

BOARD OF BEHAVIORAL SCIENCES
ENGLISH AS A SECOND LANGUAGE REGULATORY PROPOSAL
SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: English as a Second Language: Additional Examination Time

Title 16 Sections Affected: 16 CCR Section 1805.2

The additional changes to the regulatory proposal are as follows:

1. Additional Amendment #1: “Completing and submitting a request for additional time”

Proposed Change: The originally proposed language has been amended to state the applicant must “submit a request” for additional time, rather than saying they must “complete and submit” a request for additional time.

Purpose/Rationale: The Board determined that the phrase “complete and submit” a request is repetitive. It is unnecessary to state that a request must be completed, because submission of a request already implies it is completed. Therefore, the amendment was made to make the language more clear and concise.

Anticipated Benefit: Making the language more concise ensures that it is more easily understood by an applicant.

2. Additional Amendment #2: Remove requirement that request for additional time be signed under penalty of perjury

Proposed Change: The originally proposed language states that to qualify for consideration for additional exam time, the applicant needs to submit a request stating under penalty of perjury that English is his or her second language.

Purpose/Rationale: The Board has removed the requirement that the statement that English is the second language be made under penalty of perjury, since it has been determined it was not necessary. The Board already has statutory authority to refuse to issue a license or registration, or to suspend or revoke it if the applicant, registrant, or licensee is found to be guilty of unprofessional conduct. Two unprofessional conduct provisions are particularly relevant here:

- a. Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. (Business and Professions Code (BPC) §§4982(f), 4989.54(l), 4992.3(g), and 4999.90(f))

- b. The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant (BPC §§4982(j), 4989.54(g), 4992.3(k), and 4999.90(j))

The Board, therefore, does not believe it would be necessary to require a statement regarding English as a second language to be made under penalty of perjury when it already has appropriate disciplinary tools available to it, in the event the Board discovers that the statement is false.

Anticipated Benefit: The anticipated benefit of this change is increased efficiency in government, because the Board is utilizing the existing disciplinary process already within its authority, instead of pursuing new disciplinary measures.

3. Additional Amendment #3: Documentation of Master's program ESL accommodation (16 CCR §1805.2(b))

Proposed Change: The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master's degree program had granted the applicant additional examination time or other accommodation due to speaking English as a second language.

The Office of Administrative Law (OAL) asked the Board to amend the language to provide examples of documentation that would satisfy the Board.

The Board has therefore deleted the requirement that the documentation be "to the satisfaction of the Board." After consulting with stakeholders at universities offering master's degrees intended to lead to Board licensure, the Board has determined that a letter from the degree program's chair or chief academic officer would be examples of credible and acceptable documentation that the school gave this accommodation.

Purpose/Rationale: The addition of examples of acceptable documentation makes it clear to applicants seeking an ESL accommodation via this method what type of documentation the Board will accept.

Anticipated Benefit: Increased clarity benefits applicants for the ESL accommodation because they know what type of documentation the Board is expecting.

4. Additional Amendment #4: Documentation of Master's program outside the United States and presented in a language other than English (16 CCR §1805.2(c))

Proposed Change: The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master's degree program was located outside of the United States and was presented in a language primarily in a language other than English.

The Office of Administrative Law (OAL) asked the Board to amend the language to provide examples of documentation that would satisfy the Board.

The Board has therefore deleted the requirement that the documentation be “to the satisfaction of the Board.” The Board has determined that a letter from the degree program’s chair or chief academic officer would be an example of credible and acceptable documentation of a degree being outside the U.S. and presented in a foreign language.

Purpose/Rationale: The addition of an example of acceptable documentation makes it clear to applicants seeking an ESL accommodation via this method what type of documentation the Board will accept.

Anticipated Benefit: Increased clarity benefits applicants for the ESL accommodation because they know what type of documentation the Board is expecting.

5. Additional Amendment #5: Master’s program presented primarily in a language other than English (16 CCR §1805.2(c))

Proposed Change: The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master’s degree program was located outside of the United States and was presented primarily in a language other than English.

The Office of Administrative Law (OAL) asked the Board to amend the language to clarify the meaning of “primarily in a language other than English.”

The Board has therefore deleted the word “primarily” and amended the language to state that “at least fifty percent of the coursework was presented in a language other than English.”

Purpose/Rationale: This change makes it clear exactly how much of a degree must be in another language in order to qualify for the ESL accommodation.

Anticipated Benefit: Specifying how much of the degree must be presented in another language promotes clarity, because it establishes a minimum baseline and gives applicants a better idea of whether or not they will qualify under this option.