

# EXAM SPECIFICATIONS FOR ADMINISTRATIVE LAW

**PURPOSE OF THE EXAM.** The purpose of the certification exam is to require an applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in administrative law.

**EXAM FORMAT.** The morning session of the exam consists of three Essay Questions. Each essay is worth 100 points (300 points total). The afternoon session consists of 100 Multiple Choice Questions of which 10 of these questions cover professional ethics. Each multiple choice question is worth 2 points (200 points total).

**EXAM GRADING.** All exam materials are confidential and not available for review. Essay answers are graded anonymously and identified only by an assigned examinee number. Multiple choice answers are computer graded. Successful examinees are notified that they passed but are not provided with the specific score. Unsuccessful examinees are notified of the exam score. Exams that score 10 points below the passing grade are automatically regraded. Exam results are final.

**ESSAY QUESTIONS.** Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an applicant to answer. The questions involve situations you would likely encounter in your practice and include issues, by way of example only, as to whether or not an agency hearing or rulemaking was conducted consistent with the requirements of the Administrative Procedures Act, the propriety of the actions of a hearing officer or state agency, evidentiary issues arising in contested hearings, appropriate proposals for decision and remedies for correcting or appealing agency decisions, including through judicial review. Applicants should ensure they provide the specific information each question requests and communicate their response as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. In order to pass the exam, applicants must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

**MULTIPLE CHOICE QUESTIONS.** These questions are designed to test a breadth of issues in the specialty area and require an applicant to select the option that represents the best available answer.

**REQUIRED KNOWLEDGE, SKILLS AND ABILITIES.** An applicant in administrative law is expected to understand all aspects of contested case hearings, including discovery, procedure, burden of proof and evidence issues. **An applicant is also expected to understand all aspects of judicial review, including procedure and standard of review.** A more detailed list of required knowledge is set out below.

***NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. APPLICANTS WILL BE TESTED ON RULES AND LAWS (INCLUDING CASELAW) IN EFFECT AT THE TIME OF THE EXAM UNLESS OTHERWISE SPECIFIED.***

## **1. The Administrative Procedure Act (Chapter 2001, TEX. GOV'T CODE)**

**2. The Handling of Contested Cases under the APA**

- a. Agency record
- b. Agency orders, including enforcement of orders, rules and actions
- c. Alternative dispute resolution procedures (Chapter 2009, TEX. GOV'T CODE)
- d. Delegation of powers to agencies
- e. De novo hearings
- f. Discovery
- g. Exhaustion of remedies
- h. Evidence
- i. Ex parte communications
- j. Findings of fact and conclusions of law
- k. Hearing procedures
- l. Licensing (Chapter 2005, TEX. GOV'T CODE)
- m. Proposal for decision, exceptions and replies
- n. Motions for rehearing
- o. Representation before state agencies (Chapter 2004, TEX. GOV'T CODE)

**3. Hearings before the State Office of Administrative Hearings**

- a. SOAH, Chapter 2003, TEX. GOV'T CODE
- b. SOAH Rules of Procedure, 1 TAC Chapter 155

**4. Judicial Review of Agency Orders and Judicial Enforcement of Agency Orders and Rules, including:**

- a. Declaratory judgments, Injunctions and Mandamus
- b. Texas Rules of Civil Procedure
- c. Texas Civil Practice and Remedies Code
- d. Texas Rules of Evidence
- e. Texas Rules of Appellate Procedure
- f. Travis County District Court Rules
- g. Res judicata
- h. Sovereign/legislative immunity
- i. Permission to sue
- j. Standing
- k. Standard/Scope of Judicial Review
- l. Use of Administrative Procedure Act procedures

**5. Agency Rulemaking including:**

- a. APA provisions concerning rulemaking
- b. Texas Register and Administrative Code (Chapter 2002, TEX. GOV'T CODE)
- c. Negotiated rulemaking (Chapter 2008, TEX. GOV'T CODE)

- 6. Open Meetings (Chapter 551, TEX. GOV'T CODE)**
- 7. Public Information (Chapter 552, TEX. GOV'T CODE)**
- 8. Registration of lobbyists (Chapter 305, TEX. GOV'T CODE)**
- 9. The Texas Disciplinary Rules of Professional Conduct.** The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.

### **SKILLS.**

An applicant must demonstrate the ability to:

- Communicate effectively and persuasively to clients, counsel and courts.
- Develop and evaluate strategies for solving a problem or accomplishing an objective
- Analyze and apply legal rules and principles
- Analyze, sort and use facts; plan and direct factual investigations
- Organize and manage a legal task efficiently within time constraints
- Represent a client consistent with applicable ethical standards
- Invoke and utilize the procedures normally required in the specialty area, including pleadings and filings