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General Guidelines for Documenting Cognitive Disability/Learning Disability/ADD/ADHD on Form D

The following guidelines are to assist in completing Form D of the Test Accommodation Request documents for the Utah State Bar Examination. It is the applicant's responsibility to collect the required forms and medical documentation from the qualified psychologist and file them with the application by the deadline.

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.

All deviations from these guidelines must be discussed and defended considering the goals of the evaluation in terms of fair administration of the Bar exam

Testing

- A comprehensive psychoeducational report including a battery of cognitive and academic testing must be submitted and prepared by a qualified psychologist and conducted **within the last five years**.
- **A cognitive and academic evaluation is required for all applicants in this category without exception.**
- Individuals may use fixed or flexible batteries (or a combination of the two) but the evaluations must include consideration of auditory, attentional, visual-spatial, receptive and expressive language, immediate and delayed memory, achievement, and intelligence.
    - It is not acceptable to administer only one test or to base a diagnosis on only one of several subtests.
- All scores generated by each test must be reported. Percentiles may also be reported in addition to standard scores for each test. For tests with subtests (such as the WAIS-5 or WJ-IV) the scores from all subtests must also be included.
- **All test scores should be based on age-adjusted (not education-adjusted) norms AND the applicant must show a substantial 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.**
- Objective evidence of a substantial limitation in cognition/learning must be provided.
- The psychoeducational evaluation for the diagnosis of a cognitive disability should be submitted on the qualified psychologist's letterhead, and it should provide clear and specific evidence that a cognitive disability does or does not exist.
- The qualified psychologist's report must include actual test scores and a specific diagnosis, and it must recommend 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.

Standards

- **The mere documentation of the presence of a disability does not entitle the applicant to accommodation. Additionally, a self-diagnosis is insufficient to grant accommodation.**
- The report must reference the test results that support the need for the accommodation and articulate how the accommodation will reduce the impact of the substantial limitation.
- A general description of typical symptoms found in people with cognitive impairment is not sufficient, nor are testing notes without the analysis described above.
- The impact of the disability on the applicant's ability to take the Bar exam must be quantifiably and objectively documented.

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Each Evaluation Supporting Form D 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;
   - A history of the applicant's accommodations;
   - 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;
   - Behavioral observations and notable trends; 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 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 – Fifth Edition (WAIS-5). In addition to the WAIS-5, the aptitude area may be further explored by such tests as the Woodcock-Johnson-IV (WJ-IV): Tests of Cognitive Ability (Subtests 1-14), the Stanford-Binet Intelligence Scale: Fifth 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. 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 Nelson-Denny Reading Test (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 WJ-IV: Tests of Achievement; Scholastic Abilities Test for Adults (SATA); and the Wechsler Individual Achievement Test – IV (WIAT-IV). The Wide Range Achievement Test-5 (WRAT-5) is not a comprehensive measure of achievement and therefore is not acceptable if used as the sole measure of achievement. The WJ-IV and WIAT-IV 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 assessed in individuals 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 shown to 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 WJ-IV: Tests of Cognitive Ability, Wechsler Memory Scale-IV, the Neuropsychological Assessment Battery, and the Test of Vigilance and Attention (TOVA). Other instruments also may be used to evaluate these areas.

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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 applicant 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 Minnesota Multi-Phasic Personality Inventory-4 (MMPI-4) or Millon Clinical Multi-Axial Inventory-IV (MCMI-IV). The use of well-normed tests, such as the Rorschach, may also be used. 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 are also included. The report of assessment must show evidence of deficits in achievement when compared to average cognitive scores, demonstrating a substantial limitation for which an accommodation is recommended.

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 substantial limitations are due to the diagnosed disability or disabilities. It is important that the qualified psychologist 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 qualified psychologist 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 them a fair chance. 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.

10. If the recommended accommodations are clearly excessive and not supported by the data and evaluation, despite being recommended by a qualified psychologist, they will not be granted.

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FORM D
Cognitive/Learning/ADD/ADHD Disability Verification Form
To be completed by a Qualified Psychologist

This Form must be completed by a qualified psychologist 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 psychoeducational assessment process which includes data from both cognitive and achievement measures.

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

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

Indicate which disability the applicant has.

