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## Request for MPRE Test Accommodations

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### Guidelines for Medical Documentation of Learning Disabilities

#### I. Introduction

The National Conference of Bar Examiners (NCBE) is committed to providing reasonable and appropriate accommodations to examinees with documented disabilities who demonstrate a need for accommodations in accordance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). The ADAAA and accompanying regulations define a person with a disability as someone with a physical or mental impairment that substantially limits one or more major life activities.

To support a request for test accommodations, applicants must submit a current diagnostic report prepared by a qualified professional that is on letterhead, typed in English, dated, and signed. The report must establish the nature and existence of the applicant's disability or disabilities, establish his or her current functional limitations, and provide a rationale for each accommodation requested. The current functional limitations caused by the impairment must be relevant to taking the MPRE, and the requested accommodations must be necessary to ameliorate the current limitations.

A summary checklist is provided at the end of these guidelines for quick reference.

#### II. Description of the MPRE Administered Under Standard Conditions

The MPRE is a two-hour timed examination administered in paper-and-pencil format in a proctored setting. Most examinees complete the examination in the allotted time. The test consists of 60 multiple-choice questions. Test items are written at an 11th- to 12th-grade reading level. Examinees record their answers by darkening circles on a Scantron answer sheet using a number 2 pencil. Examinees are assigned seats in a quiet environment. Examinees may bring medication, glucose tablets or gel, or medical aids that are necessary to ambulate (cane, crutches, walker, wheelchair, service animal, prosthetic limb, cast, brace, or sling), are necessary to communicate (hearing aid, voice amplifier), or are required for medical or health reasons (heart monitor, insulin pump, glucose monitor, blood sugar testing kit, Epinephrine auto-injector, TENS unit), provided that use of such items will not necessitate any deviation from the standard test policies or schedule.

### The Essential Components

#### I. A Qualified Professional Must Conduct the Evaluation

Professionals conducting assessments, rendering diagnoses of specific learning disabilities (LD), and making recommendations for appropriate accommodations must be qualified to do so. Comprehensive training and relevant experience with adolescent and adult LD populations are essential. If multiple diagnoses are given, the professional must be qualified to make all diagnoses. Please be aware that we will not grant accommodations based on medical evaluations conducted by family members because of the inherent conflict of interest associated with such an arrangement.

#### II. Substantiate the Diagnosis and Current Functional Limitations

Objective evidence of a substantial limitation in learning must be provided. The documentation must validate the need for accommodations based upon the applicant's current level of functioning.

## A. Diagnostic Interview

The report should include a summary of a comprehensive diagnostic interview that includes relevant background information to support the diagnosis. Since learning disorders commonly manifest during childhood (though not always formally diagnosed), relevant historical information regarding the applicant's academic history and learning processes in elementary, secondary, and post-secondary education should be investigated and documented. In addition to an applicant's self-report, the information should include objective historical and current evidence obtained from third-party sources such as third-party interviews; academic transcripts, teacher comments, tutoring evaluations, and report cards; and IEPs or 504 Plans, if any. The diagnostic interview should include, but not necessarily be limited to,

- description of the presenting problem(s);
- developmental history, including milestones such as language and speech acquisition and early motor skill development;
- relevant medical history, including the absence of a medical basis for the symptoms;
- academic history, including applicable results of prior standardized testing, classroom performance, study habits and attitudes, notable trends in performance, and participation in special programs such as special-education classes, pull-out classes, or programs for gifted students;
- relevant family history, including primary language of the home and the applicant's current level of fluency in English;
- relevant psychosocial history;
- relevant employment history;
- discussion of pre-existing or coexisting disorders, including behavioral, medical, neurological, and/or personality disorders, along with any history of medication use and current medication that may impact the applicant's learning;
- description of auxiliary aids, services, and accommodations previously used, and consistency and circumstances of use;
- if available, documentation of an Individualized Education Program (IEP) and/or a 504 Plan;
- an exploration of possible alternative conditions that may mimic a learning disability when, in fact, one is not present (e.g., motivational problems).

## B. Assessment

The neuropsychological, psychological, or psychoeducational evaluation must provide clear evidence that a specific learning disability exists. The assessment must consist of a comprehensive battery of tests that does not rely on any single test or subtest. Any resulting diagnosis must be based upon a clinical synthesis of the individual's history, school reports, and the comprehensive assessment.

The choice of the psychometric assessment battery should be guided by the overall objective(s) of the evaluation, the individual circumstances of the applicant, sound clinical judgment and prevailing professional practices. The tests used must be appropriately normed for the age of the applicant and must be administered in the standardized manner. **Age-based standard scores, as well as the form of the test used, must be provided for all normed measures. Percentiles alone are not acceptable.** It is helpful to list all test data in a score summary sheet appended to the report.

