

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
REQUIREMENTS FOR AN	)	Administrative Order
OCTOBER REMOTE BAR	)	No. 2020 - <u>150</u>
EXAMINATION	)	
	)	
	)	
	)	

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide public health emergency pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15).

The National Conference of Bar Examiners has offered jurisdictions an online bar examination to be given on October 5 and 6, 2020 (“Remote Bar Examination”). The Remote Bar Examination is not a Uniform Bar Examination and consists of 100 Multistate Bar Examination (MBE) questions, 3 Multistate Essay Examination (MEE) questions, and 1 Multistate Performance Test (MPT) question.

The Supreme Court determined the concern for spread of COVID-19 and the Governor’s declaration of a statewide emergency warrants authorizing the Remote Bar Exam and necessitates the adoption of procedures and policies related to the Remote Bar Exam.

Therefore, pursuant to Article VI, Sections 3 of the Arizona Constitution,

IT IS ORDERED that:

- 1) The Committee on Examinations (the Committee) and the Administrative Office of the Courts (AOC) shall offer the Remote Bar Examination in a manner consistent with the procedures set forth in Attachment A. Unless modified by the procedures described in Attachment A, all other Rules governing admission by examination remain in effect.
- 2) The Remote Bar Examination shall be considered equivalent to the Uniform Bar Examination for purposes of Rules 34(f)(4) and 35(c)(3) Rules of the Supreme Court.
- 3) The passing score for the Remote Bar Examination shall be 273.
- 4) Upon achieving a passing score and meeting the requirements set forth in Attachment A, an individual may apply for admission to the State Bar of Arizona.
- 5) Individuals must register, pay, download designated software products and adhere to deadlines, conduct standards, and conditions of use as established by the Committee and the vendor, ExamSoft.

- 6) Individuals may sit for the exam at their home, office or other designated personal location or if their environment is not conducive to a remote examination, they may sit at a location provided by the AOC. Individuals with a medical condition that prevents them from adhering to the code of conduct established by the Committee and the vendor, ExamSoft, will be required to test at a location provided by the AOC.
- 7) Each individual who elects to sit for the Remote Bar Examination at a location provided by the AOC shall provide to the Committee, on a form adopted by Committee staff, a signed statement that during the last 14 days: (i) they have not exhibited coughing, shortness of breath or a temperature of 100.4 degrees or more; (ii) to the best of their knowledge they have not had contact with an individual that has COVID-19; and (iii) they have not traveled to or from a foreign country or a state or a political subdivision that has in place travel restrictions, significant health restrictions in addition to the CDC recommendations or some form of shelter in place order. An individual who cannot provide such a statement will be excluded from the location provided by the AOC.
- 8) Committee staff may request supporting documentation.
- 9) No individual will be allowed to sit for the Remote Bar Examination at a location provided by the AOC if the forms described in paragraph 7 above are not received by the Committee by the established deadline. An applicant that provides a false or misleading form shall be referred to the Committee on Character and Fitness.
- 10) Committee staff will require individuals sitting for the examination at an AOC designated location to wear a face mask or face shield (the individual may select either) and may require additional personal protective equipment. Examinees must provide their own face masks or face shield. An individual failing to follow the instructions shall be excluded from the location provided by the AOC.

IT IS FURTHER ORDERED that:

- 1) No individual will be allowed to sit at a location provided by AOC for all or part of the Remote Bar Examination if the individual has a temperature of 100.4 degrees or more, displays symptoms of coughing or shortness of breath on the days of the exam or has been exposed to someone with COVID-19 during the previous 14 days.
- 2) At locations provided by AOC, individuals will be subject to health screenings for coughing or shortness of breath and body temperature readings.
- 3) Individuals sitting at a location provided by AOC must acknowledge, on forms adopted by Committee staff and by a deadline established by Committee staff, that they acknowledge they are subject to health screenings, which will include submitting to body temperature readings, and that they will not be allowed to sit at the AOC location for all or part of the Remote Bar Examination if they display symptoms described in paragraph 1 above.

Dated this 23rd day of September, 2020.

ROBERT BRUTINEL
Chief Justice

ATTACHMENT A

Applicant Requirements and Qualifications.

1. No applicant will be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

- A. the applicant is over the age of twenty-one years;
- B. the applicant is of good moral character;
- C. the applicant is mentally, emotionally and physically able to engage in the practice of law, and possesses the required knowledge of the law to do so;
- D. the applicant is a graduate with a juris doctor from a law school provisionally or fully approved by the American Bar Association at the time of graduation or the applicant is a graduate with a juris doctor and has been actively engaged in the authorized practice of law in one or more states, territories, or the District of Columbia for at least three of the last five years prior to filing an application for admission to practice in Arizona; and
- E. if ever admitted to practice in any jurisdiction, foreign or domestic, the applicant is presently in good standing, or the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction.
- F. the Remote Bar Examination applicant has successfully completed the course on Arizona law.

