

42 U.S.C. Section 2000e, *et seq.*; the Civil Rights Act of 1991 (“CRA ‘91”); the Thirteenth and Fourteenth Amendments to the United States Constitution, the violation of which is actionable pursuant to 42 U.S.C. §1983, and 28 U.S.C. §§ 1331 and 1343(a)(4), and the laws of the State of Illinois. Plaintiffs also invoke the supplemental jurisdiction of this Court to decide ancillary and pendent claims arising under state law.

VENUE

2. Venue is proper in this Court as all acts complained of occurred in the City of Chicago, County of Cook, State of Illinois.

PARTIES

3. Plaintiff, MILLER is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. MILLER was hired by Defendant, CHICAGO as a Chicago Fire Department (“CFD”) Firefighter on May 16, 1996, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, MILLER applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, MILLER completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised MILLER he scored a total of 67.143 on the Fire Captain Promotion Exam and was “ranked” number 316 on the eligibility list. MILLER initially filed a timely charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”), on or about March 27, 2019, identified as Charge No. 440-2019-03588 (*a copy of which is attached hereto as Ex. “A,” and incorporated by*

reference herein), alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, MILLER received a "Notice of Right to Sue," issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. "B," and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after MILLER's receipt of the aforesaid Notice of Right to Sue and, therefore, MILLER has met all the administrative and time requirements of CRA '91.

4. Plaintiff, LUNDY-BEY is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. LUNDY-BEY was hired by Defendant, CHICAGO as a CFD Firefighter on March 4, 1997, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, LUNDY-BEY applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, LUNDY-BEY completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised LUNDY-BEY he scored a total of 64.910 on the Fire Captain Promotion Exam and was "ranked" number 329 on the eligibility list. LUNDY-BEY initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03589 (*a copy of which is attached hereto as Ex. "C," and incorporated by reference herein*), alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, LUNDY-BEY received a "Notice of Right to Sue," issued by the United States Department of Justice, Civil Rights Division

(a copy of which is attached hereto as Ex. "D," and incorporated by reference herein). This action was commenced by the filing of this Complaint within ninety (90) days after LUNDY-BEY's receipt of the aforesaid Notice of Right to Sue and, therefore, LUNDY-BEY has met all the administrative and time requirements of CRA '91.

5. Plaintiff, SMITH is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. SMITH was hired by Defendant, CHICAGO as a CFD Firefighter on May 16, 1996, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, SMITH applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, SMITH completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised SMITH he scored a total of 66.423 on the Fire Captain Promotion Exam and was "ranked" number 320 on the eligibility list. SMITH initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03590 *(a copy of which is attached hereto as Ex. "E," and incorporated by reference herein)*, alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, SMITH received a "Notice of Right to Sue," issued by the United States Department of Justice, Civil Rights Division *(a copy of which is attached hereto as Ex. "F," and incorporated by reference herein)*. This action was commenced by the filing of this Complaint within ninety (90) days after SMITH's receipt of the

aforesaid Notice of Right to Sue and, therefore, SMITH has met all the administrative and time requirements of CRA '91.

6. Plaintiff, HENRY is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. HENRY was hired by Defendant, CHICAGO as a CFD Firefighter on February 16, 1999, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, HENRY applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, HENRY completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised HENRY he scored a total of 57.934 on the Fire Captain Promotion Exam and was "ranked" number 374 on the eligibility list. HENRY initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03585 (*a copy of which is attached hereto as Ex. "G," and incorporated by reference herein*), alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 7, 2022, HENRY received a "Notice of Right to Sue," issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. "H," and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after HENRY's receipt of the aforesaid Notice of Right to Sue and, therefore, HENRY has met all the administrative and time requirements of CRA '91.

7. Plaintiff, EISON is an African American female citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. EISON was hired by Defendant, CHICAGO as a CFD Firefighter on December 3, 1990, and during the course of her career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, EISON applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted her Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, EISON completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised EISON she scored a total of 51.766 on the Fire Captain Promotion Exam and was “ranked” number 395 on the eligibility list. EISON initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03586 (*a copy of which is attached hereto as Ex. “I,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 7, 2022, EISON received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “J,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after EISON’s receipt of the aforesaid Notice of Right to Sue and, therefore, EISON has met all the administrative and time requirements of CRA ‘91.

8. Plaintiff, BOGGS is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. BOGGS was hired

by Defendant, CHICAGO as a CFD Firefighter on February 2, 1998, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, BOGGS applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, BOGGS completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised BOGGS he scored a total of 60.858 on the Fire Captain Promotion Exam and was “ranked” number 363 on the eligibility list. BOGGS initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03587 (*a copy of which is attached hereto as Ex. “K,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans . On or about June 3, 2022, BOGGS received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “L,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after BOGGS’s receipt of the aforesaid Notice of Right to Sue and, therefore, BOGGS has met all the administrative and time requirements of CRA ‘91.

9. Plaintiff, WASHINGTON is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. WASHINGTON was hired by Defendant, CHICAGO as a CFD Firefighter on December 1, 1999, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016,

WASHINGTON applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, WASHINGTON completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised WASHINGTON he scored a total of 69.765 on the Fire Captain Promotion Exam and was “ranked” number 291 on the eligibility list. WASHINGTON initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03580 (*a copy of which is attached hereto as Ex. “M,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, WASHINGTON received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division, a copy of which is attached hereto as Ex. “N,” and incorporated by reference herein. This action was commenced by the filing of this Complaint within ninety (90) days after WASHINGTON’s receipt of the aforesaid Notice of Right to Sue and, therefore, WASHINGTON has met all the administrative and time requirements of CRA ‘91.

10. Plaintiff, BEALS is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. BEALS was hired by Defendant, CHICAGO as a CFD Firefighter on December 1, 1989, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, BEALS applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date.

On January 31, 2017, BEALS completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised BEALS he scored a total of 69.852 on the Fire Captain Promotion Exam and was “ranked” number 289 on the eligibility list. BEALS initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03582 (*a copy of which is attached hereto as Ex. “O,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, BEALS received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “P,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after BEALS’s receipt of the aforesaid Notice of Right to Sue and, therefore, BEALS has met all the administrative and time requirements of CRA ‘91.

11. Plaintiff, TURNER is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. TURNER was hired by Defendant, CHICAGO as a CFD Firefighter on July 17, 2000, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, TURNER applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, TURNER completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire

Captain Promotion Exam. On October 19, 2018, CHICAGO advised TURNER he scored a total of 60.760 on the Fire Captain Promotion Exam and was “ranked” number 365 on the eligibility list. TURNER initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-03583 (*a copy of which is attached hereto as Ex. “Q,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, TURNER received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “R,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after TURNER’s receipt of the aforesaid Notice of Right to Sue and, therefore, TURNER has met all the administrative and time requirements of CRA ‘91.

12. Plaintiff, GREENE is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. GREENE was hired by Defendant, CHICAGO as a CFD Firefighter on October 16, 2001, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, GREENE applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, GREENE completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised GREENE he scored a total of 65.353 on the Fire Captain Promotion Exam and was “ranked” number 324 on the eligibility list. GREENE initially filed a timely charge of discrimination with the EEOC, on or about March 27,

2019, identified as Charge No. 440-2019-03584 (*a copy of which is attached hereto as Ex. "S," and incorporated by reference herein*), alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 3, 2022, GREENE received a "Notice of Right to Sue," issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. "T," and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after GREENE's receipt of the aforesaid Notice of Right to Sue and, therefore, GREENE has met all the administrative and time requirements of CRA '91.

13. Plaintiff, NORTHCROSS is an African American male citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. NORTHCROSS was hired by Defendant, CHICAGO as a CFD Firefighter on October 1, 1991, and during the course of his career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, NORTHCROSS applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted his Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, NORTHCROSS completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised NORTHCROSS he scored a total of 65.599 on the Fire Captain Promotion Exam and was "ranked" number 322 on the eligibility list. BOGGS initially filed a timely charge of discrimination with the EEOC, on or about March 27, 2019, identified as Charge No. 440-2019-04007 (*a copy of which is attached hereto as Ex. "U," and incorporated by reference herein*), alleging CHICAGO's scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about

June 7, 2022, NORTHCROSS received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “V,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after NORTHCROSS’ receipt of the aforesaid Notice of Right to Sue and, therefore, NORTHCROSS has met all the administrative and time requirements of CRA ‘91.

14. Plaintiff, PEOPLES is an African American female citizen of the United States of America and a resident of the City of Chicago, County of Cook, State of Illinois. PEOPLES was hired by Defendant, CHICAGO as a CFD Firefighter on December 1, 1992, and during the course of her career has been promoted to his current position of Fire Lieutenant by passing the examinations and promotion processes established by CHICAGO. In November, 2016, PEOPLES applied for the position of Fire Captain in response to an announcement made by CHICAGO, and timely submitted her Fire Captain Promotion Exam application with supporting documentation by the required date. On January 31, 2017, PEOPLES completed the written examination portion of the Fire Captain Promotion Exam, and on February 26, 2017, completed the oral assessment portion of the Fire Captain Promotion Exam. On October 19, 2018, CHICAGO advised PEOPLES she scored a total of 49.562 on the Fire Captain Promotion Exam and was “ranked” number 403 on the eligibility list. PEOPLES initially filed a timely charge of discrimination with the EEOC, on or about April 12, 2019, identified as Charge No. 440-2019-04008 (*a copy of which is attached hereto as Ex. “W,” and incorporated by reference herein*), alleging CHICAGO’s scoring of the Fire Captain Promotion Exam discriminated against African Americans. On or about June 8, 2022, PEOPLES received a “Notice of Right to Sue,” issued by the United States Department of Justice, Civil Rights Division (*a copy of which is attached hereto as Ex. “X,” and incorporated by reference herein*). This action was commenced by the filing of this Complaint within ninety (90) days after

PEOPLES' receipt of the aforesaid Notice of Right to Sue and, therefore, PEOPLES has met all the administrative and time requirements of CRA '91.

15. Defendant, CHICAGO, is a municipality organized pursuant to the laws of the State of Illinois and the public employer of the individually named Defendants. CHICAGO is an "employer" as defined in 42 U.S.C. § 2000e(b) in that it had 15 or more employee for each working day in twenty or more calender weeks in the preceding year.

16. CFD is a municipal department of Defendant, CHICAGO, organized pursuant to the laws and ordinances of the State of Illinois and City of Chicago. CFD maintains a number of offices and fire stations in the City of Chicago. PLAINTIFFS worked at various CFD fire houses located in the City of Chicago, County of Cook, State of Illinois.

FACTUAL BACKGROUND

17. Defendant, CHICAGO has historically engaged in unlawful racial discrimination in the CFD in the employment and promotion of firefighters which has resulted in the employment and advancement of far less minority firefighters relative to their proportion of CHICAGO's population.

18. Since approximately 1980, Defendant, CHICAGO's unlawful racial discrimination in the CFD has been the subject of numerous lawsuits, court settlements, and consent decrees designed to eradicate such discriminatory practices and promote equality of opportunity for minorities, including PLAINTIFFS herein, in the hiring, promotion and other employment policies within the CFD.

19. Since approximately 1980, CFD firefighters, including PLAINTIFFS herein, through their Union, have engaged in collective bargaining with Defendant, CHICAGO to address the unlawful racial discriminatory conduct it perpetuated within the CFD.

20. The current collective bargaining agreement (hereinafter “Agreement”) covering the term of July 1,2012, through June 30, 2017, became effective on or about August 1, 2014, and remains in full force and effect while a successor Agreement is negotiated.

21. To address the unlawful racial discriminatory conduct Defendant, CHICAGO perpetuated within the CFD, “Article XIII. No Discrimination” was included and made a part of the Agreement which stated in pertinent part as follows:

Section 13.1 - No Discrimination

In accordance with applicable law, neither the Employer nor the Union shall discriminate against any employee covered by the Agreement because of race, creed, color, national origin, sex, age, religion or political affiliation.

* * *

Section 13.4 - Affirmative Action

A. The Parties agree to establish and implement an affirmative action program in accordance with the terms and conditions of the IAFF recruitment and equal opportunity programs as further described in Appendix G of the Agreement.

(See “Article XIII. No Discrimination,” attached hereto as Ex. “Y.”)

22. To address the unlawful racial discriminatory conduct Defendant, CHICAGO perpetuated within the CFD, “Appendix G – Equal Opportunity” was included and made a part of the Agreement which stated in pertinent part as follows:

Appendix G – Equal Opportunity

Section 1 - Compliance with Court Settlements and Decrees

The City of Chicago will immediately take all action necessary to assure compliance with agreements reached and decrees issued in court proceedings affecting hiring, promotion and other employment policies of the Fire Department. In addition, to the extent not specifically required by, and not inconsistent with, such agreement or decrees, and to the fullest extent consistent with applicable law, the Department will implement the policies and programs set forth in the following paragraphs.

* * *

Section 3 - Transfers and Promotions

A. Goal

The parties agree that the transfer and promotion policies of the Fire Department shall have, as a goal, the inclusion of Black and Hispanic personnel in all categories and all ranks in order to reach as quickly as is reasonably possible a level as close to 45% as is reasonably achievable.

B. Programs

1. Training

All members of the force shall be given the training and special educational opportunity necessary to qualify them for promotion. This shall include in service training and educational programs as well as opportunity for attendance at education institutions, where necessary with adequate arrangements for paid time to permit the individual to participate in such programs.

2. Equality of Opportunity

Promotional and transfer opportunities shall be made available to all available to all qualified members of the force. *Examinations, where used, and any other standards and descriptions of required qualifications, shall be reviewed and any elements which have the effect of discrimination against Blacks and Hispanics shall be eliminated.* The Department will take all reasonable steps, by posting and other means, to encourage Black and Hispanic members of the force and applicants for employment to apply for positions for which they show potential or desire, and are, or can within a reasonable time, become qualified.

3. Remedying Past Discrimination

There shall be an immediate review of the status of all Black and Hispanic firefighters in order to determine those whose time in grade would have made them eligible for promotion had not discriminatory practices existed in the past. Within 90 days of each anniversary date of the signing of this contract, the Department shall review the status of all Black and Hispanic members of the force and prepare a written report stating whether there is any reason other than past racial discrimination for the failure of such individual to achieve promotion, and, if so, the facts supporting the conclusion. Where it is found that there is a reason for non-promotion which can be remedied by appropriate training or educational opportunity, special arrangements shall be offered to enable such individual to have the necessary training or educational opportunity. *Where no reason other than past discrimination is found*

for non-promotion of such individuals, preference will be given for the next promotion or promotions available. Where promotions are made on the basis of examination, such past discrimination shall be remedied by giving, in the case of those who achieve a passing grade in such examinations and otherwise qualified, preference over candidates for promotion with equal or lesser length of service.

a. Establish of Responsibility for Implementation. The City shall assign special Department Affirmative Action Officer to assure implementation for the Chicago Fire Department Affirmative Action Plan. The Affirmative Action Officer shall be of equivalent rank as an Assistant Commissioner. It is within the Officer's scope of duties to assign responsibilities for the implementation of the plan on an intra departmental basis to assure that it is carried out in every phase of Department operations. The Officer will report to the Mayor, initially on a bi-monthly basis for six months, thereafter monthly. The Officer is mandated from time to time to make "on the spot audits" of the effectiveness of the Affirmative Action Plan and shall recommend remedial and corrective action where such is needed. This Officer will serve as a liaison between the City of Chicago and the Community Advisory Board of the Chicago Fire Department, apprising that body of the progress of the Affirmative Action Plan through periodic reports of areas which need attention and corrective action.

Section 4 - Community Advisory Board

A. Composition

The City of Chicago shall invite each of a reasonable number of community and church organizations representing a broad segment of the Black, Hispanic, Native American and Asian communities to designate a representative to serve on a Fire Department Community Advisory Board which shall have a total of eleven members. The Board shall include at least four (4) representatives named by organizations identified with the Black communities of Chicago and at least two (2) named by organizations identified with the Hispanic communities of Chicago and two (2) named by Local 2 of the International Association of Fire Fighters.

B. Duties and Powers

The Community Advisory Board shall have the duty of monitoring the progress of the Fire Department in the implementation of this affirmative action section of this contract, reporting the facts with respect to such progress to the public and to the parties of this contract, and making suggestions for more effective implementation. The Department agrees to make a Progress Report to the Board at least once a year, containing full data as to the nature of the recruitment, hiring, transfer and promotion programs in effect, the progress made during the

year toward achievement of the goals described herein, the number and percentage of Blacks and Hispanics hired, transferred or promoted during the year, and the number, percentage and geographical distribution of Blacks and Hispanic holding positions in each category and rank. *Copies of written examinations will be made available to the Board for review and for such recommendations as the Board may make for modifications to eliminate or prevent discriminatory impact. The Department will cooperate with the Board by making available such other information, records and statistics as the Board may reasonably request for performance of its duties.* The Department will also make available such facilities as may be needed for performance of the Board's functions; including meeting room, secretarial assistance, office supplies and assistance of research, technical assistance or research, technical assistance of research, technical assistance specialists and other personnel.

(See "Appendix G – Equal Opportunity," attached hereto as Ex. "Z," (emphasis added).)

23. To address the unlawful racial discriminatory conduct Defendant, CHICAGO perpetuated within the CFD, Section 9.3 was included and made a part of the Agreement which provides, in large part, the procedure for administering promotional exams within the CFD and how vacancies and promotions within the bargaining unit are filled, including Fire Captains, in a non-discriminatory fashion, and states in pertinent part as follows:

Section 9.3 - Vacancies and Promotions

A. Vacancies

Promotional vacancies within the bargaining unit created as a result of death, resignation, retirement and discharge for just cause, and which the Employer must fill to maintain the minimum manning agreed to in this Agreement, shall be filled within forty-five (45) days of the last day the employee actually worked on duty or was discharged. Promotions which are required to fill vacancies shall be made from established lists resulting from job related examinations given to the employees in the classification immediately below the vacancy.

