

B-18



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Joseph Cavanagh,  
Fire Captain (PM1121S), Harrison

CSC Docket No. 2016-748

Examination Appeal

ISSUED: **OCT 22 2015** (RE)

Joseph Cavanagh appeals his seniority score and score for the oral portion of the examination for the second level Fire Captain (PM1121S), Harrison. It is noted that the appellant passed the examination with a final average of 84.000 and ranked fourth on the resultant eligible list.

It is noted for the record that this two-part examination consisted of a written multiple-choice test and an oral examination. The test was worth 70 percent of the final score and seniority was worth the remaining 30 percent. The various portions of the test were weighted as follows: written multiple choice portion, 34.91%; technical score for the Evolving Scenario, 27.11%; oral communication score for the Evolving Scenario, 1.75%; technical score for the Administration of Procedures Scenario, 10.75%; oral communication score for the Administration of Procedures Scenario, 2.5%; technical score for the Arrival Scenario, 21.23%; and oral communication score for the Arrival Scenario, 1.75%.

The oral portion of the second level Fire Captain examination consisted of three scenarios: a fire scenario simulation with questions designed to measure the ability to assess risk factors and strategies involved in fireground command (Evolving); a simulation designed to measure the ability to implement a program and the factors/problems associated with program administration (Administration); and a fire scenario simulation designed to measure the risk factors and strategies associated with an incident that could potentially involve a hazardous material (Arrival). For the Evolving and Administration scenarios, candidates were provided with a 25-minute preparation period for both, and candidates had 10 minutes to

respond to each. For the Arrival 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, 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.

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 scenarios, and for oral communication, the requirements for each score were defined. For the Evolving scenario, the appellant scored a 3 for the technical component and a 5 for the oral communication component. For the Administration scenario, the appellant scored a 5 for the technical component and a 5 for the oral communication component. For the Arrival scenario, the appellant scored a 3 for the technical component and a 5 for the oral communication component.

The appellant challenges his seniority score, and his score for the technical component of the Evolving scenario. As a result, the appellant's test material, audiotape, and a listing of possible courses of action for the scenarios were reviewed.

As to his seniority, examination seniority is based on the time from the regular appointment date (to the eligible title) to the closing date of the announcement minus the time spent on layoffs, certain leaves of absence without pay, or suspensions. See *N.J.A.C. 4A:4-2.15* (Rating of examinations). The appellant received a promotion to Fire Lieutenant on October 2, 2012 and the closing date was September 30, 2014. His seniority score is 81.995. This reflects a base score of 70, plus 10 points for record of service, plus 1.995 for the 1 year, 11 months and 28 days he was a Fire Lieutenant. Time spent in a provisional position or as an "acting" Fire Lieutenant is not added to seniority for any candidate.

The appellant requests retroactive seniority based on his assertion that he was working out-of-title prior to the Fire Department restructuring in July 2011. He maintains that a November 9, 2012 decision of the Division of Classification and

Personnel Management<sup>1</sup> indicated that his arguments for a position classification review included out-of-title work. In that decision, the position was reclassified from Fire Fighter to Fire Lieutenant, and his appointment to the latter title was pending promotional and certification procedures. The appellant's request for retroactive seniority was received on August 7, 2015, as part of an examination appeal. Thus, this request is clearly untimely as it was received over one year and eight months after receipt of the initial determination. In any event, the classification of a position is determined based upon the duties and responsibilities assigned to a position at the time the request for reclassification is received by DAS as verified by a classification review or other formal study. The appellant claims that he was officially working in an acting capacity since 2011, which assumes out-of-title work, but he did not seek an official review of this matter until the spring of 2012. Thus, aside from being untimely, any request for an earlier effective date is not cognizable. Even if it were, the appointment type would be provisional, as regular appointments are subject to certification procedures, and not eligible for seniority credit.

The Evolving scenario concerned a report of fire in a 14-story office building, on a Tuesday at 12:30 PM. It is 94 degrees outside, with no wind. The candidate is the first arriving ladder company officer at the scene. The structure is 15 years old and of non-combustible construction. The building has 6 elevators and two sets of stairs. Upon arrival, no smoke is visible. The building manager states that he received a report of a fire in a toaster oven in the sixth floor kitchen, and the fire has spread. The Incident Commander (IC) assigns the candidate as the Division 6 supervisor, giving him his ladder company and two engine companies to start initial operations. Question 1 asked for initial actions to take, including the assignment of his resources. Question 2 contains an evolution of the scenario. It states that while the companies are performing their designated assignments on the sixth floor, a flashover occurs. The flashover causes a partial drop-ceiling collapse, trapping one of the firefighters. Question 2 asked for additional actions and requests at this time to address this situation.

The assessor noted that the appellant failed to attempt to contact the trapped firefighter, which was a mandatory response to question 2. He also noted that the appellant missed the opportunity to move all firefighting operations to a separate radio frequency (question 2). On appeal, the appellant argues that he said he provided this response by an aggregate of the actions that he took inclusive of contact with the trapped firefighter, and he provides a summary of the actions he took, including calling for a mayday, gathered information according to "LUNAR," and conducting a personnel accountability roll call (PAR).

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<sup>1</sup> Currently the Division of Agency Services (DAS).

It is noted that certain responses to the situation presented in the scenario are mandatory. That is, 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.

The SMEs determined that a mandatory response to question 2 was to attempt to contact the trapped firefighter. The appellant was credited for calling for a mayday, which was another mandatory response to question 2. As mentioned in the instructions to candidates, credit was not given for information which is implied or assumed, but was based on what the candidate actually said during his performance. A review of the appellant's presentation indicates that he extensively replied to question 1, and began responding to question 2 after the two-minute warning was given. He gathered information as outlined in the acronym LUNAR, but this is not the same. LUNAR is in an acronym for five items of information that should be included in a mayday call, such as finding the location, unit, name, assignment and air supply, and resources needed. The appellant was credited for calling for a may day. The appellant also conducted a PAR. Notwithstanding the fact that it is known that there is a trapped firefighter and the appellant determines his name, conducting a PAR is a separate response from attempting to contact the trapped firefighter. If the appellant meant to attempt to contact the trapped firefighter, he should have mentioned this in his presentation. The appellant missed this action, which was a mandatory response, and missed the opportunity to move all firefighting operations to a separate radio frequency. His score of 3 for this component is correct.

### CONCLUSION

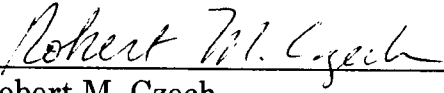
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

### 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 ON  
THE 21<sup>st</sup> DAY OF OCTOBER, 2015

  
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