



STATE OF NEW JERSEY

In the Matter of Harshad Patel,
Supervising Highway Engineer,
Bridge Design Specification Review
(PS7847T), Department of
Transportation

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

Examination Appeal

CSC Docket No. 2022-3206

ISSUED: JULY 25, 2022 (SLK)

Harshad Patel appeals the determination of the Division of Agency Services denying his request for a make-up for the promotional examination for Supervising Highway Engineer, Bridge Design Specification Review (PS7847T), Department of Transportation.

By way of background, the subject announcement was issued on January 1, 2022, with a January 21, 2022, closing date. A total of 12 employees applied and 10 were admitted. Notices dated May 12, 2022, informed candidates that the subject test was to be administered on June 4, 2022. A total of six employees took the test and four were “no shows,” including the appellant. No certifications have been issued and the list has not yet promulgated.

On appeal, the appellant presents that he received notice on May 20, 2022, indicating that the subject test was to be administered on June 4, 2022. However, he states that he booked an out-of-the country family vacation in April 2022 that was non-refundable that was scheduled for May 31, 2022, to June 10, 2022. The appellant asserts that he expected that he would have been given sufficient notice regarding the test administration date before planning the trip, but he never received such notice. The appellant submits documentation to show that his supervisor approved his vacation, he purchased airfare and hotel rooms, and his vacation itinerary.

CONCLUSION

N.J.A.C. 4A:4.2.9(b) provides, in pertinent part, that for professional level engineering, make-up examinations may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;
2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;
3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;
4. When required for certain persons returning from military service (see *N.J.A.C.* 4A:4-4.6A); or
5. Error by the Civil Service Commission (Commission) or appointing authority.

N.J.A.C. 4A:1-1.2(c) provides that a Commission rule 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.

In the present matter, the appellant indicates that in April 2022, he booked an out-of-the country family vacation that was scheduled from May 31, 2022, to June 10, 2022. The subject announcement, which issued on January 1, 2022, did not indicate a tentative test date. By notices dated May 12, 2022, candidates were informed that the test would be administered on June 4, 2022. As a result, the appellant was unable to cancel his vacation plans or make arrangements to return to New Jersey solely for the purpose of taking the test.¹ Although the information the appellant presents does not technically meet the criteria for a make-up pursuant to *N.J.A.C.* 4A:4-2.9, good cause exists to relax the controlling regulation given the unique circumstances presented. Thus, the appellant should be provided with a make-up for the subject examination. See *In the Matter of Nicholas DeLeon* (CSC, decided May 23, 2018) and *In the Matter of Rachel Baum* (CSC, decided October 18, 2017).

¹ It is noted that *N.J.A.C.* 4A:4-2.9(a) provides, in pertinent part, that make-up examinations, except for professional level engineering promotional examinations and public safety open competitive and promotional examinations may be authorized for prior vacation or travel plans outside of New Jersey or any contiguous state which cannot be reasonably changed, as evidence by a sworn statement and relevant documentation.

ORDER

Therefore, it is ordered that this appeal be granted.

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 20TH DAY OF JULY 2022

Deirdre' L. Webster Cobb

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Chairperson
Civil Service Commission

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