

1. Within five business days after the date of review, in the case of candidates who have reviewed the keyed test booklet, or five business days from the date the multiple choice examination has been held, in the case of all other candidates, candidates may file an appeal in writing against the keyed response for a given item, or with respect to the job-relatedness or appropriateness of test content. The appeal shall specify the question(s) being challenged.
2. Candidates for multiple choice examinations may review their examination papers and the scoring key 20 days after the notice date of the examination results. However, such candidates may file appeals during this 20-day period only with respect to the scoring of their test papers.

The record establishes that appellant took the written portions of the subject examination on December 1, 2018. Since the appellant is challenging the accommodation provided at the test center, *N.J.A.C. 4A:4-6.4(c)* would be applied in this case, not *N.J.A.C. 4A:4-6.4(a)*. As such, the appellant was required to file his appeal at the test center. The appellant filed an appeal of this issue 17 days after he took the examination. As such, an appeal of this issue, *i.e.*, ADA accommodations, is untimely.

Nevertheless, a review of the merits of this appeal shows that appellant is not entitled to any relief. In the instant matter, on his application, the appellant did not check the box that he needed ADA (Americans with Disabilities Act) assistance. The appellant 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. At this point, the administration of the examination is complete and in fairness to other candidates, the appellant 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 Division of Administration will then send a Special Notice instructing the candidate to fill out a two-sided form indicating the type of assistance needed and a form for a physician to fill out. The appellant did not check this box. Without any information from the appellant regarding his needs and/or his problem, it is impossible to identify and respond to the appellant's request. The appellant indicated on appeal that he had a disability or condition that affected his performance on the written portion, yet did not make a request for ADA assistance on his application.

Next, every candidate who applied for the examination, and there were over 13,000, took the same examination, and every candidate had the same amount of time to complete each section. As such, there was a level playing field and the appellant competed against other candidates who were given the same amount of time to answer each section. He was not treated any differently, or more harshly than any other candidate. It is noted that the questions in section 2 have no right or wrong answer. As it measures behavioral orientation, it was intended to be completed quickly. The answers were descriptive of candidate behavior, and this section did not require any analysis of information, but it asked what the candidate thought about situations.

A thorough review of the record indicates that the appellant has not met his burden of proof in this matter.

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 6th DAY OF MARCH, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Matthew Boland
Michelle Karngbaye
Records Center