



STATE OF NEW JERSEY

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

In the Matter of John Olivieri,
Deputy Fire Chief (PM3073U),
Belleville

CSC Docket No. 2018-161

Examination Appeal

ISSUED: September 11, 2017 (RE)

John Olivieri appeals his score on the examination for Deputy Fire Chief (PM3073U), Belleville. It is noted that the appellant passed the examination with a final average of 86.590 and ranked fourth on the resultant eligible list.

The subject promotional examination was held on April 18, 2017 and four candidates passed. This was an oral examination designed to generate behaviors similar to those required for success in a job. The examination consisted of four scenario-based oral exercises; each was developed to simulate tasks and assess the knowledge, skills and abilities (KSAs) important to job performance. These exercises covered four topic areas: 1) Incident Command – Non-fire Incident, 2) Supervision, 3) Administration, and 4) Incident Command – Fire Incident.

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, fire fighting 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 in the technical component for some scenarios, 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.

This examination was given using the chain oral testing process, and candidates were given ten minutes to respond to each question. Candidate responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 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. The appellant received the following scores for the technical component for each question, in order: 5, 5, 3, and 3. He received the scores of 4, 3, 5, and 5 for the oral communication components.

The appellant challenges his scores for the oral communication component for the Supervision scenario, the technical component for the Administration scenario, and the technical component for the Incident Command – Fire Incident scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenario were reviewed.

For the oral communication component the Supervision scenario, the assessor noted that the appellant displayed a weakness in word usage as evidenced by frequently using the fillers "um" and "uh" throughout the presentation. It was also noted that the appellant displayed a weakness in rate as evidenced by pausing frequently mid-sentence (e.g., "the...uh...incident," "advise him...that he would be accountable...") and some sentences trailed off at the end (e.g., "this fire prevention program with the seniors," and "counseling to the firefighters involved."). On appeal, the appellant states that points were deducted for using "uh" in both assessor notes, so he believes his score was reduced by two points for the same weakness.

In reply, the assessor notes referred to weaknesses in word usage/grammar and Inflection/rate/volume (IRV). A weakness in word usage/grammar occurs when a candidate mispronounces his words, uses sentences that are grammatically incorrect, repeats words and/or phrases, or uses inappropriate words. Specific examples include, "ah," "um," and "you know." A weakness and IRV is defined as failing to speak at an appropriate rate (long pauses/too fast/stumbles), failing to maintain appropriate pitch and volume, and improperly using pitch to convey meaning or emphasis. The appellant is simply incorrect in his argument that he was deducted twice for one weakness. The assessor notes are clear on this. The first weakness indicates that the appellant used distracting verbal mannerisms throughout his presentation. The second weakness indicates that there was frequent pausing in mid-sentence, and some sentence endings trailed off. These are separate observable behaviors.

A review of the appellant's presentation indicates that his presentation contained both of these behaviors. For example, the appellant stated, "I'd advise Battalion Chief Stark and the rest of the battalion chiefs that I will be um, reviewing the um, reviewing the complaint and that they would be um, advised to hand in reports on their actions regarding the ah, the incident." At another point, the appellant stated "I would also ah, interview the ah head of s...um, senior services to get his side ah side of the story and as much information as possible." In both of these sentences, the appellant uses many distracting verbal mannerisms which detract from the presentation, and he evidenced this behavior throughout.

The appellant also paused inappropriately during the presentation, which resulted in a halting mannerism to his speech. For example, he stated, "I would also advise them that they do have a right to appeal the decisions, a right to due process, they have a right to union representation and they have a right to um ... they would have a right to, to um union represent, representation also." He said, "I would advise him...that he's going to be held accountable," "Monitor ah the program for the seniors to be sure that he is...um...he is taking care of his duties there," and "I'd review the files of all battalion chiefs... personnel files...to see if there's any incident of um prior um... prior mis, misconduct due um...with ah training or, or um.... any program that they're involved in." Speaking in a hesitant manner displays a weakness in oral communication. The appellant's score of 3 for this component is correct.

The Administration scenario indicated that it was the middle of winter and the National Weather Service has forecasted a severe winter weather storm affecting the area beginning mid-day in two days, and expecting to last 24 to 36 hours. The storm has the possibility for blizzard conditions with an accumulated potential of 18 or more inches of snow. The Fire Chief has asked the candidate to develop an operations plan for the department for the duration of the weather event, and has assigned the candidate to attend the emergency management meetings as the department representative regarding this storm event. The scenario asked candidates to answer the questions based on the text *Managing Fire and Emergency Services*, and their experience. Question 1 asked what should be included in the storm operations plan for the department. Question 2 indicated that the Fire Chief has assigned the candidate to be the emergency management liaison. This question asked what resources the candidate should request from other agencies through emergency management.

For the technical component, the assessor noted that the appellant missed the opportunity to create a modified storm alarm response assignment, and missed the opportunity to monitor weather forecasts throughout the event. On appeal, the appellant argues that he added manpower and canceled time off, he had plows responding with units, he had response and EMS, and he had other resources use

mutual aid agreements for response. He argues that these were proactive modifications to the standard emergency response.

