

Information about accommodations for persons with disabilities

INTRODUCTION

The South Dakota Board of Bar Examiners (Board) welcomes persons with disabilities to use the services of the Board, including taking the bar examination. Reasonable testing accommodations will be made for persons with disabilities. The bar exam is designated to test the knowledge and skills necessary for one who seeks admission to the practice of law.

POLICY

It is the policy of the Board to administer the bar examination and all other services provided by this 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 Bar of the State of South Dakota.

WHAT IS REQUIRED?

The Board will make reasonable accommodations to individuals with disabilities. Such accommodations will be made unless a fundamental alteration in the examination or other admission requirements would result. In order to accomplish this, the Board will furnish auxiliary aids and services when necessary to ensure effective communication. The Board will administer the examination so that it is readily accessible to individuals with disabilities.

Individuals with disabilities will not be tested separately from other examinees, unless the separate programs are necessary to ensure that the test is equally effective. If the individual prefers not to accept a reasonable accommodation, the Board will not require an individual with a disability to accept such a reasonable accommodation.

QUESTIONS?

If you have any questions about the Board's policies with respect to reasonable accommodations in testing, you should write Secretary, Board of Bar Examiners, 500 E. Capitol, Pierre, South Dakota 57501.

SOUTH DAKOTA BOARD OF BAR EXAMINERS POLICY ON APPLICANTS WITH DISABILITIES

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DEFINITIONS

- 1) "Disability" means any of the following:
 - a. 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 South Dakota Bar Examination.
 - b. A record of having such an impairment; or
 - c. A record of having been regarded as having such an impairment.
- 2) "Physical impairment" means a physiological disorder or condition or anatomical loss affecting one or more of the body's systems.
- 3) "Mental impairment" means a mental or psychological disorder such as organic brain syndrome, emotional or mental illness, attention deficit disorder and specific learning disabilities.
- 4) "Qualified applicant with a disability" means an applicant with a disability who
 - a. with reasonable modifications to rules, policies, or practices;
 - b. the removal of architectural, communication, or transportation barriers; or
 - c. the provision of auxiliary aids and services, is capable of demonstrating that the applicant possesses the knowledge, skills and abilities tested on the South Dakota Bar Exam.
- 5) "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:
 - a. fundamentally altering the nature of the examination or the Board's ability to determine through the bar examination whether the applicant possesses the essential eligibility requirements for the practice of law in South Dakota;
 - b. imposing an undue burden on the Board;
 - c. compromising the security of the examination;

- d. compromising the validity of the examination.

REQUESTS FOR REASONABLE TESTING ACCOMMODATIONS

1) Regular Requests

- a. A regular request for reasonable testing accommodations must be submitted on forms prescribed by the Board and shall consist of the following:
 - i. A statement of the applicant:
 - 1. describing the applicant's disability;
 - 2. describing the reasonable accommodations requested; and
 - 3. providing an explanation as to how the accommodation will ameliorate the applicant's disability. (See Form A).
 - ii. the statement shall be accompanied by the applicant's law school transcripts, undergraduate transcripts, and LSAT scores.
 - iii. Supplemental disability documentation from the applicant's treating physician or licensed treating professional. (See Form B).
 - iv. Supplemental documentation from applicant's physician or licensed treating professional when request is based upon learning disability other than AD/HD. (See Form B-LD).
 - v. Supplemental documentation from applicant's licensed treating professional when request is due to a learning disability of AD/HD. (See Form B-AD/HD).
 - vi. A statement from the applicant's law school when the applicant received accommodations during law school. (See Form C).
 - vii. Such additional documentation supporting the request as is deemed necessary by the Board's medical consultant.
 - viii. A request for reasonable testing accommodations must be filed with the application for admission on or before the application filing deadline.

