

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D. 1996

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STATE OF WYOMING
FILED

In the Matter of the Amendment of Rule 212,)
Rules and Procedures Governing Admission to)
the Practice of Law in Wyoming)

APR 23 1996


JUDY PACHECO, CLERK

ORDER AMENDING RULE 212, RULES AND PROCEDURES GOVERNING
ADMISSION TO THE PRACTICE OF LAW IN WYOMING

The Wyoming Board of Law Examiners having presented to the court a copy of its proposed amendment to Rule 212, Rules and Procedures Governing Admission to the Practice of Law in Wyoming, and the recommendation of the Wyoming Board of Law Examiners and the Wyoming State Bar that it be adopted as soon as possible on an emergency basis, and the court having reviewed the proposed amendment and finding that the proposed amendment should be adopted on an emergency basis; it is therefore

ORDERED that the amendment to Rule 212, Rules and Procedures Governing Admission to the Practice of Law in Wyoming, as attached hereto, shall be, and it is hereby, adopted by the court; and it is further

ORDERED that said amended rule, effective immediately, be published in the Wyoming Reporter and in the advance sheets of the Pacific Reporter; and shall thereupon be spread at length upon the journal of this court.

Dated this 23rd day of April, 1996.

BY THE COURT:



Michael Golden
Chief Justice

Rule 212. Applicants with Disabilities.

~~—— (a) — An applicant who is otherwise eligible to take the Wyoming bar examination may request modification of the manner in which the examination is administered if, by virtue of a temporary or permanent physical disability, the applicant is unable to take the examination under normal testing conditions. Any costs incurred by the Board in reviewing applications for special testing accommodations or in providing such accommodations shall be charged to the applicant.~~

~~—— (b) — A request by an applicant with disability for special testing accommodations must be submitted to the Clerk with the application to take the bar examination. The applicant must designate on such form the nature of the disability that necessitates special testing accommodations requested.~~

~~—— (c) — The special testing accommodations request must be accompanied by a sworn statement from an appropriate medical authority describing:~~

~~—— (1) — The nature and the extent of the impairment;~~

~~—— (2) — The test or tests performed to diagnose the disability or impairment;~~

~~—— (3) — The effect of the disability on the applicant's ability to take the test under normal testing conditions; and~~

~~—— (4) — The special testing conditions prescribed by the medical authority, or deemed to be necessary by the medical authority.~~

~~—— (d) — The Board shall review each special testing accommodations request it receives, and determine at its discretion, whether or not the request should be granted. If the Board grants a request, it shall determine what special accommodations should be made.~~

~~—— (e) — At the discretion of the Board, any applicant seeking special testing accommodations on the basis of a disability may be required to provide additional documentation in support of the application. Such documentation may include, without limitation, information concerning special testing accommodations provided during the applicant's legal education and certification from the school where such special testing accommodations were provided. Where deemed necessary by the Board for validation, the applicant may be required to undergo a physical examination to be conducted by a medical authority chosen by the Board at the applicant's expense.~~

~~—— (f) — The applicant shall be sent written notice of the disposition of the request for special testing accommodations at least seven days before the examination. Where such request has been granted, the written notice shall include a description of the special testing accommodations that will be made.~~

~~(g) An applicant may submit an emergency request for special testing accommodations after the time fixed for filing an application to take the bar examination, if the following conditions are met:~~

~~(1) The applicant's application to take the bar examination was timely filed and complete in all other respects;~~

~~(2) At the time of filing an application to take the bar examination, the applicant was unaware of a disability that would necessitate special testing accommodations;~~

~~(3) The applicant subsequently learned that, by virtue of the disability, the applicant would be unable to take the examination under normal testing conditions;~~

~~(4) The applicant promptly submits an emergency request setting forth the nature of the handicap and the special testing accommodations requested;~~

~~(5) No emergency request will be considered unless received by the Executive Secretary not later than the Friday preceding the scheduled bar examination.~~

