



The State Bar of California

OPEN SESSION AGENDA ITEM 703 NOVEMBER 2023

DATE: November 16, 2023

TO: Members, Board of Trustees

FROM: Christina Doell, Program Manager, Eligibility and Testing Accommodations
Donna S. Hershkowitz, Chief of Programs/Legislative Director

SUBJECT: Proposed Amendments to the Admissions Rules Regarding Examinations (Rule 4.62) and Testing Accommodations (Rules 4.80–4.92): Return from Public Comment and Request for Adoption and Transmission to the Supreme Court for Approval

EXECUTIVE SUMMARY

The Committee of Bar Examiners (CBE) explored revisions to the Rules of the State Bar pertinent to Examinations and Testing Accommodations as part of its effort to evaluate existing rules with the intent to streamline processes, create greater transparency and consistency in the administration of admissions functions, and eliminate unnecessary barriers that do not further the State Bar’s public protection mission.

Following a 60-day public comment period, the CBE is recommending adoption of the examinations rule revisions as circulated.

Following three rounds of public comment and significant changes to the rules in response to the public comment received, the CBE is recommending adoption of the testing accommodation rule revisions as circulated for the final public comment period. The CBE is further recommending that the Board transmit the proposals for examinations and testing accommodations to the Supreme Court for review and approval.

BACKGROUND

The State Bar is continuing its comprehensive review and evaluation of admission rules, practices, and procedures to ensure that they are consistent with applicable law, clear to applicants, and applied with consistency. Staff is also examining each rule to identify and

eliminate any that do not further the State Bar's public protection mission and potentially serve as unnecessary barriers that stand in the way of applicants participating in specific admissions programs.

Rule 9.6 of the California Rules of Court (CRC) provides the CBE, pursuant to the authority delegated to it by the Board, with responsibility for determining the bar examination's format, scope, topics, content, questions, and grading process, subject to review and approval of the Supreme Court.

CRC rule 9.5 provides that, upon approval by the Board, all State Bar rules recommended by the CBE pertaining to the admission to practice law must be submitted to the Supreme Court for review and approval.

The present agenda item addresses two distinct aspects of exam administration, examinations, specifically the process by which applicants who did not pass the bar exam may review their written answers, and testing accommodations. Given the discrete nature of the examinations proposal and the limited number of public comments received, this proposal is addressed in full immediately below, with the bulk of the item dedicated to the proposed testing accommodations rule revisions.

EXAMINATIONS

Effective January 1, 2024, pursuant to Board adopted priorities, Business and Professions Code¹ section 6065 will provide applicants who did not pass the bar exam electronic access to their answers to the written section of the exam for downloading, saving, and printing. This change to the statute was made at the request of the State Bar to update processes and procedures that had become obsolete with the deployment of the Admissions Information Management System (AIMS). Changes to rule 4.62 were made to align with statute and provide some additional direction to applicants about how to access exam answers. A more comprehensive explanation of the rule change can be found in the agenda items for the [March 24, 2023](#), [April 21, 2023](#), and [August 18, 2023](#) CBE meetings, and the [May 18–19, 2023](#) Board meeting.

At its May 2023 meeting, the Board approved circulating the proposed rule changes for a 60-day public comment period. One comment was received during this period, which agreed with the proposal if modified to eliminate the 30-day time period after which the answers will no longer be available through AIMS, but must be requested. The 30-day period was adopted and is necessary to address storage issues in the case management system. The CBE recommends keeping the proposal as circulated, but directed staff to ensure that timelines are clearly communicated to applicants.

¹ All further statutory references are to this code unless otherwise noted.

TESTING ACCOMMODATIONS

Title 4, Division 1, Chapter 7 of the State Bar Rules (Admissions Rules) sets forth the procedures for requesting testing accommodations for the California Bar Exam (CBX) and the First-Year Law Students' Exam (FYLX).² The Admissions Rules and the manner in which they are implemented are intended to ensure that individuals with disabilities have equal access to the FYLX and CBX, so that the exam evaluates an individual on the knowledge, skills, and abilities the exam is designed to measure, and is not a reflection of the effects of any disability.

The proposed changes to the testing accommodation rules were guided heavily by the Consent Decree arising out of *The Department of Fair Employment and Housing v. Law School Admission Council* litigation ([LSAC Consent Decree](#)), and the [guidelines](#) for testing accommodations issued by the United States Department of Justice. After receiving feedback from applicants and members of the public during two stakeholder input forums held last year, the State Bar developed a framework aimed at streamlining the process for requesting testing accommodations. The framework sought to limit applicants' need to secure additional documentation or testing, relying heavily on proof of past testing accommodations on high stakes exams, and expressly limiting the need to secure additional documentation to that which is reasonable and narrowly tailored to determine the applicant's need for the requested testing accommodations.

[In November 2022](#), the Board approved the CBE's request to circulate the proposed rule changes for a 60-day public comment period. A total of 109 comments were received: 78 expressed disagreement with the proposal, 14 agreed if modified, 15 agreed with the proposal, and 2 expressed concerns, but did not state a specific position.

The rules were significantly revised based on the public comment received. The revisions included eliminating the framework and folding the relevant contents into the rules, broadening the scope of the automatic approval process, providing considerable weight to testing accommodations provided in college or law school, and extending the timeline for applicants to submit a request for review by the CBE.

At its [May 2023 meeting](#), the Board considered public comment received pursuant to the November 2022 public comment period and approved circulating the revised proposed testing accommodations rules for a second public comment period. Forty-two comments were received leading the CBE to recommend additional changes to expand the automatic approval process to automatically approve previous grants of up to double time and further extend the timeline for requesting review of a decision to deny or partially grant a request for testing accommodations.

² Although these rules do not govern legal specialization exams (LSX), the process adopted for evaluation of requests for testing accommodations for the CBX and FYLX is applied to requests for LSX testing accommodations.

The revised rules were again circulated for another 45-day public comment period.³ Thirty-three comments were received. Public comment received in response to the second and third rounds of comment is described below.

DISCUSSION

As noted above, there have been three versions of proposed testing accommodations rules developed over the course of the present revision cycle, and three opportunities for public comment:

Table 1. Timeline of Proposed Testing Accommodation Rules Changes

Version	Issued for Comment	By	# of Comments Received	Comments Considered by Board
Proposal 1	November 2022	Board	109	May 2023
Proposal 2	May 2023	Board	42	November 2023
Proposal 3	August 2023	CBE	33	November 2023

Comprehensive explanations of the various iterations of rule change proposals can be found in the agenda items for the [October 14, 2022](#), [March 24, 2023](#), [August 18, 2023](#), and [October 13, 2023](#) CBE meetings, and the [November 17–18, 2022](#) and [May 18–19, 2023](#) Board meetings.

The Board reviewed the comments received pursuant to the first comment period at its May 2023 meeting; the present item is the Board’s first opportunity to consider comments received during the second and third comment cycles.

PUBLIC COMMENT – SECOND PERIOD

The second public comment period, which lasted for 45 days, closed on July 31, 2023. The public was specifically asked to comment on six specific topics, but permitted to comment on any area within the testing accommodations rules. The comment chart set forth as Attachment E identifies the commenters, whether the person is an attorney or public member, their affiliated organization (if any), their position on each of the six key issues addressed by the modified proposal, and includes their verbatim comments. The key topics and position of the 42 commenters are provided in the table 2 below; an overview of primary areas of disagreement with the proposed rules follows the table. At its August 2023, meeting CBE reviewed the comments and slightly modified the proposal in light of that review.

³ Due to substantive changes made to the rules following the second public comment period, the CBE conducted a third public comment period before submitting the proposed rules to the Board for consideration.

