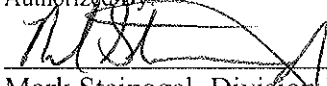


<b>STATE OF UTAH DEPARTMENT OF COMMERCE</b>	Division: DOPL	Page: No. 1 of 5
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<b>POLICIES &amp; PROCEDURES</b>	Authorized By:  Mark Steinagel, Division Director	
Subject: <b>DOPL Exam Development and Administration</b>		

This document delineates the policies and procedures governing the development and administration of licensure exams owned by the Division of Professional Licensing (Division).

**DEFINITIONS**

As used in this policy:

1. **ADA** means the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) including any amendments, modifications, or regulations arising from or pertaining to that act.
2. **Cheating** means the same as defined in R156-1-102(5).
3. **Candidate** means an individual seeking to take an exam. **Exam** includes any exam, test, or skills review which, regardless of form, is required to obtain a Division license and that is administered by the Division or any of the Division's contracted exam administrators.
4. **Division or DOPL** means the Division of Professional Licensing of the Utah Department of Commerce.
5. **Eligibility Criteria** means any age, education, training, or experience requirements of a license classification that an individual shall meet before taking an exam. Eligibility criteria varies from profession to profession.
6. **Exam administrator** means any person outside the Division that (by statute, rule, or agreement with the Division) proctors, administers, observes, oversees, develops, or reviews exams.
7. **Exam Review** means the process used by the Division to create, review, validate, or maintain a state licensing exam.
8. **Informal Appeal** means the exam appeal process in Section 10 that a candidate may use before submitting a license application, if the candidate believes they were not successful on an exam due to factors outside the candidate's control, such as procedural error, abuse of discretion or bias, or illegal discrimination.
9. **Reasonable Accommodation** means any modification or adjustment to the process of taking an exam that enables a candidate to participate in an exam, including the use of mobility devices,

peripherals, readers, interpreters, or extra time. Reasonable accommodations allow candidates to participate in the exam but may not be used as a substitute for a candidate's proficiency over an exam's subject matter.

10. **Testing Location** means the physical location where a candidate takes an exam. For an online exam, the Testing Location is the location where the candidate is located (and is not the location of the proctor or other exam administrator).

## **POLICY:**

### **1. Introduction.**

- 1.1. The passing of an exam, when required as a condition of obtaining or maintaining a license issued by the division, is a critical indicator that an applicant or licensee meets the minimum qualifications for licensure.
- 1.2. Failure to pass an exam is evidence that an applicant or licensee does not meet the minimum qualifications for licensure.
- 1.3. Because the accuracy of an exam's result is a measure of an applicant's or licensee's competency, this policy seeks to ensure that the rules of all exams are consistently followed by the candidates, the division, and the exam administrators.

### **2. Exam Eligibility Criteria.**

- 2.1. An exam may have eligibility criteria that shall be met by a candidate before taking the examination.
- 2.2. Exam eligibility criteria may be defined in the individual statute or rule for each profession.
- 2.3. It is the responsibility of each candidate to be familiar with the eligibility requirements (if any) of an exam prior to registering for the exam and taking the exam.
- 2.4. The division or exam administrator may require a candidate to verify during the exam application process that the candidate has met any exam eligibility criteria.
  - 2.4.1. Verification may include the candidate signing an attestation statement prior to taking the exam.
  - 2.4.2. A verification requirement will be clearly defined on the Exam Information page of each individual profession listed at [www.dopl.utah.gov](http://www.dopl.utah.gov) or indicated to the candidate prior to taking the exam.
- 2.5. If a candidate takes an exam without first meeting the exam's eligibility criteria, the division may determine that the candidate has engaged in unprofessional conduct as defined in Title 58, Occupations and Professions. The division may impose one or more sanctions for this unprofessional conduct, which may include barring the

candidate from taking future exams.

3. **Reasonable Accommodations.** The division provides reasonable accommodations for the following two groups: (i) Candidates with disabilities as defined in the ADA, and (ii) English Language Learners as defined in section 3.3.

