

UNITED STATES PATENT AND TRADEMARK OFFICE
 BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS

In re)	
)	Decision on
)	Request for Special
)	Accommodations
_____)

MEMORANDUM AND ORDER

(Petitioner) petitions the Commissioner regarding his request for special accommodations for the November 1999 registration examination. He also seeks review of the alleged denial by the Office of Enrollment and Discipline (OED) of his special accommodations request for the April 21, 1999, registration examination. Regarding the November 1999 exam, the petition is dismissed as moot. With respect to the April 1999 exam, the petition is denied.

Background

Petitioner failed the April 1999 registration examination (exam) and alleges that OED failed to provide the special accommodations he needed to accommodate his disability--

1. Petitioner claims that OED granted his request to take the exam over two days, in a separate room, and at time-and-a-half, but when he took the exam, to his surprise, he was given only one day. Petitioner has requested special accommodations for the November 3, 1999, exam and asks that the Commissioner ensure that the special accommodations are provided.

In a letter to OED dated December 30, 1998, Petitioner requested special accommodations for the April 21, 1999, exam and enclosed reports from two doctors confirming his condition. The December 1998 letter notes that when he took the August 1998 exam,

he was given time and a half for the morning and afternoon sessions and a separate exam location. In his December 1998 letter, Petitioner also enclosed a copy of an OED letter dated August 21, 1998, approving Petitioner's request for time and a half and a separate room for the previous August 1998. Neither Petitioner's December 1998 request letter nor the enclosed August 21, 1998, OED letter indicate that Petitioner received two days for the August 1998 exam.¹ Further, Petitioner's December 1998 letter does not specifically request two days to take the April 1999 exam. His December 1998 letter merely requested the same accommodations that he received for the August 1998 exam. On March 30, 1999, OED approved that request, granting 4½ hours per session and a private room. OED's approval letter does not indicate that Petitioner was granted two days to take the exam.

Opinion

Petitioner claims that he asked for, and was granted, a two-day period to sit for the April 1999 exam. The correspondence in the file, however, indicates that Petitioner received exactly what he requested--time and a half and a separate room. There is no evidence in the record that Petitioner ever requested or received testing over a two-day period.² Accordingly, with respect to the special accommodations provided for the April 1999 exam, the petition is denied.

¹ Petitioner's file includes the request for special accommodations to take the August 1998 exam. As with his December 30, 1998, request, Petitioner asked for only (1) time and a half and (2) a separate exam location. There is no reference to a two-day exam period.

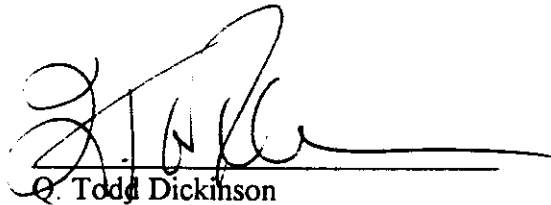
² To date, Petitioner has taken and failed the exam three times: August 1997, August 1998, and April 1999. Petitioner took the exam again in November 1999.

In contrast, for the November 1999 exam, Petitioner specifically requested: (1) time and a half; (2) a separate room; and (3) two days to take the exam. OED granted this request in a letter dated September 10, 1999. The accommodations including two days to sit for the exam were provided for the November 1999 exam. Thus, the current petition, with respect to the November 1999 exam, is moot.

ORDER

Upon consideration of the petition to the Commissioner, it is ORDERED that, to the extent the petition relates to the November 1999 exam, the petition to the Commissioner is dismissed as moot; to the extent the petition relates to the April 1999 exam, the petition is denied.

DEC -- 9 1999



Q. Todd Dickinson
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks

Harry I. Moatz, Acting Director
Office of Enrollment and Discipline