



ISSUED:  
September  
24, 2024

**STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

**Troy Dulaney,  
Petitioner,**

**v.**

**Indiana Department of Homeland  
Security,  
Respondent.**

**Administrative Case Number:  
DHS-2307-001968**

**Agency Number: 2023-01**

**Ultimate Authority:** Board of Firefighters Personnel Standards and Education

**NON-FINAL ADMINISTRATIVE DECISION**

Administrative Law Judge (ALJ) Carrie Ingram, having heard the evidence and arguments presented in this matter, issues this Non-Final Order addressing the decision by the Board of Firefighters Personnel Standards and Education (hereinafter “Firefighting Board”) to permanently revoke all of Troy Dulaney’s firefighting certificates, which include: Fire Officer I, Fire Officer II, Fire Firefighter I, Firefighter II, Instructor I, Instructor II/III, Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First Responder Awareness, Hazmat First Responder Operation, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness. **This non-final order is favorable to Petitioner.** Any party dissatisfied with this decision may appeal. Appeal instructions are at the end of this document.

**Jurisdiction**

The ALJ assigned to this matter by the Director of the Office of Administrative Law Proceedings (OALP), see Indiana Code § 4-15-10.5-13, has jurisdiction over this case pursuant to Indiana Code § 4-15-10.5-12, which gives OALP jurisdiction over agency administrative actions subject to the Indiana Administrative Orders and Procedures Act at Indiana Code Art. 4-21.5 (AOPA) or “any other statute that requires or allows the office to take action.” The OALP has jurisdiction over this case because this case is governed by AOPA.

## **Issue**

The issue in this case is whether Petitioner violated 655 IAC 1-1-12(j)(12), 655 IAC 1-1-13(a)(4)(C), and Indiana Code § 35-43-5-4, and, if so, what sanction is appropriate.

## **Procedural History**

1. On June 5, 2023, the Firefighting Board permanently revoked Troy Dulaney's fire fighter certificates, including Fire Officer I, Fire Officer II, Fire Firefighter I, Firefighter II, Instructor I, Instructor II/III, Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First Responder Awareness, Hazmat First Responder Operation, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness.
2. Dulaney filed a Petition for Review with the Indiana Department of Homeland Security (DHS) on June 17, 2023.
3. On June 27, 2023, the Firefighting Board granted the Petition for Review and the matter was forwarded to OALP on July 13, 2023.
4. On July 14, 2023, ALJ Ingram was appointed to the matter by OALP and an Initial Prehearing Conference was scheduled for August 18, 2024.
5. After two prehearing conferences, a Verified Petition for Motion to Stay was filed on November 7, 2023.
6. A Stay Hearing was scheduled and held on November 28, 2023. An order denying the request to stay the agency action was issued on December 4, 2023.
7. On March 21, 2024, a prehearing conference was held in this matter and DHS-2307-1824. The parties agreed to a date and time for a Status Conference and Evidentiary Hearing. Petitioner requested that this matter be consolidated with DHS-2307-1824. The request was taken under advisement to give DHS an opportunity to respond.
8. On April 15, 2024, Dulaney's request for case consolidation was denied because the cases involve two different ultimate authorities, but because the facts and circumstances

surrounding both cases were similar, the upcoming Status Conference and Evidentiary Hearings would be held at the same time.

