

B-26



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of James Lyones, Jr.,  
Battalion Fire Chief (PM1499T),  
Newark

Examination Appeal

CSC Docket No. 2017-1227

ISSUED: FEB 14 2017

(RE)

James Lyones, Jr., appeals his score on the examination for Battalion Fire Chief (PM1499T), Newark. It is noted that the appellant passed the examination with a final average of 82.910 and ranked 13<sup>th</sup> on the eligible list.

This two-part examination consisted of an integrated system of simulations designed to generate behavior similar to that required for success on the job. The first part consisted of 70 multiple-choice items that measured specific work components identified and weighted by the job analysis. The second part consisted of three oral scenarios; a Supervision, Administration and Incident Command scenario. All candidates received the same multiple-choice exam, but differing versions of the oral exercises were given based on the day the oral exam was administered. The examination was based on a comprehensive job analysis conducted by the Civil Service Commission, which identified the critical areas of the job. The weighting of the test components was derived from the job analysis data.

For the oral portion, candidates had 60 minutes to prepare for all three scenarios and had 10 minutes per scenario to present their response. For all three oral exercises, the candidate was to assume the role of a Battalion Fire Chief. Candidates were scored based on the content of their response (technical) and the how well they presented their response (oral communication). Both of these dimensions were scored on a scale of 1 to 5 with 1 being the lowest rating and 5 being the highest rating.

Each candidate in a given jurisdiction was scored by a team of three different Subject Matter Experts (SMEs), who were trained in current technical and oral



communication scoring procedures. Each SME is a current or retired fire officer who held the title of Battalion Fire Chief (or Fire Officer 2) or higher. As part of the scoring process, an SME observed and noted the responses of a candidate relative to the knowledge, skills and abilities (KSAs) that each exercise was designed to measure. An SME also noted any weaknesses that detracted from the candidates overall oral communication ability. The SME then rated the candidate's performance according to the rating standards and assigned the candidate a technical or oral communication score on that exercise.

In order to preserve the relative weighting of each of the components of the examination, the ratings for each portion were adjusted by a well-recognized statistical process known as "standardization." Under this process, the ratings are standardized by converting the raw scores to z-scores, an expression of the deviation of the score from the mean score of the group in relation to the standard deviation of scores for the group. Each portion of the examination had a relative weight in its relation to the whole examination. Thus, the z-score for the multiple-choice portion was multiplied by a test weight of 36.53%, the oral technical scores were multiplied by a test weight of 53.91% and the oral communication scores were multiplied by a test weight of 9.56%. The weighted z-scores were summed and this became the overall final test score. This was weighted and added to the weighted seniority score. The result was standardized, then normalized, and rounded up to the third decimal place to arrive at a final average.

For the technical and oral communication components of the Supervision, Administration and Incident Command scenarios, the appellant received scores of 4, 3, 5 and 5, 4, 3, respectively.

The appellant challenges his scores for the technical component of the Supervision scenario and the oral communication component of the Incident Command scenario. As a result, the appellant's test material and a listing of possible courses of action (PCAs) for the scenario were reviewed.

The Supervision scenario concerned two subordinates of a newly appointed Battalion Fire Chief. Captain Clark and Captain Zuniga have been having trouble working together and differ on many points about how duties should be divided among the companies, such as how and when the station should be cleaned and what groceries should be brought in and by whom. These problems seem trivial, but they have started the spill over into other areas of work. For example, they fail to coordinate training sessions when both companies should be training together, and there have been disagreements at emergency scenes. The candidate has spoken to both of them informally about the need to get along, but now the situation is out of control. The candidate walks into a lunchroom where they are in a shouting match in front of several fire fighters. Captain Zuniga calls Captain Clark a very strong expletive and Captain Clark retaliates by calling Captain Zuniga a racial slur. The



scenario asked candidates to answer the questions based on the text *Managing Fire and Emergency Services* and their experience. Question 1 asked for specific actions to be taken now and in the future. Question 2 indicated that, after preliminary actions, relations have not improved between the two fire captains. In fact, it seems that the situation is worse because now there are problems between the members of their respective fire companies. Question 2 asked for specific actions that should now be taken based on this new information.

