

October 6, 2014

Request for Public Comment

The New York State Board of Law Examiners (SBLE) has recommended to the New York Court of Appeals that the current bar examination be replaced with the Uniform Bar Examination (UBE). To date, 14 other state jurisdictions have adopted the UBE, but New York would be a national leader as the first large state in terms of bar applicants to administer this test, having examined over 15,200 candidates in 2014. The UBE is prepared by the National Conference of Bar Examiners (NCBE) and passage of the test would produce a portable score that can be used to gain admission in other states that accept the UBE, provided the applicant satisfies any other jurisdiction-specific admission requirements. As the UBE is accepted by more states, the portable score will facilitate lawyer mobility across state lines, resulting in expanded employment opportunities for lawyers throughout the nation and facilitating multi-state law practices.

Currently, the New York bar exam is administered in July and February of each year, over the course of two days and consists of two sections: (1) the New York law component, taken on the first day, is composed of five essay questions and 50 multiple-choice questions prepared by the SBLE, and one Multistate Performance Test

(MPT) question developed by the NCBE; and (2) the Multistate Bar Examination (MBE), consisting of 200 multiple-choice questions prepared by the NCBE, which is given on the second day of the exam.

The UBE is prepared by the NCBE and contains three distinct assessment measures: (1) the Multistate Essay Examination (MEE), which contains six single-content essay questions testing law of general application; (2) two MPT tasks; and (3) the 200-question multiple-choice MBE test. The MEE and MPT would be taken on the first day of the UBE, while the MBE would be given on the second day. The increased testing on lawyering skills will address the call by bar associations for legal education to incorporate more practical skills training.

Along with administering the UBE, the SBLE has proposed that New York's bar examination continue to incorporate a New York law-specific component. This recognizes the importance of state law, particularly in light of the thousands of out-of-state and foreign-educated applicants who seek bar admission in New York. It is imperative that New York licensure remain internationally recognized as a valuable legal credential. The proposed New York law exam (NYLE) segment would consist of 50 multiple-choice questions, tested for one hour on the second day. The SBLE has

proposed a passing score of 30 for the NYLE. In addition to being given concurrently to candidates taking the UBE in February and July, the SBLE is suggesting that the NYLE also be administered in December and late spring of each year. This provides a second opportunity to applicants who pass the UBE, but do not pass the NYLE, to retake the NYLE in order to secure earlier admission to practice.

The SBLE recommends that the passing score for the UBE in New York be set at 266. Although scored on a different scale, this grade is comparable to the passing score established for the current bar exam. Other jurisdictions have adopted passing scores for the UBE that range from 260 to 280. Applicants who take the UBE in another jurisdiction and seek admission in New York based on a transferred UBE score would have to pass the NYLE, with this testing available in December or late spring. Similar to current rules regarding the viability of bar exam scores, a UBE score earned in another jurisdiction could be transferred to New York up to three years after the date of the administration of the exam on which the score was earned.

Applicants who take the UBE in New York, and applicants who seek to transfer a UBE score to New York, must continue to meet the eligibility requirements of section 520.3, 520.4, 520.5 or 520.6 of the Rules of the Court of Appeals and undergo a character and fitness review by the Appellate Division of Supreme Court. The proposal

does not contemplate any change in the statutory bar exam fees set forth in Judiciary Law § 465.

In light of this recommendation, the Court is considering adopting the UBE for the administration of the July 2015 bar exam. Persons or organizations wishing to comment on this proposal should e-mail their submissions to UniformBarExam@nycourts.gov or write to: Diane Bosse, Chair, New York State Board of Law Examiners, Corporate Plaza, Building 3, 254 Washington Avenue Extension, Albany, NY 12203-5195. Submissions will be accepted until November 7, 2014. All public comments will be treated as available for disclosure under the Freedom of Information Law, and are subject to publication by the Office of Court Administration. The issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the court system.