

**District of Columbia  
Court of Appeals**

No. M-246-14

ORDER AND NOTICE OF PROPOSED RULEMAKING (Rule 46 (b)(8)(i)(A))  
(FILED - October 22, 2014)

The court having determined, pursuant to 28 U.S.C. § 2071(e), that there is an immediate need to amend Rule 46 (b)(8)(i)(A) of the Rules of the District of Columbia Court of Appeals,

IT IS HEREBY ORDERED that D.C. App. R. 46 (b)(8)(i)(A), which permits an applicant to take the Multistate Essay Examination (MEE) component of the bar exam while requesting that the Committee on Admissions (COA) accept a prior administration of the Multistate Bar Examination (MBE), is amended, effective immediately, to provide as follows:

“(8) General considerations regarding the examination.

(i) Applicants shall be examined on both the essay and the Multistate Bar Examination (MBE) sections at the examination site designated by the Committee.

(A) An applicant may request the Committee to accept a prior MBE administration provided that:

1. The prior MBE scaled score is not less than 133; and
2. The prior administration was within 25 months of the present administration.”

The need for this amendment arises from the following circumstances. For the first time on the February 2015 MBE, the National Conference of Bar Examiners will include in the MBE questions on federal civil procedure, thus making the tested

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subjects non-identical to the subjects tested in previous administrations of the MBE. Currently, Rule 46 (b)(8)(i)(A) permits applicants to re-take only the MEE and to have the Committee accept their scores (of at least 133) on a previous MBE, but only if the “subjects of the prior MBE are identical to those comprising the present MBE section.” For the reason described above, that condition will not be satisfied for the February 2015 exam. The COA can expect to receive many requests asking for a waiver of that condition for the February 2015 examination. The amendment, which deletes current Rule 46 (b)(8)(i)(A)(2) and renumbers current Rule 46 (b)(8)(i)(A)(3), is intended to make it unnecessary for applicants to seek individual waivers. The revised rule appears in the first indented paragraph above.

This NOTICE is published to afford interested parties an opportunity to submit written comments concerning this amendment and whether it should remain a part of the Rules of the District of Columbia Court of Appeals. Ten copies of any comments, addressed to the Clerk, District of Columbia Court of Appeals, 430 E Street, N.W., Suite 209, Washington, D.C. 20001, should be received by December 22, 2014.