B. Promotional Eligibility Lists

1. No employee shall be eligible to take a promotional examination until the employee has completed the probationary period. The ranking of employees on promotional lists shall be based upon the employee's ascertained merit which shall be determined by promotional examinations consisting of the following three (3) criteria: written, seniority and oral/proficiency (hereinafter referred to as the "administered examination"). Promotions shall be made on the basis of the administered examination, and effective for administered

examinations given after January 1, 1997, promotions may also be made pursuant to a performance selection process as set forth in subparagraph 4.

The weights to be accorded the criteria of the administered examination shall be consistent with the requirements of federal law, and subject to review by the Justice Department. The City will announce the weights of the criteria of the administered examination at the time the Department of Personnel officially announces the examination.

Effective for administered examination given after January 1, 2003, the total weight assigned to the written criteria shall be no less than twenty-five percent (25%); the total weight assigned to the oral/proficiency criteria shall be no less than twenty-five percent (25%); and the total weight assigned to the seniority criteria shall be no less than thirty percent (30%) of the final score of the administered examination.

* * * *

4. Performance Selection Process

a. Up to sixteen percent (16%) of the promotions to the rank of Lieutenant, up to sixteen percent (16%) of the promotions to the rank of Captain, and up to sixteen percent (16%) of the promotion to the rank of Battalion Chief on each promotional order may be made by the Fire Commissioner on the basis of performance. The following criteria must be met by any applicant prior to being eligible for performance promotion:

(i) passing the appropriate administered examination with a grade of seventy (70) or better;

(ii) meeting the following time in rank requirement at the time of the promotion:

(a) One hundred twenty (120) months in the classification of Firefighter and/or Engineer for promotion to the position of Lieutenant;

(b) Seventy-two (72) months in the classification of Lieutenant for promotion to the position of Captain;

(c) Seventy-two (72) months in the classification of Captain for promotion to the position of Battalion Chief.

(See "Section 9.3 - Vacancies and Promotions" attached hereto as Ex. "AA.")

24. In 2017, a Fire Captains Promotional Exam was administered by Defendant, CHICAGO and taken by PLAINTIFFS.

25. Pursuant to Section 9.3 of the Agreement, the ranking of employees taking the 2017 Fire Captains Promotional Exam, including PLAINTIFFS, was based upon total scores determined by three weighted criteria: written criteria, oral criteria, and seniority criteria. Each of these three weighted criteria were assigned a designated weight in accordance with the directions of Section 9.3, and the weights on the 2017 Fire Captains Promotional Exam were 35% for written criteria, 35% for oral criteria, and 30% for seniority. Pursuant to Section 9.3 of the Agreement, in order to be promoted to the rank of Fire Captain, an applicant was required to achieve a passing score of seventy (70) or better on the 2017 Fire Captains Promotional Exam.

26. On October 19, 2018, Defendant, CHICAGO posted PLAINTIFFS' results of the Fire Captain Promotional Exam as follows:

<u>PLAINTIFF</u>	<u>Score</u>
MILLER	67.143
LUNDY-BEY	64.910
SMITH	66.423
HENRY	57.934
EISON	51.766
BOGGS	60.858
WASHINGTON	69.765
BEALS	69.852
TURNER	60.760
GREENE	65.353
NORTHCROSS	65.599
PEOPLES	49.562

27. Defendant, CHICAGO's method of scoring PLAINTIFFS' Fire Captain Promotional Exam results was improper and did not comply with Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement. Specifically, CHICAGO separately calculated PLAINTIFFS' written and oral component scores using a "linear transformation re-scaled" method which awarded a maximum

“transformed” score of thirty-five (35) points to the individual who achieved the “highest” raw score or “most correct” answer on a particular written and oral component, while awarding a “transformed” minimum score of one (1) point to the individual who scored the “lowest” raw score or “least correct” answer on a particular written and oral component, even though said “lowest” or “least correct” response was still deemed “correct.”

28. Pursuant to Defendant, CHICAGO’s “linear transformation” methodology, the highest raw score achieved by a participant of the 2017 Fire Captain Promotional Exam on the written component is assigned thirty-five (35) points regardless of the number of questions answered correctly. Similarly, the lowest score achieved on the written component of the Exam is assigned one (1) point regardless of the number of questions answered correctly.

29. The written exam component of the 2017 Fire Captains Promotional Exam contained 120 items. All items were equally weighted one (1) point apiece and the maximum achievable raw score was 120 points. The highest achieved raw score by a participant on the written component of the Exam was 117 points out of a possible 120 points, and, using Defendant, CHICAGO’s “linear transformation” scoring methodology, this(these) participant(s) received a perfect “transformed” score of thirty-five (35) points on a thirty-five (35) point scale despite not achieving a perfect score on the written component. The minimum achieved raw score by a participant on the written component of the Exam was 64 points out of a possible 120 points, and, using CHICAGO’s “linear transformation” scoring methodology, this raw score was assigned a “transformed” score of one (1) point on a thirty-five (35) point scale despite earning approximately 53% of the available raw points employing a *pro-rata* scoring method.

30. The maximum available points for the oral component of the 2017 Fire Captains Promotional Exam was 227. The maximum raw score achieved by a participant of the Exam was 195.0 out of a possible 227 points, and, using Defendant, CHICAGO's "linear transformation" methodology, this(these) participant(s) was assigned a perfect transformed score of thirty-five (35) points on a thirty-five (35) point scale despite not achieving a perfect score on the oral component. The minimum achieved raw score by a participant on the oral component of the Exam was 68.0 points out of a possible 227 points, and, using CHICAGO's "linear transformation" scoring methodology, this raw score was assigned a "transformed" score of one (1) point on a thirty-five (35) point despite earning approximately 30% of the available raw points employing a *pro-rata* scoring method.

31. By re-scaling PLAINTIFFS' written and oral component scores separately using a "linear transformation re-scaled" method, and more importantly by awarding a set number of thirty-five (35) points to the individual who was graded as having the "most correct" answers and a set number of one (1) point to the individual who was graded as having the "least correct" answers, rather than using their raw scores based on a *pro-rata* scoring method, Defendant, CHICAGO *de facto* curved the scores of all the participants of the 2017 Fire Captains Promotional Exam. Moreover, this curve inflated scores of some applicants while simultaneously deflating scores of other applicants.

32. Additionally, CHICAGO's applicant eligibility list was ranked in order of applicants' final "linear transformation scaled score" rather than their actual "raw" scores, which resulted in individuals with higher "raw" final scores being ranked below individuals with lower "raw" final scores. In other words, CHICAGO's ranking of PLAINTIFFS on the Fire Captain Promotional Exam was improperly determined, in part, by the performance of other applicants.

33. Upon information and belief, Defendant, CHICAGO's "linear transformation scaled" scoring method caused PLAINTIFFS to receive scores below 70 even though their percent correct out of 35 points each on the written and oral criteria provided them scores equal to or above 70. Had CHICAGO scored PLAINTIFFS' written and oral components based upon the percentage of answers deemed "correct" to the total possible points and then applied the relative weight of 35% to the results, PLAINTIFFS' scores would have been at 70 or above.

34. The scoring method implemented by Defendant, CHICAGO violated Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement and discriminated against PLAINTIFFS as it artificially deflated PLAINTIFFS' scores and thus did not accurately measure their performance on the 2017 Fire Captain Promotion Exam.

35. Defendant, CHICAGO was advised of the discriminatory nature of its scoring method of the 2017 Fire Captains Promotion Exam in its Technical Manual for Fire Caption Promotional Process, which stated in pertinent part as follows:

ADVERSE IMPACT CONCERNS

The Uniform Guidelines stresses the importance of searching for a procedure that could minimize adverse impact, stating:

where two or more selection procedures are available which serve the user's legitimate interest in efficient and trustworthy workmanship, and which are substantially equally valid for a given purpose *the user should use the procedure which has been demonstrated to have lesser adverse impact.* (Section 3.B)

Accordingly, an alternate selection procedure that results in less adverse impact must be used when it meets the following conditions: (a) it serves the user's legitimate interest, (b) it shows substantially equal validity for the given purpose, and (c) it has demonstrated less adverse impact.

(See CFD Fire Captain Technical Manual, Volume 1 - Job Analysis, attached hereto as Ex. "BB," at p. 42 (emphasis added).)

* * *

TRANSFORMED WRITTEN EXAMINATION SCORE DESCRIPTIVE RESULTS

In addition, means and standard deviations were calculated for protected subgroup based on the raw and transformed Written Examination scores. Adverse impact for each subgroup also was evaluated using multiple methods. . . . To statistically compare mean differences between racial subgroups, a one-way ANOVA was conducted. The overall model for the ANOVA showed a statistically significant effect in the differences between the subgroup means. A post hoc analysis using the Tukey method for pairwise comparisons showed statistically significant differences between Whites and Blacks and Hispanics and Blacks, but no statistically significant difference between Whites and Hispanics. *Accordingly, White and Hispanic subgroups scored significantly higher than the Black subgroup.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex.

“CC,” at p. 58 (emphasis added).)

* * *

ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR THE WRITTEN EXAMINATION

Analyses found that *Four-Fifths Rule (80% Rule) violations were present for Black test takers in all deciles. In other words, adverse impact based on the Four-Fifths rule was observed in the top 90% of test takers. Similarly, when using the Binomial, Fisher’s, and Chi-Square statistics, adverse impact was present for Blacks in all deciles.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex.

“CC,” at p. 60 (emphasis added).)

* * *

TRANSFORMED ORAL ASSESSMENT SCORE DESCRIPTIVE RESULTS

Comparisons of mean scores were performed only on White, Black, and Hispanic subgroups to avoid disclosure of individual candidate scores for Asians and American Indians. To statistically compare mean differences between racial subgroups, a one-way ANOVA was conducted. The overall model for the ANOVA showed a statistically significant effect in the differences between the subgroup means. A post hoc analysis using the Tukey method for pairwise comparisons showed statistically significant differences between Whites and Blacks and Hispanics and Blacks, but no statistically significant difference between Whites and Hispanics. *Accordingly, White and Hispanic subgroups scored significantly higher than Black subgroup.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex. "CC," at p. 100 (emphasis added).)

* * *

ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR THE ORAL ASSESSMENT

Analyses found that *Four-Fifths Rule (80% Rule) violations were present for the Black subgroup throughout all of the deciles. In other words, adverse impact was detected in all deciles including the top 90%.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex. "CC," at p. 106 (emphasis added).)

* * *

MEAN PROPORTIONS AND CORRECTED ITEM - TOTAL CORRELATIONS FOR ORAL ASSESSMENT

These item-level results, in general, indicate that *most of the items were discriminating in the assessment of candidate performance.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex. "CC," at p. 109 (emphasis added).)

* * *

ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR RANK ORDER

[A]nalyse of the 2017 Eligibility List for the Fire Captain Promotional Process revealed that *adverse impact calculated by the Four-Fifths Rule was present for the Blacks in all deciles.*

(See CFD Fire Captain Technical Manual, Volume 2 - Test Development, attached hereto as Ex. "CC," at p. 120 (emphasis added).)

36. Because the scoring methodology of the written and/or oral criteria of the 2017 Fire Captains Promotional Exam was discriminatory in nature due to having an adverse impact on African Americans, Defendant, CHICAGO could have increased the weight of the seniority criteria

and lowered the weight of the written and oral criteria to eliminate said discriminatory impact. However, CHICAGO chose not to do so in violation of Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement.

37. Because the scoring methodology of the written and/or oral criteria of the 2017 Fire Captains Promotional Exam was determined to be discriminatory in nature due to having an adverse impact on African Americans, Defendant, CHICAGO could have promoted applicants, including PLAINTIFFS, to the rank of Fire Captain even though they achieved a score below seventy (70), because a score of seventy (70) has no bearing on a particular applicant's ability to perform the job duties of a Fire Captain, nor can it be proven an applicant who scored below seventy (70) is less qualified than an applicant who scored a seventy (70) or better. However, CHICAGO chose not to do so in violation of Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement.

38. Because the "linear transformation re-scaled" scoring methodology of the written and/or oral criteria of the 2017 Fire Captains Promotion Exam was determined to be discriminatory in nature due to having an adverse impact on African Americans, Defendant, CHICAGO could have changed the scoring methodology to a "raw *pro-rata*" scoring method which did not adversely impact African Americans. However, CHICAGO chose not to do so in violation of Section 9.3 and Appendix G of the Agreement.

39. Despite knowing its "linear transformation re-scaled" method of scoring the 2017 Fire Captains Promotion Exam discriminated against African Americans, including PLAINTIFFS, Defendant, CHICAGO wilfully failed to eliminate it in favor of a "raw *pro-rata*" scoring method in violation of Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement, which clearly call for the elimination of any such examination procedures which have the effect of discriminating against Blacks.

40. Defendant, CHICAGO's actions as set forth above is consistent with its long standing pattern and practice of routinely ignoring the provisions and mandates of "Appendix G – Equal Opportunity" which was included and made a part of the Agreement in order to rectify and address years of unlawful racial discriminatory conduct CHICAGO perpetuated within the CFD.

41. Defendant, CHICAGO's actions as set forth above are directly contrary to how it promoted applicants who took the 2017 Fire Battalion Chief Promotion Exam. Specifically, CHICAGO re-scored the results of the 2017 Fire Battalion Chief Promotion Exam using a "raw *pro-rata*" method instead of a "linear transformation re-scaled" method, and promoted African American Fire Captions to the position of Battalion Chief even though they scored below seventy (70) on the 2017 Fire Battalion Chief Promotion Exam, in accordance with Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement which calls for the elimination of any such examination procedures which have the effect of discriminating against Blacks.

42. Defendant, CHICAGO, by its actions as set forth above, wilfully failed achieve its goal as stated in the Agreement's "Appendix G - Equal Opportunity" of having Black personnel represent 45% of all categories and all ranks of the CFD. To the contrary, CHICAGO achieved just the opposite - its actions significantly lowered the scores of and discriminated against African American Fire Lieutenants, including PLAINTIFFS, who sat for the 2017 Fire Captains Promotion Exam and excluded them from the rank of Fire Caption in violation of Sections 9.3, 13.1 and 13.4, and Appendix G of the Agreement, Title VII, CRA '91, and 42 U.S.C. § 1983.

COUNT I

43. As Paragraph 43 of Count I of this Complaint, PLAINTIFFS re-allege and incorporate Paragraphs 1-42 as though fully set forth herein.

44. At all relevant times, PLAINTIFFS were treated less favorably than similarly situated Caucasian employees and discriminated against on the basis of their race by Defendant, CHICAGO.

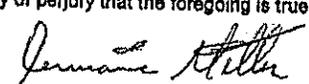
45. PLAINTIFFS reported the above racial discrimination to Defendant, CHICAGO and filed grievances as a result thereof, however, the racial discrimination continued despite PLAINTIFFS' objections and protestations.

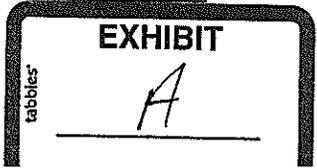
46. Defendant, CHICAGO's racial discrimination of PLAINTIFFS was unwarranted, unwanted and unwelcome.

47. Defendant, CHICAGO's racial discrimination of PLAINTIFFS as alleged herein created a hostile and intimidating work environment, substantially interfered with PLAINTIFFS' ability to perform their jobs, and constitutes a violation of Title VII, CRA '91, and 42 U.S.C. § 1983.

48. As a direct and proximate result of Defendant, CHICAGO's actions in violation of Title VII, CRA '91, and 42 U.S.C. § 1983 as set forth herein, PLAINTIFFS suffered great monetary and compensatory damages, including but not limited to pain and suffering, stress, embarrassment, humiliation, lost wages, and lost benefits.

WHEREFORE, Plaintiffs, JERMAINE MILLER, SHANE LUNDY-BEY, DWAYNE SMITH, ZACHARY HENRY, VELISA EISON, GREGORY BOGGS, SEAN WASHINGTON, AARON BEALS, LYDARA TURNER, JEROME GREENE, TIMOTHY NORTHCROSS, and SEDALIA PEOPLES pray for judgment against Defendant, THE CITY OF CHICAGO, a Municipal Corporation, and award Plaintiffs the following relief:

CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 440201903588
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
<u>ILLINOIS DEPARTMENT OF HUMAN RIGHTS</u>			and EEOC
State or local Agency, if any			
NAME (Indicate Mr, Ms., Mrs.) JERMAINE MILLER		HOME TELEPHONE (Include Area Code) (773) 378-3305	
STREET ADDRESS 5243 W. CRYSTAL		CITY, STATE AND ZIP CODE CHICAGO, IL 60651	DATE OF BIRTH 07/22/1972
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME CITY OF CHICAGO	NUMBER OF EMPLOYEES, MEMBERS 501 +	TELEPHONE (Include Area Code) (312) 744-4966	
STREET ADDRESS 121 N. LASALLE ST ROOM #100	CITY, STATE AND ZIP CODE CHICAGO, IL 60602	COUNTY COOK	
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10-19-2018	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): SEE ATTACHMENT			
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p style="margin: 0;">RECEIVED EEOC</p> <p style="margin: 0;">MAR 27 2019</p> <p style="margin: 0;">CHICAGO DISTRICT OFFICE</p> </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedures.		NOTARY (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
 Date 03-13-19 Charging Party (Signature)		SIGNATURE OF COMPLAINANT MARC S MAYER Official Seal SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) My Commission Expires Sep 21, 2021	



CHARGE OF DISCRIMINATION

Complainant:

JERMAINE MILLER

Respondent:

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.

Effect of Continued City Discrimination
16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
21. The 2014 number of African Americans employed as Firefighters was increased because

the City was required to hire certain individuals because Court orders and judgements.

- a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
 23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
 24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
 25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
 26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the FIRE CAPTAIN candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on May 16, 1996. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of ____67.143 on the examination and was "ranked" number 316 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.

45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.
46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table; 28, pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it

utilized that test.

- c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
- d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score – that it would utilize the results of the test by promoting individuals in strict rank order.

- a) The City elected to utilize a content validation format for its study.
- b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and chooses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
- c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
- d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
- e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
- f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
- g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.

