



STATE OF NEW JERSEY

In the Matter of Elwood Faunce III,
Deputy Fire Chief (PM5152C),
Atlantic City

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

CSC Docket No. 2023-1953

Examination Appeal

ISSUED: November 1, 2023 **(ABR)**

Elwood Faunce III appeals his score on the promotional examination for Deputy Fire Chief (PM5152C), Atlantic City. It is noted that the appellant passed the examination with a final average of 82.790 and ranks fourth on the eligible list.

The subject promotional examination was held on May 7, 2022, and five 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 test was worth 70 percent of the final score and seniority was worth the remaining 30 percent. The various portions of the test were weighted as follows: technical score for the Incident Command: Non-Fire scenario, 24.42%; oral communication score for the Incident Command: Non-Fire scenario, 3.155%; technical score for the Supervision scenario, 14.170%; oral communication score for the Supervision scenario, 3.155%; technical score for the Administration scenario, 11.81%; oral communication score for the Administration scenario, 3.155%; technical score for the Incident Command: Fire Incident scenario, 36.98%; and oral communication score for the Incident Command: Fire Incident scenario, 3.155%.

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 10 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.

For the Incident Command: Non-Fire Incident scenario, the appellant scored a 4 on the technical component and a 4 on the oral communication component. For the Supervision scenario, the appellant scored a 2 on the technical component and a 3 on the oral component. On the Administration scenario, the appellant scored a 2 on the technical component and a 3 on the oral component. Finally, on the Incident Command: Fire Incident scenario, the appellant scored a 4 on the technical component and a 3 on the oral component.

The appellant complains that the overall scoring for the oral components leaves no room for mistakes and was too strict. In this regard, he maintains that some candidates may suffer from "test anxiety" and may speak well on a fire ground but not in other contexts. The appellant also challenges his scores for the oral communication components of the Incident Command: Non-Fire and Incident Command: Fire Incident scenarios. Further, the appellant challenges his scores for the technical components of the Incident Command: Non-Fire, Supervision and Incident Command: Fire Incident scenarios.

Initially, the Civil Service Commission (Commission) finds no basis to support the appellant's contention that the overall scoring criteria for the oral components was overly strict. It is noted that the appellant bears the burden of proof in this matter. *See N.J.A.C. 4A:4-6.3(b)*. Critically, the appellant has not identified any specific criteria that he considered to be objectively unreasonable. Moreover, even assuming, *arguendo*, that some candidates may perform better at an actual fire scene than in an examination setting, the Commission observes that it would neither be

feasible or appropriate to somehow administer an examination at actual incident scenes. Accordingly, the Commission finds that the appellant has failed to meet his burden of proof on this issue.

For the oral component of the Incident Command: Non-Fire Incident, the assessor stated that the appellant displayed minor weaknesses in organization and confidence. Specifically, as to organization, the assessor indicated that the appellant repeated many of the same actions, and that for confidence, the appellant used equivocating language like “try to do a 360 size-up,” “might have to call...”, and “probably going to...” when discussing certain actions. On appeal, the appellant argues that points should not have been deducted from his score for repeating safety actions, especially as the scenario had one team responding to a trench collapse and a second team responding to a gas leak in a residence. The appellant also asserts that multiple EMS, rest and rehabilitation teams would need to be established, making it prudent to restate certain actions. Finally, the appellant argues that safety can never be overstated.

In reply, a review of the appellant’s presentation supports the assessor’s determinations that the appellant displayed minor weaknesses in organization and confidence. The Commission finds that the appellant’s repetition of actions was not presented in a manner that conveyed that he was addressing different teams about key actions at different times. Rather, the fashion in which the appellant repeated his references to several PCAs was circuitous and disorganized. Similarly, the record confirms that the appellant displayed a weakness in confidence, based upon the tentative language he used for a number of actions. As such, the appellant was properly awarded a score of 4 for the oral component of the Incident Command: Non-Fire Incident scenario.

As to the oral component of the Incident Command: Fire Incident, the assessor found that the appellant displayed a major weakness in word usage, as he extensively used filler words like “uh” and “um.” The assessor also stated that the appellant exhibited a minor weakness in non-verbal communication, as he was constantly rubbing his thighs or otherwise fidgeting throughout his presentation. On appeal, the appellant maintains that the assessor erred in finding a weakness in his nonverbal communication, as he only rubbed his thigh briefly during the first few seconds of his presentation and stopped thereafter.

