

	STATE OF NEW JERSEY
In the Matter of Michael McCabe, Fire Captain (PM4449C), Atlantic City CSC Docket No. 2022-2500	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION Examination Appeal
	ISSUED: MAY 23, 2022 (RE)

Michael McCabe requests a make-up examination for Fire Captain (PM4449C) Atlantic City.

The petitioner was scheduled to take the oral portion of the subject examination on March 19, 2022. He arrived at the test center, and took the test. This was a two-part examination, and the multiple-choice portion had been administered in October 2021. However, the results are not yet available. The petitioner had filed an application and checked the box requesting Americans with Disability Act (ADA) accommodations. He was provided with ADA accommodations for the written portion, but not the oral portion. It is noted that the only accommodation available for the oral portion was time and a half for the preparation period for the arriving scenario. Had the petitioner called ahead of the examination, he would have been provided with 7.5 minutes of preparation time instead of 5 minutes. In an appeal postmarked April 4, 2022, the petitioner merely indicated that he had not been given ADA accommodations with no further information.

## CONCLUSION

N.J.A.C. 4A:4-2.9(b) provides, in pertinent part, that for professional level engineering, police, fire, correction officer, sheriff's officer, juvenile detention officer and other public safety promotional examinations, make-ups may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;

2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;

3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;

4. When required for certain persons returning from military service (see N.J.A.C. 4A:4-4.6A); or

5. Error by the Civil Service Commission or appointing authority.

*N.J.A.C.* 4A:4-2.9(e) provides, in pertinent part, that a candidate must submit a written request for a make-up examination within five days after the examination date due to one of the valid reasons set forth.

The record establishes that the petitioner was scheduled to take the oral portion of the subject examination on March 19, 2022, and did so. The petitioner requested a make-up examination over two weeks later, stating that he had not been given ADA accommodations. Candidates are notified at the test center that appeals of test administration must be filed on the date of the examination. The petitioner took the examination and did not appeal this issue at the test center, but waited over two weeks. There are no provisions in the rules for a retest. Pursuant to N.J.A.C. 4A:4-2.9(e), this appeal is untimely, and it is denied on those grounds.

Nonetheless, it is noted that, for reasons unknown, the petitioner's medical documentation could not be located. Nonetheless, the orientation guide for Fire Captain explains the ADA process. It states that:

Candidates who require special assistance or ADA accommodations for this exam must check the corresponding box on the "Preferences" tab of their application, regardless of whether or not they have previously been approved for accommodations with CSC in the past. Candidates who are indicating a need for accommodations for the first time will subsequently be contacted with further instructions.

Upon reciept of their exam notice with the test date, time, and location information, candidates who are already on file with CSC as being approved for accommodations must call (609) 292-4144 extension 1991001, in order to discuss the specifics of their accommodation needs for this exam.

The petitioner did not follow these instructions and request accommodations for the oral portion of the examination. Nor did he bring the matter to the attention

of the monitor at the test center. Instead, he chose to continue with the examination, and he responded to both scenarios in the allotted time. If he had alerted the monitor, the issue could have been looked into and he could have been provided with the extra time. If it could not be determined if he was entitled to the extra time, he would have given the phone number of the make-up unit, and told to file a make-up request. He would then have been administered the arriving scenario at the next administration, which would be next year. As the petitioner has already taken the examination, he can not be given the same examination again. This appeal is untimely and there is no basis to readminister the arriving scenario to the petitioner.

A thorough review the record indicates that the petitioner 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 18<sup>TH</sup> DAY OF MAY, 2022

Derdre' L. Webster Calib

Deirdré L. Webster Cobb Chairperson Civil Service Commission

Inquiries
and
Correspondence

Allison Chris 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 McCabe Division of Administrative Services Records Center