



**STATE OF NEW JERSEY**

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

In the Matter of Matthew McMonagle,  
Fire Fighter (M1537T), Harrison

CSC Docket No. 2019-1185

Request for Reconsideration

**ISSUED:** February 11, 2019 (RE)

Matthew McMonagle petitions the Civil Service Commission (Commission) for reconsideration of the decision rendered on October 17, 2018, regarding the removal of his name from the Fire Fighter (M1537T), Harrison eligible list due to his failure to appear for the physical performance test (PPT). A copy of that decision is attached hereto and incorporated herein.

The record establishes that petitioner's name appeared on the list for Fire Fighter (M9999T), and when the list for Harrison (M1537T) was certified (OL171364), the petitioner was sent a notification by email on December 15, 2017, to the email address he provided on his application. That notice indicated that he was scheduled to take the PPT. The petitioner did not appear for the PPT and was removed from the list. The petitioner appealed that he was not notified either by mail or in writing. In response, he was informed that he would be notified by email and given a copy of a screenshot showing the email address where the scheduling information was sent, which matched the one he provided on his application. The petitioner responded that he signed the memo which informed that he would be notified by email under duress, and he received a notice from Harrison stating that he was removed from the list because he did not respond to the certification. The Commission indicated that the petitioner had to have responded as interested, as he was not removed from the list for a lack of interest, but was scheduled for the PPT and Harrison was not obligated to send him a certified return receipt letter indicating that he was removed from the list because he responded as interested in the position. It also indicated that no rules had been changed, and that candidates were asked to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical

Performance Examination to refute any claim that they were NOT notified of the process.

In the present matter, the petitioner contends that similarly-situated candidates, who he does not identify, have had their appeals granted and have been placed back on the list. He provides no further arguments.

### CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

Applying this standard to the instant matter, the petitioner has not demonstrated that reconsideration should be granted. The petitioner's concerns were addressed in the prior decision and he has not demonstrated that a clear material error has occurred or presented new information which would change the outcome. As to the petitioner's argument regarding other candidates, each appeal is independent and decided on the particular facts and circumstances presented. In this regard, the petitioner does not indicate who he states was placed back on the Fire Fighter (M9999T) eligible list, or a list generated for a particular jurisdiction, following the outcome of an appeal, and therefore, it cannot be determined if there was a similar situation. In his case, there is no new evidence or an indication that a clear material error has occurred. As such, his petition is denied.

The petitioner has failed to present a basis for reconsideration of this matter since he failed to establish that a clear material error occurred in the original determination or that new evidence presented would change the outcome of the appeal.

### ORDER

Therefore, it is ordered that this petition 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

*Deirdre' L. Webster Cobb*

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

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Attachment

c: Matthew McMonagle  
Kelly Glenn  
Records Center



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of  
Matthew McMonagle,  
Fire Fighter (M1537T), Harrison  
  
CSC Docket No. 2019-627

List Removal Appeal

ISSUED: October 22, 2018 (RE)

Matthew McMonagle appeals the removal of his name from the Fire Fighter (M1537T), Harrison eligible list due to his failure to appear for the physical performance test (PPT).

The record establishes that appellant filed an application for the Fire Fighter (M9999T) examination, and his name appeared on various eligible lists. When the list for (M1537T), Harrison was certified (OL171364), the appellant was sent a notification by email on December 15, 2017 to the email address on his application that he was scheduled to take the PPT. The appellant appeals that he was not notified either by mail or in writing.

By letter dated September 19, 2018, staff from the Division of Appeal and Regulatory Affairs (DARA) explained to the appellant that all candidates for the Fire Fighter examination were given a 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination. All candidates, including the appellant, were required to read and sign this memo in order to continue to take the examination. Candidates were also told at the test center that they would be given a copy if they requested one. This memo indicated that candidates would be contacted via email and scheduled to take the PPT, and point 1 indicated that candidates should check spam folders for emails. Thus, receipt of the electronic notice was the candidates' responsibility. The appellant was also informed that since he did not show up for the PPT, he has been removed from all Fire Fighter lists. This information was provided in the New Jersey Fire Fighter Examination Post-Written Test Timeline and Candidate Responsibilities form,

which is available on the Commission's website. He was sent a copy of his application, showing the email address that he submitted, and a copy of a screenshot showing the email address where the scheduling information was sent, which match.

