



B-18

STATE OF NEW JERSEY

In the Matter of Steven Strauss,
Battalion Fire Chief (PM1494T),
Elizabeth

CSC Docket No. 2017-1466

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Examination Appeal

ISSUED: FEB 24 2017

(RE)

Steven Strauss appeals his score on the examination for Battalion Fire Chief (PM1494T), Elizabeth. It is noted that the appellant failed the examination.

This two-part examination consisted of an integrated system of simulations designed to generate behavior similar to that required for success on the job. The first part consisted of 70 multiple-choice items that measured specific work components identified and weighted by the job analysis. The second part consisted of three oral scenarios; a Supervision, Administration and Incident Command scenario. All candidates received the same multiple-choice exam, but differing versions of the oral exercises were given based on the day the oral exam was administered. The examination was based on a comprehensive job analysis conducted by the Civil Service Commission, which identified the critical areas of the job. The weighting of the test components was derived from the job analysis data.

For the oral portion, candidates had 60 minutes to prepare for all three scenarios and had 10 minutes per scenario to present their response. For all three oral exercises, the candidate was to assume the role of a Battalion Fire Chief. Candidates were scored based on the content of their response (technical) and the how well they presented their response (oral communication). Both of these dimensions were scored on a scale of 1 to 5 with 1 being the lowest rating and 5 being the highest rating.

Each candidate in a given jurisdiction was scored by a team of three different Subject Matter Experts (SMEs), who were trained in current technical and oral communication scoring procedures. Each SME is a current or retired fire officer who

held the title of Battalion Fire Chief (or Fire Officer 2) or higher. As part of the scoring process, an SME observed and noted the responses of a candidate relative to the knowledge, skills and abilities (KSAs) that each exercise was designed to measure. An SME also noted any weaknesses that detracted from the candidates overall oral communication ability. The SME then rated the candidate's performance according to the rating standards and assigned the candidate a technical or oral communication score on that exercise.

In order to preserve the relative weighting of each of the components of the examination, the ratings for each portion were adjusted by a well-recognized statistical process known as "standardization." Under this process, the ratings are standardized by converting the raw scores to z-scores, an expression of the deviation of the score from the mean score of the group in relation to the standard deviation of scores for the group. Each portion of the examination had a relative weight in its relation to the whole examination. Thus, the z-score for the multiple-choice portion was multiplied by a test weight of 36.53%, the oral technical scores were multiplied by a test weight of 53.91% and the oral communication scores were multiplied by a test weight of 9.56%. The weighted z-scores were summed and this became the overall final test score. This was weighted and added to the weighted seniority score. The result was standardized, then normalized, and rounded up to the third decimal place to arrive at a final average.

For the technical and oral communication components of the Supervision, Administration and Incident Command scenarios, the appellant received scores of 2, 2, 1 and 4, 5, 2, respectively.

The appellant challenges his scores for the technical components of each scenario and for the oral communication component of the Incident Command scenario. As a result, the appellant's test material and a listing of possible courses of action (PCAs) for each scenario were reviewed.

The Supervision scenario involved a firefighter with a bruise. Firefighter Delacano indicated to the candidate that he fell and hurt himself. The candidate asks Captain Connor to look into the matter and the Captain confirmed that the firefighter injured himself in an accident. A few days later, Firefighter Delacano explains that he was hit in the face with a ladder by another firefighter during a training exercise. The firefighter claimed it was an accident but Firefighter Delacano thinks he did it on purpose. Firefighter Delacano has been anxious since he was transferred to Captain Connor's company, but feels that they've been together a long time and resents him. Captain Connor was present at the training accident, and Firefighter Delacano believes he took no action since he was close friends with the other firefighter. The question asked candidates to base their responses on the text *Managing Fire and Emergency Services*, and their experience. Question 1 asked what should be said in the meeting with Firefighter Delacano. Question 2 indicated that, as a result of the

investigation, the candidate has determined that Firefighter Delacano was assaulted and Captain Connor covered up the incident. This question asked what actions should be taken now based on this new information in regards to Captain Connor.

The assessor indicated that the appellant missed the opportunities to ask Firefighter Delacano if he would like any medical attention (question 1), to provide clear notice of specific charges (question 2), and to recommend that Captain Connor be suspended/transferred (question 2). On appeal, the appellant argues that an in-house assault should not be handled by just the fire department leader, as it overlooks the seriousness of the offense and any answer without outside referral is incorrect. He argues that he referred Captain Connor to the police, and therefore it was premature to recommend a suspension or transfer without an outcome of the police investigation. He contends that there is no reason to provide a clear notice of specific charges, since he would not be facing departmental charges until the police determination had been issued. He contends that medical attention, if required, would have already been addressed by lower ranking officers and a bruise to the face does not usually require medical attention. He believes this would be a waste of department money and generate unnecessary injury leave.

In reply, the appellant's argument that he did not have to take the actions listed by the SME since he involved the police is unpersuasive. The PCAs are developed by a committee of SMEs who are, or who have been, senior personnel in various fire departments. They determined the appropriate PCAs in response to the questions regarding the stimulus material in the scenario. The appellant is in disagreement with the proper handling of the issue in the scenario, but there is no substantiation for his position except his own opinion. The scenario indicated that the candidate's investigation resulted in a determination that Firefighter Delacano was assaulted and Captain Connor covered up the incident. As the BFC, the appellant would be remiss to ignore this determination and let Firefighter Delacano continue to work for Captain Connor until sometime in the future when the police investigation was finished. The police will determine if criminal charges will be brought against the Captain. However, the Fire Department has the responsibility of handling this work environment, as it can be held liable for Captain Connor's acts. If a complaint is founded, necessary follow-up action includes discipline or transfer to another location, and the employee should be provided clear notice of specific charges as to why this is occurring.

In response to question 1, the appellant focused his discussion on having the firefighter tell the truth, and then he asked him for his side of the story. Rather than provide any specific actions, he stated, "And, I'm just going to tell you too, whatever happens, we're going to deal with it. We're going to get through this and we'll, we'll move forward." This does not provide any information to the firefighter of definitive actions that will be taken. Additionally, the candidate is unaware of the extent of the firefighter's injuries, and to not address this is inappropriate on the appellant's part.

In response to question 2, the appellant indicated it was a criminal matter and that there was no further reason to interview the Captain, and he turned the matter over to his supervisor. Thus, he delegated the handling of the issue which he should have been addressing, and personally took no supervisory actions with Captain Connor. The appellant missed the actions noted by the SME, and his performance is less than acceptable. His score for this component will not be changed.

The Administration scenario indicated that there was a long delay in apprehension of the individuals involved in a rash of arson incidents in a neighboring town due to mismanagement of evidence by the firefighters in that jurisdiction. The Fire Chief wants to take proactive action against this possibility, particularly considering that the Standard Operating Procedures/Guidelines (SOPs/SOGs) have not been updated in over eight years. The Fire Chief asks the newly appointed Battalion Fire Chief to update and revise the SOPs/SOGs to reflect current standards. The question asked candidates to base their responses on the text *The Fire Chief's Handbook*, and their experience. Question 1 asked for initial steps to take to update scene security SOPs/SOGs. Question 2 asked what should be included in a SOP/SOG dealing with scene security.

The SME indicated that the appellant missed the opportunities to form a committee from all ranks of the Fire Department (question 1), to look out for any suspicious activity/person (question 2), and to inform someone immediately if an immediate threat was found (question 2). On appeal, the appellant stated that he asked various parties for their input, which he opines is a valid method of seeking input. He states that most SOGs are formulated by one person without the use of a formal committee. He states that looking out for any suspicious activity/person is too general and routine to be required in any SOG, similar to indicating that you would "respond with lights and sirens" to a high-rise fire. He indicates that this is standard knowledge, usually left out in the interest of brevity and so as to emphasize more important information.

