

考試院 113 年度考銓業務國外考察
美國考察報告

報告人

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中華民國 113 年 9 月 30 日

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壹、前言

一、考察緣起

本院為我國最高考試與文官制度主管機關，掌理考試、公務人員銓敘、保障、撫卹、退休事項，以及公務人員任免、考績、級俸、陞遷、褒獎之法制事項。考選優秀人才，為國家服務，同時建立現代文官體系，以促進高效能政府、提升人民福祉、增強國家競爭力，並落實憲法賦予的五權分立原則，強化公務人員的培訓與考核體系，為本院責無旁貸責任。

律師與政治權力之間的關係密切。國家與律師的互動可以視為雙向的關係：一方面，國家塑造律師的形象，另一方面，律師也參與國家的形塑。在國家建立與轉型的歷史過程中，無論是來自國家的法制、政策，或者是重大政治事件，都會對律師產生關鍵的影響；國家政策可能影響律師業的建立與運作，也可能影響法學教育以及律師事業的發展。

關於司法官、律師、政府法制人員的國家考試，向來為本院重要年度工作，適逢本院為落實 2017 年司法改革國是會議，關於法律專業資格之取得採取多合一考試，使法律專業人員來源一元化，以提升法律專業知能之建議，本院正在進行我國史上最重大的司法人員考試變革，將司法官特考、律師高考及法制人員考試合而為一，將法律專業人員資格及任用，打破資格考與任用考的藩籬，只要通過兩試資格考試、一年實

務學習，即可獲得律師證書，如想轉任法官、檢察官或法制人員者，再自行向司法院、法務部與用人機關報名甄選。規範法律專業人員涵蓋法官、檢察官、律師、法制職系公務人員及其他法律專業人員，以兩試資格考試、一年實務學習、甄選（試）及任用等階段考選及培訓優秀法律人才，並依志趣適才適所擔任各法律事務角色職位，以深化民主法治、增進司法效能、提升公務人員依法行政之專業職能、保障人民權益。

此法律專業人員資格考試的變革，歷經考試院、行政院、司法院等三院多年的合力研商，並與法學界、實務界的多次協調，終能形成共識，法律專業人員資格考試的應考資格、錄取標準、考試與培訓內容，應以適當方式包含或延續大學之法學教育，息息相關。因此，在我國法律專業人員資格考試革新業已獲得考試院、行政院、司法院以及學術界高度共識的同時，有必要深入了解法學發展同樣蓬勃多元具代表性的國家，例如美國，在法官遴選、律師專業養成、以及政府律師聘任的具體作法，以供我國未來進一步精進革新的參考。

從上述可以得知，儘管我國與美國屬於不同的法系，但在公務人員保障救濟的法制方面有一些相似之處，特別是在司法機關之外設有專門的委員會，負責審議保障爭議案件。因此，深入了解先進國家，尤其是以律師治國聞名的美國，在政府律師運作方面的情況，將為我國的文官制度改革提供有益參考。為了應對社會和人民對文官體制改革的期望和

需求，計劃實地考察美國，藉此汲取經驗，作為改進我國銓敘制度的參考依據。具體考察內容將包括美國律師資格考試制度以及美國政府律師的招聘機制，期望透過實地考察的方式，深入了解美國相關制度和實務經驗，以利未來我國文官制度改革的制定和推動。

二、考察行程

表 1-1 參訪行程表

日期	行程摘要	備註
7月25日 (星期四)	啟程 19:20 搭乘長榮航空 BR12 班次 桃園國際機場	
7月26日 (星期五)	16:50 LAX(洛杉磯國際機場)轉機 21:39 搭阿拉斯加航空 AS339 班次 05:40 抵達華盛頓杜勒斯國際機場	
7月27日 (星期六) 至 7月28日 (星期日)	參觀市政活動	自行安排
7月29日 (星期一)	拜會 O'Connor 教授、喬治梅森大學法學院 【George Mason University (GMU)】	
7月30日 (星期二)	參訪聯邦最高法院、華盛頓 DC 律師協會 【DC Bar】	
7月31日 (星期三)	參訪喬治城大學 O'Neill 中心及法學院 執業律師：Dorothy Deng	
8月1日 (星期四)	參訪喬治華盛頓大學法學院 政府律師:Jonathan Yang	
8月2日 (星期五)	拜會駐美國台北經濟文化代表處	請外交部協助 安排
8月3日 (星期六) 至 8月4日 (星期日)	參觀市政活動	自行安排
8月5日 (星期一)		請休假

至 8月9日 (星期五)	非公務行程	
8月10日 (星期六) 至 8月12日 (星期一)	8/10(六)返程 18:37 搭乘阿拉斯加航空 AS406 班次 華盛頓杜勒斯國際機場起飛至 SEA(西雅圖) 轉機	
	8/11(日)01:10 搭乘長榮航空 BR23 8/12(一)04:10 抵達桃園國際機場	

三、考察主題

此行至美國華盛頓考察，旨在研究美國律師資格考試制度與美國政府律師進用機制為主要目的。考察訪談題綱如下：

- (一) 參加律師考試及政府律師考試個別之應試資格為何？
- (二) 請問律師考試與政府律師之考試科目分別有何不同？
- (三) 關於律師考試與政府律師考試的作業流程有何差異？
- (四) 有關律師考試、政府律師的錄取標準計算有無不同？
- (五) 對於政府律師功能的作用是否有特殊性？

貳、美國律師考試概述

一、美國律師資格考試

美國與我國等一般大陸法系國家不同，不採職業法官制度，法官一般係自資深優秀之律師中選拔，所以與我國不同，並無司法官考試，只有律師考試 (bar examination)。換言之，在美國欲執行律師業務之人，必須考取律師考試，然後始取得律師之資格。美國之律師考試不似我國

係全國性之統一考試，而係由各州自行辦理，各州有其特有之考試規則，且為了處理有關考試之庶務，多設置考試委員會，通常由委員（bar examiner）五、六名所組成，其人選由各州最高法院指派。在全國有所謂全國律師考試委員會（National Conference of Bar Examiners，NCBE），是為律師考試之全國性及非營利組織，各州委員會可透過該組織就有關舉辦考試之各種問題，尤其命題、評分、考試結果等互相交換情報，該會議刊行 The Bar Examiner 雜誌，登載許多有關考試之消息與論述¹。

在美國近三十年來擔任律師之人，原則上需通過各州律師考試或 NCBE 規劃出題的 Uniform Bar Examination（UBE）。不過因為每一州之情況不同，某些州有採納前述 NCBE 研擬之考試題目，有些無，且採納之情形也不一。由於紐約為美國金融中心，不但世界各國重要公司與機構雲集，全國大型律師事務所幾乎皆以紐約為總部，故法學院畢業生大多以考紐約州律師考試為目標，且該州律師考試在美國各州中很難通過。因此以下擬以紐約州律師考試為例，介紹美國律師考試之詳情，不過考試細節歷年可能有若干變動。

在紐約州律師考試由該州法律考試委員會（Board of Law Examiners）辦理，該委員會雇有法律助理作幕僚，且有行政與佐理人

¹ 參見美國全國律師考試委員會網頁 <https://www.ncbex.org/exams>（最後瀏覽日 2024 年 8 月 10 日）。

員在其執行秘書（executive secretary）指揮下工作。紐約州律師考試一年分兩次舉行，通常在二月與七月最後一個星期二與星期三，在紐約市、紐約州的首府 Albany 與水牛城或其他城鎮之不同測驗中心舉行，考試分兩部分。第一天考紐約州所出之紐約部分考試，第二天考由全國律師考試委員會議（National Conference of Bar Examiners，NCBE）所出之多州律師考試（Multistate Bar Examination，MBE）換言之，紐約州部分在星期二舉行，而多州律師考試在星期三舉行。這多州律師考試制度近三十年來為各州所採，全國統一題目。

報考紐約州律師考試之應考人所受之法律教育須滿足下列條件：

（一）在法律學院（LAW School）念完法律：通常要求是在一立案（approved）法律學院修畢規定三年全時（full-time）或四年兼時（part-time）課程畢業，所謂立案（approved）之法律學院須係一個：

1.由美國律師公會（American Bar Association）立案或美國法學院協會（Association of American Law Schools）之會員，或由紐約州教育廳（New York State Education Department）登記與通過之法律學院。

2.其學程與修習課程需符合最高法院有關下列事項之相關規則規定，例如：每學期所修學分數、在學校當地居住之週數、上課期間長度、筆試及格之最低標準。

(二) 法律學院與法律事務所實習之併計：雖未自合格法律學院畢業，若二者合計須相當四年以上，且在法律事務所學習期間之前，須至少有一學年修習全時 (full-time program) 或兼時 (part-time program) 者亦可報考。在此段法律事務所學習期間，應考人須連續受雇為正規法律書記，在本州合法執業之律師指導監督下，並須在正常上班時間真正從事法律事務所實務工作，且須自律師就習慣在立案法律學院被教之科目接受指導，要監督此種法律事務所學習之律師，在開始此項指導前，須向最高法院書記官長呈送書記開始學習證書。

(三) 在外國學法律

在外國念法律之應考人可提供以下證明後參加紐約州律師考試：

1. 在該國之法律學院完成實質上等於美國立案法律學院畢業生所需三年全時 (full-time) 或四年兼時 (part-time) 學程。

2. 應考人修習法律之國家的法律學係基於英國普通法，且應考人所完成法律學程與課程實質上與美國立案法律學院所提供法律教育相當。

3. 應考人已成功在美國一個立案法律學院之專業法律課程修畢全時 (full-time) 或兼時 (part-time) program 二十四學分以上。

不過近年來報考資格已略有改變，應考人參加紐約州律師考試，需具備下列四種條件之一：

(1) 自美國律師公會 (ABA) 通過有案之美國法律學院取得 J.D.學位。課程至少修八十學分，包括專業法律課程六十以上學分，至少居住七十五週，兼時則至少居住一百零五週。

(2) 在美國律師公會通過有案之法律學院念法律，至少一學年，連同在紐約州律師事務所監督下研習法律共四年。

(3) 自美國別州任何一個法律學院取得 J.D.學位，且在申請參加紐約州律師考試前 7 年已在該州執業 5 年。

(4) 在以英國普通法為基礎之外國立案之法學院研讀，其學程與課程與美國立案之法律學院相當。

二、美國律師資格考試考科

(一) 律師資格考試考科

1. 紐約州考試部分

第一天考試考紐約州部分，該部分有六個申論題(現改為五個，詳如下述)與五十個選擇題及一個多州作業測驗(Multistate Performance Test，簡稱 MPT)，由全國律師考試委員會(National Conference of Bar Examiners)所出。考試分為二節，上午考試自九時至十二時十五分，需在三小時十五分鐘內完成三個申論題與五十個選擇題，估計每申論題花四十分鐘作答，每選擇題花一點五分鐘作答。下午考試從一時三十分開始至四時三十分結束，應考人需在

三小時內完成剩下的兩個申論題與多州作業測驗 (MPT)，雖然時間由應考人自由分配，但委員會建議用四十分鐘解答每個申論題，而用九十分鐘解答 MPT 測驗。

紐約州的考試範疇包括程序法與實體法，可能考多州律師考試 (MBE) 所考的六個領域，包括契約法、憲法、刑法、證據法、不動產法與侵權行為法 (包括制定法上無過失保險規定)，此外可能考到商業關係、法律衝突、紐約州憲法、刑事訴訟法、親屬法、救濟法 (remedies)，紐約州與聯邦民事審判權與程序、職業責任 [(職業責任一科係涵蓋在下述多州執業責任考試 (Multistate Professional Responsibility Examination) 內)]、信託、遺囑與遺產包括遺產稅，統一商法第二、三與九各章。一道申論式考試可能涉及不止一科之問題。除了涉及聯邦法之問題外，紐約申論與選擇題係以紐約州法律為根據。

選擇題成績按答對問題的數目計算，故需解答所有問題，因時間極為有限，每題平均只能花一點五分鐘，所以需有效利用時間答題，但不可慌張草率，致犧牲答案的正確性。如覺問題太難，可先答下一個問題。五個申論題與 MPT 是依照事先訂好的計分公式來計算成績。所有答案紙集中起來用機器計分，而不問應考人在哪一州應考。每個應考人的成績有兩種，第一種是原始成績 (raw scores)，按答對的數字計算，但如考試比以前困難或容易時，則將分數往上或往下調整，

稱為調整分數 (scaled score)。紐約州多項選擇題要求應考人自四個答案中選出正確答案 (其中只有一個正確)。在正確答案以外之任何答案，不另計分，但答錯亦不扣分。

各個申論題之目的在測驗應考人分析特定事實，找出涉及之爭點與適用之法律原則，且由此推理出健全的結論之能力。答案應表現出認識由素材事實所呈現之爭點，討論所適用之法律原則，說明達到結論之理由。該考試委員會建議在答案之開頭，即說出結論，然後進行分析與推理。答案應簡明清晰，以所呈現之特定爭點為限。在對申論題評分時，對於爭點與所涉法律原則如能好好推理分析，即使最後結論可能不正確，亦會得到分數。

2. 多州律師考試部分

第二天則是考多州律師考試 (MBE) 部分，共出二百題選擇題，考試問題包括法律學院通常修的六個基本科目，即：憲法、契約法、刑法、證據法、不動產法與侵權行為法。由全國律師考試委員會議出題，全國其他四十五個州在同一日舉行，MBE 之考試時間共六小時，分為兩節，每節考一百題問題，時間各三小時，即早上九時開始至十二時，及下午一時三十分開始至四時三十分。在二百題試題中，契約法與侵權行為法各為三十四題；憲法、刑法、不動產法與證據法各為三十三題。各問題之首是事實，其後為四個答案供應考人選擇，應考

人須選出其中最適當之答案。只有最適當之答案才計分，如答錯不另扣分。自 2007 年 2 月律師考試開始，多州律師考試調整為一百九十題，考題範圍在下列領域：憲法、契約法、刑法與程序法、證據法、不動產法與侵權行為法。其中契約法與侵權行為法各占三十三題，憲法、刑法與程序法、證據法與不動產法各占三十一題。此外還有十個題目不計成績。除了在試題上另有指示外，所有 MBE 考題須按一般公認之見解作答，而非按在紐約州可能採用之任何不同地區之見解。證據法之考題基本上以聯邦證據規則（Federal Rules of Evidence）為準。

考試由六個委員會（由全國律師考試委員、法學教授與執業律師所構成），用各該科著名論說書、Hornbook（是一家有名出版公司所出一套不同科目的法學教科書）及法律整編（Restatement）作為出題的基礎，設計命題並且加以審閱。許多問題需要分析從一種事實狀況所發生法律關係或要應考人以辯護人的立場加以分析。有些問題要求應考人就某種交易如何做更有效的安排，提出解釋或建議或起草文件。大多問題需要應用傳統接受的規則與法院的見解，有些問題需要應考人了解相關趨勢與近來發展，例如在侵權行為法，應考人應該知道政府、公益與家庭免責以及在產品責任方面侵權行為理論的發展。

由於各州律師考試在全國各州同一天舉行，故應考人可在星期

四參加別州舉辦的論文或當地考題部分的律師考試²。他可選在紐約州多州律師考試同一天，在別州參加多州律師考試部分，此時別州的多州律師考試成績會與他在前一天紐約州考試部分合併，正如他在紐約州參加全部考試一樣。

3. 多州作業測驗（Multistate Performance Test，簡稱 MPT）部分

MPT 是一種全國性考試³，時間限九十分鐘，是實務技巧的考試，內容包含法律分析、事實分析、問題解決、倫理難題解決、律師撰寫文件之組織與表達。應考人需利用考試委員會發給的資料，完成指定的撰寫工作。要求的工作內容寫在律師的備忘錄（memorandum）上，可能要求應考人撰寫訴訟案件之摘要（brief）、請（motion）理由狀、撰寫有說服力的備忘錄、遺囑、起訴狀、契約條文、和解建議、法律意見、證人詰問計劃、終結辯論或其他法律文件。考題也可能涉及某種倫理上的爭點。

考試方會發給應考人一份檔案及一份資料集。檔案裡面有一件案件所有事實的文件資料。例如：與證人訪談、證言、開庭或辯論庭等之筆錄、訴狀、通信、當事人擁有的文件、契約、報紙上文章、病歷、

² 如安排適當，且經相關律師考試委員會准許，應考人可在三天期間參加兩個州的律師考試。假設一個州是在禮拜二辦理其當地律師考試，而另一州在星期四辦理其當地律師考試應考人在星期二在第一個州參加當地律師考試，在星期三考任何一州的多州律師考試，在星期四在第二個州參加當地律師考試，只需透過相關兩州律師考試委員會作安排。有些州接受另一州應考人所參加較早另一州律師考試所得多州律師考試分數之移轉。

³ New York State Bar Association, *The Practice of Law in New York State An Introduction for Newly-Admitted Attorneys*, p.18-19(2015).

警察報告、律師所做的筆記等各種相關與不相關的資料。應考人必須瀏覽相關事實，而事實有時模糊不清、不完整、甚至彼此矛盾。如同在律師實務中，當事人或上級監督律師對案件的版本可能不完全或不可靠。當事實矛盾或欠缺時，應考人必須注意到，且需指出發現其他事實的來源。而資料集包含案件、制定法、規章，其中有些可能與指定的撰寫作業無關。應考人需從資料集中擷取需要分析的問題與撰寫作業所根據的法律原則。MPT 不是實體法的測驗，而且問題可能牽涉許多不同領域，不過資料集的資料足夠提供應考人撰寫之用。

這種考試要求應考人：

- (1) 從詳細事實中整理釐清相關與不相關的事實。
- (2) 為相關法律原則分析制定法、判例及行政資料。
- (3) 用類似解決當事人實際問題的方式，將相關法律應用到相關的事實。
- (4) 如果涉及倫理上難題時，篩檢出來加以解決。
- (5) 用書面有效加以表達。
- (6) 在有限時間內，完成律師撰擬作業。

(二) 多州執業責任考試考科

應考人除了在紐約州通過紐約州律師考試外，還需參加所謂「多州職業責任考試」(Multistate Professional Responsibility Examination，簡稱

MPRE)，始能在該州加入律師公會執業。換言之，通過律師考試，而欲在紐約州執行律師業務時，再由考試委員會向該州地方法院上訴部證明應考人律師考試及格前，需參加此種多州執業責任考試。它是由全國律師考試官會議主辦，首次在 1980 年 3 月實施，現在在大多數州已成為律師執業之要件，主要設置目的因擔心應考人對法律倫理知識不足而設。MPRE 考律師職業責任的問題，共有五十個多重選擇題。該考試由七人委員會在全國律師考試委員會指導下起草考題，主要以美國律師公會職業責任法（ABA Code of Professional Responsibility）與職業行為模範規則（Model Rules of Professional Conduct）為範圍，過去亦有少部分考美國律師公會司法行為法（ABA Code of Judicial Conduct）每問題在最後變成五十個考題之一前，經過嚴格評估程序。考題大致可分為四類：

1. 某種行為是否使律師受懲戒。
2. 某種行為是否符合律師水準。
3. 某種行為在執業上是否適宜。
4. 某種行為是否使律師對當事人因該行為所致之損害負責。

此種考試可在律師考試之前或之後參加，但需在通過紐約州律師考試（以實際考試日為準）之前或以後三年內，因此需在通過律師考試三年內考上此項考試，否則需重考律師考試。此項考試每年三次，分別在三月、八月及十一月舉行。

（三）品格調查

在通過律師考試與各州執業責任考試後，由考試委員會向應考人所居住或工作之州最高法院（Supreme Court）的四個庭（Department）之一庭的上訴部（Appellate Division）所指派的「品德與適格委員會」（Committee on Character and Fitness）證明該人已考上律師考試，由該委員會調查應考人之品德與一般適格再經委員會與應考人面談通過後，由該委員會向該法院上訴部推薦准許應考人在該州執行業務，應考人需向上訴部呈遞加入律師公會申請書，連同有信譽之數人出具應考人有適合擔任律師之良好品德與資格之具結書（affidavit）。應考人與該委員會面談，經法院批准後，由該庭之上訴部為應考人主持正式宣誓加入律師公會的儀式。

三、美國律師資格考試小結

綜上所述，可見美國律師考試頗為複雜，除本州法考試部分外，還包括全國統一的多州律師考試，考試科目還涵蓋執業律師責任部分，而且紐約州考試除有申論式問題外，與多州律師考試都利用選擇題方式，此外又有律師文書撰寫考試，用好幾種不同方式多方測驗應考人理解與應用法律的能力，制度之設計相當周延。此外選擇題數目極多，時間緊迫，非理解與嫻熟相關法律原則，可能無法應付。惟考試之負擔雖繁重緊張，但並非過於嚴苛。相較於我國之司法特考與美國律師考試，美國

律師考試重推理分析，可合理評估應考人素質。

參、美國政府律師制度

一、美國政府律師定義

美國為聯邦國家，同時存在聯邦政府及州政府二級政府，在 50 個州政府以外，以及其他類似州政府的政府實體，如華盛頓特區（District of Columbia）、波多黎各（The Commonwealth of Puerto Rico）、維京群島（Virgin Islands）、關島（Guam）、美屬薩摩亞（American Samoa）及北馬里安納群島（Northern Mariana Islands）等行政特區及美屬領地。在州政府以下又有 87,525 個的地方政府，包括郡（county）、市、鎮政府（city、town、township）、校區（school district）及特別區（special district）等地方政府。而州政府的權力並非聯邦政府所給予，其權力和聯邦政府一樣，均係直接由憲法所賦予。聯邦政府和州政府之間的權力劃分依美國憲法規定⁴，美國憲法第 10 修正案規定，憲法所明定列舉的聯邦權力以外，且非憲法所明示禁止授予州政府的權力，均保留給州政府。是聯邦政府和州政府，均有各自之憲法，各級政府部門亦依三權分立原理，分為立法、行政、司法三個部門，聯邦法律與州法律係雙軌並行。故如以前段政府律師之定義套在美國的政府體制下，勢必包括在各級政府及各種部門服務的政府律師，則此時立法部門的立法幕僚，如受僱參議院

⁴ 參見美國聯邦憲法第一條第九項、第十項。

法務局（The Senate Legal Counsel's Office）的律師，及司法部門的各級法官，均將包括在本報告之內，此定義可認為是廣義的政府律師，亦即所謂的政府律師係指具備律師資格，在政府行政機關工作，並為政府行政機關提供法律事務服務的公務員。

