



Cathryn L. Hazouri, Executive Director • Mark Silverstein, Legal Director

February 12, 2007

Alan Ogden
Executive Director
Colorado Board of Law Examiners
1560 Broadway, Suite 1820
Denver, CO 80202
VIA FACSIMILE 303-893-0541

Re: Religious Accommodation for Tisha B'Av

Dear Mr. Ogden:

I am writing on behalf of Michelle Sisk, a third year law student planning to take the Colorado bar examination on July 24th and 25th, 2007, and on behalf of all potential Colorado bar examinees who observe the Jewish holiday of Tisha B'Av.

As you know from your correspondence with Ms. Sisk, this year the Jewish holiday of Tisha B'av falls on July 24th, 2007. As you are also probably aware, this is not the first time that a bar examination date has fallen on Tisha B'Av and requiring states to provide accommodation for observant test takers. Most recently, in 2004, after communication with the ACLU of Southern California, the California State Bar agreed to allow observant Jews to take the July 27th portion of the exam on July 30th. Likewise, New York offered a similar accommodation in 2004.

When Ms. Sisk first contacted your office to request that her religious observance be accommodated, she was informed by Susan Gleeson that "I am familiar with Tisha B'Av. Unfortunately, Colorado does not have any provisions for accommodating religious holidays during the scheduled bar exam." Fortunately, Ms. Sisk persisted, and was informed by you on February 7, 2007 that her request for religious accommodation would be "entertained" at the May 2, 2007, meeting of the Colorado Board of Law Examiners.

It hardly needs saying that the future lawyers of our state, who will be taking an oath to protect and uphold the Constitution of the United States and the Constitution of the State of Colorado, deserve to know that their own constitutional liberties and freedoms will be respected by the very board charged with their admission. It is not sufficient to merely inform Ms. Sisk that her request for religious accommodation will be "entertained" on May 2, 2007, while providing her with no criteria regarding whether her request for accommodation will be granted or denied, nor providing any information for other bar applicants who observe Tisha B'Av.

Other states that have scheduled a portion of their July, 2007 bar exam on the Tisha B'Av holiday have provided clear, consistent and public guidance to potential bar applicants who need to request religious accommodation. Just two examples include the following:

- The California State Bar has posted on its website "Petitions Seeking Accommodation Regarding the Conflict Between the First Day of the July 2007 Administration of the California Bar Examination and Observance of Tisha B'av." The petition lays out clear, objective criteria for the request and states unambiguously that "petitions filed by applicants...will be granted if they meet the criteria discussed below." The petition instructions and the petition itself can be found at <<http://www.calbar.ca.gov/calbar/pdfs/admissions/Special-Notices/Notice0707BX.1206.pdf>> (also enclosed in this letter).
- The Illinois State Bar has posted on its website the information necessary for applicants to request an accommodation and has stated clearly that "An applicant whose ability to write the essay examination will be affected by [Tisha B'Av] will be permitted to write the essay examination on Thursday, July 26, 2007, rather than Tuesday, July 24, 2007." The posting can be found at <<https://www.ibaby.org/news.php?key=all>>.

We request that the Colorado Board of Law Examiners provide similar clear, reasonable and public guidance to all potential Colorado bar applicants regarding the Tisha B'Av holiday. I note that the Board has already provided similar instruction, a petition form and public notice on its website to all potential applicants needing to request accommodation based upon a disability. Could you please let me know which criteria the Board of Bar Examiners will be using to evaluate Ms. Sisk's request in particular and these requests in general, and how and when the Board intends to alert potential applicants to the necessary steps they must take to request religious accommodation for the July 2007 bar exam?

I appreciate your time and attention to this matter. I look forward to hearing from you.

