FREQUENTLY ASKED QUESTIONS (FAQS)
FOR THE FEBRUARY 2021 NEW YORK BAR EXAMINATION

Below are "Frequently Asked Questions" (FAQs) pertaining to the February 2021 New York bar examination (examination), which will be administered remotely. The New York State Board of Law Examiners (BOLE) will update these FAQS as needed. You are strongly encouraged to check the Board's website and their emails for updates.

Posted January 12, 2021

1. **What will be the components of the examination?**

   - The February 2021 New York bar examination (examination) will be the Uniform Bar Examination (UBE), which consists of two Multistate Performance Test (MPT) items, six Multistate Essay Examination (MEE) questions, and 200 Multistate Bar Examination (MBE) questions.

2. **How will the examination be administered?**

   - New York will administer the examination remotely using ExamSoft Examplify secure testing software.

   - Examplify software includes ExamID and ExamMonitor tools to provide identity verification via facial recognition and audio and video recording with artificial intelligence and human proctor review.

   - You will take the examination on your own computer or laptop with a webcam and microphone enabled.

   - You will take the examination at the location of your choice but the environment must be quiet and distraction-free with no other person in the testing space and with no personally identifying information within the view of the webcam.

   - You will be required to remain seated within the view of the webcam for the entirety of each test session. There will be breaks between each test session for you to use the restroom, stretch, eat, etc. Using the restroom during an exam session is prohibited.

   - There is no option to handwrite the examination. The examination is being administered remotely, using remote proctoring software. Unless granted a testing accommodation due to a disability under the Americans with Disabilities Act, you must use the required software for all sessions of the examination.

3. **What is the format of the examination?**

   - For standard-time applicants, the examination will consist of eight (8) 90-minute test sessions administered over two days (February 23-24, 2021). Once any given session is completed, you will not have further access to those item(s) or question(s).

   - For applicants granted test accommodations (breaks in testing and/or extra testing time) for a disability, the examination will consist of sixteen (16) test sessions of varying times administered over four days (February 23-26, 2021). Once any given session is completed, you will not have further access to those item(s) or question(s).

4. What is the schedule for the examination?

For standard-time applicants, the examination schedule is below. **<u>All times are Eastern Time.</u>**

Tuesday, February 23, 2021	Wednesday, February 24, 2021
9:00AM-10:30AM: **MPT 1**	9:00AM-10:30AM: **MBE 1-50**
BREAK (30 minutes)	BREAK (30 minutes)
11:00AM-12:30PM: **MPT 2**	11:00AM-12:30PM: **MBE 51-100**
LUNCH BREAK (90 minutes)	LUNCH BREAK (90 minutes)
2:00PM-3:30PM: **MEE 1, 2, 3**	2:00PM-3:30PM: **MBE 101-150**
BREAK (30 minutes)	BREAK (30 minutes)
4:00PM–5:30PM: **MEE 4, 5, 6**	4:00PM–5:30PM: **MBE 151-200**

- For applicants granted test accommodations for a disability, the schedule will consist of sixteen (16) testing sessions of varying times over four days with scheduled breaks of at least 30 minutes between each test session. These applicants should refer to their determination letter from the Board for specific details concerning their schedule.

- Each test session will require a password, and each password will be released 15 minutes before the scheduled start time.

- You can and should start each test session <u>as soon as the password is released</u> so you have time to contact ExamSoft in the event you experience any technical difficulties requiring assistance. It is therefore permissible to start testing up to 15 minutes early. No matter what time you start a session, the software will automatically log you out of that session after the maximum time permitted for that session. If you follow this recommendation to start the exam as soon as the password is released, you may start answering questions as soon as you check in, read all exam notices and get to the first question.

5. Is this an open book exam?

- No. You are not permitted to access or use notes, bar review and study materials, writing utensils (except during the MPT), books, phones and other electronic equipment during the examination.

