



	:	<b>STATE OF NEW JERSEY</b>
	:	
	:	<b>FINAL ADMINISTRATIVE ACTION</b>
	:	<b>OF THE</b>
In the Matter of Christopher	:	<b>CIVIL SERVICE COMMISSION</b>
Romano, Investigator 1 Taxation	:	
(PS0793U), Department of the	:	Examination Appeal
Treasury	:	
	:	
CSC Docket No. 2016-2059	:	
	:	
	:	

**ISSUED:** April 3, 2018 (BS)

Christopher Romano appeals his score for the promotional examination for Investigator 1 Taxation (PS0793U), Department of the Treasury.

By way of background, the subject promotional examination was administered on November 17, 2015 utilizing the Supervisory Test Battery (STB) and the appellant achieved a raw score of 456. However, in order to pass the subject examination, candidates were required to achieve a minimum raw score of 512. Therefore, the appellant did not achieve a passing score.

On appeal, the appellant argues the questions on the test had no relevance to the duties of an Investigator 1 Taxation. He also states that some of the test questions are “opinionated” and asks how can a candidate evaluate a question where “some people may agree or disagree?” Further, the appellant questions how he can appeal his test score given that there is no examination review and notes that he does not know what question he got wrong. Additionally, the appellant presents that each test taker should be given additional points after their examinations are scored based on Performance Assessment Review (PAR) evaluations and he believes it is wrong for PAR points to be included only after a candidate achieves a passing score.

In a supplemental submission, the appellant questions why his Notification of Ineligibility indicated that he was required to file an appeal within 20 days of receipt, but was later advised that he was required to file his appeal within five days of the test date. The appellant reiterated that he wanted to discuss the

questions on the test based on his understanding that some questions may have more than one acceptable response. In this regard, he argues that this examination should not be the only decision tool to qualify candidates for positions as some individuals may be better test takers than others.

## CONCLUSION

*N.J.A.C.* 4A:4-6.1 provides that all candidates must achieve a passing score on a competitive examination in order to be considered for appointment. *N.J.A.C.* 4A:4-6.4 states that an examination candidate wishing to challenge the job-relatedness or test content of an examination must do so within five business days from when the examination was held. *N.J.A.C.* 4A:4-6.3(b) provides that, except for medical or psychological disqualification appeals, the appellant shall have the burden of proof.

Initially, it is noted that the STB utilizes multiple-choice test questions that are presented to candidates on a computer concerning issues, tasks and situations associated with their role as a supervisor in a fictitious organization. It is designed to measure common supervisory skills and abilities such as Analysis and Judgment, Employee Evaluation and Development, Interpersonal Skills, Written Communication Skills, Leadership and Decision Making. Regarding his argument that the STB should not be the only decision tool to qualify candidates for positions, *N.J.A.C.* 4A:4-2.2 provides considerable discretion to this agency in the determination of appropriate test modes. For the subject announcement, since the Investigator 1, Taxation title is a supervisory level title and the record indicated that the candidates for the announcement had been tested or evaluated sufficiently in prior positions for other important worker characteristics not measured by this examination, it was determined that the STB would be the *sole* selection instrument administered. Thus, candidates' experience is only factored into the eligibility process, not in the computation of their final average score.

With respect to his assertion that some of the test questions are "opinionated" and query as to how can a candidate evaluate a question where "some people may agree or disagree, the questions and weighted answers to this examination were developed by Subject Matter Experts (SMEs), individuals proficient in the fields of supervision and management. Specifically, three teams of SMEs reviewed the questions and the weighted answers. The first team developed the weightings and the second and third teams reviewed the weightings previously assigned in order to ensure that the weightings were not the result of either faulty reasoning or were biased as a result of too small of an expert pool. A total of 30 SMEs participated in this process.

Since the STB simulates actual situations that may occur on the job, it is possible that some questions may contain more than one acceptable response. That

is, as in life, there may be more than one way to appropriately address a situation. To represent this in a testing situation, different weighted options are used for each question. Each option presented for a given question carries a test weight of from 0.0 to 0.8 points depending on how well the situation addresses the problem. The score, received immediately after completing the test, is a raw score which is equal to the sum of scores across all questions.

The STB is designed to be used for primary and higher level supervisory titles. Additionally, any eligible list that is generated as a result of the STB has a duration of two years. The test score is banked for two years for possible future use. Specifically, candidates who apply and are determined eligible for an examination involving another supervisory title some time within two years of the date of their initial examination will have their STB score applied for that examination. However, candidates may retake the STB after one year in response to future examinations for which they may be eligible.

With respect to the appellant's argument that he cannot effectively appeal the test because he is not permitted to review the questions and keyed responses, generally, the review process permits controlled access to examination materials and strikes a balance between the provision of information to the candidates and the maintenance of examination security. However, due to the reuse of this examination as explained above, it was determined that there would be no review of examination questions or keyed answers is permitted. *See In the Matter of Supervisory Test Battery Lists*, (MSB, decided December 19, 2000). In this regard, examination review procedures are governed by the provisions of *N.J.A.C. 4A:4-6.4(e)*. In order to ensure the security of the examination process, the Chairperson of the Civil Service Commission (Commission) or designee may, on a particular examination, modify or eliminate the review of examination questions and answers. This is done to ensure the security of the examination process. In addition, in *James T. Brady v. Department of Personnel*, 149 N.J. 244 (1997), the Supreme Court found that this agency's controlling rules and policies represent a reasonable balance between security and test taker interests. Accordingly, due to the number of applicants who apply for the STB each year and the intended reuse of the examination, it is essential that examination review be limited. As such, review of test questions and keyed answers is not permitted due to security concerns.

In response to the appellant's concern about his appeal rights, the Notification of Ineligibility advises candidates that they may appeal the decision listed on the notice within 20 days of the date of the notice. *N.J.A.C. 4A:4-6.4(a)* provides that no later than five business days after the examination has been held, candidates for multiple choice examinations may contact the Commission to make an appointment to review the keyed test booklet. The rule further provides that within five business days after the date of review, or within five business days from the date the multiple choice examination has been held, candidates may file an

appeal in writing against the keyed responses for a given item, or with respect to the job-relatedness or appropriateness of test content. In this case, the appellant participated in the STB on November 17, 2015 and sent an e-mail dated December 11, 2015 to the STB Information Support section of this agency challenging the job relatedness of the of the test content and requesting to “sit down with a Civil Service representative and review” the test. As such, the appellant’s December 11, 2015 request to review the keyed answers and questions was later than five business days from when he took the test on November 17, 2015 and would be untimely. Therefore, he was correctly advised that his request to file an appeal based on a review of examination materials was not timely. Regardless, as noted earlier, since the STB is not a standard multiple choice examination, review of the test questions is not permitted. However, *N.J.A.C. 4A:4-6.4(b)* permits candidates for tests other than multiple choice, such as the STB, who do not request a review of their examination papers the opportunity to file an appeal within 20 days of the notice date of examination results. Accordingly, the Notification of Ineligibility advises candidates of this right to appeal.

Finally, with regard to the appellant’s argument regarding the addition of PAR scores, *N.J.A.C. 4A:4-2.15(a)3* provides that candidates who fail an entire examination shall not receive Performance PAR credit or credit for seniority. Since the appellant did not achieve a passing score, his PAR points were not a factor. In view of the above, the appellant has failed to satisfy 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 27TH DAY OF MARCH, 2018



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