2) Repeat Applicant

- a. An applicant who has taken the South Dakota 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 utilized by the applicant on previous examinations, will be taken into consideration in determining subsequent accommodations.
 - i. Repeat applicants must submit all required forms:

1. current medical or other documentation, if previously submitted records are two or more years old.
- 3) Emergency Requests
- a. 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:
 - i. a written request for reasonable testing accommodations; and
 - ii. medical documentation of need for accommodation, including documentation of the emergency nature of the request, and the date and circumstances under which the disability arose.
 - b. Decisions on emergency requests will be made in accordance with this policy, or as soon as practicable.
 - c. Appeals of denials or modifications of emergency accommodation requests will be heard and determined in keeping with the manner described elsewhere in the policy unless impossible to do so 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.

REVIEW OF REASONABLE ACCOMMODATION APPLICATIONS

- 1) Standards for Review of Reasonable Accommodation Applications
 - a. Requests for reasonable test accommodations shall be granted if all of the following are found:
 - i. The applicant is a qualified applicant with a disability who is otherwise eligible to take the bar examination;
 - ii. The testing accommodations are necessary to ameliorate the impact of the applicant's disability;
 - iii. 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.
- 2) Review by Secretary
 - a. The Secretary will review all properly filed requests for reasonable testing accommodations on a case-by-case basis.
 - b. Requests that are not timely filed, incomplete, or otherwise do not comply with the requirements of this policy will be mailed to applicant with a written explanation.
 - c. Within a reasonable time of receipt of request for review, the Secretary will do one of the following:
 - i. request applicant to submit additional information in support of the applicant's request;

- ii. submit applicant's documentation of need for reasonable accommodation to an independent physician or licensed professional, along with a request for expert opinion as to granting or denying the request;
 - iii. confer with applicant in order to reach a mutually agreeable modification of the requested accommodation;
 - iv. grant the request and inform the applicant in writing of the accommodation to be provided;
 - v. modify the request and inform the applicant in writing of the applicant's right to accept the offered modification or to appeal the Secretary's determination;
 - vi. deny applicant's requested accommodation and inform the applicant in writing of the bases for the denial and the applicant's right to appeal.
 - d. When expert opinion is sought, a determination upon the request will be made within a reasonable time of the Secretary's receipt of the expert's evaluation.
- 3) Appeal of Determination by Secretary
 - a. An applicant who is adversely affected by the Secretary's modification or denial of a request for a reasonable testing accommodation may appeal to the Board.
 - b. Such appeal must be in writing addressed to the Board and received in the office of the Secretary within five business days of the applicant's receipt of the Secretary's notice of denial.
 - c. An expedited hearing before the Board or designated Board member(s) will be scheduled in response to applicant's request for appeal.
- 4) An expedited hearing before the Board or designated Board member(s) will be scheduled in response to applicant's request for appeal.
 - a. A reasonable testing accommodations hearing will be heard by the Board of Bar Examiners or a member(s) of the Board designated by the Chair 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.
 - b. The Board will attempt to schedule the reasonable testing accommodations hearing within fifteen business days of receipt of the request for hearing.
 - c. 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 and a copy of the tape will be provided to the applicant upon

request. The rules of evidence do not apply and hearsay is admissible.

5) Determination

- a. Upon the conclusion of the hearing, the Board or designated Board member(s) will prepare brief written findings of the fact and a determination. A copy will be mailed to the applicant by certified mail, return receipt requested, within ten business days of the hearing.
- b. The written decision of the Board or of the designed hearing officer(s) is the final determination of the Board.

DOWNLOAD SPECIAL ACCOMMODATIONS FORMS

- [Form A: Reasonable Testing Accommodations Questionnaire - to be completed by all applicants who request reasonable testing accommodation.](#)
- [Form B: Disability Documentation - to be completed by a physician or licensed professional for each applicant.](#)
- [Form B-LD: Supplemental Documentation for Learning Disabilities - to be completed by licensed professional of applicant requesting accommodations due to a learning disability other than AD/HD.](#)
- [Form B-AD/HD: Supplemental Documentation for Learning Disabilities - to be completed by licensed professional of applicant requesting accommodation due to a learning disability of AD/HD.](#)
- [Form C: Law School Statement Regarding Testing Accommodations Granted - to be completed by law school for applicants who received accommodations during law school.](#)