In reply, the Commission finds that the assessor properly determined that the appellant displayed a major weakness in word usage and a minor weakness in non-verbal communication. Specifically, with regard to word usage, the appellant uttered filler words like “uh” and “um” no fewer than 60 times during his response to this scenario. Thus, it was appropriately considered a major weakness. Similarly, the Commission agrees that the appellant’s non-verbal communication was a minor weakness, as he was noticeably fidgeting at times during his presentation for this

scenario. For example, the appellant could be seen repeatedly rubbing his left arm on or near his leg during at least five intervals between the four and seven-minute marks in his presentation. As such, his score of 3 for the oral component of the Incident Command: Fire Incident is proper.

The Incident Command: Non-Fire Incident scenario involves a trench rescue with a trapped victim. Question 1 indicates that the fire crews on scene are not certified or equipped to perform trench rescues and asks what specific, initial actions the candidate would take upon arrival. Question 2 states that after operating for 20 minutes, the resident of the property where the trench was located reports a gas odor in her basement and asks what actions the candidate would take in response.

For the technical component of the Incident Command: Non-Fire Incident, the assessor awarded the appellant a score of 4, finding that the appellant identified all mandatory responses, but missed the opportunity to perform several additional PCAs. The assessor further indicated that the appellant failed to identify when he was starting Question 2. On appeal, the appellant argues that when responding to this scenario, he answered the questions to the best of his knowledge and with the understanding that he had to mitigate all conditions at the scene. He maintains that stating when he was beginning Question 2 was irrelevant.

In reply, regarding the technical component of the Incident Command: Non-Fire Incident, the Commission notes that the appellant does not dispute that he failed to clearly identify when he was beginning his response to Question 2 in this scenario. The Commission observes that a review of the appellant's presentation does not indicate that he was denied credit for any additional PCA based upon his failure to clearly articulate when he was beginning his response to Question 2. Therefore, the record supports the appellant's score of 4 on the technical component of the Incident Command: Non-Fire Incident scenario.

The Supervision scenario involves two of the candidate's subordinates failing to submit required reports on recommended improvements at a monthly meeting, as ordered. Question 1 asks what actions the candidate would take regarding the failure of their two subordinates to submit their reports as ordered. Question 2 asks what actions the candidate would take to improve/guide the subordinates with their assignment.

For the technical component of the Supervision scenario, the assessor awarded the appellant a score of 2 on the basis that he failed to identify a significant number of PCAs, including, in part, the opportunity to provide clarity on details that the reports needed to contain. On appeal, the appellant argues that he did not miss the opportunity to provide clarity, as he clearly stated that he would meet with each subordinate and interview them separately.

In reply, a review of the appellant's presentation fails to demonstrate that he should have been credited with the PCA of providing clarity about the details the reports needed to contain. As such, there is no basis to alter his rating of 2 for the technical component of the Supervision scenario.

The Incident Command: Fire Incident involves a fire at a factory that screen prints plastic sheeting. Adjacent to one corner of the factory is a rehabilitation and long-term care facility for senior citizens. Question 1 asks what actions should be taken upon arrival. Question 2 states that the manager of the rehabilitation and long-term care facility requests the fire department's assistance with the patients at his facility, including 20 who are unable to walk.

For the technical component of the Incident Command: Fire Incident, the assessor awarded the appellant a score of 4, finding that the appellant identified all mandatory responses, but missed several additional actions, including the opportunity to account for the factory's employees, expanding the incident command system, and assigning a victim tracking officer. On appeal, the appellant argues that he should have been credited with accounting for the factory's employees based upon his statement that he would talk to any residents or workers to see if they knew where the fire was located or if there were any people inside the fire building, and his statement that he would assign an accountability officer for all members' safety and to ensure accountability at the scene.

In reply, it is noted that the instructions the appellant was given immediately prior to his presentation included, in relevant part: "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." The Commission observes that assigning an accountability officer was a separate PCA for which the appellant did receive credit. Moreover, the appellant's statements were too general to be credited with the PCA of accounting for the factory's employees. Accordingly, the appellant was properly awarded a score of 4 for the technical component of the Incident Command: Fire Incident.

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 ON
THE 1ST DAY OF NOVEMBER, 2023

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Elwood Faunce III
Division of Administration
Division of Test Development, Analytics and Administration
Records Center