2. An applicant may be allowed to sit for the Remote Bar Examination prior to the award of a juris doctor degree if the applicant:

- A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the American Bar Association;
- B. is expected to graduate with a juris doctor degree within one hundred twenty (120) days of the first day of early exam administration;
- C. has satisfied all requirements for graduation with a juris doctor except for not more than eight (8) semester hours or its equivalent in quarter hours at the time of early exam administration;
- D. will not be enrolled in more than two (2) semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;
- E. has been determined by their school to be academically prepared for early testing;
- F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the

practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within one hundred twenty (120) days of the first day of early exam administration, all parts of the Remote Bar Examination, including the score, are void and the applicant's examination scores shall not be disclosed for any purpose. Scores may not be released until such time as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination which is voided shall count as an examination attempt under Rule 35(c)(1).

At the completion of the juris doctor requirements and within sixty (60) days after graduation, the applicant must cause his or her law school, dean, or registrar to submit to the Committee on Character and Fitness proof of graduation, showing his or her juris doctor was conferred within one hundred twenty (120) days of the first day of early exam administration. Failure to complete the course of study within one hundred twenty (120) days of the examination and provide evidence of graduation within an additional sixty (60) days shall render the applicant's score void.

Application and Character Report Materials.

Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Remote Bar Examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court.

Examination Subjects; Grading.

1. The examination shall be offered remotely (through computer-based testing) with materials prepared by the National Conference of Bar Examiners, which consists of three Multistate Essay Examination questions, one Multistate Performance Test question, and 100 Multistate Bar Examination questions. The Multistate Essay Examination shall be weighted 30%, the Multistate Performance Test shall be weighted 20%, and the Multistate Bar Examination shall be weighted 50% in calculating bar examination scores. Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the Remote Bar Examination. Questions will be not be labeled and may include more than one subject matter.

2. Unless otherwise directed by the Court, the Committee on Examinations may use such grading or scoring system for the Multistate Essay Examination and Multistate Performance Test as the Committee on Examinations, in its discretion, deems appropriate. Answers to the Multistate Essay Examination shall be graded according to generally applicable principles of law.

3. Results of the Remote Bar Examination will be published and mailed or e-mailed at such dates and times as the Committee deems appropriate.

4. Examination grades of an applicant will not be disclosed to the public. The Committee is authorized to

- A. release statistical results of the examination;
- B. disclose to the law school from which the applicant graduated the applicant's status as pass/fail/withdrew;
- C. certify, upon an applicant's request, an applicant's score to other jurisdictions in which the applicant seeks admission; and
- D. disclose an applicant's scores to the National Conference of Bar Examiners and the Committee's consultant.

5. Testing accommodations will be provided for a Remote Bar Examination applicant demonstrating a disability to the extent such accommodations are reasonable, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. An applicant seeking an accommodation shall file a request for testing accommodation in such form as prescribed by the Committee. A fully completed request for accommodation, including supporting documentation, shall be submitted with the application for the examination in accordance with filing deadlines as set by the Court.

6. Before being recommended by the Committee on Character and Fitness for admission to the practice of law in Arizona, an applicant must pass a professional responsibility examination, which shall be the Multistate Professional Responsibility Examination prepared and administered by the National Conference of Bar Examiners. An applicant seeking to take the Multistate Professional Responsibility Examination shall file an application directly with, and pay the fees specified by, the National Conference of Bar Examiners.

7. An applicant must submit proof satisfactory to the Committee on Examinations that the applicant has taken the Multistate Professional Responsibility Examination and received a minimum acceptable score within eight (8) years before the successful Arizona bar examination or within the time frame for taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations.

8. All applicants who receive a passing grade on the Remote Bar Examination and who are found to be otherwise qualified under Supreme Court Rules governing admission shall be recommended for admission to the practice of law.

9. The Committee on Examinations may take action, by majority vote, to enforce the Committee's own conditions, practices, and procedures, including expulsion from the examination, temporary withholding of a score, or nullification of a score.

Review by the Court.

1. *Petition for Review.* An applicant aggrieved by any decision of the Committee on Character and Fitness or the Committee on Examinations may, within twenty (20) days after such decision, file a verified petition for review with this Court; however, the

Committee on Examination's decision regarding any applicant's grade score is final and will not be reviewed by the Court absent extraordinary circumstances. The petition must succinctly state the facts that form the basis for the petition and the applicant's reasons for believing this Court should review the Committee's decision. A copy of the petition must be promptly served upon the Committee. The Committee will have thirty (30) days after service to file a response and transmit the applicant's file to this Court. Thereupon the Court will consider the matter and render a decision.

2. *Sealing the Record.* Any petition or document filed in relation to the petition for review will be considered open to the public except that, upon request by any party or the Committee, the clerk of Court will seal medical or psychological reports and records. A party or the Committee may request that the Court seal a portion of any other materials submitted.

Time Limitation on Admission.

No Remote Bar Examination applicant shall be admitted to the practice of law in Arizona until the applicant has successfully completed the Remote Bar Examination, satisfied the Multistate Professional Responsibility Examination requirements, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years of successful Remote Bar Examination will void all examination scores, and the applicant will be required to successfully retake all required examinations and comply with all required procedures relating to Character and Fitness determinations. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules