



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of  
Howard Hayes, Fire Officer 1  
(PM1194S), Jersey City

CSC Docket No. 2016-2680

Examination Appeal

ISSUED: OCT 25 2016 (RE)

Howard Hayes appeals the test administration for the oral portion of the promotional examination for Fire Officer 1 (PM1194S), Jersey City, and the scoring of the examination. It is noted that the appellant passed the subject examination with a final score of 87.280 and his name appears as the 69<sup>th</sup> ranked eligible on the subject list.

It is noted for the record that 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, 31.35% of the score was the written multiple-choice portion, 22.49% was the technical score for the evolving exercise, 7.53% was the supervision score for the evolving exercise, 4.28% was the oral communication score for the evolving exercise, 19.23% was the technical score for the arriving exercise, 7.53% was the supervision score for the arriving exercise, and 7.59% 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); 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). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. 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. For the evolving scenario, the appellant scored a 3 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. For the arriving 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 appeal, the appellant states that there was an unfair and unfortunate incident during his presentation. He states that he was under stress, and an alarm started beeping. He states that the monitor frantically checked her bag and moved about the room directly behind the camera, causing a huge distraction, and eventually found the alarm in a desk in the classroom. She apologized, but this distraction made him lose two crucial points on the test. He states that he missed these actions due to this interruption. He also states that he was given a 20 second extension to add anything that he missed at the end of the presentation, but that this was unacceptable because he did not know what he had missed during the interruption.

Next, regarding scoring, the appellant argues that he calculated his score using the method provided in the orientation guide. He states that other members ranking higher than him on the current list have less seniority than he does, and he appeals the scoring of the examination.

*N.J.A.C. 4A:4-6.4*, (Review of examination items, scoring and administration) states that appeals pertaining to administration of the examination must be filed in writing at the examination site on the day of the examination.

## CONCLUSION

At the outset, Mr. Hayes' appeal of test administration was postmarked on February 5, 2016, almost eleven months after the examination was given and after receiving his examination results. As such, this appeal is clearly untimely. Appeals of test administration must be filed in writing at the examination site on the test date. See *N.J.A.C. 4A:4-6.4(c)*. Monitors are required to make an announcement before the start of each examination that, should a candidate wish to appeal the test administration, he or she *must* do so at the test center. Additionally, all candidates for examinations are provided with an informational flyer that specifically informs them of the need to appeal administration issues, including how the examination is conducted, at the examination center. Specifically, the back of the Rights and

Responsibilities of Test Takers form states, "Candidates should complete a Test Administration Comment/Appeal form provided at the test center to file their objection, and have 5 business days to submit their \$20 appeal fee where applicable." The instructions for the Test Administration Comment/Appeal form state, "All appeals concerning administrative procedures (the way the test was administered) must be **submitted in writing before you leave the building**. Subsequent appeals regarding test administration will not be accepted." The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003).

Regarding test administration, a review of the merits of this appeal shows that the appellant is not entitled to any relief. For the technical component of the evolving scenario, the appellant received a score of 3. The assessors indicated that he missed a mandatory response, ordering the evacuation of the building/sounding evacuation tones, and an additional response, calling or requesting the building department. Both of these responses were in reference to question 2, the evolution of the scene. The assessors applied the "flex" rule to assign a score of 3. 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 from 3 to 5.

A review of the test materials reveals that approximately 1 minute into the presentation a beeping can be heard and it continues for approximately 20 seconds. The appellant continued talking, but it is evident that he was distracted for about 4 seconds before the beeping stopped. The appellant said "I'm sorry," just before the monitor said "I'm sorry," and looking annoyed, the appellant said "That's okay." This was during the appellant's response to question 1, and he continued talking at a normal pace. A review of the scoring materials indicates that the appellant provided every PCA for question 1, and he began responding to question 2 a little over 5 minutes into his presentation. It is noted that the appellant had a timer at his desk and referred to it. In question 2, a parapet wall partially collapses, and candidates were expected to order an evacuation of the building. The appellant did

appellant did not take this action. After having members withdraw to a safe distance, he ordered a hoseline to the seat of the fire, to locate, confine and extinguish the fire. In order for him to have added the mandatory response of evacuating the building, he would have had to have provided a different attack mode than the one that he already had stated. In the additional 20 seconds provided, the appellant said he would add information to question 1, but chose not to do so. The monitor offered the appellant a remedy for the 20 second distraction immediately after the presentation, and in addition to being untimely, the situation does not warrant any further action.

As to the scoring of the examination, every candidate received a Candidate Feedback Report at examination review which explained standardization in layman's terms and provided all the calculations relative to the individual candidate. Standardization preserves the relative weighting of each of the components of the examination. Under this process, a standardized z-score represents both the relative position of an individual score in a distribution as compared to the mean and the variation of scores in the distribution. Z-scores will form a distribution identical to the distribution of raw scores; the mean of z-scores will equal zero and the variance of a z-distribution will always be one, as will the standard deviation. This places all scores on the same scale, that is, it provides a score that is directly comparable within and between different types of scores. A negative z-score indicates the score is below the distribution mean, while a positive z-score indicates the score is above the distribution mean. These scores are then "normalized." Standardization allows for the comparison of scores that are from different normal distributions. When an examination has multiple disparate scores, weighting each of them and adding the weights together results in a nonsensical final average, since each score has a different normal distribution. The appellant's calculations do not include standardized scoring and are simply incorrect.

### 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  
THE 19<sup>th</sup> DAY OF OCTOBER, 2016

  
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