



STATE OF NEW JERSEY

In the Matter of Christopher Bolton,
Fire Fighter (M2428F), Hackensack

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

CSC Docket No. 2026-1831

List Removal Appeal

ISSUED: September 2, 2026 (HS)

Christopher Bolton, represented by Robert K. Chewning, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M2428F), Hackensack, on the basis of his age.

The appellant, a disabled veteran, took and passed the open competitive examination for Fire Fighter (M2428F), which had a closing date of September 3, 2024. The resulting eligible list promulgated on May 9, 2025 and expires on May 8, 2027. The appellant's name was certified to the appointing authority on August 7, 2025. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of his age. Specifically, the appointing authority asserted that the appellant, notwithstanding his prior service with the United States Marine Corps from March 26, 2007 to April 25, 2011, did not meet the age requirement at the closing date of the examination since he was over 35 years old. In this regard, he was 38 years, 11 months, and 23 days old at the time. Per his DD Form 214, he was deployed for only one year, one month, and 20 days, an insufficient amount of qualifying military service to deduct in order to meet the age requirement.¹

On appeal to the Civil Service Commission (Commission), the appellant argues that his service was directly related to and during the time of both Operation

¹ Specifically, the noted one year, one month, and 20 days of service is reflected as "FOREIGN SERVICE" on the form.

“Enduring Freedom” and Operation “Iraqi Freedom” and that he is thus entitled to an age reduction of four years and one month, bringing him within the age cutoff. The appellant also relies on his admission to the Civil Service examination as evidence of his eligibility. He suggests that this matter be referred to the Office of Administrative Law (OAL) for a hearing as a contested case. In support, the appellant provides, among other things, a copy of his DD Form 214.

In response, the appointing authority, represented by Mark A. Tabakin, Esq., counters that the applicable military service to be reduced from an applicant’s age must meet the same criteria used for New Jersey’s veterans preference. In other words, stateside service is insufficient; service must have been in the relevant geographic area; and the appellant here has only one year, one month, and 20 days in the relevant geographic areas of Operations “Enduring Freedom” and “Iraqi Freedom.”

In reply, the appellant acknowledges that he was deployed in the theater of and in direct support of Operations “Enduring Freedom” and “Iraqi Freedom” for one year, one month, and 20 days. However, he reiterates his contention that a veteran’s entire active military service during times of war and conflict can be used to reduce the candidate’s age and there is no limitation as to deployment or geography.

In reply, the appointing authority argues that this agency’s permitting a candidate to sit for an exam is certainly not a final determination of statutory age and that the appellant has advanced a fundamentally flawed interpretation of the relevant standard for age reduction.²

CONCLUSION

Initially, list removal appeals are treated as reviews of the written record. *See N.J.S.A. 11A:2-6b*. Hearings are granted in those limited instances where the Commission determines that a material and controlling dispute of fact exists that can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d)*. For the reasons explained below, no material issue of disputed fact has been presented that would require a hearing. *See Belleville v. Department of Civil Service*, 155 N.J. Super. 517 (App. Div. 1978).

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C. 4A:4-6.1(a)2*, allows the Commission to remove a candidate’s name from a list because the candidate is ineligible by law for employment in that title. *N.J.A.C. 4A:4-6.3(b)*, in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show

² It is noted that the parties’ submissions reflect a dispute as to whether the appellant is eligible for membership in the Police and Firemen’s Retirement System. For reasons that will be apparent below, the Commission need not weigh in on this particular dispute.

by a preponderance of the evidence that the decision to remove his name from an eligible list was in error.

N.J.S.A. 40A:14-12 states, in pertinent part, that no person shall be appointed as a member or officer of the paid fire department or force or as a paid member or officer of a part-paid fire department or force in any municipality, who is over 35 years of age. *N.J.S.A.* 40A:14-12 also provides that in any municipality operating under Title 11A (Civil Service), the announced closing date of a Civil Service examination determines the age cut-off deadline. Further, *N.J.A.C.* 4A:4-2.3(b)2iii provides that veterans who are above a maximum age requirement may recalculate their age for recording purposes pursuant to *N.J.S.A.* 38:23A-2. *N.J.S.A.* 38:23A-2 provides that an individual who served on active military or naval duty in time of war “shall be deemed to meet such maximum age requirement, if his actual age, less the period of such service, would meet the maximum age requirement in effect on the date the person entered into such service.” The term “in time of war” is interpreted in accordance with *N.J.S.A.* 11A:5-1, which provides an exhaustive list of qualifying conflicts and types of service. Specifically, *N.J.S.A.* 11A:5-1(b) provides in pertinent part that:

“Veteran” means any honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the allies of the United States in World War I, between July 14, 1914 and November 11, 1918, or who served in any army or navy of the allies of the United States in World War II, between September 1, 1939 and September 2, 1945 and who was inducted into that service through voluntary enlistment, and was a citizen of the United States at the time of the enlistment, and who did not renounce or lose his or her United States citizenship; or any soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has been discharged or released under other than dishonorable conditions from that service in any of the following wars or conflicts and who has presented to the Adjutant General of the Department of Military and Veterans’ Affairs sufficient evidence of the record of service and received a determination of status no later than eight days prior to the issuance of an employment list, for which that individual received a passing score on an examination:

* * *

(14) Operation “Enduring Freedom”, on or after September 11, 2001, who served *in a theater of operation* and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense

designates as the termination date of that operation; provided that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served *in Iraq or in another area in the region* in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided (emphases added);

In the instant matter, it is not disputed that the appellant was 38 years, 11 months, and 23 days old at the time of the closing date and that he had previously established veteran's status. Therefore, in order to be eligible for a Fire Fighter position, the appellant must be able to reduce his age so that he is not over the age of 35. It is noted that a candidate is considered to be over 35 years of age on the candidate's 35th birthday. Thus, the question before the Commission is whether the appellant possesses a sufficient amount of service "in time of war" to reduce his age pursuant to *N.J.S.A. 38:23A-2*. The record reveals that the appellant served in the United States Marine Corps from March 26, 2007 to April 25, 2011. The appellant participated in Operations "Enduring Freedom" and "Iraqi Freedom," both qualifying conflicts for age reduction purposes. It is noted that where the veteran's preference statute requires service *in* an area of conflict in order to establish entitlement to the preference, candidates for titles with maximum age requirements are only entitled to deduct service *in* the area of conflict from their age as of the closing date. *See In the Matter of Charles R. Wells, III* (CSC, decided February 26, 2014); *In the Matter of Wilfredo Ruiz* (CSC, decided May 1, 2013); *In the Matter of Andre F. Jones* (CSC, decided January 14, 2009); *In the Matter of Daniel M. Kimmel* (MSB, decided December 20, 2006). The record in this matter reflects that the appellant has only one year, one month, and 20 days of service *in* the area of conflict. Consequently, the appellant has only presented that he can recalculate his age by that amount and has fallen short of the required time to reduce his age.

The appellant's reliance on his admission to the examination is unpersuasive. In this regard, the announcement and application for the Fire Fighter (M9999F) examination, which the appellant completed, clearly advised candidates of the age restrictions for Fire Fighters. Specifically, in the announcement, applicants were informed:

4. Applicants must be at least 18 years old but not over 35 years old (one is over 35 years old on his/her 35th birthday). An exception to the 35 year age limit is that volunteer Fire Fighters must not be over 40 years old as of their appointment date per *N.J.S.A.* 40A:14-45.

The announcement also indicated: “Before proceeding, you MUST [click here](#) and read the “FIRE FIGHTER FACT SHEET.” The section in the fact sheet entitled “Maximum Hiring Age Requirement” provided:

Exception #2 - Non-volunteer and volunteer Fire Fighter candidates may reduce their actual age by the amount of their military service during the periods, and *under the conditions, specified in the Civil Service Act related to New Jersey Veterans Preference* in order to meet the maximum hiring age requirement. Military service that does not fall within the periods, *and under the conditions specified in the Act*, cannot be deducted from one’s actual age. The military service deduction is made as of the **closing date** for filing applications **(September 3, 2024)**. Please visit <https://www.nj.gov/military/veterans/services/civil-service-preference/> for the periods *and conditions* for Veterans Preference (emphases added).

Therefore, the appellant, when he filed for the examination in 2024, was on notice of the age requirements and what service could be utilized to reduce his age. The appellant’s admission to the examination was in no way dispositive on the age issue and did not preclude the appointing authority from making its own determination on that issue.

The appellant’s military service is commendable, yet it remains his burden of proof to demonstrate his eligibility for employment as a Fire Fighter. Therefore, after a careful review of the matter, the appellant has failed to meet this burden of proof. Accordingly, there is sufficient justification for removing the appellant’s name from the Fire Fighter (M2428F), Hackensack, eligible list on the basis of his age.

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 2ND DAY OF SEPTEMBER, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Shannon L. Dalton
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Christopher Bolton
Robert K. Chewning, Esq.
Thomas J. Freeman
Mark A. Tabakin, Esq.
Records Center
Division of Human Resource Information Services