美國聯邦法典第 5 章（政府組織與公務員）所稱之行政機關組織除包括部（executive departments）、政府團體（government corporation）、獨立機關（independent establishment）之外，尚包括陸軍部、海軍部及空軍部三個軍事部門⁵（military departments），這三個軍事部門都設有軍法總署（Judge Advocate General's Corps），由軍法總長（Judge Advocate General）負責，軍法總署內有很多軍法律師（Judge Advocate），除了處理所屬軍事部門之法律事務，提供法律意見，另外也依美國軍事司法統一法（Uniform Code of Military Justice，即美國聯邦法典第 10 章第 801 條至 940 條）之相關規定，在軍事刑事法庭（Court-Martial）及軍事刑事上訴法庭（Courts of Criminal Appeals，西元 1995 年前稱為 Courts of Military Review）及美國聯邦軍事上訴法庭（U.S. Court of Appeals for the Armed Forces）中擔任檢察官及被告辯護人。另外也可以美國聯邦地方法院（U.S. District Court）對於違反軍法之平民提起訴訟。軍事法官亦

⁵ 美國軍事司法之組織、職稱及工作內容及軍法律師之資格，參見 3 West's Encyclopedia of American Law 244-246 (2th ed., 2005)；另參見 6 West's Encyclopedia 43-44 (2005)；7 West's Encyclopedia 59-62 (2005)。

可以處理環保法規、勞工法規、民事契約等民事案件。這些軍法律師都畢業自美國律師公會（American Bar Association）所認可之法學院，並取得其執業所在州之律師執照，依前段之政府律師定義，均屬政府律師無疑，惟軍事機關設置軍法人員有其自身之治軍需求，必須快速有效的處理違紀案件才能維持軍隊紀律，尚與行政機關設置政府律師之要求不同，此定義可認為是狹義之政府律師，亦即所謂的政府律師係指具備律師資格，在軍事機關以外之政府行政機關工作，並為軍事機關以外之政府行政機關提供法律事務服務的公務員。

最後，美國行政機關在為一定行政作為時，為符合美國聯邦憲法所保障的正當法律程序，一定要經過聽證（hearing）程序，乃有聽證官（hearing officer）或聽證審查官（hearing examiner）的設置，負責主持聽證會的進行，包括主持宣誓、簽發傳票、紀錄證言、接受證據、確定證據規則、規定聽證過程、決定聽證程序上的請求等權力，並在 1978 年的一項聯邦法律，改稱為行政法官⁶（Administrative Law Judge）。目前在美國聯邦政府中，總共約有 1,400 名的行政法官，分散在 29 個行政部會中。而要擔任行政法官的資格⁷，一定要具有律師資格。且因行

⁶ 關於本段行政法官之描述，請參薛波主編《元照英美法詞典》，法律出版社，p.35(1st edition 2003)；及王名揚著《美國行政法（上）》，第 449-457 頁，中國法制出版社，1995 年 1 月北京第 1 版。

⁷ 參見美國人事管理局網頁。請參 <https://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/specialty-areas/administrative-law-judge-positions/>（最後瀏覽日 2024 年 8 月 10 日）。

政法官亦在各行政部會任職，如依上述廣義及狹義的政府律師定義，似亦屬政府律師中之一員，惟因行政法官係在正式聽證程序中做一個公正、客觀的事實決定者，在功能上和民事訴訟程序中沒有陪審團的獨任法官相類似，其職權的行使是獨立於行政部會的，美國聯邦最高法院亦認為行政法官在職能上與美國地區法院的法官相同。

二、美國政府律師概況

依美國律師公會統計⁸，在 2004 年全美領有律師執照的律師，共計 1,084,504 人。而在 2000 年，有百分之八的律師係受僱於政府機關（最廣義之政府律師）。而根據美國律師基金會（American Bar Foundation）於西元 1999 年出版之「律師統計報告」(The Lawyer Statistical Report)，從 1980 年至 1995 年之間，私人執業的律師仍是律師執業人口的最大多數，總共佔全部律師的比例，從 1980 年的 68%，經過 1991 年的 71%，到 1995 年的 74%。而政府律師（不包含司法機關之法官在內），則是律師人口中的第三位。在西元 1995 年，受僱於聯邦政府的政府律師，共有 26,805 人，佔全部律師人口之百分之三。受僱於州政府和其他地方政府的政府律師則有 38,823 人，佔全部律師人口的百分之五⁹。美國各級政府的政府律師總數約為六萬五千多人，佔全部律師人口的百分之八。

⁸ 參見美國律師公會網頁 <https://www.americanbar.org/en/>（最後瀏覽日 2024 年 8 月 10 日）。

⁹ 參 Clara N.Carson 所編之 “The Lawyer Statistical Report , The U.S. Legal Profession in 2005, p6-7(American Bar Foundation, 2012)（以下稱 The Lawyer Statistical Report）

其中各個執業型態之人數及比例，詳如表 2-1：

表 2-1 1980、1991、1995 年美國律師各個執業型態之人口及比例

執業型態 (Employment Setting)	1980		1991		1995	
	No.	%	No.	%	No.	%
私人執業 (Private practice)	370,111	68	587,289	73	634,475	74
聯邦司法部門 (Federal judicial department)	2,611	<1	3,119	<1	2,937	<1
其他聯邦政府 (Other federal government)	20,132	4	27,985	4	26,805	3
州和地方司法部門 (State/local judicial department)	16,549	3	18,417	2	18,690	2
其他州和地方政府 (Other state/local government)	30,358	6	38,242	5	38,823	5
私人企業 (Private industry)	54,626	10	71,022	9	71,349	8
私人組織 (Private association)	4,391	1	5,835	1	5,493	1
法律扶助和公設辯護人 (Legal aid or public defender)	8,239	2	8,816	1	8,499	1
教育機構 (Education)	6,606	1	8,177	1	8,186	1
退休或停業者 (Retired or inactive)	28,582	5	36,971	5	42,673	5
總數 Total	542,205	100	805,873	100	857,930	100

如前所述，美國的地方政府有 87,525 個單位，其中大約有三萬九千個地方政府是具有警察權 (police power) 的，在這三萬九千個地方政

府當中，有約三萬七千個地方政府人口數不及一萬人¹⁰。這三萬七千個小地方政府，如有法律事務要處理，通常是僱用私人律師兼差或以個案委託私人律師，並無專職全薪的政府律師在這些地方政府服務。至於那些規模較大的地方政府則都設專職全薪政府律師來處理類型廣泛多元的法律事務，其中最典型的任務就在於執法和刑事追訴。根據全國地方檢察官協會（National District Attorney Association）之統計，在西元 1991 年，美國全國約有二萬名至二萬二千名的地方檢察官¹¹。另外在地方政府中的假釋、緩刑、獄政及公設辯護業務，亦可見政府律師的身影。至於負責民事法律事務的政府律師，其工作內容更是包羅萬象，包括所有與地方政府業相關的侵權案件、契約糾紛、勞資案件、土地使用的管制、有線電視線路使用權、許可證、徵收、環保法規、社會福利、學校、醫療、民權案件等不一而足，估計全美在地方政府從事民事法律事務的律師至少有五萬名之多¹²。

在州政府層級的政府律師，大都是在州檢察長（State Attorneys

¹⁰ 參見紐約州律師公會律師事務所組織及管理法特別委員會（the New York State Bar Association Special Committee on the Law Governing Firm Structure and Operation）於 2000 年 4 月所出版之報告” PRESERVING THE CORE VALUES OF THE AMERICAN LEGAL PROFESSION. The Place of Multidisciplinary Practice in the Law Governing Lawyers 中之註 145。

¹¹ 美國律師公會法學教育和入會部（ABA Section of Legal Education and Admission to the Bar），Legal Education and Professional Development- an Educational Continuum, Report of the Task Force on Law School and the Profession: Narrowing the Gap 96 (Illinois, 1992)。

¹² 參見註 8 “Report of the Task Force on Law School and the Profession”，p,97。其中在同頁註 238 中，作者提到此統計數字，遠比 The Lawyer Statistical Report 即本文表一中之統計數字大很多的原因，在於 The Lawyer Statistical Report 是根據 Matinadale-Hubbell 所編的律師名錄資料，然因很多受僱政府機關的律師並未將其受僱政府機關的資訊告知，故導致 The Lawyer Statistical Report 在統計政府律師的數目上出現很大落差。

General) 辦公室任職，根據全國州檢察長協會 (National Association of Attorneys General) 西元 1991 年所做之調查，在 1991 年 1 月時，全國五十州及上節所述類似州政府地位的六個特別行政區的檢察總長辦公室，總共僱用了 8,278 名全職及 236 名兼差的律師¹³。每州的檢察總長辦公室所負責的法律事務因各州之法律而異，不過，大體而言，這些政府律師所從事工作，除了刑事司法之外，在很多州，還包括了消費者保護、民權案件執行事務。另外，對州其他的行政機關，還提供諸如孩童福利、民權、矯正機構、職業執照、酒類管制、健康醫療、公路和工作場所安全、假釋、稅法及勞工賠償等法律服務。在州政府體系中，其他州政府的行政機關，亦可能擁有自己的幕僚律師，為該行政機關處理有關該機關所負責業務所生的法律事務¹⁴。在州政府體系中，其他州政府的行政機關，亦可能擁有自己的幕僚律師，為該行政機關處理有關該機關所負責業務所生的法律事務¹⁵。

隨著聯邦政府規模的不斷擴大，尤其是在羅斯福總統 (Franklin D.Roosevelt) 新政 (New Deal) 時期及二次世界大戰之後，在聯邦政府任職的政府律師人數一直不斷增加。在西元 1980 年之前，大約有二萬

¹³ 參見註 8，“Report of the Task Force on Law School and the Profession”，p.98 及該頁所引之註 240。

¹⁴ 參見註 8 “Report of the Task Force on Law School and the Profession”。

¹⁵ 參見 Gerard J. Clark, “An Introduction to the American Legal Profession in Year 2000”，Suffolk University Law School Faculty Publications, 2000, p.13。

名的律師受僱於聯邦政府¹⁶的不同機關。而在西元 1991 年時，單單是美國司法部（Department of Justice）就僱用了 7,280 名律師，其中包括了 93 名聯邦檢察官（United States Attorney）及大約四千名的聯邦助理檢察官¹⁷（Assistant United States Attorney）。而依美國律師公會今年（西元 2005 年）所出版的「聯邦法律工作機會指引」（Federal Legal Employment Opportunities Guide）的統計，在 2005 年三月時，聯邦政府中僱用政府律師前五名機關，仍以司法部所僱用之 8,076 人居首。（其餘機關所僱用之人數、平均薪水及平均服務年資詳如表 2-2¹⁸）

表 2-2 機關所僱用之人數、平均薪水及平均服務年資

機關名稱	受僱律師人數	平均年薪（美元）	平均服務年資
司法部(Department of Justice)	8,076	\$124,669	14.1
國防部(Department of Defense)	2,459	\$103,956	16.8
財政部(Department of Treasury)	2,106	\$110,056	17.4
社會安全局(Social Security Administration)	1,522	\$88,170	14.0
證券交易委員會 (Securities and Exchange Commission)	1,486	\$139,259	8.9
國土安全部(Department of Homeland Security)	1,147	\$106,419	11.8

¹⁶ 參見註 8 “Report of the Task Force on Law School and the Profession” , p,99。

¹⁷ 參見註 8 “Report of the Task Force on Law School and the Profession” , p100。

¹⁸ 參見美國法律院校畢業生安置協會網頁 <http://www.nalp.org/research>（最後瀏覽日 2024 年 8 月 10 日）。

機關名稱	受僱律師 人數	平均年薪 (美元)	平均服 務年資
環境保護署(Environmental Protection Agency)	949	\$112,239	14.8
全國勞資關係委員會(National Labor Relations Board)	694	\$106,258	16.2
退伍軍人事務部(Department of Veterans Affairs)	675	\$102,4333	15.5
商業部(Department of Commerce)	671	\$104,166	11.8
勞工部(Department of Labor)	535	\$112,921	17.4
平等雇用機會委員會(Equal Employment Opportunity Commission)	498	\$103,380	14.1
聯邦通訊委員會(Federal Communications Commission)	489	\$123,696	12.9
聯邦貿易委員會(Federal Trade Commission)	478	\$119,980	13.6
交通部 (Department of Transportation)	468	\$116,872	17.0

這些聯邦政府行政機關任職的政府律師，分散在聯邦行政部門的各個機關及委員會。有一些行政部門的機關，像美國專利局（U.S. Patent Office）僅在華盛頓特區設置辦公處所。另外也有很多機關，如美國住屋及都市發展部（U.S. Department of Housing and Urban Development），其本部設於華盛頓特區，另外在全國十二個主要都市設有地區辦公室（regional office），在地區辦公室之下，又有一些小城市內設置地方辦公室（area office），所以聯邦政府律師的工作地點並不全然在華盛頓特

區¹⁹。而聯邦政府的各個部會、委員會、獨立機關，除司法部之外，都設有法務總長（General Counsel 或 Solicitor）辦公室，由法務總長率領該機關的政府律師，為該機關提供法律服務。

表 2-2 中的平均年薪，並不適用於新進的律師。聯邦政府行政部門的新進的律師通常以一般俸給表（General Schedule）中第十一級（GS-11）或第十二級（GS-12）任用，起薪則依其任職地區不同，介於年薪四萬七千美元至六萬二千美元。如在華盛頓或舊金山等物價水準較高的都會地區任職的政府律師，其起薪較其他地區任職的政府律師高大約百分之十二²⁰。在聯邦政府任職的政府律師薪水也許沒有像私人執業律師的薪水來的高，但聯邦政府所提供的健康保險、年休假、貸款償還計劃及退休計劃等福利都相當優渥²¹。而在聯邦政府的工作除可服務公眾之外，不同類型工作也提供不同的挑戰，所以每年還是有相當多數的年輕律師寧可犧牲私人執業高薪的誘惑而投身政府律師的工作。

三、美國政府律師資格的取得

要在美國政府行政機關擔任政府律師，首先必須具備律師資格的一般條件。而在美國要成為執業律師是有一定的資格限制，故本章將就美國律師資格的取得，先做介紹後，再就個別政府律師資格取得的特別要

¹⁹ 參見註 6 “The Lawyer Statistical Report”，p11。

²⁰ 參見註 6 “The Lawyer Statistical Report”，p.22。

²¹ 參見美國司法部網頁 <http://www.usdoj.gov/legal-careers#a>（最後瀏覽日 2024 年 8 月 10 日）。

件（即產生方式）予以介紹。

（一）一般資格

在政府機關任職的律師，不論該職位是政治任命（如各部會之法律總長）、選舉產生（如州檢察長或地方檢察長）或者是應徵而來，所有的相關職位的資格要求，都要具備律師資格。而在美國要取得執業律師的資格，一定要取得所在州的律師公會的會員資格，雖然各州關於加入律師公會的具體規定各有不同，但通常都包括下列條件：

1. 須從法學院畢業

在西元一九〇〇年前，美國各司法管轄區（Jurisdiction，如聯邦或各州）對於加入律師公會者，並無須具備法學院及大學畢業的學歷要求²²。之後，美國律師公會開始為建立法學院一致化的法學教育，以符合成為律師之必備條件而展開長期宣傳活動²³。時至今日，大多數州都要求入會者必須具備美國律師公會所認可的法學院的學位，不過仍有少數州，如加州仍然允許自非美國律師公會所認可的法學院畢業的申請者加入州律師公會²⁴。

2. 須通過律師資格考試（Bar Examination）

²² Charles W. Wolfram, *Modern Legal Ethics* 851 (West Publishing Co., 1986)

²³ 參考試院研究發展委員會九十二年十二月，由林宜男主持之“我國參加 WTO 後專門職業及技術人員考試制度因應之研究”第四章第一節，第 87 頁，註 115，網頁請參見 https://www.exam.gov.tw/News_Content_table2.aspx?n=3854&s=28440（最後瀏覽日 2024 年 8 月 10 日）。

²⁴ 參見 Nathan M. Crystal, *Professional Responsibility, Problems of Practice and the Profession* 34 (Aspen Publishers, 3rd. ed. 2004)。

美國律師公會曾建議採行全國性之律師考試，以避免各州各自為政，寬嚴不一造成流弊，但至今各州之律師考試應考資格、考試程序、考試次數、考試方式、考試科目仍無一統一標準²⁵。而且少數州如威斯康辛州、密西西比州、路易斯安那州、蒙大拿州、西維吉尼亞州、佛羅里達州及南卡羅萊納州等，特准該州州立大學法學院畢業生，繳驗畢業證書即可取得律師資格，不必參加律師考試，即可執行律師業務。另也有少數州對於曾在外國或他州執行律師職務，經過認許者，亦可不必再參加律師考試，即可執行律師業務²⁶。

在美國實務上，對於律師考試之相關行政規定，如考試次數的限制、給分標準及請求覆閱之規定，認為有違憲提起訴訟，均遭敗訴²⁷。如西元一九九二年柏克案²⁸（*ex parte Puckett*）中，考生布凱特因連續參加阿拉巴馬州律師考試五次不及格，而請求法院對阿拉巴馬州律師協會發出執行職務令（*writ of mandamus*），要求對其考試成績重新評定，以保障其受美國憲第十四修正案的法律的正当程序權利，阿拉巴馬州最高法院認為，考生在五次不同的應試，每次都都不及格，如果將每次不及格的原因全部歸諸於閱卷錯誤，是令人不能置信的。因此，在應考五次的限制之下，每次的重考是保證應

²⁵ 同註 21 考試院報告，第 89 至 91 頁。

²⁶ 參同註 21 考試院報告，第 91 頁。

²⁷ 參見 John F. Sutton, Jr & John S. Dzienkowski, *Cases and Materials on the Professional Responsibility of Lawyers* 604 (West Academic, 2nd ed. 2002)。

²⁸ *Ex parte Puckett* 案，603 So.2d 908 (Ala.,1992)。

試者的不及格，不是出自於閱卷錯誤所造成的最有效方式，而駁回其請求。

3. 具備良好的道德品格 (Good moral character)

良好的道德品格是非常模糊不明確的概念，美國聯邦最高法院指出關於品格的調查的重點是在於，「一般理性的人是否能夠公正的發現入會申請者的誠實、公正、對其他人、州法及國家法律的尊重有重大的懷疑²⁹。」其中誠實與否更成為審查的重點，入會申請者如果在一開始申請時，即刻意隱瞞某些重大資訊，如曾被其他州律師公會除名，而足以讓人發現其缺乏誠實特質時，其入會的申請一定不會被准許³⁰。

依美國聯邦最高法院相關判例，州律師公會為調查申請者是否具有良好的道德品格，可以調查詢問入會申請者目前是否為某團體成員，如共產黨員，入會申請者如果拒絕回答時，州律師公會可據此拒絕其入會³¹。惟州律師公會拒絕申請者入會的理由，如果侵犯入會申請者的信仰、種族、政治理念或其他受憲法保障的權利，都被認為是違憲，而不被美國聯邦最高法院支持³²。如入會申請者

²⁹ 參見 Nathan M. Crystal，註 24，頁 34。

³⁰ 參見 John F. Sutton, Jr & John S. Dzienkowski，註 27，頁 612。

³¹ 參見 Susan R. Martyn & Lawrence J. Fox, "Traversing the Ethical Minefield, Problems, Law, and Professional Responsibility" Aspen Publishers, 2004, p. 30

³² 參見 Ronald D. Rotunda, Professional Responsibility A Student Guide 749 (The American Bar Association, 2002)。

曾加入共產黨並不構成拒絕入會的理由。但如果申請者所參加的團體宗旨係在以暴力推翻政府，且該團體的宗旨亦為申請者所明知，申請者仍予加入給予支持，則此時將構成拒絕入會的理由³³。

美國有學者認為：(1) 律師公會負責決定入會事項的官員，並沒有足夠的資源去調查詢問一個申請者是否道德品格良好，他們所進行的調查，很少有幫助；(2) 道德品格是否良好是個抽象模糊的概念，一個申請者是否具備此項資格，最後將淪為僅憑負責決定入會事項官員的主觀好惡；(3) 道德品格的審查會侵犯入會申請者憲法所保障的表現自由，而過於廣泛的調查也會侵犯入會申請者的隱私，因此認為應將此項標準排除做為執業律師的資格條件³⁴。

4. 宣誓

不像其他職業，律師在執業之前必須宣誓³⁵。

除以上的條件之外，美國實務上對於入會申請者是否須具備公民及居民資格而生有爭議，茲分述如下：

(1) 入會申請者是否須具備美國公民資格

美國聯邦最高法院在西元一九七三年葛利菲斯案件³⁶ (In re Griffiths)，根據美國聯邦憲法第十四修正案的法律平等保護條款

³³ 參見 *Schwartz v. Board of Bar Examiners* 案, 353 U.S. 232 (1957)。

³⁴ 參見 Nathan M. Crystal, 註 24, 頁 35。

³⁵ 參見 Susan R. Martyn & Lawrence J. Fox, 註 31, 頁 29。

³⁶ 413 U.S. 717(1973)

(Equal Protection Clause)，認為以是否外國籍居民作為取得執業律師的標準，是屬於可疑分類 (suspect classification)，而應受嚴格的司法審查 (strict scrutiny)，因此認為以美國公民的資格做為入會標準是違憲的。

(2) 入會申請者是否須具備該州居民資格

在西元一九七三葛利菲斯案件之後，美國仍有許多州將居民資格列為入會資格之一，尤其和一些人口眾多的州相鄰的小州，更常採取此一標準做為保護該州當地律師協會的手段。但在西元一九八五年派柏案件³⁷ (Supreme Court of New Hampshire v. Piper) 中，派柏居住於佛蒙特州，其住處距新罕普什爾州和佛蒙特州邊界僅四百碼。派柏已通過新罕普什爾州的律師考試，而且也符合所有新罕普什爾州律師公會的入會要求，但新罕普什爾州律師公會卻表示，依該會規定，派柏要成為新罕普什爾州的居民之後，才會獲准加入公會。派普乃提起訴訟，認為新罕普什爾州律師公會關於居民資格的規定已違反美國聯邦憲法第四章第二節的特權和豁免條款 (Privileges and Immunities Clause)，美國聯邦最高法院同意派普的主張，認為新罕普什爾州律師公會的居民資格限制是違憲的。在西元一九八七年，美國聯邦最高法院更進一步認為，除州法院之外，

³⁷ 470 U.S. 274(1985)

美國聯邦法院對於在該聯邦法院，不論是聯邦地方法院或聯邦上訴法院的執業律師，亦無居民資格的限制³⁸。此外，美國聯邦最高法院又陸續在一些案件中表示相同見解後³⁹，從此居民資格不再是成為律師的必要條件。

（二）特殊資格

要在政府行政機關擔任政府律師，在具備上述的一般資格之外，依其職位不同，另有不同的資格限制，通常政府律師所屬辦公室的首長是經由政治任命或民選的方式的產生，而辦公室內其他的常任（career 或 staff）政府律師則都是經由應徵而取得職位的。以下茲就各別職位分別說明：

