



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of
Manuel Gonzalez Jr., Fire Captain
(PM1136S), Paterson

CSC Docket No. 2016-2684

Examination Appeal

ISSUED: **OCT 25 2016** (RE)

Manuel Gonzalez Jr. appeals his score for the oral portion of the promotional examination for Fire Captain (PM1136S), Paterson. It is noted that the appellant passed the subject examination with a final score of 86.340 and his name appears as the 44th 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 Captain 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 firefighters 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.

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. For a performance to be acceptable, 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. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. If the SME scores differed by 1 point, the score was averaged. If they differed by more than 1 point, the SMEs were required to confer with each other until they agreed on a score. Scores were then converted to standardized scores.

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.

For the evolving scenario, the appellant scored a 5 for the technical component, a 3.5 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 2.5 for the supervision component, and a 5 for the oral communication component. The appellant challenges his scores for the supervision components of both scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed. The appellant also states that he received no points or consideration for veteran status, and he found errors in his seniority score.

Regarding veteran status, consideration is not given to veterans in the scoring of a promotional examination. Thus, no candidate receives examination credit for veteran status. Veteran status affects only the promotional certification procedures. See *N.J.A.C. 4A:5-2.2(b)*. The appellant received the maximum seniority score, 95.000.

The evolving scenario involves a report of a fire in a bakery, which is a single-story, wood-frame building with a wood truss roof built in the 1970s. It is a 9:00 AM on a Sunday in September and the temperature is 72° Fahrenheit with clear skies and a wind blowing from west to east at 6 MPH. Upon arrival, it is noticed that smoke is coming from the front door on side A. The candidate is the commanding officer of the first arriving ladder company, is first on scene, and establishes command. Question 1, asked for specific actions to be taken upon arrival. Question 2 indicated that fire has reached the wood roof trusses, causing one to fail. This question asked for actions that should now be taken based on this new information. The supervision question indicated that, while on scene, a firefighter from the candidate's crew hesitates and is slow to comply with an order he gives. The firefighter insists that there is a more important task to complete first, and the candidate disagrees. This question asks for actions to be taken at the scene and after returning to the firehouse. Instructions indicate that, in responding to the questions, the candidate should be as specific as possible in describing actions, and should not assume or take for granted that general actions will contribute to a score.

For the supervision component, the assessors indicated that the appellant missed the opportunities to ensure the firefighter's assigned tasks are completed, and to review the training records of the firefighter. On appeal, the appellant argues that he stated that engine and ladder companies would report to the Incident Commander (IC) their situation status in his response to question 1. He also states that he said he would review the firefighter's files for past infractions, and that the use of the word "files" in this context is synonymous with training records.

In reply, a review of the appellant's presentation indicates that he read question 3, and then stated, "I would identify the problem and gather all my facts, all the information and any past infrastructures on this firefighter and his behavior. I would doc... I will then call for a meeting and place him at ease and get his side of the story on how come why he has not complied with our orders and go over standard operating procedures and guidelines in reference to any insub... insubordinations as well. And also let him know that this is being documented and that he will be held, held accountable for his ah, insubordination. And that this will be an oral and written reprimand." As noted above, credit could not be given for information that was implied or assumed. In this passage, the appellant received credit for interviewing the firefighter to get his side of the story, recommending disciplinary action, and documenting any actions taken. However, the appellant clearly did not take the actions listed by the assessors. In fact, the appellant did not even use the word "files" as stated in his appeal. He also mispronounced the word "infractions" as "infrastructures," and in any event, gathering information about past infractions is obviously not the same as reviewing training records. He did not provide any actions that he would take while on the fireground including

ensuring the firefighter's assigned tasks are completed. He cannot receive credit in question 2 for information given for question 1. This was a formal presentation, and candidates were required to provide specific responses to the information in the scenario. The appellant missed the actions listed by the assessors and his score for this component will not be changed.

The arriving scenario involves a fire in a two-story, wood-frame townhouse built in the early 1980s. The townhouse is one of four connected units, with exposures B and D as similar townhouses. It is a 9:30 AM on a Monday in September and the temperature is 61° Fahrenheit with cloudy skies and a wind blowing from west to east at 5 miles per hour. Upon arrival, it is noticed that smoke is coming from the first and second floor windows on side A. Dispatch reports the caller is an occupant in the second floor bedroom who awoke to smoke coming up the stairs and was forced back into his bedroom. He is at home with two other roommates. The candidate is the commanding officer of the first arriving engine company and is first on scene. The technical question, question 1, asked for specific actions to be taken upon arrival. The supervision question indicated that, after the incident, a rookie firefighter tells you he observed a veteran firefighter being careless with the tools at the incident. He noticed that a veteran firefighter was not properly using them and did not return them to their proper place on the apparatus. This question asked for actions to take to address the rookie firefighter's concerns. Instructions indicate that, in responding to the questions, the candidate should be as specific as possible in describing actions, and should not assume or take for granted that general actions will contribute to a score.

