

# A MODEL APPLICATION FORM FOR TEST ACCOMMODATIONS

*by Laurie Elwell*

**T**he mission of the National Conference of Bar Examiners includes assisting jurisdictions with the bar admissions process. Sometimes this assistance takes the form of identifying a common need and pulling resources together to address that need: such was the driving force behind the ADA Model Form, a model test accommodations application form for jurisdictions to use in bar admissions, launched by NCBE in July 2011.

The ADA Model Form is the culmination of an effort sponsored by NCBE that began over three years ago to assist jurisdictions with processing applicant accommodations requests in a consistent and timely fashion. The goal was to create an efficient, clear application—with consistent instructions and documentation requirements—to elicit information pertinent to a thorough and well-informed determination, without unduly burdening the applicant with paperwork. Use of the form, it was hoped, might also help jurisdictions reach decision points more expeditiously, benefiting both the agency and the candidate. Since the ADA Model Form was launched, over a dozen jurisdictions have implemented the form, or a modified version of it—and the list is expected to grow.

## HOW WAS THE ADA MODEL FORM DEVELOPED?

The project began on September 30, 2009, when bar administrators from nine jurisdictions met in Madison to discuss the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and to cri-

tique, in great detail, test accommodations application forms then in use from a sampling of states and other testing organizations.<sup>1</sup> The group reached consensus on the most important elements that should be included in a model ADA application. It continued to confer over the next 10 months to develop a model form, with the resulting product being reviewed by NCBE's legal counsel and psychologists with expertise in learning disabilities and attention deficit/hyperactivity disorder (AD/HD).

In August 2010, a draft model form was presented for discussion and feedback from jurisdictions at the NCBE/CBAA (Council of Bar Admissions Administrators) Annual Meeting in Duluth, Minnesota. Just three weeks prior to the meeting, however, the U.S. Department of Justice issued revised ADA regulations and guidance specific to testing accommodations. In light of these new regulations, the ADA Model Form Working Group undertook an additional critical review of the draft form, and changes were made to reflect the new federal guidelines.

In July 2011, the ADA Model Form was completed and made available on NCBE's Secure Website for use by interested jurisdictions.

## WHAT DOES THE ADA MODEL FORM CONSIST OF?

The ADA Model Form has four sections:

- **General Instructions for Requesting Test Accommodations:** this section includes definitions; steps for submitting a completed request;

and sections addressing filing deadlines, retake applicants, and policies and procedures regarding appeals.

- **Applicant Request for Test Accommodations:** the main body of the document, addressing the applicant's disability status, the applicant's history of accommodations requests, the accommodation(s) being requested for the bar exam, and a list of supporting documentation. Applicants have the option of including a personal narrative.
- **Five separate disability verification forms:** one each for Learning Disability, Attention Deficit/Hyperactivity Disorder, Psychological Disability, Visual Disability, and Physical Disability. Applicants need only submit the form(s) applicable to them. The form is to be completed by the applicant's qualified professional and includes diagnosis, current functional limitations related to taking the bar exam, and recommended accommodations for the exam.
- **Certification of Accommodations History:** for completion by educational institutions or testing agencies where the applicant has requested accommodations in the past.


Jurisdictions must customize certain portions of the ADA Model Form to reflect their specific policies, deadlines, and so on; they may also decide to make other changes to the form for use in their jurisdictions. Although NCBE's legal counsel reviewed the form prior to its release, jurisdictions are advised to consult with their own legal counsel before using it.

## A POSITIVE STEP

While the ADA Model Form has been well received in the bar admissions community, the process to refine it will continue. Meanwhile, many jurisdic-

tions appreciate having a standard form crafted, as Kristin Bassinger, Staff Attorney for the Texas Board of Law Examiners, states, with a "sincere and thoughtful effort behind each element of the application" and vetted by administrators, legal experts, and medical professionals following the ADA and Department of Justice regulations. (See page 19 for more testimonials.)

Penny Miller, Clerk of the North Dakota Supreme Court, puts it this way:

The use of a multijurisdictional committee to review the ADA, ADA, federal regulations, and case law, and then review various jurisdictions' procedures and requirements, was an invaluable project. Every jurisdiction, not just small ones, should take advantage of the final work product. The forms bring the best of a number of jurisdictions' forms into one comprehensive package. As more jurisdictions use these forms, it will become less likely that forms in multiple jurisdictions will become outdated and ripe for challenge. Applicants and professionals who use the forms will provide more consistent and accurate information, and jurisdictions will have more confidence in answering the question of whether to accommodate. 

## NOTE

1. The project was co-chaired by Margaret Fuller Corneille, Director of the Minnesota State Board of Law Examiners; Kellie R. Early, the then-Executive Director of the Missouri State Board of Law Examiners (who is now Chief Operating Officer for NCBE); and Michele A. Gavagni, Executive Director for the Florida Board of Bar Examiners. The other members of what became known as the ADA Model Form Working Group were Kristin Bassinger, Staff Attorney for the Texas Board of Law Examiners; Barbara Gavin, Director of Character and Fitness for the Maryland Board of Law Examiners; Penny Miller, Clerk of the North Dakota Supreme Court; Gayle Murphy, Senior Executive, Admissions, for the State Bar of California; Timothy J. Raubinger, Assistant Secretary for the Michigan Board of Law Examiners; and Lee Ann Ward, Director of Bar Admissions for the Supreme Court of Ohio.

## TESTIMONIALS ABOUT THE ADA MODEL FORM

Oregon was one of the first jurisdictions to press the ADA Model Form into service. Charles Schulz, Interim Director of the **Oregon State Board of Bar Examiners**, is pleased with how it has helped Oregon's accommodations review process. He reports that the new form has resulted in less administrative work. He has found that it elicits more complete information, thereby cutting down on the need to follow up with applicants and providers regarding additional documentation. Applicants seem to like the new form better as well, and they frequently take advantage of the option to provide a personal narrative as part of their completed application packet. Schulz and other bar administrators find that these personal narratives often include useful information that does not appear in other parts of the application.

Mary Riddell, Deputy Director of the **Kentucky Office of Bar Admissions**, after having had experience with the form for the past two administrations of the bar exam, believes that the applications Kentucky receives now are more complete "up front" and that the information they contain is more useful. She is one of several administrators who mentioned that she likes having a separate form for visual disabilities.

The **Texas Board of Law Examiners** largely based its new accommodations application form on the ADA Model Form. It posted the new form online in July 2012, in time for the February 2013 application cycle. Staff Attorney Kristin Bassinger notes the win-win benefits of having a fillable form, which is easier for the applicants to complete and easier for administrators to read.

Michele Gavagni, Executive Director for the **Florida Board of Bar Examiners**, who was involved with the ADA Model Form project from the beginning, states that use of the new form has resulted in a streamlined ADA application process in Florida. She has found that the new form provides a clearer picture and overview of applicant history in a very efficient use of space. The Certification of Accommodations History form, she believes, will make it easier for applicants to provide verification of prior accommodations, whether on the LSAT, in law school, or on other bar examinations. She hopes that as additional jurisdictions begin using the form, whether in its entirety or with modifications, law schools will familiarize their students with the form and encourage them to file early for accommodations. Filing earlier offers students the benefit of quicker decisions and affords the opportunity to timely remediate applications deemed incomplete upon initial review.



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