~~(h) The emergency request must be accompanied by a sworn statement from an appropriate medical authority describing:~~

~~(1) The nature and the extent of the impairment;~~

~~(2) The date the impairment first manifested itself;~~

~~(3) The test or tests performed to diagnose the disability or impairment;~~

~~(4) The effect of the disability on the applicant's ability to take the test under normal testing conditions; and~~

~~(5) The special testing conditions prescribed by the medical authority, or deemed to be necessary by the medical authority.~~

~~(i) Emergency requests submitted under this subsection shall be reviewed on a case-by-case basis by the Board. If the Board determines that the disability warrants special accommodations and was not known to, or reasonably discoverable by, the applicant at the time the applicant filed an application to take the bar examination, the Board shall take reasonable steps to provide appropriate testing accommodations.~~

~~(j) The decision of the Board with respect to emergency requests for special testing accommodations shall be immediately communicated to the applicant. The decision of the Board shall be final.~~

Rule 212. Examination accommodations.

(a) An applicant who is disabled and is otherwise eligible to take the Wyoming bar examination may file a request for special testing accommodations if, by virtue of a disability, the applicant is unable to take the examination under normal testing conditions. The applicant is responsible for informing the Board of Law Examiners in writing in accordance with this rule by the deadline for filing the application for examination. If the applicant fails to demonstrate that the applicant suffers from a covered disability, there shall be no obligation to provide any accommodations.

(b) For the purpose of this rule, the following definitions shall apply:

(1) "Disability" shall mean any of the following:

A physical or mental impairment that substantially limits one or more of the major life activities of the applicant and that substantially limits the ability of the applicant to demonstrate, under standard testing conditions, that the applicant possesses the essential skills and aptitudes that the Supreme Court of Wyoming and the Board of Law Examiners have determined are appropriate to require for admission to the practice of law in Wyoming.

(2) "Reasonable accommodation" shall mean an adjustment or modification of the standard testing conditions that ameliorates the impact of the applicant's disability without doing any of the following:

(i) Fundamentally altering the nature of the examination or the Board's ability to determine through the bar examination whether the applicant possesses the essential skills and aptitudes that the Supreme Court of Wyoming and the Board have determined are appropriate to require for admission to the practice of law in Wyoming;

(ii) Compromising the security of the examination;

(iii) Compromising the integrity, the reliability, or the validity of the examination;

(iv) Imposing an undue burden on the Board.

(c) Requests for special testing accommodations shall be made in the following manner:

(1) A request for special testing accommodations shall be on forms prescribed by the Board and shall consist of all of the following:

(i) A statement of the applicant, including a description of the applicant's disability and the special accommodations requested;

(ii) A certificate of the applicant's medical, psychological, or other appropriate authority, signed under oath stating:

(A) The nature and the extent of the impairment;

(B) The test or tests performed to diagnose the disability or impairment;

(C) The effect of the disability on the applicant's ability to take the test under normal testing conditions; and

(D) The special testing conditions prescribed by the certifying authority, or deemed to be necessary by the certifying authority.

(iii) A statement by the applicant as to the accommodations received in college, law school, or any prior examination; and

(iv) A certificate from any educational institution beyond high school that provided special accommodations to the applicant while the applicant attended the education institution.

(2) The applicant may file any additional documentation in support of the request.

(3) Upon request, the applicant shall submit an authorization for release of records from educational institutions, medical, psychological and/or appropriate authorities who completed certificates submitted with the request, if the Board determines that access to those records is reasonably necessary to determine whether an applicant's condition meets the criteria for a disability set forth in this policy. The Board may, at its expense, require an examination by an appropriate authority.

(4) A request for special testing accommodations for an examination shall be filed with the application for examination and by the deadline for filing that application. A request for special testing accommodations for re-examination shall be filed with the application for examination and by the deadline for filing that application.

