



## CONCLUSION

*N.J.A.C.* 4A:4-2.15(b)2, Rating of examinations, states that, “examinations consisting of more than one part may be rated independently, and candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination.” Thus, it was necessary to pass all three portions of the PPT in order to pass the exam. If a candidate did not complete any one of the three physical performance exercises in under the allotted times, that candidate failed the examination.

*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.

As this appeal of test administration was filed two days after the examination was given, it is clearly untimely. 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).

As a result of this appeal, the Center Supervisor was contacted regarding instructions to candidates. The Center Supervisor stated that all candidates are given five minutes to rest after completing the obstacle course. They are told to catch their breath, get water if they need it, and make their way to the darkened maze crawl when ready. At the maze, they are asked if they are ready to proceed, and they are asked if they have any questions. They are then given the instructions to the darkened maze crawl. At any point, the candidate can request an additional reasonable amount of time. They can also state that they are not ready.

It is noted that all candidates had access to the physical performance test, physical fitness manual which provides a description of the darkened maze crawl. This document states, “The candidate enters one end of the maze to the ‘Start’ position (at the first curtain), stops, and waits for the Examiner to give the command, “Ready – Go.” The candidate then proceeds to the far side exit.” On another document available to all candidates, the 2015 Fire Fighter Physical Performance Test (PPT) Process Description, it states, “The candidate will enter the maze and get into a crawling position with his or her hands behind the starting line. When the candidate is in position, the outside cover will be closed, cutting off any light to the interior. At the command “Ready, go,” the candidate will crawl through

the maze until reaching the finish line. When the candidate reaches the finish line, the exercise is complete.” The appellant also saw a video with instructions. These instructions are not complicated.

Next, the Center Supervisor makes notes of events at the test center, comments that are made, and candidates who fail portions of the PPT. In this case, the assessor noted that the appellant failed the maze with a score of 49.47. The Center Supervisor indicated that, when asked what went wrong, he stated that, “I lost the wall and kept going.” All candidates are given a sheet entitled “Appeal Procedures” which states that appeals of test administration must be made in writing prior to leaving the test center on the day of the PPT. The appellant left the test center without filing an appeal.

A review of the matter indicates that the appellant’s version of events is not plausible. Candidates are not pressured to start the darkened maze crawl directly after completing the obstacle course, but are given five minutes at minimum and are asked if they are ready and if they have any questions. The staff must rely on the candidate’s assessment of their abilities and do not press candidates who are not ready. They also follow the same procedure for each candidate. The appellant was given instructions in writing, in a video, and verbally at each event. The appellant had to have indicated that he was ready in order to proceed. He did not indicate that he was unprepared for the maze when he exited and was asked what happened. He did not file an appeal of test administration prior to leaving the test center. This appeal is untimely and, in any case, under these circumstances a retest is not warranted.

A thorough review of the record indicates that the determination of the Division of Test Development and Analytics was proper and consistent with Civil Service Commission regulations, and that the 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 6<sup>th</sup> DAY OF FEBRUARY, 2019



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