

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, other than for oral communication, 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. 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 4 for the technical component and a 2 for the oral communication component. For the Administration scenario, the appellant scored a 2 for the technical component and a 3 for the oral communication component. For the Arriving scenario, the appellant scored a 3 for the technical component and a 2 for the oral communication component. The appellant challenges his scores for the technical components of the Evolving and Administration scenarios, and his oral communication scores for all three scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The Evolving scenario involved a report of smoke at an assisted living facility. The candidate is the Incident Commander. Question 1 asked for actions, orders and requests to fully address the incident. Question 2 indicated that handicapped patients trying to evacuate used the elevator which is now stuck on an unknown floor, and the question asks for actions that should be taken to address the current situation. 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.

For the technical component, the assessor indicated that the appellant missed the opportunity to request a fire investigator which was an additional response to question 1. On appeal, the appellant argues that he turned the scene over to a higher-ranking officer, and took correct action. He argues that requesting a fire investigator would not have altered any of the actions he would have taken, nor would it have affected the outcome. He believes a full point reduction in his score is not warranted for this issue.

In reply, this was a formal examination setting and credit was not awarded for information that is implied or assumed. It is not assumed that the appellant knew to request a fire investigator simply by turning the scene over to a higher-ranking officer. The SMEs determined that an appropriate action to take in the scenario was to request a fire investigator, and the Civil Service Commission is not persuaded that this was a needless action. It should be noted that a score of 4 indicates a performance is more than acceptable. There are many possible courses of action (PCAs) that can be taken, however, the one provided by the assessor was only an example. Thus, his score was based on a holistic view of his performance, and not simply on the omission of one action. A review of the appellant's presentation indicates that he missed the action noted by the assessor, and his score of 4 for the technical component is correct.

The Administration scenario involved being dispatched to an activated fire alarm. The candidate does not hear from his crew for five minutes, so they enter the residence and find the crew discussing a faulty fire alarm with elderly residents. One firefighter has his cloth mask pulled down to his chin, which is a violation of the department's mask policy. Question 1 asked initial actions to be taken to address the situation. Question 2 indicated that the Chief has said that there is a confirmed case of Covid-19 in the residence, and the husband has complained that Firefighter negligence caused his wife to be ill. He is considering legal action, and this question asked for additional actions that should be taken. 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.

For the technical component, the assessor indicated that the appellant missed the opportunities in question 1 to institute progressive discipline for Firefighter Smith, monitor the situation going forward, and request a written statement from Firefighter Smith. On appeal, the appellant argues that he stated that he would monitor members of the fire department for symptoms of Covid-19, review the firefighter's file, review standard operating procedures with the firefighter and advise all members of the department to follow them, interview and test all members for Covid-19, and reprimand and retrain the firefighter.

A review of the appellant's video indicates that he did not take the actions listed by the assessor in response to question 1. The appellant received credit for sending the whole crew for testing, which was an action in response to question 2. He received credit in question 1 for many of the actions listed above, each of which is different from those listed by the assessor. The appellant asked for a full report from the engine officer, which is himself, but did not request a written statement from Firefighter Smith. He also said he would speak to Firefighter Smith's officer, which is himself, as the officer should have advised him on how to wear the mask. In response to question 2, the appellant stated that he would monitor all firefighters for Covid-19, but this is not the same as monitoring the situation going forward in question 1. The appellant repeatedly mentioned training, but did not institute

progressive discipline for Firefighter Smith. The appellant's score of 2 for this component is correct.

For the oral communication component for the Evolving scenario, the assessor indicated that the appellant displayed major weaknesses in word usage/grammar and organization. For word usage/grammar, the assessor indicated that the appellant used "uh" and "um" at least 149 times throughout his response. For organization, the assessor noted that the appellant started sentences and then changed his thoughts. Examples include: "upon Arriving we're gonna see up size up um actually upon uh en route we'll also ..."; "this is uh engine uh establish command"; "we're gonna get a line through that first we're gonna uh have all our members in full PPE"; "we're gonna have um we're gonna request buses"; "staging area off to side where we can have them um for uh also a rehab area for ..."; and, "once all patients once we uh if this fire is controlled that area controlled um the us as we uh if it doesn't.... ."

For the oral communication component for the Administration scenario, the assessor indicated that the appellant displayed a major weakness related to word usage/grammar as evidenced by extreme use of "uh" and "um" while responding to both questions and booklet B. Additionally, the appellant displayed a minor weakness in organization as evidenced by repeated words/concepts and pauses.

The Arriving scenario involves a report of smoke in a two-story, multi-family, wood-framed residence. For the oral communication component for the Arriving scenario, the assessor indicated that the appellant displayed major weaknesses in word usage/grammar, and organization. For word usage/grammar, the assessor indicated that the appellant used "uh" and "um" at least 121 times throughout his response (e.g., "um we need to find out how many residents uh..." and "um we will uh upon Arriving..."). For organization, the assessor noted that the appellant started sentences and then changed course midway through (e.g., "um we're going to ask for wind direction um we're going to ask for um um uh upon Arriving we're going to establish command...").

The appellant does not address each score separately. Rather, he provides one argument regarding word usage/grammar to cover all three performances. He provides a signed written report by a licensed speech and language pathologist who indicates that the use of "uh" and "um" are habitual and used as an interjection. He argues that they are not used as a gap or pause while searching for information, and that he immediately continued with his facts while using these mannerisms. He argues that this does not take away from his ability to effectively communicate information or mitigate any scenarios, but these mannerisms are a natural part of his speech pattern. The appellant does not address the weaknesses in organization.

In reply, all candidates were aware that oral communication would be a component that would be scored. Merely making himself understood was not considered sufficient to earn the maximum score for the oral communication

component. To receive a score of 5, candidates were expected to communicate clearly, concisely, specifically, and confidently, and in an organized fashion, with no errors in word usage or grammar, or distracting verbal or nonverbal mannerisms.

One factor in communication is word usage/grammar which is defined as using appropriate words and using 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.

While the appellant had a Fluency Evaluation by a speech and language specialist, this was not in an examination setting. The evaluator indicated that the appellant was given a non-standardized assessment wherein he read one passage, and provided two spontaneous speech samples. It was determined that his speech, language and fluency was within normal limits and there was no evidence of a stuttering disorder. As such, the appellant has established that he does not have a medical impairment. Nonetheless, bad grammar is not excusable simply because it is habitual. Additionally, all candidates who participate in the examination process are scored equally. That is, candidate performances of those with special circumstances, such as habitual distracting verbal mannerisms, are not considered differently than any other candidate for scoring purposes. *See In the Matter of Stephen Scarpulla, Battalion Fire Chief (PM3570C), Newark (MSB, decided January 15, 2003).* The appellant was scored using the same criteria used for all other candidates. A review of the video reveals that the appellant over-used distracting verbal mannerisms such as “ah” and “um” and made other grammatical errors in all three presentations.

Another factor in oral communication is organization, defined as presenting ideas in a logical fashion, stating a topic, and providing supporting arguments as well as a conclusion or summary. In all three presentations, the appellant indicated a weakness in this area, which was well documented by the assessors. His presentations contained the weaknesses noted by the assessors, and the scores for the oral communication components for both scenarios will not be changed.

CONCLUSION

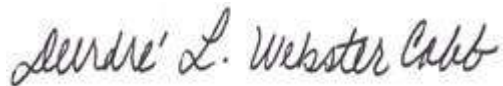
A thorough review of the appellant’s submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

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 ON
THE 23RD DAY OF NOVEMBER, 2022



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