In reply, credit is not given for the mention of “buzzwords.” That is, nearly mentioning the word “response” is not the same as creating a modified storm alarm response assignment. Rather, all words are taken in the context in which they are presented. Further, the instructions read to candidates after they are given the scenario and questions were, “In responding to the question, be as specific as possible. Do not assume or take for granted that general actions will contribute to your score.” In other words, credit is not given for information that is implied or assumed. The actions provided by the appellant on appeal are separate actions than that listed by the assessor. In fact, the appellant received credit for modifying schedules for the duration of the event (manpower), and requesting that time off during the event will not be approved, in response to question 1, and for coordinating plow assistance in response to question 2. These are all separate responses. If the appellant intended to create a modified storm alarm response unit assignment, he needed to verbalize this action in order to receive credit for it. This was a formal examination setting, and candidates were required to express their knowledge in a way that would be understood by the listener. It is not understood that the appellant created a modified storm alarm response unit assignment by taking the “responding” actions that he articulates on appeal, *i.e.*, other actions. He did not take the actions listed by the assessor and his score for this component will not be changed.

The Incident Command – Fire Incident scenario involved a building with heavy fire venting from the second and third floor Side A windows. There is also fire extending into the common attic space and to the exposure buildings from radiant heat. The fire building is part of a townhouse development. Each building consists of multiple townhomes separated by party walls. The building involved is a three-story, wood-frame construction building. Question 1 asked what specific, IMS actions should be taken to gain control of the scene. Question 2 asked for specific actions to be taken to mitigate this scene.

For the technical component, the assessor noted that the appellant failed to attack the main body of fire from the exterior. It was also noted that he missed the opportunity to establish a victim tracking officer. The assessor assigned a score of 3 using the “flex” rule. On appeal, the appellant states that he used master streams as a defensive mode of operation, when he said that he would prepare for master stream operation in the event that trusses became an issue. He states that he elaborated on his defensive attack, transmitting an urgent message to evacuate the building, and he conducted a personal accountability report. He states that when he was questioned by the assessor regarding his attack, he diverted from his defensive attack response and directed attention to his first two engine operations. He states that he believes that the assessor steered him from the correct path,

which was his defensive operation. He states that had the assessor been listening, he would have realized he was headed in the right direction and did not need a prompt at that point.

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 5.

A review of the appellant's presentation indicates that there is no question that the appellant incorrectly performed an offensive attack. The scenario indicated that the main fire building had heavy fire venting from the second and third floor side A windows, and fire was extending into the common attic space into the exposure buildings from radiant heat. It also indicated that all residents have been accounted for. Given the situation, the SMEs determined that it was mandatory to attack the main body of fire from the exterior to mitigate the scene, which is a defensive attack. In his presentation, the appellant stated, "My mode of operation at this fire would be offensive." He later indicated, "I'd have them stretch an inch and $\frac{3}{4}$ line through the side door ah to the seat of the fire. Place the line between any occupants and the fire. Also protect the primary means of egress." This is clearly an offensive attack and not an attack from the exterior.

Regarding the aerial, the appellant stated, "My truck company would perform primary search of the residence starting at the seat of the fire moving ah above the fire and both floors below. I'd have them ladder the building with an aerial and also ground ladders for secondary means of egress and for vertical ventilation. I'd have them perform ah pre-control overhaul, check for extension. I'd have them vent both horizontally and vertically in coordination with the engine company. I'd have them rescue and remove any occupants and evacuate the exposure. I'd also have them perform salvage operations at the scene. I'd also have them prepare for ah master streams in the event that we have a problem with the trusses and we do evacuate. And I'd also have my truck personnel ah control utilities." In this passage, aside from the fact that this is too much work for four individuals to perform in a timely manner, the appellant is using the aerial ladder for a second means of egress and vertical ventilation. He proceeds to perform vertical ventilation, and the master streams are prepared for fire in the trusses.

The sum of these actions does not indicate that the appellant is fighting the fire defensively unless there is a fire in the trusses.

In fact, after the two-minute warning, the appellant stated, "I'd first, if we go defensive, I would increase the size of the ventilation um, again we're going to have topside ventilation here. I'm going to go back a little bit. We're going to open up a ventilation hole in the roof. Push down the ceilings for ventilation. If, anytime we go defensive, we would increase ventilation holes, size of our lines, size of our water supply. If that fails, we're going to evacuate the building, call urgent Mayday, we're gonna conduct another PAR." At this point, the assessor asked the appellant, "What's the main way you would attack the fire, the main fire?" The appellant responded, "The main fire. We're going to stretch an inch and $\frac{3}{4}$ to the seat of the fire. Ah, probably back it up with a 2½ inch line. Okay, we're going to locate confine and extinguish all fire. Put the line between any occupants and the fire." A review of this exchange indicates that the assessor did nothing wrong, but verified that the appellant was using an offensive attack. The appellant was not steered away from using the defensive attack but was clearly committed to the offensive mode of attack, which he repeated upon questioning, and there is no possible way to interpret his actions as defensive for of the main body of fire. In their initial attack, candidates are expected to do either one or the other, and they cannot receive credit for indicating they would offensively attack the main body of fire, and then switch to indicating that the initial attack would be defensive. In any event, the appellant stated he would defensively fight the fire only when it reached the trusses or if it sometime he would have to go defensive. As the appellant missed this mandatory response, he cannot receive a score higher than 3. He also missed the opportunity to establish a victim tracking officer in response to question 1. The appellant's score 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 6th DAY OF SEPTEMBER, 2017



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