9. On June 3, 2024, a Status Conference was held to address final procedures for the hearing.
10. On June 27, 2024, the Evidentiary Hearing was held in the Indiana Government Center North, Hearing Room N103, in Indianapolis, Indiana. The Petitioner Troy Dulaney appeared in person and with attorneys Christopher Jeter and Alexandra Dowers. The Respondent DHS appeared in person by attorney Hilary Egan. The hearing was recorded.
11. The following Exhibits were offered by the Parties and admitted without objection from the opposing party at the Evidentiary Hearing:
  - a. Petitioner's Exhibit 17<sup>1</sup>, Interview of Caleb Mattax (1 audio recording).
  - b. Petitioner's Exhibit 26, Class Roster for a 2021 Rope Fire Course (10 pages).
  - c. Petitioner's Exhibit 28, Letter from Frank Sergi (1 page).
  - d. Petitioner's Exhibit 36, Screenshots of text messages between Troy Dulaney, Dylan Altman, Jake Lasater, James Main, Kaitlyn Hall, and Matt Reese, from January 13, 2023, to February 6, 2023. (29 pages).
  - e. Petitioner's Exhibit 38, Letter from Christopher Deeds (2 pages).
  - f. Respondent's Exhibit A, Anonymous Complaint received by DHS on or about March 10, 2023 (28 pages).
  - g. Respondent's Exhibit B, Amendment to Anonymous Complaint received by DHS on or about March 11, 2023 (2 pages).
  - h. Respondent's Exhibit C, Supplemental Information provided to DHS anonymously on or about March 11, 2023 (11 pages).
  - i. Respondent's Exhibit E<sup>2</sup>, DHS Revocation Order dated May 18, 2023 (6 pages).
  - j. Respondent's Exhibit F, Email from Dylan Altman to Zachariah Mathews dated April 20, 2023 (1 page).
  - k. Respondent's Exhibit G, Screenshots of text messages attached to April 20, 2023, email from Dylan Altman to Zachariah Mathews (65 pages).
  - l. Respondent's Exhibit H, Board of Firefighting Personnel Standards and Education Order Revocation Order dated June 5, 2023 (7 pages).
  - m. Respondent's Exhibit I, Screenshots of test questions (7 pages).

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<sup>1</sup> Petitioner submitted proposed exhibits 1 through 65 prior to the hearing, but offered only exhibits 17, 26, 28, 36, and 38 during the hearing.

<sup>2</sup> Respondent submitted proposed exhibits A through L prior to the hearing. Although proposed exhibit D was referenced during the hearing, it was not offered or admitted. Proposed exhibits K and L were not referenced, offered, or admitted by Respondent at the hearing. Only exhibits A, B, C, E, F, G, H, I, and J were offered during the hearing.

n. Respondent's Exhibit J, Interview of Brydon Fields (1 audio recording).

12. The following witnesses were duly sworn and provided testimony at the Evidentiary Hearing:

- a. Dylan Altman
- b. Jason Chafin
- c. Rachel Clark
- d. James Clevenger, Jr.
- e. Christopher Deeds
- f. Troy Dulaney
- g. Brayden Fields
- h. Scott Hahn
- i. Kaitlyn Hall
- j. Mark Hill
- k. Kraig Kinney
- l. Jake Lasater
- m. Caleb Maddox
- n. James Main
- o. Zach Mathews
- p. Wesley Miller
- q. Matt Reese
- r. Frank Sergi

### **Findings of Fact**

#### **Complaint to DHS**

- 1. On March 10, 2023, DHS received an anonymous complaint alleging that Troy Dulaney was facilitating a cheating scheme at the Muncie Fire Department (MFD) for emergency medical services and firefighting certifications. The complaint attached twenty-eight pages of documents supporting its allegations. On March 11, 2023, eleven additional documents were submitted to DHS. (Ex. A, B, and C, and Kraig Testimony)
- 2. The complaint specifically alleged that Dulaney facilitated cheating in the 2021 Ropes course, the 2022 Fire Officer Strategy and Tactics (FOST) course, and the January and February 2023 Basic Emergency Medical Technician (EMT) course. (Ex. A, B, and C, and Kraig and Matthew Testimony)

3. Although the complaint was anonymous, many at MFD believed that Caleb Maddox submitted the complaint. (Ex. 17)
4. Caleb Maddox is an employee at MFD in the Second Battalion. Caleb Maddox testified that Chris Short submitted the complaint. Chris Short is a Lieutenant at MFD. (Maddox Testimony)
5. Because the complaint alleged cheating on both Firefighter examinations and Emergency Medical Services (EMS) Examinations, the complaint was investigated by both the Firefighter and EMS divisions in DHS. Firefighter examinations are regulated by the Board of Firefighting Personnel Standards and Education (hereinafter "Firefighting Board"). Zach Mathews conducted the investigation on behalf of the Firefighting Board. EMS examinations are regulated by the EMS Commission. Robin Stump conducted the investigation on behalf of the EMS Commission. The investigations were conducted jointly, but Mathews took the lead on the investigation. (Mathews Testimony)
6. At the conclusion of the investigation, Mathews presented the information that he gathered to the Firefighting Board, who unanimously voted to permanently revoke all Dulaney's firefighting certifications which includes: Fire Officer I, Fire Officer II, Fire Firefighter I, Firefighter II, Instructor I, Instructor II/III, Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First Responder Awareness, Hazmat First Responder Operation, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness. The Firefighting Board relied on 655 IAC 1-1-7(b)(1) and (3) as legal authority to sanction. The Firefighting Board relied on 655 IAC 1-1-12(j)(12), 655 IAC 1-1-13(a)(4)(C), and Indiana Code § 35-43-5-4(a)(3), as legal authority for violations. (Ex. H)

