



**STATE OF NEW JERSEY**

In the Matter of Wilman Diaz,  
Sheriff's Officer Sergeant (PC4997C),  
Morris County

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

CSC Docket No. 2022-3035

Examination Appeal

**ISSUED: February 22, 2023 (ABR)**

Wilman Diaz appeals the determination of the Division of Administration<sup>1</sup> denying his request for a make-up for the promotional examination for Sheriff's Officer Sergeant (PC4997C), Morris County.

By way of background, the subject announcement was issued on November 1, 2021, with an application filing deadline of November 22, 2021, and indicated that the subject test was tentatively scheduled to be administered in May 2022. Notices dated May 5, 2022, informed candidates that the subject test was to be administered on May 26, 2022. On May 15, 2022, the appellant filed a make-up request in which he indicated that he would be on an overseas trip on the exam administration date. In support of his request, he provided a sworn statement and an airline reservation confirmation which indicated an issuance date of May 10, 2022, a departure date of May 26, 2022, and a return date of June 7, 2022. In a letter dated May 18, 2022, the Division of Administration indicated that the appellant's request did not meet the criteria pursuant to *N.J.A.C.* 4A:4-2.9.

On appeal to the Civil Service Commission (Commission), the appellant states that he did not receive notice of the examination date until May 15, 2022. The appellant alleges that the Division of Administration did not thoroughly review the

<sup>1</sup> Prior to December 1, 2022, the Make-Up Unit was part of the Division of Administrative and Employee Services.

documentation he submitted. He argues that his make-up request should be granted, as *N.J.A.C. 4A:4-2.9(a)* and (b) contradict each other, *N.J.A.C. 4A:4-2.9(a)5* permits make-up examinations to be scheduled due to “[p]rior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation,” and he has provided a sworn statement and relevant documentation in support of his request for a make-up examination on that basis.

## CONCLUSION

*N.J.A.C. 4A:4-2.9(a)* states that make-up examinations for open competitive and general promotional testing, except for professional level engineering promotional examinations and public safety promotional examinations under (b) below, may be authorized for the following reasons:

1. Error by the Civil Service Commission or appointing authority;
2. Serious illness or disability of the candidate on the test date, provided the candidate submits a doctor's certificate specifying that the candidate was not able to take the test on that day for medical reasons;
3. Documented serious illness or death in the candidate's immediate family;
4. Natural disaster;
5. Prior vacation or travel plans outside of New Jersey or any contiguous state, which cannot be reasonably changed, as evidenced by a sworn statement and relevant documentation;
6. When required for certain persons returning from military service (*see N.J.A.C. 4A:4-4.6A*); and
7. Other valid reasons.

*N.J.A.C. 4A:4-2.9(b)* provides that for professional level engineering, police, fire, correction officer, correctional police officer, sheriff's officer, juvenile detention officer, and other public safety promotional examinations, 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 or appointing authority.

It is noted that the appellant has the burden of proof in this matter. *See N.J.A.C. 4A:2-1.4(c)*.

In the instant matter, the appellant argues that *N.J.A.C. 4A:4-2.9(a)* and *N.J.A.C. 4A:4-2.9(b)* contradict one another and that pursuant to *N.J.A.C. 4A:4-2.9(a)5*, he should be granted a make-up examination based upon his prior travel plans. The appellant's contentions reflect a clear misunderstanding of the application of *N.J.A.C. 4A:4-2.9*. The "except for professional level engineering promotional examinations and public safety promotional examinations under (b) below" language in *N.J.A.C. 4A:4-2.9(a)* makes clear that subsection (a) does not apply to professional-level engineering promotional examinations or public safety promotional examinations and that for such examinations, including Sheriff's Officer Sergeant promotional examinations, *N.J.A.C. 4A:4-2.9(b)* is the controlling regulation.<sup>2</sup> Since *N.J.A.C. 4A:4-2.9(b)* does not authorize a make-up examination for prior vacation or travel plans, the Division of Administration appropriately denied the appellant's make-up request. The Commission further observes that since the PC4997C examination announcement issued on November 1, 2021, advised candidates that the examination was tentatively scheduled for May 2022, the appellant had reasonable notice that the examination date might conflict with his planned itinerary well in advance of the booking date. Accordingly, the appellant has not sustained 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 22<sup>ND</sup> DAY OF FEBRUARY, 2023




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Allison Chris Myers  
Acting Chairperson  
Civil Service Commission  
Inquiries

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<sup>2</sup> The Commission notes that a plain language explanation of the stricter make-up standard for public safety promotional examinations and other applicable title areas is available on this agency's website. *See Appeals FAQs*, State of New Jersey, Civil Service Commission, <https://www.nj.gov/csc/authorities/faq/appeals/index.html#9>.

and  
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