



B-15

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Examination Appeal

In the Matter of Samuel Munoz,  
Battalion Fire Chief (PM1515T),  
Camden

CSC Docket No. 2017-1378

ISSUED: FEB 24 2017

(RE)

Samuel Munoz, represented by Gregg Zeff, Esq., appeals his score on the examination for Battalion Fire Chief (PM1515T), Camden. It is noted that the appellant passed the examination with a final average of 79.590 and ranked 13th on the eligible list.

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 3, 1, 5 and 5, 5, 4, respectively.

The appellant challenges his scores for the technical components of the Supervision and Administration scenarios, 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 the scenarios were reviewed.

The Supervision scenario concerned two subordinates of a newly appointed Battalion Fire Chief. Captain Clark and Captain Zuniga have been having trouble working together and differ on many points about how duties should be divided among the companies, such as how and when the station should be cleaned and what groceries should be brought in and by whom. These problems seem trivial, but they have started the spill over into other areas of work. For example, they fail to coordinate training sessions when both companies should be training together, and there have been disagreements at emergency scenes. The candidate has spoken to both of them informally about the need to get along, but now the situation is out of control. The candidate walks into a lunchroom where they are in a shouting match



in front of several fire fighters. Captain Zuniga calls Captain Clark a very strong expletive and Captain Clark retaliates by calling Captain Zuniga a racial slur. The scenario asked candidates to answer the questions based on the text *Managing Fire and Emergency Services* and their experience. Question 1 asked for specific actions to be taken now and in the future. Question 2 indicated that, after preliminary actions, relations have not improved between the two fire captains. In fact, it seems that the situation is worse because now there are problems between the members of their respective fire companies. Question 2 asked for specific actions that should now be taken based on this new information.

For the Supervision scenario, the SME indicated that the appellant missed the opportunities to immediately separate the two Fire Captains to end the confrontation (question 1), and to schedule the Fire Captains for sensitivity training (question 1). On appeal, the appellant argues that he reviewed the files of the Fire Captains to see if they received sensitivity training. He states that he offered training at regular intervals, referred them to the Equal Employment Opportunity (EEO) officer and consulted the law department.

In reply, question 1 asked for specific actions to be taken *now* and in the future. The candidate has walked into a lunchroom where the Fire Captains are in a shouting match in front of several fire fighters. The appellant began his presentation by stating, "In response to question one, I will review the file and obtain written statements from all parties involved. I would interview previous Battalion Fire Chiefs of both Captains." The appellant has not separated the Fire Captains to end the confrontation, nor did he specify that he reviewed the files of the Fire Captains to see if they received sensitivity training. In response to Question 1, he received credit for reviewing their personnel records (files). He met with both Fire Captains, and offered the Employee Assistance Program (EAP). He provided training for one of the Fire Captains "through SOPs and OAGs to inform him of the proper ways of mitigating relationships in companies." Instructions to candidates which are read after the questions state, "In responding to the questions, be as specific as possible. Do not assume or take for granted that general actions will contribute to your score." For the other Fire Captain, he offered "training in Standard Operating Procedures and Operating Action Guidelines." The appellant did not actually schedule the Fire Captains for sensitivity training. Sending the Fire Captains to EEO and the EAP is not the same action as scheduling sensitivity training. His score of 3 for this component is correct.

The Administration scenario indicated that the department responded to a fire that was believed to be a one-story, abandoned warehouse. However, upon arrival, it was discovered that the warehouse had recently been converted into a childcare center. While there were no major injuries, the Incident Commander's strategy and tactics were severely affected by the change of use and occupancy. The Fire Chief has called the newly appointed Battalion Fire Chief into his office to discuss the situation,



and tasked him with investigating the incident and to revise the department's current pre-fire plan procedure. The scenario asked candidates to answer the questions based on the text *The Fire Chief's Handbook* and their experience. Question 1 asked for specific steps to be taken to investigate the incident and the lack of an updated pre-fire plan. Question 2 asked which should be included in a pre-fire plan standard operating guideline/procedure (SOG/SOP).

For the Administration scenario, the SME indicated that the appellant missed the opportunities to interview the incident commander present on scene (question 1), address the likelihood of consequences/escalation of events (question 2), to include the strategy and tactics that should be used at each incident (question 2), and to include all information about the building (question 2). On appeal, the appellant argues that his social security number was incorrect on the SME note sheet (two numbers were transposed), and the comments were inconsistent with the scenario. He also argues that he did not receive the correct comments as he received a 5 for oral communication, which defies logic and demonstrates that there is something drastically wrong. As to specific comments, for question 1, he states that he communicated with the Fire Marshal's Office, the Department of Licensing and Inspections, the Construction Official, the Law Department, and reviewed the National Fire Incident Report. The appellant also lists some of the actions he took for question 2, without addressing any specific SME comment, and he submits an article regarding how to write an SOP.

In regard to the difference in scoring of both components for these scenarios, the components measured in the oral examination are viewed as independent and are scored accordingly. Behaviors can be attributed to each component which are sufficiently distinguishable to warrant a unique score. Thus, candidates can completely answer the questions for the technical component, while exhibiting negative behaviors or weaknesses in the oral communication component. Or, candidates can fail to properly answer the questions for the technical component, while exhibiting no weaknesses in the oral communication component. As such, an independent score can be assigned for the technical and oral communication components within a performance. Thus, a candidate's behavior on one component cannot be used to score his behavior on another component, and is not reflective of a score for another component.

