



# STATE OF MONTANA BOARD OF BAR EXAMINERS

7 WEST SIXTH AVENUE, SUITE 2B • P.O. BOX 577 • HELENA, MONTANA 59624  
(406) 442-7660 Fax (406) 442-7763 Web Site: [www.montanabar.org](http://www.montanabar.org)

## INSTRUCTIONS FOR REQUESTING TEST ACCOMMODATIONS FOR THE MONTANA BAR EXAMINATION

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The Montana Board of Bar Examiners (BBE) encourages persons with disabilities to apply for test accommodations. Reasonable test accommodations will be made on the Montana Bar Examination for qualified applicants with disabilities. The Bar Examination is a two-day timed examination designed to test the knowledge and skills necessary for one who seeks admission to the Montana Bar.

It is the policy of the Board of Bar Examiners to administer the bar examination and all other services of this office in accordance with the Americans with Disabilities Act, as amended (ADA). A qualified applicant with a disability who is otherwise eligible to take the bar examination, but who cannot demonstrate under standard testing conditions that he/she possesses the knowledge and skills to be admitted to the Montana Bar, may request reasonable test accommodations.

The BBE will make reasonable modifications to any policies, practices, and procedures that might otherwise prevent individuals with disabilities from taking the bar examination in an accessible place or manner, provided such modifications do not result in a fundamental alteration to the examination or other admission requirements, impose an undue burden, or jeopardize examination security. In order to accommodate disabled persons, the BBE will furnish additional testing time, auxiliary aids, and other accommodations when necessary to ameliorate the impact of the applicant's disability on the applicant's ability to take the bar examination.

Requests for test accommodations will be evaluated on a case-by-case basis. The applicant must submit documentation from one or more qualified professionals that provides information on the diagnosed impairment(s), the applicant's current level of impairment, and the rationale for the accommodations requested on the bar examination. In addition, the applicant must submit verifying documentation of his or her history of accommodations, if any. All documentation will be retained by the BBE and may be submitted to one or more qualified professionals for an impartial review. Accommodations granted elsewhere do not necessarily entitle an applicant to accommodations on the bar examination, although the BBE gives considerable weight to documentation relating to past accommodations received in similar testing situations or in response to an IEP or Section 504 plan.

Montana Board of Bar Examiners' Rule 103 sets forth the following requirements to request testing accommodations:

- A. **Application Deadline for Testing Accommodations.** An applicant who claims a disability and who seeks an accommodation on the bar examination must submit a request for the accommodation with supporting evidence by the deadline for application for the relevant bar examination. Applications for accommodations not submitted by the application deadline will not be considered, except where the disability occurs after the application filing deadline.

**B. Consideration of Requests.** Requests for accommodation will be considered on a case-by-case basis. To be entitled to an accommodation the requesting applicant must submit evidence sufficient to satisfy the Board of Bar Examiners or its designee that:

The applicant is otherwise qualified for the bar examination;

The applicant suffers from a physical or mental impairment;

The impairment substantially limits the applicant in a major life activity that is of central importance to daily life. (To be substantially limited in a major life activity means the impairment prevents or severely restricts the applicant from doing activities that are of central importance to most people's daily lives.);

The impairment is permanent or long-term;

The impairment in terms of the applicant's own experience is substantial. (It is insufficient for an applicant attempting to prove disability status merely to submit evidence of a medical diagnosis of impairment. The applicant must provide persuasive evidence that the impairment has had a substantial impact on the applicant.); and

The requested accommodation is tailored to addressing the impairment as it relates to the bar examination and will effectively permit the applicant to perform "on a level playing field" with other applicants (The accommodation must not be designed to grant an advantage, but merely to address a disability the law will recognize).

Requests for accommodations will be considered by the Board or its designee based on the information submitted by the applicant and such other information as may be reasonably available to the Board. Taking into account the resources available to it, the Board may, but is not required, to seek the assistance of expert counsel on the particular request for accommodation.

The Board may, in its discretion, require the applicant to provide additional information relating to the disability and/or prior accommodations, and may also require that the applicant submit to examination by a qualified professional designated by the Board in connection with the applicant's request for testing accommodations.

**C. Appeal of Board Decision.** Unless specifically stated otherwise, a decision by the Board on whether or not to grant the accommodation requested or to offer an alternative accommodation shall be final. An applicant may petition for relief from a decision of the Board by petitioning the Montana Supreme Court, which is the final authority on all matters relating to the bar examination and bar admissions in Montana.

**D. Subsequent Accommodation Requests.** If an applicant defers or does not pass the examination, previously granted testing accommodations may not automatically extend to future examinations. The Bar Admissions Administrator may request an applicant to update the original accommodation request. (*See note below.*)

**NOTE:** Applicants who retake the examination must submit Form 1: Applicant Request for Test Accommodations each time they apply for the bar examination, even if they previously requested

and were granted accommodations by the BBE. It is not necessary to resubmit supporting documentation that was submitted with a previous request, provided the applicant sat for the Bar Examination within the preceding three years and (1) is requesting the same accommodations that were received previously on the Montana Bar Examination and (2) has had no material changes in his/her condition. New supporting documentation is required if there is any change in the accommodations requested. An update to prior medical documentation is required assessing the applicant's current functional limitations and ongoing need for accommodations if the nature of the applicant's disability or disabilities is changeable. The BBE reserves the right to request an update to prior documentation in all cases if it determines that the prior documentation is insufficient to establish the applicant's current level of impairment and need for accommodations.

