



STATE OF NEW JERSEY

In the Matter of T.R., Fire Fighter
(M2219D), East Orange

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

CSC Docket No. 2025-1985

List Removal Appeal

ISSUED: September 2, 2026 (DASV)

T.R. appeals his rejection as a Fire Fighter candidate by East Orange and its request to remove his name from the eligible list for Fire Fighter (M2219D) on the basis of medical unfitness to perform effectively the duties of the position.

By way of background, the appellant's name was certified on August 19, 2024 from the Fire Fighter (M2219D), East Orange, eligible list which promulgated on April 28, 2023 and expired on April 27, 2025. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he was not medically fit to perform effectively the duties of the position, which was approved.¹ The certification was then recorded as disposed on November 1, 2024, and a notice of removal was sent to the appellant. A notice of removal for medical reasons informs candidates that should they wish to file an appeal, they may do so within 20 days from the date of the notice. *See N.J.A.C. 4A:4-6.5(c)2*. Thus, an appeal of removal for medical reasons from the August 19, 2024 certification, which was disposed on November 1, 2024 was due on or before November 21, 2024.

On March 31, 2025, the appellant submitted an appeal through the online Appeal Filing System, along with a March 26, 2025 letter from his physician, Dr. Ashley Park, that the appellant "does not meet the diagnosis of claustrophobia." In

¹ On appeal, the appointing authority submitted medical notes, which included documentation dated September 4, 2024, which states that the appellant was "physically well" but "[patient] has [a] fear of closed spaces [and] discusses this at length. May need psych clearance." The appointing authority's doctor marked that the appellant "Failed" as "[patient] cannot tolerate small spaces."

a follow-up letter, received on April 1, 2025, the appellant stated that he acknowledged that he was “submitting this appeal after the November certification date” but was informed by agency staff that his appeal would be accepted since he never received the notice of removal that was sent by this agency. On April 11, 2025, a letter was sent to him and the appointing authority acknowledging the appeal. However, in reviewing this matter for consideration by the Civil Service Commission (Commission), it appeared that the appellant was nonetheless aware of his disqualification. In that regard, in a letter dated March 20, 2025 that the appellant presented from his counselor, Melissa Manente, LPC, CFRC, she advised that the appellant had 13 sessions with her since October 21, 2024, and during these sessions, he discussed his results on the East Orange Fire Fighter examination and that he may have suggested that he had claustrophobia which may have contributed to his failure on the examination. Manente indicated that the appellant did not exhibit any symptoms of claustrophobia and “[g]iven that this was the only reason he believes he failed the exam, I encourage him to contest the outcome.” Accordingly, the appellant was given the opportunity to supplement the record, as he was advised that the Commission must consider whether the delay in asserting his right to appeal was reasonable and excusable.

In response, the appellant certifies that the only correspondence that he received about his removal was an email from East Orange, dated September 6, 2024, that he “did not successfully pass the physical exam.” The email further advised that “[i]f you feel you have been removed in error, you will receive notification from Civil Service to which you may appeal.” The appellant maintains that he did not receive any official notice of removal from this agency nor was he aware that he had 20 days of such notice to appeal. Additionally, the appellant states that “[u]pon gaining a clearer understanding that my removal had been formally processed and that I had the right to appeal, I acted in good faith and submitted my appeal as promptly as possible.” He further indicates that “the delay in filing [his] appeal was reasonable and excusable under these circumstances, as it was not the result of neglect, but rather a lack of proper notification.”

CONCLUSION

Initially, *N.J.A.C.* 4A:4-6.5(a) states in part that an appointing authority may request that an eligible’s name be removed from an eligible list due to disqualification for medical or psychological reasons which would preclude the eligible from effectively performing the duties of the title. Additionally, *N.J.A.C.* 4A:4-6.5(c) provides that upon receipt of satisfactory documentation, appropriate Commission staff shall notify the eligible that:

1. He or she has been disqualified for appointment;
2. He or she may file an appeal with the [Commission] within 20 days of such notification;

3. If no appeal is received within the specified time, his or her name will be removed from the eligible list; and
4. If the eligible does file an appeal, an opportunity will be provided to submit a report from a physician, psychologist or psychiatrist of his or her own choosing.

N.J.A.C. 4A:4-6.5(c)3 specifically states that if no appeal is filed within the specified timeframe, the eligible's name will be removed from the eligible list. This is unlike the regulatory guidelines for other administrative appeal timeframes as the rules governing the medical and psychological disqualification appeal process mandate removal of the eligible's name from the eligible list if no appeal is received within the required 20-day timeframe from the date on the notice. The strict timeframe to file medical and psychological disqualification list removal appeals is necessary given the unique implications a potentially meritorious appeal can have on the parties, *i.e.*, a mandated appointment of the eligible with a retroactive date of appointment. *See e.g., In the Matter of Stanley Kolbe, Jr.* (CSC, decided May 21, 2014) (Commission enforced prior order granting retroactive appointment to the appellant after a mandated appointment resulting from successfully appealing a failed psychological evaluation and dismissed the appointing authority's claims of fiscal constraints and recent layoff when three employees who ranked lower than the appellant on eligible list were not impacted by the layoff).

