Rules of the State Board of Law Examiners, a copy of which is enclosed, provides for an appeal of the Board's decision. Should you decide to appeal the decision, it must be in the form of a verified petition, bearing your original signature and the original notarization of your signature. **Faxing the appeal is not sufficient to take an appeal. The original appeal petition (and any accompanying documents) must be received in the Board's office by the deadline.** In your petition you must swear that its contents are truthful and accurate to the best of your ability under penalty of perjury. Again, the petition must contain your original signature and original notarization of your signature. The appeal may not present any new diagnosis or disability that was not identified in your application. Should you decide to appeal this decision it **must be received in the Board's office no later than May 28, 2020.**

Should you timely appeal this decision, you do not have to return the enclosed Affidavit of Accommodations. If the appeal is granted in whole or in part, you will receive a revised Affidavit to return. If the appeal is denied, you will be given an opportunity to return the enclosed Affidavit with a new deadline.

If you choose to accept the accommodations awarded in this letter, please carefully review the enclosed Schedule and Affidavit of Accommodations. Sign the Affidavit before a notary public and return it to our office by **May 28, 2020** (keep the Schedule and make a copy of the Affidavit for your records). **You must return the original affidavit to our office by the stated deadline or you will be at risk of having the offered accommodations withdrawn and being removed from the accommodated testing site.**

Please contact us if you have any questions or if we can be of any further assistance.

Sincerely,

Mark D. Kaplowitz
Senior Attorney

Enclosures (Synopsis, Board Rule 6000.7 [e])

**SCHEDULE
for the Uniform Bar Examination (UBE)**

Double time (100% extra) for the MEE and MPT Double time (100% extra) for the MBE for: [Redacted]

DATE	SESSION TIME	SESSION CONTENT	TEST TIME
Tuesday, Feb. 23, 2021	Seated By: 8:30AM 9:00AM-12:00PM Secure Lunch 1:00PM-4:00PM	MEE Questions 1-6 (all day)	3 hours Secure Lunch 3 hours
Wednesday, Feb. 24, 2021	Seated By: 8:30AM 9:00AM-12:00PM Secure Lunch 1:00PM-4:00PM	MBE AM (1-100) (all day)	3 hours Secure Lunch 3 hours
Thursday, Feb. 25, 2021	Seated By: 8:30AM 9:00AM-12:00PM Secure Lunch 1:00PM-4:00PM	MBE PM (101-200) (all day)	3 hours Secure Lunch 3 hours
Friday, Feb. 26, 2021	Seated By: 8:30AM 9:00AM-12:00PM Secure Lunch 1:00PM-4:00PM	MPT 1 & 2 (all day)	3 hours Secure Lunch 3 hours

When to Arrive: You must be in your assigned seat no later than the “Seated By” time listed above (30 minutes prior to your scheduled session start time). The oral instructions will proceed whether you are present or not. Any time lost due to late arrival — including time spent setting up your laptop or completing required forms — will not be added to the test session.

Taking Breaks: You will not be given additional time for breaks. Any breaks you take during the test session will be on-the-clock. You must also remain in the secure testing area, and you may not discuss the exam with anyone, or access any prohibited items like notes or cell phones.

Lunch: Each day there will be a secure, proctored lunch break between the morning and afternoon sessions. Please review the above schedule carefully. You must bring your lunch with you as you will not be allowed to leave the secure exam site, even during the lunch break. During the lunch break, you may not discuss the exam with anyone or access any prohibited items like notes or cell phones. Microwaves and refrigerators are not available at the test site. You are permitted to bring a cooler or tote bag to transport your food and beverage items, but these must be stored in the Personal Belongings Area. If you wish to access your food and beverage items during the lunch break, a proctor will escort you.

Laptop Bags: Laptop candidates may bring their laptops only on the day(s) when they take the MEE and MPT. If you use a backpack or laptop bag to bring items to the examination, it must be stored in the Personal Belongings Area.

Restrooms: To maintain a secure testing site, a proctor will be placed inside each restroom.

STATE OF }
COUNTY OF
CITY OF

AFFIDAVIT OF ACCOMMODATIONS

} ss: Affidavit Instructions:

- } 1. Sign the Affidavit in the presence of a notary. Keep a copy for your records. You
[MAY fax a copy to 518-452-5729.
2. You MUST mail the original to the New York State Board of Law Examiners (Attn: Test Accommodations Coordinator).

