



STATE OF NEW JERSEY

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

In the Matter of Luis Cruz,
Deputy Fire Chief (PM3076U),
Paterson

CSC Docket No. 2018-140

Examination Appeal

ISSUED: September 11, 2017 (RE)

Luis Cruz appeals his score on the examination for Deputy Fire Chief (PM3076U), Paterson. It is noted that the appellant passed the examination with a final average of 89.200 and ranked fifth on the resultant eligible list.

The subject promotional examination was held on April 18, 2017 and ten 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 5. He received the scores of 5, 5, 3, and 5 for the oral communication components.

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

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 request that time off during the event will not be approved, and missed the opportunity to provide for post storm hydrant shoveling. On appeal, the appellant argues that the test administration was unfair as not all supervisors have been awarded the opportunity to act as a Deputy Fire Chief. He states that the scenario was too vague, provoking too many possible concerns to address in the preparation period. The appellant indicates that he drew from 24 specific pages in the text, and states that his responses were more than adequate in answering both questions. He argues that he covered missed actions listed by the assessor when he identified the importance of managing finances, and referred to logistics, wages, salary, manpower, and machinery required for the event. He states that he spoke about snow removal in reference to acquisitioning resources, equipment and manpower. Next, the appellant states that he left time for the assessor to ask him

questions, but he did not do so, thereby denying the appellant the opportunity for clarity or specificity. He states that this mistake on the part of the assessor was the cause of his missing the actions noted by the assessor, as he should have been questioned by him.

In reply, as to test administration, as noted in the orientation guide that was available to all candidates, the exercises are set in a hypothetical Fire Department. This is done intentionally so as not to give an advantage to someone with a particular work background. Candidates are instructed not to make assumptions about the hypothetical fire department or town, and to take action and make decisions based on only the information that will be supplied. Additionally, each example indicates that the candidate is a recently promoted Deputy Fire Chief. Thus, candidates were made aware that they were to assume the role of the Deputy Fire Chief. This does not mean that prior experience as a Deputy Fire Chief was required. Civil service rules allow for various types of appointments, including provisional and temporary appointments, and all candidates must take the same examination. The appellant's argument that the test is somehow unfair because of appointment types other than regular appointments is unpersuasive. This is a level playing field as all candidates were required to respond to the same circumstances in the same amount of time, and their responses were compared with the same criteria.

The appellant argues that scenario was too vague, provoking too many possible concerns to address. In this respect, the examination is designed to discriminate between the candidates. Better performing candidates score higher on the examination as they provide better responses to the same stimuli material given to all candidates. That is, better performing candidates can discern the most appropriate responses and the range of responses that cover the major points. The appellant's opinion that the scenario was vague is unconvincing. Other candidates were able to provide enough possible course of actions to warrant a score of 5.

The appellant lists 24 specific pages in the text, and states that his responses were more than adequate in answering both questions. This list provides no information regarding how the appellant responded to the presentation. Scores are based on actual responses given during a performance, not on a reference to the study material. In the examination booklet, after the questions the instructions state, "In responding to the question, as specific as possible. Do not assume or take for granted that general actions will contribute to your score." The appellant states that he identified the importance of managing finances, and referred to logistics, wages, salary, manpower, and machinery required for the event. Even so, that response is not the same as requesting that time off during the event will not be approved. Similarly, speaking about snow removal in reference to acquisitioning resources, equipment and manpower, is not the same as providing for post-storm hydrant shoveling. This was a formal examination setting, and candidates were

required to verbalize their knowledge of the actions they would take in response to the questions. In other words, credit is not given for information that is implied or assumed. Assessors are not concerned with feelings, opinions, or inferences, but only what the candidate says during the examination, and they are trained to be objective. Lastly, a review of the appellant's presentation indicates that he did not take the actions listed by the assessor.

