



Board of Behavioral Sciences

Memo

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To: Board Members

Date: August 15, 2024

From: Rosanne Helms
Legislative Manager

Subject: English as a Second Language (ESL) Additional Examination Time Allowances

The Board established its English as a Second Language (ESL) additional examination time allowance via regulation in 2017. The regulations, [§1805.2](#) of Title 16 of the California Code of Regulations (16 CCR), supersede any allowances offered by the Board's test vendors. They allow the Board to grant additional examination time of time-and-a-half (1.5x) to an ESL applicant if they meet one of the following criteria:

1. A score of 85 or below on the Test of English as a Foreign Language, Internet Based Test (TOEFL-iBT), taken in the past 2 years. (The current cost of this test is \$255 in the U.S.)
2. Documentation from the qualifying master's degree program that the program had granted the applicant additional exam time or another allowance due to speaking English as a second language.
3. Documentation that the qualifying master's degree was obtained from a school outside the U.S., and that at least half the coursework was presented in a language other than English.

The Board's exam vendors administer exams on behalf of the Board. They are:

- The Association of Social Work Boards (ASWB) (Administers LCSW clinical exam for the Board)
- The National Board for Certified Counselors (NBCC) (Administers LPCC clinical exam for the Board)
- Pearson-Vue (Administers all board-developed exams: LMFT clinical exam, LEP exam, and the Board's California law and ethics exams for each license type.)

Each of these vendors have their own ESL allowances, outlined below. However, as noted above, because the Board has established its own ESL regulations, the exam

vendors accept the Board's ESL policies as overriding their own. The fact that the Board has its own separate ESL policies can prolong the approval process, as it takes Board staff time to review the request for an allowance and either deny or approve it, before forwarding the allowance approval on to the test vendor.

Association of Social Work Boards (ASWB)

ASWB administers the LCSW clinical exam.

Benefit granted: Additional time (up to two extra hours), and applicant may request permission to use up to two dictionaries, one bilingual word-to-word translation dictionary and/or one general English dictionary.

How to qualify: The applicant must certify under penalty of perjury that their primary/first language is one other than English.

National Board for Certified Counselors (NBCC) (Attachment C, Pg. 3-4)

NBCC administers the LPCC clinical exam.

Benefit granted: One or more of the following:

- Extended time, not to exceed time-and-a-half; and/or
- Use of an approved bilingual dictionary.

How to qualify: The applicant must show that they have difficulty in speaking, reading, writing, or understanding English, and provide documentation of one of the following:

- That they have limited English proficiency, demonstrated by the results of an appropriate ESL assessment completed within the past 10 years (examples of appropriate assessments include the TOEFL and the International English Language Testing System (IELTS));
- That they received an ESL allowance on tests taken with respect to undergraduate or graduate studies within the past 10 years (may include a formalized plan);
- They have been found eligible for, or are participating in, an ESL or English Language Learner (ELL) program within the past 10 years.

Requests for the ESL allowance must be supported by documentation such as an ESL or ELL plan, or an official academic support or plan issued by an authorized representative of an educational institution.

Pearson Vue (the Board's exam vendor) (Attachment D)

Pearson Vue administers all of the BBS Board-developed exams (LMFT clinical exam, LEP exam, and the LMFT, LCSW, and LPCC California law and ethics exams).

Benefit granted: Time-and-a-half on the exam. Use of a dictionary must be formally requested and is rarely approved. If the use of a dictionary is to be approved, the Board will need to make that determination.

How to qualify:

- Completion of a form containing basic personal information (name, address, phone, name of exam being taken); and
- A letter on official letterhead from an instructor or employer that verifies English is their second language.

Workforce Development Committee and Policy and Advocacy Committee Discussion

The Workforce Development Committee considered this topic at its January and April 2024 meetings. It also directed staff to do the following research:

- Examine the Board's current exam time allowances, and compare those with the amount of time time-and-a-half allows (**Attachment B**).
- Review the ESL allowances of other DCA boards to determine how they compare with the Board's ESL allowance.
 - The Boards of Occupational Therapy, Physical Therapy, Optometry, Veterinary Medicine, Dental Board, and Dental Hygiene Board do not have ESL allowances in their statutes or regulations.
 - Acupuncture Board does not have ESL regulations, but offers their exam in English, Mandarin, and Korean. They have a mechanism in law to request translation into another language if that language represents over 5% of its applicants.
 - Psychology Board has ESL Regulations that are very similar to this Board's. ([16 CCR §1388\(h\)](#)) It requires an attestation that English is the second language, and a TOEFL score of 85 or below, taken within the past two years. Qualifying test-takers receive time-and-a-half.

