



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of  
Raphael Paredes, Fire Captain  
(PM1136S), Paterson  
  
CSC Docket No. 2016-2685

Examination Appeal

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

Raphael Paredes, represented by Harley Breite, Esq., 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 83.470 and his name appears as the 57<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 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 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.

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 5 for the supervision component, and a 3.5 for the oral communication component. For the arriving scenario, the appellant scored a 5 for the technical component, a 4 for the supervision component, and a 3.5 for the oral communication component. The appellant challenges his score for the oral communication components of both scenarios, and the supervision component of the arriving scenario. He also requests a hearing. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

In regard to a hearing, examination matters are typically decided by the Civil Service Commission on a review the written record. Hearings are granted only in those limited instances where the Commission determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. See *N.J.A.C. 4A:2-1.1(d)*. No material issue of disputed fact has been presented which would require a hearing. See *Bellville v. Department of Civil Service*, 155 *N.J. Super.* 517 (App. Div. 1978).

With respect to the oral communication component of the evolving scenario, the assessors noted that the appellant's presentation had a weakness in organization. Specifically, they stated that he did not organize his presentation and present ideas in a logical fashion. They stated that he provided supporting detailed arguments for the actions taken, but he frequently jumped around, repeating actions already taken. On appeal, the appellant states that the assessors did not offer an explanation for their score of 3.5, which indicates impropriety and gives an appearance of failure of due process on the part of the Commission.

In reply, the assessors clearly noted reasons for the oral communication weaknesses, and it is unclear why the appellant believes otherwise. A factor in oral communication is organization, which is defined as presenting ideas in a logical fashion, stating a topic, and providing supporting arguments as well as a conclusion or summary. Candidates were required to focus their responses on the scenario and the question. That is, they were required to respond to the questions given the information provided.

The evolving scenario clearly states that the candidate has established command; however, a review of the appellant's presentation indicates that he refers to command as though he is not in command. In addition, the appellant repeats information already given, either repeating information within the same passage or repeating words. In response to question 2, the appellant gave information already given in question 1. Also, the appellant used distracting verbal mannerisms. Throughout his presentation, he said "okay," or "K" and "ah." The appellant began many of his sentences with "I will," as though reading a laundry list, and he spoke in incomplete sentences at times. For example, the appellant stated, "I will conduct salvage and over, preoverhaul, expose any hidden fire in floors, walls, voids, and ensure fire is extinguished. I will coordinate, communicate, and give progress reports to command. I will rescue and remove any victims that are found. I will shut down gas, ah, utilities, gas, electric and water at the meter. I will give progress reports to command. Okay, ah, ah, possible backdraft conditions, ah due to smoke puffing out the, front door and, and the window. Ah, question number two. Ah, the fire has reached the wood trusses. I will request utilities on scene. Ensure that utilities are shut down, gas, electric and water. Additional second and third alarms with additional staging. Police to cordon off the area. EMS for treatment, triage and transport of any victims, firefighters and occupants found." The appellant had also called for police and the EMS in response to question 1. He then called a second time for a Rapid Intervention Team (RIT), safety officer, water supply officer, accountability officer, and a rehab officer. He then notified command once more. Although at this point there has been a collapse, the appellant monitored for flashover and backdraft. Twice more he gives progress reports to command. The appellant repeated information in question 2 that was superfluous, and already given in question 1, and at times, the appellant spoke in grammatically

incorrect sentences. The appellant's presentation for the oral communication component does not warrant a higher score.

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 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 opportunity to inspect the tools/apparatus used at the incident. On appeal, the appellant states that he said he observed that the senior firefighter put the tools back in the right compartment, and back at the firehouse followed the proper protocol for disciplining the firefighter.

In reply, the scenario said nothing about the veteran firefighter putting the tools back in the right compartment at the scene. After the appellant read this question, he gathered information from the rookie firefighter, and then gave actions that he would take back the firehouse. Question 2 indicated that the veteran was not properly using tools and did not return them to their proper place on the apparatus. The appellant's focus, in his interview with the veteran firefighter, was on putting tools in the proper place on the apparatus, and did not mention their proper use. After interviewing him, the appellant said he was reprimanding him. He said the first time would be an oral reprimand, the second time would be written, and the third time he would be sent to the chief's office for termination or possible suspension. He said charges would be forwarded and he informed him of due process, appeals and hearings, and the right to a union representative. There was nothing in this scenario that indicated that this was the second or third offense by the veteran firefighter, and telling the firefighter these disciplinary procedures at this point in time is threatening to the subordinate. This is not indicative of proper

supervision of the subordinate given the details of this incident. The appellant stated that he would follow up with a firefighter and make sure he was putting the tools in the right place. This is not the same action as inspecting the tools and apparatus used at the incident to verify the rookie's statement. The appellant's response to the supervisory component was not an optimal response, and his score will not be changed.