- 3.1. Accommodations Under the ADA. It is the policy of the division and exam administrators to abide by all ADA requirements.

- 3.1.1. **Applying for ADA Reasonable Accommodations.** To apply for reasonable accommodations under the ADA, a candidate shall submit an application for the reasonable accommodation directly to the exam's exam administrator. (If there is no exam administrator for the exam, then the candidate may submit the application for reasonable accommodation to the division's ADA Coordinator.)

- 3.1.1.1. It is the responsibility of the candidate to contact the exam's exam administrator to determine what forms or processes the candidate shall use to submit their application for reasonable accommodations.

- 3.1.2. **Initial exam administrator Determination.** An exam administrator may approve an application for reasonable accommodations under the ADA if, in the exam administrator's professional judgment, the request is common or standard for the exam.

- 3.1.3. **Automatic Division Review.** If an exam administrator determines that an application for reasonable accommodations under the ADA is outside the scope of a common or standard request, the exam administrator shall send the application for reasonable accommodations to the division's ADA coordinator for further review and final determination.

- 3.2. **English Language Learners.** The division shall consider reasonable accommodations for English Language Learners (ELL) on a case-by-case basis.

- 3.2.1. To apply for a reasonable accommodation under ELL, a candidate shall demonstrate that:

- 3.2.1.1. English is not the candidate's primary language;

- 3.2.1.2. the candidate's competency in English is such that taking the exam in English would likely fail to demonstrate the candidate's actual competency over the subject matter; and

- 3.2.1.3. the requested exam is not available in the candidate's native language.

- 3.2.2. A candidate seeking reasonable accommodations under ELL shall submit

their application directly to the division's ADA coordinator.

- 3.3. **No Impact on Scoring.** A candidate's use of reasonable accommodations that have been granted by an exam administrator or by the division under this policy may not impact the scoring of an exam or in any way be used to determine if a candidate demonstrated the exam's minimum competency requirements.
- 3.4. **Cheating.** Obtaining a reasonable accommodation through fraud, misrepresentation, or false pretenses is cheating and shall subject the candidate to the sanctions of this policy and Utah Admin. Code Section R156-1-309. Nothing in this section restricts the division or an exam administrator from investigating or sanctioning a candidate for attempting to misuse reasonable accommodations for purposes of cheating on an exam.
- 3.5. **Proctor Safety.** The division shall consider candidate safety and proctor safety in each determination of reasonable accommodations, and candidate safety or proctor safety may be used by the division to make a final determination.
- 3.6. **Additional Restrictions in At-Home Exam Environments for ELL Candidations.** Special consideration is given when exams are given at a candidate's home. Regardless of a candidate's status as ELL, contracted translators or readers being present in private homes is never considered a reasonable accommodation. The Division shall deny each request for a contracted translator or reader being present in a private home for an exam.

#### 4. **Exam Locations.**

- 4.1. **General Rules for Exam Locations.** Exams are given in a variety of locations. Regardless of the exam location, the following applies:
  - 4.1.1. Each exam location shall be adequately equipped to provide a quiet and safe environment for a candidate to take the exam.
  - 4.1.2. Reasonable efforts shall be made to minimize distractions to candidates taking exams. This may include asking candidates to silence cell phones, keeping conversations to a minimum length and volume, and restricting access to the exam area to only necessary personnel.
  - 4.1.3. The exam administrator shall remove from the exam location any individual who is disrupting the exam. Each individual in an exam location should not be subject to disruptive or threatening behavior.
  - 4.1.4. Candidates shall be treated with respect and courtesy in all exam locations.
  - 4.1.5. A candidate's expenses incurred in getting to or from the exam location, including fares, tolls, parking fees, or other costs, are the candidate's sole responsibility and may not be reimbursed by the exam administrator or

division. If a candidate pays for parking, it is the candidate's responsibility to ensure that they have purchased a sufficient amount of time to complete the exam.