The proposed amendments resulting from the Workforce Development Committee's discussion are shown in **Attachment A**. The language creates a new option to qualify for an ESL allowance by certifying the following under penalty of perjury:

“I hereby certify that I do not speak English as my primary language. I most frequently speak another language to communicate with others and have difficulty reading, writing or speaking English proficiently.”

The language for the above attestation was recommended by the Board’s Regulatory Counsel based on the California Civil Rights Department’s definitions of “Limited English proficient persons” and “Primary language” in regulations. Those definitions can be found in [California Code of Regulations Title 2, §14100\(d\) and \(e\)](#).

The Board’s Policy and Advocacy Committee considered the language shown in **Attachment A** at its August 9, 2024 meeting, and directed staff to bring that language, as written, to the Board for consideration as a regulatory proposal.

Recommendation

Staff recommends that the Board review the proposed regulatory text shown in **Attachment A** and consider whether to approve it as written, or to suggest changes to the proposed text. After review and discussion, consider one of the following motions:

Motion A: (No changes are requested by the Board to **Attachment A**):

Approve the proposed regulatory text in **Attachment A** and complete all of the following actions:

- (1) Direct staff to submit the text in **Attachment A** to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.
- (2) If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed for title 16, California Code of Regulations section 1805.2.

Motion B: (The Board has suggested changes to the text in **Attachment A**.) Recommend approval of the proposed regulatory text in **Attachment A** with the following changes (describe what the Board would recommend changing here) and complete all of the following actions:

- (1) Direct staff to submit the text in **Attachment A** as revised to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

- (2) If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed for Title 16, California Code of Regulations section 1805.2.

Attachments

Attachment A: Proposed Amendments to English as a Second Language Regulations (16 CCR §1805.2)

Attachment B: Breakdown of Current Exam Time for ESL Candidates

Attachment C: NBCC ESL Policy (Page 3-4)

Attachment D: Pearson Vue ESL Request Form

Reference Materials

Reference 1: [ASWB Nonstandard Testing Arrangements – English as a Second Language](#)

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**ATTACHMENT A
PROPOSED AMENDMENTS**

§ 1805.2. Additional Examination Time: English as a Second Language.

The board, in its sole discretion, may grant additional examination time to an applicant for whom English is ~~his or her~~ their second language. To qualify for consideration, the applicant must submit a request for additional time stating that English is ~~his or her~~ their second language, and provide one of the following:

(a) A written statement, signed and dated by the applicant that includes a certification that the following statements are true and correct under penalty of perjury under the laws of the State of California: "I hereby certify that I do not speak English as my primary language. I most frequently speak another language to communicate with others and have difficulty reading, writing or speaking English proficiently."

~~(a)~~(b) A Test of English as a Foreign Language, Internet Based Test (TOEFL-iBT) certification score of 85 or below, sent by Educational Testing Service directly to the board. The TOEFL must have been taken within the previous two years prior to application.

~~(b)~~(c) Documentation from the qualifying master's degree program that the program had granted the applicant additional examination time or other allowance due to speaking English as a second language while ~~he or she was~~ they were enrolled in the program. Acceptable documentation includes, but is not limited to, a letter from the chair of the qualifying master's degree program, or from the educational institution's chief academic officer.

~~(c)~~(d) Documentation that the qualifying master's degree was obtained from an educational institution outside the United States, and that at least fifty percent of the coursework was presented in a language other than English. Acceptable documentation includes, but is not limited to, a letter from the chair of the qualifying master's degree program, or from the educational institution's chief academic officer.

If approved, the applicant will be allotted time-and-a-half (1.5x) when taking the required board-administered examination. Allowance of this option for a required national examination is subject to availability from the exam-administering entity.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code.
Reference: Sections 4980.397, 4980.50, 4989.22, 4992.05, 4992.1, 4999.52 and 4999.53, Business and Professions Code.

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Attachment B
Breakdown of Current Exam Time for ESL Candidates

Exam Name	Regular Exam Time	ESL Time-and-a-Half Exam Time
CA Law and Ethics Exams (LMFT, LCSW, & LPCC)	1.5 hours	2.25 hours
LMFT Clinical Exam	4 hours	6 hours
LEP Exam	2.5 hours	3.75 hours
ASWB Exam (for LCSW Licensure)	4 hours	6 hours
NCMHCE Exam (for LPCC Licensure)	3.75 hours	5.6 hours

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ATTACHMENT C



NATIONAL BOARD FOR CERTIFIED COUNSELORS, INC. (NBCC) CENTER FOR CREDENTIALING & EDUCATION, INC. (CCE)

SPECIAL EXAMINATION ACCOMMODATIONS POLICY

The National Board for Certified Counselors (NBCC) and the Center for Credentialing & Education, Inc. (CCE) approve appropriate special examination accommodations for individuals with disabilities, and with respect to other qualifying circumstances. NBCC/CCE have adopted this Policy to resolve candidate/applicant (examinee) requests for accommodations related to the NBCC and CCE examination administrations.