Table 2. Key Topics and Positions

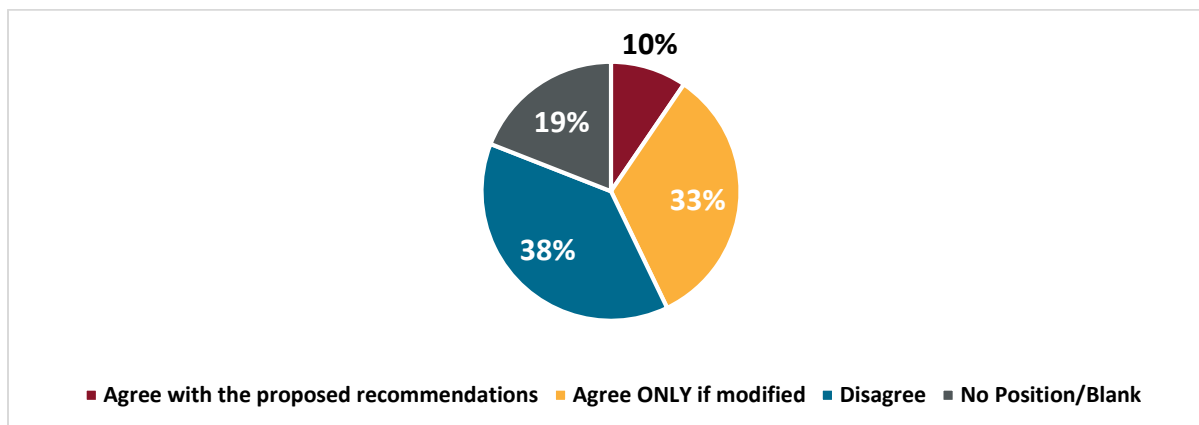
Key Topics	Agree	Agree if Modified	Disagree	No Position Identified	Proposal Modified After Public Comment Review
Automatic approval of accommodations previously granted for high stakes exams	4	14	16	8	Yes
Ensuring considerable weight be given to accommodations granted in law school or college	2	9	17	14	No
Timelines for processing initial requests	2	4	22	14	No
Appeal/review process	2	6	20	14	Yes
Documentation requirements	3	7	14	18	No
Denial after review by disability accommodations expert	1	7	15	19	No

Automatic Approval of Accommodations Previously Granted for High Stakes Exams

The proposed rules allow automatic approval for the same (or lesser) accommodations as those previously granted for high stakes exams based on a permanent physical or mental disability. With the automatic approval process for the same accommodations received on previous high stakes exams, applicants need only to provide proof of the prior accommodation and certify that they still experience the same functional limitations. High stakes exams include the California Bar Exam, First-Year Law Students' Exam, a bar exam in another U.S. jurisdiction, and various standardized tests including the LSAT. This change aims to streamline application processing, reduce the burden on applicants, and significantly reduce approval time. As originally circulated, the rules applied this automatic approval process only to accommodations approved for other high stakes exams within the past five years. The version circulated for this second comment period eliminated the five-year limitation.

A slight majority of the commenters identified their position as disagreeing with this proposal.

**Figure 1. Positions on Automatic Approval of Accommodations
Previously Granted for High Stakes Exams**



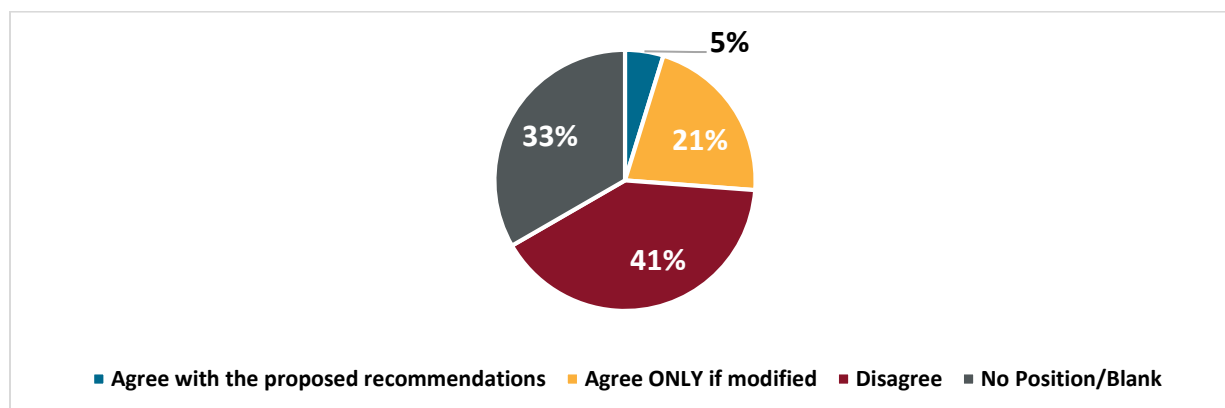
Many objected that the automatic approval process did not apply if the request was (1) for more than 50 percent additional time, (2) for a private room, or (3) for automatic approval of accommodations granted in law school.

The CBE evaluated the comments and modified the proposal to expand the automatic approval process to include requests for up to 100 percent additional time (double time).

Ensuring Considerable Weight Be Given to Accommodations Granted in Law School or College

The rules were revised following the first round of public comment to require “considerable weight” be given to prior testing accommodations granted for timed exams in college or law school. The majority of commenters disagreed with this proposal, stating that the rules should automatically grant the same accommodations given in law school or college (but at least law school). After a robust discussion the CBE concluded that modification of the considerable weight provision would not be appropriate due to concerns about the consistency and rigor applied by all law schools when evaluating accommodation requests.

**Figure 2. Positions on Giving Considerable Weight to Accommodations
Granted in Law School or College**

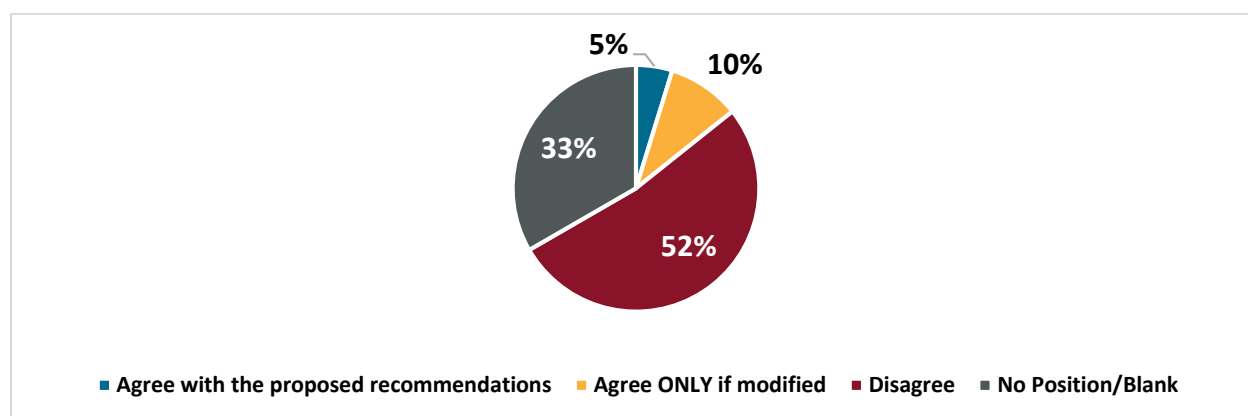


Timelines for Processing Initial Requests

Pursuant to the current Admissions Rules, the State Bar will notify applicants within 30 days of receipt of the request for testing accommodations if the request is incomplete. Further, the applicant will be notified within 60 days after submitting a complete application if the request is approved, partially approved, denied, or action is pending.

The majority of commenters disagreed with the proposal, arguing strongly that the State Bar should be required to act on a request for testing accommodations within two weeks of receipt.

Figure 3. Positions on Proposed Timeline for Processing Initial Requests



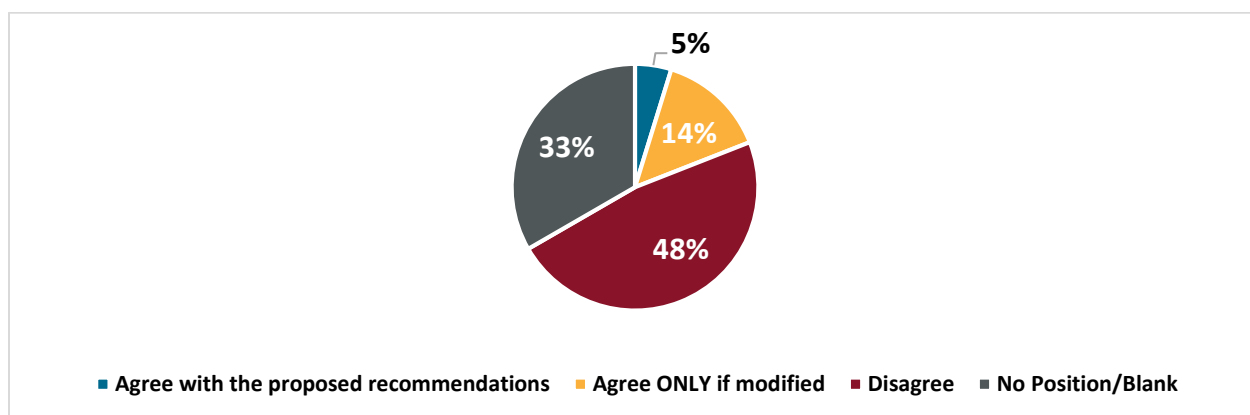
Prior to recent process changes, all accommodation requests were sent to a medical professional for a recommendation prior to an applicant receiving a decision. While recent changes in the internal administration of the testing accommodations process have accelerated the review process, staff and the CBE believe that until all changes are fully implemented and have been given some time to settle it would be unwise to commit to a strict two-week application review period. CBE believes that revisiting the rules and identifying a shorter time limit is important, however, and has directed staff to bring the issue back to CBE for further evaluation after the revised rules and forms have been implemented for two bar exam cycles.

