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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Examination Appeal

In the Matter of Dennis Nuber,  
Fire Officer 1 (PM1194S),  
Jersey City

CSC Docket No. 2015-2663

ISSUED: MAY 08 2015

(RE)

Dennis Nuber appeals the denial of his request for a make-up examination for Fire Officer 1 (PM1194S), Jersey City.

The appellant was scheduled to take the oral portion of the subject examination on March 7, 2015, but did not appear on that date. Rather, he requested a make-up examination, stating that he had a medical issue. He provided a Medical Authorization form signed by his physician who indicated that the appellant could not take the test on March 7, 2015, but would tentatively be ready by March 20, 2015. He was diagnosed with influenza and gastro-enterocolitis. The Division of Agency Services (DAS) denied this request as it did not meet the criteria listed in *N.J.A.C. 4A:4-2.9*.

On appeal, Mr. Nuber provides further information regarding this request. He states that the night before the exam he developed symptoms of gastro-enterocolitis, and these symptoms remained in effect until the night of March 7, 2015. These symptoms necessitated his remaining at home, and he was on sick leave through March 9, 2015. In support of this appeal, his physician wrote a letter explaining that the appellant was under his care for various conditions, as well as the symptoms of influenza and gastro-enterocolitis, which he had from March 6 to 9, 2015.

*N.J.A.C. 4A:4-2.9(c)*, (Make-up examinations), provides that make-up examinations for police, fire, correction officer, sheriff's officer, juvenile detention officer, and other public safety open competitive and promotional examinations,

may be authorized only in cases of: 1) death in the candidate's immediate family; 2) error by the Department of Personnel or the appointing authority; or 3) a catastrophic health condition or injury, which shall be defined as either: i) a life-threatening condition or combination of conditions; or ii) a period of disability required by the candidate's mental or physical health or the health of the candidate's fetus which requires the care of a physician who provides a medical verification of the need for the candidate's absence from work for 60 or more work days. It is noted that this examination was competitive with 249 eligible candidates.

### CONCLUSION

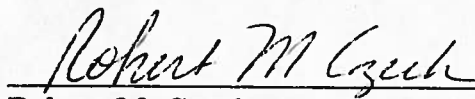
The record establishes that the appellant was scheduled to take the oral portion of the examination on March 7, 2015 and did not do so. The appellant requested a make-up examination due to a medical issue in a timely manner. While the appellant's condition did not meet the make-up criteria, clearly, the appellant could not attend his examination due to his symptoms, which were verified by his physician. Accordingly, based on the unique facts of this case, good cause exists to relax the provisions of *N.J.A.C. 4A:4-2.9(c)* and afford the appellant a make-up examination. It is noted that the appellant will not receive the same examination and that the make-up examination will be given with the next administration of a test for this title.

### ORDER

Therefore, it is ordered that this appeal be granted, and that the appellant be given a make-up examination. Should the appellant pass the examination, he should be added to the list for prospective appointment only.

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  
THE 6<sup>th</sup> DAY OF MAY, 2015

  
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Robert M. Czech  
Chairperson  
Civil Service Commission

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**c:   Dennis Nuber  
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