NBCC/CCE examinations are administered in either of the following two (2) testing venues: (a) fixed testing sites administered by the NBCC/CCE testing services provider (test center administrations); or, (b) internet-based testing at a site selected by the examinee (examinee site administrations). Approved accommodations related to disability, and for those examinees who use English as a second language, will only be available to examinees at the test center administrations. Such accommodations are not available, and therefore cannot be provided, for examinee site administrations due to significant technical limitations associated with internet-based delivery, and the inability to regulate or adjust the administration of the examination through this testing venue.

A. **DISABILITY AND IMPAIRMENT (ADA) ACCOMMODATIONS**

1. **ADA Disability Accommodation Requests.**

The Americans with Disabilities Act (ADA) defines a disability as a mental or physical impairment that substantially limits an individual's major life activity, or major bodily function. An individual is substantially limited in a major life activity if the impairment causes a significant physical or mental activity restriction when compared with most people in the general population.

Examinees taking an examination at a test center administration, and who have a qualifying disability as defined in the ADA, may apply to NBCC/CCE for appropriate accommodations related to that disability. Requests for accommodation must be submitted to NBCC/CCE in writing with examination registration materials, and must include the information and documentation specified in this Policy. In order to qualify for a special examination accommodation, the accommodation request must include: a completed NBCC/CCE Examination Accommodation Request form; and, required documentation of the disability, which explains the need for the requested accommodation(s). Appropriate documentation will vary depending on the nature of the examinee's disability and the requested accommodation.

2. Disability Accommodation Documentation Requirements.

The minimum documentation supporting the accommodation request must include: an individualized assessment of the examinee by a qualified professional; and/or, appropriate written confirmation that the examinee was previously provided with an examination accommodation based on the same disability diagnosis/assessment.

a. Qualified Professional Documentation Requirements.

A qualified professional is an individual, who is licensed or otherwise properly credentialed, and possesses appropriate expertise in evaluating and assessing the disability for which the accommodation is sought. Documentation from a qualified professional must include the following information:

- The examinee's full name.
- The specific, diagnosed disability and impairment of the examinee. Concerning temporary disabilities (e.g., sprains, fractures, or medical emergencies), the documentation must clearly indicate the current limitation(s) of the examinee and the anticipated length of recovery.
- The substantial limitations of the examinee, including the adverse effects on major life activities resulting from the disability and impairment, as supported by test results or examination.
- The specific examination accommodation(s) requested related to the disability and impairment.
- Why the recommended accommodation(s) is needed, including information explaining how the accommodation(s) addresses the substantial limitation.
- The relevant credentials of the qualified professional, including his/her licensure or certification, other credentials, education, and area(s) of practice or specialization related to the disability.

The documentation submitted must be signed by the qualified professional. NBCC/CCE may request additional documentation at any time from the examinee regarding the requested accommodation(s) before a determination is made.

b. Previous Examination Accommodations Requirements.

If the request is supported by documentation indicating that the examinee received a previous accommodation(s) related to other high-stakes and/or standardized tests, such as the Graduate Record Examination (GRE) or Scholastic Aptitude Test (SAT), the examinee must submit documentation of such prior examination accommodation(s). This required information must include official documentation from the academic institution or test

administration organization, including: an explanation of the accommodation(s) provided; and, the reason(s) such accommodations were provided, as determined by a qualified professional or evaluator.

In the event that the same or a similar accommodation request was denied previously by an academic institution or test administration organization, the examinee must provide a detailed explanation concerning the basis for the denial of the accommodation request, and why the accommodation(s) is needed at this time.

B. ENGLISH AS A SECOND LANGUAGE (ESL) ACCOMMODATIONS

1. ESL Accommodation Requests.

NBCC/CCE may provide certain examination accommodation(s) to test center administration examinees who do not use the English language as their primary spoken and written language, i.e., examinees who use English as a second language (ESL). Most ESL examinees first learned to speak, read, and/or write in a language other than English. ESL is not considered to be a disability, and such accommodations may be subject to legal requirements. State law may limit ESL examination accommodations for licensure examinations. Examinees should review the relevant State laws prior to submitting such an accommodation request.

2. ESL Accommodation Requirements.

In order to be eligible for an ESL accommodation, an examinee must show that s/he has difficulty in speaking, reading, writing, or understanding the English language, and provide documentation that the examinee:

- Has limited English language proficiency, as demonstrated by the results of an appropriate English language assessment completed by the examinee within ten (10) years of the accommodation request;
- Received an ESL accommodation(s) on tests taken with respect to undergraduate or graduate studies, within ten (10) years of the accommodation request, which may include a formalized accommodation plan; and/or,
- Has been found eligible for, or is participating in, an English as a second language (ESL) or English Language Learner (ELL) program within ten (10) years of the accommodation request.

