

**Memo: Truck Accident Law Examination Information**  
**From: Gwen Arcangelo, Assistant Director**

One of the biggest concerns for our applicants is having to take another examination and many of you swore you would never do that again after your bar examination. Suddenly you find yourself in that scenario. The information below we hope will answer your questions about our examination and address your concerns about this step of the certification process.

**FORMAT:**

The examination is divided into two 3 hour sessions given on a Saturday or Sunday. It consists of hypothetical cases and fact patterns which contain a series of questions that require knowledge of Evidence, Ethics and Truck Accident Law. The questions could be any combination of Essay and Multiple Choice. The questions are geared to evaluate basic knowledge of the usual legal procedures, core substantive law and trial ability that is common to specialists in the area of Truck Accident Law. It is not designed to be a bar or law school type of examination.

**TIMING:**

It is preferred that the application be completed in its entirety before you sit for the examination. However, an applicant can request to take the examination before completing the application. The examination is given twice a year. **The next date is: March 28, 2020.** Registration material for an examination is sent two months prior to the examination date. You will automatically receive registration material before every examination until you have actually taken and passed one (contingent upon file eligibility). There is no need to contact our office if you cannot take a particular examination.

**LOCATION:**

Whenever possible we arrange for local sites to administer the examination. Therefore, the examination sites rotate to accommodate most applicants. If there is a site that you would like to suggest for an upcoming examination, I will do everything I can to accommodate your suggestion. Please Note: examination administration sites cannot be added for an examination after the registration materials have been sent out, so please contact me as early as possible with your suggestions.

**CONTACT:**

If you have any additional questions, please call me at **508-384-6565** or email me at **[garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org)**. I look forward to helping you complete our examination requirement.

## EXAMINEE INFORMATION DOCUMENT

This document is designed to assist eligible applicants prepare for an examination administered by the National Board of Trial Advocacy (NBTA). For the requirements of each specialty area, please visit [www.nbtalawyers.org](http://www.nbtalawyers.org) and click “For Attorneys” and dropdown to “Standards” and “Application & Exam Information”.

The Examination Specifications provide a list of practice related information/skills that relate to the purpose of certification in the specialty area. **To view “Specifications” please refer to pages 6, 7 and 8 of this packet.**

Please note that passage of the examination is one step in the application process to become a certified specialist.

**Step 1** Complete NBTA’s online application in its entirety to become eligible for one of the next NBTA examinations (an applicant can request to take the examination before completing the application). The following is a list of the application requirements: CLE, Legal Writing, Disclosure of Conduct, Substantial Involvement, Contested Matters, History of Professional Conduct, Application Agreement, and References.

**Step 2** Applicant registers and sits for a Spring or Fall NBTA examination administration. The examination must be successfully completed within two years from the application submission date. E.g. If the application is received 10/20/2016, it must be completed by 10/19/2018.

**Step 3** Successful applicants are sent notice of passage of examination.

**Step 4** All requirements are satisfied and fees are paid. Applicant is certified.

### Registration Procedures:

- If you are eligible to sit for an up-coming examination, you will be sent an examination registration form, two months prior to each examination administration date.
- If you wish to use a Laptop Computer, NBTA will supply you with a USB flash drive to save your essay answers. Please contact Gwen Arcangelo ([garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org)) at the NBTA for additional information.
- Testing Accommodations are available to qualified individuals. Please contact Gwen Arcangelo ([garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org)) at the NBTA for additional information.

- You must choose an examination site from a list provided to you. Sites rotate to accommodate most applicants' geographic area. However, examination sites are limited to those locations offered for a given examination administration.
- Your registration form must be received by NBTA by the deadline on the form along with payment of the \$400 examination fee. No faxed registrations are accepted without the \$400 fee.
- Registration form and fee are NOT accepted after the deadline. You must re-register for the next examination administration and pay the \$400 examination fee.
- If you cancel less than 24 hours prior to the examination day, you will be charged a \$150.00 "No Show" fee. This fee is due before any certification is granted.