As to assessor behavior, the appellant argues that the assessor's lack of questioning caused him to miss actions. Asking the appellant if there was anything he would like to add is not a mere formality to end a performance, but an opportunity for the candidate to use the remaining time to provide additional actions. At this question, the appellant chose to conclude his response. At the beginning of each presentation, when giving instructions to the candidate, the assessors state, "When it appears that you have completed your response, I will ask if you have anything to add to your response. This does not mean that you have or have not missed anything in your response." This instruction notifies candidates that they should not construe any meaning from this question. However, the assessors could ask for clarification if they did not understand a response, or they could ask the candidate to be more specific. The role of the assessor was not to prompt candidates for each mandatory response until they provided it, nor were they to try to interpret ambiguities in candidate responses. Candidates were required to orally communicate their answers to the questions to the best of their ability. If the candidate does not provide a topic, the assessor cannot ask him to be more specific about it. The assessor in this room chose not to ask a question, but this did not preclude the appellant from using the approximately two minutes he had left of his time. The appellant would have been given a full allotment of time had he chose to use it, but he concluded his response early. The appellant does not suggest a remedy for this issue, and he cannot receive credit for actions he did not take. His arguments do not warrant a change in scoring for this component.

For the oral communication component, the assessor noted that the appellant spoke very quickly, running words and sentences together, which made it difficult to understand him at times. It was also noted that the appellant left sentences trailing and began new sentences, which made his presentation difficult to follow. On appeal, the appellant states that he disagrees, his rate of speech was clear and concise, and his thoughts were decisive and well organized.

In reply, the assessor notes referred to weaknesses in word usage/grammar and organization. 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. A weakness in organization is evident when a candidate fails to present ideas in a logical fashion, state a topic, and provide supporting arguments, and the candidate constantly gives actions out of order or does not indicate he is returning to a topic or question.

A review of the appellant's presentation indicates the noted weaknesses. The appellant sometimes spoke in run-on sentences, repeating words or ideas. For example, at the start, the appellant stated, "As for the storm plan and the operation of the department, my first action is to um, commence with the finance. What's it gonna cost to, to measure the cost of the salaries, the machines, the manpower that's gonna be needed for this event. As well as how can we get more ah, monies, as well as provide some sort of grants, as well as seeking for donations, setting up some sort of other ways to know that, increase, increase the monies that we'll need in order to develop this plan." The appellant does not complete sentences, but moves on to a new thought before his prior thought is completed. In the above passage, he did not finish the question, "What's it gonna cost to ..." but moved on to what costs he was going to measure. With no transition other than "as well as," the appellant comments on how he will raise funds for his plan.

The appellant continues by stating, "Operation, operations will be in the preparedness and preventive actions as well as setting up for backup generators. I'll be looking for planning so we can response objectives, evacuation plans, sheltering, ah setting up ah evacuation routes. The mitigation efforts demographics the number of people we would have to move or protect in place, as well as the equipment that's going to be needed to actually move the snow or and operate with the, with the storm coming in." This passage was very difficult to follow as the appellant did not speak in full sentences, but in phrases that were loosely connected. He mixes general ideas, such as "preparedness and preventive actions" with specific ideas, "setting up for backup generators." The appellant did not present these ideas in a logical fashion. At another point, he stated, "We'll develop a plan, this coalition, of and we'll be looking at strengths, how we, looking at our infor.... information that, what do we have available, what kind of, what do we, are able to provide to them as well as receive, what help. I would also know our weaknesses, areas that, that we're prone to fail at. I'll be looking at any opportunities we can possibly encounter in order to better our, our evacuation plan. And I'll be looking at our our threats being that like storms and this event and I would what we can do to prepare ourselves for them." Some of this information was spoken quickly, and combined with incorrect grammar, was very to difficult follow. The appellant's presentation contains the weaknesses noted by the assessor, and his score for this component is correct.

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

A handwritten signature in black ink, appearing to read 'R. Czedz', is written over a horizontal line.

Robert M. Czedz, Chairperson
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