52. Because of the City's use of a promotional process which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.

53. Because of the City's actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER 190322

Print Clearly, Legibly and Firmly

2019 MAR 11 PM 12:12

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 3/11/2019

FROM: Miller
(Last Name)

Jermaine
(First Name) (Middle Name)

HOME Address: 5243 W. Crystal Chicago, IL 606 51

File No. 17800 Company/District E72 / 5 Shift/Daily Day 2 / C Rank LT

HOME Phone No. (773) 317-3305

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

CFD miscalculated the scores for the 2017 Captains Eligibility List. Scores given were not reflective of scores achieved.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Section 9.3 and all others

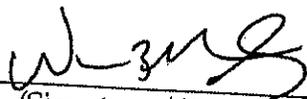
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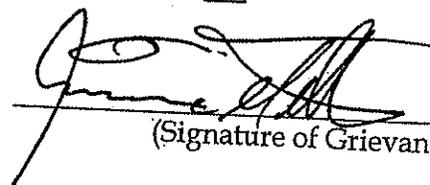
Suggested Correction: Make whole, and
Adjust eligibility list to accurately reflect actual scores achieved

Release of Personnel Records Attached

Yes

No


(Signature of Union Officer)
CMURP/M


(Signature of Grievant)

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Jermaine Miller am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

2019 MAR 11 PM 2:19

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

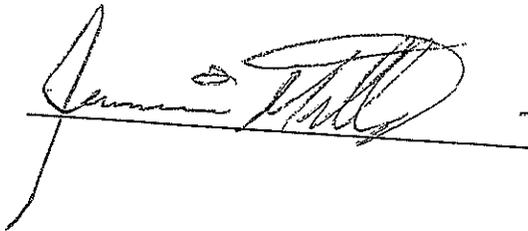
W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 77.136, instead of 67.140, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

 3/11/2019

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Jermaine Miller
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903588

Dear Mr. Miller:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

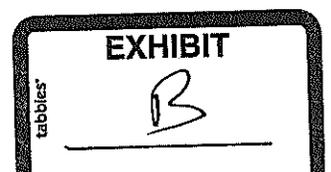
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
<small>This form is affected by the Privacy Act of 1974. See Privacy Act Statement before completing this form.</small>		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440201903589
ILLINOIS DEPARTMENT OF HUMAN RIGHTS		and EEOC	
NAME (Indicate Mr., Ms., Mrs.) SHANE LUNDY-BEY	State or local Agency, if any	HOME TELEPHONE (Include Area Code) 773-895-9966	
STREET ADDRESS 12251 S. PRINCETON AVE	CITY, STATE AND ZIP CODE 60628	DATE OF BIRTH 5-20-1966	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT			
NAME CITY OF CHICAGO	NUMBER OF EMPLOYEES, MEMBERS 501 +	TELEPHONE (Include Area Code) 312-744-4966	
STREET ADDRESS 121 N. LASALLE ST. RM 100	CITY, STATE AND ZIP CODE CHICAGO, ILL. 60602	COUNTY COOK	
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10-19-2018	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s))		<input checked="" type="checkbox"/> CONTINUING ACTION	
SEE ATTACHMENT DOCUMENTS			
I want this charge filed with both the EEOC and the State or local Agency. If any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedures.		NOTARY - (When necessary for State or Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I am a Notary Public in and for the State of Illinois, and that I am duly qualified to perform the duties of my office.	
3/13/19 Shane E Lundy-Bey Date Charging Party (Signature)	SIGNATURE OF COMPLAINANT Official Seal Notary Public - State of Illinois My Commission Expires 02/2021	CHICAGO DISTRICT OFFICE	

EXHIBIT
C

CHARGE OF DISCRIMINATION

Complainant:

SHANE E. LUNDY BEY

Respondent:

CITY OF CHICAGO

DEPARTMENT OF FIRE

Count I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a Firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Fire Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Fire Battalion Chief.
3. Once one achieves the rank of Fire Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed Paramedics are periodically invited to apply for hire. Thereafter, the licensed Paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic -the entry position for sworn personnel in EMS.

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of Firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as Firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African Americans , but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997 , African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as Firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for Firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
 12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
 13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
 14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
 15. On information and belief, the City and Department never implemented the provisions of Appendix G.
- Effect of Continued City Discrimination
16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
 17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
 18. In 1996, the Fire Department reported that overall, of those employed as Firefighters, 26% were African American.
 19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
 20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
 21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because of previous court orders and judgements.

- a) In March 2012, pursuant to court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were members of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 , that at least 30% of those employed by the Fire Department were African Americans.
26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as Firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and passed the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, an applicant must be an existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points on their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Battalion Commander candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on March 4, 1997. During my career with the Chicago Fire Department, I have been promoted to the Position of Engineer and Fire Lieutenant- each time by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations that I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 64.910 on the examination and was "ranked" number 329 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain would have an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotional testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotional examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The Linear Equation "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numerical score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given the fact that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of Fire Captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process, which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC

GRIEVANCE REPORT NUMBER 190324 2019 MAR 11 PM 2:19

Print Clearly, Legibly and Firmly

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 3-11-2019

FROM: LUNDY-BEY, SHAHE E.

(Last Name)

(First Name)

(Middle Name)

HOME Address: 12251 S. PRINCETON

Chicago, IL 606 28

File No. 18059

Company/District ENG 104/5

Shift/Daily Day 3B

Rank LT/EMT

HOME Phone No. (773) 895-9966

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

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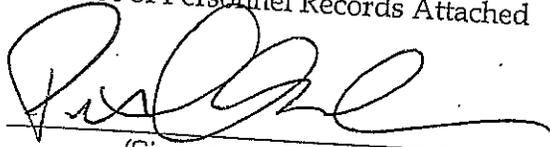
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Adjust eligibility list to accurately reflect actual scores achieved

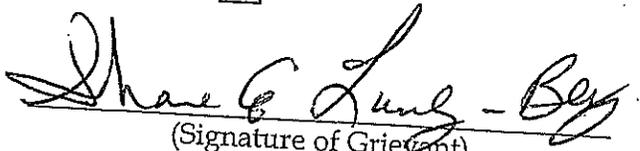
Release of Personnel Records Attached

Yes

No



(Signature of Union Officer)



(Signature of Grievant)

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

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The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, candidates with scores above 70% do not have an undetermined number of members who otherwise would have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

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$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

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Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 77.632, instead of 64.910, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

Shane E Lundy-Bey A.R. Q.

3/11/19

RECEIVED

CHICAGO DEPT OF FIRE



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Shane Lundy-Bey
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903589

Dear Mr. Lundy-Bey:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

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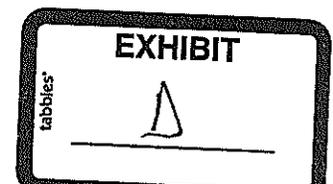
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

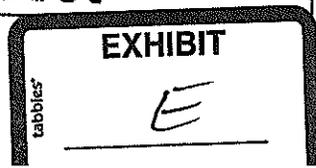
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440201903590
Illinois Department of Human Rights			and EEOC
NAME (Indicate Mr, Ms., Mrs.) Dwayne Smith		HOME TELEPHONE (Include Area Code)	
STREET ADDRESS 7701 South Merrill Ave.		CITY, STATE AND ZIP CODE Chicago, IL 60649	
DATE OF BIRTH 11-03-64		NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)	
NAME City of Chicago	NUMBER OF EMPLOYEES, MEMBERS 501 +	TELEPHONE (Include Area Code) 312-744-4966	
STREET ADDRESS 121 W. LaSalle St, Rm 100		CITY, STATE AND ZIP CODE Chicago, IL 60602	
COUNTY Cook		NAME Chicago Fire Dept.	
STREET ADDRESS		TELEPHONE NUMBER (Include Area Code)	
CITY, STATE AND ZIP CODE		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10-19-2018	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
* see Attached Documents			
RECEIVED EEOC CHICAGO DISTRICT OFFICE			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
 Date 03-13-19 Charging Party (Signature)		SIGNATURE OF COMPLAINANT MARC S MAYER Official Seal SUBSCRIBED AND SWORN TO before me this DATE (Day, month, and year) Commission Expires Sep 21, 2021	



CHARGE OF DISCRIMINATION

Complainant:

DWAYNE SMITH

Respondent:

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

RECEIVED E100

CHICAGO DISTRICT OFFICE

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
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5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

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6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
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The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

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12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.

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16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
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Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on May 16, 1996. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 66.423 on the examination and was "ranked" number 320 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rant order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Dwayne Smith am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 77.909, instead of 66.423, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

RECEIVED

CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Dwayne Smith
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903590

Dear Mr. Smith:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

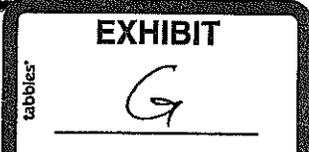
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440201903585
ILLINOIS Department of Human Rights			and EEOC
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NAME (Indicate <input checked="" type="radio"/> Mr., <input type="radio"/> Ms., <input type="radio"/> Mrs.)		HOME TELEPHONE (Include Area Code)	
Zachary Henry		773-317-2372	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
3321 W. 79th St.		CHICAGO, IL, 60652	
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02-05-1963			
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code)	
CITY OF CHICAGO	501 +		
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
121 N. LaSalle St. Room 100	CHICAGO, IL 60602	COOK	
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SEE ATTACHMENT			
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Date		SIGNATURE OF COMPLAINANT	
03/13/19			
Charging Party (Signature)	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)		
	MARCS MAYER Notary Public - State of Illinois My Commission Expires Sep 21, 2021		



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ZACHARY HENRY

Respondent:

County I- Discrimination based on Race-

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MAR 27 2019

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31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on February 16, 1999. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Engineer and Fire Lieutenant - each time by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018 the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 57.934 on the examination and was "ranked" number 374 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
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45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
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 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rant order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER 190321

Print Clearly, Legibly and Firmly

2019 MAR 11 11:31

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 3/11/2019

FROM: Henry
(Last Name)

Zachary
(First Name)

M
(Middle Name)

HOME Address: 3321 W. 79th Street

Chicago, IL 606 52

File No. 18416 Company/District E97 / 5

Shift/Daily Day 3 / C

Rank LT/EMT

HOME Phone No. (773) 317-2372

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department.

Facts pertaining to Grievance (Who, When, Where, Why, What):

CFD miscalculated the scores of the 2017 Captains Promotional Exam by not providing a true representation of what was earned.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Section 9.3 and others

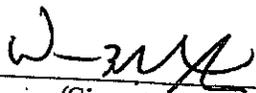
but not limited thereto.

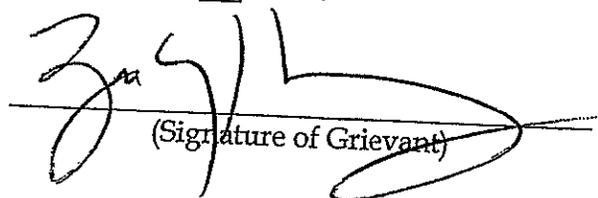
Suggested Correction: Make whole, and
Correctly calculate the scores of the 2017 Captain's Exam showing true scores achieved

Release of Personnel Records Attached

Yes

No


(Signature of Union Officer)
Murphy


(Signature of Grievant)

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Zachary Henry am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

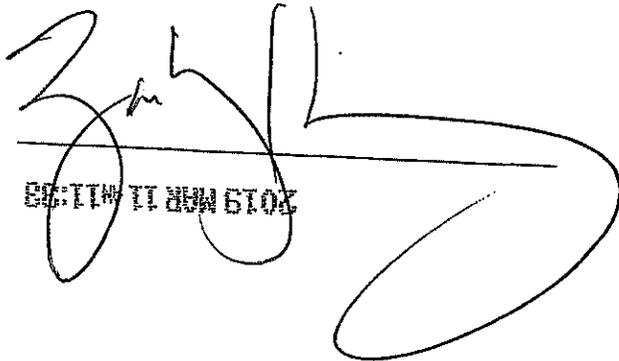
W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 73.529, instead of 57.934, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.



2019 MAR 11 11:13

RECEIVED EEOC
MAR 27 2019
CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 07, 2022

Mr. Zachary Henry
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903585

Dear Mr. Henry:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

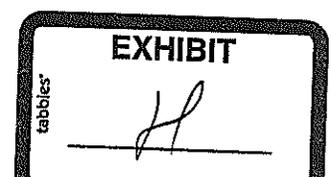
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION	AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.	<input type="checkbox"/> FEPA	
	<input checked="" type="checkbox"/> EEOC	

ILLINOIS DEPARTMENT OF HUMAN RIGHTS and EEOC
State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) VELISA D. EISON HOME TELEPHONE (Include Area Code) (773) 233 0166

STREET ADDRESS CITY, STATE AND ZIP CODE DATE OF BIRTH
11845 S. VINCENNES CHICAGO IL 60643 09-29-1959

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME NUMBER OF EMPLOYEES, MEMBERS TELEPHONE (Include Area Code)
CITY OF CHICAGO 501 + 312 744 4966

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY
121 N. LASALLE ST RA.100 CHICAGO IL 60602 COOK

NAME TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) DATE DISCRIMINATION TOOK PLACE

RACE
 COLOR
 SEX
 RELIGION
 NATIONAL ORIGIN
 RETALIATION
 AGE
 DISABILITY
 OTHER (Specify)

10-19-2018
 CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHMENT

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Velisa D. Eison
 Date 03-13-19 Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (Day, month, and year) Notary Public - State of Illinois
 My Commission Expires Sep 21, 2021



CHARGE OF DISCRIMINATION

Complainant:

VELISA D EISON

11845 S Vincennes

Chicago Il 60643

Respondent:

RECEIVED EEOC
MAR 27 2019
CHICAGO DISTRICT OFFICE

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

5. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
6. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
7. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
8. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
9. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

10. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
 11. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 155 Latino (Appendix G).
 12. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
 13. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
 14. On information and belief, the City and Department never implemented the provisions of Appendix G.
- Effect of Continued City Discrimination
15. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
 16. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
 17. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
 18. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
 19. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
 20. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgments.

- a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
21. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
 22. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
 23. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
 24. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
 25. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

26. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
27. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
28. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
29. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
30. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

31. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
32. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

33. I am an African American female. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
34. I was hired by the City of Chicago as a Firefighter on December 3, 1990. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
35. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
36. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
37. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
38. In 2017, I completed the written examination portion of the testing process.
39. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
40. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 51.766 on the examination and was "ranked" number 395 on such eligibility listing.
41. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
42. The oral assessment process utilized for the 2017 test was a new process and procedure, which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
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 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
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48. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
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52. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC

GRIEVANCE REPORT NUMBER 190315 2019 MAR 8 AM 9:19

Print Clearly, Legibly and Firmly

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: March 8, 2019

FROM: Eison
(Last Name)

Velisa
(First Name) (Middle Name)

HOME Address: 11845 S. Vincennes Ave
Chicago, 606 43
IL

File No. 17057 Company/District FPB/Pump Shift/Daily Day 5/A Rank LT/EMT

HOME Phone No. (312) 420-1232

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

City misgraded the 2017 Captains Exam by not awarding true representations of scores achieved.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Section 9.3 and others

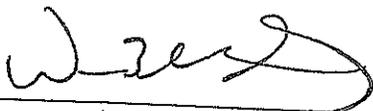
but not limited thereto.

Suggested Correction: Make whole, and
Correctly grade the exam and adjust eligibility list accordingly

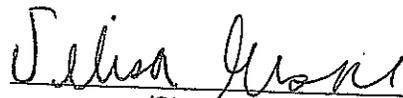
Release of Personnel Records Attached

Yes

No



(Signature of Union Officer)
(MURPHY)



(Signature of Grievant)

2019 MAR 8 AM 9:21

RELEASE OF PERSONNEL RECORDS

Pursuant to the Illinois Personnel Records Review Act (PRRA), 820 ILCS 40/1 et seq. the Collective Bargaining Agreement between the City of Chicago and the Chicago Fire Fighters Union, Local #2, the Illinois Public Labor Relations Act (IPLRA), 5 ILCS 315/1 et seq., and other applicable law, I, Velisa D. Eisen, an employee of the Chicago Fire Department, hereby request all personnel files, disciplinary history files, medical files and completed inactive investigative files, which are, have been or are intended to be used by the department in its determination to impose discipline and/or deny Medical Benefits and which is the subject of my Chicago Fire Fighters Union, Local #2 grievance No. 192315 already on file with the Chicago Fire Department.

Be advised that I am entitled to access to these files within 7 days from this request, and, I am entitled to copies of any and all documents subject to this request. Be also advised that I hereby designate and authorize the Director of Contract Enforcement, or any other agent of the Chicago Fire Fighters Union, Local #2, acting in his/her place, to receive the aforementioned documents on my behalf, as the duly authorized representative of my exclusive collective bargaining agent, Chicago Fire Fighters Union, Local #2. You should direct any question regarding this request to said advocate.

Be further advised that the information that is the subject of this request is necessary in order for the Chicago Fire Fighters Union, Local #2 to process my grievance and to administer the collective bargaining agreement between the parties thereto.

Also note that it is agreed that any material and/or matter not available for inspection, such as provided above, shall not be used in any manner of forum adverse to the employee's interests (Collective Bargaining Agreement Article 16, Sec. 16.2).