#### Troy Dulaney's Career

7. Troy Dulaney is a Captain in the Third Battalion at MFD, where he has been employed for twenty years. (Dulaney Testimony)
8. At the time of the complaint, Dulaney held certificates issued by the Firefighting Board for Fire Officer I, Fire Officer II, Fire Firefighter I, Firefighter II, Instructor I, Instructor II/III,

Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First Responder Awareness, Hazmat First Responder Operation, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness. (Ex. H)

9. Dulaney has never had a disciplinary action taken against him at MFD. Dulaney has not been disciplined by MFD for the allegations made to DHS. Dulaney remains on paid leave from MFD. (Chaffin and Dulaney Testimony)
10. Prior to joining MFD, Dulaney served in the army and was part of the Gulf War. (Dulaney Testimony)
11. Dulaney also coached wrestling for thirty years, and coached children who went to State championship tournaments. (Chaffin and Dulaney Testimony)
12. Many consider Dulaney an intense individual, which could be attributed to his background. Dulaney was a hardworking, reliable employee who was truthful and honest. He had a strong sense of community and set high standards for himself and everyone around him. (Deeds, Clevenger, Chaffin, and Hahn Testimony)
13. Dulaney led study sessions for new recruits and other personnel at MFD who needed assistance with certification examinations. His study sessions were organized and structured, but Dulaney liked to make the sessions fun. His study sessions included reviewing sample test questions and answers and reviewing skills necessary to pass certification evaluations. Dulaney put a lot of extra time outside of normal work hours into helping individuals with certification examinations. Dulaney wanted the personnel to know the material and to pass the examinations. During his study sessions, Dulaney used some of the motivational techniques that he used as a wrestling coach to assist people who are preparing for examinations. (Dulaney, Chaffin, Hahn, and Miller Testimony)
14. Dulaney had aspirations of promotion within MFD. Promotions at MFD were based upon promotional lists created by the MFD Merit Board. Whoever was first on the promotional list got the next promotion available. The list was created based upon a standardized process that involved interviews, tests, evaluations, and was to be extended or recreated every two years. Promotions were not based upon a supervisor or chief's personal preference. (Chaffin Testimony)

15. Going into 2023, MFD knew that the Battalion Chief of the Second Battalion was going to be retiring in 2024, so there would be an opening for the Second Battalion Chief. (Chaffin Testimony)
16. At the beginning of 2023, Chris Short was in the number one position on the Merit Board's promotional list. If the promotional list was extended, Chris Short would become the Second Battalion Chief. Some employees at MFT who worked on the Second Battalion wanted Chris Short to be their next Battalion Chief. (Chaffin Testimony)
17. On the other hand, MFD employees speculated that if the promotional list was recreated, Dulaney would be the number one person on the list. If Dulaney was number one on the promotional list, he would get the Second Battalion Chief position that would become available in 2024, instead of Chris Short. (Chaffin Testimony)
18. At the February 9, 2023, Merit Board meeting, several employees at MFD attended and were prepared to argue that the promotional list should not be recreated. The meeting, however, lasted approximately ten minutes, and the Merit Board took no action on the promotional list. (Chaffin Testimony)
19. Approximately one week after the Merit Board meeting, Chris Short gave MFD Fire Chief Mead a packet of information accusing Dulaney of cheating on examinations. MFD Fire Chief Mead ultimately took no action on the cheating accusations. (Chaffin Testimony)
20. The next Merit Board meeting occurred on March 9, 2023. At that meeting, several employees attended and argued that the current promotional list should be extended. The Merit Board ultimately voted to start the process to create a new promotional list. Because it takes several months to go through the process of creating a new list, the current promotional list would remain in effect until November 2023, and then a new promotional list would be certified by the Merit Board. (Chaffin Testimony)
21. On March 10, 2023, the packet that Chris Short gave to Chief Mead was anonymously given to the media, the National Registry of Emergency Medical Technicians (NREMT), and DHS. (Chaffin Testimony)
22. By the October 2023 Merit Board Meeting, it was already known that Dulaney was number one on the new promotional list. At that October meeting, the Second Battalion Chief, who intended to retire in 2024, tried to submit his resignation early so that Chris Short would become the Second Battalion Chief. The Merit Board did not accept the resignation. (Chaffin Testimony)

