



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Louis Bainbridge,
Deputy Fire Chief (PM0121A),
Trenton

CSC Docket No. 2020-996

Examination Appeal

ISSUED: November 20, 2019 (RE)

Louis Bainbridge appeals his score on the examination for Deputy Fire Chief (PM0121A), Trenton. It is noted that the appellant passed the examination with a final average of 84.190 and ranked second on the resultant eligible list.

The subject promotional examination was held on April 16, 2019 and three candidates passed. This was an oral examination designed to generate behaviors similar to those required for success in a job. The examination consisted of four scenario-based oral exercises; each was developed to simulate tasks and assess the knowledge, skills and abilities (KSAs) important to job performance. These exercises covered four topic areas: 1) Incident Command – Non-fire Incident, 2) Supervision, 3) Administration, and 4) Incident Command – Fire Incident.

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.

This examination was given using the chain oral testing process, and candidates were given ten minutes to respond to each question. Candidate responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 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. The appellant received the following scores for the technical component for each question, in order: 1, 3, 5 and 5. He received the scores of 4, 4, 4, and 5 for the oral communication components.

The appellant challenges his scores for the technical components for the Non-Fire Incident and Supervision scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenario were reviewed.

The Non-Fire Incident scenario pertained to an explosion in a defunct chemical plant which is a superfund site. This question asked for concerns, orders, actions, and requests to fully address the incident. For the technical component, the assessor noted that the appellant failed to check wind direction and speed, conduct atmospheric monitoring, establish hot, warm and cold zones, and ensure all units approach the scene from uphill/upwind. Each of these actions was a mandatory response. As the appellant missed more than three mandatory responses, he received a score of 1.

On appeal, the appellant argues that he mentioned that his en route concerns were the weather and wind direction, and he established the command post upwind. Regarding establishing zones, the appellant states that he has said he would rely on the expertise of his unified command staff, and the Hazmat operations chief would establish zones.

In reply, in the examination booklet, before the questions, the instructions state, "In responding to the questions, as specific as possible. Do not assume or take for granted that general actions will contribute to your score." At the start of his presentation, the appellant stated, "My, my concerns for the um fire for question number one is, um, en route to the, en route to the scene I'm going to talk to the dispatcher and find out if we have any information on this location as far as standpipes if the sprinkler system does work, I'm going to arrive. I'm going to establish Acme Way command. My concerns, my concerns is I'm going through the scene are number one life safety. If there is any one in the building, if there's anyone near the building. I'm concerned about the chemicals, if they react with water what the chemicals will do for runoff, what the chemicals will do for civilians. I'm going to have um, a Hazmat team notified so I can get Hazmat person to come and tell me about the chemicals. I'm gonna have my DEP and EPA

representatives.” The assessor note is correct in stating that the appellant did not indicate that one of his concerns was wind speed and direction. When the appellant established his command post, he did not mention that he was placing it upwind, although even if he had, this response is not the same as indicating that wind speed and direction are a concern. The appellant stated, “I’m going to call a third and fourth alarm because of the temperature, the possibility of the Hazmat and also because of not knowing about the spread of the chemicals or any water runoff.” While the appellant mentions the spread of the chemicals in this sentence, it is one of the reasons that he is calling for additional alarms. He does not specify that wind speed and direction are a concern.

Additionally, the appellant received credit for establishing a unified command, but he did not state that he would order a Hazmat team to establish hot, warm and cold zones. The only time that the appellant mentioned zones was when he stated, “I’m going to have police respond. They’re going to do crowd control. They’re going to um shutdown Ironbound Road Street, Ironbound Street, Acme Way. I’m going to have them stay out of the hot zone that we have located right now because we’re still determining if this is a Hazmat in fact but I want them to make sure that no one goes down Freemont Street. And I also want the police to go and check with the people in the exposures on Freemont Street so we can evacuate them if need be. If the chemicals are concerned that we need to evacuate.” In this passage, the appellant had the police stay out of the hot zone, but he had not yet established zones. On appeal, the appellant argues that he had the Hazmat team establish zones. However, credit cannot be given for information that is implied or assumed. If the appellant did not indicate in his presentation that he was establishing zones, he cannot receive credit for it. That is, unless the candidate verbalizes that he knows to establish zones, it cannot be assumed that that is what he would do. The appellant treated this as a fire scene although this was a non-fire incident. As such, he took many superfluous actions regarding putting out a fire that were not germane to the scenario. The appellant missed the actions as noted by the assessor, four mandatory responses, and his score of 1 for this component is correct.

The supervision scenario pertains to an incident where an engine company did not show up at an elementary school on a scheduled day for fire prevention week although it had known of the obligation for weeks. The candidate is to investigate the incident, and question 1 asked for initial and specific steps to take to investigate the incident. Question 2 indicated that a neighborhood resident asked why that morning an engine was placed on the firehouse ramp outside with the bay door closed. He also states he saw a couple of under-clothed women leaving the rear of the station and over heard one mention a “birthday gift.” This question asked for actions to be taken based on this new information. For this scenario, the assessor indicated that the appellant missed the opportunities to review NFIRS and/or the company log, and to inform the firefighters of protection against self-incrimination

(Garrity rights). The first comment referred to question 1 while the second referred to question 2. On appeal, the appellant states that he checked the company's call history which infers that he would look at NFIRS and the company log. Also, regarding question 2, he stated that he would put the captain's mind at ease and get in union representation.

In reply, prior to reading the test questions for this scenario, and the monitor read the instructions to be as specific as possible and not assume or take for granted that general actions would contribute to a score. Thus, the appellant was on notice that he could not receive credit for information that is implied or inferred. Yet on appeal, he requests credit for an inferred response. A review of the appellant's presentation indicates that he did not review NFIRS and/or the company log in response to question 1. In response to question 2, the appellant stated that he would provide information to the neighbor, then stated, "If there was something inappropriate going on with the firehouse, I would not necessarily advise him of that but I would usually tell him that Engine 8 usually is a good responding company. I would find out their call history and also talk to the neighbors so that they feel safe and feel that Engine 8 is run appropriately." Clearly, in this context, the appellant is not reviewing NFIRS and the company log in his investigation of the absence of Engine 8 from the elementary school on fire prevention week. As to Garrity rights, the appellant received credit for advising the crew of their right to union representation. That is a separate action from informing the firefighters of protection against self-incrimination, an action not taken by the appellant. His score of 3 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 ON
THE 20th DAY OF NOVEMBER, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Louis Bainbridge
Michael Johnson
Joseph DeNardo
Records Center