



STATE OF NEW JERSEY

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

In the Matter of Daniel Roman, Fire
Lieutenant (PM1093V), Union
Township

Examination Appeal

CSC Docket No. 2019-2503

ISSUED: NOVEMBER 6, 2020 (ABR)

Daniel Roman appeals his score for the oral portion of the promotional examination for Fire Lieutenant (PM1093V), Union Township. It is noted that the appellant passed the subject examination with a final average of 86.210 and ranks ninth on the resultant eligible list.

The 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 salvage and overhaul scene simulation with questions designed to measure the knowledge of salvage and overhaul operations, supervision of fire fighters and the ability to assess building conditions and hazards in an evolving incident on the fireground (evolving); and a multi-vehicle collision 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 the accident scene (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. 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, 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 4 for the technical component, 4 for the supervision component, and a 5 for the oral communication component. For the arriving scenario, the appellant scored a 3 for the technical component, a 5 for the supervision component, and a 5 for the oral communication component. The appellant challenges his score for the technical components of the evolving and arriving scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenario were reviewed.

The evolving scenario involved salvage and overhaul operations after a fire in a beauty salon located on the first floor of a three-story mixed occupancy building. The technical component consisted of two questions. Question 1 asked the candidate what their initial actions would be and instructed them to describe how they and their crew would conduct salvage and overhaul operations at this incident, including descriptions of techniques, life safety concerns, and building construction concerns. Question 2 provided that the overhaul operation revealed several weaknesses in the brick wall of the structure including an enormous, gaping vertical crack running through the masonry and actively crumbling bricks. Question 2 further indicated that the wall appeared to be separating and asked what actions the candidate should take.

For the evolving scenario, the assessor assigned a score of 4 for the technical component, indicating that the appellant missed opportunities in his response to Question 1 to ensure proper lighting at the scene, provide additional ventilation, describe dewatering procedures, mention potential HAZMAT concerns and begin the overhaul at the fire's point of origin. In addition, the assessor indicated that the

appellant missed an opportunity to instruct the crew to leave their equipment/hoselines in response to Question 2. On appeal, the appellant maintains that mentioning potential hazardous material concerns was not a proper PCA for Question 1 on the evolving scenario because the text of the scenario did not reference hazardous material, even though multiple companies had been on the scene for more than 20 minutes prior to the candidate's arrival.

In reply, it is noted that although the scenario does not explicitly mention hazardous materials, it does signal the possible presence of hazardous materials by stating that the fire occurred in a beauty salon. Hair products may contain formaldehyde, a hazardous substance that is flammable and could produce poisonous gases in a fire. See *Hair Salons - Formaldehyde in Your Products*, U.S. Dep't of Labor, Occupational Safety and Health Admin., <https://www.osha.gov/hair-salons/products> (last visited Oct. 13, 2020); See also *Right to Know Hazardous Substance Fact Sheet: Formaldehyde*, N.J. Dep't of Health, available at <https://www.nj.gov/health/eoh/rtkweb/documents/fs/0946.pdf>. Other hazardous materials which may be found at a beauty salon include hair dyes, bleaches, and permanent hair products. See Fred Bowers, Ph.D., *Characterizing Beauty Salon Wastewater for the Purpose of Regulating Onsite Disposal Systems* (2002), N.J. Dep't of Env'tl. Prot., available at <https://www.nj.gov/dep/dwq/pdf/salonreport.pdf>. As such, it was reasonable for the SMEs to expect candidates to identify hazardous material concerns as a PCA. Accordingly, as the appellant missed the additional responses listed by the assessor, and his score of 4 for this component is correct.

The arriving scenario involved a report of a collision of three vehicles, including a truck belonging to the battalion chief in charge of training for the candidate's department. After the accident, the battalion chief informs the dispatcher that he is injured and unfit to take incident command. The candidate is the first-level supervisor of the first arriving ladder company. Upon arrival, the candidate observes, in part, that the battalion chief is sitting in the driver's seat of his vehicle and holding a cloth to his head, which is dripping with blood. The technical component consisted of two questions. Question 1 directed candidates to perform their initial reports to the camera as they would upon the arrival at the incident and to use proper radio protocols. Question 2 asked candidates what specific actions should be taken after giving their initial reports. For the technical component of the arriving scenario, the assessor assigned a score of 3, using the "flex rule," and indicated that with Question 1 the appellant missed an opportunity to prepare for offensive operations and that with Question 2, the appellant failed to ensure that personnel were wearing reflective vests due to night conditions, which was a mandatory response. On appeal, the appellant argues that his response that he would "ensure all members are in full PPE" (i.e., personal protective equipment) conveyed that he would ensure that personnel were wearing reflective vests. In this regard, he submits that Nat'l Fire Prot. Ass'n & Int'l Ass'n of Fire Chiefs, *Fundamentals of Fire Fighter Skills (N.J. Ed.)* (Enhanced 3d ed. 2014) makes multiple references to reflective gear and vests as an

example of PPE, including listing it as an example of PPE in a discussion of situations involving traffic. The appellant also argues that he should have been credited with preparing for offensive operations based upon the following statement: “This is a motor vehicle accident. All members be prepared for a motor vehicle accident with extrication. Give me a full working fire assignment.” In this regard, the appellant maintains that National Fire Protection Association standard 1006 defines “extrication” as an offensive operation.

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response, but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases. 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, unless the flex rule is used. Additional responses only increase a score from 3 to 4 or from 3 to 5.

In reply, at the end of every scenario and prior to the questions, the instructions state, “[i]n responding to the questions, make sure that your actions directly relate to the scenario. Do not assume or take for granted that general actions will contribute to your score.” With regard to preparing for offensive operations in Question 1, the Division of Test Development and Analytics (TDA) indicates that an extrication would be unnecessary, as the scenario establishes that occupants were able to exit from all three of the vehicles involved in the accident. Specifically, the scenario provides that the candidate sees a firefighter, who was a passenger in the battalion chief’s truck, trying to direct the drivers from the other two vehicles to the median. However, TDA observes that the appellant stated that he would send the injured battalion chief for triage, treatment and transportation and that he would follow up regarding the battalion chief’s injuries. TDA indicates that these statements could be construed as preparing for victim care, which is an offensive operation. However, TDA avers that even if the appellant were credited with identifying this PCA, his score of 3 on the technical component for the arriving scenario would remain unchanged, as he failed to ensure personnel were wearing reflective vests due to the night conditions, which was a mandatory response to Question 2 on this component. The Commission agrees with TDA’s reasoning. In particular, it finds that although the appellant referred to PPE generally, he did not specifically acknowledge the night conditions at the scene or the need for personnel to wear reflective vests. Accordingly, given that the appellant missed this mandatory response, his score of 3 for this component, using the flex rule, is correct.

CONCLUSION

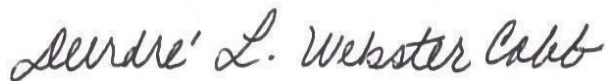
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

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 4TH DAY OF NOVEMBER 2020



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