Velisa D. Eisen
Signature

Countersigned and requested,

CHICAGO FIRE FIGHTERS UNION, LOCAL NO. 2 by:

Michael Battista

Director Contract Enforcement

Address:
C.F.F.U./Local #2
440 West 43rd Street
Chicago, IL 60609-2715
Phone # 773-536-0450

2019 MAR 08 AM 9:20

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Velisa D. Eison am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 70.656, instead of 51.766, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

J. Lisa D. Gibson

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 07, 2022

Ms. Velisa Eison
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903586

Dear Ms. Eison:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

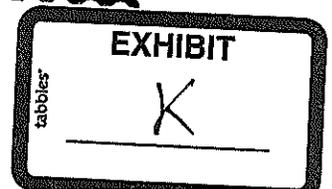
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440201903587
<u>Illinois Department of Human Rights</u>			and EEOC
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) <u>Mr. Gregory L. Bogas</u>		HOME TELEPHONE (Include Area Code) <u>773-949-3364</u>	
STREET ADDRESS <u>5555 W. Monroe Chicago IL 60644</u>		CITY, STATE AND ZIP CODE	
		DATE OF BIRTH <u>01-22-1970</u>	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <u>City of Chicago</u>	NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE (Include Area Code)
STREET ADDRESS <u>121 N. LaSalle St Rm 100 Chicago IL 60602</u>	CITY, STATE AND ZIP CODE		COUNTY <u>Cook</u>
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)			<u>10-19-2018</u> <input checked="" type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
See Attachment			
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="font-size: 24px; margin: 0;">RECEIVED EEOC</p> <p style="font-size: 18px; margin: 0;">MAR 27 2019</p> <p style="font-size: 16px; margin: 0;">CHICAGO DISTRICT OFFICE</p> </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
<u>Gregory L. Bogas</u> Date <u>03-13-19</u> Charging Party (Signature)		SIGNATURE OF COMPLAINANT <div style="border: 1px solid black; padding: 5px; display: inline-block;"> MARC S. MAYER Official Seal Notary Public - State of Illinois My Commission Expires Sep 21, 2021 </div>	



CHARGE OF DISCRIMINATION

Complainant:

GREGORY BOGGS

Respondent:

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.

3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.

Effect of Continued City Discrimination

16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgements.

- a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
 23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
 24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
 25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
 26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on February 2, 1998. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Engineer and Fire Lieutenant- each time by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 60.858 on the examination and was "ranked" number 363 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure, which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilized and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28 pgs. 122-124)
48. The City also permitted its consultant to “curve” to exam results and reported scores for the written and oral examination as “transformed” scores. The City utilized a linear “curve” which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The “curve” operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the “oral” portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not “curved” the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider “banding” scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City’s own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as “highly qualified” and those below 89 as merely “qualified”. Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and chooses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process, which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER 190325

Print Clearly, Legibly and Firmly

2019 MAR 12 PM 2:43

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: Mar 6, 2019

FROM: Boggs
(Last Name)

Gregory
(First Name)

L
(Middle Name)

HOME Address: 5555 W. Monroe Chicago, IL 606 44

File No. 18290 Company/District E-14/1 Shift/Daily Day 3/A Rank Lt/EMT

HOME Phone No. (773) 949-3364

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

CFD miscalculated the scores for the 2017 Captains Eligibility List. Scores given were not reflective of scores achieved.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Section 9.3 and all others

but not limited thereto.

Suggested Correction: Make whole, and
Adjust eligibility list to accurately reflect actual scores achieved

Release of Personnel Records Attached

Yes

No

[Signature]
(Signature of Union Officer)

[Signature]
(Signature of Grievant)

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Gregory Boggs am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam). 2019 MAR 12 PM 2:49

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 74.365, instead of 60.858, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.



RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE



FIRE DEPARTMENT OF THE CITY OF CHICAGO

Bureau OPERATIONS

Date 1/5/19

Company/Unit Engine 14

Address 1129 West Chicago

TO: Michael Carbone
DEPUTY DISTRICT CHIEF
First District

RECEIVED EEOC

MAR 27 2019

FROM: Gregory L Boggs
LIEUTENANT
Engine 14

CHICAGO DISTRICT OFFICE

SUBJECT: Violation of the City of Chicago EEOC policy with the 2017 Captains Exam

Sir / Ma'am,

I respectfully submit this Form 2(A) to state a charge of racial discrimination in the final transformed scores and promotions from the 2017 Captains exam. This promotional exam caused a severe adverse impact to the Black lieutenants of the Chicago Fire Department, The Black lieutenants received a 70% failure rate whereas White lieutenants received only a 21.38% failure rate. This 48.62% difference in the failing rates between Black and White lieutenants defies any standard rate of deviation and constitutes a discriminatory adverse impact to all Black lieutenants of the Chicago Fire Department that tested for the 2017 Captain promotional exam. The Local 2 labor contract dated 7-1-2012 - 6-30-2017 and the City of Chicago Department of Human Resources diversity and equal opportunity policy prohibits discriminatory impacts to any racial group. This discrimination continued with the promotion of 65 Captains on 12-1-2018 which only 5 Black lieutenants were promoted to the rank of Captain. These 5 Black Captain promotions only equaled to 7.69% of the total promotions to the rank of Captain on this promotional order and does not follow the stated affirmative action goals within the labor contract. The severe adverse impact to the Black lieutenants on CFD in regards to the 2017 Captain promotional exam needs to be investigated and corrected to eliminate any and all discriminatory impact. Please forward a copy of this Form 2(A) to the CFD EEOC liaison and to the City of Chicago EEOC Officer.

Respectfully Submitted,

Gregory L Boggs
LIEUTENANT
Engine 14

FILE # 18290



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Gregory L. Boggs
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903587

Dear Mr. Boggs:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

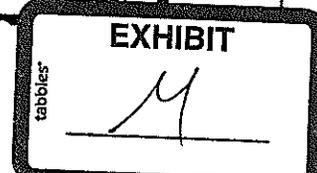
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input type="checkbox"/> EEOC	CHARGE NUMBER 440201903580
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
<u>ILLINOIS Department of Human Rights</u> and EEOC <small>State or local Agency, if any</small>			
NAME (Indicate Mr., Ms., Mrs.) Sean Washington		HOME TELEPHONE (Include Area Code) 773 269 8599	
STREET ADDRESS 8536 S. DRAKE AVE.		CITY, STATE AND ZIP CODE Chicago IL.	DATE OF BIRTH 7-17-1971
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME City of Chicago	NUMBER OF EMPLOYEES, MEMBERS 501 +	TELEPHONE (Include Area Code) 312 744 4966	
STREET ADDRESS 121 N. LaSalle St.	CITY, STATE AND ZIP CODE Rm 100 Chicago IL. 60602	COUNTY COOK	
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10-19-18	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): SEE ATTACHMENT			
<p>RECEIVED EEOC</p> <p>MAR 27 2019</p> <p>CHICAGO DISTRICT OFFICE</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date 3/13/19	Charging Party (Signature) Sean Washington	SIGNATURE OF COMPLAINANT MARCS MAYER	
Date 3/13/19	Charging Party (Signature) Sean Washington	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE Notary Public - State of Illinois My Commission Expires Sep 21, 2021	



CHARGE OF DISCRIMINATION

Complainant:

SEAN WASHINGTON

Respondent:

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

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CHICAGO DISTRICT OFFICE

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
 12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
 13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
 14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
 15. On information and belief, the City and Department never implemented the provisions of Appendix G.
- Effect of Continued City Discrimination**
16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
 17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
 18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
 19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
 20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
 21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgements.

- a) In March 2012, pursuant to Court order; the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
 23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
 24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
 25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
 26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points on their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on December 1, 1999. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant- passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 69.765 on the examination and was "ranked" number 291 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates. (Technical Report, Volume 2; Table 28, pgs. 122-128)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
- a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
- a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rant order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

2019 MAR 6 AM 10:30

I, Sean Washington am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 79.155, instead of 69.765, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

Alan Washington
Lieutenant / EMT
#18474
T62 2/P

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MAR 27 2019

CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson , EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Sean Washington
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903580

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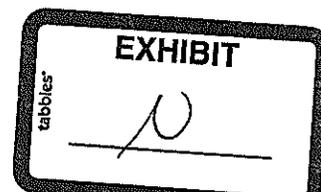
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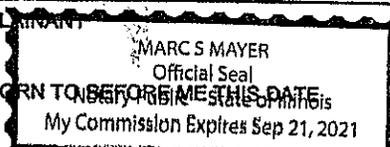
Sincerely,

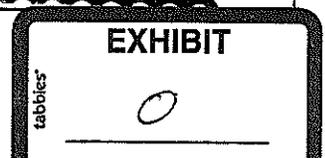
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 440201903582
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.			
<i>Illinois Department of Human Rights</i>		and EEOC	
<small>State or local Agency, if any</small>			
NAME (Indicate Mr., Ms., Mrs.) Aaron Beals		HOME TELEPHONE (Include Area Code) 773 206-7008	
STREET ADDRESS 9100 S. Hoyne Av Chicago IL 60643		CITY, STATE AND ZIP CODE	
		DATE OF BIRTH 09/08/1961	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME City of Chicago		NUMBER OF EMPLOYEES, MEMBERS > 501	TELEPHONE (Include Area Code) (312) 749-4966
STREET ADDRESS 121 N. LaSalle St Rm 100 Chicago, IL 60603		CITY, STATE AND ZIP CODE	
		COUNTY Cook	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)			10/19/2018
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I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date 03-13-19 Charging Party (Signature) <i>Aaron Beals</i>		SIGNATURE OF COMPLAINANT	
			
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	



CHARGE OF DISCRIMINATION

Complainant:

AARON BEALS

Respondent:

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

County I- Discrimination based on Race-

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5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

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7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 155 Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.
Effect of Continued City Discrimination
16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.

21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgements.
 - a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
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31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.
32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on December 1 1989. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted m application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 69.852 on the examination and was "ranked" number 289 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure, which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.

44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.
46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination - without regard to how many questions he or she had answered correctly or incorrectly - 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 - again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.

- b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.
51. The City further increased the discriminatory effect of the testing process by determining - despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and chooses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points - of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have "passed" the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who "passed" with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a "cut off score" of 70.

52. Because of the City's use of a promotional process which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City's actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER _____

Print Clearly, Legibly and Firmly

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 3/7/19

FROM: Beals
(Last Name)

Aaron
(First Name)

(Middle Name)

HOME Address: 9100 S. Hoyne Ave.

Chicago, IL 606 43

File No. 16782 Company/District E-121/5

Shift/Daily Day 1/B

Rank LT/PM

HOME Phone No. (773) 206-7008

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

Grievant received his results for the Fire Captains Exam. With use of the linear equation, the grievant's test score was grossly miscalculated.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Article IX Section 9.3

but not limited thereto.

Suggested Correction: Make whole, and
Score the exam according to the CBA

Release of Personnel Records Attached

Yes

No

Mark Doherty
(Signature of Union Officer)

Chief Howard

Aaron Beals
(Signature of Grievant)

I, Aaron Beals Jr. am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 78.951, instead of 69.852, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.



RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Aaron Beals
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903582

Dear Mr. Beals:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

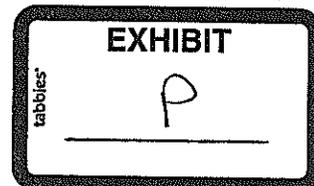
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440201903583
ILLINOIS Department of HUMAN Rights		and EEOC	
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) LYDARA TURNER		HOME TELEPHONE (Include Area Code) 773-715-6506	
STREET ADDRESS 1645 E 50th St. Chicago, IL 60615		CITY, STATE AND ZIP CODE CHICAGO, IL 60615	
DATE OF BIRTH 10/07/1960			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME City of Chicago (Fire Dept)		TELEPHONE (Include Area Code) 312-744-4966	
STREET ADDRESS 121 N. LaSalle St. (Rm 100)		CITY, STATE AND ZIP CODE Chicago IL 60602	
		COUNTY COOK	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10/19/2018	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
SEE Attachment -			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date 03-13-19 Charging Party (Signature) 		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 	

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

EXHIBIT

Q

CHARGE OF DISCRIMINATION

Complainant:

LYDARA TURNER

Respondent:

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

- The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
- In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.

- Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
- On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

- Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

- Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. Lewis vs. City of Chicago, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
- The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
- Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
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Individual Complainant

- I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
- I was hired by the City of Chicago as a Firefighter on July 17, 2000. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
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 - This procedure, which was also followed as to the “oral” portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
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 - The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider “banding” scores. The reasons for this suggestion is as follows:
 - All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
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 - In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.
 - The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
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 - The Uniform Guidelines on Employee Selection of the EEOC state that when

one conducts a content validation study, and chooses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).

- The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
-
- Because of the City’s use of a promotional process, which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
 - Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

2019 MAR 11 PM 12:57

I, Lydara Turner am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment:

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

2019 MAR 11 PM 12:57

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 75.242, instead of 60.760, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.



RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER 190323

Print Clearly, Legibly and Firmly

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 3/11/2019
2019 MAR 11 PM 12:57

FROM: Turner
(Last Name)

Lydara
(First Name) (Middle Name)

HOME Address: 1645 E. 50th

Chicago, IL 606 15

File No. 18655 Company/District E9 / 3rd

Shift/Daily Day 3 / D Rank LT/EMT

HOME Phone No. (773) 715-6506

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

CFD miscalculated the scores for the 2017 Captains Eligibility List. Scores given were not reflective of scores achieved.

RECEIVED EEOC

MAR 27 2019

CHICAGO DISTRICT OFFICE

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Section 9.3 and all others

but not limited thereto.

Suggested Correction: Make whole, and
Adjust eligibility list to accurately reflect actual scores achieved

Release of Personnel Records Attached

Yes

No

W. Murphy
(Signature of Union Officer)
(MURPHY)

Lydara Turner
(Signature of Grievant)



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Lydara Turner
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903583

Dear Mr. Turner:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

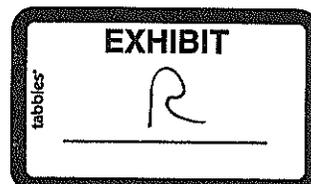
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form	AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 440201903584
	ILLINOIS DEPARTMENT OF HUMAN RIGHTS and EEOC	

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) JEROME GREENE	HOME TELEPHONE (Include Area Code) 773-576-4849
--	---

STREET ADDRESS 3537 W 76th St	CITY, STATE AND ZIP CODE CHICAGO IL 60652	DATE OF BIRTH 11-7-71
---	---	---------------------------------

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME CITY OF CHICAGO	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code) 312-744-4966
--------------------------------	------------------------------	--

STREET ADDRESS 121 N. LA SALLE ST RM 100	CITY, STATE AND ZIP CODE CHICAGO IL 60602	COUNTY COOK
--	---	-----------------------

NAME	TELEPHONE NUMBER (Include Area Code)
------	--------------------------------------

STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
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CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)	DATE DISCRIMINATION TOOK PLACE 10.19.2018 <input checked="" type="checkbox"/> CONTINUING ACTION
---	--

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

SEE ATTACHMENT

RECEIVED EEOC
 MAR 27 2019
 CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Date **3/13/19** *J. Greene*
 Charging Party (Signature)

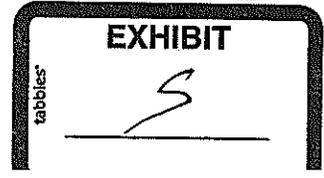
NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th Day of March 2019

MARC S MAYER
 Official Seal
 Notary Public in the State of Illinois
 My Commission Expires Sep 21, 2021



CHARGE OF DISCRIMINATION

Complainant:

JEROME GREENE

Respondent:

RECEIVED EEOC

MAR 27 2019

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

CHICAGO DISTRICT OFFICE

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.

Effect of Continued City Discrimination

16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgements.

- a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

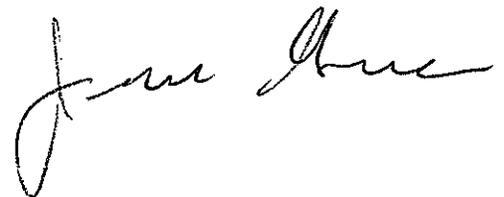
32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on October 16, 2001. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 65.353 on the examination and was "ranked" number 324 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure, which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilities and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rant order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process, which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.



CHICAGO FIRE FIGHTERS UNION

I.A.F.F. AFL-CIO-CLC

GRIEVANCE REPORT NUMBER 181020 2018 OCT 30 AM 10

Print Clearly, Legibly and Firmly

TO: CITY OF CHICAGO FIRE DEPARTMENT

DATE: 10/30/18

FROM: GREENE
(Last Name)

JEROME C
(First Name) (Middle Name)

HOME Address: 3537 W 76TH ST Chicago, IL 606 52

File No. 18966 Company/District 880/5TH Shift/Daily Day 1C Rank LT/EMT

HOME Phone No. (773) 576-4248

SUBJECT: Grievance against City of Chicago and the Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What):

On October 19, 2018 grievant received the results for the Fire Captain Exam. With the use of the linear equation, the grievant's score was grossly miscalculated.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s):
Article IX Section 9.3

but not limited thereto.

Suggested Correction: Make whole, and
Score the exam according to the contract.

Release of Personnel Records Attached

Yes No

[Signature]
(Signature of Union Officer)
Quire

[Signature]
(Signature of Grievant)

2019 MAR 7 08:13

I, Jerome Greene am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{35} = \frac{x}{120} (35)$$

$$W_{35} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{35} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68-a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

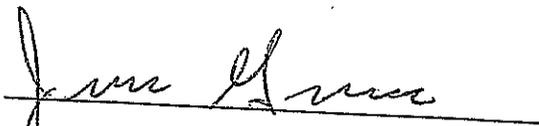
W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 77.378, instead of 65.353, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.



LT JEROME GROBUS
#18966 BBO IC



FIRE DEPARTMENT OF THE CITY OF CHICAGO

Bureau OPERATIONS

Date 12/25/18

Company/Unit Engine 80

Address 12701 S. Doty Ave

TO: LINDA TURNER
 DISTRICT CHIEF
 5th District

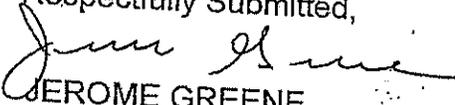
FROM: JEROME GREENE
 LIEUTENANT
 Engine 80 1/C

SUBJECT: Violation of the City Of Chicago EEO policy with the 2017 Captain Exam.

