

Washington, D.C. Approves Limited Diploma Privilege Amid COVID-19 Pandemic



Washington, D.C. has become the fourth jurisdiction to approve a limited diploma privilege amid the COVID-19 pandemic and allow certain U.S law graduates to practice law without taking the licensing test.

The District of Columbia's highest court in a 4-3 order ruled Thursday "emergency examination waiver" to the licensing test for lawyers. The state will still offer the online bar exam scheduled for Oct. 5-6, as well as a provisional licensing program that allows graduates to temporarily practice law before taking the bar under supervision. But in Thursday's order, the court said provisional licensing is not the sufficient solution to all of the pandemic-related problems for law grads.

"The court, therefore, has determined, on a one-time basis, to permit certain recent law school graduates to be admitted to the D.C. Bar without taking or passing a bar examination," the court said, "under a number of conditions intended to safeguard the public's interest in the competence and good character of those who are permitted to practice law in the District of Columbia."

While provisional licensing allows law graduates to practice while waiting to sit for the bar, the waiver option, known as diploma privilege will allow certain graduates to be admitted to the bar without taking the exam.

The waiver program in D.C. applies only to graduates from American Bar Association-accredited law schools in 2019 or 2020-signed up to take D.C.'s October test. Applicants admitted in other jurisdictions, as well as those who previously failed a bar exam, are not eligible. The order also includes a three-year supervised practice provision, and admittees are expected to make a "concerted effort" to provide pro bono services.

The court said it has limited staff to address time-sensitive obligations, including administering the October exam, "which at present has an unprecedented number of applicants," as well as "getting that examination graded; conducting character and fitness reviews; and certifying successful applicants for admission."

"Court staff will give priority to handling the applications of those who take the October Bar examination. Although court staff will work diligently to process applications based on an emergency examination waiver, that process includes character and fitness review and can be expected to take a number of months," the order contended.

Judges in the minority, who included the court's chief, Anna Blackburne-Rigsby, argued that the case hadn't been made for a bar exam waiver.

"We understand that the COVID-19 pandemic has created unprecedented circumstances, but we believe that the other steps the court has taken (offering a remote examination, negotiating reciprocity agreements with twelve other jurisdictions to accept the scores from the remote exam, and expanding the opportunity for temporary supervised practice) are sufficient accommodations," the judges wrote.

The group Diploma Privilege for D.C. tweeted in response to the order, "DC fam, we are hopeful that the order helps someone. That's what advocacy means. But some of the provisions are disappointing."