In reply, the appellant indicated that he would seek information from the local police department and from the neighboring town. He received credit for these responses, which are different from forming a committee from all ranks of the Fire Department. He then stated that he would solicit information from other supervisors and superior officers, specifically, if they have written SOPs and what is involved. That is, he solicited their help in writing the SOPs, but he did not indicate what content that this would include, if any. The appellant then distributed the SOPs to superior officers, and revised it based on their responses. It is noted that the appellant mentioned only officers and supervisors. He did not say he would include firefighters, union representatives, and others as well. In response to question 2, the appellant included information that is standard on any SOG, such as a title, a number, the date, a description, and a purpose. The question was looking for what should be included in the SOG dealing with scene security. The appellant was not

specific with this information. Instead, he, in essence, repeated the question. For example, he stated, "Then, part of the, the SOG is gonna say how we're gonna go about implementing this, this SOG. Um, how, how we're gonna actually secure an area, how we're gonna handle chain of custody, how we're gonna document this, if there's any special forms that are gonna be created." The appellant did not include much information regarding dealing with scene security to be included in an SOP. He later spoke about chain of custody, for which he received credit, but he did not include the actions listed by the SME. *The Fire Chief's Handbook* specifically states that "The investigation begins with an incident or assignment. As soon as a company or fire investigator is dispatched, the collection of information should begin. The time of dispatch and weather conditions should be noted. Companies should begin making observations as they arrive on the scene. These observations include fire conditions on arrival, individuals who are on scene, vehicles on-scene and leaving the scene, signs of forced entry prior to the fire department's arrival, and signs of potential criminal activity." Thus, the PCA of looking out for any suspicious activity/person is not too general to be included in the SOG. The appellant missed the actions noted by the SME and he did not develop a complete response to question 2. His score for this component is correct.

The Incident Command scenario involved a report of a fire at a local pool supply store. It is 2:00 PM on a Sunday in July, the temperature is 95° F, and wind is blowing from north to south of 15 miles per hour. The structure is a one story, non-combustible shopping center built in 1994 and measuring 75 feet by 1500 feet. The pool supply store measures 75 feet by 50 feet. The side C exposure is an Italian restaurant beyond which are several retail stores. Upon arrival, the candidate sees smoke emanating from the roof of the building. An employee indicates that fire spread quickly throughout the store and he believes that some customers and employees may not have escaped. The question asked candidates to base their responses on the text *Fire Officer's Handbook of Tactics*, and their experience. Question 1 asked for specific actions upon arriving at the scene. Question 2 indicated that during overhaul, a fire fighter transmits a mayday after seeing two fire fighters overcome by toxic fumes in the pool supply store. Question 2 asked for specific actions that should now be taken based on this new information.

For the technical component of this scenario, the SME noted that the appellant failed to address conducting a primary search in question 1. He indicated that the appellant only scanned with a thermal imaging camera (TIC) from the front door. He also indicated that the appellant failed to conduct a Personal Accountability Report (PAR) in question 2. These were mandatory responses. Lastly, he noted that the appellant missed the opportunity to sound the evacuation tones (for question 2). On appeal, the appellant argues that due to the volume and color of the smoke it was most likely a deep-seated fire uncontrolled by the sprinkler system or a roof fire. Therefore, the appellant states that he did not send firefighters into the store and pursue an aggressive interior attack as this fire could change very quickly in nature.

He states that when you go defensive from the front door, you do not order a company to conduct a primary search. As to a PAR, the appellant states that he requested a PAR once, and to do so again would monopolize the radio channel which should be used by the Incident Commander. As to evacuation tones, the appellant argues that there were no reports of collapse, and with two firefighters missing it would be a mistake to pull everyone out except the Rapid Intervention Crew (RIC).

Mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). 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.

In this case, the appellant missed two mandatory responses. The scenario indicated that an employee believes that some customers and employees may not have escaped. The appellant's lack of a primary search in this instance could lead to serious injury or death to anyone in the building who was not visible from the front door, particularly without initially launching an offensive attack. The SMEs disagreed with the appellant that it was acceptable to not perform a primary search and to leave potential victims in the building. In fact, they disagreed so adamantly that performing a primary search was considered to be mandatory, not optional. At one point in his presentation, the appellant stated, "I'm okay writing off this, this pool supply store but I would like to try to save the rest of this um, this property, but there's a good chance that that will be very tough to do." The appellant then ordered the crew of engine one to pull a line to the front door and operate in the doorway at first. He indicated they should use a TIC to scan for victims and see what type of victims they had. This was not a proper response given that several people were likely to be in the building. The appellant stated that he would not commit personnel inside the building unless there were victims he could see.