Appeal/Review Process

The existing Admissions Rules provide applicants with 10 days to request review by the CBE. The initial proposal did not alter that timeline. Following the first round of public comment, the CBE revised the proposal to allow 14 days to request a review. The proposal also limits applicants to one request for review per exam cycle.

The majority of commenters disagreed with the proposal, believing 14 days to request review is too short and that applicants should have the opportunity to appeal multiple times during an exam cycle.

Figure 4. Positions on Proposed Appeal/Review Process Changes



Following the recommendation of at least one commenter, staff incorporated a tiered approach to allow applicants who applied by the timely filing deadline 30 days to request an appeal. Those requesting testing accommodations during the late filing period would have 14 days to request review unless exam scheduling necessitates a shorter period. The State Bar also committed to continuing its practice of offering extra time, upon request, to submit documentation to support the request for review, but not beyond the appeal deadline, which is the first business day of the exam month.

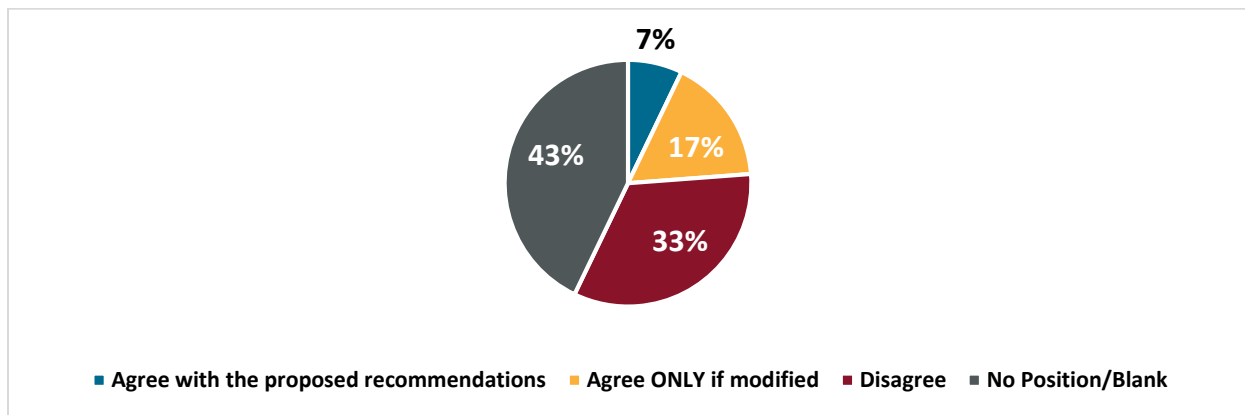
The CBE reiterated its commitment to further exploring timelines after the new process, forms, and updates to the AIMS Applicant Portal are completed to identify a specific, aggressive yet achievable timeline. Additionally, due to the volume of requests for review received, and the short time frame in which to process them, the CBE believes that allowing multiple opportunities to request review creates an unfair situation for all applicants, resulting in limited resources being assigned disproportionately to some applicants.

Documentation Requirements

The proposed rules seek to limit an applicant's need to secure additional documentation or testing by only requiring that which is reasonable and narrowly tailored to determine their need for the requested testing accommodations. The proposed revisions state that the State Bar will defer to documentation from a qualified professional who has made an individualized assessment of the applicant, and the applicant and their qualified professional are given flexibility in providing supporting documentation for disability-related functional limitations, access needs, and requested testing accommodations. The substance of this requirement remained unchanged between the first and second round of public comments, however, the second version of the proposal incorporated this language into the rules.

A majority of commenters did not identify a position on this proposal, followed by a significant proportion of commenters who disagreed with it.

Figure 5. Positions on Proposed Changes to Documentation Requirements



Most commenters who expressed disagreement with the proposal did not specify the reason for their position. Some commenters agreed with the reduced documentation and testing required, but disagreed that additional documentation should be required for private testing rooms.

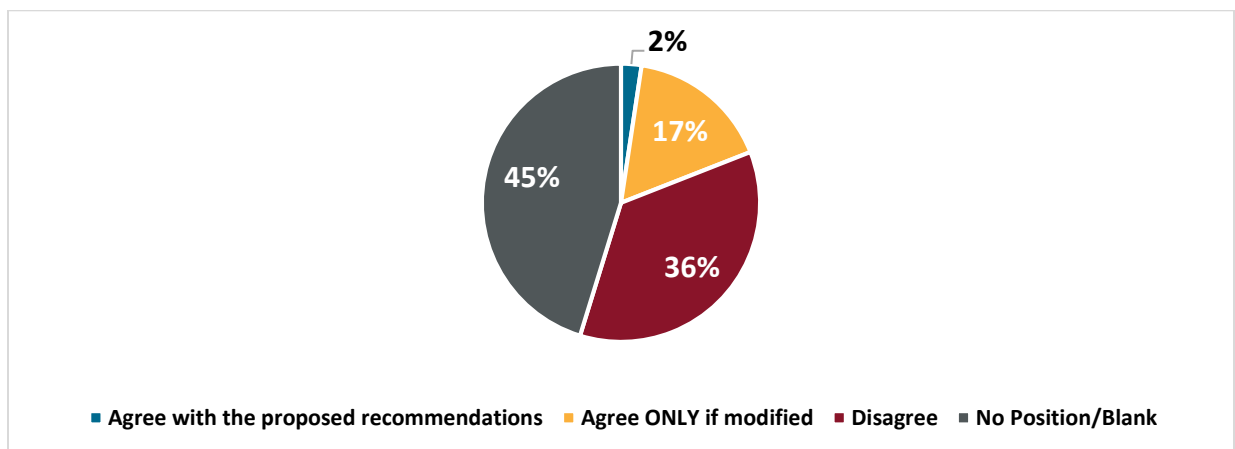
The CBE recommended no further change be made to the proposed rules on this subject.

Denial After Review by Disability Accommodations Expert

The proposed rules require that any request for testing accommodations not part of the automatic approval process be sent to a disability accommodations expert for review. A denial or approval of reduced accommodations must include a detailed report from this expert.

A majority of commenters did not identify a position on this part of the proposal. However, those disagreeing with the proposal constituted the next largest percentage of commenters.

Figure 6. Positions on Proposed Denial After Review by Disability Accommodations Expert



Commenters in disagreement with the proposal generally indicated that the rules should require diversity in the expertise of expert consultants or include requirements for training and supervision. The CBE disagreed with including such provisions in the rules, while supporting the

underlying concepts and expressing a commitment to work with State Bar staff to monitor the qualifications and experience of accommodations experts.

PUBLIC COMMENT – THIRD PERIOD

Following the modifications to the rules proposal adopted at the August 2023 CBE meeting, as discussed above, the rules were circulated for another 45-day public comment period, which closed on October 7, 2023. In addition to individuals who had signed up through the State Bar website requesting notification of public comment opportunities, an email was sent to over 3,400 applicants, attorneys, law school staff, and disability rights organizations requesting comments on the new proposal. Thirty-three comments were received about the three changes that were made to the rules following the second round of public comment identified in the chart below. The comment chart set forth as Attachment E identifies the commenters, whether they have commented previously, their position on the key topic areas (as identified by the commenter), and their full comments.

Table 3. Key Topics and Positions

Key Topics	Agree	Agree if Modified	Disagree	No Position Identified
Automatic approval of accommodations previously granted for high stakes exams - requests for double time	7	14	6	8
Appeal/review process extended from 14 to 30 days for those who submit testing accommodations requests by the timely filing deadline	3	8	10	14
Clarifying subsequent requests for the same testing accommodations	9	6	5	15

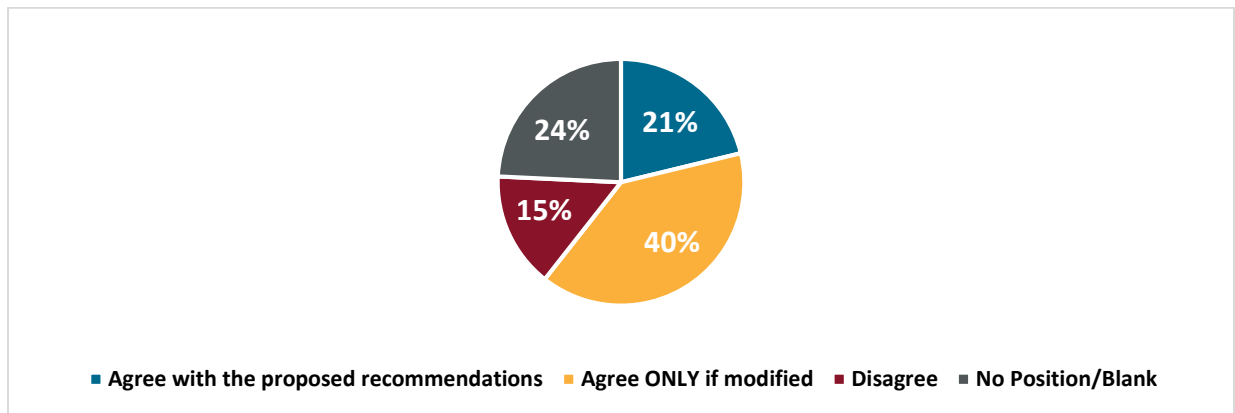
The high-level themes of the comments are described below.

