



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Michael Luby,
Assistant District Parole Supervisor
(PS5490I), State Parole Board

Examination Appeal

CSC Docket No. 2019-78

ISSUED: August 20, 2018 (RE)

Micheal Luby appeals the determination of the Division of Administrative Services (Administrative Services) denying his request for a make-up examination for Assistant District Parole Supervisor (PS5490I), State Parole Board.

The appellant was scheduled to take the subject examination at 6:00 p.m. on June 7, 2018. On May 25, 2018, the appellant requested a make-up examination stating that he had committed to attending an awards ceremony for his daughter at her high school. It was held at 7:00 PM in the school auditorium, and he provided documentation of the event. Administrative Services denied this request as it did not meet that criteria listed in *N.J.A.C.* 4A:4-2.9. On appeal, the appellant states that his daughter was the recipient of two awards, and the event was attended by the whole family. He stated the ceremony was scheduled prior to the examination, and his daughter would have been disappointed had he not attended.

N.J.A.C. 4A:4-2.9(a), (Make-up examinations), provides that make-up examinations, except for professional level engineering promotional examinations and public safety open competitive and promotional examinations, may be authorized only in cases of: 1) Error by the Commission or the appointing authority; 2) Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons; 3) Documented serious illness or death in the candidate's immediate family; 4) Natural disaster; 5) Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant

documentation; and 6) Other valid reasons. It is noted that this examination was competitive with 96 candidates who took the examination.

CONCLUSION

The record establishes that the appellant was scheduled to take the examination at 6:00 p.m. on June 7, 2018 and did not do so. The appellant requested a make-up examination stating that he had committed to attending an awards ceremony for his daughter at her high school. The event could not be cancelled, and alternative arrangements were not available. Although the information presented does not technically meet the criteria for a make-up pursuant to *N.J.A.C. 4A:4 2.9(a)*, good cause exists to relax the controlling regulation given the unique circumstances presented. Thus, Luby should be provided with a make-up for the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted.

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 15th DAY OF AUGUST, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Michael Luby
Michele Karngbaye
Records Center