Ma'am,

I respectfully submit this Form 2(A) to state a charge of racial discrimination in the final transformed scores and promotions from the 2017 Captains Exam. This promotional exam caused a severe adverse impact to the Black Lieutenants of the Chicago Fire Department. The Black Lieutenants received a 70% failure rate whereas White Lieutenants received only a 21.38% failure rate. This 48.62% difference in the failing rates between Black and white Lieutenants defies any standard rate of deviation constitutes a discriminatory adverse impact to all Black Lieutenants of the Chicago Fire Department that tested for the 2017 Captains promotional exam. The Local 2 contract dated 7/1/2012 - 6/30/2017 and the City of Chicago Department of Human Resources diversity and equal opportunity policy prohibits discriminatory impacts to any racial group. This discrimination continued with the promotion of 65 Captains on 12/1/2018 which only 5 Black Lieutenants were promoted to the rank of Captain. These 5 Black Captain promotions only equaled to 7.69% of the total promotions to the rank of Captain on this promotional order and does not follow the stated affirmative action goals within the labor contract. The severe adverse impact to the Black Lieutenants on CFD in regards to the 2017 Captain promotional exam needs to be investigated and corrected to eliminate any and all discriminatory impact. Please forward a copy of this Form 2(A) to the CFD EEO liaison and to the City Of Chicago EEO Officer.

Rec'd + Sen. BULLYONS 12-25-18

Respectfully Submitted,

 JEROME GREENE
 LIEUTENANT
 Engine 80 1/C



**CITY OF CHICAGO
FIRE CAPTAIN EXAMINATION - NOTICE OF RESULTS
October 19, 2018**

JEROME GREENE
3537 W 76TH ST
Chicago, Illinois 60652

In this letter you will find your results from the 2017 Fire Captain Examination.

Written Examination (transformed score)	Oral Assessment (transformed score)	Seniority Score	Education Credit	Total Examination Score	Final Rank
14.077	20.276	30	1	65.353	324

Note: Total Examination Score is based on the sum of the transformed scores for the Written Examination, Oral Assessment, and Seniority, plus the addition of the Education Credit if applicable. Raw scores were transformed to weight the exam components consistent with the Labor Contract.

The Total Examination Score is based on the following weights: 35% Written Examination, 35% Oral Assessment, and 30% Seniority.

To be eligible for promotion, candidates must meet all the requirements stated on the Examination Announcement.



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 03, 2022

Mr. Jerome Greene
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201903584

Dear Mr. Greene:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

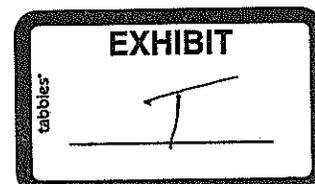
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

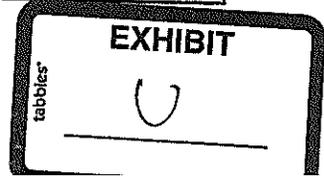
Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	440-20190-4007
Illinois Department of Human Rights		and EEOC	
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) Timothy J. Northcross		HOME TELEPHONE (Include Area Code) 773 218-7927	
STREET ADDRESS 1720 West 105th Street, Chicago, Illinois, 60643-2708		CITY, STATE AND ZIP CODE	
		DATE OF BIRTH 03-24-1962	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME City of Chicago	NUMBER OF EMPLOYEES, MEMBERS > 501	TELEPHONE (Include Area Code) 312 744-4966	
STREET ADDRESS 121 N. LaSalle Street., Chicago, Illinois, 60602		CITY, STATE AND ZIP CODE	
		COUNTY Cook	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		10/19/2018	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
The affected complainant, received errant results based on the use of "linear-equation" to which the complainant's test-results were grossly miscalculated. <div style="text-align: center; font-size: 1.5em; font-weight: bold;">* see attached</div>			
<div style="border: 1px solid black; padding: 5px; display: inline-block; font-weight: bold; font-size: 1.2em;">RECEIVED EEOC</div> <div style="border: 1px solid black; padding: 5px; display: inline-block; font-weight: bold; font-size: 1.2em;">CHICAGO DISTRICT OFFICE</div>			
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedures.		NOTARY - (When necessary for State and local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.	
Date 03-27-19 Charging Party (Signature) <i>Timothy J. Northcross</i>		SIGNATURE OF COMPLAINANT MARC S MAYER Official Seal Notary Public - State of Illinois My Commission Expires Sep 21, 2021 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) <i>03-27-19</i>	



CHARGE OF DISCRIMINATION

Complainant:

TIMOTHY NORTHCROSS

Respondent:

County I- Discrimination based on Race-

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus- Emergency Medical Services (hereinafter EMS) and Fire Suppression (hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart for the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

After hire, the first promotion for which a Firefighter EMT can apply is that of the Fire Engineer or Fire Lieutenant. Those promoted to Lieutenant can thereafter apply for promotion to the position of Fire Captain and thereafter Battalion Chief.
3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
4. On the EMS side of the operations, licensed paramedics are periodically invited to apply for hire. Thereafter, the licensed paramedics are required, among other conditions, to take and pass a physical performance test for hire as a Fire Paramedic-the entry position for sworn personnel in EMS.

5. Thereafter, the promotion progression in the Chicago Fire Department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination

6. Beginning in 1995, the City of Chicago utilized a written examination which had a disparate impact on African American applicants for the position of firefighter/EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs. City of Chicago*, Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to Horn, McNamara and Biondo)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the City of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire Suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
10. On the EMS side, from 2000 until 2012, the CFD continued to utilize a discriminatory pre-hire physical performance test which substantially reduced the number of women hired as paramedics by the City of Chicago and which was subsequently found unlawful. *Ernst vs. City of Chicago*, 837 F 3d 788 (7th Cir. 2016).

The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.

11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino (Appendix G).
13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures with "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least annually.
15. On information and belief, the City and Department never implemented the provisions of Appendix G.

Effect of Continued City Discrimination

16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African Americans was 22%.
20. In 2014, the Fire Department strength report found that 19.72% of those employed as Firefighters were African Americans.
21. The 2014 number of African Americans employed as Firefighters was increased because the City was required to hire certain individuals because Court orders and judgements.

- a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African Americans.
 - b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
 - c) But for hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
22. In 2015, the Fire Department reported to the City Council that the department personnel were 17.68% African American.
 23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
 24. In 2016, the Fire Department reported to City Council that the Department personnel was 17.55% African Americans.
 25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentage of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African Americans.
 26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Fire Captain, as applicant must be and existing Fire Lieutenant.
30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
31. By the close of the application period. The City was aware of the fact that a substantial number of African Americans had applied for the promotion.

32. By the close of application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning all of them were going to receive 30 points in their final score for seniority.
33. The City hired an outside consultant to develop additional tests to be given to the Fire Captain candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American male. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on October 1, 1991. During my career with the Chicago Fire Department, I have been promoted to the Position of Fire Lieutenant by passing examination and promotion processes established by the City.
36. In November 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2017, I completed the written examination portion of the testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 19, 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations I was informed that I scored a total of 65.599 on the examination and was "ranked" number 322 on such eligibility listing.
42. The technical report for the examination process noted that both written and oral assessment test for Fire Captain has an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2017 test was a new process and procedure which the City has never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available until late January 17, 2017.
45. One method of reducing adverse impact in such new testing procedures is to provide candidate with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilized and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.

46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found on the African American candidates where the consultant found the scores of the African American test takers showed statistically significant differences than those of white candidates (Technical Report, Volume 2, Table 28; pgs. 122-124)
48. The City also permitted its consultant to "curve" to exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidate and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:
 - a) First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b) The consultant then gave the candidate with the highest score on the written examination – without regard to how many questions he or she had answered correctly or incorrectly – 35 points or the highest possible point score.
 - c) The consultant then gave the candidate with the lowest recorded score a single point of 1 – again without regard to how many questions he or she had answered correctly or incorrectly.
 - d) All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e) This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lowest sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion is as follows:
 - a) All test- even those without flaws- have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b) In the written test at issue in Lewis vs. City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c) In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d) This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.

51. The City further increased the discriminatory effect of the testing process by determining – despite the fact that its consultant was not asked to determine a minimum or cut score- that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and choses to proceed on a rant order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14,D9).
 - c) The City of Chicago generally requires candidates to achieve a total score including seniority points – of 70 or more to be deemed eligible for promotion.
 - d) Given that all of the candidates in the group were entitled to maximum seniority points, the City process, which it did not request the consultant to analyze- effectively meant that any person with a score of 40 would be considered to have “passed” the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who “passed” with of score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized and the City imposes a “cut off score” of 70.
52. Because of the City’s use of a promotional process, which discriminates against African Americans candidates, I have been harmed in that I will be denied promotion to the position of Fire Captain.
53. Because of the City’s actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.



U.S. Department of Justice
Civil Rights Division

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 07, 2022

Mr. Timothy Northcross
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201904007

Dear Mr. Northcross:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

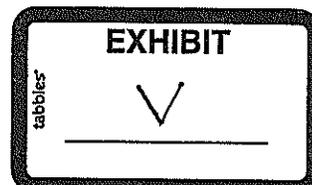
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY		CHARGE NUMBER
<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC		440-2019-04008
Illinois Department of Human Rights		
NAME (Indicate Mr., Ms., Mrs.) Sedalia Peoples		HOME TELEPHONE (Include Area Code)
STREET ADDRESS 53 East 84th Street Chicago Ill 60619		CITY, STATE AND ZIP CODE
DATE OF BIRTH 8-13-1958		
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT, AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below)		
NAME City of Chicago	NUMBER OF EMPLOYEES, MEMBERS 501+	TELEPHONE (Include Area Code) 312-744-4946
STREET ADDRESS 121 No LaSalle St. Chicago Ill 60607	CITY, STATE AND ZIP CODE	COUNTY Cook
NAME	TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE 10-19-2018 <input type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

See Attachment

RECEIVED EEOC

APR 12 2019

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with the procedure.

I declare under penalty of perjury that the foregoing is true and correct.

3-27-19 *Sedalia Peoples*
 Charging Party (Signature)

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

WILLIAM MAYER
 Official Seal
 Notary Public - State of Illinois
 My Commission Expires 03/21/2021

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

03-27-19

EEOC FORM 5 (REV. 5/04)

EXHIBIT

W

CHARGE OF DISCRIMINATION

Complainant
Sedalia Peoples
Respondent:
City of Chicago

RECEIVED EEOC

MAY 14 2019

CHICAGO DISTRICT OFFICE

Count I - Discrimination based on Race -

Background and History of the City of Chicago Department of Fire

1. The City of Chicago Fire Department has two main bureaus - Emergency Medical Services (hereafter EMS) and Fire Suppression (Hereinafter Suppression). Complainant attaches hereto Exhibit 1 the organizational chart of the Chicago Fire Department.
2. In Fire Suppression, the entry level position is that of a firefighter/EMT. The City of Chicago requires candidates for the Firefighter/EMT position to take a written test and then pass a physical performance test among other requirements for hire.

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3. Once one achieves the rank of Battalion Chief, all further promotions are considered by the City as "exempt", i.e. positions which are not covered by civil service rules and to which one can be appointed at the discretion of the Fire Commissioner.
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5. Thereafter, the promotion progression in the Chicago fire department for EMS personnel is to the position of Paramedic in Charge, Ambulance Commander, Paramedic Field Chief.

CFD History of Race Discrimination.

6. Beginning in 1995, the city of Chicago utilized a written examination which had a disparate impact upon African American applicants for the position of firefighter/ EMT. That test reduced although it did not eliminate African American men and women from hire. When challenged, it was found that because of that test, 134 African American men and women were not hired as firefighters. *Lewis vs City of Chicago*. Cite. The City was ordered to and finally did hire 111 additional African American as firefighter/EMS, but this did not occur until 2012.
7. The City has acknowledged that prior to the 1995 test, the fire department had a history of discrimination in hiring which adversely affected African American candidates for hire. The City has stated that it was aware and acknowledged the fact that until at least 1997, African Americans were systemically discriminated against in hiring and promotions in the Chicago Fire Department. (Cite to *Horn, McNamara and Biondo*)
8. Thus, from 1977 until at least 2012, the number of African Americans hired by the City as firefighters and therefore eligible to seek further promotions was depressed by at least 134 persons.
9. Beginning around the same time, the city of Chicago adopted a pre-hire physical test which had a demonstrated adverse impact upon female candidates for Fire suppression. That physical test therefore reduced the number of women hired as Firefighters many of whom were African American women who had made it past the discriminatory written test. The double effect of the discriminatory pre-hire written test and the discriminatory pre-hire physical test therefore reduced the number of African American women hired by CFD and therefore eligible to seek promotions to higher positions.
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- 2016) The same company which developed the EMS test was responsible for the Fire Suppression pre-hire test. Indeed, when the City was deciding whether to retain this company and the developer was asked whether the test would disparately impact female paramedics, the response was that it would but not as much as the currently used pre-hire test for firefighter applicants.
11. Because of the City's decades long practice of discrimination, the number of African Americans eligible to compete for promotions within the Chicago Fire Department was substantially reduced.
 12. The City recognized this fact. It therefore included as part of every contract with the union since at least 2003 a statement that it would endeavor "as quickly as possible" to take action so that the department achieved a "goal" of being at least 30% African American and at least 15% Latino. (Appendix G)
 13. The City further stated that it would review promotion and hiring processes and procedures and those processes and procedures which "any elements which have the effect of discrimination against Blacks and Hispanics will be eliminated".
 14. It further stated and has for every year since 2003 that it would audit and review all such procedures which would be submitted to and reviewed by a Community Advisory Board consisting of at least 11 members at least a n n u a l l y .
 15. On information and belief, the City and Department never implemented the provisions of Appendix G.

Effect of Continued City Discrimination.

16. In 1996, the Fire Department prepared strength reports which identified the numbers of African Americans in various positions within the department.
17. Similar reports are prepared at least annually by the Fire Department and are known and available to City and Fire Department senior management.
18. In 1996, the Fire Department reported that overall, of those employed as firefighters, 26% were African American.
19. In 2006, the Fire Department reported that the percentage of those employed as Firefighters who were African American was 22%
20. In 2014, the Fire Department strength report found that 19.72% of those employed as firefighters were African American.
21. The 2014 number of African Americans employed as firefighters was increased because the City was required to hire certain individuals because of Court orders and judgments.
 - a) In March 2012, pursuant to Court order, the City hired 111 African American individuals as Firefighters. These individuals were denied hire based upon a 1995 test which discriminated against African

Americans.

- b) In November 2013 and March 2014, the City hired additional individuals who had previously been eliminated from hire due to a pre-hire test which discriminated against women. (Vasich). A number of those candidates were African American and Hispanic.
- c) But for the hiring that the City was required to do by court order and settlements, the number of African Americans and Latinos in career service positions would be even lower than stated above.
- 22. In 2015, the Fire Department reported to the City council that the department personnel were 17.68% African American.
- 23. In 2015, the City of Chicago was again required, pursuant to a settlement of a discrimination case, to hire additional African American women. These women were member of the Lewis class who, although they attempted to be hired, were rejected due to a pre-hire physical test that discriminated against them as women.
- 24. In 2016, the Fire Department reported to City Council that the Department Personnel was 17.55% African American.
- 25. Despite demographic changes in the population of the City of Chicago since 2003 which increased the percentages of minority residents and decreased the percentage of non-minority residence, the Chicago Fire Department has never met the commitment made prior to or at least by 2003 that at least 30% of those employed by the Fire Department were African American.
- 26. Instead, over the past 15 years, the percentage of African Americans hired by the Chicago Fire Department has declined even without adjusting the number for those hired only because of court orders and settlements of discrimination cases.

Career Progression of African Americans hired by the CFD.

- 27. Some African American men and women did manage to be hired by the City of Chicago as firefighters.
- 28. Over the years, some of this reduced cohort of African American men and women took and past the tests for promotion to Fire Engineer, Fire Lieutenant and Fire Captain.
- 29. According to Fire Department procedures, to be eligible to apply to take a promotional examination, one must hold the lower rank at the time of the announcement, i.e. to apply for promotion to Battalion Chief, an applicant must be an existing Fire Captain.
- 30. In 2016, the CFD announced a new examination for the position of Battalion Chief. Thirty African American Fire Captains applied and completed the examination process.
- 31. By the close of the application period, the City was aware of the fact that a substantial number of African Americans had applied for the promotion.
- 32. By the close of the application period, the City was also aware of the fact that all of the applicants had maximum seniority meaning that all of them were going to receive 30 points in their final score for seniority.
- 33. The City hired an outside consultant to develop additional tests to be given to the Battalion Commander candidates. The scope of the authorized work of that consultant did not include setting or determining a "cut" or "minimum" score for the promotion process.