1. 司法部長及法律總長（Solicitor General）

都是經由總統提名，經參議院同意而任命。另外美國聯邦檢察官（U.S. Attorney）亦同。

2. 聯邦政府其他行政部會機關的法務總長

和司法部長相同，都是經由總統提名，經參議院同意而任命。但實際上，法務總長都是由所屬機關首長提出名單再呈由總統提名，總統對於部會首長的名單通常都會予以尊重。至於副法務總長或助

³⁸ 參見 *Fraiser v. Heebe*, 482 U.S. 641 (1987)一案，本案係美國聯邦第五上訴法院不認為居民資格的限制有違美國聯憲法特權及豁免條款的保障，經上訴美國聯邦最高法院而被撤銷改判。

³⁹ 如 *Supreme Court of Virginia v. Friedman*, 487 U.S. 59 (1988)，及 *Barnard v. Thorstenn*, 489 U.S. 546 (1989)等案件。

理法務總長其他法務總長辦公室的政府律師，除了極少部會之外，如國稅局的地區法務長（Chief Counsel）是由總統提名之外，通常都不是總統所提名的⁴⁰。

3. 州檢察長

除了阿拉斯加州、夏威夷州、新罕普什爾州、新澤西州、懷俄明州五州，及波多黎各、維京群島、關島、美屬薩摩亞及北馬里安納群島五個美屬領地是由州長任命之外，其餘四十三州的州檢察長均是選舉產生。其中緬因州是由州立法機關秘密投票產生，田納西州則是由州最高法院法官選舉⁴¹。

擔任州檢察長的年齡，有二十三個司法管轄區（jurisdiction）並無限制，其餘的司法管轄區則設有限制。其中最低年齡限制為二十一歲的有十個，最低年齡限制為二十五歲的有十一個，二十六歲的有一個，三十歲的有七個，三十一歲有一個。加州、康乃迪克州及馬里蘭州雖沒有年齡限制，但加州要求必須具備五年以上的律師公會會員資格，康乃迪克州及馬里蘭州則要求必須具備十年以上的律師公會會員資格，所以等於間接的限制州檢察長的最低年齡必須

⁴⁰ 參見 Michael Herz, *The Attorney Particular: Governmental Role of the Agency General Counsel at Government Lawyers The Federal Legal Bureaucracy and Presidential Politics* 147-148 (University Press of Kansas, 1995)。

⁴¹ 參見 Lynne M. Ross, *State Attorney General Powers and Responsibilities* 15 (National Association of Attorney General, 1990)。

在三十至三十五歲之間⁴²。

有四十五州的州檢察長的任期是四年，但緬因州、羅德島州和佛蒙特州的州檢察長的任期只有二年。田納西州的州檢察長則有八年的任期。另外阿拉斯加州和維京群島州檢察長的任期則由州長決定；關島、波多黎克和美屬薩摩亞等美屬領地之檢察總長任期則無限制⁴³。

4.地方檢察官和市政府律師長

大部分都是選舉產生，如報告人拜訪的景郡檢察官辦公室的檢察官，和西雅圖法律長辦公室的律師長。但市政府層級中，亦有為數不少的法律長並非選舉產生，而是市長提名後，經市議會同意而產生，如華盛頓州景郡貝爾市（Bellevue）律師長即是。

5.各政府律師辦公室內的律師

美國並無統一的政府律師考試，亦沒有統一的機構在負責政府律師的聘僱，各個行政機關自行負責其機關律師的聘用事宜⁴⁴。想在政府機關任職的律師必須自行依各機關所規定的程序，向該機關應徵。

四、美國政府律師工作內容

不論是在聯邦政府、州政府、地方政府任職的政府律師，其等之工

⁴² 同註 41，頁 20。

⁴³ 同註 41，頁 23。

⁴⁴ 參見美國律師公會出版的聯邦法律工作機會指引（Federal Legal Employment Opportunities Guide），2005 年，頁 4。

作內容雖依機關性質而有個別性的差異，但大體上不脫「法律諮詢」（counseling）及「出庭訴訟」（advocate）二大範圍。其中法律諮詢部分，因政府律師在行政機關形成公共政策的過程中扮演非常重要的角色，除提供所屬機關專業的法律意見之外，並包括幫助擬定專案計劃、草擬法案和闡釋法律、制定執行政序。至於另一大項之出庭訴訟工作部分，則是在行政機關提起訴訟，包括民事的請求或刑事追訴，或行政機關成為被告時，均由政府律師代表出庭，行使律師的職能。以下謹分就聯邦政府及地方政府（含州檢察長辦公室、郡檢察官辦公室及市政府律師長辦公室）的政府律師工作內容加以說明。

（一）聯邦政府政府律師的工作內容

在 1870 年司法部成立以前，聯邦政府的法律事務工作分散在各部門，並無統一集中的負責部門。「律師總長」（Attorney General⁴⁵）並無任何幕僚屬下，甚至很多的法律事務工作都外聘私人律師處理。為了使聯邦政府的法律工作能夠更有效率、更經濟，並使聯邦政府各機關的法律主張及政策能夠立場一致不互相矛盾，美國國會乃在 1870 年創設司法部，並規定其他部門負責法律工作的官員必須在司法部首長的監督和控制之下行使職務。雖然如此，統一集中聯邦政府的法律事務工作的企

⁴⁵ 美國第一屆國會僅創設了國務院、戰爭部和財政部三大部，直至美國國會認為聯邦政府的法律工作須有專人來負責，始在 1789 年司法法（Judiciary Act）如創設了司法部長（Attorney General）此一職位，故司法部長是早於司法部的成立，所以在司法部成立以前，其職稱似不宜譯為司法部長，而應譯為「律師總長」。

圖並未因司法部的成立而真正落實，國會一直都未編列預算給司法部建置辦公室之用，在司法部成立的第一年，司法部長的辦公室是在財政部大樓內，和財政部的法務總長辦公室相鄰。在 1934 年現今司法部大樓完成前的六十五年內，司法部沒有自己的辦公場所，各部會法務總長也繼續在其所屬部會內辦公。其他部會的法律工作，不管是法律諮詢還是出庭訴訟，各部會所雇用的政府律師仍保有相當的獨立性⁴⁶。再者，國會一直立法在各行政機關內增設法律工作的新職位，且未將這些新職位置於司法部長監控之下⁴⁷。直至羅斯福總統為使「新政」事權統一，乃根據國會的委託授權⁴⁸頒布第 6166 號行政命令⁴⁹，要求除非其他法律有不同的規定，否則所有以美國政府為一造當事人的訴訟均由司法部長負責，現今聯邦政府法律事務的工作架構才大致確定，亦即幾乎所有聯邦政府的出庭訴訟工作均由司法部長負責，但法律諮詢及部門內的法律工作則由聯邦政府其他各部門的律師負責，不受司法部的節制。以下分就出庭訴訟及法律諮詢二大項工作說明，最後再就司法部和其他部會法務總長辦公室的關係做一介紹：

1. 出庭訴訟

一般而言，司法部代表美國聯邦政府和聯邦政府內其他行政部

⁴⁶ 參見 Michael Herz，同註 40，頁 146。

⁴⁷ 同註 46 所引之文 p.146 及註 12。

⁴⁸ 三月三日法 (Act of March 3, 1933)，Pub.L. No. 72-428

⁴⁹ Executive Order No. 6166(June 10, 1933)。

門出庭訴訟⁵⁰，其他行政部門不得自行委請律師出庭訴訟，而必須把所有訴訟事務移請司法部處理⁵¹。但此一架構因國會時常立法授權其他行政機關就特定事務有出庭訴訟的權利，司法部身為代表美國政府的訴訟權力被相當程度的剝奪，根據統計大約有三十幾個的行政機關、政府公司就特定事務有代表機關出庭訴訟的獨立權力⁵²，尤其為數不少的獨立機關更有獨立的訴訟權力。本節將分項探討聯邦政府各機關訴訟工作的架構及差異：

(1) 刑事追訴 (Criminal Prosecutions)

刑事追訴的工作完全由司法部所負責主導，其他行政機關縱使擁有訴訟的權力，但仍沒有權力自己發動或起訴一件刑事犯罪。很多行政機關雖然有犯罪調查權，但該行政機關依調查結果如認為必須起訴時，就必須將整個案卷移請司法部負責提起公訴。另外，司法部有自己的犯罪調查單位，如聯邦調查局 (FBI)，很多的犯罪根本不必經過行政機關的調查移轉，即可自行發動調查起訴⁵³。所以，

⁵⁰ 依美國聯邦法典第 28 章第 516 條 (28 U.S.C. §516) 規定，除非其他法律規定，在以美國政府、政府機關或政府官員為一造當事人的訴訟，或該訴訟涉有美國政府、政府機關或政府官員的利益的所有訴訟行為，在司法部長的監督之下，由該部的官員負責。另外同章第 519 條亦規定，除非其他法律規定，司法部長應指定美國聯邦檢察官、美國助理聯邦檢察官或依本章第 543 條所指派的特別檢察官處理其等各別負責的以美國政府、行政機關或政府官員為一造當事人的訴訟事務。

⁵¹ 美國聯邦法典第 5 章第 3106 條 (5 U.S.C. §3106) 規定，除非其他法律規定，行政部門或軍事部門的首長，就以美國政府、行政機關或僱員為一造當事人的訴訟，或該訴訟涉有美國政府、行政機關或僱員利益時，應將該訴訟移請司法部處理，不得自行聘請律師出庭訴訟。

⁵² 參見 Neal Devins, "Unitariness and Independence: Solicitor General Control over Independent Agency Litigation", 82 Cal. L. Rev. 255, 263-264, 269-270 (1994)。

⁵³ 在 1988 年至 1993 年間，超過百分之六十一的環保犯罪的追訴係經環保署調查所移轉的，有百分之三十四的環保犯罪追訴則是司法部自行調查蒐證而起訴的，其中絕大部分即來自聯邦調查局的調查。

司法部對於其他行政機關移請偵辦的刑事犯罪案件並非照單全收，如司法部對於環保署（EPA）移請偵辦的環保犯罪案件的核退率高達百分之六十⁵⁴，對於證券交易委員會（SEC）移請偵辦的刑事案件亦有為數相當的比率的核退率⁵⁵。而且，就算司法部提起公訴之後，在訴訟進行的過程當中，其他行政機關的政府律師幾乎沒有參與的空間，一切訴訟行為均由司法部的律師（如聯邦檢察官，U.S. Attorney）負責主導，其他行政機關的政府律師的功能僅在提供該刑事案件的背景知識及準備訴訟中所需的訴訟資料而已。

（2）民事起訴（Civil Judicial Enforcement）

在民事起訴的程序中，司法部就沒有像在刑事追訴程序中非定於一尊的空間。民事起訴和刑事追訴二個程序最重要的不同，乃是在民事起訴的程序中，司法部一定要有「當事人」才得以進行。套用美國聯邦檢察官執業手冊（United States Attorney's Manual）中第 5-12-111(a)條所說：「依照本部的政策和實務慣例，民事訴訟的起訴是依照相關部會首長的要求而開始發動。」所以，如果沒有其他行政機關的配合，縱然司法部想要就某一民事案件進行起訴也是不可以的。而且司法部如果發現有任何值得調查的可疑違法情事，司法

⁵⁴ Judson W. Starr, "Turbulent Times at Justice and EPA: The Origins of Environmental Criminal Prosecutions and the Work that Remains" 59 Geo. Wash. L. Rev. 900, 907(1991)。

⁵⁵ 根據 2002 年 3 月 18 日財富雜誌（Fortune）第 60 頁的統計，從 1992 年到 2001 年間，證券交易委員會總共移請司法部偵辦的刑事案件有 609 件，司法部因而處理的共有 525 件，但真正起訴的不到百分之三十六。

部不得自行調查，一定要將相關訊息通知相關行政機關進行調查後，再移請司法部提起民事訴訟⁵⁶。

在民事訴訟的起訴程序，通常是由行政機關的地方辦公室開始調查，如認為有提起民事訴訟的必要，則準備相關事證及移送公文，送由行政機關首長審核後送請司法部相關部門決定⁵⁷。至於是否起訴及起訴後訴訟如何進行的決定均操在司法部手中，一般行政機關並無權力決定。但這種由司法部決定起訴與否及如何進行訴訟的通常模式，在實務的運作上，卻有很多例外，有的是司法部並無權決定是否起訴，有的則是司法部就是否起訴及起訴後的訴訟進行均無權決定。如根據公平住屋法（Fair Housing Act）及其 1988 年的修正案規定，住屋及都市發展部（Department of Housing and Urban Development）對於住屋歧視（housing discrimination）的申訴經調查後認係有事實根據的，即可以住屋歧視者為被告，向行政法官（Administration Law Judge）提起訴訟，並由住屋及都市發展部法律總長辦公室（Office of General Counsel）的律師代表出庭為一切訴訟行為。但此時訴訟的兩造當事人的任一方可以選擇聯邦地方法院為聽審法院，如有一方做如此選擇時，往後在聯邦地方法院審理

⁵⁶ 參美國聯邦檢察官執業手冊（United States Attorney's Manual）第 5-12-111(b)條。

⁵⁷ 各行政機關移送司法部的程序因機關而異。如食物和藥品局（Food and Drug Administration）是由地區辦公室調查準備相關事證公文後，由首席律師辦公室（the Office of the Chief Counsel）審核後，簽名於地區辦公室卷首上後發文給司法部。而環保署在 1970 和 1980 年代，必須由署本部審核後始能發文，但 1988 年以後，即改由地區辦公室直接備文給司法部，但必須副知署本部。

的程序中，住屋及都市發展部的政府律師即不再代表政府出庭，而是由司法部相關部門的律師出庭，而且司法部的律師不得拒絕。因此在此程序中，司法部就此民事事件的起訴與否決定權即被限縮。

另外，有一些行政機關可以決定和決定如何著手進行民事訴訟案件，其中最重要的部會就是勞工部，依美國聯邦法典規定，勞工部的法務總長（Solicitor）就任何依職業安全健康法（Occupational Safety and Health Act）、僱員測謊保護法（Employee Polygraph Protection Act）、家庭假及病假法（Family and Medical Leave Act）規定所提起的民事訴訟程序中，可代表勞工部長出庭訴訟⁵⁸。而更多的獨立行政機關對民事事件擁有獨立的訴訟權限，如證券交易委員會即是⁵⁹。證券交易委員會本身設有一龐大的「執法部」（the Division of Enforcement），部內聘有為數不少的律師、會計師和調查員。執法部負責案件的初步審查，如經證券交易委員會委員開會同意（Commissioners）和法務總長（General Counsel）的許可，則「執法部」可進行非正式的調查，如再經法務總長同意及委員會所簽發的正式調查命令（Formal Order of Investigation），則「執法部」可進行更進一步的正式調查。調查中的進行、終結、和解、是否採取相關行政作為或提起民事訴訟，或者是否移請司法部進行刑事追訴都

⁵⁸ 29 U.S.C. § 663、§ 2005 (a) 及 § 2617 (b)

⁵⁹ 15 U.S.C. §§77t(b)-(d), 78u(c)-(e)

必須由委員會根據「執法部」和法務總長的建議來做最後的決定。如果決定提起民事訴訟，則由「執法部」的律師代表出庭，負責該民事訴訟程序的訴訟工作。

(3) 行政執行 (Administration Enforcement)

美國政府的行政機關在做出相關的行為時，如聯邦通訊委員會 (Federal Communication Commission) 或原子能源委員會 (Nuclear Regulatory Commission) 准許發給許可證或執照的決定；或者是退伍軍人事務部 (Department of Veterans Affairs) 和社會安全局 (Social Security Administration) 就社會保險金申請的給付決定；或者是環保署 (EPA) 或職業健康和安全委員會 (Occupational Health and Safety Commission) 對於違反規定者決定罰鍰的科處等，為維護美國聯邦憲法所保障的正當法律程序，一定要經過具備審判型態，由行政法官 (Administrative Law Judge) 主持的聽證程序，在聽證程序中，不管是傳喚證人、提出證據或交互詰問等訴訟行為，都是由該行政機關內的政府律師所處理，而非司法部的律師所能插手。

(4) 訴訟辯護 (Defensive Actions)

政府行政機關並不是永遠都居於原告地位的，行政機關的任何行政作為都有可能出錯或被挑戰的時候，也許是許可證的准駁，也許是行政罰鍰的科處，也許是一個行政作為不合法律規定，更有可

能是一個行政不作為等。只要是行政機關做為被告，如同民事起訴程序一樣，通常都由司法部代表出庭應訴。但該行政機關如本身即有民事起訴的權限，則一樣具有以被告身分應訴的權力。

(5) 聯邦最高法院訴訟 (Supreme Court Litigation)

向聯邦最高法院的提起上訴是所有政府訴訟工作中，事權最統一集中的一項。司法部的法律總長 (Solicitor General) 辦公室幾乎負責所有的聯邦最高法院訴訟工作，而少數例外的案子，也都是經過法律總長的同意。就算少數有權可以直接向聯邦最高法院提起上訴的行政機關，亦不能由其機關所屬之政府律師出庭，僅能由司法部法律總長辦公室的律師代表出庭。

2. 法律諮詢

(1) 法律諮詢工作的架構—分散事權 (Decentralization)

自從羅斯福總統新政時期所發布的第 6166 號行政命令之後，司法部雖獨佔了大部分行政機關的訴訟工作，但因應政府積極多元行政的要求，相關的行政法規和行政行為日益繁雜，再加上第 6166 號行政命令及國會日後訂定的配套法規，對於法律諮詢此項工作由何機關負責並未表示意見，亦被視為是對法律諮詢工作應該分散 (decentralization) 給各行政機關的背書⁶⁰。

⁶⁰ Neal Devins & Michael Herz, "The Unease Case for Department of Justice Control of Federal Litigation", 5 U. Pa. J. Const. L. 558, p.568; 及參見 Michael Herz, 同註 40, 頁 146-147。

雖然從 1789 年的司法法（Judiciary Act）以來，目前美國聯邦法典第 28 章第 512 條都規定，部會首長就其部會內行政所生之相關法律問題，得請求司法部長提供法律意見。但實際操作上，司法部一年內提供給各部會機關的正式法律意見聊聊可數，比起各部會機關實際面對的眾多法律問題僅屬杯水車薪。更重要的是，各部會機關實際面臨的很多問題，司法部不能堅持一定要出具意見，各部會機關一定要自己面對，如機關間就法律問題有爭執時，僅有在此法律問題有涉訟的必要時，此一爭執才會提請司法部長表示法律意見，如無涉訟必要時，機關間就必須自己解決⁶¹。況且，各部會機關為保持自己行政上的自主性，司法部的正式出具的法律意見當然是越少越好。因此，關於法律諮詢工作都是各部會機關的政府律師自行負責，各部會機關自己聘用的政府律師數目也遠多於司法部的政府律師，以應付自己機關內部大量的法律議題，而非向司法部請求提供法律意見或協助。美國學者 Michael Herz 更進一步指出，美國聯邦政府對於法律諮詢工作的部分之所以採取「分散事權」的架構機制，更多是因為下列因素所得出的合理判斷⁶²：

⁶¹ 美國總統第 12146 號行政命令及美國聯邦法典第 28 章第 509 條。同前 Neal Devins & Michael Herz，頁 568-569。

⁶² 參見 Michael Herz，同註 40，頁 164-169。

a.務實原則 (Practicalities)

隨著政府角色及功能的複雜多元化之後，聯邦行政機關數量快速成長，相關政策、計劃方案也日益複雜，如果將目前分散到各部會機關自行負責的法律諮詢的工作，全部集中給司法部去負責，一方面，司法部的組織將大到讓人無法辨識，另一方面，也將遠遠超越司法部長能夠合理、有效監督的能力。

b.專業的尊重 (Expertise)

司法部雖有依各項法律事務而設有不同的局處負責，但在司法部內任職的律師仍然只能算是通才 (generalist)。尤其是司法部法律諮詢局 (the Office of Legal Counsel, 簡稱 OLC) 的政府律師，他們負責提供各項法律意見，考慮各種法律議題，並沒有侷限於環境、反托拉斯、民事不等的單項法律。而法律諮詢局以外的其他司法部政府律師，基本上他們的專長也具訴訟一項。只有各行政機關內自己的政府律師，才會對於該行政機關所主管的實體法律內容有充分的了解和足夠的實務經驗，也才能夠提供最適切的法律意見給該行政機關做為施政的參考。

c.聯邦主義 (Federalism)

和中央集權的政府體制比較起來，聯邦制度的最大優勢在於有彈性，因事因地制宜。而在討論政府機關的法律諮詢工作

的架構時，將事權分散給各行政機關的架構也可以看到這樣的優勢。而從法院不將第一審的訴訟事件由聯邦最高法院負責的審級制度中，我們可以看到一件訴訟經由下級法院的過濾，透過不同主張、辯論和觀點的呈現，訴訟的爭點更容易釐清，聯邦最高法院也更容易掌握案件重點所在，公平合理的對此一事件做出判斷。相同的，允許各個行政機關就其主管法規所生的法律議題，有各自的法律諮詢功能，則各種不同相關的觀點將被充分討論，一個完善的具體解決方案也將被發展出來。所以在實務的操作上，司法部法律諮詢局（OLC）絕不會在提問機關沒有準備並提出自己對提問問題的分析報告和解決腹案時，出具正式的法律意見。而為了避免提問機關用以規避自己承擔棘手問題的責任而一再的向司法部請求提供法律意見，法律諮詢局（OLC）也會要求提問機關事先提供意見，以利法律諮詢局（OLC）釐清爭點並了解該行政機關意見形成背後的背景知識。雖然聯邦制度有互不一致和無效率（inconsistency and inefficiency）的缺點，但這就是分事制宜，靈活彈性必須付出的代價，而且事權統一的優點很容易就被誇大，如考量所有的因素，分散事權所得的利益還是遠大於其所付出的代價的。

d. 強化國會權力（Maximizing Congressional Power）

目前美國聯邦政府的法律諮詢工作的架構之所以分散事權交由各行政機關負責，並不必然是因為是以上的理由都言之成理，最重要的影響因素，反而是美國國會將會因此種架構而使它的權力更加強化。此可從二方面來看，首先，因為國會需要充分的資訊來監督行政部門，而從其他行政部會機關取得資訊是要比從司法部來的容易。因為其他行政部會機關的法務總長為使機關預算、法案能在國會獲得支持，或為了避免國會監督聽證會中不愉快的質詢，都會和國會保持良好的關係，而提供資訊則是和國會保持密切良好關係最便宜的捷徑。其次，各行政部會機關的法務總長雖然是由總統提名，但他們和總統的關係並不像司法部長和總統的關係那麼密切。司法部長是內閣部會的一員，通常也是總統競選活動當中最主要的支持者，對總統的忠誠大多來自於私人的情誼。而各部會機關的法務總長對總統則沒有這麼強烈的忠誠義務，反而是和該機關首長、法案，甚至是國會有更密切的關聯。因此，將聯邦政府法律諮詢工作分由各行政機關自行負責，則各行政機關的法務總長將更遠離白宮的監督和干涉，國會的權力也獲得更進一步的擴張。簡言之，給各行政部會機關更多的權力，意味著削減總統的權力。而總統權的弱化，則代表了國會權力的強化。另外，國會對各