### **Examination Administration:**

- The purpose of the examination is to verify your basic knowledge of the usual legal procedures, core substantive law and ability that is common to specialists in the area of law tested. The areas examined are listed in the individual Examination Specifications for each area of law. **To view the "Specifications" please refer to Pages 6, 7 and 8 of this packet.**
- The examination consists of multiple choice questions and 3 hours of essay questions. **To see the "Examination Information" please refer to page 1 of this packet.**
- The examination is 6 hours long and begins promptly at 8:30 a.m. and ends at 11:30 a.m. for a lunch break. It begins promptly at 12:30 p.m. and ends at 3:30 p.m.
- At the start of the examination, you will be asked to show a photograph ID (Drivers' license, passport, or an employment badge with a photograph) to verify your identity. You must have a photo ID on your person at all times during the examination.
- Examination questions are geared toward generally applicable legal principles. If your state has a particular legal rule which is important to your answer, please indicate what state you are from and describe the rule.
- You are permitted to use designated reference materials during the examination, e.g. the Federal Rules of Evidence, the ABA Model Code of Professional Responsibility, the ABA Model Rules of Professional Conduct, the Federal Motor Carrier Safety Regulations, etc. Please check the specific materials permitted by the individual area of law. **See "Reference Materials" on the Exam Facts page 9 of this packet.**

- You will receive an examination number that must be written on every sheet of paper used for answers. Names must NOT be written on any part of the examination. The assigned number provides anonymity. You must print your examination number on each answer to an essay question in the appropriate upper right hand corner of each page.
- Start an answer to each section of questions on a new sheet of paper. On the last page of each section write "END."
- You must supply your own paper and pens. These will NOT be provided by NBTA.
- Multiple choice questions must be answered on the Multiple Choice Answer Form provided. You must write your examination number in the upper right hand corner of the form.
- You must keep track of time. Remain alert to the passage of time. Timing devices brought into the exam must be absolutely silent so as not to disturb others.
- Do not write on both sides of the page for essay questions.
- Write legibly- if a grader cannot read the answer you will not receive credit. Essay answers written in pencil are not acceptable.
- You will NOT be granted extra time. If you run out of time you will not be able to complete that portion of the examination.
- All examination questions and answers are collected at the end of the individual session.
- Examination materials may NOT be kept and are NOT to leave the examination room.

### **Grading and Review:**

- A passing score is 75%.
- Approximately eight weeks after the administration of that examination's date, you will be notified of the result.
- Prior to the release of your results, all failing examinations have already been granted an automatic appeal to the members of the Examination Committee. Members of this committee review the failing examinations and make a final determination. Results are released only after all reviews have been completed.

- Your results will be mailed marked “Confidential.” However, if you wish the result letter to be sent to an alternate address, notify Gwen Arcangelo (garcangelo@nbtalawyers.org) at the NBTA in writing to provide this information.
- The decision of the Examination Committee is final.
- You may retake the examination one time (contingent upon file eligibility). Upon a second failure you are procedurally denied and must wait a calendar year prior to re-applying to NBTA to sit for the examination.
- Re-applications require that a new application be opened and all standards met and documented. The examination must be re-taken in its entirety.

**Please direct any questions about the examination to the following:**

**Gwen Arcangelo, NBTA Assistant Director  
850 Franklin Street, Suite 8  
Wrentham, MA 02093  
508.384.6565 (Phone) / 508.384.8223 (Fax)  
garcangelo@nbtalawyers.org**

**Specifications for the National Board of Trial Advocacy  
Truck Accident Certification Examination (Approved April 21, 2018)**

**Purpose of the Examination:** The Truck Accident Examination is designed to verify the applicant's basic knowledge of the usual legal procedure, core substantive law and litigation skills necessary to specialists in the area of Truck Accident Law. Truck Accident Law deals with the procedural, substantive and practical issues unique to collision cases involving commercial tractor trailers, buses and other commercial motor vehicles and all of the people and entities in the transportation cycle.