6. What software vendor will New York use to deliver the examination?

- The examination will be administered by ExamSoft using its Examplify testing software. Examplify is the same software that New York has been using for the New York Law Exam (NYLE) since its inception in 2016. The examination will include the use of ExamID to verify your identity before the start of each exam session and ExamMonitor for remote proctoring. Both of these features are considered to be necessary exam security measures and are discussed in greater detail below.

7. What is the registration process for registering with ExamSoft?

- Registration with ExamSoft opens on **January 12, 2021** by 2:00PM ET and closes on **January 27, 2021 at 5:00PM ET**.

- BOLE will provide to ExamSoft the name, BOLE ID number and email address of all registered applicants for the examination.

- Before January 12, 2021, you must make sure that your email address on file with the Board is correct and active as this will be the email address submitted to ExamSoft and used by ExamSoft for all examination communications. To verify your email address, sign into your BOLE account through the Applicant Services Portal before January 12, 2021. If your law school email, for example, has been closed, you must update your email address through the Applicant Services Portal BEFORE January 12, 2021. If you update your email after January 12, 2021, you must notify the Board by calling the office at (518) 453-5990. Deadlines will not be waived for any applicant who did not timely verify their email address.

- The registration fee, which must be paid directly to ExamSoft, is $130 to purchase the software.

- You will receive an email directly from ExamSoft once registration has opened. ExamSoft may also send periodic reminder emails throughout the registration period for anyone who has not yet completed all mandatory registration steps. Do not ignore these emails. BOLE will not waive the January 27, 2021 registration deadline. Thus, it is highly recommended that you complete all mandatory registration steps with ExamSoft early in the registration period.

- You will be required to timely register with ExamSoft and download the software (and exam files) even if you previously registered with ExamSoft for any past exam, including the October 2020 remote exam.

- On January 12, 2021, you will receive an email from ExamSoft with instructions for (1) paying the $130 software fee and registering your computer, (2) downloading the software and (3) downloading and taking the **two** mandatory mock exams. As noted above, ExamSoft registration opens on January 12, 2021 and closes on January 27, 2021 at 5:00 PM ET. After January 27, 2021 and prior to the examination, ExamSoft will contact you with instructions for downloading the required exam files. It is extremely critical that all deadlines are strictly complied with as they will not be extended by BOLE. Failure to timely meet all of the steps will result in your withdrawal from the examination and the forfeiture of your fees.

8. What technology is required?

- You must take the examination with a computer (a laptop or desktop) that meets ExamSoft's minimum system requirements and a functional webcam and microphone.

- Minimum System Requirements are available at https://bar.examsoft.com/system-requirements. Some of the requirements listed under this link specify the minimum and recommended requirements. You are strongly encouraged to use a computer that meets ExamSoft's **recommended** system requirements. In particular, it is highly recommended that the computer memory (RAM) have **8GB or higher of available space.**

- It is critically important that you make certain that on both exam days the computer you registered continues to have sufficient memory (RAM) available (while the exam files are small, the monitoring files take up larger amounts of memory) and that all current updates to the computer's operating system have been installed. If your computer does not have sufficient available space to store all of the monitoring videos on the days of the exam the monitoring files may stop recording and your exam may not be accepted for grading.

- Internal webcams and microphones are preferred but if your computer is not equipped with a built-in camera or microphone, connect an external webcam with a microphone prior to launching Examplify. You must take both mock exams using the same setup you intend to use on exam day so as to confirm that your external webcam works. After you setup the external webcam you may confirm it is working by clicking on Device Settings in the right top corner of the Examplify window before starting an exam session. Once you start the exam and go into secure mode you will not be able to switch cameras. You may not use virtual camera software with ExamID or ExamMonitor.

- You are permitted to use an external keyboard and mouse (wired or wireless) but they must be setup and connected prior to launching Examplify. A mouse pad is also permitted.