[redacted], being duly sworn, deposes and says:

- A. I agree to accept the following test accommodations on the February 2021 New York State bar examination:
- Double time (100% extra) for each session of the examination. The examination will be held in accordance with the attached schedule. Please note that the order of your examination components will be MEE, MBE, and then MPT.
 - Seating in a private room away from the general testing population with a proctor.
 - Board will provide candidate with MEE, MPT, and MBE on external USB flash drives in Microsoft Word format. Proctor will monitor use. Candidate will be required sign Electronic MBE Use Agreement in advance of the exam.
 - Permission to use candidate's laptop with JAWS for UBE. All notes and study materials must be removed from laptop prior to the exam. No pre-recorded macros may be used during the exam. Board will inspect laptop before and after exam.
 - Permission to bring/use headphones and/or microphone for use with laptop.
 - Candidate will submit answers to MEE and MPT via USB drive that Board staff will provide instead of ExamSoft. Candidate is responsible for saving essays onto the USB drive.
 - Board will provide candidate with a scribe who will record candidate's answers to MBE questions on the scantron answer sheet.
 - Permission to bring and use candidate's electronic braille reading and writing device for all parts of the UBE (MEE, MPT, and MBE). Candidate may bring and use a blank drive for use with braille device.

Candidate may use Microsoft Word's spell and grammar check while composing responses to MEE and MPT.

I UNDERSTAND that I must be in my exam seat no later than 30 minutes prior to each test session, and that the session start time will NOT be delayed if I arrive late; that the oral instructions will proceed as scheduled whether I am present or not, even if there are no other candidates in the exam room; that any time lost due to late arrival — including time spent setting up my laptop or completing required forms — will NOT be added to the test session; and that if I arrive more than 30 minutes after the start of any session, I will NOT be admitted to that session or any subsequent session.

I agree to accept the following test accommodation(s) for the June 2020 New York Law Exam (NYLE):

- Double time (100% extra). Your exam will commence at 12:00PM ET and will end at 4:00PM ET. You will have a total of 4 hours to work on the NYLE.
 - You will be taking the NYLE at <https://www.nybarapply.org/NYLE/> instead of using ExamSoft. Please monitor your time carefully. Any answers recorded on the website before the start time or after the end time set forth in this letter will not be counted in your final score. Do not expect the website to automatically close at the end of your allotted time.
- B. I will receive a total of 6 hours of test time on the MEE, a total of 6 hours of test time for the two MPT items, and a total of 12 hours of test time on the MBE, for a grand total of 24 hours of test time for the New York State bar examination (i.e. UBE); I will receive a total of 4 hours of test time on the NYLE;
- C. These accommodations are necessitated by my disability(ies);

From 8:00 AM on Tuesday, Feb. 23, 2021, through 4:30 PM on Friday, Feb. 26, 2021, I will not discuss the examination, its subject matter, questions or answers orally, in writing or electronically with any person, nor will I seek, obtain or give information concerning the examination, its subject matter, questions or answers from or to any person or source, including but not limited to internet sites, other examination candidates, tutors, or bar review representatives;

- E. I will not use any items prohibited by the Board's Security Policy during the examination or secure (proctored) lunch breaks, except for any items expressly awarded as test accommodations;
- F. I understand that any violation of this agreement may result in the institution of fraud and dishonesty charges pursuant to Board Rule 6000,13; and
- G. I have read and understand everything contained in my I >ctcrmination.

Sworn to before me this

Notary Public

Board Rule [22 NYCRR §] 6000.7

Test Accommodations for Applicants with Disabilities

(e) Appeals. Any applicant whose application is denied in whole or in part may appeal the determination by filing a verified petition responding to the Board's stated reason(s) for denial. The petition must attest to the truth and accuracy of the statements made therein, be made under penalty of perjury and be notarized. The petition may be supported by a report from the applicant's examiner clarifying facts and identifying documentation, if any, which the Board allegedly overlooked or misapprehended. The appeal may not present any new diagnosis or disability that was not identified in the applicant's application. Original signed and notarized appeals must be received at the Board's office no later than 14 days from the date of the Board's determination. The Board shall decide such appeal and shall notify the applicant of its decision prior to the date of the examination for which the accommodations were requested.