## **DEFINITIONS**

1. *Disability* is a physical or mental impairment that substantially limits one or more of the major life activities of the applicant. In the bar examination setting, the impairment must limit an applicant's ability to demonstrate, under standard testing conditions, that the applicant possesses the knowledge, skills, and abilities tested on the bar examination.
2. *Physical impairment* is a physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body's systems.
3. *Mental impairment* is any mental or psychological disorder such as intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, or any specific learning disability.
4. *Major life activities* include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
5. *Reasonable accommodation* is an adjustment or modification of the standard testing conditions, or an appropriate auxiliary aid or service, that ameliorates the impact of the applicant's disability without doing any of the following:
  - a. fundamentally altering the nature of the bar examination, including but not limited to compromising the validity or reliability of the examination; or
  - b. imposing an undue burden on the BBE; or
  - c. jeopardizing examination security.
6. *Qualified professional* is a licensed physician, psychiatrist, psychologist, or other health care provider who has appropriate training in the field related to the applicant's disability.

## **FILING DEADLINE**

Requests for accommodations will be considered after receipt of all required information. The Applicant Checklist, located in Section V of Form 1: Applicant Request for Test Accommodations, must be submitted with the application. The applicable items specified in the Applicant Checklist must be completed and postmarked or received by the BBE on or before the filing deadline of the exam the applicant wishes to take.

Applicants with disabilities are subject to the same application deadline as individuals without disabilities. Because some of the accommodation request forms require input from third parties, the appropriate individuals should be asked to complete the forms well in advance of the deadline. A timely request for test accommodations for the February bar exam must be postmarked no later than October 1<sup>st</sup> and a timely request for accommodations for the July administration of the bar exam must be postmarked no later than March 15.

Requests for test accommodations and supporting documentation must be submitted to the BBE at Montana Bar Admissions, 7 West Sixth Ave., PO Box 577, Helena, MT 59624. All materials received will be acknowledged by mail or electronic correspondence.

### **STEPS FOR SUBMITTING A COMPLETE REQUEST**

**This application packet contains seven separate forms, but you need only submit those forms and documents that pertain to your particular disability.** Please carefully review the information below to ensure that you submit a complete request. A checklist is provided in Section V of Form 1: Applicant Request for Test Accommodations, which you should complete and submit with your request. All required forms and documentation must be submitted together by the deadline.

**IMPORTANT NOTE: Some of the forms that must be submitted with your request must be completed by third parties and returned to you for submission to the BBE.** Make certain that you request completion of these forms by the third parties in a timely manner so that you are able to submit your request by the deadline.

**STEP 1: Have a qualified professional complete the applicable disability verification form and return it to you for submission to the BBE.** There are separate forms for learning disabilities, AD/HD, psychological disabilities, visual disabilities, and physical disabilities. You will need to complete the top portion of the applicable disability verification form and request that your qualified professional complete the rest of the form and return it to you. Your qualified professional should attach to the completed disability verification form a comprehensive evaluation report and/or relevant records, as specified in the form.

**STEP 2: Gather verifying documentation of your history of accommodations requests, if any.** Submit a Form 7: Certification of Accommodations History completed by each educational institution or testing agency (hereinafter “entity”) from which you requested accommodations, whether your request was granted or denied. Complete the top portion of the form and request that the entity complete the rest of the form and return it to you for submission to the BBE. Alternatively, you may provide other proof of your accommodations history, such as a copy of the letter(s) you received from the entity notifying you of the specific accommodations granted or denied. The proof should identify the time frame (e.g., third year of law school) and the nature of the disability (e.g., AD/HD) for which any accommodations were granted or denied. If you received accommodations as a result of an Individualized Education Plan (IEP) or a 504 Plan, please provide copies of all IEPs or 504 Plans.

**STEP 3: If the nature of your disability is AD/HD or a learning disability, provide transcripts.** Attach copies of your undergraduate and law school transcripts and your LSAC

Candidate Item Response Report. Exact photocopies of transcripts are acceptable for this purpose. You can obtain your LSAC Candidate Item Response Report by logging in to your LSAC account at [www.lsac.org](http://www.lsac.org). Click on Item Response Report (IRR) under the LSAT and LSAT Status Tab, and print the report. If you have trouble obtaining the report, contact an LSAC representative at 215-968-1001.

Learning disabilities and AD/HD are developmental disorders with childhood onset, even if not diagnosed until adulthood. Transcripts or report cards of your elementary, middle school, and high school education, while not required, are useful in providing evidence of symptoms and impairment present during childhood. The BBE reserves the right to request such academic records in particular cases.

**STEP 4: Complete and sign Form 1: Applicant Request for Test Accommodations.** Attach all relevant forms and documents, as indicated above, so that all required documentation is provided in one submission.