

UTAH STATE BAR

General Guidelines for Documenting Cognitive/Learning Disabilities for Form D

The following guidelines are intended to assist the applicant and evaluator in completing the request for accommodations of the Utah State Bar exam (“Bar exam”).

If the applicant is seeking accommodation because of a cognitive impairment, such as a learning disability, a processing deficiency, or a physical, medical, or psychological disorder that affects the applicant’s cognitive abilities, the applicant must submit Form D with supporting documentation. The report from the diagnostician in support of the applicant’s request for accommodation must include actual test scores, a specific diagnosis, and it must recommend a specific accommodation based on the impact the disability will have on the applicant’s ability to perform on the Bar Exam under the standard testing conditions. The analysis must reference the test results that support the need for the accommodation and articulate how the accommodation will reduce the impact of the functional limitation. A general description of typical symptoms found in people with the cognitive impairment is not sufficient, nor are testing notes without the analysis described above. In addition, it is important to understand that the mere documentation of the presence of a disability does not entitle the applicant to accommodation(s). Rather, the impact of the disability on the applicant’s ability to take the Bar exam must be quantifiably and objectively documented so that reasonable accommodations can be determined.

As part of the accommodation request, a comprehensive neuropsychological or psycho-educational report must be submitted, prepared by a qualified diagnostician and conducted within the last five years. **All test scores and percentiles should be based on age-adjusted rather than education adjusted norms** and the applicant must have a functional limitation when compared to a person in the general population, not the average law school or college graduate.

It is expected that the assessment will be a comprehensive battery of tests administered by someone with clear credentials in the field (such as board certification by a recognized board). Individuals may use fixed or flexible batteries (or a combination of the two) but the evaluations must include consideration of motor-sensory, auditory, attentional, visual-spatial, receptive and expressive language, immediate and delayed memory, achievement, and intelligence. Often, these tests used for other purposes will overlap with neuropsychological functions and can be used for more than one purpose. All scores generated by each test must be reported.

The testing/assessment must be comprehensive and include a Diagnostic Report. Objective evidence of a substantial limitation in cognition/learning must be provided. This is the heart of the evaluation if the applicant is claiming a cognitive disorder or claiming cognitive impairment due to an attentional, physical, or psychiatric disorder. All deviations from these guidelines must be discussed and defended in light of the goals of the evaluation in terms of fair administration of the Bar exam. The neuropsychological evaluation is required in all cases that claim the presence of a learning disability in order to demonstrate the existence of the underlying disorder responsible for the learning disability. A psycho-educational evaluation is required for all applicants in this category without exception. The neuropsychological or psycho-educational evaluation for the diagnosis of a cognitive disability should be submitted on the letterhead of a license, qualified professional, and it should provide clear and specific evidence that a cognitive disability does or does not exist. It is not acceptable to administer only one test, nor is it acceptable to base a diagnosis on only one of several subtests. All standard scores for all tests must be reported. Percentiles must also be reported in addition to standard scores for each test. For tests with subtests (such as the WAIS-IV or WJ-IV) the scores from all subtests must also be included. Unless noted below, all standard scores and percentiles should be based on age-adjusted rather than education-adjusted norms.

Each evaluation MUST include the following:

