

B-24



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Joseph Lyga,
Deputy Fire Chief (PM1693S),
Bayonne

CSC Docket No. 2016-836

Examination Appeal

ISSUED: **OCT 22 2015**

(RE)

Joseph Lyga appeals his score on the examination for Deputy Fire Chief (PM1693S), Bayonne. It is noted that the appellant passed the examination with a final average of 83.780 and ranks third on the resultant eligible list.

The subject promotional examination was held on April 29, 2015 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: 1, 4, 3, and 4. He received the scores of 3, 4, 3, and 3 for the oral communication components.

The appellant challenges his scores for the technical components for the Incident Command – Non-fire Incident, and Incident Command – Fire Incident scenarios. As a result, the appellant's test material, audiotape, and a listing of PCAs for the scenario were reviewed.

The Incident Command – Non-Fire Incident scenario pertained to a report of multiple victims down and fleeing the local supermarket. It is a Sunday afternoon in January, 37°F, with wind blowing from the west at 10 mph. Upon arrival, the Deputy Fire Chief witnesses a chaotic scene with people frantically running out of the store, and there is a report of unconscious victims inside. People are running clear of the area and some are attempting to leave in their cars, causing some minor traffic issues in the parking lot. Instructions to candidates were to base their responses on the text *Hazardous Materials: Managing the Incident*, the *Fire Officer's Handbook of Tactics*, and their experience. Question 1 asked for specific initial actions and considerations upon arrival. Question 2 indicated that initial orders have been given. Dispatch advises of a chemical exposure or possible terrorism event that was called in just after the Deputy Fire Chief's arrival. The question asked for specific actions to now take to mitigate the incident based on this new information.

For this incident, the assessor noted that the appellant failed to coordinate with law enforcement for traffic control and control victims leaving the scene, and to rescue the victims who are outside. These were both mandatory responses to question 1. They also indicated that he missed the opportunities to consult with store representatives, which was an additional response to question 1, and to notify the health department of possible contaminated food, which was an additional response to question 2. On appeal, the appellant argues that he stated he would call police for perimeter control and people leaving the area.

In this scenario, certain responses to the situation presented are mandatory. That is, 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: 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 from 3 to 5.

The appellant received a score of 1 for this component which reflects a much less than acceptable response as he did not address two mandatory responses. For question 1, coordinating with law enforcement for traffic control and controlling victims leaving the scene, and rescuing the victims who are outside were mandatory responses. A review of the appellant's audiotape indicates that he missed these responses.

In addition, in the instructions listed after the questions, candidates were told that in responding to the questions to be as specific as possible. They were told to not assume or take for granted that general actions would contribute to their score. The monitor read these instructions immediately after reading the questions. In his response to question 1 the appellant stated, "Ah at this time I want to have the police to respond. I want to do perimeter control," "Um, we're gonna, perimeter control. I'm going to have PD do a perimeter control to isolate, move nonessential person out of the area," and "I'm also going to be reviewing DOT ERG for possibly what's going on within the building. Um, taking the report, we're going to have companies go in. We're going to be monitoring the building with our meters, to find out a product."

At this point, the appellant had not mentioned that he would coordinate with law enforcement for traffic control and control victims leaving the scene. As such, the assessor asked, "You've also mentioned PD on, a couple of times. Could you be specific about that?" The appellant replied, "PD is for perimeter control, to isolate the area, to move all nonessential people out of the area. Um, we're also gonna have PD respond for the apartment complex next door to isolate, which is going to be public protection actions. Close windows at this time. Close doors at this time." The appellant did not coordinate with the police regarding traffic control and controlling victims leaving the scene. As mentioned, credit cannot be given for information which is implied or assumed. It cannot be assumed that the appellant had law enforcement control victims leaving the scene by moving nonessential people out of the perimeter. These are separate actions. And the appellant's response is not the same as that listed by the assessor. For question 1, the appellant missed the mandatory responses as noted by the assessor, and he missed the additional responses as well. His score of 1 for this component is correct.

The Incident Command-Fire scenario concerned a report of a dumpster fire at a construction site. The building under construction is 120 room resident inn hotel on a busy four-lane highway. It is a four-story hybrid building of mostly wood framing. The driveway has not been paved and is currently not passable due to mud and construction materials and equipment (e.g., dump trucks, Lulls, etc.). The fire is rapidly extending through the structure, and Engine One reports they are unable to gain direct access to the burning area of the building due to muddy driving surfaces and a large amount of construction material and equipment throughout the site. A foreman tells you that several workers have been working on the fourth floor roof in the center section and are unaccounted for and may be trapped. Instructions asked candidates to base their responses on the text *Fire Officers Handbook of Tactics* and their experience. Question 1 asked for specific concerns at this incident upon arrival. Question 2 asked for specific actions to take to mitigate the incident.

The assessor noted that the appellant missed the opportunity to consider using construction equipment for operations (e.g., use the Lull for rescue or elevating hose streams, etc.) On appeal, the appellant stated that he used unmanned deck guns and ladders and master streams on the fire. He also stated that there was no OSHA and NFPA approved construction equipment listed to use for fighting the fire. He argues that the dump truck was no help, and the scenario did not indicate if the Lull had an OSHA-compliant work platform.

In reply, question 2 asked for specific actions to take to mitigate this incident, and the SMEs determined that the Deputy Fire Chief should consider using construction equipment for operations. The appellant received credit in question 1 for stating the need to use master streams as a specific concern. He also received credit in question 2 for laying hose lines for portable master streams to control the fire. However, he did not give any consideration to using the construction equipment for operations. Essentially, the appellant is arguing that he considered using construction equipment but that it would not have been helpful as there was no indication that it was approved. Nonetheless, the appellant did not mention this consideration at all in his presentation. In fact, the appellant stated, "We're going to try to move as much, if possible, the construction equipment away from the building. I'll utilize, utilize the foreman at this time, um, to mitigate possibly that situation." It cannot be assumed that the appellant considered using the construction equipment for operations, such as using the Lull for rescue or elevating the hose streams, when he did not mention doing so. His argument that this action was ineffectual was not agreed to by the SMEs and is unpersuasive. The appellant's score of 4 properly reflects the responses given in his presentation.

CONCLUSION

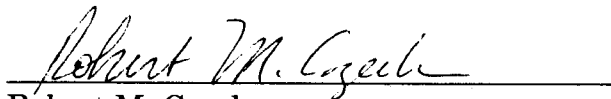
A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

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 21st DAY OF OCTOBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Joseph Lyga
Dan Hill
Joseph DeNardo
Joseph Gambino