



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of
David Funk, Fire Lieutenant
(PM1174S), Margate

Examination Appeal

CSC Docket No. 2016-2799

ISSUED: NOV 16 2016 (RE)

David Funk appeals his score for the oral portion of the promotional examination for Fire Lieutenant (PM1174S), Margate. It is noted that the appellant passed the subject examination with a final score of 88.570 and his name appears as the fourth 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 Lieutenant 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 4 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 5 for the oral communication component. The appellant challenges his scores for the oral communication component of the evolving scenario, and the supervision component of the arriving scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

For the oral communication component of the evolving scenario, the appellant received a score of 4, which indicates at least one weakness. The assessor noted that the appellant's presentation was weak in word usage as evidenced by failure to use appropriate words by using "um" and "ah" in an excessive manner. On appeal, the appellant argues that another candidate, who he does not identify, used "um" and "ah" but was given a score of 4.5. He asserts that the scoring was subjective

and that "excessive" was not defined. He claims that scores of 5 for the other components display effective communication.

Regarding scoring, 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 exhibit few negative behaviors in one component, but exhibit some negative behaviors in another component. As such, independent scores can be assigned for the technical and oral communication components for each performance. A candidate's behavior on one component cannot be used to score his behavior on another component. Thus, the appellant's score for the oral communication component is not dependent on his technical component score. Likewise, the oral communication component for one answer is independent of the oral communication component for another answer.

Regarding appellant's contention that the scoring was subjective, it is noted that final scores for oral communication are derived by examining behavior associated with a given scenario throughout the entire exercise. That is, scores are assigned based on a holistic view of the presentation and assessors were trained and used the same standards to measure each candidate performance. Each performance was evaluated by two SMEs who currently are a first level supervisor or higher. As noted above, if the SME scores differed by 1 point, the score was averaged. This was a formal examination setting, and candidates were required to state what they meant with proper word usage and with no distractions. If one assessor was distracted by a behavior, he may have assigned a lower score than another. The appellant's score was not averaged, but both assessors agreed to the weakness in his presentation, and he received a score of 4. It is noted that the same SMEs scored all the candidates in a given jurisdiction so consistency in scoring was maintained.

At this juncture, it should be noted that the appellant has admitted in his appeal that another candidate in his jurisdiction also received similar remarks, but received a score of 4.5. 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.

There are various factors associated with oral communication. One of the factors of oral communication is word usage/grammar, which is defined as using appropriate words and sentences that are grammatically correct. It was not acceptable to present many distracting verbal mannerisms, such as "ah." This was an examination setting where candidates were given scenarios, and a question or questions for each scenario, and were required to provide direct answers to those questions and, in this setting, candidates are required to maintain the flow of information. There is a well-known phenomenon of hesitational disfluency that can afflict a speaker trying to cope with the pressures of immediate processing, and some level of disfluency is acceptable when it does not affect the continuity of a presentation. At some point, however, the use of distracting verbal mannerisms is not acceptable.

A review of the video and related examination materials reveals that the appellant used many distracting verbal mannerisms. For example, the appellant stated, "I would have the engine pull up, um, just past the ah, building, on the A side closer to side B, um, as per any extension," and "Ah, I would split my ladder company into, into ah, pairs, and they would work to the rear of the building to force entry, to ventilate, ah, to search, do a primary search." The appellant started many sentences with "ah" or "um" and used them throughout his sentences. The appellant's presentation contained the weakness noted by the assessors and his score for this component will not be changed.

The arriving scenario involves a report of fire coming from a two-story, wood-frame house built in the 1970s. It is 1:00 PM on a Saturday in June, 92°F, with sunny skies and a wind blowing from the east to the west at 5 mph. The candidate is the officer of the first arriving engine company and the first officer on scene. Upon arrival, the candidate notices smoke coming from the first and second floor windows on side A. Dispatch reports that the caller is an occupant in a second floor bedroom and the caller said she was taking a nap, and when she woke up her bedroom was filled with smoke. The technical question asked for specific actions to take upon arrival. The supervision question indicated that the candidate notices a rookie firefighter on his crew having trouble raising a ladder. The question asked for actions to take 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.

In regard to the supervision component of the arriving scenario, the assessors noted that the appellant missed the opportunities to review the SOPs and SOGs on raising ladders, to maintain confidentiality throughout, and after the incident, to have the firefighter demonstrate raising the ladder. On appeal, the appellant states that he reviewed training procedures, made sure that training was done and he can properly operate a ground ladder, reviewed policies and procedures with the whole platoon, reviewed all policies and procedures from the incident, and ensured proper training was met with the firefighter on the use of ground ladders and other equipment.

A review of the appellant's video and related examination materials indicates that the appellant received credit for providing any necessary firefighter training. Nevertheless, credit cannot be given for information that is implied or assumed, and this was indicated in the instructions to candidates. Once back at the firehouse, the appellant did not review the SOPs and SOGs on raising ladders. Instead, he immediately had a meeting with the rookie firefighter. The appellant stated, "I would review training procedures. I would ensure that his officer's aware of it. I would ensure that his training is done. I would follow up with the officer to make sure that he cannot proper operate a ground ladder and any other functions that would need to be done. I would also let that firefighter know that I have an open door policy if he is, if he is not being instructed properly to come and talk to me and I will ensure that proper training is done. I would follow up with the Chief just to inform him of these procedures that we were going to be enacting, and I will ensure that the entire platoon would review all policies and procedures and so that everyone is on the same page."

In this passage, the appellant refers to the firefighter's supervisor as though that were another individual. The appellant is the rookie's supervisor, and has a duty to ensure that the firefighter can raise the ladder by demonstrating it. He did not take this action. He stated he would follow up with *the officer* to make sure that *he cannot* proper operate a ground ladder and any other functions that would need to be done. Assuming that the appellant meant that he would follow up with the rookie's supervisor to make sure the rookie could properly operate a ground ladder, this general statement does not specify that the rookie will be demonstrating that he could raise a ground ladder. As the supervisor of the rookie, determining if the rookie could properly raise the ladder by demonstrating it was the appellant's job, and he should not abdicate it to another supervisor or a training officer.

Again, candidates are required to state what they mean and cannot receive credit for assumptive actions. First, training procedures are not the same as SOPs and

SOGs. Next, the appellant ensured that “the entire platoon would review *all* policies and procedures,” not that he himself would review the SOPs and SOGs on raising ladders. The appellant missed the actions noted by the assessors, and his score for this component will not be changed.

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 10th DAY OF NOVEMBER, 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: David Funk
George Miller, Esq.
Michael Johnson
Records Center