

B-69



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE  
ACTION OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Nicole Butler,  
Assistant Supervisor Professional  
Residential Services, Developmental  
Disabilities (PS0354K), Department  
of Human Services

Examination Appeal

CSC Docket No. 2016-4454

ISSUED: DEC 13 2016 (RE)

Nicole Butler appeals her score for the multiple choice examination for Assistant Supervisor Professional Residential Services, Developmental Disabilities (PS0354K), Department of Human Services. The appellant failed the examination.

By way of background, the appellant took two examinations in one booklet, the subject examination and Assistant Supervisor Residential Living, Developmental Disabilities (PS0087K), Department of Human Services. Both were multiple-choice examinations consisting of 80 and 60 questions, respectively. Of the admitted applicants, 9 candidates passed the examination for (PS0354K), and 8 candidates passed the examination for (PS0087K). Initially, the appellant failed both examinations. Ms. Butler correctly answered 28 questions for (PS0354K) and 20 questions for (PS0087K). On appeal, she argued that she was instructed to open to the first page and start, so she started with question 1, and put her response in the bubble for question 21. She maintained that incorrect instructions led her to mark the bubbled answer sheet incorrectly, and she was not aware of her mistake until she had left the classroom, although she had 30 minutes left.

Commission staff responded that every candidate for a multiple-choice examination is given the questions they should answer listed on the answer sheet stub. It is the responsibility of each candidate to answer the questions listed on the stub. Also, the review form "Taking a Civil Service Commission Examination," which candidates were required to read, states that, "If you have any questions or do not completely understand the monitor's instructions, ask for help. It is very important that all the examination material be filled out correctly." If Ms. Butler

did not understand her instructions, she had the opportunity to ask about it at the test center. Every candidate for a multiple choice examination has been given the same instructions for years and thousands of candidates have followed those instructions and responded to the appropriate questions. The questions to be answered are in the same box on the answer sheet as the amount of time allotted to complete the questions, and the appellant's clearly states, "ANSWER THESE QUESTIONS: 021-100."

A review of Ms. Butler's bubbled answer sheet revealed that she answered questions 1 through 80 in the bubbles for questions 21 through 100, and did not respond to questions 81 through 100. The Division of Agency Services (DAS) agreed to rescore her responses based on a correct alignment of the responses to the questions. A rescore of the answer sheet provided her with an adjusted raw score of 40 for both exams. The passing point for (PS0087K) was 36, and the passing point for (PS0354K) was 48. Thus, she passed the exam for (PS0087K), and is tied at rank 4, and she failed the exam for (PS0354K). She was informed that, in fairness to other candidates, she would not be given the remaining questions again as she has seen the examination and examination reviews have been held.

On appeal, Ms. Butler argues that she was told to go to her exam review, and would not have done so had she known she was giving up the opportunity to take questions 81 through 100 again.

## CONCLUSION

It is well settled that, as part of the process of selection and appointment, a candidate must establish eligibility for appointment by demonstrating possession of the applicable experience and/or education requirement *and* pass an examination. *See In the Matter of Bindu Shah* (Merit System Board, decided May 19, 2004). For this examination, all eligible candidates were required to demonstrate their knowledge, skills, and abilities in a competitive test situation. In this case, the appellant did not respond to the questions correctly, resulting in a failing score for the subject examination. The bubbled answer sheet of the appellant was reviewed, and DAS corrected the appellant's error in responding on the bubbled answer sheet, resulting in her subsequent passing of the examination for (PS0087K). The appellant failed the examination for (PS0354K) as she did not follow the same instructions that have been given to thousands of candidates before her. The appellant's stub stated "ANSWER THESE QUESTIONS: 021-100." If she did not understand these instructions, she simply could have asked the monitor. She did not do so, and as a result, responded to questions 1 through 80 in the bubbled spaces for 21 through 100. There are 9 candidates who followed the instructions and passed the examination. In fairness to them, the situation does not warrant giving the additional questions to the appellant.

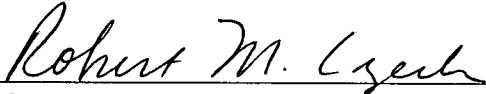
A thorough review of the record indicates that the determination of her examination score was proper and consistent with Civil Service Commission regulations, and that the appellant has not met her burden of proof in this matter.

ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 7<sup>th</sup> DAY OF DECEMBER, 2016



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