行政機關主管法規的解釋，常透過聽證會來監督控制，而這聽證會對各行政機關的法務總長通常是必須服從的，但對司法部的政府律師來講卻甚少服從。所以，授予更多的權力給各行政機關的法務總長，也代表著國會更有辦法可以影響各行政機關的政策。

e.符合總統各個擊破的策略（the President's Strategy of Divide and Conquer）

國會並不是這種分散法律諮詢工作架構下的惟一受益者，總統也是此種設計的受益者。因為第一，各個行政部會機關都是總統行政的一部分，以上所述將法律諮詢工作分散由各行政機關負責的好處（務實、尊重專業及聯邦制度）對於總統的管理而言，不會比對國會的影響來得少，一個能有效率運作的部會機關對總統是百利無害的。第二，雖然司法部長和總統的關係非常密切，但誰能保證司法部長的理念利益會和總統永遠一致呢？如柯林頓總統就絕不願意讓司法部長 Janet Reno 去領導所有行政部會機關的法務總長。第三，總統永遠會將一個權力過度集中的人視為一個威脅，將法律諮詢工作集中由司法部長負責，雖然不會造成行政權的重大失衡，而使司法部長凌駕於總統之上，但司法部長監督各行政機關的職權將扮演非常有影

響力的角色，這當然不是總統所樂見的。所以自尼克森總統開始，一直至第 12291 號行政命令的公佈，這監督各行政機關的角色是由總統更能夠信任的白宮管理預算局（Office of Management and Budget，簡稱 OMB）所擔任，而不是司法部長。

（2）法律諮詢的工作內容

司法部以外的各行政部會機關政府律師最主要的工作就是提供法律意見，並指導機關內其他公務員在擬定政策、法案時，知道法律規定的限制在那裡，什麼是法律允許可以做的，什麼是不能做的。所有行政部會機關都會經由法規制定（Rule-making）來實現該機關重要的政策，而所制定的法規都必須有法律的授權，更要符合其授權的法律的相關規定。這些把關的工作就落在各行政部會機關內的政府律師身上，尤其是法務總長對該機關擬提出的施政計劃、草案和法案的審查，更是扮演非常吃重的角色，他的意見往往能決定該機關所能採取的行動為何。因此，各行政機關的政府律師通常在該機關草擬法規、法案的初期即參與法律意見的提供，而不是在法規成形之後才來審核是否可行。更重要的是，因為各行政部會機關制定各項法規的結果，隨時都會被受損害的當事人提起訴訟而請求司法審查，因此，各行政部會機關的政府律師對於法規制定的結果，在將來可能在法庭被挑戰的各種

考量，都要在法規制定過程中，向相關機關負責決定的主管分析，提出因應對策。

各行政部會機關的政府律師在法律諮詢工作，主要是表現在下列的角色⁶³：

a. 解釋者 (Interpreter)

行政機關行使職權一定要依據該機關的相關法規行事，然而國會在制定授權行政機關的相關法規時，並不一定會使用精確無誤的用語，所以法規文字容有疑義時，各部會機關的政府律師即扮演法規解釋者的角色。而最高聯邦法院在 1984 年雪佛蘭 (Chevron) 案件⁶⁴的判決，更加強政府律師此一角色的重要性。在雪佛蘭案中，最高聯邦法院判決認為，如果法院無法從法規的文字當中找到一個明確的依據，換句話說，國會就系爭問題並未明白表示意見或出現模糊空間時，法院對行政機關依據法規就系爭問題的解釋，就必須予以尊重⁶⁵。因此，縱然是素

⁶³ 參見 *Thomas O. McGarity, The Role of Government Attorneys in Regulatory Agency Rulemaking*, 61 *Law & Contemp. Probs.* 19, 19-32 (1998)。

⁶⁴ 參見 *Chevron, U.S.A., Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984)。

⁶⁵ 該判決原文如下：

「When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.」

孚眾望的法官被請求對系爭法規意義表示意見時，也不能改變可能是由行政機關資深律師就該法規真義為何所表示的解釋意見。但諷刺的是，雪佛蘭案的判決結果卻可能使行政機關內政府律師的內部意見主導權降低。因為既然法院對於行政機關就模糊不清的法規文字真義為何所為的解釋都會尊重，那麼機關內政府律師是否能夠預測法院會如何解讀模糊的法規意義的能力就不是那麼的重要。這樣也就表示行政機關內其他技術官員的專業意見和負責政策制定官員的經驗都是和政府律師的法律專業意見同等重要，亦即適用雪佛蘭案判決的結果，實際上是更重視各行政機關的專業和所制定的政策，而不僅僅是機關內政府律師的法規解釋能力而已。然而，實務上審查的法院發現系爭法規的意義明確，並不須要進一步依照雪佛蘭法則，進行第二部審查⁶⁶的情形相當普遍，各行政部會機關內的政府律師仍然在法規的解釋上扮演非常重要的角色。

b. 程序維護者 (Proceduralist)

美國聯邦憲法第五和第十四修正案要求政府在採取會影響人民生命、自由、財產的行政作為時，必須注意程序的合法。而美國國會也制定行政程序法 (Administrative Procedure Act)

⁶⁶ 參註 62 所引判決本文後段，即國會未制定相關法規或所制定的法規模糊不清時，雖尊重行政機關所為的解釋，但法院仍要審查行政機關所做的解釋是否基於法規所允許的合理解釋。

規定行政機關必須遵守的程序事項。因此各行政機關在行使職權時，一定要遵守相關程序規定。而機關內的政府律師受過法律專業訓練，知道法規的程序要求，所以政府律師對各機關在研擬規範該機關和外部第三人的正式程序的法規是相當的重要。而且政府律師對所屬行政機關的日常行政作為是否符合法規的要求也要負起監督的責任。

c. 謄寫員 (Scrivener)

行政機關所制定的法規本文或導言 (Preambles) 都屬於法律文件，一定會受到各方嚴格的檢視，包括受影響當事人所聘請的律師和負責審查的法官。因此，在起草的程序中，對法規的文字務必要求明確，並保存該機關就法規重大議題所議定對策方案及立法理由等相關的紀錄，以提供各界參考。所以行政機關的政府律師就是該機關的文字匠，要負責法規本文、導言及相關參考文件文字的精準及潤飾。

3. 司法部和其他行政部會機關法務總長辦公室的關係⁶⁷

1977年，當時的司法部長 Griffin Bell 曾說：「共有 19,479 位律師（其中有 3,806 位律師在司法部工作）散布在各行政部會機關內執行類似律師 (lawyer-like) 的功能，包括準備法律備忘錄，提供法

⁶⁷ 參見 Michael Herz，同註 40，頁 156-162。

律意見和草擬法規。所有行政機關不論大小，都設有一個法務總長（General Counsel）。雖然本人身為行政部門內負責法律事務的最高官員，但本人深知，除在審理中的訴訟案件外，本人對於司法部以外的律師幾乎沒辦法指揮或控管。」這段話充分顯示司法部和其他行政機關法務總長辦公室的緊張關係。司法部的律師對於其他行政機關的律師並不信任，因為司法部的律師職位通常享有較高的聲望，而且司法部的律師容易認為其他行政機關的律師太過專注於所屬機關政策的達成，以致無法保持中立嚴格遵守法規的要求。而這緊張關係更因為司法部獨占出庭訴訟的工作而加劇，因為行政機關的律師認為他們所負責的案件在經過數月或數年的努力，來到最緊要的關頭時，竟被轉移到一個對案件毫無所悉的訴訟通才律師。而司法部的律師則會認為，所有在訴訟上的挑戰或挫敗都是機關律師在司法部負責該案件之前就已經造成的錯誤所致。

而在法律諮詢工作方面，美國聯邦憲法第 28 章第 512 條規定，任何行政部會機關首長就其部會內行政所生之相關法律問題，得請求司法部長提供法律意見，但長久以來，對於司法部長所提出法律意見的拘束力究竟如何，始終沒有一個定論。理論上，司法部法律諮詢局（OLC）所出具的法律意見確實具有拘束力，提問機關也必須予以遵守。但實際上，並沒有一個機制來監督行政機關是否會遵

守，也沒有一個實證研究，有多少法律諮詢局（OLC）所出具的法律意見是被遵守的，所以未被遵守的情況是有可能發生的。其他行政機關的法務總長辦公室聘請很多對所屬機關主管業務非常專門，而且對自己專業領域相當自信的律師，他們對於司法部對於他們機關意見的支持，是否會因專長、立場或其他利益而有所動搖是相當有疑慮的。更何況，理論上他們必須遵守司法部的法律意見，一旦司法部出具的法律意見和他們立場相左時，將出現極為棘手的尷尬的處境。正因為向司法部尋求法律意見的提供是有相當風險性的，所以其他行政機關的律師通常會在決定向司法部請求出具法律意見之前，先私下非正式的向法律諮詢局（OLC）詢問相關意見。

雖說其他行政機關向司法部請求出具正式法律意見是有一定的風險，但在其他行政機關會因此而獲得一定政治利益，甚至有利其策略的進行時，就算是法律層面可能不利，其他行政機關仍舊會向司法部請求出具正式的法律意見。例如環保署就關於工廠廢棄物清除的許可須要公眾審查的政策與白宮立場不同，但國會認為須要經公眾審查時，身處在二大政治勢力下的環保署在策略上即可向司法部請求出具法律意見以求自保。因為司法部的法律意見如果和環保署一致，則環保署可據此對抗總統的壓力。反之，應付國會壓力的問題，將是司法部要煩惱的，而不是環保署。

(二)、地方政府政府律師的工作內容

因為各州或各地方政府對其負責法律事務工作的機關所賦予的職權，常因各州憲法或相關法規的規定不同而有所差異。所以，就各級地方行政機關內的政府律師的工作內容，並無一放之四海而皆準的標準。不過，大體而言，各級地方政府政府律師的工作內容，原則上和聯邦政府行政機關內的政府律師一樣，不脫「出庭訴訟」和「法律諮詢」兩項工作的範圍。但此二項工作在各級地方政府裡的區別，並不像聯邦政府將出庭訴訟的工作大都分由司法部負責，法律諮詢的工作則由其他行政部會機關自行負責的架構一樣分割的那樣清楚。如州檢察長是該州負責法律工作的最高官員，除了必須代表州出庭訴訟之外，也常常是州其他行政機關的法律顧問。這其間的差別，就在於各級地方政府的政府律師首長，如州檢察長或地方檢察官等，大部分都是民選的，是具有民意基礎的，所以他們的權力可以獨立於州長等地方行政首長之外，如此才能使州檢察長在提供法律意見給州政府官員，或行使準立法功能的相關工作時，如草擬州法規，確保州長的權力不會獨大。

雖各級地方政府的法律事務工作事權是否集中統一，亦須視相關州憲法、地方法規如何規定而定，不過大體上的趨勢是往集中事權的方向發展。如全國州檢察長協會（National Association of Attorney General，簡稱 NAAG）不僅在 1971 年決議：1、州檢察長應該擁有僱用自己辦公

室律師及代表州出庭訴訟的惟一權力。2、州行政機關內所有從事法律工作的雇員都必須服從州檢察長的監督。且州檢察長有權決定上開雇員的薪資、福利、職等及其他人事事項。另外在 1976 年所出版的一份報告更指出，將法律事務工作事權統一的好處不僅會增加法律工作的效率，也能使政府機關的法律主張前後一致。同時事權統一的結果，將使律師們保持經常性的接觸，對於團隊合作的精神也大有助益。另外，州檢察長辦公室在法律工作的研擬、審查和決定等程序也比其他州行政機關的政府律師提出的法律意見的程序來的嚴謹完整，因其他州行政機關通常只配置一名律師，其在提出的法律意見並沒有機會受到其他人的審查。最後，如果由州檢察長負責所有關於州的法律工作，那麼州檢察長辦公室和其他州行政機關的職責將更容易區分清楚⁶⁸。目前，雖然大部分州是由州檢察長辦公室單獨提供法律服務，但因為每一州在州檢察長辦公室以外，州其他行政機關或多或少都有僱用些律師，所以還有例外情形。如至少有包括佛羅里達州、肯達基州、密西西比州、蒙大拿州、南卡羅萊納州和德州，其他州行政機關不僅可以僱用自己的律師（有的州僱用時要經過州檢察長的同意），而且所僱用的律師也不受州檢察長的監督。但依全國州檢察長協會在 1987 年所做的調查，大多數州的州檢察長均表示其他行政機關所聘用的律師仍受他們的控制，包括薪資、升遷⁶⁹。

⁶⁸ 參見 Lynne M. Ross，同註 41，頁 51-52。

⁶⁹ 參註 68 所引之書，p53-54

肆、華府律師制度考察訪談情形

本次考察參訪的地點為位於華盛頓特區（Washington, D.C.）。作為美國的首都，許多聯邦政府機關皆設立於華盛頓特區。故本次參訪對象共有以下類型，包含於民間律師事務所執業之受雇律師、於政府機關服務之政府律師，以及喬治梅森大學法學院（George Mason University Antonin Scalia Law School）的教授以及負責法學院學生相關律師考試事務之行政主管。

訪問重點以美國法學院畢業學生之律師考試歷程出發，瞭解一名美國法學院訓練完成後之法學生如何參加律師考試並取得執照之現況。進一步，訪談美國實務界執業律師、學術界法學院教授及負責試務行政主管，透過比較兩國律師考試異同，再度審視我國律師考試制度之改革方向，並借鏡美國律師制度之優點。

分述如下：

一、美國法律學生畢業考試過程

如前述，美國法學生為學士後訓練方式，取得法律博士（Juris Doctor, JD）或者法學碩士（Master of Law, LLM）學位者，若要取得律師執照須參加各州之律師考試（Bar Examination），此外，亦須通過 Character and Fitness Investigation 以審查考生資格，包含有無交通違規、犯罪紀錄、學術違規等事件。美國律師考試亦是選擇題加上申論題，目前有 41

州採用由 National Conference of Bar Examination (NCBE) 所發展之考試題目。成績結果約需三至四個月產生，順利通過後便可以在該州最高法院宣示取得律師執照，並在該州執行律師業務。特別的是華盛頓特區，其允許擁有各州的律師執照均可於此區域執業。

二、華盛頓特區律師考試科目以及程序

哥倫比亞特區 (District of Columbia, DC) 律師考試 (DC Bar Examination) 之考試資格是由美國哥倫比亞特區上訴法院之 DC Court of Appeals Rules (DCCA) Rule 46(c) 規定。除了擁有經由 American Bar Association (ABA) 承認之法學院 (Law school) 學歷外，未有 ABA 承認之學歷者必須完成 26 學分的課程，且該課程學分必須由經由 ABA 認可的法學院 (ABA accredited law school) 授予，課程亦必須實質著重於 (substantially concentrated) UBE 之考科，疫情後亦開放遠距教育課程之認定。受非美國法學教育者，必須向哥倫比亞特區上訴法院認可之機構購買評估並認證其學位是否合乎規定，哥倫比亞特區上訴法院擁有最後決定認可之權力。

與前述紐約州律師考試相同，DC Bar 考試亦採用 NCBE 規劃之 Uniform Bar Examination (UBE)，UBE 包含三個部分，Multistate Bar Examination (MBE)、Multistate Essay Examination (MEE)、Multistate Performance Test (MPT)，考試以通過 (Pass) 或未通過 (Fail) 為結果，

DC Bar 考試以 266 分為通過標準（注意：通過分數每州標準不同）。MBE 為選擇題，為一天內兩場三小時之考試，占總分之五成，考科包含民事訴訟法（Civil Procedure）、憲法（Constitutional Law）、契約法（Contracts）、刑法與刑事訴訟法（Criminal Law & Procedure）、證據法（Evidence）、財產法（Property）、侵權法（Torts）。MEE 則是六題 30 分鐘之申論題（Essays），舉行於下午共三小時，除了 MBE 的考科外，另外有 Business Association、Conflicts of Laws、Family Law、Trust & Estates、Secured Transactions 等五科增加至考試範圍中，各題給分範圍為 0-6 分，亦有提供各分數之給分標準〔例如：4 分代表答題內容屬於平均水準的回答（Average answer），答題內容顯示答題者對於事實具有可被承認的理解程度，並能夠找出大部分爭點（Issues），且能提供合理的結論（Reasoned conclusion），答案亦有適用主要法律原則（Principles of Law）以及運用令人滿意的方式撰寫（in a Satisfactory Manner）〕。

此外，考生必須通過一項名為 Multistate Professional Responsibility Examination（MPRE），該考試是要測試考生對於倫理原則（Ethical Principle）的瞭解與適用。這項考試可以在通過律師考試前後完成，一年共舉辦三次考試（三月、八月、十一月）。

訪談內容：我國考試改革方向討論

三、美國執業律師訪談重點

我國近年律師考試雖然錄取人數因應政策方向有所提升，但錄取率仍備受討論。與我國不同，美國律師考試相對高之錄取率素來為國內討論所援引，訪談過程三位接受美國法學院訓練之執業律師皆表示，兩國文化之根本差異可能為其中一項重要影響因素。

首先，美國與臺灣對於律師考試之態度有所不同，受訪者指出臺灣之律師考試隱約透露出一種「比誰會考試，誰比較會讀書」之態度，美國則是為了因應多元化，考試較為重視能不能抓到重點以及法律怎麼適用，臺灣則是有記憶力比賽之感。此亦可以從考試題型看出此種差異，我國二試申論題以不同法律領域分考，美國則是提供實例不指出法律領域，以考生找尋爭點以及適用法律為考試重點，沒有唯一之標準答案，點出問題（如前段敘述考試分數給予標準），考題可能包含不同法律類型，須由考生自行找出爭點並適用法律。

不過，此並非代表美國並無篩選法律這項職業的要求，受訪者認為美國較為著重教育（Education）以及訓練（Training），法律專業備受尊崇之原因並非考生通過律師考試取得律師執照，而是一位接受法學院訓練之畢業生，便是一位受認證且具有聲譽之（prestigiousness）法律人，律師考試（Bar Examination）僅是能力確認之認證。因此考試並不會限制錄取率以控制執業律師數量，而是採及格制以是否具備足夠能力成為一名律師為標準。

四、訪談喬治梅森大學教授重點

首先於訪問前，教授先強調美國各州律師考試之差異，不僅是分數標準不同，在聯邦國家制度下，各州規定有不小之差異性。對於我國除了法律科系畢業生可以參與律師國家考試外，亦有修畢受認可 20 學分之考試資格，受訪者一致認為考試主要是評估考生是否能夠獨立完成律師業務並符合相關倫理規範，修畢學分多寡並非重點，考題的鑑別度更應該受重視。

此外，對於律師資格以考試錄取率作為其中參考指標，受訪者認為美國之執業律師並沒有特別關注律師執業人數之問題，亦無擔憂執業律師數量增加會因為競爭增加而減少其獲利。反而，美國律師認為競爭增加可以提升整體獲利，會有更大的好處。訪談過程亦有提及我國在律師國家考試雖逐漸朝向理論與實務結合之出題方式，但在評分過程仍有如何確保評分標準一致及公平性之挑戰。受訪者分享美國是由 NCBE 出題，採納的州較過往增加，考試評分之標準以及參考答案並不會立刻公布，例如最新的樣本題目與答案為 2018 年之考試，不過考生的確有救濟之管道，考生可以基於，其因為該州考試規定而產生之負面影響，來針對該州之 Board of Examiners (BoE) 提起訴訟，亦提及亞利桑那州 (Arizona) 曾有相關案例，其中考生認為由亞歷桑納州最高法院指定之 Committee on Examinations and Admissions 預設了錄取人數，不過該案

是根據反托拉斯法，主張亞利桑那州以限制律師數量不當影響市場競爭，其救濟手段與我國有所不同。

五、美國政府律師訪談重點

政府律師制度於美國實行多年，受訪者認為提供有效誘因，才是讓政府獲取優秀人才的重點。以美國而言，成為政府律師或於政府中服務之法律從業人員，成為檢察官或檢察長，在聲譽上之提升，有為一般執業律師無法獲得的成就感及社會尊重的尊榮感。除此之外，亦有部份法律人是基於為能夠熟悉政府內部運作以及相關領域之發展，進而希望能夠在政府服務，以便未來執業律師時能夠取得更好待遇。除了上述兩種誘因，受訪者亦提及美國亦有對於進入公部門服務之法學院畢業生提供相關學貸減免之計畫，此種誘因亦可提升法律人選擇於政府部門工作之機會。

本次訪問特別邀請到目前在聯邦政府退役軍人相關部門任職的政府律師一同參與討論。首先，政府律師看似可能因為訴訟頻率不如律所律師，但在該部門之業務範圍中，反而因熟悉業務及法規，在訴訟上具有優勢。受訪者亦指出，在進入政府專業部門工作後，會重新學習該部門相關法律，基本上每日頻繁處理該領域業務並不會產生訴訟上之劣勢，而是更能熟悉該專業領域之法律問題，有助於幫助政府在此領域訴訟上取得優勢。政府律師之待遇部分是相當重要的誘因，除了目前為政府律

師之受訪者外，其餘兩位律所執業律師均有提到當初取得律師資格亦有思考成為政府律師之可能性。為了招募到人才，美國政府在政府律師任用待遇上，提供比其一般公務員更高之職等及薪資，換言之，如該公務員具有律師資格，其入職職等及薪資較無律師資格者高。

六、美國律師考試改革之新發展

此次參訪正好於 COVID-19 疫情解封之後，瞭解到美國不停檢討與改善之法律人就學就業之規劃，從美國有彈性地於疫情期間運用遠距考試，到訪談中提到 NCBE 未來 2026 年的考試改革，其命名為 NextGen Exam〔雖然正在研發中，但已有至少 20 州宣布會採用下（不過 DC 目前尚未宣布採用）〕，可以觀察到美國在法律人訓練以及考試銜接與我國之差異性，未來美國律師考試制度改革對我國具有實踐上之參考價值。

伍、結論

本報告之參訪結果顯示在教、考、用三環節中，考試制度對於教學以及職業選項具有相當深遠之影響。法律人之培養以及未來之業務執行，取決於具有鑑別度與倫理評鑑之考試制度，法律人的健全發展，對於我國民主法治發展有其重大意義與深遠影響。

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PART 520. RULES OF THE COURT OF APPEALS FOR THE ADMISSION OF ATTORNEYS AND COUNSELORS AT LAW

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§ 520.1 General.