Very truly yours,



Taylor Pendergrass
Staff Attorney

Enc. California State Bar Instructions and Petition for Religious Accommodation



THE STATE BAR OF CALIFORNIA

THE COMMITTEE OF BAR EXAMINERS
OFFICE OF ADMISSIONS

PETITIONS SEEKING ACCOMMODATION REGARDING THE CONFLICT BETWEEN THE FIRST DAY OF THE JULY 2007 ADMINISTRATION OF THE CALIFORNIA BAR EXAMINATION AND OBSERVANCE OF TISHA B'AV

In accordance with the policy adopted by the Committee of Bar Examiners (Committee), petitions filed by applicants seeking accommodations so they may observe the Jewish holiday, Tisha B'Av, on Tuesday, July 24, 2007, will be granted if they meet the criteria discussed below. Applicants who are granted the accommodation will be permitted to start the bar examination on Wednesday, July 25, 2007, at which time the written portions (three essay questions and one Performance Test question) administered to other applicants on Tuesday, will be administered to them. The Multistate Bar Examination (MBE) portion, which will be administered on Wednesday to most applicants, will be administered to the accommodated applicants on Friday, July 27, 2007. There will be no adjustment to the schedule for administration of the Thursday written sessions.

Applicants seeking accommodation must comply with the following requirements:

1. A petition seeking accommodation during the July 2007 administration of the California Bar Examination so that an applicant may observe the religious holiday of Tisha B'Av must be in writing, signed under penalty of perjury and received by the Office of Admissions no later than June 15, 2007;
2. A petition for accommodation must be accompanied by a statement from the applicant's Rabbi confirming that the applicant's religious beliefs require her or him to observe the holiday, which would prevent her or him from taking the bar examination on Tuesday, July 24, 2007; and,
3. The attached declaration must be signed and forwarded to the Office of Admissions so that it is received no later than June 15, 2007. Requests for an extension or an exception to this deadline will not be considered.

The petition, statement from the Rabbi and the completed declaration should be forwarded to the following address: Office of Admissions, The State Bar of California; Attn: Petitions & Information Services; 1149 South Hill Street; Los Angeles, CA 90015-2299. Following receipt of a petition that meets the above criteria, the petition will be granted and the applicant will be assigned to a testing accommodations test center nearest the first choice listed on the applicant's application.

If any applicant seeks accommodation beyond that which is specified above, she or he must file a separate petition seeking such accommodation for consideration by the Committee. If the request is related to an accommodation based on a disability, such a petition, with all the required forms and documentation, must be filed under the provisions of Rule XVII of the *Rules Regulating Admission to Practice Law in California*.

**JULY 2007 CALIFORNIA BAR EXAMINATION
EXTENDED DAY – EXAMINATION ACCOMMODATION DECLARATION**

Applicant Name: _____

File Number: _____

Application Number: _____

I, _____, am an applicant for the July 2007 California Bar Examination to be administered during the week beginning July 23, 2007.

I am seeking an accommodation because my religious beliefs, which preclude me from working or studying, prevent me from beginning the examination on the first day that the examination is scheduled, July 24, 2007.

I will not obtain nor seek to obtain any information concerning the July 2007 California Bar Examination until after I have concluded taking the entire examination. This includes written, oral, electronic or other communication with any person (including, without limitation, other applicants, lawyers, tutors, bar review representatives, law professors, etc.) regarding the examination, the subject matter, the questions, answers or anything else relating to the examination. I understand I cannot use a computer's Internet capabilities and access or its message services software, except to comply with the requirements associated with participation in the Laptop Computer Program, at any time during July 24, 2007 through July 27, 2007, or upon conclusion of the last day of the examination.

I agree to take my examination at the assigned test center under the supervision of the staff members and proctors from the Office of Admissions of The State Bar of California on the day and time that are scheduled.

I agree to abide by all examination administration rules related to taking the examination.

I hereby declare under penalty of perjury under the laws of the State of California that I have read the instructions contained in this document, and I understand and agree to them.

(Applicant's Signature)

(City/State)

(Month, Date, Year)

400 Corona Street
Denver, Colorado 80218

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ACLU OF COLORADO

Fax

To: Alan Ogden

From: Taylor Pendergrass

Fax: 303.893.0541

Date: February 12, 2007

Phone:

Pages: 5, including cover

Re:

CC:

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

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