(5) An applicant may file an emergency request for special testing accommodations after the time prescribed in the above section if all of the following conditions are met:

(i) The application to take the bar examination was timely filed and complete in all other respects;

(ii) At the time of filing the application to take the bar examination, the applicant did not have the disability or was unaware of a disability that would necessitate special testing accommodations;

(iii) After acquiring the disability, the applicant promptly submits both of the following:

(A) An emergency request on a form prescribed by the Board, providing the date and circumstances under which the disability arose or became known to the applicant;

(B) A complete request for special testing accommodations. The certificate by the appropriate authority shall state the date the impairment first manifested itself.

(6) An emergency request shall not be filed fewer than seven days preceding the scheduled bar examination.

(7) All forms necessary to complete a request or emergency request for special testing accommodations shall be available at no charge from the Clerk of the Supreme Court.

(d) The Board shall review all requests for special testing accommodations that are properly filed in accordance with this policy. The Board may delegate to a committee of bar examiners its authority to review and rule upon requests pursuant to this policy. Requests that are not timely filed, that are incomplete, or that otherwise do not comply with the requirements of this policy may be rejected for consideration by the Board. The Board may request an applicant to submit additional information in support of the applicant's request. The Board may seek the assistance of an appropriate authority of the Board's choosing in reviewing a request. In reviewing a regular request, the Board shall comply with the following procedures:

(1) The Board shall make a determination, and shall send notification of the determination to the applicant, no fewer than 40 days before the examination.

(2) The Board's denial of a request shall be in writing and sent to the applicant by certified mail to the address provided by the applicant on the request. The Board's denial shall include a statement of the Board's reasons for denial.

(3) The applicant may appeal the denial of a request. The appeal shall be filed with the clerk of the supreme court within 10 days of the mailing of the notice of denial. The appeal shall be conducted on the basis of the record compiled before the Board, and the applicant shall be limited to a written argument in support of the appeal.

(4) Within 10 days of the filing of an appeal, the Board shall affirm, reverse, or modify its decision and prepare a written ruling with reasons for the decision. A copy of the ruling shall be sent to the applicant at the address provided by the applicant on the request. The decision on appeal shall be final.

(5) In reviewing an emergency request, the Board shall first determine whether the request qualifies as an emergency request under this policy. If it does not qualify as an emergency, the Board shall deny the request.

(i) If an emergency exists, the Board shall make a determination on the emergency request and notify the applicant of the determination, as soon as is reasonable but no later than 24 hours before the examination.

(ii) The Board may deny an emergency request if it is not practicable in the time remaining before the examination:

(A) To arrange special accommodations that would provide testing conditions that are reasonable and comparable to those conditions provided to other applicants; or

(B) For the Board to take all steps reasonable and necessary for it to reach a fair determination on the merits of the request before the examination.

(iii) The Board's decision on an emergency request shall be final and is not appealable.

(e) The Board shall incur the costs of all accommodations that it grants and that are provided to the applicant by the Board.

(f) The Board shall grant a request and provide special testing accommodations to an applicant if it finds that the provisions of this rule are met and finds all of the following:

(i) The applicant is a qualified applicant with a disability who is otherwise eligible to take the bar examination;

(ii) The special testing accommodations are necessary to ameliorate the impact of the applicant's disability;

(iii) The special testing accommodations are reasonable accommodations.

(g) The Board shall determine, based on the information available to it, what special testing accommodations are reasonable accommodations. The Board may provide accommodations different from those requested by the applicant if the Board determines that the accommodations provided will effectively ameliorate the impact of the applicant's disability.

(h) No special testing accommodations granted pursuant to this policy shall serve to alter in any manner the limitation otherwise imposed on the applicant's answers.

(i) If an applicant is permitted to dictate answers to the essay portion of the examination, those answers shall be transcribed by personnel selected solely by the Board for that purpose.

(j) All requests for special testing accommodations, supporting documentations, and information developed by the Board with respect to the requests shall remain confidential.