1. **A diagnostic interview.** The report or assessment must include a comprehensive diagnostic interview that includes relevant background information to support the diagnosis. In addition to the candidate's self-report, the report of assessment should include a description of the presenting problem(s), including symptoms; a developmental history; an academic history, including reports of classroom performance and grades; behavioral observations and notable trends; a family history, including primary language of the home and current fluency of English (where relevant); a psychosocial history; a medical history, including the presence or absence of a medical basis for the present symptoms; history of prior psychotherapy; a discussion of dual diagnosis, alternative or coexisting mood, behavioral, neurological and/or personality disorders; history of relevant medication and current use that may impact the individual's learning; and exploration of possible alternatives that may mimic a cognitive disability, when, in fact, one is not present.
2. **Review of Educational Record and History of Accommodations.** The report must include reference to and analysis of the applicant's educational record and history of accommodations.
3. **Aptitude.** A complete aptitude assessment is required with all subtests and standard scores. The preferred instrument is the Wechsler Adult Intelligence Scale – Third Edition (WAIS-IV). In addition to the WAIS-IV, the aptitude area may be further explored by such tests as the Woodcock-Johnson Psychoeducational Battery-IV: Tests of Cognitive Ability (Subtests 1-14), the Stanford-Binet Intelligence Scale: Fourth Edition, or other tests that have current norms for an adult population. Tests that do not have norms appropriate for the age of the applicant will not be accepted in this or any other category.
4. **Achievement.** A complete achievement battery, with all subtests and standard scores, should be provided. A timed reading comprehension measure, which has been normed on adults and which allows for both extended and regular administrations, is required. The Nelson-Denny Reading Skills Test (NDRT) is a timed comprehensive test; however, the NDRT provides only education-based norms that result in inaccuracies when compared to age-adjusted aptitude measures such as the WAIS-IV. Thus, the NDRT should be scored twice for standard time conditions, using the actual grade level and, for comparison purposes, using the first-semester college norms. In all cases, extended-time testing should also be completed, with notation of the actual additional time used to complete the test (not the time allowed). The number of items attempted and completed during the regular and extended periods is also required. If a test other than the NDRT is used, a detailed description of the test and the norming sample should also be included. In addition to a timed reading comprehension measure, the battery may include current levels of academic functioning in reading (decoding and comprehension) and written language. Acceptable instruments include, but are not limited to, the Woodcock Johnson Psychoeducational Battery-IV: Tests of Achievement; Scholastic Abilities Test for Adults (SATA); and the WIAT-II. The Wide Range Achievement Test-E (WRAT-3) is not a comprehensive measure of achievement and therefore is not acceptable if used as the sole measure of achievement. Please note the WJ-IV and WIAT-II do not measure sustained timed reading comprehension. Writing measures, including timed writing, may also be included.
5. **Information Processing.** Specific areas of information processing (e.g., short- and long-term memory, sequential memory, processing speed, executive functioning, motor ability) must be addressed in cases claiming learning disorders, attention problems, or psychiatric problems that interfere with attention. Since the Bar exam is a verbal, reading-based test, processing measures that relate to the processing of words and sentences presented visually are most relevant and will be given the greatest weight. Impairment in nonverbal functions must be related to Bar exam performance to be given significant weight. Commonly used instruments in this area include but are not limited to information from subtests on the WAIS-IV, the Woodcock-Johnson Psychoeducational Battery-IV: Tests of Cognitive Ability, Wechsler Memory Scale-III, Halstead-Reitan neuropsychological battery,

and the Test of Vigilance and Attention (TOVA). Other instruments also may be used to address these areas.

6. **Personality Testing.** Other standard and formal assessment measures (e.g., personality or clinical inventories) may be integrated with the above documents to help support a dual diagnosis, or to disentangle the cognitive/learning disability from coexisting mood, behavioral, neurological, and/or personality disorders. In addition to standardized test batteries, it is also very helpful to include informal observations of the student during the test administration. Nonstandard measures and informal assessment procedures may be helpful to determine performance across a variety of domains. These procedures are supplemental to the basic evaluation described above and do not replace the need for the objective measures. Personality testing is required for those who claim psychiatric disorders that impact their ability to take the Bar exam. It is often most useful to see the results of objective, well-normed tests such as the MMPI-2 or MCMI-III, along with more projective instruments such as the Rorschach. As with other tests, all scores must be reported for these tests.
7. **Actual test scores.** Standard scores must be provided for all normed measures. Percentiles are also acceptable, but grade equivalents are not acceptable unless standard scores and/or percentiles are also included. The report of assessment must show evidence of intra-individual differences in cognitive/achievement and in information processing that demonstrate a substantial limitation for which an accommodation is recommended. A minimum of 1.5 standard deviation difference must be shown.
8. **A specific diagnosis.** Individual “learning styles,” “learning differences,” and “academic problems” are not by themselves cognitive disabilities for which accommodations will be granted. The specific diagnosis must be supported by test data, academic history, anecdotal and clinical observations that may include comments about the candidate’s level of motivation, study skills, and other noncognitive factors. Discrepancies between test results, previous scores on the SAT, ACT or LSAT, and history MUST be addressed to avoid delays due to requests for additional information. These findings must demonstrate that the candidate’s functional limitations are due to the diagnosed disability or disabilities. It is important that the diagnostician rule out alternative explanations for problems in learning such as emotional or attentional problems that may interfere with learning, but which do not, in and of themselves, constitute a disability in learning.
9. **Recommend specific accommodations.** The diagnostician must include a detailed explanation as to why each SPECIFIC recommended accommodation is necessary and a detailed rationale for each accommodation requested. Requests for accommodations must reference test results or clinical observations that support the need for the accommodation. The recommendations should be based on affording equal access, **not** maximizing potential or guaranteeing the outcome. They must not give the candidate an unfair advantage over other candidates but must be designed to give a fair chance. Recommendations that are clearly excessive will bring the expertise of the evaluator into question. The Bar exam does not provide unlimited time as an accommodation. An inability to complete the test under standard time conditions is not automatically a reason for an accommodation or additional test time as not all standard test takers are able to do this. If the evaluator recommends a certain amount of extra time, the evaluator must explain how he or she determined the appropriate amount of extra time to be given by referencing objective data.

