

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: August 2015 – O-101

DATE: August 24, 2015

TO: Committee of Bar Examiners

FROM: Gayle Murphy, Senior Director, Admissions

SUBJECT: **ACLU Correspondence**

BACKGROUND

It appears that the ACLU has sent what appears to be form letters to most of the United States bar admission offices questioning each state's policies and practices concerning non-standard testing accommodations for candidates who are breastfeeding at the time they are scheduled to take the examination. California's letter from the ACLU is dated July 17, 2015 and was first received by FAX on January 22, 2015, the Wednesday before administration of the July 2015 California Bar Examination. A copy of the letter is available upon request.

DISCUSSION

By the end of July, the ACLU published a report card on its findings, which can be found at: <https://www.aclu.org/map/breastfeeding-policies-during-bar-exam-state>. I am not sure who they might have talked to in California regarding this matter, but it was not me or any Director.

In its letter, the ACLU is urging bar admission entities to:

1. Adopt a policy that explicitly extends eligibility for non-standard test accommodations to those who are breastfeeding.
2. Modify existing resources related to testing accommodations (i.e., forms, instructions, website and other materials) to clarify that breastfeeding women are eligible to seek such accommodations and to make them applicable to the medical condition of lactation.
3. Provide training to all managers and staff responsible for fielding, processing and rendering determination on such requests to ensure that consistent and correct information is given to those who inquire to eligibility.

Information regarding the opportunity to request testing accommodations and the forms that must be submitted are posted on the State Bar of California's website. While not specifically addressing breastfeeding, or many other disabilities or conditions that may require accommodations, the information appears to be adequate for those who believe they may need accommodations to apply for them.

The Committee has been granting accommodations to breastfeeding mothers for many years. During the July 2015 California Bar Examination there were ten women who filed petitions and verification forms timely who were granted accommodations in response to their requests to be accommodated because they were breastfeeding. A typical accommodation, but not standard as each petition is evaluated individually, is some extra time and testing in a private room for the duration of the examination.

RECOMMENDATION

It is recommended that the letter from the ACLU be received and filed and an acknowledgement of its receipt be sent.

PROPOSED MOTION

If the Committee agrees with the recommendation, the following motion would be in order:

Move that the letter from the ACLU regarding the Committee's policies for accommodating breastfeeding mothers be received and filed and that an acknowledgement of its receipt be sent.