23. Neither Chief Mead nor the Merit Board took any disciplinary action against Dulaney regarding the cheating allegations contained in Chris Short's packet. (Chaffin Testimony)

#### Obtaining Certifications from the EMS Commission

24. To obtain a certification from the EMS Commission, a person needs to complete and pass the evaluation, which has three components: training, evaluation of skills, and a written test. (Mathews Testimony)
25. MFD had a training institution to conduct EMT courses. Each course had a primary instructor. (Miller Testimony)
26. The written test was created by the NREMT, which is a non-profit corporation that creates EMT tests for states to use to certify EMT professionals. (Chaffin Testimony)
27. Before an examinee takes the NREMT exam, the person must agree to a non-disclosure agreement in which they are not permitted to discuss with anyone information about the exam questions or answers and are not permitted to reconstruct exam questions and answers using memory. (Mathews Testimony)
28. The NREMT exam is a computer adaptive multiple-choice exam that adapts to each examinee's knowledge of the material. The exam poses different questions on subjects tested in the examination to see if the examinee knows the material. The first question for each examinee's exam is randomly generated, and the difficulty of the second question can increase or decrease based on how the student answered the first question. The test continues to adapt until it is satisfied that the examinee either knows or does not know the material. For that reason, it is impossible for an examinee to cheat on the exam from a traditional standpoint because the questions and answers are different for each examinee. An examinee could take the test ten times and never see the same question. (Miller Testimony)
29. There are thousands of questions in the NREMT exam bank. In 2018, NREMT added 2,800 new questions to the test. In 2020, NREMT was adding approximately 300 questions a month into the test bank. (Miller Testimony)
30. MFD sends its recruits to Ivy Tech to be tested, and they are monitored and recorded through the entire test. (Chaffin Testimony)



### Obtaining Certifications from the Firefighting Board

31. Similar to certifications from the EMS Commission, a person must take a course, be able to demonstrate knowledge in the skills, and pass a written examination. (Mathews and Chaffin Testimony)
32. MFD has a training academy for firefighting courses. Written examinations are taken at the training academy and are proctored by MFD employees who have met the requirements to proctor courses. (Mathews and Chaffin Testimony)
33. The evidence was not clear on the format of the written examinations, and therefore, it is unknown if these examinations are smart exams similar to the NREMT examinations. (Totality of Evidence)

### 2021 Ropes Certification Course and Examination

34. In 2021, MFD conducted a Ropes Course for personnel to obtain a certification from the Firefighting Board. The Ropes Course was followed by a written examination. Dulaney was not an instructor for the Ropes Course but was the proctor of the Ropes Examination. (Dulaney Testimony)
35. Allegations were made to DHS that while Dulaney was proctoring the Ropes Examination, he walked around the room and showed the examinees questions and answers. (Ex. 26 and A, and Mathews Testimony)
36. While Rachel Clark was taking the Ropes Examination, she did not see Dulaney show examinees questions and answers during the examination. (Clark Testimony)
37. Dulaney's son, Jordan Dulaney, was in the Ropes Course and failed the Ropes Examination (Dulaney Testimony).
38. Caleb Maddox was in the Ropes Course and while he was in the class saw Dulaney walk around the room and show students test questions and answers that Dulaney had on his phone. Maddox did not provide any specifics on whether the test questions and answers were from an actual examination or whether they were from a study guide. Maddox did not allege that Dulaney showed test takers questions and answers during the Ropes Examination. (Maddox Testimony)

