



**STATE OF NEW JERSEY**

In the Matter of Patrick Lento,  
Deputy Fire Chief (PM1790A),  
Ventnor City

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

CSC Docket No. 2023-1896

Examination Appeal

**ISSUED: June 28, 2023 (ABR)**

Patrick Lento appeals his score on the promotional examination for Deputy Fire Chief (PM1790A), Ventnor City. It is noted that the appellant passed the examination with a final average of 83.980 and ranks third on the eligible list.

The subject promotional examination was held on May 7, 2022 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 exercise 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 10 minutes to respond to each question. Candidate responses to each question were rated on a five-point scale from no 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.

For the Incident Command - Non-Fire Incident scenario, the appellant scored a 5 on the technical component and a 5 on the oral communication component. For the Supervision scenario, the appellant scored a 3 on the technical component and a 3 on the oral component. On the Administration scenario, the appellant scored a 2 on the technical component and a 3 on the oral component. Finally, with the Incident Command - Fire Incident scenario, the appellant scored a 3 on the technical component and a 4 on the oral component.

The appellant challenges his scores for both the technical and oral communication components of the Administration and Incident Command - Fire Incident exercises. As a result, the appellant's test material, video, and a listing of PCAs for the scenario were reviewed.

The Administration scenario presents that the Fire Chief has tasked the candidate, who is a Deputy Fire Chief, with developing a committee to implement a mayoral plan to have the fire department provide resources to citizens during city-wide emergencies. The prompt notes that the mayor has developed this plan after receiving letters from civilians and civic groups that praised members of one fire station for providing such services after a significant weather event a year earlier. Question 1 for the scenario asks what specific questions should be taken to gather information that will be needed by the committee. Question 2 directs candidates to identify the specific goals and objectives that the committee should address in implementing this plan.

For the technical component of the Administration scenario, the assessor found that the appellant missed a number of PCAs, including the opportunity to interview the civilians who wrote the aforementioned letters. On appeal, the appellant argues that he should have been credited with this PCA because he included civilians and civic groups in the committee he formed to evaluate the successful response cited by the mayor; included and addressed civic groups and civilians who wrote letters at a later point in his presentation; and stated that he would meet with community leaders.

In reply, it is noted that the instructions the appellant was given immediately prior to his presentation included, in relevant part: “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.” While the appellant did state that he would include civilians and civic groups in the committee he would be forming and also indicated at a later point that he would conduct a presentation for civilians and civilians upon approval, he did not specify that he would meet with the civilians who wrote the subject letters to the mayor. In developing this program, there would be a material difference between getting feedback from the civilian population at large and getting input from the civilians who received assistance from the subject fire station during the prior year’s weather event. In particular, those civilians who received assistance would clearly be able to detail what their experiences were like with the subject fire station’s relief efforts, including thoughts on potential improvements. Conversely, feedback from civilians who did not receive assistance from the subject fire station would be theoretical in nature. Thus, it was imperative to specify that the civilians who wrote letters would be interviewed and the appellant’s references were too general to be credited with this PCA. Since the appellant missed this response and several other PCAs, the appellant’s score of 2 on the technical component of the Administration scenario is sustained.

For the oral communication component of the Administration scenario, the assessor indicated that the appellant’s presentation contained a major weakness in organization. Specifically, the assessor noted that the appellant’s presentation included multiple long pauses to gather his thoughts during his presentation, including one pause lasting 30 seconds. On appeal, the appellant argues that his pauses were not weaknesses and that they were consistent with the orientation guide for the subject examination, which provided, in pertinent part, that candidates should “be mindful of [their] rate of speech: breathe regularly and slow down when going too fast, eliminate long pauses and quicken [their] pace when going too slow. (Note: Pausing occasionally to review notes is expected and will not be penalized.)”

In reply, the appellant is correct that occasional pauses to review notes were permissible on the subject examination. However, in the appellant’s case, the problem was not only the number of pauses in his presentation, but the fact that several of these pauses were lengthy. As noted above, the orientation guide advised candidates to “eliminate long pauses.” Five of the appellant’s pauses during this scenario exceeded five seconds in length, with one lasting 30 seconds. Therefore, the record supports the appellant’s score of 3 on the oral component of the Administration scenario.

The Incident Command - Fire Incident scenario involves a fire at a factory that screen prints plastic sheeting. Adjacent to one corner of the factory is a rehabilitation and long-term care facility for senior citizens. Question 1 asks what actions should be taken upon arrival. Question 2 states that the manager of the rehabilitation and long-

term care facility requests the fire department's assistance with the patients at his facility, including 20 who are unable to walk.

For the technical component of the Incident Command - Fire Incident scenario the assessor indicated that the appellant missed one mandatory PCA and several additional PCAs, including the opportunity to identify chemicals used in the factory. The assessor used the "flex" rule to give a score of 3. On appeal, the appellant acknowledges that he did not identify the chemicals, but notes that he called Hazmat specialists because of the chemical presence. He asserts that doing so was the proper course of action because they are professionals who are best qualified to determine the exact nature and extent of any chemicals released.

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 assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, a score higher than a 3 cannot be provided in those cases.

In reply, there is no dispute that the appellant missed one mandatory PCA and the additional PCA of identifying the chemicals used in the factory. The PCAs were developed by SMEs who determined that the candidate should identify the chemicals used in the factory. The appellant does not explain why it would be unreasonable, for example, for him to speak to someone from the factory in an effort to ascertain what chemicals might be present. Further, even if the appellant did not directly identify the chemicals present in the factory, this information would still be necessary to safely and successfully respond to the incident. Accordingly, since the appellant missed a mandatory PCA, and other actions as well, his score of 3 on the technical portion of the Incident Command - Fire Incident scenario using the flex rule is correct.

As to oral component of the Incident Command - Fire Incident scenario, the assessor determined that the appellant displayed a minor weakness in inflection/rate/volume. Specifically, the assessor noted that the appellant had several lengthy pauses during his response. As with the oral communication component of the Administration scenario, the appellant argues on appeal that his pauses on the Incident Command: Fire Incident scenario were not weaknesses and were consistent with the orientation guide's provision that "[p]ausing occasionally to review notes is expected and will not be penalized."

In reply, a review of the video indicates that, as with the Administration scenario, the appellant's Incident Command - Fire Incident response contained no fewer than four lengthy pauses lasting between seven and 23 seconds in length which detracted from his presentation. These multiple lengthy pauses were appropriately

classified as a minor weakness and support score of 4 on the oral component of the Incident Command - Fire Incident scenario.

### CONCLUSION

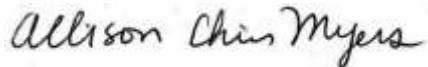
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

### 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 28<sup>TH</sup> DAY OF JUNE, 2023



---

Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Patrick Lento  
Division of Administration  
Division of Test Development, Analytics and Administration  
Records Center