- An additional, external monitor (i.e., dual monitor) connected to a laptop or desktop is **NOT** permitted.

- You will need a reliable internet connection to obtain the password for each exam session, to check in and start the session and to later upload the answer and proctoring files at the close of the session. Once you start the session upon getting to the first question, the examination is taken entirely offline.

9. **Where is the examination administered?**

- You may take the examination at the location of your choice provided, however, that there is no one else in the room with you.

- Some law schools may be offering space for applicants who may not have a secure and reliable internet connection or suitable place to take the exam. If your law school offers space for you to take the exam and is authorized to do so, it is permissible for you to take the exam at the law school provided that you are seated sufficiently far enough away from any other applicants in the classroom or other testing space to assure the security of the test and to minimize problems with the remote proctoring. You will need to abide by all other instructions including remaining in your seat in view of your webcam throughout each session. It is the responsibility of the law school and applicant to make sure that all social-distancing protocols are followed and that no prohibited materials or devices are allowed in the testing room. Remote proctoring through ExamSoft will still be in place.

10. **What testing conditions will be required?**

- You must be alone in the room where you are taking the exam unless you are taking the exam in a law school and you are sufficiently spaced apart in the classroom, lecture hall or other testing space.

- You may not have a phone or other electronic device on your person or anywhere in the room in which you are taking the test.

- You may not have study notes, bar review materials or other legal reference books and/or materials in your testing space.

- You were required to upload to BOLE a photo (.jpeg file) of a valid government-issued photo ID as part of the online application. At the beginning of the first mock exam only, you will be required to display to the webcam the same photo ID that was uploaded to BOLE. The video from the first mock exam will be viewed by BOLE staff in order to verify your identity (please note that this video will NOT be shared with proctors). You will not thereafter be required to display your photo ID for the second mock exam or for any test session on exam days.

- Diplomas, photographs, or other items that might personally identify you should not be visible to your webcam during the examination.

- You must remain seated with your face in full view of the webcam for the entire duration of each test session.

- You are permitted to use a lumbar cushion or support device during each test session, as well as have necessary prescription medication in the testing area.

- You may not eat during the 90-minute session but you may have water or other beverages in a clear container with labels removed.

- You will have a break in between test sessions. As soon as you exit a test session, the webcam is no longer recording. Thus, during the break, you are permitted to step away from your computer to eat, drink, stretch, use the restroom, etc. or use the computer. However, it is recommended that you use your computer to upload the exam and video monitoring files during each break.

- If you have a health-related condition requiring food or possession and/or use of a medical device (such as diabetic supplies) during any test session exam, you may submit an Administrative Accommodation Request form with supporting medical documentation.

- You may not wear a hat or cap during the examination except if it is for religious reasons in which case it may not have a brim or otherwise obscure your eyes.

- You may not wear headphones, headsets, or earbuds during the exam. This prohibition will be strictly enforced, and if you are found to be wearing headphones, a headset or earbuds during the exam without permission from the Board, you will have your bar exam results withheld and may be subject to charges of misconduct. Ordinary foam ear plugs without a cord are permitted. You do not need to show the foam ear plugs to the camera at the start of the exam.

- You will not be asked to perform a 360 degree view of your testing space with your webcam or external camera in order to avoid inadvertently disconnecting your camera or power cord.

- You will be required to read and electronically sign an Affirmation of Honor Code and Testing Conditions by 5:00PM ET on February 1, 2021. If you fail to timely sign this Affirmation of Honor Code and Testing Conditions, you will not be permitted to take the examination.

- If any issue resulting in a violation of any test condition takes place for any reason during any test session, you are required to provide written notice of the matter to the Board within a reasonable period of time after the conclusion of the exam.

11. What features will applicants be able to use within the exam software?

During the MPT and MEE sessions you **WILL** be able to:

- View the MPT and MEE question in the question field and as an attachment.