(a) A person shall be admitted to practice law in the courts of the State of New York only by an order of the Appellate Division of the Supreme Court upon compliance with these rules.

(b) *Saving Clause.* Those provisions of the rules of the Court of Appeals for the admission of attorneys and counselors at law that prescribe the qualifications for admission to the New York State bar examination, which were in effect at the time an applicant for admission commenced the study of law, to the extent that the application thereof was or would have been less restrictive or burdensome, shall determine the applicant's eligibility for admission to such examination.

§ 520.2 Admission upon examination.

(a) Application to sit for the New York State bar examination. An applicant who seeks to sit for the New York State bar examination prescribed in section 520.8 of this Part shall furnish to the New York State Board of Law Examiners, in accordance with its rules, proof satisfactory to said board:

- (1) that the applicant is at least 21 years of age;
- (2) as to the applicant's date of birth; and
- (3) that the applicant has complied with section 520.3, 520.4, 520.5, 520.6 or 520.17 of this Part.

(b) Transfer of Uniform Bar Examination Score Earned in Another Jurisdiction. Effective October 1, 2016, an applicant who sat for the Uniform Bar Examination in another jurisdiction may transfer the score earned on that examination to New York in lieu of taking the Uniform Bar Examination in this State. The applicant shall pay to the New York State Board of Law Examiners the fee prescribed by section 465 of the Judiciary Law and shall file with the Board, in accordance with its rules, proof satisfactory to said Board that the applicant:

- (1) has achieved a score on the Uniform Bar Examination, as reported by the National Conference of Bar Examiners, that is equal to or greater than the passing score established by the New York State Board of Law Examiners;
- (2) has attained educational qualifications that are at least equal to those required by section 520.3, 520.4, 520.5, 520.6 or 520.17 of this Part;
- (3) has completed the additional requirements for admission prescribed in section 520.9 of this Part; and
- (4) is at least 21 years of age, as established by proof of the applicant's date of birth.

§ 520.3 Study of law in law school.

(a) *General.* An applicant may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:

- (1) the applicant attended and was graduated with a first degree in law from an approved law school; or

- (2) the applicant attended and successfully completed the prescribed course of instruction required for a first degree in law at an approved law school, but has not been awarded the degree as of the date proof of eligibility to sit for the bar examination is required to be filed with the State Board of Law Examiners. The State Board of Law Examiners shall not certify the applicant for admission to the bar pursuant to section 520.7(a) of this Part until the applicant has presented satisfactory proof that the applicant has been awarded a first degree in law; or
 - (3) the applicant satisfies the requirements of section 520.17 of this Part.
- (b) *Approved law school defined.* For purposes of these rules, an *approved law school* is one:
- (1) that is approved by the American Bar Association at all times during the period of the applicant's attendance; and
 - (2) that is located in the United States or its territories.
- (c) The academic program, calendar and instructional requirements contained in the American Bar Association Standards and Rules of Procedure for the Approval of Law Schools shall apply with the exception of distance education provisions, which are as follows:
- (1) Distance education course. A distance education course is a course in which students are separated from all faculty members for more than one-third of the course instruction and the instruction involves the use of technology to support regular and substantive interaction between the students and all the faculty members, either synchronously or asynchronously; and
 - (2) Up to 15 credit hours for distance education courses may be counted toward both the credit hours required for graduation and the classroom credit hours required; and
 - (3) No credit shall be allowed for distance education courses until the student has completed the equivalent of 28 credit hours toward the first degree in law; and
 - (4) Remote participation in a non-distance education course by a student as an accommodation under the Americans with Disabilities Act or any other law requiring accommodation will not cause the course to count toward the distance education credit limits in this section for the accommodated student. The law school must document all instances in which it permits a student's remote participation in a non-distance education course for which credits will not be counted toward distance education credit limits in this section.
- (d) *Law school certificate of attendance.* The applicant shall file a law school certificate of attendance with the State Board of Law Examiners that must include:
- (1) a certification that the applicant has successfully completed the prescribed course of instruction for the J.D. degree at a law school approved by the ABA at all times during the period of the applicant's attendance;
 - (2) the date of graduation or the date on which the J.D. degree will be conferred;
 - (3) the number of credits completed in distance education courses under paragraph (c)(1) of this section; and;
 - (4) a certification that the applicant did not complete any credits in distance education courses during the first 28 credit hours toward the first degree in law.
- (e) *Credit for law study in foreign country.* An approved law school may, in its discretion, grant such credit as it may deem appropriate toward the total credits required for a first degree in law, but not exceeding one-third of the total credits required for the degree, to an applicant who has studied law in a law school in a foreign country. No such credit shall be allowed for law study in a foreign country that was undertaken in a distance education course as defined in paragraph (c)(1) of this section, nor shall any credit be allowed for correspondence courses.

§ 520.4 Study of law in law office.

- (a) *General.* An applicant may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:
- (1) the applicant commenced the study of law after the applicant's 18th birthday;
 - (2) the applicant successfully completed the prescribed requirements of the first year of full-time study in a first degree in law program at an approved law school as defined in section 520.3(b) of this Part, whether attending full-time or part-time, earning a minimum of 28 credit hours (the threshold period);
 - (3) at the conclusion of the threshold period the applicant was in good standing, not on academic probation and was eligible to continue in the law school's degree program;
 - (4) the threshold period was completed within 36 months of the commencement of law school study; and
 - (5) the applicant thereafter studied law in a law office or offices located within New York State, under the supervision of one or more attorneys admitted to practice law in New York State, for such a period of time as, together with the credit permitted pursuant to this section for attendance in an approved law school, shall aggregate four years.
- (b) *Employment and instruction requirements.* An applicant studying law in a law office or offices within New York State must be actually and continuously employed during the required period as a regular law clerk and student in a law office, under the direction and subject to the supervision of one or more attorneys admitted to practice law in New York State, and must be actually engaged in the practical work of such law office during normal business hours. In addition, the applicant must receive instruction from the supervising attorney or attorneys in those subjects that are customarily taught in approved law schools.
- (c) *Credit for attendance in approved law school.* Credit shall be allowed toward the required four years of combined law school and law office study in accordance with subdivision (a) of this section as follows:
- (1) one full year (52 weeks) of credit shall be allowed for successfully completing the threshold period;

(2) following the threshold period, two weeks of credit shall be allowed for every additional successfully completed credit hour at an approved law school, but only if at the conclusion of the semester in which the credits were earned the applicant was in good academic standing, was not on academic probation and was eligible to continue in the school's degree program.

(d) *Vacations.* Vacations taken by the applicant in excess of one month in any year of law office study shall be deducted from the period of law office study for which credit shall be given, but if the applicant does not take a vacation there will not be an adjustment in the period of study required by this section.

(e) *Certificate of commencement of law office study.* It shall be the duty of the attorney or attorneys with whom a period of law office study is about to be commenced to obtain from, complete and file with, the Clerk of the Court of Appeals a certificate of commencement of clerkship, Appendix B-2, *infra*. At the time the certificate of commencement of clerkship is filed, the applicant shall provide the Court of Appeals with a copy of the determination of the State Board of Law Examiners of the credit to which the applicant is entitled under subdivision (c) of this section.

(f) *Credit for law study in law office.* Credit shall be given only for study in a law office or offices engaged in after the successful completion of the threshold period of law school study and after the filing of the certificate required by subdivision (e) of this section.

(g) *Proof required.* Compliance with the requirements of this section shall be proved to the satisfaction of the State Board of Law Examiners.

§ 520.5 Study of law in law school and actual practice.

(a) *General.* An applicant who has studied law in any law school in any other state or territory of the United States or in the District of Columbia, other than an approved law school as defined in section 520.3(b) of this Part, and has received a degree from such law school that qualifies the applicant to practice law in such state, territory or in the District of Columbia, may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:

(1) the applicant possesses the legal education required by this Part;

(2) the applicant's course of study complies with the instructional requirements of section 520.3(c) through (e) of this Part and with the curriculum, academic program and academic calendar requirements for an approved law school; and

(3) while admitted to the bar in the highest court in any state or territory of the United States or in the District of Columbia, the applicant has actually practiced therein for at least five years of the seven years immediately preceding the application to sit for the bar examination.

(b) *Proof required.* The applicant shall submit to the State Board of Law Examiners such proof of compliance with the provisions of this section as the Board may require.

§ 520.6 Study of law in foreign country; required legal education.

(a) *General.* An applicant who has studied in a foreign country may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof of the legal education required by this section.

(b) *Legal education.* The applicant must satisfy the educational requirements of either paragraph (1) or (2) of this subdivision.

(1) The applicant shall show fulfillment of the educational requirements for admission to the practice of law in a country other than the United States by successful completion of a period of law study in a law school or schools each of which, throughout the period of the applicant's study therein, was approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, to award a first degree in law, and satisfaction of the following requirements:

(i) (a) *Durational requirements.* The program and course of law study successfully completed by the applicant was substantially equivalent in duration to the legal education provided by an American Bar Association approved law school in the United States, and in substantial compliance with the following requirements: 83 credit hours must be required for graduation, 64 of which must be earned by attendance in regularly scheduled classroom courses at the law school, a minimum of 700 minutes in instruction time, exclusive of examination time, must be required for the granting of one credit hour, and no credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or distance education courses; and

(b) *Substantive requirements.* Such other country is one whose jurisprudence is based upon the principles of English Common Law, and that the program and course of law study successfully completed by the applicant were the substantial equivalent of the legal education provided by an American Bar Association approved law school in the United States.

(ii) *Cure provision.* An applicant who does not meet the requirements of clause (i)(a) or (i)(b) of this paragraph may cure either the durational or substantive deficiency, but not both, under the following circumstances:

(a) *Durational deficiency.* If the applicant does not meet the durational requirements of clause (i)(a) of this paragraph, the applicant may cure the deficiency by providing satisfactory proof that the applicant has at least two years of foreign legal education that meets the substantive requirements of clause (i)(b) of this paragraph and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of paragraph (3) of this subdivision.

(b) Substantive deficiency. If the applicant does not meet the substantive requirements of clause (i)(b) of this paragraph, the applicant may cure the deficiency by providing satisfactory proof that the applicant meets the durational requirements of clause (i)(a) of this paragraph and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of paragraph (3) of this subdivision.

(2) The applicant shall show admission to practice law in a country other than the United States whose jurisprudence is based upon principles of English Common Law, where admission was based upon a program of study in a law school and/or law office approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, and which satisfies the durational requirements of clause (1)(i)(a) of this subdivision but does not satisfy the substantive requirements of clause (1)(i)(b) of this subdivision, and that such applicant has successfully completed an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of paragraph (3) of this subdivision.

(3) An LL.M. degree shall be satisfactory to qualify an applicant otherwise meeting the requirements of subparagraph (1)(ii) or paragraph (2) of this subdivision to take the New York State bar examination provided the following requirements are met:

(i) the program shall consist of a minimum of 24 credit hours (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills;

(ii) the number of credit hours awarded for coursework shall be determined as required for an approved law school as defined in section 520.3(b) of this Part;

(iii) the program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four credit hours may be earned in courses completed during summer semesters;

(iv) the program shall be completed within 24 months of matriculation;

(v) all coursework for the program shall be completed at the campus of an American Bar Association approved law school in the United States, except as otherwise expressly permitted by subparagraph (vii) of this paragraph;

(vi) the program completed by the applicant shall include:

(a) a minimum of two credit hours in a course or courses in professional responsibility;

(b) a minimum of two credit hours in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course;

(c) a minimum of two credit hours in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure; credit earned in such course in excess of the required two credit hours may be applied in satisfaction of the requirement of clause (d) of this subparagraph; and

(d) a minimum of six credit hours in other courses that principally focus on subject matter tested on the New York State bar examination or the New York Law Examination prescribed in section 520.9(a)(3) of this Part.

(vii) The program completed by the applicant may include:

(a) credit hours in clinical courses, field placements, externships and other experiential learning courses, and

(b) a maximum of six credit hours in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.

(viii) No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

(c) *Proof required.* The applicant shall submit to the State Board of Law Examiners such proof of compliance with the provisions of this section as the board may require.

(d) *Effective date for implementation.* Except for the requirements of subparagraphs (b)(3)(iii), (v) and (viii) of this section, which are effective May 18, 2011, the provisions of paragraph (b)(3) of this section shall first apply to LL.M. programs commencing during the 2012-13 academic year and to applicants applying to take the July 2013 bar examination, subject to the saving clause of section 520.1(b) of this Part.

§ 520.7 Certification by Board of Law Examiners.

(a) Except as provided in section 520.10 of this Part, no applicant for admission to practice in this State shall be admitted unless the New York State Board of Law Examiners shall have certified to the Appellate Division of the department in which, as shown by the papers filed by the applicant with the Board, the applicant resides, or if not a resident of the State, in which such papers show that the applicant is employed full-time, or, if the applicant does not reside and is not employed full-time in the

State, to the Appellate Division of the Third Department, that the applicant (1) has passed the New York State bar examination prescribed in section 520.8 of this Part or has satisfied the requirements for transfer of a Uniform Bar Examination score as set forth in section 520.2(b) of this Part, and (2) has demonstrated compliance with the requirements of section 520.9 of this Part.

(b) Applicants who seek admission in New York based on passage of the New York State bar examination administered prior to July 2016 need not demonstrate compliance section 520.9(a)(2)-(3) of this Part.

§ 520.8 New York State bar examination.

(a) *General.* The New York State Board of Law Examiners shall twice each year administer the New York State bar examination, which, effective for the July 2016 administration of the bar examination, shall consist of the Uniform Bar Examination, developed by the National Conference of Bar Examiners.

(b) *Preservation of papers.* Bar examination papers shall be preserved for a period of four months from the date of the announcement of the results of the bar examination, and may thereafter be destroyed.

(c) *Passing score.* The New York State Board of Law Examiners shall determine the passing score for the Uniform Bar Examination.

(d) *Examination fee.* Every applicant for the New York State bar examination shall pay to the New York State Board of Law Examiners the fee prescribed by section 465 of the Judiciary Law.

§ 520.9 Additional requirements for applicants for admission upon examination.

(a) All applicants for admission upon examination, including applicants who sat for the Uniform Bar Examination in another jurisdiction and seek to transfer the score earned on that examination to New York, must satisfy the following requirements.

(1) Multistate Professional Responsibility Exam.

(i) *General.* Applicants must achieve a passing score on the Multistate Professional Responsibility Exam developed and administered by the National Conference of Bar Examiners.

(ii) *Timing.* An applicant may take the Multistate Professional Responsibility Exam prior or subsequent to the Uniform Bar Examination, whether taken in New York or another jurisdiction, subject to the rules of the New York State Board of Law Examiners. The fee to take the Multistate Professional Responsibility Exam shall be fixed by the National Conference of Bar Examiners.

(iii) *Passing score.* The New York State Board of Law Examiners shall determine the passing score for the Multistate Professional Responsibility Exam for applicants seeking admission to practice in this State.

(iv) *Reexamination.* There shall be no restriction on the right of a failing applicant to retake the Multistate Professional Responsibility Exam.

(2) New York Law Course.

(i) *General.* Applicants must successfully complete the New York Law Course, which shall consist of lectures on New York law. The content and method of delivery of the New York Law Course shall be determined by the New York State Board of Law Examiners.

(ii) *Timing.* An applicant may complete the New York Law Course up to one year before or anytime after the date on which the applicant first sits for the Uniform Bar Examination, subject to the application filing deadline of section 520.12(d) of this Part.

(3) New York Law Examination.

(i) *General.* Applicants must pass the New York Law Examination, which shall test on New York law. The content and method of examination, and the fee to take the examination, shall be determined by the New York State Board of Law Examiners.

(ii) *Timing.* Provided the New York Law Course has been successfully completed, an applicant may take the New York Law Examination up to one year before or anytime after the date on which the applicant first sits for the Uniform Bar Examination, subject to the application filing deadline of section 520.12(d) of this Part.

(iii) *Passing score.* The New York State Board of Law Examiners shall determine the passing score for the New York Law Examination.

(iv) *Reexamination.* There shall be no restriction on the right of a failing applicant to retake the New York Law Examination.

(v) *Expiration of New York Law Examination passing score.* A passing score on the New York Law Examination is valid for three years from the date the applicant received the passing score. The New York State Board of Law Examiners shall not certify an applicant for admission pursuant to section 520.7 of this Part if the New York Law Examination score is more than three years old.

(b) The requirements of paragraphs (a)(2) and (3) of this section shall not apply to applicants who seek admission in New York based on passage of the New York State bar examination administered prior to July 2016.

§ 520.10 Admission Without Examination.

(a) *General.* In its discretion, the Appellate Division may admit to practice without examination an applicant who:

(1) (i) has been admitted to practice in the highest law court in any other state or territory of the United States or in the District of Columbia; or

(ii) has been admitted to practice as an attorney and counselor-at-law or the equivalent in the highest court in another country whose jurisprudence is based upon the principles of the English Common Law; and

(iii) is currently admitted to the bar in such other jurisdiction or jurisdictions, that at least one such jurisdiction in which the attorney is so admitted would similarly admit an attorney or counselor-at-law admitted to practice in New York State to its bar without examination; and

(2) (i) while admitted to practice as specified in paragraph (1) of this subdivision, has actually practiced therein, for at least five of the seven years immediately preceding the application:

(a) in its highest law court or highest court of original jurisdiction in the state or territory of the United States, in the District of Columbia or in the common law country where admitted; or

(b) in Federal military or civilian legal service in a position which requires admission to the bar for the appointment thereto or for the performance of the duties thereof, even if the government service, civilian or military, was not in a jurisdiction in which the applicant was admitted to practice; or

(c) in legal service as counsel or assistant counsel to a corporation in the state or territory of the United States where admitted, or in the District of Columbia if admitted therein; or in the common law country where admitted; or

(ii) has been employed in any other state or territory of the United States or in the District of Columbia as a judge, magistrate, referee or similar official for the local, State or Federal government in a tribunal of record, or as a law clerk to such judicial official, provided that such employment requires admission to the bar for the appointment thereto or for the performance of the duties thereof, for at least five of the seven years immediately preceding the application; or

(iii) has been employed in this State or in any other state or territory of the United States or in the District of Columbia as a full-time member of the law faculty teaching in a law school or schools on the approved list of the American Bar Association and has attained the rank of professor or associate professor for at least five of the seven years immediately preceding the application; or

(iv) has actually practiced as provided in subparagraph (i) of this paragraph, or been employed as a judicial official as provided in subparagraph (ii) of this paragraph, or has been teaching at a law school as provided in subparagraph (iii) of this paragraph, or has actually practiced while admitted pursuant to Rule 520.11(a)(2) of this Part, for a period of up to 18 months, in a combination or cumulation of service among the categories of practice, judicial or legal service or teaching where the Appellate Division determines that such five years of combined or cumulative service is the equivalent of the practice required in clause (i)(a) of this paragraph; and

(3) has received a first degree from a law school in the United States that was approved by the American Bar Association at all times during the period of the applicant's attendance; and

(4) is over 26 years of age.

(b) *Proof Required.* An applicant for admission under this section shall file with the Clerk of the Appellate Division of the department in which, as shown by the papers filed by the applicant with the department, the applicant resides or, if not a resident of the state in which such papers show that the applicant is employed full-time or, if such papers do not show that the applicant resides or is employed full-time in the State, the Appellate Division of the Third Department:

(1) a certificate of good standing from each state, territory, district or foreign country in which applicant has been admitted to practice as an attorney and counselor-at-law or the equivalent, certifying to applicant's admission to practice and the date thereof; and

(2) in the case of an applicant seeking admission relying upon teaching, a certificate from the dean of the law school which employs or employed the applicant, certifying to the nature and extent of applicant's employment and the rank attained; and

(3) a certificate from the New York State Board of Law Examiners certifying that the applicant has received a first degree in law from a law school in the United States that was approved by the American Bar Association at all times during the period of the applicant's attendance; and

(4) any such other satisfactory evidence of character and qualifications as the Appellate Division may require, which may include a report of the National Conference of Bar Examiners.

(c) *Proof to be submitted and fee to be paid to New York State Board of Law Examiners.* The applicant shall submit to the New York State Board of Law Examiners such proof of compliance with the provisions of paragraph (a)(3) of this section as the board may require and shall at the same time pay the board the fee prescribed by section 465 of the Judiciary Law.

(d) *Discretion of Appellate Division.* The Appellate Division may in its discretion impose as a condition to admission such other tests of character and fitness as it may deem proper.

§ 520.11 Admission *pro hac vice*.

(a) *General.* An attorney and counselor-at-law or the equivalent, who is a member in good standing of the bar of another state, territory, district or foreign country may be admitted *pro hac vice*:

(1) in the discretion of any court of record, to participate in any matter in which the attorney is employed;

(2) in the discretion of the Appellate Division, provided applicant is a graduate of an approved law school, to advise and represent clients and participate in any matter during the continuance of the applicant's employment or association with an organization described in subdivision 7 of section 495 of the Judiciary Law or during employment with a District Attorney, Corporation Counsel or the Attorney General, but in no event for longer than 18 months.

(b) *New York Law students.* A graduate student or graduate assistant at an approved law school in New York State may be admitted *pro hac vice* in the discretion of the Appellate Division, to advise and represent clients or participate in any matter during the continuance of applicant's enrollment in an approved law school in New York

State as a graduate student or graduate assistant, or during applicant's employment as a law school teacher in an approved law school in New York State, if applicant is in good standing as an attorney and counselor-at-law or the equivalent of the bar of another state, territory, district or foreign country and is engaged to advise or represent the client through participation in an organization described in subdivision 7 of section 495 of the Judiciary Law or during employment with a District Attorney, Corporation Counsel or the Attorney General, but in no event for longer than 18 months.

(c) *Association of New York counsel.* No attorney may be admitted *pro hac vice* pursuant to paragraph (a)(1) of this section to participate in pre-trial or trial proceedings unless he or she is associated with an attorney who is a member in good standing of the New York bar, who shall be the attorney of record in the matter.

(d) *Provision of legal services following determination of major disaster.*

(1) Determination of existence of major disaster. Upon the declaration of a state of disaster or emergency by the Governor of New York or of another jurisdiction, for purposes of this subdivision, this court shall determine whether an emergency exists affecting the justice system.

(2) Temporary *pro bono* practice following the determination of a major disaster. Following a determination by this court that persons residing in New York are:

(i) affected by a state of disaster or emergency in the entirety or a part of New York; or

(ii) displaced by a declared state of disaster or emergency in another jurisdiction, and such persons are in need of *pro bono* services and the assistance of attorneys from outside of New York is required to help provide such services, an attorney authorized to practice law in another United States jurisdiction may provide legal services in New York on a temporary basis. Such legal services must be provided on a *pro bono* basis without compensation from the client, or expectation of compensation or other direct or indirect pecuniary gain to the attorney from the client. Such legal services shall be assigned and supervised through an established not-for-profit bar association in New York or an organization described in subdivision 7 of section 495 of the Judiciary Law.

