



STATE OF NEW JERSEY

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

In the Matter of Jonathan Torres,
Fire Fighter (M1844W), Jersey City

CSC Docket No. 2020-2324

Examination Appeal

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ISSUED: JULY 31, 2020 (RE)

Jonathan Torres appeals the removal of his name from the Fire Fighter (M1844W), Jersey City eligible list due to his failure to appear for the Physical Performance Test (PPT).

By way of background, the appellant’s name appeared on the Fire Fighter (M1844W) eligible list and was certified to Jersey City (OL191437) on December 3, 2019. All candidates on the certification were contacted via email and scheduled to take the PPT. The appellant was sent an email on January 27, 2020 stating that he had been scheduled to take the PPT on February 11, 2020, and was given the location of the exam, and a medical clearance form. He did not appear for the PPT, and his name was removed from all Fire Fighter lists on which his name appeared.

In an appeal postmarked March 4, 2020, the appellant explains that his mother and he were in the process of moving and he did not receive his notification. He states that he missed the examination as he did not know it was scheduled. The appellant was informed that his mailing address is not germane to this issue, and that he was responsible for electronic receipt of the notification. The email address where the notification was sent matched the email address on the appellant’s application. Also, candidates were to check spam folders for emails. The appellant replied that he could not recall getting the email notification, although he checked his email daily.

CONCLUSION

N.J.A.C. 4A:4-2.9(a) states that make-up examinations for open competitive and general promotional testing, except for professional level engineering promotional examinations and public safety promotional examinations, may be authorized for the following reasons:

1. Error by the Civil Service Commission or Appointing Authority
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation;
6. When required for certain persons returning from military service;
7. Other valid reasons.

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

A Fire Fighter Memo of Understanding regarding the Physical Performance Examination was provided to all candidates prior to taking the multiple-choice portion of the examination. Candidates were required to sign this form in order to continue with the examination process. The appellant signed this form, which indicated that candidates would be contacted via email and scheduled to take the PPT. Therefore, they were specifically advised that it was their responsibility to keep a current email address on file with this Agency and should check spam folders for emails. Thus, ensuring proper receipt of the electronic notice was the candidate's responsibility. Agency records confirm that an email was sent on January 27, 2020 to the email address provided by the appellant on his application. The email was not returned as "undeliverable" by the computer system, which would have indicated that an invalid email address was used.

Additionally, the New Jersey Fire Fighter Examination (NJFFE) Post-Written Test Timeline and Candidate Responsibilities document was given to all candidates. This document stated that, "If you fail the PPT, do not show up for your scheduled PPT date and time, or do not provide a properly completed and signed medical clearance form, you will be removed from ALL firefighter lists." See *N.J.A.C.* 4A:4-2.15(b)2. This form is also posted on the Commission's website. It

was each candidate's responsibility to check their email, including spam folders, for the notification. The appellant has not satisfied his burden of proof in this matter and sufficient cause exists to remove his name from all of the Fire Fighter lists on which his name appears.

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 29TH DAY OF JULY, 2020



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