- Use the optional "Notes" feature (i.e. virtual scrap paper) to take notes and outline response. This feature also allows you to cut, copy and paste text between the Notes and your answer response.

- Increase the font size of both the question, answer text and MPT attachment.

- View the question, response and Notes section on the computer at the same time (including the MPT library).

- Highlight within the text of each question (highlighting is NOT available within the MPT attachment).

- Use the spell-check, highlighter and "find and replace" features in the response.

- For each MEE session, (1) navigate between the questions, (2) flag a question to return to for further consideration, (3) cut and paste between the answer fields and Notes.

- For the MPT ONLY, use scratch/scrap paper (blank 8 ½ x 11 inch paper, lined or unlined) and a non-digital pencil or pen to make notes and outlines. Any scratch/scrap paper and pens and pencils used during the MPT sessions must be removed from the testing area prior to the start of the MEE sessions.

During the MBE sessions, you **WILL** be able to:

- Highlight within the text of each question.

- Strike out unwanted answers or answers you believe to be incorrect as you read the multiple-choice questions. You must still select an answer (and not just strike through purported incorrect answers) in order to receive credit for a correct answer.

- Navigate forward and backward between questions, as well as skip and/or return to unanswered questions during each session.

- Flag multiple-choice questions to return to during that session.

- Use the Notes (i.e., virtual scrap paper) for each question.

You **WILL NOT** be able to:

- Use more than one monitor. An additional, external monitor (i.e., dual monitor) connected to a laptop or desktop computer is not permitted.

- Cut and paste text from the MEE/MPT question and/or MPT library to your response or Notes.

- Underline, circle, or cross out text within the MEE and MBE questions or the MPT question and library.

- Use study notes or any other physical reference materials.

- Use physical scratch/scrap paper for the MEE or MBE sessions.

12.   How does ExamID work?

- ExamSoft uses ExamID to authenticate your identity. The software is intended to confirm that the person sitting in front of the camera to take the examination is the same person who registered for the examination with the Board and ExamSoft.

- During the first mandatory mock exam ExamID will take a baseline photo of you.

   HELPFUL TIP: When taking this baseline photo, you are urged to sit in a well-lit room (with front-facing lighting) and to wear eyeglasses if you intend to wear eye glasses for the exam.   Also, to the extent possible, the Board recommends that you take this baseline photo in the same room you intend to take the exam. Do NOT hold up your photo ID in front of your face when taking your photo. If you are wearing a mask you will need to briefly lower the mask for the camera to take your photo.

- The software will confirm that the photo taken in the first mock exam is acceptable.

- At the start of each test session on the exam days, ExamID will take another photo of you and will compare it to the photo taken during the mock exam to authenticate the your identity.

- When your photo is taken at the start of each test session on exam days you will have the option to check the photo and confirm it is acceptable before continuing into the test session.

- Should you experience any issue with the ExamID authentication at the beginning of any exam session, you will still be permitted to take the exam, and BOLE will authenticate your identity following the examination by reviewing the photo on file with BOLE and the video.

- The Board considers ExamID to be a security checkpoint for each session of the examination for the purposes of Board Rule 6000.13, including in particular, Board Rule 6000.13 (a) (5) and (6).

13. How does remote proctoring (ExamMonitor) work?

- The proctoring software will record you (both audio and video) throughout each exam session. At the conclusion of each exam session, you may take the scheduled break by walking away from your computer and the webcam (the audio and video are NOT recording during breaks).

- You must remain at your computer, with your face fully visible to the webcam, for the entirety of each test session.

- After the conclusion of each session, the remote proctoring video file will be uploaded to ExamSoft.

ExamSoft's artificial intelligence (AI) program which will analyze the recording and flag any unusual behaviors, movements, or sounds.

- All video footage will then be reviewed by at least one human proctor to determine whether further analysis as to potential irregularities is necessary. For example, a barking dog or a siren in the background might be initially flagged by AI but cleared upon the subsequent human review. The mere fact that a sound or behavior generates a flag does not mean that BOLE staff will formally investigate and/or take any action against an applicant for exam misconduct. BOLE anticipates that most flags will be cleared by the human proctors and/or Board staff.