(3) Other temporary practice following the determination of a major disaster. Following the determination of a major disaster in another United States jurisdiction - after such a declaration of a state of disaster or emergency and its geographical scope have been made by the Governor and a determination of the highest court of that jurisdiction that an emergency exists affecting the justice system - an attorney who has been authorized to practice law and is in good standing in that jurisdiction and who principally practices in that affected jurisdiction may provide legal services in New York on a temporary basis in association with an attorney admitted and in good standing in New York. The authority to engage in the temporary practice of law in New York pursuant to this paragraph shall extend only to attorneys who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services. Those legal services shall be limited to:

(i) representing clients with respect to matters that the attorney was handling prior to the disaster; and

(ii) new matters in the area affected by the disaster that the attorney could have handled but is unable to do so because:

(a) the attorney's ability to practice in the jurisdiction affected by the disaster has been limited by the disaster; and/or

(b) the client has temporarily relocated from the disaster area to another jurisdiction because of the disaster.

(4) Duration of authority for temporary practice. The authority to practice law in New York granted by paragraph (2) of this subdivision shall end when this court determines that the conditions caused by the major disaster in New York have ended except that an attorney then representing clients in New York pursuant to paragraph (2) of this subdivision is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the attorney shall not thereafter accept new clients. The authority to practice law in New York granted by paragraph (3) of this subdivision shall end 60 days after either the Governor or this court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

(5) Court appearances. The authority granted by this subdivision does not include appearances in court except pursuant to subdivision (a) of this section.

(6) Admission and registration requirement. An attorney may be admitted *pro hac vice* in the discretion of the Appellate Division, provided the applicant is a graduate of an approved law school and is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, to provide legal services in New York pursuant to paragraphs (2) or (3) of this subdivision. Such applicant must file a registration statement with the Office of Court Administration before the commencement of the provision of legal services. The application shall be in a form prescribed by the Appellate Division and the registration statement shall be in a form prescribed by the Office of Court Administration.

(7) Notification to clients. Attorneys authorized to practice law in another United States jurisdiction who provide legal services pursuant to this subdivision shall inform clients in New York of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and the limitations on their authorization to practice law in New York as permitted by this subdivision. They shall not state or imply to any person that they are otherwise authorized to practice law in New York.

(e) Professional responsibility requirements.

An attorney admitted *pro hac vice* pursuant to this section:

(1) shall be familiar with and shall comply with the standards of professional conduct imposed upon members of the New York bar, including the rules of court governing the conduct of attorneys and the Rules of Professional

Conduct; and

(2) shall be subject to the jurisdiction of the courts of this State with respect to any acts occurring during the course of the attorney's participation in the matter.

§ 520.12 Proof of moral character.

(a) General. Every applicant for admission to practice must file with a committee on character and fitness appointed by the Appellate Division of the Supreme Court affirmations of reputable persons that the applicant possesses the good moral character and general fitness requisite for an attorney- and counselor-at-law as required by section 90 of the Judiciary Law. The number of such affirmations and the qualifications of persons acceptable as affirmants shall be determined by the Appellate Division to which the applicant has been certified.

(b) Affirmations. The affirmations filed shall state that the applicant is, to the knowledge of the affirmant, a person of good moral character and possesses the general fitness requisite for an attorney and counselor-at-law and shall set forth in detail the facts upon which such knowledge is based. Such affirmations shall not be conclusive proof as to character and fitness, and the Appellate Division to which the applicant has been certified may inquire further through its committee on character and fitness or otherwise.

(c) Discretion of Appellate Division. The Appellate Division in each department may adopt for its department such additional procedures for ascertaining the moral character and general fitness of applicants as it may deem proper, which may include submission of a report of the National Conference of Bar Examiners.

(d) Time to file admission application.

(1) Every applicant for admission to practice, other than applicants for admission without examination pursuant to section 520.10 of this Part, shall file a complete application for admission, including the affirmations required under subdivision (a) and any additional material required under subdivision (c) of this section, within three years from the date when the applicant sits for the second day of the Uniform Bar Examination, whether taken in New York or in another jurisdiction. The requirements of this subdivision shall not apply to any applicant for admission who has passed the New York State bar examination administered prior to July 2016.

(2) Any applicant for admission to practice who has passed the New York State bar examination administered prior to July 2016 shall file a complete application for admission, including the affirmations required under subdivision (a) and any additional material required under subdivision (c) of this section, within three years from the date of the letter sent by the New York State Board of Law Examiners notifying the applicant that the applicant has passed the bar examination.

§ 520.13 Designation of agent for service of process.

(a) Every applicant for admission to practice who does not reside and is not employed full-time in the State shall be required, as a condition of admission, to execute and file with the Appellate Division of the department in which the applicant is being admitted, a duly acknowledged instrument in writing setting forth the applicant's residence or mailing address and designating the clerk of such Appellate Division as the applicant's agent upon whom process may be served, with like effect as if served personally upon the applicant, in any action or proceeding thereafter brought against the applicant and arising out of or based upon any legal services rendered or offered to be rendered by the applicant within the State.

(b) Any such applicant may, at any time after being admitted to practice, revoke a designation filed with the Appellate Division pursuant to subdivision (a) of this section by executing and filing with such Appellate Division an affidavit revoking such designation and showing that, as of the date of such affidavit, the applicant resides or is employed full-time in the State or has an office therein for the practice of law; except such revocation shall be effective only with respect to causes of action accruing after the filing thereof.

(c) Service of process on the clerk of the Appellate Division, pursuant to a designation filed pursuant to subdivision

(a) of this section, shall be made by personally delivering to and leaving with such clerk, or with a deputy or assistant authorized to receive such service at the clerk's office, duplicate copies of the process together with a fee of \$25. Service of process shall be complete when such clerk has been so served. Such clerk shall promptly send one copy of the process to the person to whom it is directed, by certified mail, return receipt requested, addressed to such person at the address specified in the designation or at such other address as such person shall have specified in a duly acknowledged supplemental instrument in writing which such person shall have filed in the office of such clerk.

§ 520.14 Application for waiver of rules.

The Court of Appeals, upon application, may in its discretion vary the application of or waive any provision of these rules where strict compliance will cause undue hardship to the applicant. Such application shall be in the form of a verified petition setting forth the applicant's name, age and residence address, the facts relied upon and a prayer for relief.

§ 520.15 Rules of the New York State Board of Law Examiners.

The New York State Board of Law Examiners may from time to time adopt, amend or rescind rules, not inconsistent with these rules, as it shall deem necessary and proper to enable it to discharge its duties as such duties are established by law and by these rules. The rules so established by the board shall not be adopted, amended or rescinded except by a majority vote of the members thereof. A copy of each rule adopted, amended or rescinded must, within 30 days of such action, be filed in the Office of the Secretary of State.

§ 520.16 Pro Bono requirement for bar admission.

(a) *Fifty-hour pro bono requirement.* Every applicant admitted to the New York State bar on or after January 1, 2015, other than applicants for admission without examination pursuant to section 520.10 of this Part, shall complete at least 50 hours of qualifying *pro bono* service prior to filing an application for admission with the appropriate Appellate Division department of the Supreme Court.

(b) *Pro bono service defined.* For purposes of this section, *pro bono* service is supervised pre-admission law-related work that:

(1) assists in the provision of legal services without charge for

- (i) persons of limited means;
 - (ii) not-for-profit organizations; or
 - (iii) individuals, groups or organizations seeking to secure or promote access to justice, including, but not limited to, the protection of civil rights, civil liberties or public rights;
- (2) assists in the provision of legal assistance in public service for a judicial, legislative, executive or other governmental entity; or
- (3) provides legal services pursuant to subdivisions two and three of section 484 of the Judiciary Law, or pursuant to equivalent legal authority in the jurisdiction where the services are performed.
- (c) *Supervision required.* All qualifying pre-admission *pro bono* work must be performed under the supervision of:
- (1) a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school;
 - (2) an attorney admitted to practice and in good standing in a jurisdiction, provided that the supervisory work does not violate any statute, regulation or code regarding the unauthorized practice of law; or
 - (3) in the case of a clerkship or externship in a court system, by a judge or attorney employed by the court system.
- (d) *Location of pro bono service.* The 50 hours of *pro bono* service, or any portion thereof, may be completed in any state or territory of the United States, the District of Columbia, or any foreign country.
- (e) *Timing of pro bono service.* The 50 hours of *pro bono* service must be performed on or after May 1, 2012 and after the commencement of the applicant's legal studies, and prior to filing an application for admission to the New York State bar. However, if the applicant attended an approved law school as defined in section 520.3(b) of this Part and will be admitted on or before December 31, 2015, eligible *pro bono* work may have been performed before May 1, 2012, provided it was performed after the commencement of the applicant's legal studies.
- (f) *Proof required.* Every applicant for admission shall file with the appropriate Appellate Division department an affidavit of compliance with the *pro bono* requirement, describing the nature and dates of *pro bono* service and the number of hours completed. The affidavit of compliance shall include a certification by the supervising attorney or judge confirming the applicant's *pro bono* activities. For each position used to satisfy the 50-hour requirement, the applicant shall file a separate affidavit of compliance.
- (g) *Prohibition on political activities.* An applicant may not satisfy any part of the 50-hour requirement by participating in partisan political activities.

§ 520.17 Pro Bono Scholars Program.

- (a) *General.* The *Pro Bono* Scholars Program is a voluntary component of legal education that provides law student participants in their final semester of study with an opportunity to assist in improving access to justice for persons of limited means while acquiring practical legal skills training. The program is administered by the Chief Administrator of the Courts or a designee and provided through approved law schools in the United States.
- (b) *Eligibility.* A student may participate in the *Pro Bono* Scholars Program upon proof that:
- (1) the student is enrolled in the final semester of law school study in a first degree in law program at an approved law school in the United States, as that term is defined in section 520.3 of this Part, and satisfies any eligibility requirements set by the student's law school; and
 - (2) upon successful completion of the *Pro Bono* Scholars Program the student will have satisfied:
 - (i) the instructional requirements of section 520.3(c) and (d) of this Part; and
 - (ii) the necessary requirements for graduation at the student's law school, and will be awarded a first degree in law.
- (c) *Program requirements.* A student enrolled in the *Pro Bono* Scholars Program must complete:
- (1) the New York State bar examination administered during the final semester of the student's law school study;
 - (2) at least 12 weeks of full-time *pro bono* work at a placement approved by the student's law school and the chief administrator or a designee, where such work will be supervised by an attorney admitted to practice in the jurisdiction where the work is performed and by a faculty member of the student's law school; and
 - (3) a concomitant academic component at an approved law school in the United States, and any other academic requirements set by the student's law school.
- (d) *Law school credit.* A student who completes the *Pro Bono* Scholars Program must receive at least 12 academic credits for participation in the program. Up to 42.5 hours of the program may be completed during the fall semester immediately preceding the program participant's final semester of law school study. Credit for such work may not be awarded until the entire program is completed.
- (e) *Pro bono service defined.* For purposes of this section, *pro bono* service is full-time supervised law-related work that assists in the provision of legal services for:
- (1) persons who are financially unable to pay for legal representation;
 - (2) not-for-profit legal service providers that predominantly address the legal needs of indigent clients where the work performed is for such clients; or

- (3) governmental entities, so long as the work performed is on behalf of identifiable individuals who are financially unable to afford representation or whose unmet legal needs prevent their access to justice.

(f) *Bar examination and accelerated admission to the bar.* A student who participates in the *Pro Bono* Scholars Program must complete the New York State bar examination during the student's final semester of law study, provided the student's law school submits certification to the New York State Board of Law Examiners that the student, upon successful completion of the *Pro Bono* Scholars Program, will meet the requirements of section 520.3 of this Part and will be awarded a first degree in law. The State Board of Law Examiners shall not certify the student for admission to the bar pursuant to section 520.7(a) of this Part until the student has presented proof that the student has successfully completed the *Pro Bono* Scholars Program and has been awarded a first degree in law.

(g) *Noncompliance.* A student enrolled in the *Pro Bono* Scholars Program must complete all program requirements by the date established by the chief administrator or a designee and by the student's law school. The deadline for program compliance may be extended only in exceptional circumstances and upon a written request by the student's law school, submitted to the chief administrator or a designee, setting forth the specific reasons for the student's inability to timely complete the program. The determination whether to extend the deadline is within the discretion of the chief administrator or a designee. Absent a showing of exceptional circumstances, the failure to complete the program requirements by the deadline will result in the student's bar examination results being voided.

(h) *Delegation of authority.* The administrative power for the implementation and oversight of the *Pro Bono* Scholars Program, including, without limitation, the power to set forth requirements for the program's operation not inconsistent with any provision of this section, is vested in the chief judge or the chief administrator.

§520.18 Skills competency requirement for admission.

(a) *General.* Every applicant for admission to practice, other than applicants for admission without examination pursuant to section 520.10 of this Part, or applicants who qualify for the bar examination under section 520.4 or 520.5 of this Part, shall demonstrate that the applicant possesses the skills and values necessary to provide effective, ethical and responsible legal services in this State. An applicant may satisfy this requirement by submitting proof of compliance with one of the following five subdivisions.

- (1) Law school certification of competence in skills and professional values.

(i) An applicant may submit from an American Bar Association-approved law school a certification confirming that:

(a) the law school has developed a plan identifying and incorporating into its curriculum the skills and professional values that, in the school's judgment, are required for its graduates' basic competence and ethical participation in the legal profession, as required by American Bar Association standards and rules of procedure for the approval of law schools standard 302(b), (c) and (d), and has made this plan publicly available on the law school's website; and

(b) the applicant has acquired sufficient competency in those skills and sufficient familiarity with those values.

(ii) For purposes of this subdivision, a school may certify that an applicant has attained the required skill level if the graduate received a grade that the school considers sufficient to demonstrate competence in courses the school has designated as teaching the skills and professional values needed for basic competence and ethical participation in the legal profession.

(iii) A law school may adopt such other means of assessing its students' achievement of the required skills for purposes of this subdivision, provided the school receives the prior approval of the Court of Appeals.

(2) Law school certification of credit acquisition. An applicant may submit a certification from the applicant's approved law school confirming that the applicant enrolled in and successfully completed 15 credit hours, as defined by American Bar Association standards for the approval of law schools, of practice-based experiential coursework designed to foster the development of professional competencies. The 15 credits may be earned in whole or half credits.

(i) For purposes of this subdivision, practice-based experiential coursework is coursework that:

(a) develops the concepts underlying the practice competencies being taught;

(b) provides opportunities for performance by the student other than traditional classroom discussion;

(c) provides for regular individualized student feedback from a faculty member; and

(d) provides opportunities for student self-reflection.

(iii) A law school may not count toward this requirement the first four credits earned in an introductory first-year legal research and writing class, first-year moot court class, or any combination thereof.

(iv) A student may earn up to six of the fifteen required credits through law school certified non-credit bearing summer employment supervised by an attorney in good standing in any state or territory of the United States or the District of Columbia. The supervising attorney must certify to the law school the beginning and ending dates of the employment, that the student satisfactorily completed the employment, and that the work experience: provided the student with an initial orientation session; implemented a system for assignments that assured that the student was actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period; provided the student with experience and guidance in the skills and values required for

basic competence and ethical participation in the legal profession; gave the student timely oral and written feedback; and engaged the student in reflection on his/her experiences and learning during the employment. At least 50 hours of full-time employment is required for each substituted credit under this subdivision.

(v) Alternative method of compliance. If the law school does not submit the certification as required in paragraph (2) of this subdivision, the applicant may submit evidence to the Court of Appeals that the requirements of this subdivision have been met by providing a list of the practice-based experiential courses taken by the applicant, the credits awarded, and the course descriptions and/or other information demonstrating that each course meets the requirements of this subdivision. Upon concluding that the applicant has submitted sufficient proof of compliance with this subdivision, the court shall issue a determination to that effect.

(3) Pro Bono Scholars Program. An applicant who has successfully completed the Pro Bono Scholars Program as prescribed in section 520.17 of this Part shall be deemed to have met the skills competency requirement.

(4) Apprenticeship. An applicant may complete a six-month full-time paid or unpaid apprenticeship in a law office in the United States, under the supervision of one or more attorneys who have, for at least two years, been admitted to practice and in good standing in the jurisdiction where the apprenticeship occurs. For an applicant who is unable to secure an apprenticeship in the United States, the applicant may complete the apprenticeship in a law office in another country, territory or commonwealth outside the continental United States, under the supervision of one or more attorneys who have, for at least two years, been in good standing and authorized to practice law in that country, territory or commonwealth. In countries, territories or commonwealths that permit the practice of law without formal admission, supervision by a law graduate who has not been formally admitted to the bar may suffice as long as the supervisor is authorized to engage in the relevant practice under the jurisdiction's rules, is in full compliance with the jurisdiction's rules, and has had at least two years of experience in the relevant practice.

(i) Timing. The apprenticeship shall be continuous for the six-month period, and shall commence after the conclusion of the applicant's law studies, except that an applicant who is required to complete an LL.M. program at an approved law school pursuant to section 520.6(b) of this Part may complete the apprenticeship before commencing the LL.M. program. The apprenticeship must be completed in its totality before the three-year application filing deadline provided in section 520.12(d) of this Part has elapsed.

(ii) Supervisor responsibilities. Apprenticeship supervisors are responsible for:

- (a) certifying the beginning and ending dates of the apprenticeship;
- (b) providing the applicant with an initial orientation session;
- (c) implementing a system for assignment that assures that the applicant is actually engaged in the performance of legal work, including a diversity of tasks, as part of the ongoing practical work of the law office during normal business hours and throughout the required period;
- (d) providing the applicant with experience and guidance in the skills and values required for basic competence and ethical participation in the legal profession;
- (e) giving timely oral and written feedback to the applicant;
- (f) engaging the applicant in reflection on his/her experiences and learning during the apprenticeship; and
- (g) certifying that the preceding elements have been complied with, and that the applicant has satisfactorily completed the apprenticeship.

(iii) Any apprenticeship completed under this paragraph shall be conducted in compliance with all applicable Federal, State and local laws and regulations.

(5) Practice in another jurisdiction. An applicant who has been authorized to practice law in another United States jurisdiction or any other country, territory or commonwealth outside the continental United States may satisfy the skills competency requirement by establishing and submitting proof that the applicant has been in good standing and practiced law in that jurisdiction full-time for at least one year or half-time for two years following the applicant's authorization to practice. Prior legal practice may qualify even if it occurred without formal admission to the bar if the applicant engaged in lawful practice in a country, territory or commonwealth that permits legal practice without formal admission to the bar, and if the prior practice was for at least one year or half-time for two years, in full compliance with the jurisdiction's rules. For an applicant who qualifies for the bar exam after completion of an LL.M. degree pursuant to section 520.6 of this Part, the applicant's practice may occur before or after commencement of the LL.M. program.

(b) *Proof required.* An applicant shall submit to the appropriate Appellate Division department of Supreme Court an Affidavit of Compliance with the Skills Competency Requirement. The Appellate Division may, in its discretion, require the applicant to submit any additional proof it deems necessary to ensure compliance with this section.

(c) *Implementation.* For applicants who qualify for the bar examination under section 520.3 of this Part, and for applicants who qualify for the bar examination under section 520.6 of this Part on the basis of their foreign legal education alone, the requirements of this section shall first apply to those commencing their law study after August 1, 2016. For applicants who qualify for the bar examination under section 520.6 of this Part after the completion of a qualifying LL.M. program, the requirements of this section shall first apply to those commencing their LL.M. program after August 1, 2018.

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NEW YORK STATE BOARD OF LAW EXAMINERS

FREQUENTLY ASKED QUESTIONS AND GENERAL INFORMATION GUIDE FOR TAKING THE UNIFORM BAR EXAMINATION (UBE) IN NEW YORK STATE

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1. What is the New York Bar Examination?

Effective with the July 2016 bar examination, the New York bar examination consists of the Uniform Bar Examination (UBE). The UBE is a high quality, uniform battery of tests that are administered contemporaneously in every other jurisdiction that has adopted the UBE. The UBE is uniformly administered, graded and scored, and it results in a score that can then be transferred to other UBE jurisdictions.

The UBE, which consists of the Multistate Bar Examination (MBE), the Multistate Performance Test (MPT), and the Multistate Essay Examination (MEE), is a paper and in-person examination. All applicants have the option to use a personal laptop computer along with Board-designated word processing security software to type the answers to MPT and MEE questions so long as all applicable deadlines for this option are met. Otherwise, applicants handwrite the answers to the MPT and MEE questions. All applicants are required to record their answers to the MBE questions on a Scantron answer sheet that will be provided by the Board. An applicant must take all sections of the UBE concurrently in the same jurisdiction in order to earn a UBE score that may then be transferred to other UBE jurisdictions.

The UBE is held each year on the last Tuesday and Wednesday of February and July.

More information regarding the UBE, including the list of jurisdictions that have adopted the UBE, is available at the website of the National Conference of Bar Examiners (NCBE) at: <https://www.ncbex.org/exams/ube/>.

Keep in mind that the UBE differs from the New York Law Exam (NYLE), which is an online, open book exam on New York specific law (see “What are other admission requirements” below).

2. What is a BOLE ID and NCBE Number?

In order to apply for the UBE, you must have an NCBE Identification number. If you do not have one, you must visit https://accounts.ncbex.org/php/ncbe_number/ and complete the brief application to receive your NCBE Number.

All applicants must also create a Board of Law Examiners (BOLE) account before applying for the examination. To create a BOLE account, you should click on BOLE Account on the Board's homepage and you will need to furnish the following information:

- (1) Name – enter your full legal name exactly as it appears in the official government issued photo identification that you will use as proof of identity on the date of the bar exam;
- (2) Date of Birth;
- (3) Email address – Use an email address that you check frequently as all communications from the Board will be sent only by email;
- (4) NCBE Number.

Upon creating a BOLE account, you will receive an auto-generated email containing your temporary password from administration@nybarexam.org. You will be prompted to log back into your BOLE account to change your password and to complete your Account Profile. You will be prompted to furnish your legal residence address and indicate the basis for your eligibility to sit for the bar exam. You will be assigned a unique identification number called a BOLE ID, which

will be located in your Account Profile. If you do not immediately complete your Account Profile, any subsequent application with the Board will be deemed incomplete.

Applicants may login to their accounts on the BOLE website at any time using their user name (email address) and password. All transactions and registrations will be made in the applicant's online account including applying for the UBE, registering for the NYLE, applying for admission by transferred UBE score and changing your address. Examination results from the UBE and the NYLE will also be posted to applicant accounts.