An applicant is expected to demonstrate the ability to identify the issues, as well as understand and properly apply the unique legal, regulatory and industry standards to factual situations. It is recognized that the subject areas below may overlap, which may require incorporation of more than one substantive or procedural area in Truck Accident Law. The order of the subject areas does not reflect their relative importance, nor does the sequence represent an implied order of their application in practice.

**Subject Area 1: Professional Responsibility**

- 1.1 Ethical duties to client, opposing counsel, third parties, and the court/attorney as witness
- 1.2 Basis of sanctions
- 1.3 Fee agreements/bases for fees/declining terminating representation
- 1.4 Prohibited referrals and inducements/contact with prospective clients
- 1.5 Dual representation/conflicts of interest/independent professional judgment
- 1.6 Unauthorized practice of law
- 1.7 Trial publicity/client property
- 1.8 Dealing with an unrepresented person
- 1.9 Dealing with paralegals and other non-attorney staff
- 1.10 Restrictions on right to practice law

**Subject Area 2: Federal Motor Carrier Safety Regulations (Subchapter B, Chapter III, Subtitle B of the *Code of Federal Regulations* TITLE 49-Transportation), CDL Manual, Training Manuals and Related Cases**

- 2.1 Lease and independent contractors
- 2.2 Hours of service and logbooks (49 C.F.R. Part 395)
- 2.3 Drug and alcohol use and testing (49 C.F.R. Part 382)
- 2.4 Preservation of records (49 C.F.R. Part 379) and record-keeping requirements
- 2.5 CDL standards and qualifications (49 C.F.R. Part 383)
- 2.6 Service of process
- 2.7 What is a CMV and determining when FMCSRs Apply?
- 2.8 Driver's certification (49 C.F.R. Part 391) and qualification file
- 2.9 CDL Manual, including turning left, turning right, following distance, air brakes, inclement weather, hazard perception and space management
- 2.10 Medical qualification
- 2.11 Financial responsibility requirements, including federal and state law analogues (part 387, MCS 90, Form K)

- 2.12 Registration requirements (unified, MCS 150, OP-1)
- 2.13 Brokers (49 C.F.R. Part 371)
- 2.14 Bills of lading (49 C.F.R. Part 373)
- 2.15 Cargo securement
- 2.16 Recognizing HAZMAT issues
- 2.17 Safety fitness procedures (49 C.F.R. Part 385)
- 2.18 Other key regulations located in 49 C.F.R. Parts 390, 391, 392, 393, 396 and 397
- 2.19 Industry training manuals
- 2.20 Preventability manuals and determinations

### **Subject Area 3: Jurisdiction and Venue**

- 3.1 Subject matter jurisdiction
- 3.2 Jurisdiction over parties
- 3.3 Jurisdiction over property
- 3.4 Service of process and notice
- 3.5 Venue, forum non-conveniens, and transfer
- 3.6 Joinder of parties and claims
- 3.7 Adjudication without trial, summary judgments, etc.

### **Subject Area 4: Theories of Liability**

- 4.1 Distracted driving and fatigue management
- 4.2 Direct negligence and vicarious fault admission
- 4.3 Lease and independent contract issues; Graves amendment
- 4.4 Statutory liability
- 4.5 Broker and shipper liability: direct negligence and agency
- 4.6 Recognizing product liability issues
- 4.7 Recognizing construction zone claims and the MUTCD
- 4.8 Intermodal carrier liability
- 4.9 Loading and unloading negligence
- 4.10 Visibility and conspicuity
- 4.11 Negligent maintenance
- 4.12 Negligent hiring, supervision, retention and training
- 4.13 Sudden emergency
- 4.14 Other driver negligence issues including adverse weather conditions, transporting hazardous cargo, bad brakes