For the Supervision scenario, the SME indicated that the appellant missed the opportunity to schedule the members of both companies for sensitivity training (question 2). On appeal, the appellant argues that he took this action.

In reply, in response to question 1, the appellant received credit for scheduling the Fire Captains for sensitivity training when he stated, "Both were sent for sensitivity training and their review of the Department's policy on racial harassment. I'll reach out to the Equal Opportunity Employment Commission for input and the legal department on how to legally proceed." The appellant did not separate his responses to questions 1 and 2, but gave one response for both. He stated that he would be "proactive in training all members of the battalion." Nevertheless, instructions to candidates which are read after the questions state, "In responding to the questions, be as specific as possible. Do not assume or take for granted that general actions will contribute to your score." Scheduling members of both companies for sensitivity training was a separate action to be taken based on the new information given in question 2. The appellant's statement that he was proactive in training all members of the battalion was not specific enough for credit. The appellant did not state that the training he would proactively provide included sensitivity training as a result of the new information that there are now problems between the members of the Fire Captain's respective fire companies. His score of 4 for this component is correct.

For the oral communication component for the Incident Command scenario, the SME noted a weakness in word usage/grammar. Specifically, he stated that the candidate used "um" excessively throughout his presentation. The appellant argues that the instances where "um" was used were not a weakness.

In reply, this was a formal examination setting, and candidates were required to state what they meant at an appropriate rate, and with no distractions. A factor in oral communication is grammar/word usage, which is defined as using appropriate words and using sentences that are grammatically correct. It is not acceptable to present many distracting verbal mannerisms, such as "um." This was an examination setting where candidates were given scenarios, and a question or questions for each scenario, and were required to provide direct answers to those questions maintaining a consistent flow of information. There is a well-known phenomenon of hesitational disfluency that can afflict a speaker trying to cope with the pressures of immediate processing, and some level of disfluency is acceptable



when it does not affect the continuity of a presentation. At some point, however, the use of distracting verbal mannerisms is not acceptable.

A review of the video and related examination materials reveals that the appellant used distracting verbal mannerisms throughout the presentation. For example, the appellant stated, "Um, I'll make sure that my engine and ladder companies position apparatus with tactical objectives in mind. My engine company will secure a water source, they'll pull slightly past the structure leaving room for the ladder and they will stretch a 2½ inch handline, um, stretch it into the front of the store to locate, confine and extinguish this fire putting um, the line between the fire and any occupants. Um, this handline, 2½ inch handline will be used for reach and penetration. Um, before committing my members, we're gonna um, cool the undercarriage of this structure to prevent collapse of the roof." Later on, when calling resources, the appellant stated, "Um, I'll have the building department to help me familiarize myself um, with all aspects of this structure. Um, the utility company um will control gas, water, water and electric from outside. Um, I'll have Hazmat because of the paint store with a Hazmat officer. Um, a PIO in case this becomes um a media event. Um, Office of Emergency Management OEM. I'll have DPW there um, it is, um, in April, um, they will probably if this is um, prolonged incident, um, get a little dark so we want to make sure that we have a, a lighting and sand and salt. It is 55°, I am confident that the temperatures will drop. Um, also to assist, or I'm going to have a rehab officer but I also want to have local transit company there um, to assist with buses um, and rest and rotate and rehab um, all of my members from the department. Ah, we do have um, a residence in um, the Bravo Charlie exposure so I want to call um, a Red Cross and an animal control officer in case we have residents and animals that have to be ah, relocated." The appellant uses verbal mannerisms to the point that it is distracting, and uses run-on sentences at times. The appellant also sped up and slowed down the rate of his speech, speaking a few sentences rapidly, then speaking a sentence slowly, which was disruptive to the flow of the presentation. His score of 3 for this component will not be changed.

## CONCLUSION

A thorough review of 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.

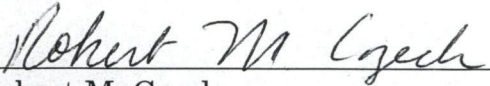
## ORDER

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 8<sup>th</sup> DAY OF FEBRUARY, 2017

  
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THE NATIONAL BUREAU OF INVESTIGATION  
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