

*State of New York
Court of Appeals*



*Janet Di Fiore
Chief Judge*

*Court of Appeals Hall
Albany, New York 12207*

May 3, 2020

Dear Deans:

Thank you for your letter of May 1, 2020. On behalf of the Court of Appeals, I want to assure you that your concerns are, and have been, very much on our minds as we respond to the challenges posed by this unprecedented public health crisis. New York has a long and proud history of welcoming aspiring attorneys from across the country and around the globe, and we value the tremendous contributions that your students make to the New York legal community. Our recent announcement regarding modifications to the exam registration process – unavoidable this year – should not be interpreted as a step away from that commitment.

While the pandemic has affected prospective bar candidates in jurisdictions across the country, the impact in New York – for many weeks the epicenter of the crisis – has been especially severe. Historically, New York tests more candidates than any other state in the nation (typically upwards of 10,000 for the July administration of the exam). However, this year, prevailing health and safety guidance indicates that New York will be affected by ongoing travel restrictions, mass gathering constraints, and crowd density limitations. As a result, our strategy of renting convention centers and other large venues across the state, and seating thousands of test-takers at each site, cannot be safely implemented.

Despite these challenges, we are working hard to accommodate as many candidates as possible – including your students – in a safe and responsible manner. By partnering with New York's law schools, we have dramatically increased the number of testing venues – a measure designed to ensure the safety of all participants by administering the tests in smaller groups with appropriate social distancing protocols. We plan to supplement those sites with several more traditional venues, albeit with a reduced candidate density. While the initial application period has, by necessity, been limited to a subset of candidates, we intend to reassess our seating capacity and application pool on a regular basis with the hope of eventually opening registration to a broader group. Although smaller by our standards, we expect a sizeable seating capacity – quite large in comparison to other jurisdictions. That said, our desire to accommodate as many candidates as possible must be tempered by practical considerations related to feasible test administration, a commitment to maintaining the integrity of the exam and, most importantly, the health and safety of all participants. For those students who cannot take, or opt not to take, the September exam, I

recently announced a temporary authorization program that will permit qualified bar candidates employed in New York to engage in the supervised practice of law pending admission, a program available to many of your graduates.

We appreciate the ideas presented in your letter, many of which have been part of our ongoing discussion. When New York adopted the UBE, we recognized the benefits of its portability and we urge all UBE jurisdictions to explore creative solutions, like those mentioned in your letter, to safely provide seating for impacted students. Candidates are encouraged to consider sitting for the UBE in other jurisdictions that may be better positioned to accommodate test-takers at this time, or to defer sitting until next year. In addition, New York typically seats a number of candidate populations, including foreign educated applicants (nearly 5,500 in 2019), that are excluded by other jurisdictions. Those jurisdictions, many of which administer the UBE, should be encouraged to reconsider their policies to allow for a more inclusive administration of the exam.

Bar candidates around the country are struggling with the uncertainties and hardships wrought by the health crisis and we thank you for your compelling advocacy of their interests. Please know that your schools and your students are very much in our thoughts as we continue our efforts to safely accommodate as many candidates as possible.

Very truly yours,

Janet DiFiore

To:

Camille Nelson
Dean and Professor of Law
American University Washington College of Law

Vincent D. Rougeau
Dean
Boston College Law School

Angela Onwuachi-Willig
Dean and Professor of Law
Boston University School of Law

Erwin Chemerinsky
Dean and Jesse H. Choper Distinguished Professor of Law
University of California, Berkeley School of Law

Jennifer L. Mnookin
Dean and Ralph and Shirley Shapiro Professor of Law
University of California, Los Angeles School of Law

Thomas J. Miles
Dean and Clifton R. Musser Professor of Law & Economics
The University of Chicago Law School

Kerry Abrams
James B. Duke and Benjamin N. Duke Dean of the School of Law
And Professor of Law
Duke University School of Law

Mary Ann Bobinski
Dean and Asa Griggs Candler Professor of Law
Emory University School of Law

Christopher Alan Bracey
Interim Dean, Vice Provost for Faculty Affairs, Professor of Law
George Washington University

William Michael Treanor
Executive Vice President, Law Center Dean, and Paul Regis Dean Professor
Georgetown University

Danielle Holley-Walker
Dean and Professor of Law
Howard University School of Law

John F. Manning
Morgan and Helen Chu Dean and Professor of Law
Harvard Law School

Mark D. West
Dean and Nippon Life Professor of Law
University of Michigan Law School

James Hackney
Dean and Professor of Law
Northeastern University School of Law

Kimberly A. Yuracko
Dean and Judd and Mary Morris Leighton Professor of Law
Northwestern Pritzker School of Law

Theodore W. Ruger
Dean and Bernard G. Segal Professor of Law
University of Pennsylvania Carey Law School

Kimberly M. Mutcherson
Co-Dean and Professor of Law
Rutgers Law School

Jenny S. Martinez
Richard E. Lang Professor of Law and Dean
Stanford Law School

Risa Goluboff
Dean and Arnold H. Leon Professor of Law
University of Virginia School of Law

Nancy Staudt
Dean and Caroline Cayne Distinguished Professor of Law
Washington University School of Law

Heather K. Gerken
Dean and Sol & Lillian Goldman Professor of Law
Yale Law School