In regard to the supervision component, the assessors noted that the appellant missed the opportunities to inspect the tools/apparatus used at the incident, to review the veteran firefighter's records, and to review the rookie firefighter's training records. On appeal, the appellant states that he clearly indicated he would go over all Standard Operating Guidelines and Standard Operating Procedures (SOGs and SOPs) regarding proper placement in handling of tools with the firefighters, and review all of their files.

In reply, for his response to question 2, the appellant stated, "Question number 2. I would identify the problem with the rookie firefighter. I would gather all my facts and information in reference to the firefighter and find out if there is any past infrafra.. infrafra... um, infrastructures in reference to any past misbehaviors as well. I would then call for a meeting, a meeting with him, place him at ease, and go over all standard operating procedures and guidelines on proper tools, use of tools as well as replacement. I would then ensure that, I would find out why he was unaware and unable and unwilling in reference to placing back tools where they belong as well as proper use. We would then come to a solution to the problem together. I would also inform him that this would be a, an oral reprimand, and I

would also reinforce a positive reinforcement. I would also let him know that everything is being documented at this time and that I, he will be held accountable for his actions. I would also ensure that we then, that I then conduct a follow-up with this firefighter for progress or any lack of progress. I will also let him know that, that I have an open door policy. That if there is any issues regarding inside the firehouse or outside of the firehouse that we can, we can always address those concerns. And that all information found will be held confidential and that I'll also be letting the chief know all the facts finding, and all the information as well. I would also ensure that the firefighter also knows that he has a right to union representation and that I will also offer to him critical incident stress debriefing and also offer to the firefighter employee assistance program as well." The appellant then reviewed his notes, and provided additional actions to question 1.

A review of this response indicates that the appellant did not properly respond to the question. The appellant references the rookie firefighter once, but never mentions the veteran firefighter. After referencing the rookie firefighter, and the appellant uses the pronoun "he" and does not identify which firefighter he is interviewing or referring to. As noted above, credit cannot be given for information that is implied or assumed. The assessors made the assumption that the appellant was referring to the veteran firefighter. However, a review of the presentation indicates that the appellant never referred to the veteran firefighter. Instead, he indicated that he would review the problem of the rookie firefighter. This was a misunderstanding of the question. The appellant received credit for interviewing the veteran firefighter, which he did not do.

In addition, the appellant took no actions to verify the observations of the rookie firefighter, so there is no basis to conclude that the rookie firefighter was right or wrong. Also, candidates were expected to review any SOPs on the proper use and maintenance of the tools. This is an action that would be done prior to the interview so that the supervisor would be aware of the current and proper use of tools in order to be able to explain the situation properly. The appellant indicated that he would go over the standard operating procedures and guidelines on the proper use and placement of tools during the meeting. The appellant should not have received credit for this response, as it was not an action taken to prepare for the interview. In other words, the supervisor was reviewing the SOPs at the same time that he was sharing them with the subordinate.

The question asked for actions to take to address the rookie firefighter's concerns, and it was expected that the candidate would keep the chief informed of the investigation progress or of the outcome. Working with the assumption that the appellant was interviewing the veteran firefighter, telling the firefighter that you would tell the chief is not the same as actually telling the chief. The appellant should not have received credit for keeping the chief informed of the investigation

progress or of outcomes. Additionally, it goes too far to suggest counseling by the employee assistance program for the careless use of tools at an incident, and there is no purpose in offering critical incident stress debriefing given the facts of this scenario. The appellant did not properly handle the situation, and as a result, his score for this component should be lowered from 2.5 to 1.

CONCLUSION

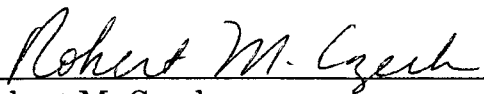
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied, and the score for the supervision component of the arriving scenario be reduced from 2.5 to 1.

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 19th DAY OF OCTOBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Manuel Gonzalez Jr.
Michael Johnson
Records Center

