



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of L.C.,  
Police Captain (PM3473C), Newark

CSC Docket No. 2022-3020

Examination Appeal

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ISSUED: JUNE 20, 2022 (RE)

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L.C. requests a retest for the written examination for Police Captain (PM3473C), Newark.

The subject examination was administered to the petitioner on October 23, 2021. Candidates were given 3 hours and 50 minutes to complete one test booklet, which contained 80 multiple-choice items and an essay. Item 81 in the test booklet was an essay, which had four parts (A, B, C, and D). Candidates were to write their response to the four-part essay question directly in their booklet. Notifications were sent on May 4, 2022, and the appellant received a failing score.

In an appeal postmarked May 23, 2022 the petitioner states that he has a medical disability which affects his vision, and that after a surgery, continuing medical care has not resolved the issue. He provides medical documentation regarding this issue, and states that his vision problems impeded his ability to finish the examination in a timely manner, as he had to read each question carefully. He states that he was unaware that this issue was an American Disability Act (ADA) issue, and did not request accommodation on his application. Now that he knows it is an ADA issue, he requests to be allowed to retake the examination.

CONCLUSION

*N.J.A.C.* 4A:4-2.9(b), (Make-up examinations), provides that make-up examinations for professional level engineering, police, fire, correction officer,

correctional police officer, sheriff's officer, juvenile detention officer, and other public safety promotional examinations may be authorized only in case 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:4-2.14(a) (Accommodation and waiver of examinations for persons with disabilities) states that otherwise qualified applicants with disabilities may request an accommodation in taking an examination by indicating their request for accommodation on the application.

*N.J.A.C.* 4A:4-6.4(c) (Review of examination items, scoring, and administration) states that an examination candidate wishing to challenge the manner in which the examination was administered may file an appeal in writing at the examination site on the day of the examination.

In the instant matter, on his application, the petitioner did not check the box that he needed ADA (Americans with Disabilities Act) assistance. The petitioner took the examination even though special accommodations were not requested by him and had not been provided. There is no provision in the rules for a retest, which is not the same as a make-up examination. Once the examination is taken, a score is based on the given responses. Therefore, the petitioner has been exposed to the test questions. At this point, the administration of the examination is complete, and the petitioner has been provided an opportunity for review. In fairness to other candidates, the petitioner cannot be given the examination again.

It is noted that when a candidate has a disability which needs accommodation, he or she is required to check a box on the application that he or she needs ADA assistance. The candidate then receives a Special Notice with instructions for filling out a two-sided form indicating the type of assistance needed and a form for a physician to fill out. The petitioner did not check this box. Without any information from the petitioner regarding his needs and/or his problem, it is impossible to identify and respond to the petitioner's request. Information regarding ADA assistance is printed on the applications which need to be filed to

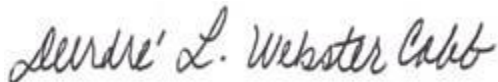
determine eligibility. Further, the petitioner could have printed the form (DPF-725) available on the Civil Service Commission's (Commission) website,<sup>1</sup> and sent a request in writing to the address provided on the form. Information regarding ADA assistance is available on the Commission's website and in the Announcement and Online Application System User Guide. The petitioner indicated on appeal that he had a disability or condition that affected her performance on the essay portion, yet did not make a request for ADA assistance on his application. Instead, he appeared for the examination, took it, did not notify the monitor of a condition which would preclude him from taking the examination on that date, and filed an appeal after leaving the test center and after receiving the examination results seven months later. Thus, petitioner's situation does not meet the criteria for a make-up examination, and he cannot be retested.

### ORDER

Therefore, it is ordered that this request 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 15<sup>TH</sup> DAY OF JUNE 2022




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<sup>1</sup> At <http://www.state.nj.us/csc/about/publications/forms>