### **Subject Area 5: Present and Object to Evidence**

- 5.1 Introduction of evidence/mode and order/probative value
- 5.2 Proper use of demonstrative and other trial exhibits/writings, recordings, photographs, experimental evidence and the completeness rule
- 5.3 Remedial measures/compromise, payment of expenses and plea negotiations
- 5.4 Character evidence and related concepts
- 5.5 Qualification of expert and lay witnesses and scientific evidence
- 5.6 Judicial notice
- 5.7 Privileges and other exclusionary policies, spousal immunity and marital

- communications, attorney-client, work product, etc.
- 5.8 Relevancy and reasons for excluding relevant evidence
- 5.9 Refreshing recollection
- 5.10 Preventability determinations and self-critical analysis

### **Subject Area 6: Hearsay / Non-Hearsay**

- 6.1 Definition
- 6.2 Present sense impressions and excited utterances
- 6.3 Statements of mental, emotional, or physical condition
- 6.4 Statements for purposes of medical diagnosis and treatment
- 6.5 Past recollection recorded
- 6.6 Business records
- 6.7 Public records and reports
- 6.8 Learned treatises
- 6.9 Former testimony, depositions
- 6.10 Other exceptions to the hearsay rule
- 6.11 Prior statements by witnesses
- 6.12 Party Admissions

### **Subject Area 7: Other Practice Issues**

- 7.1 On board technology, ECM's and collision avoidance systems
- 7.2 Rear and side underride
- 7.3 Interstate vs. intrastate
- 7.4 Crash reports and investigation
- 7.5 FOIA requests
- 7.6 Use of liability experts
- 7.7 Safety ratings and determinations; FMCSR websites
- 7.8 CVSA (out of service standards)
- 7.9 Bills of lading (49 USC 80101)
- 7.10 Carmack amendment (49 USC 14706)
- 7.11 Defensive driving programs



## **CERTIFICATION EXAMINATION FACTS NATIONAL BOARD OF TRIAL ADVOCACY**

### **WHAT**

Examination in all specialty areas of law is designed to verify an applicant's knowledge in the usual procedures, ethical considerations and substantive law that should be common to specialists in the area of law.

### **ELIGIBILITY**

An applicant must satisfy the requirements for eligibility in the specialty area and must complete the online application in its entirety prior to sitting for the examination (an applicant can request to take the examination before completing the application). The initial application must be received 45 days prior to the examination dates for the Spring or Fall Examination administration. (I.e. for an April 16<sup>th</sup> examination the application must be received and processed by March 1<sup>st</sup>)

### **REGISTRATION PROCEDURES**

Applicants choose an examination site located in their geographic area from a list provided by NBTA. Applicants will receive an examination number that **MUST** be used on all examination materials.

### **EXAMINATION FORMAT**

The examination is a six hour session (8:30 a.m. - 11:30a.m. and 12:30p.m. – 3:30p.m.) that includes both essay and multiple choice questions. There are no optional questions. Applicants must supply paper and pens, however a form will be provided for the multiple choice questions. Use of the Internet by laptop takers is strictly forbidden.

### **FEE**

\$400.00 for both writing and laptop PC (in addition to the application fee). Cancellations 24 hours or less are assessed a \$150.00 "No show" fee.

### **REFERENCE MATERIALS**

The Federal Rules of Evidence and either the ABA Model Code of Professional Responsibility, Model Rules of Professional Conduct, or the ethics rules in effect in the applicant's state and if applicable the Federal Motor Carrier Safety Regulations (for Truck Accident Attorneys), Social Security Act, Regulations and West's Federal Social Security Laws (for SSD Attorneys). Civil Practice examinees may also bring the Federal Rules of Civil Procedure.

### **SCORING**

75% is a passing score. Examination results (pass or fail) will be released 8 weeks after the administration of the examination.

