



**STATE OF NEW JERSEY**

In the Matter of Nicholas DiGuilio,  
Fire Officer 1 (PM2389C), Jersey City

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

CSC Docket No. 2023-2222

Examination Appeal

**ISSUED: July 24, 2024 (ABR)**

Nicholas DiGuilio appeals his score on the oral portion of the promotional examination for Fire Officer 1 (PM2389C), Jersey City. It is noted that the appellant passed the examination with a final average of 87.660 and ranks 44<sup>th</sup> on the eligible list.

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, 35.90% of the score was the written multiple-choice portion, 22.04% was the technical score for the evolving exercise, 7.45% was the supervision score for the evolving exercise, 5.71% was the oral communication score for the evolving exercise, 23.20% was the technical score for the arriving exercise, 5.71% 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 Scenario); 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 Scenario). Knowledge of supervision was measured by a question in the Evolving Scenario, and was scored for that scenario. 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. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

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.

On the Evolving Scenario, the appellant scored a 5 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. On the Arriving Scenario, the appellant scored a 3 for the technical component and a 5 for the oral communication component.

The appellant challenges his score for the technical component of the Arriving Scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenario were reviewed.

The Arriving Scenario involved a report of a fire in a storage unit in a storage facility where the candidate will be the incident commander throughout the incident and will establish command. The question asks what the candidate's concerns are when sizing up this incident and what specific actions the candidate should take to fully address this incident.

On the technical component of the Arriving Scenario, the assessor found that the appellant failed to identify the mandatory response of transmitting an initial report to dispatch and that he missed a number of additional opportunities, including the opportunity to indicate that Engine 6 would be delayed. Accordingly, the assessor awarded the appellant a score of 3 pursuant to the "flex rule."<sup>1</sup> On appeal, the

---

<sup>1</sup> Generally, candidates must identify all mandatory responses to receive, at minimum, a score of 3. However, a score of 3 may also be achieved via the "flex rule," where a candidate provides many

appellant argues that he should have been credited with transmitting an initial report to dispatch based on his statements that he was on scene and establishing command, setting up a command post on the “A” side of the building, performing a multi-sided view of the structure and that it was a working fire. In doing so, he avers that these points met the criteria of an initial report and that these items would be communicated to dispatch. He presents that other candidates who did not directly state that they were giving a report to dispatch on arrival were not marked down for failing to identify the subject mandatory response. Based upon the foregoing considerations, the appellant asserts that he should have received a score of 5 on the subject technical component. The appellant contends that he should have also received credit for the additional PCA of indicating that Engine 6 would be delayed because he stated “[m]embers of Engine 6 establish a secondary water supply once on scene” and indicated, after calling for additional alarms, that once Engine 6 arrived, he would give them a task. He presents that by referencing Engine 6 in this manner, it conveyed that Engine 6 was in on the initial call and would be delayed.

### CONCLUSION

In the instant matter, a review of the appellant’s presentation fails to demonstrate that he covered the PCAs at issue. The appellant stated the actions he would take on scene and received credit for the corresponding PCAs, but he gave no indication that he was giving an initial report to dispatch, as required. Additionally, the appellant has offered no support for his claim that other candidates received credit for the subject mandatory response without directly stating that they were giving a report to dispatch on arrival. Thus, he was properly denied credit for the subject mandatory response. As to the additional PCA of acknowledging that Engine 6 would be delayed, the Division of Test Development, Analytics and Administration (TDAA) notes that the question specifically asked what the candidate’s concerns were when sizing up this incident. It submits that the scoring standard required candidates to specifically address the delay of Engine 6 to receive credit because the delay impacts available personnel and fire suppression. As such, TDAA maintains that the appellant’s brief mention of having member of Engine 6 “establish a secondary water supply once on scene” was insufficient to award the appellant credit for that PCA. The Civil Service Commission agrees that the appellant’s statement that “[m]embers of Engine 6 establish a secondary water supply once on scene” was too general to award him credit for the PCA regarding the Engine 6 delay. Accordingly, 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.

---

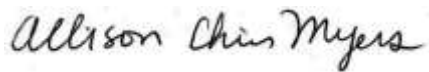
additional responses, but does not give a mandatory response. However, a score higher than a 3 cannot be provided utilizing the flex rule.

**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 24<sup>TH</sup> DAY OF JULY, 2024



---

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: Nicholas DiGuilio  
Division of Administrative and Employee Services  
Division of Test Development, Analytics and Administration  
Records Center