Regarding scoring, each examination packet contains the social security number of the candidate on the envelope, each sheet of paper pertaining to scoring, and each videotape. Performances were identified based on the information written on every piece of documentation, and that given in the video. At the start of each performance, the room monitor has the candidate hold a sign with examination information on it, including the candidate social security number. The room monitor then reads the examination and candidate information into the recorder and asked the candidate if this information is correct. A review of Mr. Munoz' video indicates that the room



monitor read his social security number and Mr. Munoz responded affirmatively that the number was correct. The last two numbers of the appellant's social security number were transposed on one sheet of many in the package, all of which otherwise had the correct social security number. The SME who scored this component also scored an oral communication component. Further, the notes were applicable to the questions. Lastly, there are no other candidates whose social security number matches the first five numbers of the appellant's number. The transposition of these two numbers does not substantiate that these scores were those of another candidate.

A review of the appellant's video and examination material indicates that the appellant missed the actions noted by the SME. For question 1, the appellant received credit for contacting a city representative and for contacting the building owner. However, he did not interview the incident commander present on scene at the incident. His response for question 1 was extremely brief, and it was missing many actions which would have enhanced his score. For question 2, the appellant formed a committee of various individuals, scheduled meetings, established goals, assigned tasks, set deadlines, performed research, considered costs and obtaining grants, and had discussions. All of this was superfluous information that was not a direct response to the question, which asked what should be included in a pre-fire plan standard operating guideline/procedure. The question did not ask how the candidate intended to get his information, rather, it was expected that he know what should be included. He stated that the SOP should include the purpose, who will implement pre-fire planning, who is responsible to adhere to the SOP, and "techniques and methods" of fulfilling pre-fire duties. He then reverted back to discussing the committee's actions and implementing this SOP. The appellant followed his own agenda rather than specifically answering the question. He received credit for discussing the process (timeframe, involved personnel, etc.), but his response lacked all other specifics regarding what should be included in a pre-fire plan SOP. The SME notes are correct for the appellant's presentation, and as he did not properly answer either question, the appellant's score of 1 for this component is correct.

For the Incident Command scenario, the SME noted a weakness in nonverbal communication. Specifically, it was noted that he failed to maintain eye contact when speaking, and read from his notes throughout his presentation. On appeal, the appellant argues that he uses a tactical command sheet when he is the Incident Commander, which he writes on and reads from. He contends that glancing down at the notes regarding a tough complex incident is common industry practice.

In reply, one of the factors in oral communication is nonverbal communication, which includes using gestures effectively without causing confusion or distractions, and making eye contact when speaking. All candidates were informed that oral communication would be graded in the candidate Orientation Guide, and nonverbal communication is a factor in oral communication. Candidates were allowed to look



at their notes and this is acceptable when it does not affect the continuity of a presentation. At some point, however, the use of non-verbal mannerisms becomes distracting, which is not acceptable.

A review of the appellant's presentations reveals that, for the Incident Command scenario, the appellant had his notes in front of him. At the start of the presentation, the appellant maintained eye contact until he gave the information he would tell dispatch. At this point, he simply looked down and read from his notes. He did not maintain eye contact with the camera while speaking full sentences. Instead, he repeatedly glanced at the camera for a word or two, and then looked back in his notes. At times, he would look up for a second or two before looking back and continuing reading. Maintaining eye contact means speaking to the camera as though it is the audience, not merely maintaining an awareness of it while reading. This was a formal examination setting, and candidates were allowed to take notes to assist them with their presentation, but were not expected to read from them. When a candidate reads continually or extensively from his notes, he cannot maintain eye contact with the camera. The appellant continually glanced from his notes to the camera, and the audience spent a significant amount of time looking at the top of head while he was looking down. As the end of the presentation approached, the appellant spoke more quickly and relied more heavily on reading his notes. This detracted from the presentation, and his score of 4 for this component is correct.

Lastly, the appellant explains that at review his laptop gave low battery warnings and shut down for five minutes until it was connected to an outlet. He argues that this mishap "add[s] to his belief that a pattern of mistakes have occurred in this testing/scoring process which has had a catastrophic result to [his] final score and ranking."

First, the battery usage level of a laptop given to the appellant for his use at examination review has nothing to do with scoring. This incident had absolutely no effect on scoring. Rather, it was an unfortunate equipment malfunction that was rectified at the review. Next, there was no "pattern of mistakes." Rather, one assessor transposed two numbers on one form. The appellant's argument that this was "catastrophic" to his final score is unsupported by the record. His scores were assigned based on his responses, or non-responses, to the questions given.

## 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 22<sup>nd</sup> DAY OF FEBRUARY, 2017

  
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: Samuel Munoz  
Gregg Zeff, Esq.  
Michael Johnson  
Records Center



ORDER

There is a large amount of work to be done.

There is a large amount of work to be done. The first step is to determine the scope of the project.

THE FIRST STEP IN THE  
GIVE SERVICE COMMISSION  
THREE-DAY OF WORK

Robert C. Calkins

Chairman

Chief Executive Officer

President

and

General Manager

Director

Physical Activity and Health Affairs

Chief Executive Officer

Group Executive

P.O. Box 12

London, New York 10002-0012

Executive Director

Chief Executive Officer

General Manager

Chairman