- ☐ Cognitive
- ☐ Learning
- ☐ ADD
- ☐ ADHD
- ☐ Other:

Name of Professional Completing this Form:

Professional Title:

License/Certification Number:

Complete Address:

Telephone Number:

Email Address:

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

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Information Regarding the Applicant

Date you first met with patient/applicant: _____

Date of patient/applicant's initial diagnosis: _____

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

_____

Date of last complete examination/treatment of patient/applicant: _____

Briefly describe the nature and extent of the applicant's impairment, including the specific DSM diagnosis.

_____

_____

_____

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

- ☐ Yes
- ☐ No

If no, please explain.

_____

_____

Given the possibility that some individuals may seek a diagnosis of cognitive deficits to inappropriately obtain test accommodations, evaluations should include objective assessments to rule out malingering, incomplete effort, or exaggerated reporting of symptoms.

Please describe the objective symptom validity testing that was used to confirm the validity of test scores. Include the results of such testing.

_____

_____

_____

Please identify the major life activities that are substantially impaired by the applicant's condition. Test-taking is not considered a major life activity.

_____

_____

_____

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

_____

_____

_____

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

- ☐ Yes
- ☐ No

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If yes, please describe the side effects and any impact they may have on the applicant's cognitive functioning and/or academic achievement.

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

- ☐ Yes
- ☐ No

If no, please explain what symptoms continue even with medication:

History of Accommodation – *please describe what the applicant has reported about the applicant's history of receiving accommodation in college, law school, and on standardized exams such as ACT, SAT, LSAT.*

How does the condition significantly impact the applicant's ability to take the Bar examination?

You must include reports of any and all tests administered. Refer to the Guidelines for further information.

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Recommended Test Accommodation(s)

To level the playing field for applicants with disabilities, we seek your recommendation to adequately provide appropriate and reasonable accommodation. Reasonable accommodation 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 or her ability to perform on the Bar examination, please provide your recommendation for accommodation. If an accommodation is not listed below, please describe it under "other." A description of the bar exam is at the end of this document.

Changes to Exam Formatting

- ☐ Audio Recording
- ☐ Screen Reader
- ☐ Scribe
- ☐ Large Type

Please circle text size **18pt** **24pt**

- ☐ Non-scantron answer sheet – ***for MBE only***
- ☐ Other:

Audio Recording: applicant will receive a tablet with an audio only version of the exam, a pair of headphones, and a paper copy of the exam.

Screen Reader: applicant will receive a secure USB version of the exam. The applicant will access the exam through the USB on a personal computer so that they can use the screen reading software already on the computer. The applicant will not receive a paper copy of the exam.

Scribe: applicant will have a court reporter or other authorized individual in the room with them during the exam to whom the applicant will dictate answers to the MEE and the MPT portions of the exam.

Breaks

- ☐ Every 60 minutes
- ☐ Every 90 minutes

Extra Test Time

If accommodation is warranted, the default extra time granted is time and a half. A specific request for something different must be accompanied by documentation evidence directly supporting the request.

Extra time does not include extra breaks. You must specifically request breaks in the appropriate space above and provide documentation supporting that request.

- ☐ Time and a half (Extra 90 minutes per 3 hour session)
- ☐ Other _____

Other – *you must provide documentation supporting your request*

- ☐ Use of lectern
- ☐ Separate room
- ☐ Short test days

Separate Room – applicant will be placed in reduced-distraction room which may include a small number of other examinees. If the applicant requires a private room, they must specifically request it and provide documentation supporting that request.

Short Test Days – applicant will test between 4-6 hours a day. Receiving shortened test days will increase the number of test days and will result in testing between 3-4 days.

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Please explain how the recommended accommodation will reduce the impact of the limitation the disability imposes; in cases where extra time is recommended, please specify how you determined the appropriate amount of extra time. You may attach additional sheets as necessary.

I declare the above information is true and correct.

Date:

Physician's Signature:

Description of Bar Exam

The Utah State Bar examination is administered over two days 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, are not allowed in the test area. Applicants are permitted to bring in one factory-sealed water bottle per session.

Day 1 consists of 6 essay questions and 2 Multistate Performance Test ("MPT") questions over a 6-hour period. Candidates are allowed 3 hours to complete 6 essay questions and 3 hours to complete 2 MPT questions, 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 bubbles on a scantron answer sheet.