Individual Complainant

34. I am an African American female. I am currently employed by the City of Chicago in the Fire Department as a Fire Lieutenant.
35. I was hired by the City of Chicago as a Firefighter on December 1, 1992. During my career with the Chicago Fire Department, I have been promoted to the position of Fire Lieutenant - by passing examination and promotion processes established by the City.
36. In 2016, in response to an announcement by the City, I applied for the position of Fire Captain.
37. The announced procedure stated that the promotion process would include a written examination and oral assessment, each of which would count for 35% of the final score. The remaining 30% of the score was to be determined by seniority pursuant to Section 9.3 of the Collective Bargaining Agreement between the City of Chicago and Local 2, Firefighters Union.
38. The announcement stated that applications with supporting documents needed to be submitted by a fixed date and time. I submitted my application within the stated and required period.
39. In 2016, I completed the written examination portion of this testing process.
40. Subsequently, pursuant to notice from the City, I completed the oral assessment portion of the testing process.
41. On October 2018, the City finally announced the results of the testing. Unlike prior examinations I have taken where I have scored well on the written and oral examinations, I was informed that I scored a total of 49.562 on the examination and was "ranked" number 403 on such eligibility listing.
42. The technical report for the examination process noted that both the written and oral assessment test for Captain had an adverse impact upon African American Candidates.
43. The oral assessment process utilized for the 2016-2017 test was a new process and procedure which the City had never utilized before for any other promotion testing. The City revised the testing protocol and practice for the oral assessment after the announcement and applications.
44. Although study guides for promotion examinations are supposed to be made available at the time of announcement, the study guide for the oral assessment section was not made available.
45. One method of reducing adverse impact in such new testing procedures is to provide candidates with an opportunity to practice with the new equipment and materials. This permits the candidates to become familiar with the computer and recording equipment to be utilized and further permits the employer an opportunity to pilot test problems that might otherwise arise during test administration.
46. The City did not provide any such practice opportunity for the oral assessment portion of the test.
47. The results of this were particularly found in the African American candidates where the consultant found the scores of African American test takers showed statistically significant differences than those of white candidates (Technical report, Volume 2, pg. 107)
48. The City also permitted its consultant to "curve" the exam results and reported scores for the written and oral examination as "transformed" scores. The City utilized a linear "curve" which had the effect of increasing the disparate impact of the test on African American candidates and raising the scores of the mostly white candidates at the head of the eligible list. The "curve" operated as follows:

- a. First the consultant determined which candidate had achieved the highest and lowest scores on the written examination.
 - b. The consultant then gave the candidate with the highest score on the written examination - without regard to how many questions he or she had answered correctly or incorrectly - 35 points of the highest possible point score.
 - c. The consultant then gave the candidate with the lowest recorded score a single point of 1 - again without regard to how many questions he or she had answered correctly or incorrectly.
 - d. All other candidates were then given scores between 35 and 1 based upon their relative position on a graph of scores.
 - e. This procedure, which was also followed as to the "oral" portion of the test had the effect of inflating the numeral score of those at the head of the list while deflating the scores of those at the lower sections of the list.
49. Had the City either not "curved" the results or curved the results in a more standard, pro rata format my score would have exceeded 70 and the scores of those at the head of the list would have been reduced.
50. The City then increased the discriminatory effect of that decision by the way it chooses to select candidates from this list. The consultant had initially recommended that the City consider "banding" scores. The reasons for this suggestion are as follows
- a. All tests - even those without flaws - have a measurement error factor. Often, there is no meaningful statistical difference between scores within a range.
 - b. In the written test at issue in Lewis vs City of Chicago, the City's own expert reported that there was no statistically significant difference between a score of 65 and a score of 89. Yet, the City decided to classify those achieving 89 as "highly qualified" and those below 89 as merely "qualified". Based upon that error, the City hired significantly fewer African Americans during the time it utilized that test.
 - c. In this instance, the consultant and City rejected banding because it would not eliminate adverse impact until after a substantial number of promotions were made. Thus, the City decided not to utilize a technique which would reduce adverse impact not because it was incorrect but because it would merely reduce adverse impact.
 - d. This decision moreover was and is affected by the scores which, because of the linear transformation, gave lower scores than would otherwise be the case.
51. The City further increased the discriminatory effect of the testing process by determining- despite the fact that its consultant was not asked to determine a minimum or cut score - that it would utilize the results of the test by promoting individuals in strict rank order.
- a) The City elected to utilize a content validation format for its study.
 - b) The Uniform Guidelines on Employee Selection of the EEOC state that when one conducts a content validation study, and chooses to proceed on a rank order basis, the user (City) is required to show that a higher score on the selection procedure is likely to result in better job performance. (Uniform Guidelines 14.D9.
 - c) The City of Chicago generally requires candidates to achieve a total score - including seniority points - of 70 or more to be deemed eligible for promotion.

- d) Given that all of the candidates in this group were entitled to maximum seniority points, this City process (which it did not request the consultant to analyze - effectively meant that any person with a score of 40 would be considered to have "passed" the test.
 - e) The City has previously utilized rank order for the promotion of captains to Battalion Chiefs based upon a 2012 test and promoted or offered the promotion to all candidates who score 70 or more.
 - f) The City has not measured the performance of those who passed the test in 2012 and were promoted to determine whether there was any difference in the job performance of those who "passed" the test with a score of 90 as compared to those who "passed" with a score of 70.
 - g) Neither the City nor its consultants have any data or analysis that there is any meaningful connection between the scores on the test and subsequent job performance particular when a straight rank order selection is utilized, and the city imposes a "cut off score" of 70.
52. Because of the City's use of a promotional process which discriminates against African American candidates, I have been harmed in that I will be denied promotion to the position of Captain
53. Because of the City's actions, I will suffer lost wages, benefits, further promotional opportunities and have and will sustain emotional distress, humiliation and embarrassment.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

I, Sedalia Peoples am writing this grievance to dispute the methodology employed by CEB Consultants to calculate the overall and component scores of the 2017 Chicago Fire Department Fire Captain Promotional Exam (2017 Fire Captain Promotional Exam).

CEB Consultants inappropriately employed a Linear Transformation methodology to all components (Written Test Examination, Oral Assessment, and Seniority) of the 2017 Fire Captain Promotional Exam with particularly detrimental effects on the Written Examination score and Oral Assessment score calculations.

The Linear Transformation equations employed by CEB Consultants have produced an inaccurate rank order on the 2017 Fire Captain Eligibility List. More importantly, a heretofore undetermined number of members who otherwise would have scores above 70% do not have scores above 70% pursuant to the use of CEB Consultant's Linear Transformation equations. As currently calculated by CEB Consultants, the distribution of scores above 70% has been unnecessarily 'narrowed' to exclude approximately 130 Fire Captain Candidates.

This 'narrowing' of the distribution of passing scores can be easily demonstrated using the lowest raw scores for the Written Examination and the Oral Assessment.

The lowest raw score achieved on the Written Examination is 65. The maximum available raw score points on the Written Examination is 120. Given an earned raw score of 65, and 120 points as the maximum available raw score points for the Written Examination, the following pro-rata equation yields the proper score:

$$W_{65} = \frac{x}{120} (35)$$

$$W_{65} = 18.9583$$

However, CEB Consultants assigned a value of 1 'transformed' point to the raw score of 65. Members achieving the raw score of 65 have had their composite score reduced by 17.9583 points using the Linear Transformation methodology.

The same detrimental effect of the Linear Transformation methodology can be illustrated regarding the calculation of the Oral Assessment score. The proper equation (used to obtain the Oral Assessment score shown on Fire Captain candidate's individual score report) is:

$$O_{68} = \frac{x}{227} (35)$$

The maximum attainable Oral Assessment raw score is 227 points. The highest earned Oral Assessment raw score is 195.0 points or 85.9031% of available points for the Oral Assessment. The lowest Oral Assessment raw score points earned by a Fire Captain candidate was 68 or 29.9559% of the available points for the Oral Assessment. Using the above pro-rata equation for the Oral Assessment component of the Fire Captain Exam should yield 10.4846 Oral Assessment points for a member(s) with an Oral Assessment raw score of 68.

2017 Chicago Fire Department Fire Captain Promotional Exam Grievance

However, CEB Consultants assigned a value of 1 'transformed' Oral Assessment point to the Oral Assessment raw score of 68—a negative difference of 9.4846 points.

Adding together the negative effects of CEB Consultants application of Linear Transformation equations to the Oral Assessment component and Written Test component can yield a reduced and substantial difference of 27.4429 points with respect to a member's composite score.

In summary, the appropriate equation to calculate composite scores for the 2017 Fire Captain's Exam is:

$$\text{Total Score} = \frac{W}{120} (35) + \frac{O}{227} (35) + \frac{S}{144} (30)$$

WHERE:

W=Written Exam Raw Score

O=Oral Assessment Raw Score

S=Months of Seniority

Using the above equation, my correct composite score is 69.048, instead of 49.562, the composite score determined using the Linear Transformation equations used by CEB Consultants.

The above information and grievance is based upon the information currently available. I reserve the right to supplement this grievance with additional information, including information regarding errors in the scoring process.

2018 NOV 20 AM 9:28

CHICAGO FIRE FIGHTERS UNION
I.A.F.F. AFL-CIO-CLC
GRIEVANCE REPORT NUMBER 181117

TO: CITY OF CHICAGO FIRE COMMISSIONER

DATE: NOV. 20, 2018

FROM: Peoples
(Last Name)

Sedalia
(First Name)

Vonille
(Middle Name)

HOME Address 53 East 89th Street

Chicago, IL 60619

File No. 17876

Company/District 7-1st - Eth

Shift/Daily Day 1st / E

Rank LT / FHT

HOME Phone No. (773) 217-4199

SUBJECT: Grievance against City of Chicago Fire Department

Facts pertaining to Grievance (Who, When, Where, Why, What): I am imploring that
The city of Chicago Fire Captain Promotional Eligibility
list from the 2017 Fire Captain Examination be
disqualified and ineligible for reason and facts
I will give to a panel of my peers in a grievance
hearing.

(attach additional pages if necessary)

This violates Contract Article(s) and/or Section(s): Article IX, Section 9.3-B

but not limited thereto.

Suggested Correction: Make whole, and Utilize the previous eligible and
qualified list with the remaining members with passing score.

Release of Personnel Records Attached Yes No

[Signature]
(Signature of Union Officer)

[Signature]
(Signature of Grievant)



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

150 M Street, N.E.
Karen Ferguson, EMP, 4CON, Room 9.514
Washington, DC 20530

June 08, 2022

Ms. Sedalia Peoples
c/o Michael V. Marsh, Esquire
Law Offices of Mayer & Marsh
123 W. Madison Street
Suite 700
Chicago, IL 60602

Re: EEOC Charge Against City of Chicago, Chicago Fire Dept.
No. 440201904008

Dear Ms. Peoples:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

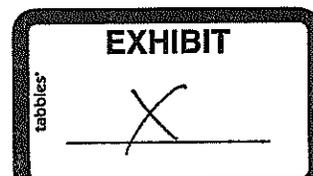
This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Kristen Clarke
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
City of Chicago, Chicago Fire Dept.



All phases of field tests of personal protective equipment will be subject to involvement by the Joint Committee before any resolution relative to acquiring such equipment, provided that such involvement is legal and in compliance with the applicable written ethical rules and regulations of the City of Chicago. Results of such test shall be provided to the Union 30 days prior to acquiring such equipment.

C. Inoculations, Tests, Screening

1. Upon notification to the Employer by the employee, all employees on a voluntary basis shall be granted, at Employer expense, prophylactic inoculations for:

- a. Hepatitis B Virus (HBV), and
- b. As prophylactic inoculations become available, for:
 - (i) Additional strains of Hepatitis;
 - (ii) Human Immunodeficiency Virus (HIV) related conditions;
 - (iii) Acquired Immune Deficiency Syndrome (HIV) antibody positive conditions.

2. Upon notification to the Employer by the employee that a bargaining unit employee is significantly exposed in the course of duty to the risk of transmission of disease, as defined by the U.S. Center for Disease Control, from a person determined to have a disease process of a contagious or infectious nature, the employee on a voluntary basis, shall be granted, at Employer expense, medically necessary tests and/or screening, and prophylactic treatment.

Section 12.3 - Pensions

A. For the term of this Agreement, the Employer agrees not to exercise its Home Rule power to reduce the benefit provisions of the Illinois Revised Statutes, Chapter 108 1/2, Article VI, "The Firemen's Annuity and Benefit Fund - Cities Over 500,000."

B. Deferred Compensation

The Employer shall continue to make available to bargaining unit members an I.R.S. qualified deferred compensation program.

ARTICLE XIII. NO DISCRIMINATION

Section 13.1 - No Discrimination

Neither the Employer nor the Union shall interfere with the right of employees covered by this Agreement to become or not become members of the Union, and there shall be no discrimination against any such employees because of Union membership or non-membership, but this Section is not intended to interfere with the operation of Section 1 of Article III of this Agreement. In accordance with applicable law, neither the Employer nor the Union shall discriminate against any

employee covered by this Agreement because of race, creed, color, national origin, sex, age, religion or political affiliation.

Section 13.2 - Gender

Whenever a male gender is used in this Agreement it shall be construed to include male and female employees.

Section 13.3 - Union's Duty of Fair Representation

The Union recognizes its responsibility as bargaining agent and agrees to fairly represent all employees in the bargaining unit without discrimination, interference, restraint or coercion. The Union's duty of fair representation shall be carried out in conformity with the standard enunciated by the United States Supreme Court in Vaca v. Sipes, 386 U.S. 171 (1967).

Section 13.4 - Affirmative Action

A. The Parties agree to establish and implement an affirmative action program in accordance with the terms and conditions of the IAFF recruitment and equal opportunity programs as further described in Appendix G of this Agreement.

B. Polygraphs

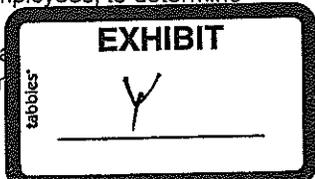
The Employer agrees that no prospective employee shall be required to take a polygraph examination as a condition of employment with the Employer, and a prospective employee's refusal to submit to a polygraph examination shall not be cause for rejection for employment.

Section 13.5 - Americans With Disabilities Act

Should the Employer be required under the Americans With Disabilities Act to make a reasonable accommodation to the disability of an applicant or incumbent employee that may be in conflict with the right of any employee under this Agreement, the Employer shall bring this matter to the attention of the Union in writing. If the parties cannot reach an agreement on such accommodation, the provisions of Article X shall be available, and the Arbitrator shall consider the Employer's obligation and the Union's obligation (if any exists) under the Americans With Disabilities Act and under this Agreement, provided that no employee shall be displaced by such decision.

ARTICLE XIV. MANAGEMENT FUNCTIONS

It is the right of the Employer to unilaterally determine matters of inherent managerial policy and to implement decisions with respect thereto, which include, but are not limited to, the following: the right to determine services to be offered by its agencies; to establish its overall budget; to direct its employees; to determine the content of examinations, the necessary requirements examination process, and the minimum qualifications for or discharge employees for proper cause; to relieve its em



Appendix G- Equal Opportunity

Section 1 - Compliance with Court Settlements and Decrees

The City of Chicago will immediately take all action necessary to assure compliance with agreements reached and decrees issued in court proceedings affecting hiring, promotion and other employment policies of the Fire Department. In addition, to the extent not specifically required by, and not inconsistent with, such agreements or decrees, and to the fullest extent consistent with applicable law, the Department will implement the policies and programs set forth in the following paragraphs.

Section 2 - Hiring and Recruitment

A. Goals

The parties agree that hiring and recruitment programs of the Fire Department shall have as a goal to achieve in the shortest possible time a total force in which approximately thirty percent shall be Black and fifteen percent Hispanic. To this end, the hiring and recruitment programs should aim to assure that at least 45% of all recruits added to the force hereafter shall consist of Blacks and Hispanics. Within 90 days of the effective date of this Agreement the City will publish the initial steps it plans to take to remove all racial inequalities in the Chicago Fire Department.

B. Programs

In addition to such other recruiting procedures and programs as the Fire Department may use, the Department will actively advertise for recruits in communities primarily populated by Black and Hispanic residents and will seek the aid of and will cooperate with church and community organizations in such areas.

Section 3 - Transfers and Promotions

A. Goal

The parties agree that the transfer and promotion policies of the Fire Department shall have, as a goal, the inclusion of Black and Hispanic personnel in all categories and all ranks in order to reach as quickly as is reasonably possible a level as close to 45% as is reasonably achievable.

B. Programs

1. Training

All members of the force shall be given the training and special educational opportunity necessary to qualify them for promotion. This shall include in service training and educational programs as well as opportunity for attendance at

educational institutions, where necessary with adequate arrangements for paid time to permit the individual to participate in such programs.

2. Equality of Opportunity

Promotional and transfer opportunities shall be made available to all qualified members of the force. Examinations, where used, and any other standards and descriptions of required qualifications, shall be reviewed and any elements which have the effect of discrimination against Blacks or Hispanics shall be eliminated. The Department will take all reasonable steps, by posting and other means, to encourage Black and Hispanic members of the force and applicants for employment to apply for positions for which they show potential or desire, and are, or can within a reasonable time, become qualified.

3. Remedying Past Discrimination

There shall be an immediate review of the status of all Black and Hispanic firefighters in order to determine those whose time in grade would make them eligible for promotion had not discriminatory practices existed in the past. Within 90 days of each anniversary date of the signing of this contract, the Department shall review the status of all Black and Hispanic members of the force and prepare a written report stating whether there is any reason other than past racial discrimination for the failure of such individual to achieve promotion, and, if so, the facts supporting the conclusion. Where it is found that there is a reason for non-promotion which can be remedied by appropriate training or educational opportunity, special arrangements shall be offered to enable such individual to have the necessary training or educational opportunity. Where no reason other than past discrimination is found for non-promotion of such individuals, preference will be given for the next promotion or promotions available. Where promotions are made on the basis of examination, such past discrimination shall be remedied by giving, in the case of those who achieve a passing grade in such examinations and otherwise qualified, preference over other candidates for promotion with equal or lesser length of service.

a. Establish of Responsibility for Implementation. The City shall assign a special Department Affirmative Action Officer to assure implementation of the Chicago Fire Department Affirmative Action Plan. The Affirmative Action Officer shall be of equivalent rank as an Assistant Commissioner. It is within the Officer's scope of duties to assign responsibilities for the implementation of the plan on an intra departmental basis to assure that it is carried out in every phase of Department operations. The Officer will report to the Mayor, initially on a bi-monthly basis for six months, thereafter monthly. The Officer is mandated from time to time to make "on the spot audits" of the effectiveness of the Affirmative Action Plan and shall recommend remedial and corrective action where such is needed. This Officer will serve as a liaison between the City of Chicago and the

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Community Advisory Board of the Chicago Fire Department, apprising that body of the progress of the Affirmative Action Plan through periodic reports of areas which need attention and corrective action.

b. Agreement Prohibits Sex Discrimination. Opportunities within the Department and at all promotional levels shall be available to persons, regardless of sex and the same provisions herein recommended shall be applicable for female candidates within the Department.

Section 4 – Community Advisory Board

A. Composition

The City of Chicago shall invite each of a reasonable number of community and church organizations representing a broad segment of the Black, Hispanic, Native American and Asian communities to designate a representative to serve on a Fire Department Community Advisory Board which shall have a total of eleven members. The Board shall include at least four (4) representatives named by organizations identified with the Black communities of Chicago and at least two (2) named by organizations identified with the Hispanic communities of Chicago and two (2) named by Local 2 of the International Association of Fire Fighters.

