

N.J.A.C. 4A:4-2.7 states, in pertinent part, that following the announcement of a promotional examination, the Chairperson or designee may authorize the promotion of a qualified permanent employee in the career service by regular appointment without competitive examination and without the establishment of an eligible list if:

1. The employee has been successfully tested in the basic skills required for the promotional title; and,
2. The employee has not failed, within one year prior to the announced closing date, a promotional examination for that title. However, an employee who subsequently passed an examination for that title shall be eligible for promotion.

Regarding the test mode, the Commission has the authority to determine the most appropriate selection instrument to use in assessing candidates in a given competitive title. For the subject announcement, a decision was made to select individuals for appointment by using the administered multiple-choice examination. In this regard, the appellant had not been previously tested in the required basic skills for the title. Candidate dissatisfaction with the test results is not a reason to re-administer an examination with a different test mode. In *In the Matter of Charles Hargrove* (Commissioner of Personnel, decided March 26, 1997), appellant argued that he served provisionally in the title under test for over two years, but subsequently failed the required competitive examination. The appellant highlighted his lengthy provisional experience and commendations for performance in the position. The Commissioner explained that appointing authorities are permitted to make provisional appointments to meet workforce needs until the Commission can issue an employment list but that such an appointment is not a guarantee of permanent status. The Commissioner further noted that a candidate's education and experience are factors in the examination eligibility process, but that all candidates are required to demonstrate their knowledge, skills, and abilities in a competitive test situation in accordance with controlling constitutional and statutory provisions.

Next, if the appellant knew she was unable to take the examination on the scheduled date due to an illness or condition, she did not notify the Commission staff of her issues until after she received her examination results. In this case, there are rules regarding authorization of make-up examinations and, when there is a serious illness of the candidate on the test date, the rules direct that the candidate must submit a doctor's certificate specifying that she was not able to take the test on that day for medical reasons. These rules are available on the Commission's website, and are printed on the instructions on the Notification to Appear of Examination, which the appellant received two weeks before the test date. Although the appellant was on notice that she would need to provide medical

documentation in order to take a make-up examination, she did not do so before or at the time of the examination.

As to having time to study, the resultant scheduling of the examination is not a factor in the amount of time to study, as the appellant was on notice of the examination in December 2021, and it is the candidate's responsibility to prepare for the examination. Any plans for commencement of studying for the examination were the appellant's own limitation, not one imposed by the Commission. Further, the appellant appeared for and took the examination and there are no provisions in the rules for a retest. Also, it is noted that each announcement is a separate entity and may contain different requirements, and be tested by different modes. A score on another examination has no bearing on the score for the subject examination.

A thorough review of the record indicates that the determination of the Division of Test Development, Analytics and Administration was proper and consistent with civil service regulations, and that the appellant has not met her 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 1ST DAY OF FEBRUARY, 2023

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