Automatic Approval of Accommodations Previously Granted

Following the second public comment period, the CBE further amended the proposed rules to include requests for up to 100 percent extra time (double time) in the automatic approval process.

The majority of the commenters agree with the proposal if modified.

Figure 7. Positions on Proposed Inclusion of Requests up to 100 Percent Extra Time into Automatic Approval Process



Commenters continued to request that the automatic approval process include (1) requests for a private room and (2) past accommodations granted in law school. The CBE once again had a robust discussion about whether to extend the automatic approval process to accommodations granted in law school for timed exams. Ultimately, the CBE continued to express concerns about the rigor and consistency across law school accommodations processes. Additionally, the CBE noted that the changes made to simplify the required documentation that an applicant needs to provide when not eligible for the automatic approval process make the process less onerous, further solidifying their view that accommodations granted in law school or college should not be subject to automatic approval.

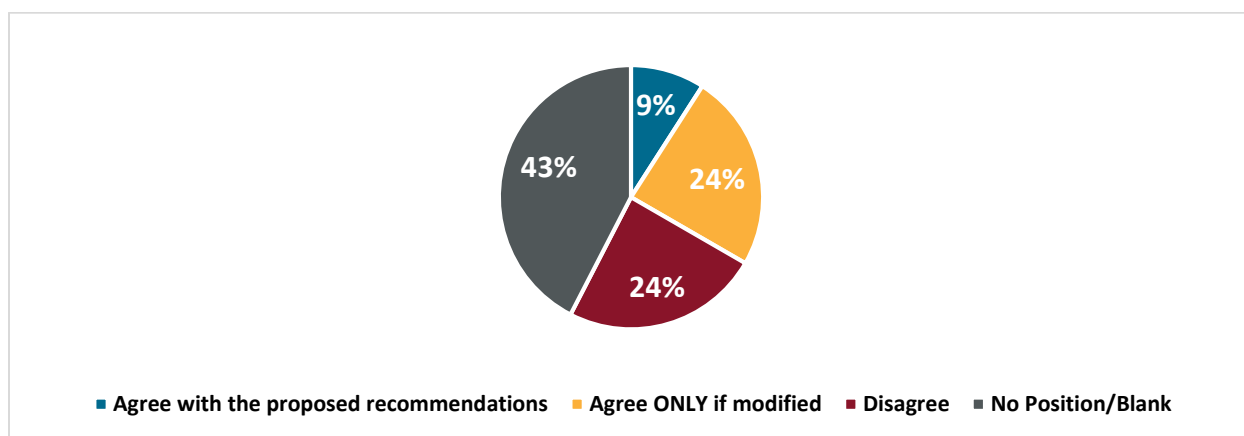
The CBE also maintained its stance against including private rooms in the automatic approval process.

Appeal/Review Process Extended from 14 to 30 Days

Following the second public comment period, the CBE amended the proposed rules to include a tiered approach in the deadlines to request review. The tiered approach allows applicants who apply by the timely filing deadline 30 days to request an appeal. Those requesting testing accommodations during the late filing period would have 14 days to request review unless the exam scheduling necessitates a shorter period.

A majority of commenters did not identify a position on this part of proposal. However, those disagreeing with the proposal and agreeing, if modified, constituted the next largest percentage of commenters; this group recommend that all applicants be afforded 30 days to request review.

Figure 8. Positions on Proposed Extension of Appeal/Review Process to 30 Days



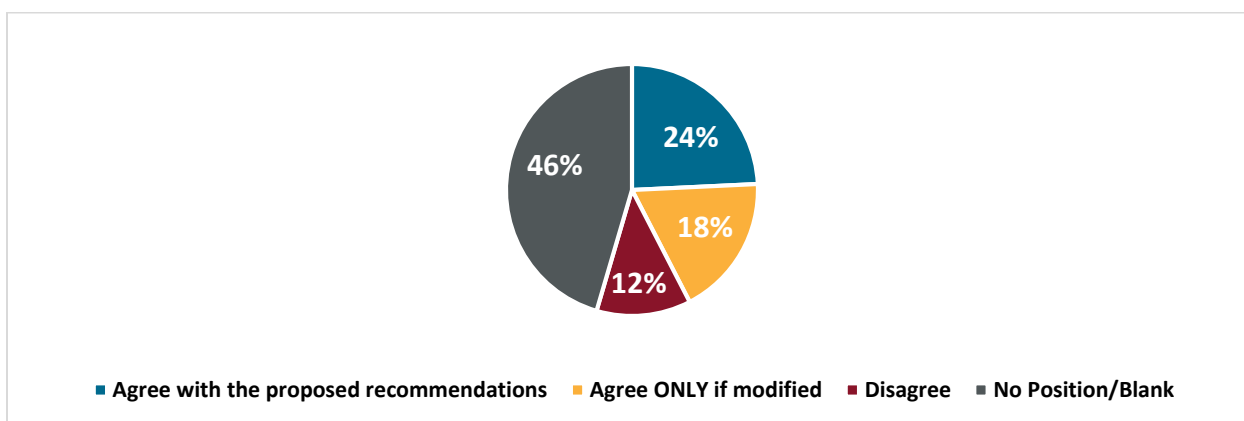
The CBE considered the comments along with the short timeline that exists between the conclusion of the timely filing deadline and the administration of the exam and determined that expanding the time to request an appeal for those who did not submit a request by the timely filing deadline was simply unworkable.

Clarifying Subsequent Requests for the Same Testing Accommodations

An important clarification was added to the proposal following the second round of public comment, ensuring that applicants who seek the same testing accommodations previously granted by the State Bar for a permanent disability will have those accommodations automatically approved for subsequent exams. This applies as long as the applicant certifies that they continue to experience the same disability-related functional limitations that initially qualified them for the accommodations.

A majority of commenters did not identify a position on this part of the proposal. However, those agreeing with the proposal constituted the next largest percentage of commenters.

Figure 9. Positions on Proposed Clarification of Subsequent Requests for the Same Testing Accommodation



SUMMARY OF KEY PUBLIC COMMENTS NOT ADDRESSED BY PROPOSED REVISIONS

Because there were three separate public comment periods, and many, but not all, of the public comments were addressed in some fashion in the proposal, staff thought it might be helpful to synthesize for the Board the remaining key concerns (as identified by staff) that public commenters continue to raise.

Timelines

The revised, streamlined process set forth in these rules will significantly shorten the time from submission of an accommodations request to decision for a substantial number of applicants. Commenters continue to argue for the rules to set forth a definitive two-week time frame for determinations to be made. As described above, CBE believes setting forth the timeframe is premature; the State Bar is committed to moving these applications as quickly as possible, but without the experience of the fully implemented process, identifying a specific short timeline as what is achievable creates more problems than it solves. Whereas the current rules set the outer limits for a determination at 60 days, the revised rules do provide an assurance that the State Bar will promptly evaluate all complete requests received by the deadline and will aim to complete the evaluation as far in advance of the exam as practicable.

Although the CBE proposal extends the timeline for a request for review/appeal from 10 days to 30 days for applicants submitting testing accommodation requests by the examination timely filing deadline and 14 days for others, some commenters continue to argue for the 30-day time frame for all requests for review/appeal. CBE does not believe the short time frame from application deadline to exam date allows for that.

Not Extending Automatic Approvals to Accommodations Granted in Law School or College or Grants of Private Rooms

The CBE had extensive discussions regarding the automatic approval of testing accommodations granted in college or law school after both the second and third public comment periods, ultimately concluding that concerns about the consistency, rigor, and lack of uniformity in evaluating accommodation requests in different institutions made automatic approvals inappropriate. The rules do, however, require that considerable weight be given to past accommodations approved in law school for timed exams.

Additionally, the CBE concluded that applicants should have to take the extra step to demonstrate the need for a private room. Those granted additional time on their exams (which most often accompanies requests for private rooms) are automatically placed in a reduced distraction environment, which may be sufficient for many applicants.

Definition of Disability

Some commenters object to the rule definition of disability as a “physical or mental impairment that limits an applicant’s major life activities compared to the general population,” advocating instead for the adoption of the definition of disability included in California’s Fair Employment and Housing Act. The definition in the rules, however, comes from Title II of the Americans with Disabilities Act (ADA) and its implementing regulations, which is the law governing

accommodations in tests administered by public entities like the State Bar. Commenters also object that the definition does not include “best ensure” standard reflected in Title III of the ADA (which is generally applicable to private entities). However, the definition in the proposed rules appropriately aligns with Title II of the ADA and its implementing regulations; namely, that the goal of accommodations is to afford “an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.”