The appellant spent the majority of his time responding to question 1. After the two-minute warning, the appellant was still responding to question 1, and he sped up his speech. At this time, he stated, "I'm going to be doing a risk assessment, a continual risk assessment. I'm gonna modify my actions is necessary, um. I'm gonna give periodic reports to dispatch about, about ah what's going on. At times, I'm gonna do a PAR check, make sure everybody's with me. I'm gonna rotate men, I'm gonna send them to rehab. I'm gonna make sure EMS is provided. Um, and I'm going to have a continual ongoing assessment of the situation along with doing air monitoring." In response to question 2, and after receipt of the Mayday, the appellant did not conduct a PAR. This was a mandatory response to question 2, as there could be other missing firefighters and to find out exactly who is missing. The appellant cannot know if anyone else is missing without a PAR. Additionally, he did not sound

evacuation tones, but ordered another line into the area which would subject additional individuals to toxic fumes. As the appellant failed to identify two mandatory responses, his score of 1 for this component is correct.

For the oral communication component of the Incident Command scenario the SME noted weaknesses in confidence and specificity. For confidence, he said that throughout the presentation, the appellant used phrases like "I might," "If I can," and "I will probably." For specificity, the SME stated that appellant made general statements such as "assign officers to the roof division." On appeal, the appellant argues that his use of phrases like "I might," "If I can," and "I will probably," were a sign of respect to the fire in the situation since the fire could change in a minute. The appellant states that, without information about the conditions in the building, it was impossible to formulate a concrete strategy. He argues that his statements were a reflection of the unknowns of the situation. As to specificity, the appellant states that an assignment of a roof division officer is no different than that of assigning a safety officer, and it wasn't a requirement to specify who it was.

In reply, a weakness in confidence is defined as a failure to demonstrate confidence and certainty about one's position. This is observable by the use of pauses to reorganize, through demeanor, and by word usage, such as the use of words "will," "must" or "can," instead of "might," "possibly" or "could." The appellant exhibited a lack of confidence on several occasions. In his presentation, the appellant stated there was likely to be survivable victims, and pool chemicals which will react with water, but "We have to be able to, to see what's going on and, and consider everything. Um, initially I probably would just have them scan, and I might not have them open the line. I would see what's, I would see what's going on with what how much visibility we have, if we, if we um, and I would consider what kind of survivability that these occupants might have." In this passage, the appellant is not being decisive regarding rescuing possible victims. He eventually decided not to rescue any victims he could not see, but he was not decisive in making this decision. Later, he stated, "If, if I notice that there is a problem then I'll, then I might just ah not, not use any water on the situation, but, but um, I probably would initially try to use water and see but from the, from the doorway. If there is victims that are detected with the thermal imaging camera we would make entry and, and res...rescue them. Um, so we're going to use the reach of the stream." In this statement, the appellant did not exhibit certainty regarding the use of the hose stream. The appellant's presentation contained a weakness in confidence as noted by the assessor.

Another factor is specificity, and a weakness in specificity is a response that is general or lacking the detail necessary to fully address the PCAs. A review of the appellant's presentation indicates that he was generally specific regarding the actions he would take. However, his presentation had a weakness in grammar/word usage. A weakness in this factor includes mispronunciation of words, using sentences that are grammatically incorrect, repeating words or phrases, and using

inappropriate words. The appellant continually used distracting verbal mannerisms such as "um" and "ah," he repeated words within sentences, and some sentences were grammatically incorrect. For example, he stated, "They're going to evacuate that store, um, they're also gonna, so one crew's gonna go up the ladder, the other crew's probably initially gonna go into, into search mode with the um, again backing up the engine." The appellant's presentation did not have a weakness in specificity, but in grammar/word usage. His score for this component will not be changed.

CONCLUSION

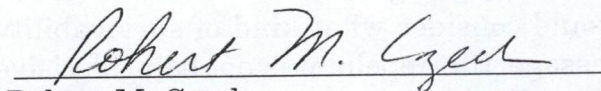
A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

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 22nd DAY OF FEBRUARY, 2017



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