



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of  
Elvis Pena, Fire Officer 1  
(PM1195S), North Hudson Regional  
Fire and Rescue Service

Examination Appeal

CSC Docket No. 2016-2631

ISSUED: NOV 16 2016 (RE)

Elvis Pena appeals his score for the oral portion of the promotional examination for Fire Officer 1 (PM1195S), North Hudson Regional Fire and Rescue Service. It is noted that the appellant passed the subject examination with a final score of 85.880 and his name appears as the 51<sup>st</sup> ranked eligible on the subject list.

It is noted for the record that this two-part examination consisted of a written multiple-choice portion and an oral portion. Candidates were required to pass the written portion of the examination, and then were ranked on their performance on both portions of the examination. The test was worth 80 percent of the final score and seniority was worth the remaining 20 percent. Of the test weights, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% was the oral communication score for the arriving exercise.

The oral portion of the Fire Officer 1 examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of firefighters and the ability to plan strategies and tactics based upon a building's

structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. If the SME scores differed by 1 point, the score was averaged. If they differed by more than 1 point, the SMEs were required to confer with each other until they agreed on a score. Scores were then converted to standardized scores.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

For the evolving scenario, the appellant scored a 3 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. For the arriving scenario, the appellant scored a 5 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. The appellant challenges his score for the technical component of the evolving scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The evolving scenario involves a fire in a Chinese restaurant, which is the second store in a row of five in a single-story building with brick walls and steel bar joist construction built in the early 1960s. It is 8:00 PM on a Friday in June, and the temperature is 78° Fahrenheit with clear skies and a wind blowing from west to east at 5 miles per hour. Upon arrival, it is noticed that smoke is coming from the front door on side A. Dispatch states the caller was a customer picking up take-out food when they were overcome with smoke and left the building. The caller is unsure if employees managed to escape, and it is unknown if the automatic hood

suppression system has been activated. The candidate is the commanding officer of the first arriving ladder company. There were two technical questions. Question 1 asked for specific actions to be taken upon arrival. Question 2 indicates that, while searching the meat store (exposure D), a fire fighter knocks over several overstocked displays and becomes trapped. He issues a Mayday. The question asked for actions that should be taken based on this new information. Instructions indicate that, in responding to the questions, the candidate should be as specific as possible in describing actions, and should not assume or take for granted that general actions will contribute to a score.

In regard to the technical component, the assessors noted that the appellant failed to order a Personnel Accountability Report (PAR), which was a mandatory response to question 2, and he missed the opportunity to evacuate the building of nonessential personnel in question 2. They used the flex rule to assign a score of 3. On appeal, the appellant states that he removed all occupants from the building and exposures B and D.

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2. Additional responses only increase a score from 3 to 4 or from 3 to 5.

A review of the appellant's video and related examination materials indicates that he did not order a PAR after the Mayday had been issued by the trapped firefighter. As this was a mandatory response, the appellant cannot receive a score higher than a 3 regardless of whether the appellant evacuated the building of nonessential personnel. To that end, in response to question 1, the appellant stated, "And I would have my second alarm ladder companies ah, conduct a search of the bravo and delta side and ensure that all occupants are removed." This response involves a search of the exposures for civilians in response to the initial alarm, which is a different action than evacuating the building of nonessential personnel after receipt of a Mayday from a trapped firefighter. The appellant missed the actions noted by the assessor, including a mandatory response, and his score of 3 for this component is correct.

CONCLUSION

A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet 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  
THE 10<sup>th</sup> DAY OF NOVEMBER, 2016

  
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Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

c: Elvis Pena  
Michael Johnson  
Records Center