Training and Supervision

Public commenters suggest that the rules should mandate the State Bar increase the number and diversify the expertise of expert consultants, and ensure staff and consultant reviewers receive training. The CBE disagrees with the need to codify such requirements or objectives in the rules, but acknowledges the importance of training and quality control in handling testing accommodation requests and reviews impartially and promptly while upholding equal access rules. To ensure fair evaluation of testing accommodation requests, the State Bar has expanded its pool of consultants, adding consultants with expertise in various fields.

FISCAL/PERSONNEL IMPACT

The amendments to the examination rule are not anticipated to have any impact on the staff or fiscal resources of the Office of Admissions as they reflect current practice.

With the testing accommodation rules proposal, staff anticipates an increase in the number of testing accommodations granted, particularly accommodations requiring additional resources to implement, such as extended time, extra days, private rooms, and a reduced proctor-to-applicant ratio. As a result, any exam administered in person is anticipated to see a rise in exam administration costs. According to the cost analysis report from the February 2023 exam, it cost approximately \$415 to administer the exam to an applicant at a standard test center compared to approximately \$3,831 for each applicant taking the exam at a test center for accommodated applicants. The State Bar will continue to explore cost-saving measures to enhance the efficiency of exam administration.

In contrast, the revised rules are expected to have a positive effect on staff resources for two primary reasons: (1) the clearer rules may lead to a reduction in applicant inquiries, leaving more time to process the requests, and (2) the establishment of an automatic approval process should expedite the process for many applicants, freeing up resources to focus on the smaller subset of applicants needing to submit documentation for expert review.

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Title 4, Division 1, Chapter 5, Rule 4.62

Repeal and add Title 4, Division 1, Chapter 7 (commencing with Rule 4.80)

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

c. 2. Increase the numbers of diverse attorneys in the legal profession through diversity pipeline programs that support aspiring attorneys in graduating from law school and passing the bar exam.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that following the 60-day public comment period, the Board of Trustees approves the changes to rule 4.62 regarding access to exam answers and scores as set forth in Attachment A, and directs staff to transmit the rule to the Supreme Court for approval; and it is

FURTHER RESOLVED, that the Board of Trustees approves the rules as circulated for the third public comment period as set forth in Attachment D, and directs staff to transmit the rule to the Supreme Court for approval, to be effective 60 days after the approval.

ATTACHMENTS LIST

- A. Proposed amendments to Title 4, Division 1, Chapter 5, Rule 4.62 (Redline) and Proposed amendments to Title 4, Division 1, Chapter 5, Rule 4.62 (Clean)
- B. Public Comment Chart – Examinations
- C. Modified Rules Proposal for Testing Accommodations (Redline)
- D. Modified Rules Proposal for Testing Accommodations (Clean)
- E. Public Comment Chart – Testing Accommodations Second Period
- F. Public Comment Chart – Testing Accommodations Third Period

Rule 4.62 Access to examination answers and scores (Redline)

- (A) ~~Within sixty days of the release of examination results,~~ Examination answers to the written portion of the examination are ~~returned~~ made available to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. Applicant answers are available to download, print, or save for 30 days after the release of results. After 30 days, the exam answers from the last administered exam are available upon submitting the Document Copy Request Form and payment of fee. This provision does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the First-Year Law Students' Examination and California Bar Examination.
- (B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.

Rule 4.62 Access to examination answers and scores (Clean)

- (A) Examination answers to the written portion of the examination are made available to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. Applicant answers are available to download, print, or save for 30 days after the release of results. After 30 days, the exam answers from the last administered exam are available upon submitting the Document Copy Request Form and payment of fee. This provision does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the First-Year Law Students' Examination and California Bar Examination.
- (B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.

Public Comment Chart

Name	Position	Comment (Verbatim)	Response to Comment
Benjamin Kohn	AGREE ONLY if Modified	There is no reason to put an arbitrary time limit on an applicant's access to their answers in their Admissions Portal. While it is good practice to maintain an independent copy for one's own records, the electronic storage of the answer files places de minimus burden on the State Bar and can be of great benefit where an applicant (out of confusion or forgetfulness) fails to download the files right away but could benefit from them in studying sometime in the future. The State Bar can easily use a disclaimer that the files are not guaranteed to be retained past 30 days, and the applicant is responsible for maintaining their own files after that, but there should be no mechanism by which they are automatically deleted or restricted in AIMS at that or any specific cutoff.	No change. The working group thanks the commenter for their submission, but respectfully disagrees. The working group believes that timelines should be set and clearly communicated to applicants in order to clear set expectations.

Chapter 7. Testing Accommodations

Current Rules 4.80 through 4.92 are repealed. New Rules 4.80 through 4.92 are adopted to read as follows:

4.80 Definitions

These definitions apply to the rules on and requests for testing accommodations.

- (A) A “disability” is a physical or mental impairment that limits one or more of an applicant’s major life activities as compared to most people in the general population.
- (B) A “disability accommodations expert” is a qualified professional designated by the State Bar to make recommendations regarding an applicant’s testing accommodations request. A disability accommodations expert shall have a doctoral degree or Ph.D., possess knowledge of testing accommodations practices and procedures in exam settings and the Americans with Disabilities Act requirements relating to testing accommodations, and have a minimum of five years of experience in reviewing requests for testing accommodations for certification or licensure.
- (C) A “high stakes exam” refers to any of the following: California Bar Exam, First-Year Law Students’ Exam, Multistate Professional Responsibility Exam (MPRE), a bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED.
- (D) A “mental impairment” is a mental or psychological disorder or condition or an anatomical loss affecting one or more of the body’s systems, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.
- (E) A “permanent disability” is a disability that is long-lasting and non-temporary in nature.
- (F) A “physical impairment” is a physiological disorder or condition or an anatomical loss affecting one or more of the body’s systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine. Physical or “mental impairment” includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
- (G) A “qualified professional” is a person who is licensed or otherwise properly credentialed and possesses expertise in the disability for which modifications or accommodations are sought.
- (H) An “individualized assessment” is an assessment by a qualified professional who has personal familiarity with the applicant.
- (I) A “reasonable testing accommodation” is an adjustment to or modification of standard testing conditions that addresses the functional limitations related to an applicant’s

disability by modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services, provided it does not:

- (1) compromise the security or validity of an examination or the integrity of the examination process;
- (2) impose an undue burden on the State Bar; or
- (3) fundamentally alter the nature of an examination or the Committee's ability to assess through the examination whether the applicant:
 - (a) possesses the knowledge, skills, and abilities tested on an examination; and
 - (b) meets the essential eligibility requirements for admission.

4.81 Purpose of Testing Accommodations

- (A) Testing accommodations are provided to ensure that an applicant who has a disability can access the examination and is afforded an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- (B) Applicants with disabilities are granted reasonable testing accommodations if they are otherwise eligible to take an examination and, in accordance with these rules, they:
 - (1) have an approved Application for Registration;
 - (2) submit a request for testing accommodations on the State Bar's forms with the required documentation; and
 - (3) establish to the satisfaction of the State Bar that the applicant has a disability and needs the requested testing accommodations in order to meet the purposes set forth in subsection (A).
- (C) Approval of testing accommodations does not entitle an applicant to sit for a particular exam. An applicant must separately apply for any examination for which they intend to sit.

4.82 Processing of Requests for Testing Accommodations – General Rules

- (A) Requests for Testing Accommodations are processed on a case-by-case basis consistent with these rules.
- (B) The State Bar will render a determination on any complete request received by the final filing deadline, and will endeavor to render the determination as far in advance of the exam as practicable.
- (C) The State Bar shall defer to documentation from a qualified professional who has made an individualized assessment of the applicant that supports the need for the requested testing accommodation(s) as compared to the opinions of a disability accommodations expert who has not assessed the applicant for diagnosis and treatment. The applicant and their qualified professional shall have flexibility in the type and source of supporting documentation that may be provided, in addition to the required forms, to demonstrate the applicant's disability-related functional limitations, their specific access needs, and how those needs relate to the testing accommodations requested.

- (D) Although not eligible under the automatic approval process described in Rule 4.83, considerable weight shall be given to documentation of past testing accommodations approved for timed exams administered in college or law school upon submission of proof of the accommodations approved.
- (E) The State Bar shall not deny an applicant's request for a particular testing accommodation solely because the applicant has no formal history of receiving that testing accommodation.
- (F) The State Bar shall not deny an applicant's request for testing accommodations solely based on the applicant's average or above average IQ score and/or history of academic success.
- (G) The State Bar shall neither deny a request for testing accommodations nor approve it with modifications without elevation to the State Bar's disability accommodations expect.
- (H) An examination application fee is not refunded if a request for testing accommodations is withdrawn, denied, or abandoned.

