

testing candidates. He argues that the same "remain in seats" treatment was not granted to the later time candidates.

N.J.A.C. 4A:4-6.4, (Review of examination items, scoring and administration) states that appeals pertaining to administration of the examination must be filed in writing at the examination site on the day of the examination.

CONCLUSION

Appeals of test administration must be filed in writing at the examination site on the test date. See *N.J.A.C. 4A:4-6.4(c)*. Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she must do so at the test center. The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003). The appellant filed an appeal at the test center, and the Center Supervisor asked him if he had mentioned it to the monitor, and he had said that he had not. The monitor told the Center Supervisor that the door was left open because the room was too warm.

The Commission makes every effort to insure that the environment for testing is comfortable and free of extraneous distractions. The appellant had the opportunity to address the noise issue with the Room Monitor on the test date, and with the Center Supervisor if they could not come to an agreement about testing conditions. The appellant chose not to mention his concerns to the monitor, but waited until after finishing the examination to file an appeal regarding noise or sitting too close to the door. Nonetheless, appellant does not specify a remedy or establish that the testing conditions had an effect on his score. In any event, he has taken the examination and there are no provisions in the rules for a retest. As such, and in fairness to other candidates, appellant cannot be given the same examination, or test questions, again. The appellant has not provided a sufficient basis to establish that these conditions affected his examination performance, or to warrant additional credit on the examination or additional time to complete the exam.

The appellant assumes there was a delay in testing. Candidates in the second session, such as the appellant, were told to arrive at 11:30 AM, but could not start until candidates for the first session had completed their examination, the rooms had cleared, materials were distributed, candidates were checked in, and instructions were given. The second session started at 12:25, which was not a delay. The purpose of sequestering the first session candidates is to prevent communication between candidates, i.e., sharing of examination content. Second

session candidates were not sequestered since there were no candidates scheduled to take the examination afterwards. Hence, they were free to leave the building.

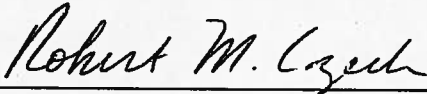
A thorough review of the record indicates that the administration of the subject examination was proper and consistent with Civil Service Commission regulations, and that appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal 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 4th DAY OF FEBRUARY, 2015



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