UTAH STATE BAR
FORM D
Non-standard Test Accommodations
Cognitive/Learning Disability Verification Form
To be completed by a Physician or Licensed Professional

This Form must be completed by a physician or other licensed health care provider qualified to treat adults with a cognitive disability. Please complete the information requested in the spaces provided. An applicant with a specific cognitive or learning disability must have been identified by an approved neuropsychological and psycho-educational assessment process which includes data from both cognitive and achievement measures. In addition, the test must also:

- (1) Have been administered within the last five years;
- (2) Have identified an information processing deficit;
- (3) Have certified that this patient's aptitude is within the normal range; and
- (4) Have identified an aptitude-achievement discrepancy of 1.5 standard deviations **based on age-adjusted** (not education-adjusted) norms. The applicant must show a functional limitation when compared to a person in the general population, not the average law school or college graduate. It is not sufficient to show that the applicant is not performing as well as might be expected based on the applicant's aptitude if the achievement numbers still fall within the average range.

Simply being diagnosed with a learning disability does not entitle an applicant to accommodations. Objective data must be provided that specifically demonstrates how the condition impairs the applicant so that the appropriate accommodations can be determined.

Please refer to the General Guidelines for Documenting Cognitive/Learning Disability before completing this form.

Return this form, the comprehensive evaluation report, and relevant records to the applicant for submission to the Utah State Bar.

Name of Applicant: _____

Name of professional completing this form: _____

Title: _____

License/Certification Number: _____

Complete Address:

Telephone Number: _____

Please describe the credential(s) that qualify you to diagnose and/or verify the applicant's disability and to recommend accommodations. (Please note: to be considered qualified, you must have comprehensive education, training, and experience in the field of cognitive disabilities).

INFORMATION REGARDING THE APPLICANT

1. Date you first met with patient/applicant: _____
2. Date of patient/applicant's initial diagnosis: _____

If you did not make the initial diagnosis, please provide the name of the professional who did:

3. Briefly describe the nature and extent of the applicant's impairment (include the specific DSM diagnosis):

4. Date of last complete evaluation of the applicant: _____
5. Given the possibility that some individuals may seek a diagnosis of cognitive deficits in order to inappropriately obtain test accommodations, evaluations should include objective assessments to rule out malingering, incomplete effort, or exaggerated reporting of symptoms. Please describe any objective symptom validity testing that was used to confirm the diagnosis, as well as the results of such testing:

6. Please identify the major life activities that are substantially impaired by the applicant's condition (please be aware that test taking is not considered a major life activity):

7. Please describe your treatment of this condition, including any and all prescribed medications:

8. Does the applicant experience any side effects as a result of taking prescribed medications and/or other treatment?

☐ Yes
☐ No

If “Yes”, please describe the side effects and any impact they may have on the applicant’s regular activities:

9. Does the medication/treatment prescribed to the applicant ameliorate the symptoms?

☐ Yes
☐ No

If “No”, please explain what symptoms continue even with medication:

10. Was the applicant taking the medication or following the prescribed treatment at the time the cognitive testing was performed?

☐ Yes
☐ No

11. Please describe the history of accommodations received by the applicant (e.g. in college, law school, and on standardized tests such as the ACT, SAT, or LSAT):

12. Please describe how the condition significantly impacts the applicant's ability to take the Bar examination:

COGNITIVE ASSESSMENT

Date Cognitive Assessment completed: _____

The following tests are frequently used to demonstrate the impact of an individual's disability. If other tests were used, please indicated the results of these tests under "Other Test Results". For additional information, please refer to the Guidelines provided by the applicant.

Wechsler Adult Intelligence Scale-Revised-IV (WAIS-IV)Index scores:

Verbal Comprehension _____	Perceptual Reasoning _____	Working Memory _____
Similarities _____	Block Design _____	Digit Span _____
Vocabulary _____	Matrix Reasoning _____	Arithmetic _____
Information _____	Visual Puzzles _____	Letter-Number Seq _____
(Comprehension) _____	Picture Completion _____	
Processing Speed _____	Full Scale IQ _____	
Symbol Search _____	General Ability Index (if applicable) _____	
Coding _____		
Cancellation _____		

Woodcock-Johnson-IV – Tests of Cognitive AbilityCluster scores:

General Intellectual Ability _____	Long-Term Retrieval _____
Brief Intellectual Ability _____	Visual Processing _____
Gf-Gc Composite _____	Quantitative Reasoning _____
Comprehension-Knowledge _____	Auditory Memory Span _____
Fluid Reasoning _____	Number Facility _____
Short-term Working Memory _____	Perceptual Speed _____
Cognitive Processing Speed _____	Vocabulary _____
Auditory Processing _____	Cognitive Efficiency _____

Woodcock-Johnson Psycho-educational Tests of Achievement:

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Woodcock-Johnson-IV – Tests of Academic AbilityCluster scores:

Reading _____	Mathematics _____	Written Language _____
Broad Reading _____	Broad Mathematics _____	Broad Written Language _____
Basic Reading _____	Math Calculation _____	Basic Writing Skills _____
Reading Comprehension _____	Math Prob Solving _____	Written Expression _____
Reading Fluency _____		
Reading Rate _____		

Academic Skills _____
 Academic Fluency _____
 Academic Applications _____

Academic Knowledge _____
 Phoneme-Grapheme Knowledge _____
 Brief (or Broad) Achievement _____

Subtests:

Letter-Word Identification _____	Oral Reading _____	Word Reading Fluency _____
Applied Problems _____	Sentence Reading Fluency _____	Spelling of Sounds _____
Spelling _____	Math Facts Fluency _____	Reading Vocabulary _____
Passage Comprehension _____	Sentence Writing Fluency _____	Science _____
Calculation _____	Reading Recall _____	Social Studies _____
Writing Samples _____	Number Matrices _____	Humanities _____
Word Attack _____	Editing _____	

Other tests:

Test: _____ Standard Score: _____ Range of performance: _____

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DESCRIPTION OF EXAM

The Utah State Bar examination is administered in an environment similar to a classroom test setting. The candidates are allowed to use earplugs, but audio or visual distractions may be present. During the examination, candidates may use the restroom or drinking fountains. Personal items, including food and drink, are not allowed in the test area.

The exam is given over two days. Day 1 of the Bar examination consists of 6 essay questions and 2 Multistate Performance Test (“MPT”) questions over a 6-hour period. Candidates are allowed 30 minutes per essay question and one-and-one-half hours per MPT question, resulting in two three-hour test sessions with an hour lunch break. Candidates must record their answers in written format, either by hand or by typing on a laptop computer. In responding to these questions, candidates must demonstrate their ability to identify significant legal issues and principles, analyze complex legal problems, and organize and articulate a comprehensive analysis of legal issues.

Day 2 of the Bar examination consists of 200 multiple choice questions answered over a 6-hour period. Candidates are allowed 3 hours per 100-question section of the test, with an hour lunch break. Candidates answer by filling in circles on a scantron answer sheet.

RECOMMENDED TEST ACCOMMODATION(S)

Please note: To “level the playing field” for applicants with disabilities, we seek your recommendation in order to adequately provide appropriate and reasonable accommodations. “Reasonable accommodations” means an adjustment or modification of the standard test conditions that ameliorates the impact of the applicant’s disability without providing an unnecessary advantage over applicants taking the examination under standard conditions.

Based on the candidate's condition/disability and its impact on his/her ability to perform on the Bar examination, what accommodation(s) would you recommend? If an accommodation is not listed below, please describe it under "other."

13. Accommodations Requested for the Written Portion (MEE and MPT questions) of the Bar Examination. *(Please check all that apply)*

Formatting:

- ☐ Braille
- ☐ Audio recording
- ☐ Reader
- ☐ Large type (18 or 24 pt. font)

Please specify _____

- ☐ Scribe
- ☐ Dictation software

Please specify _____

Extra Breaks (5-10 minutes):

- ☐ Every 60 minutes (two essays at a time)
- ☐ Every 90 minutes (three essays at a time)

Extra test time:

- ☐ Time and a quarter (extra 45 minutes per session)
- ☐ Time and a third (extra 60 minutes per session)
- ☐ Time and a half (extra 90 minutes per session)
- ☐ Double time (extra 180 minutes per session)

Other:

- ☐ Use of a lectern (so applicant can work while standing)
- ☐ Separate room
- ☐ Shortened test days
- ☐ _____

14. Accommodations Requested for the MBE portion of the Bar Examination. *(Please check all that apply)*

Formatting:

- ☐ Braille
 - ☐ Audio recording
 - ☐ Reader
 - ☐ Large type (18 or 24 pt. font)
- Please specify* _____
- ☐ Scribe
 - ☐ Non-scantron answer sheet (circle answers in question booklet)

Extra Breaks (5-10 minutes):

- ☐ Every 60 minutes (33-34 questions at a time)
- ☐ Every 90 minutes (50 questions at a time)

Extra test time:

- ☐ Time and a quarter (extra 45 minutes per session)
- ☐ Time and a third (extra 60 minutes per session)
- ☐ Time and a half (extra 90 minutes per session)
- ☐ Double time (extra 180 minutes per session)

Other:

- ☐ Use of a lectern (so applicant can work while standing)
- ☐ Separate room
- ☐ Shortened test days

☐ _____

15. Please explain how the recommended accommodation(s) will reduce the impact of the functional limitation the disability imposes; in cases where extra time is recommended, please specify how you determined the appropriate amount of extra time:

PHYSICIAN'S SIGNATURE:

I declare that the above information is true and correct.

Signature of Physician/Licensed Professional: _____

Print Name: _____

Date: _____ Telephone Number: _____

Email Address: _____