

Questions for State Board of Law Examiners (SBLE) Regarding Remote Bar Exam

In response to the Court's two Administrative Orders released on August 28, 2020, Diploma Privilege For Maryland drafted the following questions based on inquires we have received from applicants:

Grading Concerns

1. Score: When will applicants receive information about the revised passing score requirement? Do you expect to change the cut score?
2. Metrics: Our understanding is that the National Conference of Bar Examiners (NCBE) has asked jurisdictions administering the October 5-6 exam to hire a psychometrician. Has this psychometrician begun preliminary analysis regarding grading metrics? If so, will those metrics be subject to change after the exam is complete?
3. Scaling: How will the remote exam be scaled? How is SBLE making its scaling determination? What factors will be considered?

Examinee Accommodations

4. What steps, if any, will the SBLE take to mitigate the hardships a remote administration will have on students lacking resources? We offer the following suggestions, based on our understanding of steps other similarly-situated jurisdictions have considered:
 - a. Ask members of the community to provide clean, safe, quiet, internet-secure rooms. Law schools, law firms, judicial buildings, and even hotels should be surveyed and paired with students in need.
 - b. Ask members of the legal community to loan high-quality laptops to applicants in need (for example, students who experienced incompatibility problems using ExamSoft during law school exams, or students whose computers are outdated and who cannot afford a new one until receiving a paycheck).
5. The Thurgood Marshall Law Library indicated that it is working with the SBLE to ensure students who take the exam in the library are in compliance with the rules. When will the SBLE publish complete guidelines regarding testing locations?

Live Technical Support

6. What support will be available to applicants who experience technological difficulties before, during, and after (pending upload) the exam? Traditionally, examinees faced with malfunctioning software are provided with paper materials to complete the exam via handwriting. Understanding that this is not possible for a remote administration, will there be alternative safeguards in place for these circumstances?
7. If a test site offers live technical support, will use of it be permitted? For example, the Thurgood Marshall Law Library may have live technical support on location.
8. If an applicant is ultimately unable to complete the exam due to technological failures, i) will the applicant be considered to have failed, and ii) will the applicant still be eligible to take the February bar?

Preparing for ExamSoft Use

9. When can applicants expect information regarding deadlines and instructions for downloading ExamSoft software?
10. How soon will a mock exam be available for applicants to familiarize themselves with the ExamSoft interface and features? Bar review courses strongly encourage annotation, highlighting, and note-taking on the MBE, MEE, and MPT. While the SBLE addressed the available features briefly in the FAQs distributed recently, applicants are anxious to practice transferring the physical paper techniques learned in their courses to the electronic format as soon as possible.
11. How long will applicants have to successfully upload their exams? ExamSoft's website specifies that test takers should submit answers within the set deadlines. Although SBLE clarified WIFI will not be required for the duration of the exam, it is required to submit answers. This can be a time-consuming upload, particularly with so many applicants submitting at once. Will Maryland applicants experiencing upload difficulty or delay be able to upload past the deadline?
12. Has SBLE made any plans for addressing potentially widespread power and internet outages? The exam will be held during hurricane season, which is expected to be very bad this year and may have serious implications on out-of-state takers.
13. A significant amount of time is wasted when an applicant must type out the applicable rules for a case or when an applicant is scrolling through the materials. What is SBLE recommending for this problem and how have they worked with the NCBE and ExamSoft to ensure students have the greatest ability to perform successfully?

ExamSoft Software Concerns

14. Will ExamSoft be administering a stress test (where the practice exams are synced with all other jurisdictions using the same software at the same time)?
15. How will an iOS software update affect the ExamSoft software? Apple has scheduled the release of a new iOS software update for Apple computers. Has SBLE anticipated any challenges regarding this update?
16. In the event that there are Software disruptions that render October exam not successful, what is the SBLE's contingency plan? Will examinees be emailed a take-home version of an exam similar to Indiana, Nevada, and Louisiana?

ExamSoft Liability and Privacy Concerns

17. Has SBLE confirmed that recordings of applicants as well as overall personally identifiable information (PII) collected by the software will not be compromised, misused, or exploited? According to the FAQ, proctors will not have access to PII but they will be able to view video recordings and there is no mention of i) whether applicant information is being stored by ExamSoft and ii) if/when it will be deleted.
18. Does SBLE or ExamSoft expect applicants to sign a waiver, removing liability and accountability from them in the event that our PII or laptop security is breached as a direct result of access from the software?
19. Do the liability waivers include a guarantee that the software is free of viruses, malware, worms, or Trojan Horses? What will ExamSoft and SBLE be doing with the data it collects/with whom is it shared?

August 30, 2020

Temporary Practice Questions

20. Applicants who are pursuing the temporary practice question noticed that they still had to be registered for the Oct exam and thus are required to pay the exam fees. Will applicants be refunded for this once the SBLE de-registers them from the October bar and when can they expect the refund?