As such, unlike the rules governing other types of written record appeals in Title 4A, New Jersey Administrative Code, the medical and psychological disqualification appeal rules contain a number of specific timeframes for each of the parties to act. For example, upon receipt of a timely medical and psychological disqualification appeal, the appointing authority is required to submit to the Commission, an appellant's attorney, and/or licensed physician or psychologist/psychiatrist, all medical/psychological reports, etc., that served as the basis for the removal request. An appointing authority's failure to do so could result in retention of the eligible's name on the eligible list. *See N.J.A.C.* 4A:4-6.5(d); *see also, In the Matter of R.S.* (CSC, decided September 20, 2017) and *In the Matter of Kiahna Walcott, et al.* (CSC, decided April 5, 2017) (Despite being provided with the opportunity, the appointing authority did not provide the medical documentation of the appellants for review by this agency to uphold its requested list removal. Accordingly, the Commission restored the appellants to the eligible list and ordered their appointments as County Correction Officers. The appointing authority's failure to submit the medical evaluations constituted an unreasonable delay and it was warned that any future delays in complying with the timeframes would result in being subjected to fines).

Moreover, in order to further facilitate the timely processing of these types of appeals, the Commission amended *N.J.A.C.* 4A:4-6.5(e), effective June 21, 2017, to require that the appellant, if he or she chooses to do so, to submit a report from a

physician or psychologist/psychiatrist to rebut the appointing authority's report within 90 calendar days of filing of the appeal. *See* 49 *N.J.R.* 492. In addition, should the matter be referred to the Medical Examiners Panel or Medical Review Panel, upon issuance of the panel's recommendation and report to the Commission, the parties may file exceptions within 10 days and cross exceptions within five days. As noted earlier, these strict timeframes are in place to facilitate the timely processing of these appeals. They are designed to facilitate the opportunity for the parties to establish a contemporaneous record of an eligible's medical or psychological condition at the time of appointment for the panel to consider. As such, the timeliness of initial appeals in these matters is imperative. *Compare*, *N.J.A.C.* 4A:2-1.1(b) ("*Unless a different time period is stated*, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed") and *N.J.A.C.* 4A:4-6.6(a) ("Appeals other than scoring, item, and administration appeals . . . and *medical and/or psychological disqualification appeals* . . . shall follow the following procedures: 1. The appeal shall be filed within 20 days of notice of the action, decision, or situation being appealed. 2. An appeal must be filed with an appropriate representative of the [Commission] as indicated on the notice advising of disqualification." *Emphasis added*).

The Commission emphasizes that the purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the delay in filing the appeal exceeds that threshold of finality. However, the Commission has the discretionary authority to relax rules for good cause. In that regard, *N.J.A.C.* 4A:1-1.2(c) provides that the rules may be relaxed for good cause in a particular situation, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes. Thus, it is appropriate for the Commission to consider whether the delay in asserting the appellant's right to appeal was reasonable and excusable. *See Syby, supra, Atlantic City v. Civil Service Commission*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Board of Education*, 90 *N.J.* 145 (1982).

In this case, the appellant has not presented a sufficient reason that would excuse his delay in filing his appeal as he was aware of his disqualification as early as September 6, 2024, when East Orange emailed him that he "did not successfully pass the physical exam." Even though East Orange stated that "[i]f you feel you have been removed in error, you will receive notification from Civil Service to which you may appeal," there is nothing in the record which demonstrates that the appellant inquired with this agency in a timely manner about his removal from the subject eligible list or his apparent failure to receive the notice of removal. Rather, his counselor's letter, dated March 20, 2025, provides persuasive support that the appellant was not going to challenge his removal despite not receiving the notice of removal until his counselor encouraged him to file. As set forth in the record, the

appellant and his counselor had 13 sessions since October 21, 2024, and during these sessions, he discussed his results on the East Orange Fire Fighter examination and given the counselor's assessment that the appellant did not exhibit any symptoms of claustrophobia² she "encourage[d] him to contest the outcome." In other words, it was only at the suggestion of his counselor that the appellant attempted to pursue an appeal five months after the subject certification was disposed of on November 1, 2024, which is not reasonable under the circumstances. An appellant cannot choose when to file an appeal when there are strict timelines.

In addition, as set forth above, the Commission is mindful of the unique implications a potentially meritorious appeal can have on the parties. Thus, the Commission must also balance the reasons for the delay and the effect of accepting a late appeal, as it is prejudicial to the appointing authority, and potentially a current employee, to allow an appellant's appeal to proceed. In that regard, the remedy provided to successful appellants in medical disqualification cases is a mandated appointment to the position with a retroactive date of appointment for seniority and salary step purposes upon an updated background check and successful completion of the working test period. Should a position not be available, the last employee hired must be displaced. In this case, agency records indicate that candidates were appointed since the appellant's removal in 2024.

As set forth above, the appellant has not provided sufficient reason for the delay, and accepting a late appeal would be prejudicial to the appointing authority and potentially to employees who were appointed from the subject certification or later. Accordingly, the appellant has failed to show good cause to justify relaxing the time requirements of *N.J.A.C.* 4A:4-6.5(c)2.

ORDER

Therefore, it is ordered that this appeal be dismissed as untimely.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

² The Commission notes that it is not determining whether the appellant's counselor and his doctor provide a sufficient basis to support a reversal of his removal from the subject eligible list as the threshold question to overcome is whether the appeal can be accepted despite the appellant's delay in filing his appeal.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF SEPTEMBER, 2026



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