You should retain your BOLE ID and use it for all future correspondence with the Board. You should also be prepared to give your BOLE ID when calling the Board office for any reason. All correspondence from the Board will be sent only by email and only to the email address that you provide in your BOLE account. Therefore, it is recommended that you use an email address that will not expire (i.e., Gmail, Yahoo). Emails will come from administration@nybarexam.org so please make certain that you adjust the settings in your email account to accept emails from this address. The server that generates emails from administration@nybarexam.org does not accept responses. If you respond to an email from administration@nybarexam.org we will NOT receive it and you will not receive a response.

You should also check your email regularly (including your junk/spam folder) for important updates and emails regarding the examination. If you change your email with the Board after any given application period closes for the UBE, you need to make certain that it also gets updated with ExamSoft Worldwide, the Board's third-party software vendor.

3. How do I apply for the UBE?

Applicants must apply to sit for the UBE through the Applicant Services Portal. After signing into their account with the Board, the applicant should click the link in the box entitled "New York Bar Examination" in order to register for the UBE.

4. What is the application deadline for the UBE?

A. General Rules

The UBE is administered on the last Tuesday and Wednesday of February and July. Applications must be filed during the month of October for a February examination and during the month of March for a July examination. An application is considered filed when it is filed electronically online and the application fee is paid. The application must be completed and the fee must be received during the application period for the application to be considered filed. **There is no late application period.**

EXAMINATION

FEBRUARY EXAMS
JULY EXAMS

APPLICATION FILING PERIOD

October 1 – October 31
March 1 – March 31

B. Special Rule for Re-Applicants

For applicants who failed the immediately preceding administration of the UBE, the deadline for filing a re-application for the next offered bar examination is the later of (i) the application filing deadline set forth in Board Rule 6000.4(b) [which is March 31 for a July exam or October 31 for a February exam] or (ii) the 7th day following the date of the Board's release of the UBE examination results. Re-applicants who did not complete *both* days of the immediately preceding examination must file their application by March 31 for a July exam or October 31 for a February exam. This special rule does not apply to the NYLE.

5. What is the application fee for the UBE?

The application fee for the UBE is set in statute by the New York State Legislature and is based on the method of qualifying (see Judiciary Law section 465). Since the fees are set by the legislature, neither the Board nor the Court of Appeals has the authority to reduce or waive the fees. The fees are non-refundable.

Section 520.3 (JD received from an ABA approved law school).....	\$250
Section 520.4 (law office study).....	\$250
Section 520.5 (unapproved law school).....	\$250
Section 520.6 (study of law in foreign country).....	\$750
Section 520.17 (Pro Bono Scholars Program).....	\$250

6. How do I pay fees?

A. UBE Application

The only acceptable form of payment for the UBE is a Visa or MasterCard credit card. Debit cards are not accepted. The Board cannot accept credit card payment by mail or by phone.

B. All Other Fees (see Board Rule Section 6000.14)

If you are making any payment to the Board other than the online application fee for the UBE, UBE Score Transfer or Admission on Motion, the only acceptable forms of payment are: certified check or cashier's check drawn on a U.S. bank in U.S. funds; U.S. Post Office money order; or a money order drawn on a U.S. bank or financial institution. All payments should be made payable to: "NYS Board of Law Examiners." Personal checks are not accepted and will be returned. Do not send cash.

7. What are eligibility requirements to take the UBE?

Section 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law sets forth the eligibility requirements for qualifying to sit for the UBE. Applicants must be at least 21 years of age to take the bar examination. Prior to creating your account and/or applying for the UBE, you should carefully review the Rules pertaining to how you will qualify to sit (Rule 520.3, 520.4, 520.5, 520.6 or 520.17), which can be found on the Board's website, to confirm that

you meet the eligibility requirements. It is the applicant's responsibility, upon first creating an account with the Board, to select the correct subsection of Rule 520 when asked how they qualify to sit for the UBE. Any mistake in selecting eligibility status must be corrected by contacting the Board in writing before completing the UBE application since all applicants must certify their eligibility status as part of the application. An applicant will be withdrawn from any UBE in which an incorrect eligibility status is certified. A summary of the requirements is also available by clicking on the Bar Exam Eligibility section on the Board's website. If you are not in compliance with any of these rules, and you commenced the study of law in the United States prior to April 1, 2012, the Saving Clause of Rule 520.1(b) provides that the rules which were in place when you began your law school study apply. Please contact the Board if you have any questions concerning your eligibility for the examination. The Board has no authority to waive any of the requirements of Rule 520.

8. What do I need to know about providing proof of my eligibility?

A. General Deadlines

The documentation that you will be required to submit to the Board to support your eligibility to sit for the bar examination will depend on the subsection of Rule 520 on which you are basing your eligibility. The required proofs must be received at the Board's office no later than January 15th for the February examination and June 15th for the July examination. If your documentation is not timely received at the Board office, you will not be issued a seating ticket, and you will not be able to take the UBE.

B. Graduation from an ABA Approved Law School with a Juris Doctor Degree (Rule 520.3)

As part of the online UBE application, you will be required to answer questions about your coursework at your ABA-approved law school that will generate your Certificate of Attendance form. You must be accurate when answering these questions and therefore should have a copy of your transcript in front of you when applying for the UBE. Once you complete these questions and timely pay the application fee, no action is needed on your part with respect to your eligibility as the next step in your eligibility falls on your law school to timely certify your Certificate of Attendance (COA) form. If you made an error in answering any question about your legal education, your law school will correct the error before certifying it. The deadline for your law school to certify this form on your behalf is January 15th for a February exam and June 15th for a July exam. Once the Board reviews and approves your Certificate of Attendance form, you will receive an email confirmation (you should not expect this email until two weeks after the deadline for receipt of the COA form). If there is a problem with your eligibility, you likely will not be advised by the Board until on or about February 1st for a February exam or on or after June 15th for a July exam. Therefore, if you know of a deficiency in your eligibility (for example, you took longer than 60 months to complete your JD degree or you did not take a course in Professional Responsibility), you may petition the New York State Court of Appeals before receiving your ineligibility letter from the Board.

C. Law Office Study (Rule 520.4)

Assuming completion of the requisite weeks of law office study as outlined in an eligibility letter from the Board, you must file with the Board (1) the Applicant's Affidavit of Law Office Study;

(2) a certified copy of the Certificate of Commencement of Clerkship that was filed with the Office of the Clerk of the Court of Appeals; and (3) an affidavit from the attorney(s) for whom you clerked.

D. Graduation from an Unapproved Law School in the United States with a Juris Doctor Degree (Rule 520.5)

Your law school must file with the Board the NON-ABA Law School Certificate of Attendance form. You must file with the Board (1) proof of admission to practice in another jurisdiction or jurisdictions; (2) your own affidavit setting forth the periods and places of law practice including the dates and names of employers; and (3) a minimum of three (3) affidavits from supervising attorneys, partners, judges, etc. confirming your proof of practice for five of the seven years preceding application to the New York bar exam.

E. Foreign Law School Study (Rule 520.6)

For comprehensive information concerning how to qualify for the examination based on foreign legal education, including the documentation and proofs that are required for qualifying under this provision and deadlines for submission, please visit the Foreign Legal Education page of the Board's website. Before paying the \$750 non-refundable application fee and applying for any given administration of the UBE, foreign-educated applicants should strictly adhere to all guidelines and deadlines. The below information assumes the applicant has met all applicable deadlines for the review of their underlying foreign legal education and outlines steps upon timely applying for the UBE.

1. First Time Foreign-Educated Applicants Who Must Complete An LL.M. Degree to Qualify For The UBE:

As part of the online application for the UBE, you will be required to complete questions about your LL.M. degree that will generate your Certificate of Attendance form. You must be accurate when answering these questions and therefore should have a copy of your transcript in front of you when applying for the UBE. Once you complete these questions and timely pay the application fee, no action is needed on your part with respect to your eligibility as the next step in your eligibility falls on your law school to timely certify your Certificate of Attendance form and submit a final, official transcript. If you made an error in answering any question about your legal education, your law school will correct the error before certifying it. The deadline for your law school to certify this form and upload a final transcript on your behalf is January 15th for a February exam and June 15th for a July exam. Once the Board reviews and approves these documents, you will receive an email confirmation (you should not expect this email until about February 1st for a February exam and after June 15th for a July exam). If there is a problem with your eligibility, you likely will not be advised by the Board until on or about February 1st for a February exam or on or after June 15th for a July exam. Therefore, if you know of a deficiency in your LL.M. coursework (for example, you did not take enough credits or your coursework did not otherwise fully comply with the coursework requirements under Court Rule 520.6 [b] [3] [vi]), you may petition the New York State Court of Appeals before receiving your ineligibility letter from the Board.

2. First Time Foreign-Educated Applicants Who Qualify For The UBE Without An LL.M. Degree:

If you have not already received a determination of eligibility upon applying for any given administration of the UBE, you must submit all supporting documentation and proofs consistent with Board's guidelines for foreign-educated applicants by January 15th for a February exam and by June 15th for a July exam. If there is a problem with your eligibility, you likely will not be advised by the Board until on or about February 1st for a February exam or on or after June 15th for a July exam. Therefore, if you know of a deficiency in your eligibility (for example, you did not take enough common law credits in law), you may petition the New York State Court of Appeals before receiving your ineligibility letter from the Board.

F. Pro Bono Scholars Program (Rule 520.17)

For comprehensive information concerning how to qualify for the examination by participating in the Pro Bono Scholars Program, including the documentation and proofs that are required for qualifying under this provision, please carefully review Court of Appeals Rule 520.17 and click on the Pro Bono Scholars Program section on the Board's website. Pro Bono Scholars must timely apply for the UBE through the Applicant Services Portal.

9. How and when do I request an administrative accommodation on the UBE?

If you want to request permission to bring an assistive device (lumbar support, orthopedic device) that is otherwise prohibited by the Board's Security Policy into the exam room at a general population test center and/or to make a special seating request such as seating in a particular test center location or a seat close to the restroom at a general population test center, you must TIMELY complete the Administrative Accommodation Request Form and attach supporting documentation. If the request is based on a medical condition, you must attach supporting medical documentation. The request must be received by January 1st for a February exam or June 1st for a July exam. If the request is granted, the Board will provide a letter granting the request. Please keep in mind that untimely requests, even if supported by documentation (including medical documentation), cannot usually be granted and/or processed in time for the exam, particularly if the request is to be seated at a specific test center location. Be reminded that requests for non-standard test accommodations such off-the-clock breaks, extra testing time, or the provision of an assistive seating device (i.e., high back chair, podium) must be submitted as part of a timely application for non-standard test accommodations. The Administrative Accommodation form should not be used for requests for extra testing time or other testing accommodations under the ADA. The Administrative Accommodation Request Form may be accessed at the following link: <https://www.nybarexam.org/ADA/Administrative%20Accommodation%20Form.pdf>

10. How and when do I request an administrative accommodation as a lactating individual?

If you want to request permission to bring lactation supplies into the exam room, a private space to pump during the lunch and/or off-the-clock break time to pump during the exam, you must TIMELY complete the Administrative Accommodation Request Form For Lactating Individuals and attach supporting medical documentation. The request must be received by January 1st for a February exam or June 1st for a July exam. If the request is granted, the Board will provide a letter

granting the request. Please keep in mind that untimely requests, even if supported by medical documentation, cannot usually be granted and/or processed in time for the exam.

11. How and when do I request non-standard test accommodations for a disability on the UBE?

The Board provides reasonable and necessary test accommodations to applicants who are qualified to take the UBE (and/or the NYLE) and are disabled under the Americans with Disabilities Act (see Board Rule 6000.7). To find out more about non-standard test accommodations (NTA), please carefully review the Board's Test Accommodations Handbook which is available on the Board's website.

If you are requesting test accommodations on the UBE, in addition to timely filing the separate application for test accommodations, you must also timely file the online application/re-application to sit for the UBE. Applicants may complete the application/re-application for test accommodations online by logging into their account through the Applicant Services Portal. The online application/re-application will not be deemed submitted until all required supporting documentation is electronically uploaded to the Board, which must be done by the posted deadlines. Applicants who do not wish to complete the application/re-application online may alternatively physically mail a signed and completed application/re-application with all supporting documentation to the Board by the posted deadlines.

The application for test accommodations must be submitted by the deadlines set forth in Board Rule 6000.7(c)(2). There is no late application period, and these deadlines cannot be waived (see Board Rule 6000.15 [b] [1]).

Filing Deadline for the UBE: Applications and re-applications for test accommodations on the UBE, together with all required supporting documentation, shall be received by no later than March 31st for the subsequent July administration and no later than October 31st for the subsequent February administration. Please keep in mind that there are separate filing deadlines for the NYLE.

12. What is the "Laptop Program" for the UBE?

A. General Information

The Laptop Program for the UBE allows you to use your personal laptop computer along with Board-designated word processing security software to type your answers to MPT and MEE questions. You must elect the Laptop Program during the application period for the UBE. In completing the online UBE application, you will be asked if you wish to participate in the Laptop Program. No one will be added to the Laptop Program after the application period closes. If you timely elect to participate in the Laptop Program, shortly after the application period closes, you will receive an email from ExamSoft (barsupport@examsoft.com), with instructions for purchasing the software and registering your laptop. All subsequent communications will be sent from ExamSoft. We strongly recommend that you add barsupport@examsoft.com to your contacts and safe senders list to assure you receive all laptop-related email communications.

There is a \$100 technology fee to register for the laptop software, to be paid directly to ExamSoft. The deadlines for purchasing the software and registering your laptop are firm and cannot be

waived or extended. Your failure to timely purchase the software and register your laptop will result in the cancellation of your Laptop Program registration, and you will be required to handwrite your exam answers. Failure to follow these procedures does not constitute good cause for crediting or refunding your bar examination application fee.

Laptops are not used and not permitted in the exam room during the MBE portion of the exam. All applicants are required to record their answers to the MBE questions on a Scantron answer sheet that will be provided by the Board.

B. Risks

As is the case with the use of any technology, there are certain risks associated with participation in the Laptop Program for the UBE. In the event of any technical difficulties, laptop participants will be required to immediately switch to handwriting their essay answers. There are also risks associated with renting or borrowing a laptop for use on the UBE. If you no longer have access to the laptop after the conclusion of the examination, you may not be able to retrieve files which may be necessary in the unlikely event that portions of your essay answers are missing. Should you choose to rent or borrow a laptop, you should arrange to keep the laptop until after the results of the examination have been released. It is imperative that laptop participants use dependable laptops and that they test the software on the laptop several times prior to examination day.

C. Software Vendor and Fee

The Board has elected to use Exam Soft's Examplify© software as the security software for the UBE. There is a \$100 non-refundable technology fee that applicants will be required to pay directly to ExamSoft which will handle the registration, software download and qualification of laptops for use on the UBE.

D. System Requirements

All laptop participants must provide their own laptop which must meet or exceed the minimum system requirements as determined by ExamSoft. Please review the Minimum System Requirements needed to properly run Examplify prior to enrolling in the laptop program: <https://ei.examsoft.com/GKWeb/login/nyube>.

E. Foreign Language Packs

Applicants who have a laptop with a foreign language pack should be sure that they use a font that is recognized in the United States (e.g. Arial, Times New Roman or Courier). Your computer must be set to U.S. English or ExamSoft software will not work on your computer. Users of Asian languages must visit www.examsoft.com/asian for additional instructions.

13. What is the exam schedule for the UBE?

The standard schedule for the general population of applicants taking the UBE in New York is as follows (applicants granted test accommodations and/or off-the-clock breaks should refer to their determination letter for their exam schedule):

Tuesday: 9:30 am to 12:30 pm (MPT) and 2:00 pm to 5:00 pm (MEE)

Wednesday: 9:30 am to 12:30 pm (MBE) and 2:00 pm to 5:00 pm (MBE)

During the morning session on Tuesday, applicants are given three hours to complete two MPT items. Applicants may work on the MPTs in any order and they are free to decide how to allocate their time between the two MPT items, although NCBE develops each MPT as a 90-minute test item. During the afternoon session on Tuesday, applicants are given three hours to answer six MEE questions. Again, applicants are free to answer the questions in any order and they may decide how to allocate their time among the MEE questions. On Wednesday, applicants will take the MBE, which is a six-hour, 200 question multiple-choice exam divided into two three-hour sessions.

14. Where are the test center locations for the UBE?

For the February and July administrations of the UBE, there are always test centers in Albany, New York City and Buffalo for the general population. For the July administration, there may be additional test centers for the general population in Long Island, Saratoga Springs and/or White Plains. As test sites are confirmed for any given administration of the UBE, the locations will be posted in the Test Sites section on the Board's website. For applicants granted test accommodations for a disability and/or off-the-clock breaks, the test centers will be in New York City and Albany only. The Board suggests that you contact your travel agent or visit the Visitors and Convention Bureau after you have confirmed where you will be taking the examination for information concerning hotel and travel arrangements. The Board does not pay for lodging or travel expenses for any applicant.

15. How are test centers assigned for the UBE?

Test center assignments for the general population will depend on the sites available for a given administration of the exam and all seating in the general population is on a first-come, first-serve basis. No applicant will be assigned a seat in any given judicial department and no applicant is guaranteed a seat in any judicial department, even if such applicant resides or currently attends law school in any particular judicial department. In early January for a February exam and early June for a July exam, applicants will be sent an email requiring them to select a test center location from a list of available locations. Failure to respond to this email WILL result in your withdrawal from the exam. The Board does not announce this date or provide it over the phone; it is therefore your obligation to monitor your email daily between today and the day of the exam. Only locations with available seats will be listed in the email. First-time applicants who graduated with a Juris Doctor degree from a law school located in New York State will be given the first opportunity to select a seat assignment. All other applicants will then be given the opportunity to select from the remaining available seats. Out-of-state and out-of-country residents should expect to select between Albany and Buffalo (and Saratoga Springs for a July administration). The Board does not pay for lodging or travel expenses for any applicant.

For applicants granted test accommodations for a disability and/or off-the-clock breaks, the test centers are located in New York City and Albany only. First-time UBE applicants who graduated with a Juris Doctor degree from a First or Second Department law school will be given first preference to available seats at the test center in New York City. First-time UBE applicants who graduated with a Juris Doctor degree from a Third or Fourth Department law school will be given first preference to available seats in Albany. All other applicants, including all repeat J.D.

applicants and all applicants attending law school outside of New York State, will be assigned to a test center where seats are available. Seating availability will not be known until approximately six weeks after the UBE application period closes. The Board does not pay for lodging or travel expenses for any applicant, including applicants granted accommodations.

16. Can I make a request to change my test center?

No. Once the seating location email goes out, applicants cannot make a request for a change in their test center location. Also, there are no waiting lists for test centers. If you require a particular test center location because of, for example, a medical condition, it is your responsibility to timely make this request by submitting an Administrative Accommodation Form, supported by appropriate documentation, by January 1st for a February exam or June 1st for a July. If the request is granted, you will be assigned a test center location before the Board sends out the seating location email. Requests made after the seating location email is sent, even if supported by appropriate documentation, including medical documentation for a health-related condition, cannot be granted.

17. How do I change my address with the Board?

Applicants have a continuing obligation until the release of examination results to notify the Board of any change in their residence, correspondence and/or email addresses. In addition, any applicant who lives outside the State and works full-time in the State must notify the Board of their New York employment address. Applicants who pass the examination are certified to one of the four Departments of the Appellate Division based on the address on file with the Board on October 1st for a July exam and April 1st for a February exam. Once you are certified for admission, any change of address **MUST** be made through the Appellate Division to which you were certified and not through the Board. Change of Address and Email Address requests may be submitted through the applicant's BOLE Account in the Applicant Services Portal.

18. When will my seating ticket be available for the UBE?

Seat Tickets will generally become available by email to qualified applicants approximately two weeks before the date of the scheduled UBE. You must present your Seat Ticket to security in order to enter the examination. Therefore, it is important to print and bring a copy of the Seat Ticket to the exam. The seat number assigned in the Seat Ticket is the only means of identification throughout the grading process. Each seat at the examination has a number prominently displayed on a sticker. It is critical that you sit in the correct seat, and include the seat number on all examination materials.

19. What photo identification do I need for the UBE?

All applicants must upload to the Board a photo of an official government-issued photo ID and then bring this same photo ID to the exam, which will be checked at all four sessions. Acceptable forms of ID include 1) U.S. driver's license; (2) U.S. non-driver identification; (3) passport (upload only the page with your passport photo and name); (4) passport card; (5) U.S. Military Identification Card; (6) U.S. Visa or Permanent Resident ID Card; (7) U.S. Employment Authorization Card; or (8) New York City Identification Card. The expiration date on the photo ID shall not be expired and the name on your photo ID must match the name on your BOLE Account as this will be the name printed on your Seat Ticket.

20. How can I withdraw from the UBE?

Should you decide to withdraw from the UBE, you can do so through the Applicant Services Portal (at certain times, the withdrawal link will be deactivated for administrative purposes in which case you can notify the Board in writing by fax or by mail). From time to time, the Board may also provide a withdrawal link in emails regarding the UBE. The application fee is non-refundable except in extremely limited circumstances. If there are extenuating circumstances causing you to withdraw, you may request a credit. All such requests must be received in the Board's office within 30 days of the exam from which you withdrew. Requests must be in writing and must be accompanied in the first instance by appropriate supporting documentation. If the request is not supported in the first instance with appropriate supporting documentation it will be denied. The reason for the withdrawal and the supporting documentation will be reviewed by the Board to determine if there is a valid basis to credit the fee. If you cancel the credit card payment with your bank, you will be held responsible for any fees and penalties incurred by the Board.

21. What happens if I repeatedly withdraw from the UBE?

If an applicant repeatedly withdraws or fails to appear, the Board may, in its discretion, require the applicant to petition the Board before applying for a subsequent exam (see Board Rule 6000.9 [b [3)]), in which case the Board will notify the applicant and request the petition.

22. What if I miss or am late for any session of the UBE?

A. Absence: An applicant who misses a session of the exam will not be admitted to take any later exam sessions. Any applicant who takes both the MPT and MEE sessions but does not appear for any part of the MBE will be withdrawn from the exam and their application fee will be forfeited. Any applicant who takes any part of the MBE will be graded and will be awarded a UBE score.

B. Tardiness: No applicant will be admitted to the examination more than one half hour (30 minutes) after an examination session begins. This includes applicants granted non-standard test accommodations.

C. Failure to Make a Bona Fide Effort at Passing the Exam: Applicants are expected to answer the exam questions and make a bona fide effort at passing the UBE. If in the Board's opinion, upon review of an applicant's exam papers and record of attendance, the applicant does not make a bona fide effort to pass the examination, the Board may require the applicant to petition the Board for permission to sit for a future exam. If an applicant is unprepared for the exam or otherwise has no intention of making a bona fide effort to pass the exam, the applicant is expected to withdraw their application in advance of the exam. Applicants are not permitted to take any part of the UBE simply for practice.