B. Duties and Powers

The Community Advisory Board shall have the duty of monitoring the progress of the Fire Department in the implementation of this affirmative action section of this contract, reporting the facts with respect to such progress to the public and to the parties of this contract, and making suggestions for more effective implementation. The Department agrees to make a Progress Report to the Board at least once a year, containing full data as to the nature of the recruitment, hiring, transfer and promotion programs in effect, the progress made during the year toward achievement of the goals described herein, the number and percentage of Blacks and Hispanics hired, transferred or promoted during the year, and the number, percentage and geographical distribution of Blacks and Hispanic holding positions in each category and rank. Copies of written examinations will be made available to the Board for review and for such recommendations as the Board may make for modifications to eliminate or prevent discriminatory impact. The Department will cooperate with the Board by making available such other information, records and statistics as the Board may reasonably request for performance of its duties. The Department will also make available such facilities as may be needed for performance of the Board's functions; including meeting room, secretarial assistance, office supplies and assistance of research, technical assistance of research, technical assistance specialists and other personnel.

in the reverse order in which they were rehired from the overtime distributions list(s), in the District, except that employees rehired from outside the District shall first be relieved from overtime assignments in the District.

3. It is further provided that employees so relieved from rehire shall, upon arrival of their replacement, be permitted by their Company Officer to leave without loss of minimum recall pay, unless there is another overtime situation in the District to which the rehire may be assigned at that time. In case there is any question as to who should be relieved, the matter shall be discussed between the Business Agent or his designee and the designated Employer representative.

Section 9.3 - Vacancies and Promotions

A. Vacancies

Promotional vacancies within the bargaining unit created as a result of death, resignation, retirement and discharge for just cause, and which the Employer must fill to maintain the minimum manning agreed to in this Agreement, shall be filled within forty-five (45) days of the last day the employee actually worked on duty or was discharged. Promotions which are required to fill vacancies shall be made from established lists resulting from job related examinations given to the employees in the classification immediately below the vacancy. Permanent assignments to vacant promotional positions shall be in accordance with the provisions of Article XVI, Section 16.7.

B. Promotional Eligibility Lists

1. No employee shall be eligible to take a promotional examination until the employee has completed the probationary period. The ranking of employees on promotional lists shall be based upon the employee's ascertained merit which shall be determined by promotional examinations consisting of the following three (3) criteria: written, seniority and oral/proficiency (hereafter referred to as the "administered examination"). Promotions shall be made on the basis of the administered examination, and effective for administered examinations given after January 1, 1997, promotions may also be made pursuant to a performance selection process as set forth in subparagraph 4.

The weights to be accorded the criteria of the administered examination shall be consistent with the requirements of federal law, and are subject to review by the Justice Department. The City will announce the weights of the criteria of the administered examination at the time the Department of Personnel officially announces the examination.

Effective for administered examinations given after January 1, 2003, the total weight assigned to the written criteria shall be no less than twenty-five percent (25%); the total weight assigned to the oral/proficiency criteria shall be no less than twenty-five percent (25%); and the total weight assigned to the seniority criteria shall be no less than thirty percent (30%) of the final score of the administered examination.

Full mark for seniority shall be given, as follows:

- a. for promotion to Engineer or to Lieutenant - ninety-six (96) or more months;
- b. for promotion to Captain - one hundred forty-four (144) or more months;
- c. for promotion to Battalion Chief - two hundred four (204) or more months.

Lesser amounts of seniority shall receive a pro-rata mark; for example:

A firefighter with ninety-six (96) or more months of seniority would receive 100% of the seniority criteria specified for promotion to engineer or lieutenant while a firefighter with forty-eight (48) months seniority would receive one-half (1/2) of the specified seniority criteria (accordingly, if the specified seniority criteria is thirty percent (30%), the firefighter with ninety-six (96) or more months of seniority would receive the full mark, while a firefighter with forty-eight (48) months would receive one-half (1/2) of the thirty percent (30%) seniority criteria, or fifteen percent (15%). The seniority mark shall be determined as of the date of the examination announcement.

Additional credit shall be given to candidates who have at the time of the administered examination the following degrees or licensures:

- a. For promotion to Lieutenant and/or Captain.

Any candidate who has an Associate's or Bachelor's degree in fire science or who has an EMT-B or EMT-P license and is being compensated as a result of such licensure will receive the full amount of credit;

- b. For promotion to Battalion Chief.

Any candidate who has an Associate's degree in fire science or a Bachelor's degree will receive the full amount of credit.

The amount of credit to be given for these degrees and licensures shall be described in the examination announcement. In no event shall a candidate with the required degree be eligible for anything less than full credit.

2. Promotional vacancies shall be filled by the Commissioner from eligible employees certified from the applicable promotional eligibility list. After each promotional examination, the City shall develop an eligibility list based upon employees eligible for promotion based on their performance on the administered examination. No less than thirty (30) days prior to any promotions, the City shall provide to the Union a copy of the promotional eligibility list. Such list shall reflect each employee's full name, seniority number, race, gender, total score and rank on the list. Vacancies will customarily be filled by employees in the order of their ranking on the eligibility list.

Employees who are passed over on an eligibility list str

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the preceding paragraph and who otherwise would have been promoted had promotions been made in rank order from the eligibility list shall have his or her name inserted at the top of the new eligibility list in rank order as it appeared on the previous eligibility list for the same promoted position, and shall be promoted from the new eligibility list to vacancies which will customarily be filled by employees in the order of their ranking on the eligibility list.

It is provided, however, that irrespective of an employee's ranking on the eligibility list, an employee eligible for promotion to a vacancy in the position of Captain or Battalion Chief shall be passed over on the eligibility list and not be promoted if the employee has not completed at least thirty (30) months in the classification immediately below the vacancy, and no employee may be promoted to the position of engineer or lieutenant, and shall be passed over on the eligibility list, without fifty-four (54) months in the classification of firefighter and/or engineer.

An employee certified for promotion to a vacancy may be passed over for any vacancy on an order subject to the following conditions:

- a. No employee may be passed over on more than two (2) orders, unless the employee does not meet the time in grade requirements outlined above.
- b. No employee shall be promoted from a new promotional eligibility list until all employees who may have been passed over on a previous promotional order have been promoted, unless the employee does not meet the time in grade requirements.
- c. An employee may be passed over on an order only for the following reasons:
 - (i) At the time the vacancy occurs the employee is on an injury leave of six (6) months or more for a non-duty-related injury; provided, however, that upon the employee's return to duty from such leave he/she shall be promoted on the next order.
 - (ii) A major disciplinary infraction (i.e. charges resulting in a suspension of fifteen (15) days or more); provided, however, that if such disciplinary infraction is not sustained, the employee shall be promoted on the next order. No disciplinary infraction may be used for more than one order as a reason to pass over an employee on a promotional order.
 - (iii) In order to comply with any injunctive or final and unappealable order of a court, administrative agency, administrative law judge, hearing officer or arbitrator.

The Employer shall specify the specific reason in the event that it decides to pass over an employee on an order.

3. Each applicant for promotion shall be given a copy of his/her answer sheet following the conclusion of the written examination, prior to the candidate's

departure from the exam site. Each applicant will be allowed to challenge test questions on the written examination in writing. During the announced challenge period, the applicant will be allowed to review the written examination for that purpose. A copy of the correct answer key for the written examination shall be provided by the City to the Union after the promotional eligibility list has been finalized and approved by the Department of Justice. Upon request, the candidate shall thereafter have the right to receive a copy of the written examination. The City shall provide the Technical Report of a promotional examination to the Union within thirty (30) days of a promotion made from the eligibility list created as a result of such examination.

4. Performance Selection Process

a. Up to sixteen percent (16%) of the promotions to the rank of Lieutenant, up to sixteen percent (16%) of the promotions to the rank of Captain, and up to sixteen percent (16%) of the promotions to the rank of Battalion Chief on each promotional order may be made by the Fire Commissioner on the basis of performance. The following criteria must be met by any applicant prior to being eligible for performance promotion:

- (i) passing the appropriate administered examination with a grade of seventy (70) or better;
- (ii) meeting the following time in rank requirements at the time of the promotion:
 - (a) One hundred twenty (120) months in the classification of Firefighter and/or Engineer for promotion to the position of Lieutenant;
 - (b) Seventy-two (72) months in the classification of Lieutenant for promotion to the position of Captain;
 - (c) Seventy-two (72) months in the classification of Captain for promotion to the position of Battalion Chief.

b. Battalion Chiefs may nominate candidates for consideration for Performance Selection Process for each rank of Lieutenant, Captain and Battalion Chief. In addition, Exempt rank personnel in the positions of Deputy District Chief, District Chief and Bureau Heads may nominate candidates for consideration in the Performance Selection Process to the promotional ranks of Lieutenant, Captain and Battalion Chief as directed by the Fire Commissioner. Nominations shall be made after the promotional administered examination is announced but before the examination is held. All nominations shall be forwarded to the Performance Selection Board, which will consist of the First Deputy Fire Commissioner, the Deputy Commissioners, and the Director of Personnel. The City shall provide the Union with a list of nominees before the written portion of the administered examination.

c. The Performance Selection Board will consider the nominations, taking into account each candidate's performance, awards and commendations, leadership ability, specialized training, relevant

education and experience, attendance file, disciplinary file, and any other information deemed relevant to determine whether to recommend the candidate to the Commissioner.

d. The Performance Selection Board will submit its recommendations to the Fire Commissioner for consideration. The City shall provide the Union with the Board's recommendations to the Fire Commissioner before any promotional order is issued. The Fire Commissioner shall make performance selection promotions from recommendations. The list of Nominees shall be void upon removal of the eligibility list.

e. Only candidates nominated as per subparagraph b above may be recommended by the Performance Selection Board to the Fire Commissioner, and only candidates recommended by the Performance Selection Board may be considered by the Commissioner in determining performance selection promotions.

f. The City will apprise the Union, in writing, of the identity of the personnel, if any, who receive performance selection promotions at the time of such promotions.

g. Provided that the provisions set forth in subparagraphs 4.a through f are followed, the Fire Commissioner's performance selection decision shall be final and not subject to the grievance procedure.

5. The City may charge an appropriate fee for all promotional examinations not to exceed the charge established by City Council Ordinance, which fee shall not exceed \$75.00.

6. In the event that any court of competent jurisdiction enjoins the City from making promotions pursuant to this Agreement, or issues a final and unappealable order that promotions be made in a manner inconsistent with the provisions of this Agreement, compliance with that order shall not be deemed a violation of this Agreement. In the event the City is unable to make further promotions without violating any such order, the City and Local 2 shall negotiate a resolution that permits promotions consistent with such order.

EMS Positions

1. Career positions within Emergency Medical Services (EMS) shall be:

- a. EMS Field Chief
- b. Ambulance Commander
- c. Paramedic-in-Charge (P.I.C.)
- d. Paramedic

2. Notwithstanding Sections 9.3A and 9.3B, promotions for EMS employees shall come from lists as they may from time to time be established, provided that no employee may be promoted until completion of at least eighteen (18) months in the classification immediately below the vacancy, and for promotions to the positions of Field Chief and Ambulance Commander thirty

(30) months in the classification immediately below the vacancy. No list shall be used for more than eight (8) years.

3. a. Field Chiefs shall be paid at the F6 pay rate, Paramedic-in-Charge (P.I.C) at the F3A pay rate, and Ambulance Commander at the F5 pay rate. There shall be appointed one (1) Ambulance Commander for each Ambulance Company. After the initial appointment of Ambulance Commanders, transfer vacancies in the Ambulance Commander position shall be filled pursuant to Section 16.7C. Promotions to the position of Ambulance Commander shall be made to employees in the position of P.I.C., on the basis of seniority. Promotions to the position of Ambulance Commander shall be filled pursuant to 9.3.C.2. above.

b. Ambulance Commanders and P.I.C.'s shall be on the same Overtime Distribution List.

4. Promotions to the position of Field Chief shall be made to employees in the position of Ambulance Commander.

Section 9.4 - Layoff and Recall

In the event it becomes necessary to lay-off employees, for any reason, employees shall be laid off in inverse order of their seniority. Employees shall be recalled from layoff according to their seniority. No new employees shall be hired until all employees on layoff status, desiring to return to work, have been recalled.

ARTICLE X. GRIEVANCE PROCEDURE

Section 10.1 - Definition

Any grievance or dispute which may arise between the parties, including the application, meaning or interpretation of this Agreement, shall be settled in the following manner.

Section 10.2 - Procedure, Steps and Time Limits

Step I. - The employee, with or without the Steward (or the Steward alone in the case of a Union Grievance), shall take up the grievance or dispute in writing or orally with the Employer's authorized representative within ten (10) business days of its occurrence, or if later, the date on which either the employee or his/her Union Steward knew or reasonably should have known of its occurrence. The Employer's authorized representative shall then attempt to adjust the matter, and shall respond in writing or orally to the Steward within five (5) business days.

Step II - If the grievance is not settled in Step I and the Union with or without the employee wishes to appeal the grievance in Step II of the grievance procedure, it shall be referred in writing to the Fire Commissioner or his/her designated representative within five (5) working days after the receipt of the Employer's answer in Step I. The written grievance shall be signed and shall set forth all relevant facts, the provision or provisions of the Agreement allegedly violated, and the requested remedy.

**CITY OF CHICAGO
DEPARTMENT OF HUMAN RESOURCES
PROJECT No. 00315**

**TECHNICAL MANUAL FOR
FIRE CAPTAIN PROMOTIONAL PROCESS
VOLUME 1 – JOB ANALYSIS AND
RECOMMENDED TEST STRATEGY**

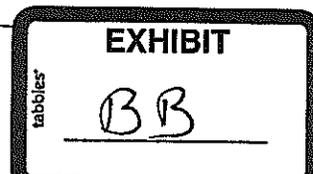
Prepared by:

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August 1, 2018

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CFD FIRE CAPTAIN TECHNICAL MANUAL: VOLUME 1 – JOB ANALYSIS

ADVERSE IMPACT CONCERNS

The *Uniform Guidelines* stresses the importance of searching for a procedure that could minimize adverse impact, stating:

where two or more selection procedures are available which serve the user's legitimate interest in efficient and trustworthy workmanship, and which are substantially **equally valid for a given purpose**, [emphasis added] the user should use the procedure which has been demonstrated to have lesser adverse impact. (Section 3.B)

Accordingly, an alternative selection procedure that results in less adverse impact must be used when it meets the following conditions: (a) it serves the user's legitimate interest, (b) it shows substantially equal validity for the given purpose, and (c) it has demonstrated less adverse impact.

ORGANIZATIONAL CONCERNS

Practical concerns for test development and implementation and general organizational concerns also were considered in the search for suitable alternatives. The *Principles* (SIOP, 2003) acknowledges the necessity of considering organizational variables. The *Principles* states that it is important to understand the organizational needs as they relate to the selection problem, specifically:

Before a selection procedure is considered, or a validation effort is planned, the researcher should be able to make a clear statement of the objective of the procedure. The statement of purpose must be based on an understanding of the work performed on the job and of the needs and rights of the organization and its present and prospective employees. (pp. 4-5)

One objective of the Department was to develop a promotional process that would include measures in addition to traditional paper-and-pencil tests that could evaluate candidates' ability to apply job knowledge to situations that resemble those that occur on the CFD Fire Captain job. A closely related objective was to increase the perceived and actual fairness of the selection process by moving to a broader consideration of the candidate's job-relevant capabilities. Considering these objectives, the consultants identified and considered several relevant organizational variables in the search for alternatives, including the following:

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DEPARTMENT OF HUMAN RESOURCES
PROJECT No. 00315**

**TECHNICAL MANUAL FOR
FIRE CAPTAIN PROMOTIONAL PROCESS
VOLUME 2 – TEST DEVELOPMENT AND
VALIDATION**

Prepared by:

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August 1, 2018

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23.449 with a standard deviation of 7.036. The coefficient alpha reliability, skewness and kurtosis estimates are unaffected by the linear transformation process, and subsequently remain the same as the raw score statistics following the score transformations.

TABLE 10
TRANSFORMED WRITTEN EXAMINATION SCORE DESCRIPTIVE RESULTS

N	Mean	SD	Median	Mode	Minimum	Maximum	Reliability	Skewness	Kurtosis
411	23.449	7.036	25.192	28.462	1	35	0.886	-0.773	-0.021

Overall, the psychometric results of the Written Examination do not suggest any substantive irregularities in the distribution of scores. Based on an examination of the general descriptive statistics, the reliability of the test, and the distribution of scores, and in consideration of the pool of candidates taking the test, the Written Examination component of the Fire Captain Promotional Process, based on transformed scores for these 411 candidates, has acceptable psychometric properties.

In addition, means and standard deviations were calculated for protected subgroups based on the raw and transformed Written Examination scores. Adverse impact for each subgroup also was evaluated using multiple methods. Table 11 shows the means and standard deviations and minimum and maximum scores for each racial subgroup. Comparisons of mean scores were performed only on White, Black, and Hispanic subgroups to avoid revealing individual candidate scores for the Asians (n = 2) and American Indian (n = 1). To statistically compare mean differences between racial subgroups, a one-way ANOVA was conducted. The overall model for the ANOVA showed a statistically significant effect in the differences between the subgroup means, $F(2,407) = 43.236, p < .001$. A post hoc analysis using the Tukey method for pairwise comparisons showed statistically significant differences between Whites and Blacks ($p < .001$) and Hispanics and Blacks ($p < .001$), but no statistically significant difference between Whites and Hispanics ($p = .270$). Accordingly, White and Hispanic subgroups scored significantly higher than the Black subgroup.

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TABLE 12
DESCRIPTIVE STATISTICS FOR RAW AND TRANSFORMED WRITTEN EXAMINATION
SCORES BY GENDER (N=411)

Gender	N	Mean	SD	Minimum	Maximum
Raw Score					
Female	11	94.820	14.268	72	114
Male	400	99.460	10.644	65	117
Transformed Score					
Female	11	20.496	9.329	5.577	33.038
Male	400	23.530	6.960	1	35

Table 13 shows the adverse impact analyses for the Written Examination for this group by decile. Analyses found that Four-Fifths Rule (80% Rule) violations were present for Black test takers in all deciles. In other words, adverse impact based on the Four-Fifths Rule was observed in the top 90% of test takers. Similarly, when using the Binomial, Fisher's, and Chi-Square statistics, adverse impact was present for Blacks in all deciles. Four-Fifths Rule violations were present for Hispanics in the top 30%, 40%, and 50% deciles. Adverse impact was observed in only the 50% decile group for Hispanics when using these three statistics to evaluate adverse impact.