39. Brayden Fields testified that he was also in the 2021 Ropes Course, and after the course, Fields asked Dulaney if he would help Fields study for the Ropes Examination. Fields testified that Dulaney held out his cell phone and showed Fields study questions and answers, and Fields took pictures of the questions and answers. Fields' testimony was not credible. First, Fields wasn't even on the roster for the 2021 Ropes Course. Second, his testimony conflicts with earlier statements he made to DHS investigator Zach Mathews. Specifically, Fields told Mathews in an interview that Dulaney told Fields that he could get Fields through the examination and offered to send Fields questions and answers. Fields told Mathews that he did not need help from Dulaney. (Fields Testimony and Ex. J and 26)

#### 2022 FOST Certification Course

40. In 2022, MFD conducted a FOST Course for personnel to obtain a certification from the Firefighting Board. Approximately ten people were in that class. Caleb Maddox was one of the ten people in the class.
41. Dulaney allegedly gave a screenshot of Sean Burcham's 2016 FOST examination to everyone in the class. (Ex. 1 and A)
42. Maddox testified at the hearing that Dulaney provided him with a copy of the screenshot that contained the 2016 FOST questions and answers. At the hearing, while under oath, Maddox was unsure if the screenshot was given to anyone else in the 2022 FOST course. (Maddox Testimony)
43. Maddox was interviewed by Mathews during the course of the DHS investigation. In the interview, contrary to his testimony at the hearing, Maddox told Mathews that Dulaney handed copies of the screenshot of the 2016 FOST examination to **everyone** in the 2022 FOST course. (Ex. 17)
44. No one other than Maddox had a copy of the screenshot of the 2016 FOST examination. (Mathews Testimony)
45. Because of the conflicting evidence, Maddox's testimony regarding the screenshot lacks credibility. (Totality of Evidence)

#### Winter 2023 EMT Certification Course and Examination

46. In January and February 2023, MFD conducted a basic EMT Course for personnel to obtain a certification from the EMS Commission. Wesley Miller was the primary instructor of the EMT Course. (Miller Testimony)
47. The EMT Examination for the course was a NREMT exam. (Mathews Testimony)
48. Dylan Altman, Jacob Lasater, James Main, Kaitlyn Hall, Matt Reese, and Frank Sergi (hereinafter collectively referred as “six new recruits”) were all new recruits that were in the EMT Course in January and February 2023. (Dulaney, Altman, Lasater, Main, Hall, Reese, and Sergi Testimony)
49. On occasion, Dulaney was a guest lecturer for the EMT Course, but was not an instructor. (Miller and Dulaney Testimony)
50. During one class, Dulaney asked all the new recruits in the class to provide him with their phone numbers. Initially only Altman, Lasater, Main, Hall, and Reese provided Dulaney with their contact information. (Dulaney Testimony and Ex. J)
51. Dulaney began a group text with Altman, Lasater, Main, Hall, and Reese. At some point, Sergi provided Dulaney with his contact information, and another group text was created that included Sergi. (Ex. J and Altman Testimony)
52. In the group chat, Dulaney discussed preparation for the skills evaluation and EMT Examination. Dulaney also provided the new recruits with information about events happening at MFD. (Ex. 36 and G)
53. For preparation for the skills evaluation, Dulaney suggested that the recruits watch certain YouTube videos and practice the motions demonstrated in the videos. (Ex. 36)
54. For preparation for the EMT Examination, Dulaney provided the six new recruits with test questions and answers. None of the new recruits asked Dulaney to provide those test questions and answers to them. (Altman, Lasater, Main, Hall, Reese, and Sergi Testimony)
55. Some of the questions and answers were ones that were provided to Dulaney from previous recruits who had taken the EMT Examination and memorized the questions and answers. Dulaney specifically mentioned that some of the questions were from Adam Burk. (Ex. 36)
56. Other questions and answers were ones that Dulaney got from books and study guides that Dulaney purchased and used to help him study for the examination. Most of the questions Dulaney provided can be found on a website, book, or study guide that contained sample NREMT exam questions. Many of the questions and answers had page numbers associated

with them that correlated with the page in a study guide where the question and answer could be found. (Dulaney Testimony and Ex. 36)