4.1.6. A candidate may submit an informal appeal under Section 9 if the candidate believes that their exam environment does not meet the general requirements of this policy.

4.2. **Identification.** Proper identification is required for a candidate's admission to an exam, including an online exam. Proper identification includes:

4.2.1. Valid government-issued picture identification.

4.2.2. A temporary paper license issued by a government entity is acceptable if it is accompanied by the original hard copy of the document it is replacing.

4.3. **Written Exams.** Written exams are available in multiple locations. It is the candidate's responsibility to confirm the correct location of their written exam. A written exam may be located in any of the following:

4.3.1. college or university testing centers;

4.3.2. online or virtual environments;

4.3.3. exam administrator-operated testing sites; and

4.3.4. for some exams, certain out of state locations.

4.4. **Practical Exams.** Each practical exam shall be taken in-person at the location specified by the exam's exam administrator. It is the candidate's responsibility to confirm the correct location of their practical exam.

4.5. **At Home Exam.** It is the candidate's responsibility to meet the following required conditions for an at-home exam:

4.5.1. The exam shall take place in a private room where no one other than the candidate is present or can see the exam.

4.5.2. The area where the candidate takes the exam shall be clear of debris. Papers and books may not be present in the area used by or otherwise accessible to the candidate, except as specifically allowed under the exam's rules.

4.5.3. The exam shall be scheduled during a time and located in a place in the home where the candidate will likely be free of distractions.

4.5.4. The candidate shall have a reliable internet connection.

4.5.5. The candidate shall ensure that the candidate's audio and video equipment is properly working prior to the exam.

- 4.5.6. During the exam, the candidate may have only one monitor in use.
- 4.5.7. During the exam, the candidate shall remain in sight of the proctor's camera.
- 4.5.8. During the exam, the camera may not be turned off for any reason.
- 4.5.9. During the exam, the candidate may not talk. This includes reading questions out loud.

**5. Proctor Selection.**

- 5.1. Proctors for an exam shall be selected based on their qualifications and training, and shall be free from conflict of interest (see Section 7).
- 5.2. The exam administrator shall ensure that each proctor is impartial, free from conflict of interest, qualified, and well trained in the exam procedures.
- 5.3. When specialized knowledge of the exam content is required (such as for administration of a practical exam) proctors shall be selected from a current active licensee list and shall be in good standing. If the profession includes master classifications, the proctor shall be licensed as a master.
- 5.4. Proctors may not sit as a candidate for an exam they have proctored until a period of 4 years has passed since their last proctoring session.
- 5.5. Proctors shall adhere to all laws and rules regulating the administration of exams, including Utah Code Title 58, Occupations and Professions, and Utah Admin. Code Section R156-1-309.

**6. Subject Matter Expert Selection.** Subject matter experts (SMEs) are individuals who possess significant expertise and knowledge in a specific field or subject area. The division uses SMEs to help develop, maintain, and review exams to ensure the division provides high-quality and valid assessments of candidate competency.

- 6.1. SMEs shall be Utah residents, 18 years of age or older, should be in good standing in their profession, and shall be free from conflict of interest (see Section 7).
- 6.2. SMEs shall be selected from current active licensing lists, by reference, and by previous years' service. If the profession includes master classifications, at least one of the SMEs shall be licensed as a master.
- 6.3. SMEs may not sit as a candidate for an exam in which they have served as a SME until a period of 4 years has passed since their service.
- 6.4. SMEs involved in exam development and review shall be selected based on their expertise in the relevant field. The selection of SMEs shall follow a process to ensure that SMEs have the necessary qualifications and experience to contribute to the development of a valid and reliable exam.