4.83 Automatic Approval Process: Approval of Previously Granted Testing Accommodations on High Stakes Exams

- (A) Prior accommodations approved for a high stakes exam, as defined, will be approved by the State Bar without the need for any further documentation if all of the following are satisfied:
 - (1) The prior accommodations were approved for a permanent disability;
 - (2) The applicant submits the Request for Testing Accommodations form with the relevant sections completed;
 - (3) The applicant submits proof of the prior approval of accommodations granted by the testing entity;
 - (4) The applicant is requesting the same testing accommodations granted on the high stakes exam;
 - (5) The applicant certifies they are still experiencing the same functional limitations caused by the permanent disability for which the prior accommodations were approved;
 - (6) The State Bar offers the same or equivalent testing accommodations; and
 - (7) The request does not include more than 100 percent extra time for applicants and/or a private room. If the requested testing accommodations are for more than 100 percent extra time and/or a private room, the request will be evaluated in the same manner as those requiring submission of certification by a qualified professional as set forth in Rule 4.85.
- (B) An applicant who meets the requirements of subsection (A) need not submit the report of a qualified professional who has made an individualized assessment of the applicant.
- (C) If an applicant requests greater testing accommodations than previously approved for a high stakes exam, the State Bar shall, using the automatic approval process outlined in subsection (A), approve the same accommodations as previously granted, and shall only require submission of certification by a qualified professional to support the greater accommodations requested.

4.84 Request for Testing Accommodations – Timing of Submission

- (A) Applicants are encouraged to submit a request for testing accommodations as far in advance as practicable. A Request for Testing Accommodations may be submitted before an application to sit for a particular exam is available.
- (B) A Request for Testing Accommodations must be complete and received no later than
 - (1) January 1 for the February California Bar Examination;
 - (2) June 1 for the July California Bar Examination;
 - (3) May 15 for the June First-Year Law Students' Examination; or
 - (4) September 15 for the October First-Year Law Students' Examination.

If a deadline falls on a non-business day, the deadline will be the next business day. Deadlines are not extended or waived for any reason except as permitted in Rule 4.87.

- (C) If a Request for Testing Accommodations is incomplete, and the request is submitted on the final application deadline for a particular examination, the applicant will not have the opportunity to remedy the lack of completeness.
- (D) A Request for Testing Accommodations that is incomplete as of the final filing deadline will be withdrawn.
- (E) If a Request for Testing Accommodations is submitted on the final application deadline for a particular exam, it is possible that there will be insufficient time for the applicant to request or for the State Bar to process a request for review pursuant to Rule 4.88 prior to the administration of the examination.
- (F) Notwithstanding subsection (A), if an applicant's request for testing accommodations is based on a temporary disability, the State Bar may require that the applicant submit a new request closer to the examination date or that a decision regarding the request be deferred until closer to the examination date.

4.85 Request for Testing Accommodations – Content of Submissions

- (A) An applicant with a disability seeking testing accommodations must submit a request for testing accommodations on the State Bar's form.
- (B) If a request does not qualify for the automatic approval process described in Rule 4.83, in addition to the Request for Testing Accommodations form, the applicant must also submit by the application filing deadline, on the State Bar's form, certification by a qualified professional, and submit any supplemental documentation needed to determine the applicant's disability-related functional limitations, their specific access needs, and how those needs relate to the testing accommodations requested. Supporting documentation shall be limited to that which is reasonable, limited and narrowly tailored to the information needed.
- (C) If an applicant is requesting the same testing accommodations as previously granted on another high stakes exam which includes more than 100 percent extra time for applicants

and/or a private room, the certification by a qualified professional described in subsection (B) shall include an explanation of why accommodations that allow for 100 percent extra time for applicants or testing in a semi-private or distraction-reduced room, are insufficient to meet the purposes set forth in Rule 4.81(A).

- (D) A request for testing accommodations is considered complete upon the State Bar's receipt of all required forms and any supporting documentation. A request may be deemed incomplete if the required forms are incomplete, or if the applicant or qualified professional does not respond in full to the required questions. A request that is incomplete by the final examination application deadline shall not be processed for that examination.

Rule 4.86 State Bar Response to Request for Testing Accommodations

- (A) An applicant who has submitted a request for testing accommodations in accordance with these rules shall be notified in writing within thirty (30) days of receipt of the request when additional information is required to complete the request. The request for testing accommodations is deemed incomplete if the applicant fails to provide the information requested by the deadlines set forth in Rule 4.84(B).
- (B) In addition to the provisions of Rule 4.82(B), within sixty (60) days of a request for testing accommodations having been deemed complete, the State Bar will notify the applicant in writing if the request is approved, approved with modifications, denied, or action is pending.
- (C) A notice of denial of a request for testing accommodations or a notice of approval with modifications shall state the basis or bases for the denial or modifications. The notice will include a report from a disability accommodations expert explaining why the requested testing accommodations were modified or denied, and advising the applicant of the right to request a review. The report will be sufficiently detailed to provide the applicant fair notice of the State Bar's reasoning.

Rule 4.87 Emergency Requests for Testing Accommodations

- (A) An applicant who becomes disabled after a final examination application filing deadline may submit a Request for Testing Accommodations, which must include the forms required by Rule 4.85, with a request that it be considered as an emergency request. Documentation explaining the nature, date, and circumstances of the emergency must be submitted with the request.
- (B) The State Bar must receive the request and supporting documentation at least ten (10) days before the first day of the examination through the Applicant Portal or by physical delivery to the State Bar during regular business hours. Emergency requests received later than this deadline will not be processed.

Rule 4.88 Request for Review of Denial or Approval with Modifications

- (A) An applicant notified that a Request for Testing Accommodations has been denied or granted with modifications may request a review by the Committee. Applicants requesting

review by the timely filing deadline for the exam have 30 days from the date of the denial or modified grant to submit their request. All other requests for review must be submitted within fourteen (14) days of the date of the denial or modified grant unless an examination schedule requires a shorter time for Committee review. The applicant may submit additional supporting documentation in support of their request for review.

- (B) Notwithstanding the deadlines described in subsection (A), requests for review filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Requests received after that date will be considered in connection with a future administration of the examination.
- (C) After reviewing the request for review and supporting documentation, the Director of Admissions may withdraw the prior decision and grant the accommodations requested. The Director must make a determination within fourteen (14) days unless an examination schedule requires a shorter time.
- (D) If the Director of Admissions does not grant the request, the Committee must consider it as soon as practicable. The review shall be based on the original request and supporting documentation and any supplemental documentation provided by the applicant in connection with the request for review.
- (E) To ensure the Committee is able to act timely, consideration of all requests for review under this section shall be delegated to a subcommittee. To assist the subcommittee, to the extent practicable, the subcommittee shall be presented with a recommendation from a disability accommodations expert to inform its decision. This shall be a different expert than the disability accommodations expert who recommended the initial denial or approval with modifications.
- (F) The decision on a request for review is final and shall not be subject to further review by the State Bar or the Committee during the same exam cycle. The applicant may submit a new request for testing accommodations for a different exam cycle.
- (G) After exhausting the review process described in this rule, an applicant may appeal a denial or approval with modifications of testing accommodations to the California Supreme Court in accordance with the California Rules of Court 9.13(d).

Rule 4.89 Subsequent Request for Testing Accommodations

- (A) Testing accommodations are not automatically applied to subsequent exams upon withdrawal from or failure of an examination. The applicant must submit a new Request for Testing Accommodations before the subsequent, applicable examination application deadline. The request will be automatically granted if the prior accommodations were approved for a permanent disability, the applicant requests the same testing accommodations previously granted by the State Bar, and the applicant certifies that they have the same disability-related functional limitations that qualified them for the same accommodations for a prior exam.

- (B) If an applicant is seeking different testing accommodations than previously approved by the State Bar, and the applicant has a permanent disability, they may incorporate prior supporting documentation into the new request.
- (C) An applicant with a temporary disability must submit a new Request for Testing Accommodations with all supporting documentation before the examination application deadline.

Rule 4.90 Confidentiality of Requests for Testing Accommodations

Requests for testing accommodations, documentation submitted in support, and evaluations of requests are confidential.

Rule 4.91 False or misleading information in requests for testing accommodations

False or misleading information in a request for testing accommodations is considered in determining an applicant's moral character and may result in a negative determination of moral character.

Rule 4.92 Committee of Bar Examiners Oversight

The Committee of Bar Examiners shall provide oversight to ensure consistent application of standards and processes and to monitor trends in testing accommodations requests, processing, and decisions.

Chapter 7. Testing Accommodations

4.80 Definitions

These definitions apply to the rules on and requests for testing accommodations.