23. What is the passing score on the UBE?

The passing score for the UBE in New York is 266 on a 400 point scale. An applicant must achieve a score of 266 or higher on the UBE, whether taken in New York or another jurisdiction, in order to qualify for admission in New York. The minimum cut score of 266 cannot be waived by the Board.

24. How is the UBE graded?

The answers to the MPT and MEE are each graded in accordance with a predetermined marking formula and are combined with the score achieved on the MBE to determine the total weighted scale score.

The MPT and MEE answers for each applicant who receives a total weighted scale score of 262 to 265 following the initial grading shall be re-graded by graders other than the initial graders prior to the release of results. The applicant's scores shall then be recomputed to arrive at a final UBE score. There is no appeal from a final score. The initial score prior to re-grading shall not be made available to the applicant.

25. What are additional requirements for admission upon examination?

In order to be certified for admission, you must (1) achieve a passing score on the **UBE**; (2) complete an online course in New York-specific law, known as the New York Law Course (**NYLC**); (3) take and pass the New York Law Exam (**NYLE**); (4) take and pass the Multistate Professional Responsibility Examination (**MPRE**); (5) comply with the 50-hour pro bono service requirement; and (6) satisfy the Skills Competency Requirement.

- A. NYLC:** The NYLC is an online, on-demand course which reviews important and unique aspects of New York law. The NYLC consists of approximately 17 hours of recorded lectures with embedded questions which must be answered correctly before an applicant can continue viewing the lecture. After completing and certifying that you are a bona fide applicant for admission to practice in New York on the Account Profile Page, you may proceed to take the NYLC, by clicking on “NYLC” in your BOLE account. You may complete the NYLC up to one year prior to or three years after passing the UBE. If you complete the NYLC more than one year before taking the UBE for the first time you will be required to repeat the NYLC and NYLE. You must complete the NYLC prior to applying for the NYLE. Click on UBE/NYLC/NYLE on the Board's website for additional information.
- B. NYLE:** The NYLE is a 50 item, two-hour, open book, multiple-choice test administered online and will test important New York rules. The NYLE is administered remotely. It is offered three times a year and the dates and times of each administration of the NYLE may be found on the Board’s website. You must apply for the NYLE at least 30 days prior to the administration you choose to take. The open registration period will be announced on the Board’s website prior to each administration of the NYLE. You must complete the NYLE up to one year prior to or three years after passing the UBE. Click on UBE/NYLC/NYLE on the Board's website for additional information. Click on DATES OF EXAMS on the Board's website for a list of the dates of the NYLE.
- C. MPRE:** All applicants who have passed the UBE and are seeking admission to practice law in New York must take and pass the MPRE administered by NCBE prior to being certified by the Board to the Appellate Division. The MPRE is administered three times each year, in March, August and November. New York requires a minimum score of 85 and the score is valid for only four years from the date of the MPRE. Applications and information regarding the MPRE are available from NCBE at <http://www.ncbex.org/about->

[ncbe-exams/mpre/](#) An applicant may take the MPRE before or after taking the UBE but an MPRE score is valid for only four years from the date the applicant sat for the MPRE.

D. 50-Hour Pro Bono Requirement: For additional information on this requirement click on Mandatory 50-Hour Pro Bono Rule on the Board's homepage.

E. Skills Competency Requirement: Additionally, if you commenced law school studies after August 1, 2016, you must comply with the new Skills Competency Requirement set forth in Section 520.18 of the Rules of the Court of Appeals. For information regarding this requirement, see: <https://www.nycourts.gov/ctapps/news/nottobar/nottobar121615.pdf>

Finally, you must satisfy the character and fitness requirements as set forth in Court of Appeals Rule 520.12 and the rules of the various Appellate Division departments. For information regarding the admissions process, see:

<http://www.nybarexam.org/Admission/Admission.htm>

26. How do I obtain my results on the UBE and/or letter of certification?

The results of the UBE will be posted in the applicants BOLE Accounts in the Applicant Services Portal. An email will be sent to applicants notifying them when the exam results are posted in the portal. A list of all successful applicants is also posted on the Board's website and on the website of the New York Law Journal. While the Board does not set a specific date for the release of bar exam results, historically results from the July examination are released in late October and the results of the February examination are released in late April.

Each successful applicant on the UBE who has also furnished proof of successful completion of the NYLC, NYLE and MPRE will be certified by the Board to the Appellate Division for admission to the bar. Each successful applicant on the UBE who has not furnished proof of successful completion of the NYLC, NYLE and/or MPRE will be notified of that fact in writing. As proof of the NYLC, the NYLE and proof of the MPRE is received, the applicants will be certified to the Appellate Division. The Board usually certifies weekly on Friday, and it is very important for applicants to keep their current addresses on file with the Board so that they may be certified to the correct Appellate Division Department.

27. What materials are available to failed applicants?

No later than 60 days after the release of the results on the UBE, the Board will post on its website copies of the MEE questions and the MPT questions that appeared on such examination and copies of representative MEE and MPT answers of passing applicants.

If you do not achieve a passing score on the UBE, you may obtain copies of your answers to the MEE and MPT questions, the MEE questions, the MPT questions, and the selected answers from applicants' who received scores superior to the average score for each question. You must make a written request for these materials. Such request should be made no later than 60 days after the Board's failure notice to the applicant.

28. What other admission information should I be aware of upon passing the UBE?

Applicants who pass the UBE, successfully complete the NYLC and achieve a passing score on the NYLE and MPRE will be certified by the Board to the Appellate Division for admission to practice law in New York State. New York State's Appellate Division is divided into four Judicial Departments, and each Department handles its own admission determinations. You will automatically be assigned to one of the Departments on the basis of your residence address. If you reside outside New York State but are employed full-time therein, you are assigned on the basis of your employment address. Residence takes precedence over employment if you reside and work in New York State. If you neither reside nor work in New York State, you are assigned to the Third Department. Once you have been certified by the Board to the Appellate Division, any change in address must be made upon application to the Department to which you have been certified.

Pursuant to Section 520.12(d)(1) of the Rules of the Court of Appeals, your complete application for admission must be filed with the Appellate Division within three (3) years from the date when the applicant sits for the second day of the UBE, whether taken in New York or in another UBE jurisdiction. Any questions regarding the application for admission should be directed to the Appellate Division. You may find the phone number and a link to each of the four Judicial Departments on the Board's website under "Admission Information".

29. How do I timely transfer into New York a UBE score earned in another UBE jurisdiction?

Applicants seeking to transfer a UBE score to New York are required to satisfy the eligibility requirements for admission as set forth in Section 520.3, 520.4, 520.5, 520.6 or 520.17 of the Rules of the Court of Appeals. An applicant must take all sections of the UBE (MEE, MPT and MBE) concurrently in the same jurisdiction in order to earn a UBE score that may then be transferred to New York and other UBE jurisdictions.

If you are seeking to transfer a UBE score to New York, you must create an account on the Board's website and file an application for a determination of eligibility for admission to practice by transferred UBE score and pay the prescribed fee. You must also furnish the Board with (1) proof of compliance with the eligibility requirements of Court of Appeals Rule Section 520.3, 520.4, 520.5, 520.6 or 520.17 on a form prescribed by the Board; (2) proof of completion of the NYLC and NYLE; (3) proof of a passing MPRE score; and (4) proof of a passing UBE score (New York's passing score is 266) in the form of an official UBE score transcript from NCBE. After submission of an application by transferred UBE score, you should receive an email containing the Certificate of Law School Attendance Form, which you must submit to your law school with a request for the form to be completed, signed and mailed directly from the law school to the Board. The Board cannot certify you to the Appellate Division until it receives the Certificate of Attendance Form from your law school and approves your eligibility.

Applicants for admission by transferred UBE score must also satisfy the 50-Hour Pro Bono Requirement and the Skills Competency Requirement (applicable to applicants who commence their legal studies after August 1, 2016).

After you have transferred a passing UBE score and you have satisfied the other pre-admission requirements, you must submit your application for admission to the Appellate Division in accordance with Section 520.12(d)(1) of the Rules of Court of Appeals within three years from the

date of the second day of the UBE that you sat for and passed in the other jurisdiction. Given the deadline for submitting your application for admission to the Appellate Division, the Board of Law Examiners will require sufficient time to review your application for admission by transferred UBE score in order to determine your eligibility. Therefore, you must file your application for admission by transferred UBE score with the Board at least 30 days prior to the expiration of your time to file your application for admission with the Appellate Division.

NCBE charges a \$25 fee for each UBE score transcript. Requests to transfer an official UBE score shall be made at: <http://www.ncbex.org/ncbe-exam-score-services/ube-score-services/>.

30. How do I transfer out a UBE score earned in NY to another jurisdiction?

You must contact NCBE to transfer your UBE score earned in New York to another UBE jurisdiction. New York cannot transfer your UBE score to another U.S. state or territory. You will need to login to your NCBE Account to transfer the UBE score to another jurisdiction.

NCBE charges a \$25 fee for each UBE score transcript. Requests to transfer an official UBE score shall be made at: <http://www.ncbex.org/ncbe-exam-score-services/ube-score-services/>.

31. How do I transfer my MBE score earned in New York to another jurisdiction?

An applicant taking the UBE in New York may request the certification of an MBE score earned in New York to another jurisdiction. An applicant requesting such certification must use the Board's MBE Score Transfer Request Form I which may be downloaded from the Forms section of the Board's website. The applicant must also pay to the Board the \$50 fee prescribed in Rule 6000.14(c).

32. Does New York accept the transfer of an MBE score earned in another jurisdiction?

No. Applicants must sit for all sections of the UBE (MBE, MEE and MPT) in New York in order to earn a UBE score in New York.

33. What security policies can I expect during the administration of the UBE?

Prior to the UBE, you should carefully read and review all emails from the Board, as well as the Board's Security Policy. The Security Policy, which is updated from time to time, contains important exam day information, such as a list of items which are permitted at the exam and conduct that is prohibited at the exam. The Security Policy is available at <https://www.nybarexam.org/Docs/secpolicy.pdf>. Violations of the Security Policy will be prosecuted by the Board and may result in the imposition of penalties such as nullification of your UBE score, disqualification from sitting for future exams, and notice to the Character and Fitness Committee. All applicants should carefully review Board Rule 6000.13.

34. What is the Board's Rule on Fraud, Dishonesty and Other Misconduct?

Applicants for the UBE must comply with the Board's Security Policy and with Board Rule 6000.13, which prohibits acts of fraud, dishonesty and other misconduct in connection with the application to and the taking of the UBE. The Board strictly enforces this Rule and Security Policy and prosecutes their violation. Examples of prohibited conduct include falsifying information on

any application, including an application for test accommodations, falsifying any documents and/or emails submitted to the Board, bringing and/or using a prohibited item in the exam room, writing or typing before and/or after time, removing exam materials from the exam room and any form of cheating. Many problems can be avoided by carefully and fully reading ALL pre-exam emails from the Board and by carefully listening to and following all oral and written instructions during the exam.

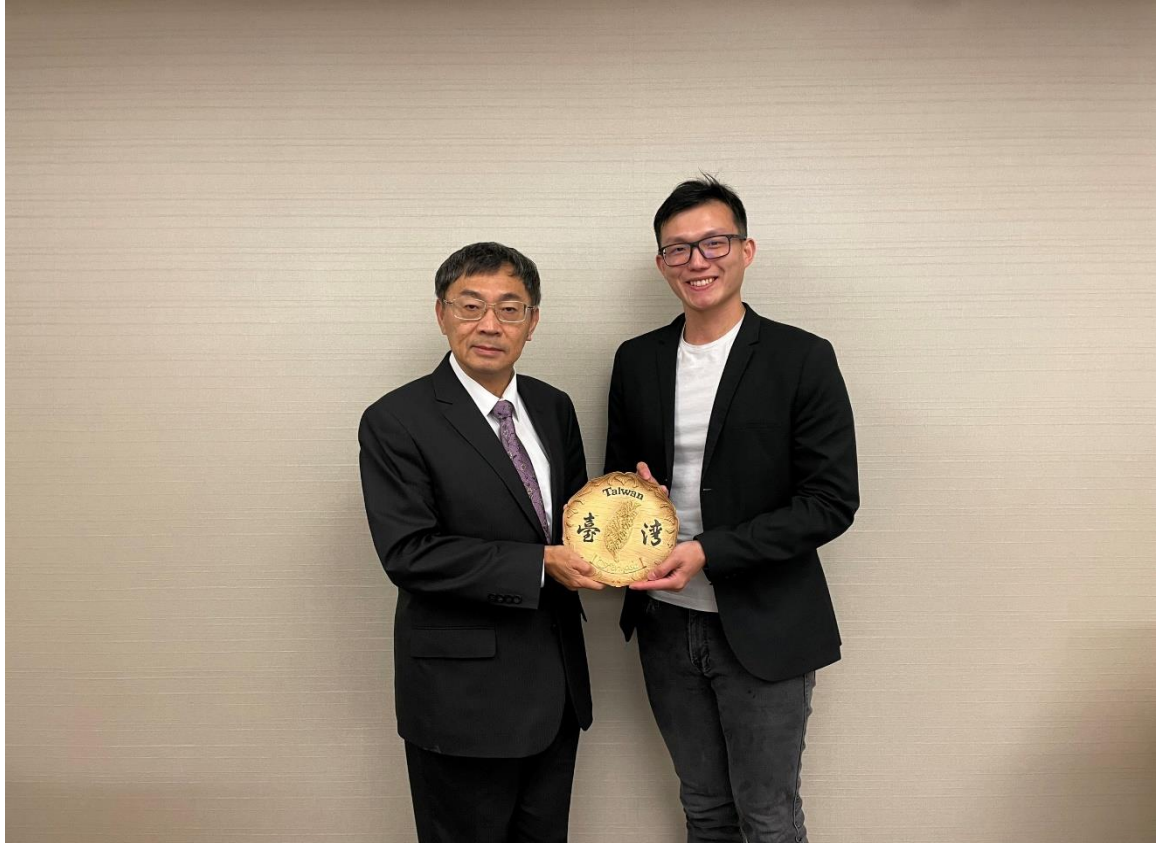
Examples of penalties that have been imposed for sustained findings of misconduct include nullification of the applicant's UBE score, disqualifying the applicant from taking the UBE in New York for up to six years and reporting the matter to any Committee on Character and Fitness having jurisdiction over the applicant.

35. How do I petition the Board for a waiver of a Board Rule?

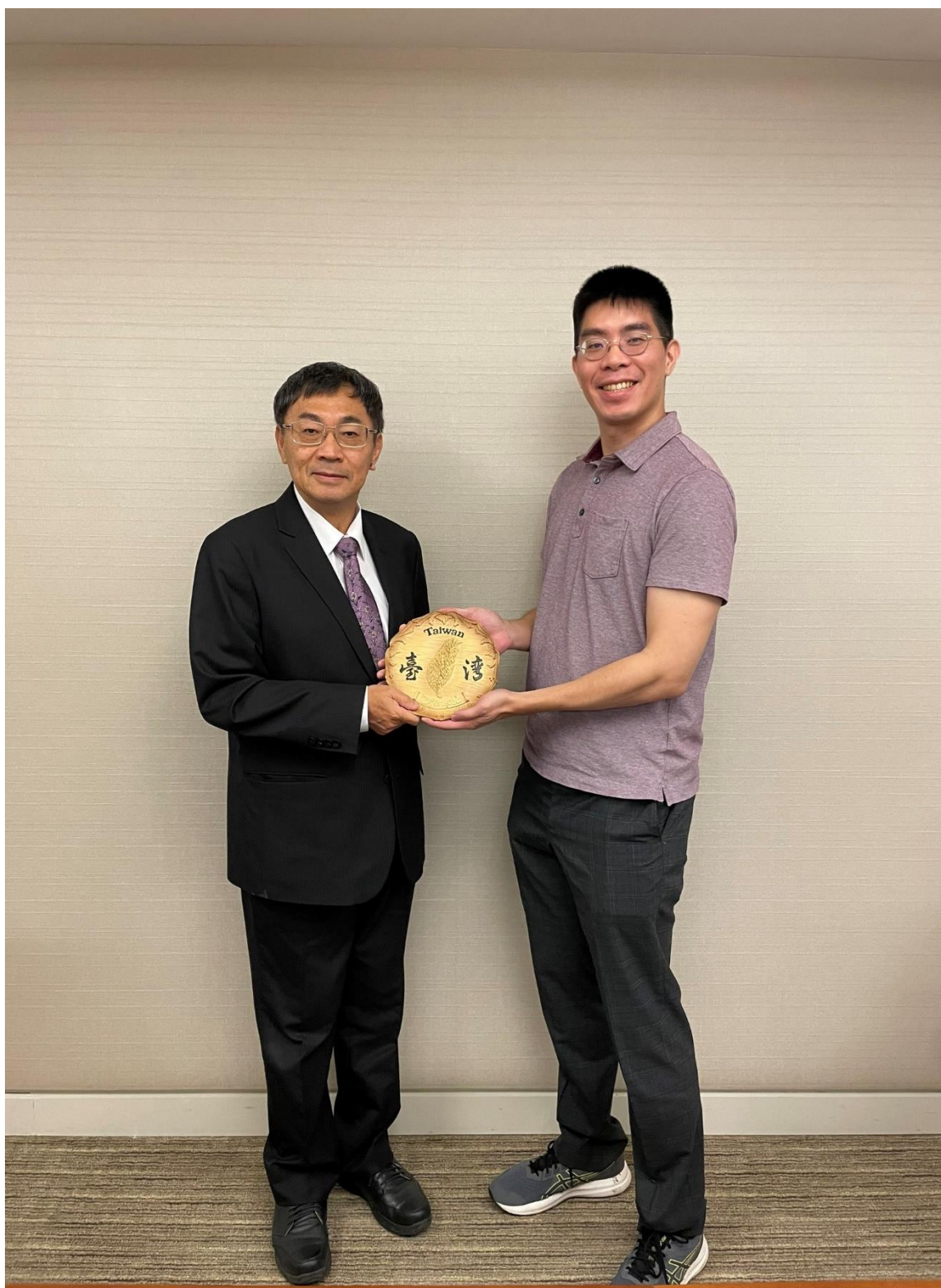
Pursuant to Board Rule 6000.15 the Board, upon written application and for good cause shown, may in its discretion waive any provision of the Board Rules with the exception of Section 6000.7, Section 6000.3(a)(2), Section 6000.3(c)(4), Section 6000.3(d)(1) and Section 6000.9. Such applications must be in the form of a verified petition (which means it must be made under oath and sworn to before a Notary Public or other like official) which shall set forth the applicant's name, residence address, email address, BOLE ID, the facts relied upon, and a prayer for relief.

Any Rule of the Board, the substance of which is also contained in the Rules of the Court of Appeals, may be waived only by the Court of Appeals upon application to the Court pursuant to Court of Appeals Rule 520.14.

附錄三 參訪活動照片



訪談 Porter S. Young 律師 (Attorney at Law, Maryland)

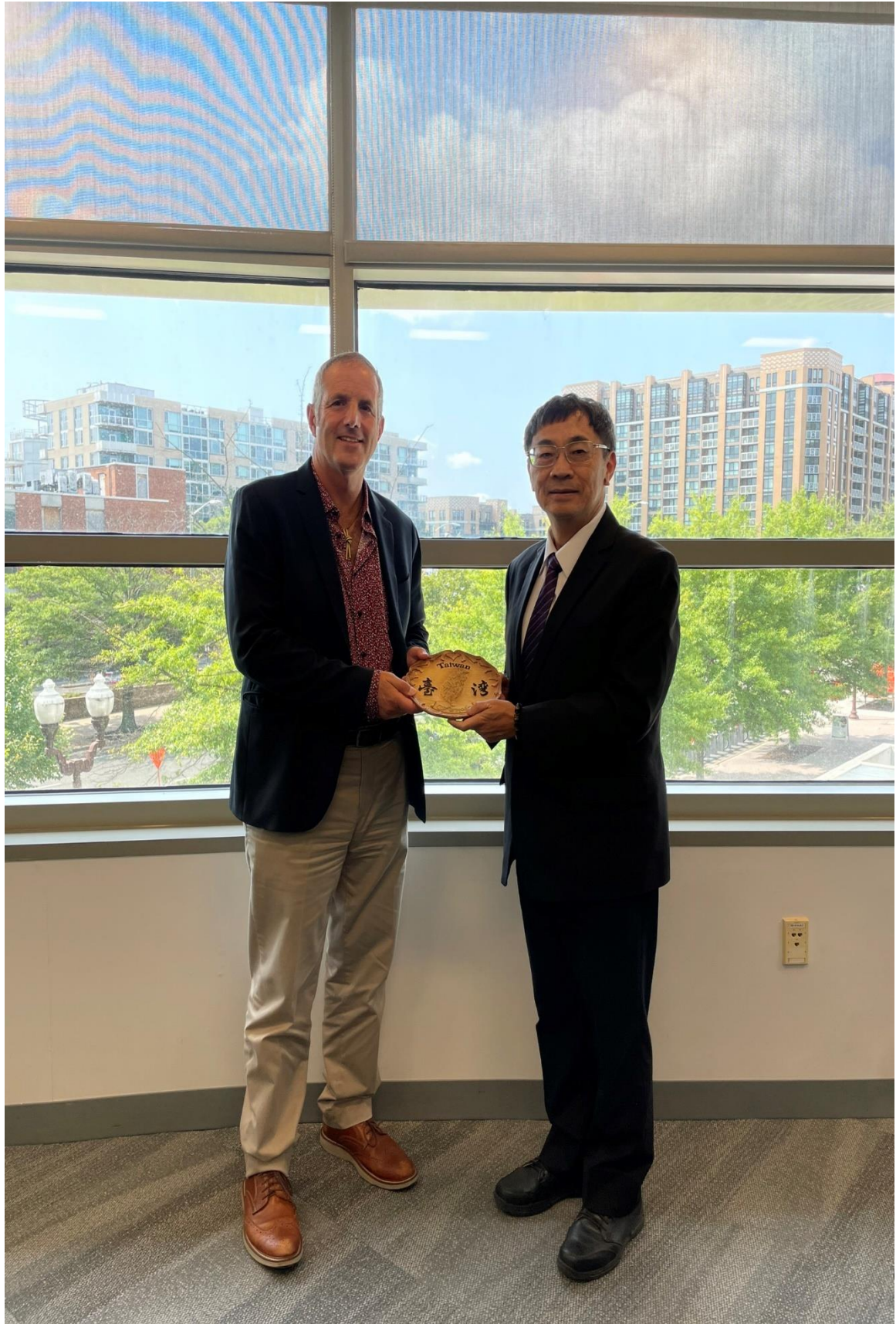


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拜會雙橡園俞大潘大使