## 7. Conflict of Interest.

- 7.1 Each division proctor and SME shall be free from conflict of interest. A conflict of interest is a situation in which the individual has competing interests or loyalties. This means that the proctor or SME may not have an interest in the results of the exam across the exam takers, or in the outcome for individual candidates.
- 7.2. The division may determine that an individual has a conflict of interest if:
  - 7.2.1. the individual's professional or financial interests conflict with their proctor or SME responsibilities;
  - 7.2.1. the individual's obligations or commitments to the individual's employer or another person are at odds with the responsibilities inherent in the individual's proctor or SME role; or
  - 7.2.3. there is a personal relationship between a proctor or SME and any one candidate.
- 7.3. A division proctor or SME has a conflict of interest if the proctor or SME:
  - 7.3.1. is an instructor in the exam's subject matter at an institution attended by a candidate;
  - 7.3.2. is an owner of an institution offering the field of study attended by a candidate;
  - 7.3.3. has primary responsibility for the development of course or program materials, curricula, skills training, or any other form of course or program content in the exam's subject matter;
  - 7.3.4. is a school employee who has a significant vested interest in candidate (or any one candidate's) performance on the exam, such as a guidance or career counselor, school psychologist, or special education teacher that has been meeting with the candidates or any one candidate on a regular basis in the preceding two years;
  - 7.3.5. is an owner, qualifier, or manager of a business that employs candidates sitting for the exam, or is the primary manager or supervisor of a candidate;
  - 7.3.6. holds a position of authority in or is employed by a professional association for the exam's field of study, such as an officer, director, trustee, or manager;
  - 7.3.7. is a fellow student or a fellow employee in the immediate work group of the candidates or any one candidate sitting for the exam; or
  - 7.3.8. is a family member of or has a personal relationship with a candidate sitting

for the exam.

8. **Cheating.**

- 8.1. "Cheating" is defined in Utah Admin. Code Section R156-1-102.
- 8.2. Cheating is unlawful conduct under Subsection 58-1-501(1) and unprofessional conduct under Subsection 58-1-501(2)(a).
- 8.3. Cheating by any person is strictly prohibited, including candidates, SMEs, proctors, exam administrators, division personnel, licensed entities, and the general public.
- 8.4. The division enforces sanctions against all substantiated complaints.
- 8.5. Sanctions for cheating shall be in accordance with Utah Code Title 58, Occupations and Professions, including Sections 58-1-401 and 58-1-502, and Utah Admin. Code Title R156, Commerce, Professional Licensing, including Sections R156-1-309 and R156-1-501. Sanctions may include, for example:
  - 8.5.1. Fine of up to \$1,000 for each incident.
  - 8.5.2. Ban from testing for up to 12-months.
  - 8.5.3. Candidate appearance before the relevant state licensing board before being permitted to apply for a license again.
  - 8.5.4. Elimination of a candidate's passing exam scores obtained by cheating.
  - 8.5.5. Potential criminal misdemeanor charges.

9. **Exam Reviews.** Except as otherwise specified in statute or rule or in this policy, the division does not review exam results, and the division and exam administrators may not accept any appeals of exam results.

10. **Informal Appeal.**

- 10.1. A candidate may submit an Informal Appeal to the division regarding a failed exam administered by a division exam administrator, as follows:
  - 10.1.1. the Informal Appeal shall be based solely on grounds that are outside of the candidate's control, such as procedural error, abuse of discretion or bias, or illegal discrimination;
  - 10.1.2. the candidate shall fully complete the Informal Appeal form provided by the division, and include a detailed explanation of the grounds for appeal and any supporting documentation;
  - 10.1.3. the candidate shall submit the candidate's complete Informal Appeal form to the division within ten days of the day of the failed exam, as follows:
    - by email to [doplexams@utah.gov](mailto:doplexams@utah.gov); or



- by hand delivery or mail to:

DOPL Exams  
160 E. 300 S., PO Box146741  
Salt Lake City, Utah 84114

- 10.2. The division may not consider an incomplete Informal Appeal form, except that the division may notify a candidate that their form is incomplete.
- 10.3. Upon timely receipt of a complete Informal Appeal form, the division shall conduct a thorough review, and notify the candidate of the division's decision within 30 days of the division's receipt.