



STATE OF NEW JERSEY

In the Matter of Ramon Lopez,
Battalion Fire Chief (PM3395C),
Rahway

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

Examination Appeal

CSC Docket No. 2023-1858

ISSUED: March 20, 2024 **(ABR)**

Ramon Lopez appeals his score on the promotional examination for Battalion Fire Chief (PM3395C), Rahway. It is noted that the appellant passed the examination with a final average of 82.830 and ranks fourth on the eligible list.

The subject promotional examination was held on May 25, 2022, and four candidates passed. This two-part examination consisted of an integrated system of simulations designed to generate behavior similar to that required for success on the job. The first part consisted of multiple-choice items that measured specific work components identified and weighted by the job analysis. The second part consisted of three oral scenarios: Supervision, Administration and Incident Command. The examination was based on a comprehensive job analysis conducted by the Civil Service Commission (Commission), which identified the critical areas of the job. The weighting of the test components was derived from the job analysis data. It is noted that candidates were told the following prior to beginning their presentations for each scenario: "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."

Each candidate in a given jurisdiction was scored by a team of three different Subject Matter Experts (SMEs), who were trained in current technical scoring procedures. Each of these SMEs were current or retired fire officers who held the title of Battalion Fire Chief (or Fire Officer 2) or higher. Candidates were also assessed by three Commission employees trained in oral communication assessment. As part of

the scoring process, an SME observed and noted the responses of a candidate relative to the knowledge, skills and abilities (KSAs) that each exercise was designed to measure. An assessor also noted any weaknesses that detracted from the candidate's overall oral communication ability. Each assessor then rated the candidate's performance according to the rating standards and assigned the candidate a technical or oral communication score on that exercise.

In order to preserve the relative weighting of each of the components of the examination, the ratings for each portion were adjusted by a well-recognized statistical process known as "standardization." Under this process, the ratings are standardized by converting the raw scores to z-scores, an expression of the deviation of the score from the mean score of the group in relation to the standard deviation of scores for the group. Each portion of the examination had a relative weight in its relation to the whole examination. Thus, the z-score for the multiple-choice portion was multiplied by a test weight of 36.53%, the oral technical scores were multiplied by a test weight of 53.91% and the oral communication scores were multiplied by a test weight of 9.56%. The weighted z-scores were summed and this became the overall final test score. This was weighted and added to the weighted seniority score. The result was standardized, then normalized, and rounded up to the third decimal place to arrive at a final average.

Each oral examination question, and overall oral communication, was 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.

On the Supervision scenario, the appellant scored a 4 on the technical component and a 5 on the oral communication component. On the Administration scenario, the appellant scored a 5 on the technical component and a 5 on the oral communication component. Finally, on the Incident Command scenario, the appellant scored a 3 on the technical component and a 5 on the oral communication component.

On appeal, the appellant challenges his scores for the technical components of the Supervision and Incident Command scenarios. As a result, the appellant's test material and a listing of possible courses of action (PCAs) for the scenarios were reviewed.

The Supervision scenario presents that the candidate is a newly-appointed Battalion Fire Chief and that the department has recently undergone changes in upper management, including the appointment of a new Fire Chief in charge of the department. It further states that the new Fire Chief wants to implement a new and well-defined disciplinary policy. After this progressive discipline policy is implemented, the Fire Chief receives reports that a subordinate Fire Captain under

the candidate's supervision is not enforcing the new policy. Question 1 asks what specific actions the candidate would take to investigate the situation with the Fire Captain. The prompt for Question 2 states that the candidate has learned that the Fire Captain has not been implementing the new policy because she is not sure how to enforce it in certain situations, particularly those she has not dealt with previously. Question 2 then asks what specific topics/actions the candidate should discuss/take in an interview with the Fire Captain based upon the new information.

The assessor awarded the appellant a score of 4 based upon a finding that the candidate missed a number of PCAs, including, in part, meeting with the Fire Chief at the start of the investigation to get specific information from him in response to Question 1. On appeal, the appellant argues that he covered the subject PCA by mentioning at the very end of his presentation that he would meet with the Fire Chief to fully inform him about all actions taken. Beyond this, the appellant avers that it was unnecessary to meet with the Fire Chief because the prompt makes clear that the Fire Chief had a "well-defined" policy. As such, the appellant argues that meeting with the Fire Chief is unnecessary and conveys a lack of leadership and decisiveness. Accordingly, he argues that he took all necessary and appropriate steps required to respond to the subject scenario.

In reply, at the outset, it is noted that keeping the Fire Chief informed of all findings and actions is a distinct PCA from meeting with the Fire Chief at the start of the investigation and that the appellant did receive credit for keeping the Fire Chief informed of all findings and investigations. Meeting with the Fire Chief to get specific information from him at the start of the investigation is a valid and important step for several critical reasons. The prompt states that the candidate was recently appointed to the title Battalion Fire Chief and that there have been other recent changes in upper management, including the appointment of a new Fire Chief in charge of the department. It further provides that the new Fire Chief wants to implement a new progressive discipline policy. The newness of the candidate to the position, the recency of the Fire Chief's appointment and the stated intention of the Fire Chief to implement a new policy are all factors that make it logical and imperative to ensure that the candidate and the Fire Chief are on the same page with the expectations of the investigation presented here. Failing to meet prior to beginning the investigation could result in an investigation that is inefficient and/or fails to accomplish the new Fire Chief's objectives. Beyond this, a review of the appellant's presentation fails to demonstrate that he otherwise addressed the PCA at issue. Accordingly, based upon the foregoing, the appellant's score of 4 on the technical component of the Supervision scenario is sustained.

The Incident Command scenario involves a response to a report of fire at a local movie theater, part of which is in the process of a renovation. Question 1 asks what specific actions the candidate would take upon arriving at the scene. The prompt for Question 2 states that the party wall separating two theaters collapses during

firefighting operations, trapping two firefighters. Question 2 then asks what specific actions the candidate should now take based on this new information.

The SME found that the appellant failed to ensure proper transfer of command, as required, and missed a number of additional opportunities, including the opportunity to check the roof from the safety of a ladder/check roof conditions. Because the appellant identified a significant number of additional responses, but failed to identify one mandatory response, the SME utilized the “flex rule” to award the appellant a score of 3 on the technical component of the Incident Command scenario¹. On appeal, the appellant argues that he covered the PCA of checking the roof from the safety of a ladder/checking roof conditions at two points in his presentation. Specifically, the appellant asserts that he covered this by stating that he would assign a “Safety Officer to monitor the steel truss roof at all times for sag or collapse” and assigning a separate division supervisor to monitor roof conditions.

In reply, the appellant does not dispute that he failed to cover the mandatory response of ensuring a proper transfer of command and a review of the recording of his presentation *arguendo* confirms that he failed to cover this mandatory action. Even assuming, *arguendo*, that the statements cited by the appellant were sufficient to award him credit for the additional response of checking the roof from the safety of a ladder/checking roof conditions, it would not alter his score. Specifically, because he missed a mandatory response, pursuant to the flex rule, he cannot be awarded a score higher than 3 under these circumstances.

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.

¹ Generally, candidates must identify all mandatory responses to receive, at minimum, a score of 3. However, a score of 3 may also be achieved via the “flex rule,” where a candidate provides many additional responses, but does not give a mandatory response. However, a score higher than a 3 cannot be provided utilizing the flex rule.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20TH DAY OF MARCH, 2024

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