

State Bar News

NYSBA Supports Emergency Remote Bar Exam

By Christian Nolan

The New York Court of Appeals recently announced that it will administer a one-time emergency remote bar exam on Oct. 5–6.

Scott M. Karson, president of the New York State Bar Association, was pleased with the decision.

“Chief Judge Janet DiFiore and the New York State Court of Appeals have wisely provided recent law school graduates with a measure of certainty at a time when they face mounting student debt and a slow job market brought on by the coronavirus pandemic,” said Karson. “We agree that a remote exam is not a perfect solution, but also concur that the benefits outweigh the potential shortcomings in affording the Class of 2020 with a much-needed path to a law license, which they previously did not have.”

The late July announcement came a week after New York canceled the rescheduled September bar exam to protect the health of thousands of law school graduates who planned to take the test in the midst of the pandemic. The exam is typically administered each July and February.

Candidates who registered for the September exam will be automatically registered for the October remote exam, officials said.

According to the Board of Law Examiners, which operates under the auspices of the New York State Court of Appeals, careful consideration will also be given to waiver requests by J.D. candidates who graduated in

2019 or later, previously took the bar examination in New York and failed no more than two times and who wish to sit for the online examination.

Further, the Board of Law Examiners said they will make reasonable efforts to address technological or testing space issues for candidates who promptly seek assistance in advance of the examination.

DiFiore assembled a working group, chaired by retired Court of Appeals Judge Howard A. Levine, to study the future of the bar exam in New York. As its first undertaking, members of the group were tasked with studying whether immediate, emergency measures were necessary to address the disruption experienced by recent law school graduates due to the pandemic.

The working group ultimately recommended that New York administer the one-time emergency remote testing option to be offered by the National Conference of Bar Examiners on Oct. 5–6.

In a statement, the Court of Appeals acknowledged that there are shortcomings with holding a remote bar exam, including its experimental nature. But the working group, in consultation with technology, security and psychometric experts, discussed proactive measures to ensure broad access, mitigate security risks and establish a reliable grading methodology.

Additionally, the statement said the working group recommended that the Court of Appeals evaluate the wis-



dom of reciprocity arrangements that would permit candidates to transfer their remote exam scores across jurisdictions.

The working group rejected a temporary diploma privilege option, noting that the bar exam provides critical assurance to the public that admitted attorneys meet minimum competency requirements, emphasizing New York’s immense candidate pool as well as the degree of variation in legal curricula across the country.

“The Court commends the working group for its prompt and thoughtful consideration of how best to address the pressing challenges posed by the health crisis and has accepted these recommendations,” said the Court of Appeals’ statement.