In response, the appellant claimed that he did not receive a certified return receipt letter from Harrison indicating that he was removed from the list because he did not respond to it as interested in the position. He states that the notice from Harrison states that he was removed from the list because he did not respond to the certification, yet the Commission sent him a notice that he was removed because he did not appear for the PPT. The appellant does not provide a copy of Harrison's notice. He states that there was a change in the rules on the day of the written examination, and that he had to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination under duress, as he could not continue with the process unless he did so.

### CONCLUSION

*N.J.A.C. 4A:4-2.15(b)2* states that candidates who do not receive a passing score on one part of an examination shall be deemed to have failed the entire examination.

The certification notice received by the appellant indicated that, "Your name has been certified to the Appointing Authority indicated, and you will be considered for appointment." It stated that he should mail his reply to the appointing authority, and it gave the name of the Harrison appointing authority and an address in Harrison. The certification was listed as OL171364, the certification date was November 21, 2017, his position on the certification was 226. The instructions stated that "Failure to follow these instructions will result in the removal of your name from the list." Under that, in bold type, it stated, "You **MUST WRITE** to the appointing authority within 5 business days of the date of this notice or your name will be removed from the list." It went on to state that, "The address is listed below. Be sure to indicate whether or not you are interested in this position; and include your name, the address where you actually live, the certification number, and a daytime telephone number. You may also wish to include an updated resume with your response. Failure to contact the appointing authority in writing; to maintain active interest in immediate employment; or to provide a reason for declining consideration for this position, may automatically result in the removal of your name from the list."

In this matter, the appellant must have responded as interested, as he was not removed from the list for a lack of interest, but was scheduled for the PPT. Thus, the appointing authority was not obligated to send him a certified return receipt letter indicating that he was removed from the list because he responded as

interested in the position. Additionally, the New Jersey Fire Fighter Examination (NJFFE) Post-Written Test Timeline and Candidate Responsibilities document was given to all candidates, and is available on the Commission's web site. This document states that, "If you fail the PPT, do not show up for your scheduled PPT date and time, or do not provide a properly completed and signed medical clearance form, you will be removed from ALL firefighter lists." *See N.J.A.C. 4A:4-2.15(b)2.* The appellant did not appear for the PPT as scheduled.

The appellant states that the Commission "changed the rules" and he was required to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination under duress. In reply, the Commission did not change any rules. This was a two-part examination process, a written-multiple choice portion and a PPT portion. In the past, candidates were given both parts and then lists were certified. The process changed, and candidates are now given the PPT portion once they indicate that they are interested in a position. However, no rules were changed. Additionally, "under duress" means the restriction or confinement of a person, or other threat of harm used to compel a person to do something against his will or judgement, or the use or threatened use of unlawful force. Candidates were asked to sign the 2015/2016 Fire Fighter Memo of Understanding Regarding the Physical Performance Examination for just this purpose, to refute any claim that they were NOT notified of the process. If they chose not to accept information regarding the examination process, they could not continue with the examination. This is not a threat of harm as the candidate does not have a right to continue with the examination process simply because they filed an application and paid an application processing fee. *See N.J.A.C. 4A:4-2.17(e).* This fee is not a fee to take the examination, but a fee to process the application, and the Commission is within its jurisdiction to require candidates to sign for receipt of information pertinent to the examination to which they applied.

The appellant has not satisfied his burden of proof in this matter and sufficient cause exists to remove his name from all Fire Fighter lists on which his name appears.

### 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 17<sup>th</sup> DAY OF OCTOBER, 2018

*Deirdre L. Webster Cobb*

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

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