



**STATE OF NEW JERSEY**

In the Matter of Amit Shah, Program  
Specialist 4, Social/Human Services  
(PS2701K), Division of Developmental  
Disabilities

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

CSC Docket No. 2021-1977

Examination Appeal

**ISSUED: SEPTEMBER 7, 2021  
(SLK)**

Amit Shah appeals his ineligibility on the Program Specialist 4, Social/Human Services (PS2701K), Division of Developmental Disabilities list due to a below minimum rating on the performance test.

By way of background, the subject examination’s closing date was March 23, 2020. A total of 13 employees applied and eight were admitted. The test administration of the subject Supervisory Test Battery (STB) was June 16, 2021. Prior to the test administration date, the appellant asked this agency if he could carry forward his STB score from a previous test. On June 4, 2021, this agency responded that records indicated that he previously took the STB on April 12, 2016, and the policy was that an STB score could be used up to five years. Therefore, as the five-year period ended on April 13, 2021, his request was denied. Additionally, at the test site on the day of the test administration, the appellant filed an appeal arguing that it was unfair to him that he was not allowed to use his prior STB score and he also filed an appeal with the Division of Appeals and Regulatory Affairs in a letter dated the same day requesting that his prior STB score be used as his score for the subject examination. Thereafter, on or around July 14, 2021, the appellant received notice that he was ineligible for the subject examination as his score was below the minimum rating. It is noted that five candidates were determined eligible. No certifications have been issued and the list expires on July 21, 2023.

On appeal, the appellant presents that he applied to the subject examination in March 2020 and his April 2016 STB score was still valid at that time. He asserts that it usually takes this agency six to seven months to process an application, but the subject examination took 14 months. Therefore, he states that had his application had been processed sooner, he would not have had to take the STB again. Therefore, the appellant requests to extend the use of his prior STB score. The appellant believes that this agency should have extended his STB score for a few months due to this agency's delay. He contends that it is not his fault that this agency took a long time to process his application.

The appellant questions why this agency can ask for candidates to act and/or reply within a certain number of days for applying for an examination or appealing an adverse ruling; yet this agency does not need to act within a certain time. He questions why it took 14 months to hold the examination. He questions if the delay by this agency was unavoidable, why it would not extend his STB score. The appellant highlights that the Governor has extended many things due to the Covid-19 pandemic, and therefore, he requests that his STB score be extended to be used for the subject examination.

The appellant notes that he was never advised that his STB score expired in April 2021, which is why he did not appeal at that time. Then, after he inquired about his use of his prior STB score, he received an e-mail advising him that his score expired in April 2021. He also contends that he did not receive notice regarding his right to appeal. The appellant states that on June 16, 2021, he was not very comfortable sitting in the test room for over three hours where some of the test takers did not cover their nose and mouth during the test and wore masks below their nose and/or mouth.

## CONCLUSION

*N.J.A.C. 4A:2-1.1(c)* provides that 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.

*N.J.A.C. 4A:4-6.4(c)* states that an examination candidate wishing to challenge the manner in which the examination was administered may file an appeal in writing at the examination site on the day of the examination.

*N.J.A.C. 4A:4-6.3(b)* provides that the appellant has the burden of proof in examination appeals.

Initially, it is noted that this agency's website, as well the STB guide, advises candidates that their STB score can be used up to five years. Although the appellant

complains that he was not advised until June 2021 that his STB score expired in April 2021, it was the appellant's responsibility to know when he took the STB and when his STB score expired. The record indicates that the appellant previously took the STB on April 12, 2016, and the five-year period for the use of his prior score expired on April 13, 2021. Further, the subject examination's closing date was March 23, 2020. Therefore, the appellant knew or should have known that his prior STB score was expiring on or about April 13, 2021, and the STB had not yet been scheduled for the subject examination as of that date. Further, there is nothing in the record that indicates that the appellant requested to extend the use of his prior STB score within 20 days of its expiration. Therefore, the appellant's request is untimely as he did not appeal the expiration of his prior STB score within 20 days as to when he knew or should have known that its use was expiring.

Regardless, even if the appellant had timely requested to extend the use of his prior STB score, the purpose of the five-year time frame for the expiration a candidate's STB score is to ensure that a candidate's supervisory skills are current. If the promulgation of the subject list was to have taken place without giving the appellant the opportunity to take a current STB due to Covid-19, that would have been a valid reason to extend the use of a prior STB score. However, in this case, the appellant was given the opportunity to test his current supervisory knowledge for the subject examination. Therefore, the appellant was not prejudiced by the alleged delay in scheduling the test and there is no basis to extend the use of his prior STB score. Further, there is no right to have a test administered prior to a candidate's STB score expiring. Moreover, as the appellant did sit for the STB on June 16, 2021, it would be unfair to other candidates to allow him to use a higher prior STB score when he had the opportunity to have his current knowledge tested.

Concerning the appellant's comments that he was uncomfortable taking the test with other test takers whose masks did not cover their nose and/or mouth, although the appellant filed a same-day appeal, the appellant did not mention this issue in his on-site appeal. Therefore, the appellant's appeal pertaining to the test administration issues are untimely and cannot be considered. In *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003), the court noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." In other words, if the appellant was concerned about how others were wearing their masks during the test, he should have addressed that issue at the time of the test administration so that it could have been addressed at that time.

**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 1<sup>ST</sup> DAY OF SEPTEMBER, 2021

*Deirdre' L. Webster Cobb*

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