- Conduct during any given session that may result in an investigation for fraud or misconduct includes, but is not limited to: disconnecting or covering the webcam, closing the laptop cover, leaving the view of the webcam, having a prohibited item in the testing space, using an unauthorized electronic device during testing, accessing, using or reviewing notes or other prohibited materials, having others in the testing space, and any other conduct that raises suspicion that an applicant cheated or engaged in other prohibited conduct during or on the exam.

- If the Board believes that the audio or video recording shows evidence of misconduct, you will be notified in writing in accordance with Board Rule 6000.13. Any applicant charged with misconduct under Board Rule 6000.13 is given the opportunity to respond in writing and to request a hearing before the Board. You are urged to review Board Rule 6000.13.

- The proctors reviewing exam footage **will** **not** have access to any personally identifying information for applicants.

- BOLE will destroy and/or direct ExamSoft to destroy all video recordings from the examination within a reasonable time after the completion of all grading or, where security investigations are initiated, after resolution of any misconduct charges, including any related Character and Fitness proceedings.

14. Technical Support

- ExamSoft will have dedicated technicians available for technical support (for the mock exams and on the exam days) and calls should be directed to (888) 816-3065. You should NOT call the Board's office for technical support.

- ExamSoft also has live online chat assistance, but this will only be accessible BEFORE you enter the exam session (mock exam or actual exam). While chat assistance may be useful during the mock exams, it is NOT recommended on exam days. On exam days, you should attempt to resolve the problem yourself first (see Important Tips below) and then call ExamSoft if still needed at (888) 816-3065.

- Should you experience a technical issue before or during the exam you may leave the testing area to obtain your phone to call technical support and thereafter remove the phone from the testing area when the support call ends. For a technical problem that occurs during the exam that cannot be resolved by you (see Important Tips below), **you should take these steps**:

  1. Announce to the webcam that you are leaving to retrieve your phone to seek technical assistance.
  2. Upon retrieving your phone, place the call to ExamSoft in front of the webcam and remain in its frame for the entirety of the call.
  3. Remove your phone from the testing area as soon as the support call ends.

4. Within five business days of the exam session, you must also provide written notice of the matter to the Board.
5. *If you are testing in a law school in a room with other applicants, you should take your computer with you and place the call to ExamSoft outside of the room so as not to disturb other applicants.

- IMPORTANT TIPS:

    A. You must connect to the internet before typing the exam password (if you are not properly connected to the internet, you will get a "No Internet Connection" box asking you to "check your internet connection and try again.")

    B. You can often resolve a technical issue such as computer freeze or lag while typing <u>during</u> the exam by simply rebooting your device. Before contacting ExamSoft during the exam, the following steps should be attempted:

    1. Press and hold the power button until the computer is completely off.
    2. Wait 5 seconds.
    3. Restart the device.
    4. Once Examplify restarts, you should be able to enter the session password (if the problem arose before the exam) or should be returned to within 59 seconds of where you left off (if the problem arose during the session).
    5. If a problem occurs during a session and you are unable restart within 9 minutes, you should call ExamSoft technical support and obtain a resume code. The Board may ask for written confirmation of the support call.

    C. If a problem occurs during a session, DO NOT CLOSE OR EXIT THE EXAMINATION. If you close or exit the examination, you will be unable to re-enter the session, the session will end and a resume code will NOT assist you.

15. **Will I have an opportunity to practice using the software so I may become familiar with the technology and what to expect on exam day?**

- Yes. You will be required to take two mock exams, and you will have the opportunity to take an optional third mock exam before the date of the examination.

- You are strongly encouraged to use all allotted time (90 minutes) in both mandatory mock exams and the third optional mock exam. Mock exams are not set up to provide extra time; therefore, applicants granted extra time for a disability on the examination should not expect that such extra time has been added on the mock exams.