### **QUESTIONS**

Contact Gwen Arcangelo, Assistant Director, E-mail – [garcangelo@nbtalawyers.org](mailto:garcangelo@nbtalawyers.org), Phone 508-384-6565 or NBTA, 850 Franklin Street, Suite 8, Wrentham, MA 02093

## **TRUCK ACCIDENT LAW EXAMINATION MANUAL (Revised 8/2018)**

**Please note: your demonstration of knowledge of EVIDENCE and ETHICS are important.**

**Failure of the ETHICS portion will result in failure of the examination.**

**The following are samples of the multiple choice portion of the examination:**

### **EVIDENCE**

1. During a break in settlement negotiations in a negligence case, the plaintiff and the truck driver defendant, not in the presence of their attorneys, are having a cordial conversation. The truck driver defendant says to the plaintiff, "I'm sorry about the accident. I should have been more careful." Settlement negotiations are not successful and the case is on trial. During the plaintiff's direct testimony, his attorney asks him about the conversation he had with the truck driver defendant while the parties were engaged in settlement negotiations. Truck driver defendant's counsel objects.

**Which of the following best reflects the proper ruling on the objection?**

**Objection-**

- A. sustained because statements made during settlement negotiations are not admissible.**
- B. sustained because the statements made by plaintiff are irrelevant to the case.**
- C. overruled because truck driver defendant's statement was an admission against interest.**
- D. overruled because neither party's attorney was present during the conversation.**

**ANSWER: A**

2. This is a product liability case on trial in federal district court. Plaintiff is suing for property damage and economic loss because of the malfunction of in-cab truck fleet cameras sold to it by defendant. Defendant claims that plaintiff expressly assumed the risk. During its case-in-chief defendant offers into evidence a shipping invoice, signed by plaintiff's receiving agent, which contains the following language:

"BUYER agrees to buy said goods with the full understanding that it will be solely responsible for any losses or consequential damages caused by said goods.

BUYER ACKNOWLEDGES THAT IT HAS FULLY EXAMINED THE GOODS AND IS FULLY AWARE OF ANY DEFECTS IN WORKMANSHIP."

**Is the exhibit admissible?**

- A. No, because the invoice is hearsay.**
- B. Yes, because the invoice has independent legal significance.**
- C. No, because the invoice is not a business record.**
- D. Yes, because the invoice is a business record.**

**ANSWER: B**

### **ETHICS**

1. Attorney Jones represents Jack in a case about a truck accident collision between Jack and Albert. After a pre-trial hearing, Attorney Jones talked to a local news reporter and stated, "We feel good about our chances. My client was hit by Albert, who was drunk. Albert failed his breathalyzer test. Go look it up. It's all in the police report. This isn't the first time Albert has done stuff like this. It's time for people in this community to hold him accountable." **Can Attorney Jones make these statements in his media interview?**
  - A. Yes. All statements of Attorney Jones quote or make reference to a public record, or are Jones's personal opinions about Jack and Albert.**
  - B. Yes. Breathalyzer results are inadmissible and will not be considered by the jury.**
  - C. No. An attorney cannot make general, public comments on the character, credibility or criminal record of a party or witness.**
  - D. No. Ethical rules presume that comments from an attorney within 30 days of trial are prejudicial and improper.**

**ANSWER C**

2. You have been informed by a large national insurance company that they would like to retain your services to represent their insured in relation to a truck wreck in which their insured was involved and in which a lawsuit has been filed against their insured. The insurance company has informed you that they will pay your attorney's fees and all costs associated with defending this lawsuit and otherwise representing their insured.

**QUESTION: Under what circumstances, if any, can you represent the insured?**

- A. There are no restrictions on an attorney's ability to be able to represent the insured/client under these circumstances.**
- B. Provided that you obtain the insured/client's informed consent, you are ethically permitted to represent the insured/client.**
- C. You can only represent the insured/client under these circumstances if you obtain his informed consent, it does not interfere with your independent professional judgment, and communications with the insured/client are protected as privileged.**
- D. You can only represent the insured/client under these circumstances if you obtain, in writing, his consent.**

