



STATE OF NEW JERSEY

In the Matter of Jose Ruiz, Battalion
Fire Chief (PM3388C), Newark

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

CSC Docket No. 2023-1920

Examination Appeal

ISSUED: March 20, 2024 (ABR)

Jose Ruiz appeals his score on the oral portion of the promotional examination for Battalion Fire Chief (PM3388C), Newark¹.

The subject promotional examination was held on May 23, 2022, and 39 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

¹ It is noted that the appellant took a make-up of the multiple-choice portion of the subject examination in June 2023 which has not yet been scored.

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.

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

The appellant challenges his scores for the technical components of the Administration 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 Administration scenario involves the candidate investigating an incident between Fire Fighter Hernandez and a Police Officer which culminated in the arrest of Fire Fighter Hernandez at the scene of a car accident where the candidate was serving as the incident commander. Question 1 asks what specific steps the candidate would take to investigate the incident between Fire Fighter Hernandez and the Police Officer. Question 2 states that the candidate has learned that Fire Fighter Hernandez is considering filing a civil suit and asks the candidate what actions should be taken concerning Fire Fighter Hernandez based upon this new information.

On the Administration scenario, the SME indicated that the appellant missed a significant number of PCAs, including, in part, the opportunity to interview Fire Fighter Hernandez separately. Based upon the foregoing, the SME awarded the appellant a score of 3 for the technical component of the scenario. On appeal, the appellant argues that he covered this by stating during his presentation that he would “[p]ut the Fire Fighter at ease, explain to him the issue, get his side of the story, listen, ask him questions, and probe.”

In reply, a review of the appellant’s presentation demonstrates that the appellant’s actual statement was "I will put the Fire Fighter at ease, explain to him what the what the [sic] issue was and what he did wrong. I will get his side of the story. I will listen. I will show empathy. I will offer the employee assistance program. I will ask questions. I will probe. I will show mutual respect." This statement did not specifically convey that he would interview Firefighter Hernandez separately about the underlying incident. It is further noted that the appellant’s statement surrounded the offer of the Employee Assistance Program, which is a separate PCA for which he received credit. As such, there does not appear to be a basis to disturb his score of 3 for the technical component of the scenario.

With regard to the technical component of the Incident Command scenario, the scenario involves a response to a fire at a local auto parts store and auto repair shop. Question 1 asks what specific actions the candidate would take upon arriving at the scene. The prompt for Question 2 indicates that while crews are involved in extinguishment operations, an explosion occurs on Side C, emergency radio traffic is transmitted by a fire fighter and structural damage is now visible on Side C. Question 2 asks what specific actions the candidate should now take based upon this new information.

On the technical component of the Incident Command scenario, the assessor awarded the appellant a score of 3 using the “flex rule”². The appellant’s score was based upon his failure to identify a number of PCAs, including the mandatory response of performing a primary search and missing the opportunity to monitor the air in response to Question 1. On appeal, the appellant argues that he covered a primary search by stating “search and rescue any victims,” “search” and “secondary searches” during his presentation. As to monitoring the air, he claims he covered that PCA by stating he would “[e]stablish a task force downwind to monitor the air and atmosphere.”

² 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.

In reply, it is noted that the PCA of conducting a primary search was a mandatory response to Question 1 and thus needed to be stated during his response to Question 1. The relevant statements by the appellant about performing searches came during his response to Question 2 on the subject scenario. Accordingly, he was properly denied credit for this mandatory response to Question 1. Further, a review of the appellant's presentation reveals that he was erroneously credited with another mandatory response to Question 1: begin extinguishment operations. Specifically, the only relevant statement the appellant made about such an action did not come until his response to Question 2. Thus, because he failed to identify this mandatory response while answering Question 1, as required, his credit for this PCA must be stricken and his score shall be reduced to 2. Finally, even if the appellant had been credited with the additional response of monitoring the air, because he missed the above-noted mandatory responses, he still would have been awarded a score of 2. Therefore, the appellant has failed to sustain his burden of proof and his score for the technical component of the Incident Command scenario shall be reduced to 2.

CONCLUSION

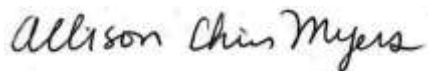
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied. Additionally, it is ordered that the appellant's score on the technical component of the Incident Command scenario be reduced from 3 to 2. It is further ordered that this scoring change be given retroactive effect.

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 MARCH, 2024



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