- The mock exams will be available for download after you register with ExamSoft beginning on January 12, 2021.

- IMPORTANT TIP: If you want to use an external keyboard or mouse on exam day, you should set this up prior to doing the mock exams to confirm that it works. It is very important to take the mock exam using the same setup as you intend to use on the exam day.

- During the first mock exam you will establish your baseline photo ID that will be used for exam day. You will also have the opportunity to practice all of the features of the software including the virtual

scrap paper and highlighting features.

- The second mock exam will contain practice questions and you may practice using all of the software features with exam questions. You will have the option to download and take a third mock exam, which will contain the same questions as the second mock exam but give you another opportunity to become comfortable with the features of the software and to test uploading a 90-minute video file.

16. Will I be permitted to use scratch/scrap paper?

- You may use physical scratch/scrap paper (blank 8 ½ x 11 inch paper, lined or unlined) and a non-digital pencil or pen to make notes and outlines for the two MPT items <u>only</u>. Any scratch/scrap paper and pens and pencils used during an MPT must be removed from the testing area following the MPT session and prior to the start of the MEE session.

- You may NOT use scratch/scrap paper for the MEE or MBE portions of the exam. Any use of scratch paper on the MEE or MBE sessions will be flagged for further investigation.

- You may also use the virtual scrap paper feature to outline your answer. You will be able to cut and paste between the virtual scrap paper feature and your answer responses for the MEE and MPT. It is also permissible for you to type your outlines into the answer response field and then cut, paste and delete unwanted text as desired**.**

17. What is the deadline for uploading exam files and video monitoring files?

- You must take each session of the exam and timely upload the answer files and video monitoring files for each session of the exam in order to be graded and scored. If you do not upload the answer files and video monitoring files for any session you will receive a score of zero "0" for that session.

- The answer and video monitoring files should automatically upload at the conclusion of each session. With 30 minutes between each session, it is highly recommended that you upload both files immediately following each session to avoid a potential problem of insufficient memory on your computer for any subsequent session. It is, however, permissible to wait and manually upload all files after the conclusion of the last exam session, subject to the deadlines below.

- File uploads can be completed immediately after each session, and not later than the following deadlines:

    o If you are taking the exam with standard time, your answer files and video monitoring files must be uploaded by 11:59 PM ET Wednesday, February 24, 2021.
    o If you have been granted test accommodations for a disability, your answer files and video monitoring files must be uploaded by 11:59 PM ET on Friday, February 26, 2021.

- You will receive confirmation emails from ExamSoft confirming the successful upload of each individual file. You will also be notified by email from ExamSoft and/or the Board should one or more of your files have not successfully uploaded.

18. How will the examination be scored?

- The written scores will be scaled to the MBE.

- Final scores will be reported on a 400 point scale and a scaled score of 266 or greater is required to pass.

- You must take and timely upload all sessions of the examination in order to be graded. If you do not take all sessions for any reason, including a technical problem, or if you fail to timely upload all examination and video files, you will be withdrawn from the examination and will not receive examination results.

19. When will results be available?

- BOLE expects to release the results of the examination by the middle of May 2021.

20. Will a remote examination be the norm going forward (July 2021 and beyond)?

- The remote administration of the UBE is in response to the extraordinary circumstances surrounding the COVID-19 pandemic.

- BOLE will resume the administration of an in-person UBE when it is safe to do so. Information relating to the administration of the July 2021 bar examination will be announced when a determination is made.

21. May my score on the examination be transported to other UBE jurisdictions?

- The score earned on the February 2021 examination will be a UBE score, and you will be able to transfer a score from the examination to another UBE jurisdiction.

- A UBE score of 266 earned in another UBE jurisdiction in February 2021, whether that exam was administered in-person or remotely, can be transferred to New York within three years.