**ANSWER: C**

**The following is a sample of the essay portion of the examination:**

**SAMPLE 1:**

Joe Smith's Trucking was in the business of transporting oranges from Central California to various sites in Canada. In 2006 Joe purchased a used 1999 Kenworth tractor-trailer to use in his business. About a year later Joe was on his way to Vancouver when the left rear axle assembly separated from the tractor and the wheels and tires came off, bouncing along the highway and striking an oncoming car killing its driver. A lawsuit on behalf of the deceased driver was filed against Joe and a prior owner of the 1999 Kenworth. The allegations were that both defendants had negligently maintained the axles on the tractor. Specifically, it was alleged that the prior owner had driven the tractor for 500,000 miles and during that time had only performed one act of maintenance on the rear axle shaft and drive axle. Further it had failed to follow the manufacturer's recommended service on the axles which required specific types of maintenance at specific times during the life of the truck. Had the maintenance been performed, it was alleged, the wheels and tires would never have come off the truck. In that condition the truck was not safe to operate.

- A. The prior owner's response was as follows:
  - 1. Its loss of ownership and control of the tractor during the one-year period that Joe was using the truck absolved it of liability.
  - 2. 49 CFR 396.3(a)1 which states in relevant part that "every motor carrier ... must systematically inspect, repair, and maintain, or cause to be

systematically inspected, repaired and maintained “all motor vehicles . . . subject to its control” did not apply to prior owners.

B. Joe responded as follows:

1. He was an unregulated carrier since he hauled exempt commodities and therefore was not subject to the Federal Motor Carrier Safety Regulations.
2. When the plaintiff argued the applicability of Restatement of Torts (2d) Sec. 428 which provides:

“An individual or a corporation carrying on an activity which can be lawfully carried on only under a franchise created by public authority and which involves an unreasonable risk of harm to others, is subject to liability for physical harm caused to such others by the negligence of the contractor employed to do work in carrying on the activity.”

Joe responded it did not apply to him since:

- a. he was not operating under a public franchise
- b. driving a truck does not involve an unreasonable risk of harm

C. Joe’s insurer denied coverage since:

1. It took the position that the MCS-90 which is part of Joe’s policy did not cover exempt carriers.

**Discuss fully the arguments on both sides.**

**NBTA POLICY DOCUMENT: Inspection of Examination/Retention**  
***(Board Approved– November 4, 2014)***

Within 60 days after the announcement of the results of an NBTA examination, an applicant who has failed to pass a specialization certification examination may inspect his or her examination in such manner and place as the NBTA designates.

**PROCEDURE:**

**1. Failure of Examination:**

- Following the failure by an applicant of the Spring or Fall examination he or she will be notified in writing of his or her failure and informed of the examination inspection policy.
- An applicant must timely notify NBTA in writing that he or she wishes to review that examination.

**2. Inspection of Examination**

- NBTA upon request by an applicant will set up an inspection site at the NBTA Office or at a location geographically located as close as possible to the requesting applicant.
- Upon completion of the proctored location arrangement, NBTA will send a filled in copy of the Multiple Choice Examination, a copy of the Essay portion of the Examination and a copy of the applicant's answers.
- Only the Applicant will be permitted to review his or her examination at a proctored site for an hour's time.
- The applicant is not permitted to copy or make notes of the examination in any way.
- At the end of the hour all examination materials must be returned to the proctor for transmission to the NBTA Offices.
- Upon the date marking the 60th day after the announcement for that examination, all an applicant's examination materials shall be destroyed.

**3. Passage of Examination:**

- Following the passage by an applicant of the Spring or Fall examination he or she shall be notified in writing of his or her passage.
- At the date of the announcement of his or her passage of the examination all his or her examination materials shall be destroyed.

**4. Examination:**

- NBTA shall retain a copy of each administered examination in a secure location and in a secure medium that is accessible only to authorized personnel. All confidential information as to each applicant's examination score will be deleted after 60 days and no information concerning the applicant's file will be provided to a third party.