The numbers of Asian (n = 2), American Indian (n = 1), and female (n = 11) candidates in the population of test takers are extremely small; nevertheless, adverse impact statistics are presented. Because of the effect of one individual passing or failing in a particular decile on the adverse impact statistics, results for all three groups, especially Asians and American Indians should be interpreted cautiously. Violations of adverse impact based on Four-Fifths Rule were observed for Asian candidates in all deciles except for the 50% decile. Additionally, adverse impact violations for Asians based upon two of the three statistics were present in the 90% decile. The Fisher's test was not significant. Adverse impact defined by the Four-Fifths Rule was observed in the first three deciles (through the 30% decile) for American Indians. None of the three statistical tests was significant.

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Adverse impact violations based on the Four-Fifths Rule for female candidates were present in the 50% through the 90% deciles. Adverse impact was observed in the 50%, 60%, 70%, and 80% decile groups for females when using the Four-Fifths Rule. None of the other adverse impact statistics was significant.

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**TABLE 13
ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR THE WRITTEN EXAMINATION
(FINAL 411 CANDIDATES)**

Pass Rate	Subgroup	All Candidates	Selected Candidates	Adverse Impact Statistics			
				80% Rule	Binomial	Fisher's	Chi-Square
Top 10.7%	Race	(N=411)	(N=44)				
	White	304	38	-	-	-	-
	Black	60	0	<u>0.000</u>	<u>-2.862</u>	<u>0.004</u>	<u>0.004</u>
	Hispanic	44	6	1.091	0.228	1.000	0.832
	Asian	2	0	<u>0.000</u>	<u>-0.570</u>	1.000	0.593
	American Indian	1	0	<u>0.000</u>	<u>-0.404</u>	1.000	0.706
	Gender						
	Male	400	42	-	-	-	-
Female	11	2	1.732	0.813	0.616	0.416	
Top 21.2%	Race	(N=411)	(N=87)				
	White	304	71	-	-	-	-
	Black	60	4	<u>0.285</u>	<u>-2.892</u>	<u>0.005</u>	<u>0.003</u>
	Hispanic	44	12	1.168	0.595	0.573	0.569
	Asian	2	0	<u>0.000</u>	<u>-0.806</u>	1.000	0.435
	American Indian	1	0	<u>0.000</u>	<u>-0.571</u>	1.000	0.581
	Gender						
	Male	400	85	-	-	-	-
Female	11	2	0.856	-0.246	1.000	0.806	
Top 31.6%	Race	(N=411)	(N=130)				
	White	304	113	-	-	-	-
	Black	60	5	<u>0.224</u>	<u>-4.390</u>	<u>0.000</u>	<u>0.000</u>
	Hispanic	44	12	<u>0.734</u>	-1.320	0.241	0.201
	Asian	2	0	<u>0.000</u>	<u>-1.127</u>	0.533	0.278
	American Indian	1	0	<u>0.000</u>	<u>-0.798</u>	1.000	0.442
	Gender						
	Male	400	127	-	-	-	-
Female	11	3	0.859	-0.315	1.000	0.753	

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transformation was to convert the raw Oral Assessment scores to a 35-point scale, which was required to calculate the Total Examination Scores in compliance with the percentages for each promotional process component outlined in the collective bargaining agreement. The linear transformation was conducted such that candidates having the highest raw score attained on the Oral Assessment would receive the maximum number of transformed points (i.e., 35 points). Furthermore, candidates with lowest raw score attained on the Oral Assessment would receive a score of 1 transformed point. These values were transformed to a 35-point scale using the equation for a straight line:

$$Y = bX + a$$

In this equation, Y equals the score on the transformed scale (i.e., 35-point scale), X equals the value on the original scale (i.e., raw Oral Assessment score), a equals the intercept on Y, and b equals the slope of the line (Howell 2012). Scores transformed with this approach retain the same rank order as the raw scores. Based on the data points used in the transformation equation, the transformed Oral Assessment scores, denoted as O_{35} were derived using the following equation:

$$O_{35} = .267716535433X - 17.2047244094$$

The transformed score descriptive results of the Fire Captain Oral Assessment test for candidates who also completed the Written Examination are presented in Table 19. For the 411 candidates taking the Oral Assessment, the average (mean) transformed score was 21.33 with a standard deviation of 6.14. The coefficient alpha reliability, skewness and kurtosis estimates are unaffected by the linear transformation process, and subsequently remain the same as the raw score statistics following the score transformations.

TABLE 19
TRANSFORMED ORAL ASSESSMENT SCORE DESCRIPTIVE RESULTS

N	Mean	SD	Median	Mode	Minimum	Maximum	Reliability	Skewness	Kurtosis
411	21.33	6.14	21.75	23.76	1	35	0.86	-0.31	-0.31

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Overall, the psychometric results of the Oral Assessment do not suggest any substantive irregularities in the distribution of scores. Based on an examination of the general descriptive statistics, the reliability of the test, and the distribution of scores, and in consideration of the pool of candidates taking the test, the Oral Assessment component of the Fire Captain Promotional Process has acceptable psychometric properties.

In addition, means and standard deviations were calculated for protected subgroups based on the raw and transformed Oral Assessment scores. Adverse impact for each subgroup also was evaluated using multiple methods. Table 20 shows the means and standard deviations and minimum and maximum scores for each racial subgroup.

Comparisons of mean scores were performed only on White, Black, and Hispanic subgroups to avoid disclosure of individual candidate scores for Asians ($n = 2$) and American Indians ($n = 1$). To statistically compare mean differences between racial subgroups, a one-way ANOVA was conducted. The overall model for the ANOVA showed a statistically significant effect in the differences between the subgroup means, $F(2,405) = 18.942, p < .001$. A post hoc analysis using the Tukey method for pairwise comparisons showed statistically significant differences between Whites and Blacks ($p < .001$) and Hispanics and Blacks ($p = .021$), but no statistically significant difference between Whites and Hispanics ($p = .113$). Accordingly, White and Hispanic subgroups scored significantly higher than the Black subgroup.



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TABLE 20
DESCRIPTIVE STATISTICS FOR RAW AND TRANSFORMED ORAL ASSESSMENT
SCORES BY RACIAL SUBGROUP (N=411)

Subgroup	N	Mean	SD	Minimum	Maximum
Raw Score					
White	304	147.56	21.77	77.0	195.0
Black	60	128.76	25.28	68.0	183.0
Hispanic	44	140.46	18.59	100.5	178.5
Asian *	2	--	--	--	--
American Indian *	1	--	--	--	--
Transformed Score					
White	304	22.30	5.83	3.4	35.0
Black	60	17.27	6.77	1.0	31.8
Hispanic	44	20.40	4.98	9.7	30.6
Asian *	2	--	--	--	--
American Indian *	1	--	--	--	--

* Descriptive statistics were not reported in the table for the two Asian and one American Indian candidates to avoid disclosure of individual candidate test scores in this report.

Additional analyses compared male and female subgroups. Table 21 shows the means and standard deviations and minimum and maximum scores for gender subgroups based on the raw and transformed scores on the Oral Assessment.

An independent samples *t*-test did not show a statistically significant difference in means between males and females, $t(409) = -.835, p = .404$. However, because of the relatively small number of females and the imbalance in the number of male and female candidates, these results should be interpreted with caution.

CFD FIRE CAPTAIN TECHNICAL MANUAL: VOLUME 2 – TEST DEVELOPMENT**TABLE 22 (CONTINUED)
ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR ORAL ASSESSMENT**

Pass Rate	Subgroup	All Candidates	Selected Candidates	Adverse Impact Statistics			
				80% Rule	Binomial	Fisher's	Chi-Square
Top 70.1%		(N =411)	(N =288)				
	Race						
	White	304	233	-	-	-	-
	Black	60	26	<u>0.544</u>	<u>-5.407</u>	<u>0.000</u>	<u>0.000</u>
	Hispanic	44	29	0.860	-1.453	0.136	0.123
	Asian	2	0	<u>0.000</u>	<u>-2.359</u>	0.056	<u>0.011</u>
	American Indian	1	1	1.305	0.509	1.000	0.581
	Gender						
	Male	400	279	-	-	-	-
	Female	11	9	1.173	0.862	0.517	0.389
Top 79.8%		(N =411)	(N =328)				
	Race						
	White	304	257	-	-	-	-
	Black	60	32	<u>0.631</u>	<u>-5.503</u>	<u>0.000</u>	<u>0.000</u>
	Hispanic	44	38	1.022	0.282	0.827	0.753
	Asian	2	0	<u>0.000</u>	<u>-2.968</u>	<u>0.025</u>	<u>0.001</u>
	American Indian	1	1	1.183	0.384	1.000	0.669
	Gender						
	Male	400	319	-	-	-	-
	Female	11	9	1.026	0.169	1.000	0.866
Top 90.0%		(N =411)	(N =370)				
	Race						
	White	304	285	-	-	-	-
	Black	60	41	<u>0.729</u>	<u>-6.004</u>	<u>0.000</u>	<u>0.000</u>
	Hispanic	44	41	0.994	-0.118	1.000	0.885
	Asian	2	2	1.067	0.294	1.000	0.715
	American Indian	1	1	1.067	0.208	1.000	0.796
	Gender						
	Male	400	360	-	-	-	-
	Female	11	10	1.010	0.099	1.000	0.921

Note. Statistics that are bold and underlined indicate adverse impact is present in that decile for that specific subgroup.

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 Analyses found that Four-Fifths Rule (80% Rule) violations were present for the Black subgroup throughout all of the deciles. In other words, adverse impact was detected in all deciles including the top 90%. [For the Binomial, Fisher's, and Chi-Square statistical significance tests, adverse impact was not present for Blacks in the top 10% decile.] Accordingly, upon adverse impact being present in the top 20% for the Binomial, Fisher's, and Chi-Square statistical significance tests, this trend continued through the rest of the deciles including the top 90%. 

A similar pattern emerged for Hispanics. Adverse impact was present for Hispanic candidates, with Four-Fifths Rule violations in all deciles until the top 70%. However, for Hispanics in regard to the three tests of statistical significance (i.e., Binomial, Fisher's, and Chi-Square), adverse impact for the Binomial and Chi-Square was present in the top 10%, but was not present for all three tests in the top 20% until the top 50%. Subsequently, the three statistical tests showed adverse impact in the top 50% and remained until the top 70%. There was no evidence of adverse impact based on the three statistics in the 80% and 90% deciles.

As with the Written Examination, the numbers of Asian ($n = 2$), American Indian ($n = 1$); and female ($n = 11$) candidates in the population of test takers are extremely small; nevertheless, adverse impact statistics are presented. Because of the effect of one individual passing or failing in a particular decile on the adverse impact statistics, results for all three groups, especially Asians and American Indians should be interpreted cautiously. No violations of adverse impact based on Four-Fifths Rule were observed for Asians candidates in all deciles until the 50% decile. Adverse impact was present in the 60% decile and the 70% decile based on the Binomial and Chi-Square statistics and in the 80% based on all three statistics. There was no evidence of adverse impact in the 90% decile. Adverse impact defined by the Four-Fifths Rule was observed in the first four deciles (through the 40% decile) for American Indians. None of the three statistical tests was significant in any decile. No adverse impact was observed for female candidates, who scored higher on average than male candidates.

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TABLE 23
MEAN PROPORTIONS AND CORRECTED ITEM-TOTAL CORRELATIONS
FOR ORAL ASSESSMENT ITEMS (N=411)

Item	Mean Proportion	Corrected Item-Total Correlation
Training Presentation		
Topic 1	.72	.31
Topic 2	.16	.07
Topic 3	.75	.40
Topic 4	.83	.27
Topic 5	.73	.12
Topic 6	.69	.26
Topic 7	.49	.25
Oral Comm	.68	.67
Supervisory Scenarios		
Question 1	.54	.20
Question 2	.54	.47
Question 3	.61	.46
Oral Comm	.71	.61
Incident Operations		
Question 1	.68	.30
Question 2	.69	.50
Question 3	.70	.54
Oral Comm	.70	.60

As shown in Table 23, a wide range of mean proportions resulted, ranging between .16 (Training Presentation Topic 2, First Arriving Company) and .83 (Training Presentation Topic 4, Engine Company Tasks). This result indicates that the Oral Assessment items were not overly difficult nor easy, in that test takers were able to answer items correctly, but not to the level that the majority of candidates could regularly obtain the maximum points.

Except for two low corrected item-total correlations of .07 (Training Presentation Topic 2, First Arriving Company) and .12 (Training Presentation Topic 5, FIT Equipment), the items had moderate to large correlations with the other items when computed as a scale. This indicates that, generally, candidates who answered those items correctly were more likely to score well

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on the overall test. The low corrected item-total correlations do not show that same discrimination, in that there was little to no relationship between candidates who scored well on those items and the overall test.

These item-level results, in general, indicate that most of the items were discriminating in the assessment of candidate performance. The items were not so difficult that qualified candidates could not correctly respond, but not so easy so that all candidates would be able to gain maximum points regardless of their qualifications for the job. In addition, the candidates who performed better on items in one topic area or another were also able to score higher on the overall Oral Assessment.

OVERALL ORAL ASSESSMENT RESULTS

In conclusion, the Oral Assessment of the Fire Captain Promotional Process has acceptable psychometric properties when considering both the overall test as well as the scoring process. Given the relevance of the test to the job (i.e., the content validity of the test), the extensive development and review activities conducted by SMEs, the rigor of the scoring process, and the results obtained from psychometric analyses, confidence can be placed in the interpretation of the results that test scores represent candidates' abilities assessed in the Oral Assessment.

CFD FIRE CAPTAIN TECHNICAL MANUAL: VOLUME 2 – TEST DEVELOPMENT**FINAL SELECTION RESULTS**

The current rank-ordered Eligibility List for the Fire Captain Promotional Process includes the 411 candidates who took both the Written Examination and the Oral Assessment. At the time of this report, no Fire Captain promotions resulting from the current process had been made, so no analyses of adverse impact calculations have been conducted for actual promotions made off the Eligibility List. However, adverse impact estimates have been calculated for the eligible pool of Fire Captain candidates, as described below.

ADVERSE IMPACT ESTIMATES FOR FINAL RANK ORDER

Table 28 shows the results of the adverse impact analyses, with estimates by decile for the candidates rank ordered on the final Eligibility List. The first decile consists of the top 10% of the final rank order. Each decile grouping afterward is cumulative and contains information about all participants above it. For instance, the second decile includes candidates in that group as well as all of the candidates in the first decile. Again, the text refers to the closest decile; Table 28 shows the exact percentage.

As shown in Table 28, analysis of the 2017 Eligibility List for the Fire Captain Promotional Process revealed that adverse impact calculated by the Four-Fifths Rule was present for Blacks in all deciles. For the Binomial, Fisher's, and Chi-Square statistical significance tests, adverse impact was present based on all statistics in all deciles except for the Fisher's in the top 10%.

Adverse impact was present for Hispanics in the top 10% of candidates for the Four-Fifths Rule and remained through to the top 50%. In other words, CFD would have to promote the top 50% of candidates to eliminate adverse impact calculated by the Four-Fifths Rule. For the Binomial, Fisher's, and Chi-Square statistics, adverse impact was not present for Hispanics in the top 10%. Only the Binomial statistic was significant for the 20%. For the remaining deciles beyond the top 20%, adverse impact as indicated by the three statistics was present in in the top 30% and 70%, but not for any of the other deciles.

As noted above, the numbers of Asian (n = 2), American Indian (n = 1), and female (n = 11) candidates in the population of test takers are extremely small; nevertheless, adverse impact

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statistics are presented. Because of the effect of one individual passing or failing in a particular decile on the adverse impact statistics, results for all three groups, especially Asians and American Indians should be interpreted cautiously. The Four-Fifths Rule was violated in all deciles for Asians candidates in all deciles. Adverse impact was present in the 60% decile based on the Chi-Square statistics and in the 90% based on Binomial and Chi-Square statistics. Adverse impact defined by the Four-Fifths Rule was observed in the first three deciles (through 30%) for American Indians. None of the three statistical tests was significant in any decile.

The female group did not meet the Four-Fifths Rule standard in the 50% decile. However, no other evidence of adverse impact was observed for female candidates in any other decile.

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TABLE 28
ADVERSE IMPACT STATISTICS (OVERALL AND DECILES) FOR RANK ORDER

Percentage	Subgroup	All Candidates	Selected Candidates	Adverse Impact Statistics			
				80% Rule	Binomial	Fisher's	Chi-Square
Top 10%	Race	(N =411)	(N =41)				
	White	304	37	-	-	-	-
	Black	60	2	<u>0.274</u>	<u>-2.088</u>	0.064	<u>0.043</u>
	Hispanic	44	2	<u>0.373</u>	-1.578	0.199	0.134
	Asian	2	0	<u>0.000</u>	-0.572	1.000	0.599
	American Indian	1	0	<u>0.000</u>	-0.405	1.000	0.710
	Gender						
	Male	400	39	-	-	-	-
Female	11	2	1.865	0.921	0.612	0.357	
Top 20%	Race	(N =411)	(N =82)				
	White	304	73	-	-	-	-
	Black	60	4	<u>0.278</u>	<u>-3.073</u>	<u>0.003</u>	<u>0.003</u>
	Hispanic	44	5	<u>0.473</u>	<u>-1.962</u>	0.080	0.060
	Asian	2	0	<u>0.000</u>	-0.847	1.000	0.427
	American Indian	1	0	<u>0.000</u>	-0.600	1.000	0.574
	Gender						
	Male	400	79	-	-	-	-
Female	11	3	1.381	0.616	0.701	0.538	
Top 30%	Race	(N =411)	(N =123)				
	White	304	108	-	-	-	-
	Black	60	7	<u>0.328</u>	<u>-3.688</u>	<u>0.000</u>	<u>0.000</u>
	Hispanic	44	8	<u>0.512</u>	<u>-2.348</u>	<u>0.026</u>	<u>0.023</u>
	Asian	2	0	<u>0.000</u>	-1.094	0.542	0.295
	American Indian	1	0	<u>0.000</u>	-0.775	1.000	0.458
	Gender						
	Male	400	120	-	-	-	-
Female	11	3	0.909	-0.195	1.000	0.846	