Any factors influencing the validity of the testing must be described. For example, if the test taker regularly takes medication but did not do so on the day of the testing, the evaluator should address the potential impact on test results and functioning. If the applicant will be taking medication at the time the MPRE is taken, the medication should be taken when the assessment is conducted.

The assessment battery should provide objective evidence that the affected academic skills are substantially and quantifiably below those expected for the applicant's age and cause significant interference with academic or occupational performance or daily activities. The domains to be addressed include the following:

### **1. Cognitive Functioning**

A complete intellectual assessment is essential with all subtest and standard scores reported. Acceptable measures include, but are not limited to, the following: the Wechsler Adult Intelligence Scale - Fourth Edition (WAIS-IV); the Woodcock-Johnson-III: Tests of Cognitive Abilities (WJ-III COG); and the Stanford-Binet Intelligence Scale (5th ed.).

The Slosson Intelligence Test-Revised, the Wechsler Abbreviated Scale of Intelligence (WASI), and the Kaufman Brief Intelligence Test (K-BIT-2) are primarily screening devices and are not comprehensive enough for initial documentation. In some cases, these tests may be suitable for a documentation update.

### **2. Achievement**

A comprehensive achievement assessment is also essential with standard scores listed for all subtests using age-based norms. Given the nature of the MPRE, the battery must include current levels of academic functioning in reading (decoding and comprehension). Math and writing skills are not assessed on the MPRE, so math and writing measures are not required. Acceptable instruments include, but are not limited to, the following: the Woodcock-Johnson-III: Tests of Achievement (WJ-III); the Wechsler Individual Achievement Test-III (WIAT-III); the Stanford Test of Academic Skills; and the Woodcock Reading Mastery Tests. If extended testing time is recommended as an accommodation, it is useful to also include a timed reading measure that has been normed on adults and which allows for both extended and regular administration, such as the Nelson-Denny Reading Test or the Scholastic Abilities Test for Adults (SATA). (Standard scores must be provided, not just raw scores or percentiles.)

Please note that the Nelson-Denny Reading Test and the Wide Range Achievement Test 4 (WRAT-4) are not comprehensive measures of achievement and are not acceptable if used as the sole measures of achievement. These tests can provide useful information only when they are administered in conjunction with additional assessment measures.

### **3. Cognitive and Information Processing**

Specific areas of information processing that affect efficient test-taking should be assessed (e.g., short- and long-term memory, sequential memory, attention, processing speed, auditory and visual perceptual functioning, executive functioning, and motor ability). The MPRE is a reading-based test and therefore measures that relate to the processing of words and sentences presented visually are most relevant. Acceptable instruments include, but are not limited to, the following: the Detroit Tests of Learning Aptitude-Adult (DTLA-A); the WJ-III COG; the Wechsler Memory Scale-III (WMS-III); and information from subtests on the WAIS-IV.

### **4. Other Assessment Measures**

Other assessment measures, such as classroom tests and informal assessment procedures or observations, may be helpful in determining performance across a variety of domains. Information from formal assessment measures may be integrated with informal diagnostic measures to help rule in or rule out the learning disability, to differentiate it from coexisting neurological and/or psychiatric disorders (i.e., to establish a differential diagnosis), or to support a recommendation for a specific accommodation.

## **5. Informal Information**

Informal inventories, surveys, and direct observation by a qualified professional may be used in tandem with formal tests in order to further develop a clinical hypothesis. A qualitative description of test behaviors and strategies used by the applicant in the testing process should be part of the comprehensive report. This description may include signs of anxiety, fatigue, or motivational issues.

### **C. Records of Academic History**

Since learning disabilities begin during school-age years (although may not fully manifest), school records from elementary, secondary, and post-secondary school should be reviewed by the evaluator and discussed in the report. Such records can corroborate the functional limitations indicated by the assessment and build a case for the requested accommodations. Relevant information from these records should be summarized by the evaluator in the report and/or included as an attachment.

### **D. Interpret and Discuss the Diagnostic Findings**

A well-written interpretation of findings is necessary. Assessment instruments provide important data that must be synthesized by the evaluator with background information, historical information, clinical observations of the applicant during testing, and information about the applicant's current functioning. It is essential that the professional integrate all information in a well-developed clinical summary that supports the diagnosis.

### **E. Include a Specific Diagnosis**

The report must include a clear diagnosis of a specific learning disorder based upon the Diagnostic and Statistical Manual of Mental Disorders (DSM-5). The report must specify all academic domains and subskills that are impaired and specify the current severity (mild, moderate, severe) of the applicant's learning difficulties.