3. ESL Accommodation Documentation Requirements/Available Accommodations.

Requests for an ESL accommodation must be submitted to NBCC/CCE in writing with the relevant examination registration materials. The request for an accommodation must be supported by appropriate documentation, such as an ESL or ELL Plan, or an official academic support or accommodation plan issued by an authorized representative of an educational institution.

One (1) or more of the following accommodations may be provided to examinees whose ESL accommodation has been approved by NBCC/CCE:

- Extended time, not to exceed time and a half; and/or,
- Use of an approved word-to-word bilingual dictionary without definitions or sentences, which must be provided by the examinee and is subject to inspection by the test administrator.

C. RELIGIOUS BELIEF ACCOMMODATIONS

1. Sincerely Held Religious Belief Request Requirements.

NBCC/CCE will make reasonable efforts to accommodate examinees whose sincerely held religious belief or practice conflicts with a particular test administration policy or procedure.

Requests for religious accommodations must be submitted to NBCC/CCE in writing with the examination registration materials. NBCC/CCE will evaluate the request, determine whether such a conflict exists, and whether a reasonable accommodation is appropriate and available.

2. Religious Belief Accommodation Documentation Requirements.

In order to be eligible for a religious accommodation request, an examinee must provide documentation to NBCC/CCE showing that s/he holds a sincere religious belief, which conflicts with a particular NBCC/CCE examination policy or procedure. Such documentation must include:

- A notarized statement or similar document(s) from the examinee which includes: a clear explanation of the conflict that the examinee believes exists between his/her religious belief or practice, and the specific NBCC/CCE policy or procedure; information regarding when the examinee accepted or adopted the religious belief or practice; and, a clear explanation of the examinee's requested accommodation(s); and,
- A written statement from an individual who has knowledge that the examinee has accepted or adopted the religious belief or practice related to the accommodation request, such as a religious leader or advisor.

D. ACCOMMODATION REQUEST REVIEW/ CONFIDENTIALITY

Examination accommodations are individualized, and considered on a case-by-case basis. NBCC/CCE reserves the right to request additional, relevant information concerning an accommodation request, consistent with this Policy and applicable law. All documentation supporting an accommodation request must be prepared and furnished at the examinee's expense.

All documentation submitted to NBCC/CCE will be considered to be confidential information, and will be used solely to determine an examinee's eligibility for a special examination accommodation. All application and accommodation request materials become the property of NBCC/CCE.

E. ACCOMMODATION DECISIONS/ APPEALS

All NBCC/CCE special examination accommodation decisions will be communicated to the examinee in writing. An examinee may appeal an accommodation denial decision by submitting a written appeal to NBCC/CCE at accommodations@cce-global.org, within twenty (20) calendar days of the date of the decision. The appeal must include a detailed explanation of: the reason(s) that the examinee believes that the accommodation request was improperly denied; and, the reason(s) that the request should be granted. In addition, the appeal may include additional, relevant information that the examinee would like NBCC/CCE to consider concerning the appeal, so long as the examinee explains how the information supports the appeal. All NBCC/CCE appeal decisions are final.

IMPORTANT NOTE: Appeals and issues related to the provision of approved accommodations during an examination are resolved pursuant to the NBCC/CCE Examination Appeals Policy, published at www.nbcc.org/Assets/Policies/NBCC_CCE_Examination_Appeals_Policy.pdf.

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ATTACHMENT D

ENGLISH AS A SECOND LANGUAGE (ESL) REQUEST FORM



Note: Only candidates who require additional examination time for ESL should use this form.

Candidates who wish to request additional time for ESL should email this form to AccommodationsPearsonVUE@pearson.com or fax this form to Pearson VUE at 610-471-0555. Please attach a letter (on official letterhead) from an instructor or employer that verifies English is your second language.

All requests must first be approved by Pearson VUE. Candidates must wait for confirmation of the approval before scheduling an examination.

PLEASE PRINT CLEARLY

Date:		
Last Name:		
First Name:		M.I.:
Address:		
City:	State:	Zip:
Daytime Telephone:		
Email address:		
Program / Examination name:		
<input type="checkbox"/> Additional time for English as a second language		
<p align="center">Candidates should contact Pearson VUE with questions about additional time.</p> <p align="center">PEARSON VUE Accommodation Requests for ESL Email: AccommodationsPearsonVUE@pearson.com Fax: 610-471-0555</p>		