

11A:4-1(c). In order to carry out this statutory mandate, *N.J.A.C. 4A:4-2.10* identifies a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. Candidates were informed not to take a cell phone into the examination center on the notices sent regarding the scheduled exam time, and in the Orientation Guide, which was the proper time to prevent candidates from bringing cell phones into the center, prior to the examination. As such, candidates are informed of this in writing so they may leave their electronic devices at home or in the car. Signs were on the wall indicating that cell phones were not allowed. While lining up to get in the building, staff called out verbal reminders to candidates that no cell phones were allowed, and they should have their notices and a photo identification with them. Once seated, the monitor explains that no cell phones are allowed. Thus, it was made clear both in writing and verbally that candidates were not to have cell phones in their possession while in the examination center.

Anyone found participating in a prohibited action could be disqualified from the exam, rejected for future exams and subject to punishment as provided by law, and possession of a cell phone in the test center is a prohibited action, whether or not the phone is on. When considering the overriding interests of examination security, it is imperative to disqualify candidates who could potentially breach examination security. *See In the Matter of Michele Gordon* (MSB, decided August 9, 2006). Other candidates were disqualified for possession of cell phones in the center when they were not aware or had inadvertently brought their phones in. *See In the Matter of Joseph Battista, et al., Fire Fighter (M9999H)* (MSB, decided March 28, 2007), and *In the Matter of Michael McKenzie, Fire Captain (PM5066M), New Brunswick* (MSB, decided September 21, 2011).

The Center Supervisor and Monitors take notes of occurrences during an examination administration that are not routine. The Center Supervisor was also contacted for information in this occurrence. In the matter at hand, the Center Supervisor indicates that when the room monitor asked if anyone had a cellphone in their possession, the appellant responded "yes" and stated that it was turned off. The Assistant Center Supervisor escorted the appellant to a room where he was told he was disqualified. The appellant became irate, claiming that everyone had a phone and he would prove it. He then ran back to the testing room, and yelled at the monitor. The Center Supervisor ran after him and physically blocked the appellant from getting closer to the monitor. Security was called, and the candidate started leaving via the second floor bridge, but returned. At this point, a Sheriff's Officer arrived and began calming the candidate down. The candidate admitted to the Sheriff's Officer that he had a cell phone, and became irate at the Sheriff's reaction. The appellant threatened the monitor, stating he was going to smack her, and he stated he was going to smack the Sheriff's Officer too. The appellant was told to leave and was escorted out of the building.

It is clear from the information provided by the Center Supervisor that the appellant left out a significant amount of information on his appeal regarding his behavior at the test center. He did not indicate on appeal that he disturbed the entire room full of candidates, had to be blocked from approaching the monitor in an aggressive manner, threatened the monitor, threatened a Sheriff's Officer, and had to be escorted out of the test center by the Sheriff's Officer and security. *N.J.S.A. 40A:14-9* which provides, in pertinent part, that except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force unless he is of good moral character. The appellant threatened physical harm to two persons, and was very intimidating and abusive to at least one other person. In his appeal, the appellant omits the whole occurrence, denies having a cell phone, and deflects attention onto an unnamed individual, which is self-serving and misleading. The appellant's actions at the test center are not reflective of a good moral character, and carrying a cell phone into an examination center is not appropriate for a participant in a formal examination setting for a public safety title. The appellant was properly disqualified for possession of a cell phone.

A thorough review of the record indicates that the appellant has failed to support 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 17th DAY OF APRIL, 2019



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