As to the oral communication component, the assessors indicated that the appellant's response was not properly organized with ideas presented in a logical fashion. They stated that he frequently repeated prior actions already taken several times, and that he talked to command, but he is command. On appeal, the appellant states that safety statements should be reiterated if time permits according to New Jersey State guidelines and various texts.

In reply, this was a formal examination setting and candidates were informed that oral communication would be scored. If the appellant states an action the first time, he will receive credit for it; additional credit is not given for repeated actions. In fact, at some point, this detracts from the presentation. A review of the appellant's presentation indicates that at the start of his presentation, the appellant established command and located the command post. He gave a few size-up factors, called for utilities, and called for additional alarms, police, EMS, RIT, various officers, and hazmat. The appellant gave orders to his companies, and within his orders, he notified command. After venting the roof, the appellant shut down the utilities, gas, electric and water. After overhaul, he gave progress reports to command, and then said at this time he would monitor conditions for flashover, rollover and backdraft. This is illogical, as he is monitoring for flashover, rollover and backdraft after the fire is darkened down and the building is fully ventilated.

Several times, the appellant said he would coordinate attacks with attack, vent and rescue teams. After overhaul and ensuring all fire was extinguished, the appellant conducted a secondary search and rested, rehabbed and rotated personnel. After turning the fire building over to the owner, the appellant evacuated the exposures, and then conducted primary and secondary searches of exposures with a hose line in place. The appellant responded to question 2, then repeated that, for question 1, he would rescue and remove all victims found in kitchens, bedrooms, and bathrooms, and he would check under beds, and perform primary and secondary searches. All of this information was already given. He discussed the structure, and then began repeating preliminary information and other information already given, such as having hoselines in the exposures. He was not repeating "safety statements." He repeated, yet again, "I will coordinate attacks with attack, vent and rescue teams. I will give progress reports, all my ah, ah, progress, I will give command my progress reports." After this, the appellant turned the building over to the proper representation yet again.

Lastly, the appellant appeals that he was graded unfairly, and states that he discussed "these matters" with various other candidates and higher ranking members of the Department. In reply, assessors used in the examination process are trained specifically for each test administration. A training program was administered to the assessors that stressed proficiency and reliability in the examination. Assessors are not concerned with feelings, opinions, or inferences, just what candidates *did* during the exam. Behaviors can be identified as related to specific components, and they can be identified within presentations. All candidates are scored by comparing their responses to a set list of possible courses of action which were developed by the SMEs in response to particular scenarios, and the appellant's presentation was not treated differently than any other. His presentation was not compared to the presentations of other candidates.

At this juncture, it should be noted that the appellant has admitted in his appeal that he discussed "these matters" with other candidates. In this regard, the Commission has a duty to ensure the security of the examination process and to provide sanctions for a breach of security. See *N.J.S.A.* 11A:4-1(c). In order to carry out this statutory mandate, *N.J.A.C.* 4A:4-2.10 identifies a number of prohibited actions in the conduct or administration of an examination and provides for the disqualification of candidates participating in such actions. The policy of not discussing test content was important enough that all candidates were required to sign a security pledge that they would not discuss the test content with anyone who had taken the test or with anyone who was a potential makeup candidate. This signature also indicated that the candidate was aware that if he or she violated this pledge, he or she would be subject to punishment. This document does not indicate that it is acceptable to discuss test content in the future, once examination reviews are completed. If the appellant discussed test content with others, he has violated this pledge and will be disqualified. The appeal statement stops just short of an admission that the appellant discussed test content with others, so on this record, there is not sufficient evidence to support a disqualification at this time. However, the appellant should be cognizant of his continuing obligation to not violate his pledge.

### CONCLUSION

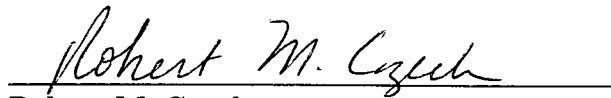
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

### 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



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: Raphael Paredes  
Harley Breite, Esq.  
Michael Johnson  
Records Center