The diagnosis must be supported by a synthesis of the test data; individual history (medical, developmental, educational, family); the history of the learning difficulty; the impact of the difficulty on academic, occupational, or social functioning; school records; and clinical observations. It is important to establish that the learning difficulties are not better accounted for by intellectual disabilities, uncorrected visual or auditory acuity, other mental or neurological disorders, psychosocial adversity, lack of proficiency in the language of academic instruction, or inadequate educational instruction.

## **III. Each Accommodation Recommended Must Include a Rationale**

The report must include specific recommendations for accommodation(s). A detailed explanation supporting the need for each requested accommodation must be provided and correlated with specific functional limitations established through the evaluation process from test results and clinical observations.

The report should include a review of prior accommodations utilized by the applicant (e.g., for standardized examinations such as the LSAT, ACT, or SAT; school examinations; licensing or certification examinations; classroom; etc.) and the extent to which the accommodations met the applicant's needs. It is important to recognize, however, that accommodation needs can change over time and in different settings.

## **IV. Documentation Must Be Current**

The provision of reasonable accommodations is based upon clear evidence of the current impact of the disability on a major life activity that affects the applicant's ability to take the MPRE under standard conditions. Although learning disorders persist into adulthood, changes in manifestation of symptoms can occur with age. In most cases, current documentation means that the assessment was completed **within the past five years**.

Documentation that is more than five years old may be considered if the applicant was age 17 or older at the time of the assessment and the applicant has an established history of persistent learning difficulties. If

documentation is inadequate in scope or content, or does not address the applicant's current level of functioning and need for accommodations, reevaluation may be necessary.

If changes have been observed in the applicant's learning difficulties (amelioration or worsening), it may be necessary to **update** the report. An update to a prior evaluation should include a summary of the original disability documentation findings, as well as additional evaluation data necessary to establish the applicant's current functional limitations and the appropriateness of the requested testing accommodation(s) in the context of taking the MPRE. The update report should include the following:

- A restatement of the current diagnosis, including date(s) for all prior diagnoses and data that were used to establish the diagnosis. Evidence regarding the continued persistence of the diagnosis should be more than a self-report by the applicant.
- Verification of continuing impairment in those areas identified in prior evaluation(s).
- A statement about current functional limitations due to the disability, including information regarding duration, severity, and impact on the applicant's academic performance in general and ability to take the MPRE or similar standardized tests in particular.
- Observational data of behavior such as affect, concentration, attention fatigue, executive functioning, and fluency.

The extent of retesting required for a documentation update is applicant-specific and depends on how closely the initial documentation report complies with the prevailing professional standards and these documentation guidelines. Additional assessment data for a learning disability update might include the following:

- **Achievement measures** that substantiate the ongoing impact of the disability on academic performance. The updated evaluation need not include a full battery of tests, but may include selected academic tests and subtests deemed appropriate.
- **Aptitude assessment** is necessary only if the existing documentation does not contain adequate and age-appropriate information. Given that intellectual functioning is typically stable in adulthood, documentation from outdated measures such as the WAIS-III may be used to provide a core estimate of aptitude; but an update should include brief measures of aptitude, such as the Wechsler Abbreviated Scale of Intelligence (WASI) or other up-to-date measures of core intellectual abilities.

## V. Checklist for Learning Disorder Medical Documentation

- A comprehensive diagnostic interview that summarizes the applicant's academic history and learning processes in elementary, secondary, and post-secondary education, as well as other relevant developmental, medical, family, psychosocial, and employment history
- A neuropsychological, psychological, or psychoeducational assessment consisting of a comprehensive battery of tests that addresses aptitude, achievement, and relevant aspects of cognitive function and information processing
  - The battery must include current levels of academic functioning in reading (decoding and comprehension)
  - If extended time is requested, it is useful to include a timed reading measure that has been normed on adults and allows for both extended and regular administration, such as the SATA
  - Because the MPRE is a reading-based test, cognitive measures that relate to the processing of words and sentences presented visually are most relevant

- If informal assessment procedures are used to determine performance across domains, establish a differential diagnosis, or support a specific accommodation, those procedures must be described in sufficient detail to verify their clinical validity and utility
- A qualitative description of behavioral observations
- Age-based standard scores for all normed measures
- A discussion of any factors influencing the validity of the assessment scores
- A rule-out of alternative diagnoses or explanations
- A clear diagnostic statement
- A summary of academic records reviewed by the evaluator
- An interpretation and discussion of diagnostic findings
- A rationale for each requested accommodation that is correlated with specific functional limitations established through the evaluation process from test results and clinical observations
- A discussion of prior accommodations used and the extent to which those accommodations met the applicant's needs