- (A) A “disability” is a physical or mental impairment that limits one or more of an applicant’s major life activities as compared to most people in the general population.
- (B) A “disability accommodations expert” is a qualified professional designated by the State Bar to make recommendations regarding an applicant’s testing accommodations request. A disability accommodations expert shall have a doctoral degree or Ph.D., possess knowledge of testing accommodations practices and procedures in exam settings and the Americans with Disabilities Act requirements relating to testing accommodations, and have a minimum of five years of experience in reviewing requests for testing accommodations for certification or licensure.
- (C) A “high stakes exam” refers to any of the following: California Bar Exam, First-Year Law Students’ Exam, Multistate Professional Responsibility Exam (MPRE), a bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED.
- (D) A “mental impairment” is a mental or psychological disorder or condition or an anatomical loss affecting one or more of the body’s systems, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.
- (E) A “permanent disability” is a disability that is long-lasting and non-temporary in nature.
- (F) A “physical impairment” is a physiological disorder or condition or an anatomical loss affecting one or more of the body’s systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine. Physical or “mental impairment” includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
- (G) A “qualified professional” is a person who is licensed or otherwise properly credentialed and possesses expertise in the disability for which modifications or accommodations are sought.

- (H) An “individualized assessment” is an assessment by a qualified professional who has personal familiarity with the applicant.
- (I) A “reasonable testing accommodation” is an adjustment to or modification of standard testing conditions that addresses the functional limitations related to an applicant’s disability by modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services, provided it does not:
 - (1) compromise the security or validity of an examination or the integrity of the examination process;
 - (2) impose an undue burden on the State Bar; or
 - (3) fundamentally alter the nature of an examination or the Committee’s ability to assess through the examination whether the applicant:
 - (a) possesses the knowledge, skills, and abilities tested on an examination; and
 - (b) meets the essential eligibility requirements for admission.

4.81 Purpose of Testing Accommodations

- (A) Testing accommodations are provided to ensure that an applicant who has a disability can access the examination and is afforded an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- (B) Applicants with disabilities are granted reasonable testing accommodations if they are otherwise eligible to take an examination and, in accordance with these rules, they:
 - (1) have an approved Application for Registration;
 - (2) submit a request for testing accommodations on the State Bar’s forms with the required documentation; and
 - (3) establish to the satisfaction of the State Bar that the applicant has a disability and needs the requested testing accommodations in order to meet the purposes set forth in subsection (A).
- (C) Approval of testing accommodations does not entitle an applicant to sit for a particular exam. An applicant must separately apply for any examination for which they intend to sit.

4.82 Processing of Requests for Testing Accommodations – General Rules

- (A) Requests for Testing Accommodations are processed on a case-by-case basis consistent with these rules.
- (B) The State Bar will render a determination on any complete request received by the final filing deadline, and will endeavor to render the determination as far in advance of the exam as practicable.
- (C) The State Bar shall defer to documentation from a qualified professional who has made an individualized assessment of the applicant that supports the need for the requested testing accommodation(s) as compared to the opinions of a disability accommodations expert who has not assessed the applicant for diagnosis and treatment. The applicant and their qualified professional shall have flexibility in the type and source of supporting documentation that may be provided, in addition to the required forms, to demonstrate the applicant's disability-related functional limitations, their specific access needs, and how those needs relate to the testing accommodations requested.
- (D) Although not eligible under the automatic approval process described in Rule 4.83, considerable weight shall be given to documentation of past testing accommodations approved for timed exams administered in college or law school upon submission of proof of the accommodations approved.
- (E) The State Bar shall not deny an applicant's request for a particular testing accommodation solely because the applicant has no formal history of receiving that testing accommodation.
- (F) The State Bar shall not deny an applicant's request for testing accommodations solely based on the applicant's average or above average IQ score and/or history of academic success.
- (G) The State Bar shall neither deny a request for testing accommodations nor approve it with modifications without elevation to the State Bar's disability accommodations expert.
- (H) An examination application fee is not refunded if a request for testing accommodations is withdrawn, denied, or abandoned.

4.83 Automatic Approval Process: Approval of Previously Granted Testing Accommodations on High Stakes Exams

- (A) Prior accommodations approved for a high stakes exam, as defined, will be approved by the State Bar without the need for any further documentation if all of the following are satisfied:

- (1) The prior accommodations were approved for a permanent disability;
 - (2) The applicant submits the Request for Testing Accommodations form with the relevant sections completed;
 - (3) The applicant submits proof of the prior approval of accommodations granted by the testing entity;
 - (4) The applicant is requesting the same testing accommodations granted on the high stakes exam;
 - (5) The applicant certifies they are still experiencing the same functional limitations caused by the permanent disability for which the prior accommodations were approved;
 - (6) The State Bar offers the same or equivalent testing accommodations; and
 - (7) The request does not include more than 100 percent extra time for applicants and/or a private room. If the requested testing accommodations are for more than 100 percent extra time and/or a private room, the request will be evaluated in the same manner as those requiring submission of certification by a qualified professional as set forth in Rule 4.85.
- (B) An applicant who meets the requirements of subsection (A) need not submit the report of a qualified professional who has made an individualized assessment of the applicant.
- (C) If an applicant requests greater testing accommodations than previously approved for a high stakes exam, the State Bar shall, using the automatic approval process outlined in subsection (A), approve the same accommodations as previously granted, and shall only require submission of certification by a qualified professional to support the greater accommodations requested.

4.84 Request for Testing Accommodations – Timing of Submission

- (A) Applicants are encouraged to submit a request for testing accommodations as far in advance as practicable. A Request for Testing Accommodations may be submitted before an application to sit for a particular exam is available.
- (B) A Request for Testing Accommodations must be complete and received no later than
- (1) January 1 for the February California Bar Examination;
 - (2) June 1 for the July California Bar Examination;

(3) May 15 for the June First-Year Law Students' Examination; or

(4) September 15 for the October First-Year Law Students' Examination.

If a deadline falls on a non-business day, the deadline will be the next business day.

Deadlines are not extended or waived for any reason except as permitted in Rule 4.87.

- (C) If a Request for Testing Accommodations is incomplete, and the request is submitted on the final application deadline for a particular examination, the applicant will not have the opportunity to remedy the lack of completeness.
- (D) A Request for Testing Accommodations that is incomplete as of the final filing deadline will be withdrawn.
- (E) If a Request for Testing Accommodations is submitted on the final application deadline for a particular exam, it is possible that there will be insufficient time for the applicant to request or for the State Bar to process a request for review pursuant to Rule 4.88 prior to the administration of the examination.
- (F) Notwithstanding subsection (A), if an applicant's request for testing accommodations is based on a temporary disability, the State Bar may require that the applicant submit a new request closer to the examination date or that a decision regarding the request be deferred until closer to the examination date.

4.85 Request for Testing Accommodations – Content of Submissions

- (A) An applicant with a disability seeking testing accommodations must submit a request for testing accommodations on the State Bar's form.
- (B) If a request does not qualify for the automatic approval process described in Rule 4.83, in addition to the Request for Testing Accommodations form, the applicant must also submit by the application filing deadline, on the State Bar's form, certification by a qualified professional, and submit any supplemental documentation needed to determine the applicant's disability-related functional limitations, their specific access needs, and how those needs relate to the testing accommodations requested. Supporting documentation shall be limited to that which is reasonable, limited and narrowly tailored to the information needed.
- (C) If an applicant is requesting the same testing accommodations as previously granted on another high stakes exam which includes more than 100 percent extra time for applicants

and/or a private room, the certification by a qualified professional described in subsection (B) shall include an explanation of why accommodations that allow for 100 percent extra time for applicants or testing in a semi-private or distraction-reduced room, are insufficient to meet the purposes set forth in Rule 4.81(A).

- (D) A request for testing accommodations is considered complete upon the State Bar's receipt of all required forms and any supporting documentation. A request may be deemed incomplete if the required forms are incomplete, or if the applicant or qualified professional does not respond in full to the required questions. A request that is incomplete by the final examination application deadline shall not be processed for that examination.

Rule 4.86 State Bar Response to Request for Testing Accommodations

- (A) An applicant who has submitted a request for testing accommodations in accordance with these rules shall be notified in writing within thirty (30) days of receipt of the request when additional information is required to complete the request. The request for testing accommodations is deemed incomplete if the applicant fails to provide the information requested by the deadlines set forth in Rule 4.84(B).
- (B) In addition to the provisions of Rule 4.82(B), within sixty (60) days of a request for testing accommodations having been deemed complete, the State Bar will notify the applicant in writing if the request is approved, approved with modifications, denied, or action is pending.
- (C) A notice of denial of a request for testing accommodations or a notice of approval with modifications shall state the basis or bases for the denial or modifications. The notice will include a report from a disability accommodations expert explaining why the requested testing accommodations were modified or denied, and advising the applicant of the right to request a review. The report will be sufficiently detailed to provide the applicant fair notice of the State Bar's reasoning.