**NBTA POLICY DOCUMENT: Testing Accommodations**  
***(Board Approved– February 16, 2013)***

**It is the Policy of the NBTA to administer a specialization certification examination in a manner that does not discriminate, on the basis of a disability, against a qualified applicant with a disability in accordance with the Americans with Disabilities Act, as amended (ADA). A qualified applicant with a disability who is otherwise eligible to take the specialization certification examination may file a request for special testing accommodation if by virtue of a disability the applicant cannot demonstrate, under standard testing conditions, that the applicant possesses the essential skills and aptitudes that the NBTA has determined to be the basis for issuance of certification as a legal specialist.**

**PROCEDURE:**

**1. Requests:**

- **A request for an accommodation for the Spring or Fall examination shall be made in writing and must be received 21 days prior to the date of the general examination's administration.**
- **The Request shall include the following minimum information: Contact information of the requestor (name, address etc.), the date scheduled for the general administration of the examination, and a description of the applicant's disability and the special accommodation requested. The specific reason for the request with any additional documentation in support of the request must be submitted on a Form prescribed by NBTA.**

**2. Decisions on the Requests:**

- **NBTA shall take steps reasonable and necessary for it to reach a fair determination before the general examination.**
- **The Request shall be reviewed by the Staff in consultation with the Dean of Faculty.**
- **A decision on a request shall be completed within 14 days of the receipt of the request.**
- **A denial of a Request may be appealed to the full Examination Committee and shall be filed within 7 days of the applicant's receipt of the denial. The appeal shall be conducted on the basis of the record compiled and the applicant shall be limited to a written argument in support of the appeal.**

**3. Availability of Request Forms**

**All forms necessary to complete a request shall be available at no charge from the NBTA Office.**

## **NBTA POLICY DOCUMENT:**

### **Alternate Examination Administration Day for Religious Reasons (Board Approved– February 16, 2013)**

**It is the Policy of the NBTA to permit an applicant to take a specialization certification examination on an alternate date if the applicant for religious reasons is unable to take the examination on the date selected for general administration. This alternate examination day administration must not compromise the validity and reliability of the specialization certification examination for which it is requested.**

#### **PROCEDURE:**

##### **1. Requests:**

- **A request for change of date of the Spring or Fall examination shall be made in writing and must be received 21 days prior to the date of the general examination's administration.**
- **The Request shall include the following minimum information: Contact information of the requestor (name, address etc.) the date scheduled for the general administration of the examination and the alternate administration date requested. The specific reason for the request with any additional documentation in support of the request (on a Form prescribed by NBTA).**

##### **2. Decisions on the Requests**

- **NBTA shall take steps reasonable and necessary for it to reach a fair determination before the examination.**
- **The Request shall be reviewed by the Assistant Director in consultation with the Dean of Faculty.**
- **A decision on a request shall be completed within 14 days of the receipt of the request.**
- **A denial of a Request may be appealed to the full Examination Committee and shall be filed within 7 days of the applicant's receipt of the denial. The appeal shall be conducted on the basis of the record compiled and the applicant shall be limited to a written argument in support of the appeal.**

##### **3. Availability of Request Forms**

**All forms necessary to complete a request shall be available at no charge from the NBTA Office.**



**NBTA POLICY DOCUMENT: Completion of Examination**  
***(Board Approved– February 16, 2013)***

**It is the Policy of the NBTA to permit an applicant to sit for a specialization certification examination twice (contingent upon file eligibility). If an applicant fails the second administration of the examination (any part or the entire exam) an applicant's file will be procedurally denied. Thereafter, an applicant must wait a calendar year from the date of last unsuccessful examination before re-applying to sit for a specialization certification examination, so that an applicant can demonstrate that the applicant possesses the essential skills and aptitudes that the NBTA has determined to be the basis for issuance of certification as a legal specialist.**

**PROCEDURE:**

**1. Failure of Examination:**

- Following first failure by an applicant of the Spring or Fall examination he or she shall be notified in writing of his or her failure and informed of the examination completion policy.**
- Following the second failure by an applicant of the Spring or Fall examination he or she shall be notified in writing that; he or she failed; and that his or her application has been procedurally denied; and the date of the next general examination's administration that he or she will be eligible to attend.**
- Procedural closure of an applicant's file for failing the exam twice is final and not appealable.**