Rule 4.87 Emergency Requests for Testing Accommodations

- (A) An applicant who becomes disabled after a final examination application filing deadline may submit a Request for Testing Accommodations, which must include the forms required by Rule 4.85, with a request that it be considered as an emergency request. Documentation explaining the nature, date, and circumstances of the emergency must be submitted with the request.
- (B) The State Bar must receive the request and supporting documentation at least ten (10) days before the first day of the examination through the Applicant Portal or by physical delivery to the State Bar during regular business hours. Emergency requests received later than this deadline will not be processed.

Rule 4.88 Request for Review of Denial or Approval with Modifications

- (A) An applicant notified that a Request for Testing Accommodations has been denied or granted with modifications may request a review by the Committee. Applicants requesting review by the timely filing deadline for the exam have 30 days from the date of the denial or modified grant to submit their request. All other requests for review must be submitted within fourteen (14) days of the date of the denial or modified grant unless an examination schedule requires a shorter time for Committee review. The applicant may submit additional supporting documentation in support of their request for review.
- (B) Notwithstanding the deadlines described in subsection (A), requests for review filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Requests received after that date will be considered in connection with a future administration of the examination.
- (C) After reviewing the request for review and supporting documentation, the Director of Admissions may withdraw the prior decision and grant the accommodations requested. The Director must make a determination within fourteen (14) days unless an examination schedule requires a shorter time.
- (D) If the Director of Admissions does not grant the request, the Committee must consider it as soon as practicable. The review shall be based on the original request and supporting documentation and any supplemental documentation provided by the applicant in connection with the request for review.
- (E) To ensure the Committee is able to act timely, consideration of all requests for review under this section shall be delegated to a subcommittee. To assist the subcommittee, to the extent practicable, the subcommittee shall be presented with a recommendation from a disability accommodations expert to inform its decision. This shall be a different expert than the disability accommodations expert who recommended the initial denial or approval with modifications.
- (F) The decision on a request for review is final and shall not be subject to further review by the State Bar or the Committee during the same exam cycle. The applicant may submit a new request for testing accommodations for a different exam cycle.
- (G) After exhausting the review process described in this rule, an applicant may appeal a denial or approval with modifications of testing accommodations to the California Supreme Court in accordance with the California Rules of Court 9.13(d).

Rule 4.89 Subsequent Request for Testing Accommodations

- (A) Testing accommodations are not automatically applied to subsequent exams upon withdrawal from or failure of an examination. The applicant must submit a request for Testing Accommodations before the subsequent, applicable examination application deadline. The request will be automatically granted if the prior accommodations were approved for a permanent disability, the applicant requests the same testing accommodations previously granted by the State Bar, and the applicant certifies that they have the same disability-related functional limitations that qualified them for the same accommodations for a prior exam.
- (B) If an applicant is seeking different testing accommodations than previously approved by the State Bar, and the applicant has a permanent disability, they may incorporate prior supporting documentation into the new request.
- (C) An applicant with a temporary disability must submit a new Request for Testing Accommodations with all supporting documentation before the examination application deadline.

Rule 4.90 Confidentiality of Requests for Testing Accommodations

Requests for testing accommodations, documentation submitted in support, and evaluations of requests are confidential.

Rule 4.91 False or misleading information in requests for testing accommodations

False or misleading information in a request for testing accommodations is considered in determining an applicant's moral character and may result in a negative determination of moral character.

Rule 4.92 Committee of Bar Examiners Oversight

The Committee of Bar Examiners shall provide oversight to ensure consistent application of standards and processes and to monitor trends in testing accommodations requests, processing, and decisions.

ATTACHMENT E

Comment #	Name	Attorney	Representating Organization	Organization	Position ¹ on Automatic Approvals	Position on Accommodations in Law School	Position on Documentation	Position on Timelines	Position on Denials of requests	Position on Appeals Process
1	Sophia Hanif	No			AM	AM	AM	AM	AM	AM
2	Melissa Gant	No			D	NP	NP	NP	NP	NP
3	Tanya Bowley	No			NP	D	NP	NP	NP	NP
4	Sharon Baumgold	Yes			NP	NP	NP	D	NP	NP
5-9, 13	Shannon Dillon	Yes	Yes	National Federation of the Blind of California	D	AM	AM	D	AM	D
6	Grayce Zelphin	Yes	Yes	ACLU of Northern California	AM	AM	D	D	D	D
11	Emma Martin	No	Yes	The Center for Independent Living	D	D	D	D	D	D
12	Kendra J. Muller	Yes	Yes	Disability Rights California	D	D	D	D	D	D
14	Robin E. Miller	Yes			NP	NP	AM	NP	NP	AM
15	Katherine Perez	Yes	Yes	The Coelho Center for Disability Law, Policy and Innovation	D	D	NP	D	NP	D
16	Thomas Walker	No			AM	NP	NP	NP	NP	NP
17	Claudia Center	Yes	Yes	Disability Rights Education and Defense Fund, Disability Rights Advocates	D	D	D	D	D	D
18	Chelsea Yuan	Yes	Yes	UC Berkeley School of Law	AM	AM	AM	AM	AM	AM
19	Jack Londen	Yes	Yes	California Access to Justice Commission	AM	NP	NP	NP	NP	NP
20	Areta Guthrey	Yes			D	D	D	D	D	D
21	Kathleen Jane Becket	Yes			D	D	D	D	D	D

¹ A = Agree with proposal; AM = Agree if modified; D = Disagree with proposal; NP = No position on proposal/Blank

[illegible]

ATTACHMENT F

#	Name	Attorney	Comment Previously?	Organization	Position ¹ on Automatic Approvals	Position on Appeal/Review Process	Position on Same Testing Accommodations	Position on the Proposed Rules
1	Julian Sarkar	Yes	Yes		D	D	D	NP
2	Brieanna Delaney	No	No		A	NP	A	NP
3	Charles Keller	Yes	No		A	NP	NP	NP
4	Anonymous	Decline to state	No		A	NP	NP	NP
5	Anonymous	Yes	No		A	NP	NP	NP
6	Sana Alam	No	No		AM	NP	NP	NP
7	Anonymous	Decline to state	Yes		AM	D	A	AM
7	Anonymous (cont)	Decline to state	Yes		AM	D	A	AM
8	Alexandra Menninger	No	No		A	A	A	NP
9	Linda Ravano	Yes	No		D	D	D	D
10	Anonymous	No	No		AM	NP	NP	AM
11	steven UNGER	No	No		NP	NP	A	NP
12	Vanessa Johnson	No	No		A	AM	AM	NP
13	Susan Lea	Yes	No		AM	AM	NP	NP
14	Sandra L Mock Jundt	Decline to state	Yes		NP	NP	NP	A
15	Michaela Posner	Yes	No		NP	NP	NP	A
16	Julian Oscar Alvarez	Yes	No		A	A	A	NP
17	Susan Basko	Yes	Yes		NP	NP	NP	AM
18	Commenter	No	No		NP	NP	NP	D
19	Andy Murphy	No	No		NP	NP	NP	AM
20	PETER N MADURO	Yes	Yes		AM	D	A	AM
21	Caleb Logan	Yes	No		AM	AM	AM	NP
22	Zach Newman	Yes	Yes	The Legal Aid Association of California	D	D	D	NP

¹ A = Agree with proposal; AM = Agree if modified; D = Disagree with proposal; NP = No position on proposal/Blank

#	Name	Attorney	Comment Previously?	Organization	Position ² on Automatic Approvals	Position on Appeal/Review Process	Position on Same Testing Accommodations	Position on the Proposed Rules
23	Rafail Veli, Esq.	Yes	No		NP	AM	AM	AM
24	Sharon Baumgold	Yes	Yes		AM	NP	NP	NP
25	Leigh E Ferrin	Yes	Yes	OneJustice	AM	AM	AM	NP
26	Chelsea Yuan	Yes	Yes	UC Berkeley School of Law	AM	AM	AM	NP
27	Joan Graff	Yes	No	Legal Aid at Work	AM	AM	NP	AM
28	Shirleen Claiche	No	Yes		D	D	D	D
28	Shirleen Claiche	No	Yes		D	D	D	NP
29	Sophia Hanif	No	Yes		AM	A	A	NP
30	Benjamin Kohn	Yes	Yes		AM	D	A	AM
31	Kendra J. Muller	Yes	Yes	Disability Rights California	AM	AM	AM	AM
32	Claudia Center	Yes	Yes	Disability Rights Education and Defense Fund and Disability Rights Advocates	D	D	NP	D
33	Marc Berman	Yes	No		NP	NP	NP	AM

² A = Agree with proposal; AM = Agree if modified; D = Disagree with proposal; NP = No position on proposal/Blank