57. In addition to sending text messages, Dulaney spent time outside of the courses to help the six new recruits study and prepare for the EMT Examination. Dulaney had a genuine interest in helping the new recruits learn the material and skills necessary to receive their certification. (Altman Testimony)

58. Allegations were made that Dulaney asked the six new recruits not to tell anyone that Dulaney shared questions with them and that they would see more questions under certain students' names. These allegations were made through the anonymous complaint. No credible evidence was presented to support these allegations. (Ex. A)

59. The day before the NREMT exam, Dulaney sent the following text to the six new recruits:

You guys owe me. At some point after testing, text me individually any you can recall. Only text me question with verified answer. I ask you to text me individually because I want to see how much you are willing to invest back in to me. Be safe and you will kill it tomorrow. Think positive.

(Dulaney, Altman, Lasater, Main, Hall, Reese, and Sergi Testimony and Ex. G)

60. After receiving this text message, Dylan Altman felt pressured to provide questions and answers from the EMT Examination to Dulaney. Altman was in the military for seven years and it was ingrained in him to follow his leader's orders. Dulaney's request to Altman made Altman feel taken advantage of. Altman had a "bad taste in [his] mouth" after having received Dulaney's request. Altman felt prepared for the exam and knew the material. Altman passed the test with a high score. After the exam, Altman provided EMT Examination questions and answers to Dulaney. (Altman Testimony)

61. Matt Reese felt uncomfortable after he received the text message, but because Reese was a Recruit and Dulaney was a Captain, Reese felt that he was to do what he was told. Dulaney told the six new recruits that they "owed him" and Reese wanted to stay on Dulaney's good side because he was a captain. Reese studied hard for the exam and does not feel that he cheated on it. After the exam, Reese could not remember any questions, so he did a Google search of NREMT questions and answers and sent them to Dulaney. After the allegations were released to the media, Reese was angry because people were questioning his integrity. (Reese Testimony)

62. Based on the text message, James Main felt that he needed to provide Dulaney with questions and answers from the EMT Examination because Dulaney told the six new recruits that they “owed him.” Main did not want to disobey a Captain or start out on someone’s “wrong foot.” After the exam, Main copied some of the questions and answers that Dulaney had previously sent to Main and sent them to Dulaney to demonstrate that Main was doing as instructed. (Main Testimony)
63. Frank Sergi went into the EMT Examination feeling confident in his abilities to pass the exam. Sergi didn’t feel threatened or pressured by Dulaney’s text, but simply did what he was told. After the EMT Examination, Sergi sent Dulaney questions and answer as he was instructed to do. After the allegations of cheating were made public, Sergi was angry because he studied the material and didn’t need any help preparing for the EMT Examination. (Sergi Testimony)
64. Jacob Lasater was embarrassed when the allegations of cheating were released to the media. Lasater had to explain the situation to his family, which caused further embarrassment. (Lasater Testimony)
65. Katelyn Hall provided questions and answers from the EMT Examination to Dulaney after she took the exam. Hall was in the military for seven years, and like Altman, it was ingrained in her to follow her leader’s orders. After the allegations were made public, Hall felt “crummy” because she felt that she was thrown into this situation. She feels frustrated about the situation. (Hall testimony)
66. After DHS completed its investigation, the six new recruits were fined \$100, had to retake the EMT Examination, and were put on a two-year probation (Altman, Lasater, Main, Hall, Reese, and Sergi Testimony)
67. Dulaney admitted to providing questions and answers to the six new recruits to assist them in taking the EMT Examination. Dulaney contends that all of the questions are ones that can be found either in study guides or through a search online of NREMT questions. (Dulaney Testimony)
68. If someone had told Dulaney to stop providing those questions and answers to new recruits or other employees of MFD, he would have stopped. Like Altman and Hall, Dulaney has a military background and follows the orders of his leaders. Dulaney asked for the questions and answers to see exam trends to make sure that the people he assisted were learning all of the appropriate material. (Dulaney Testimony)

69. Other instructors at MFD also asked their students how they did after the examinations to make sure the instructors were teaching the correct information. This helped the instructors be better instructors for future courses. Prior to the NREMT exams being implemented in 2016, the State would send trends and feedback to instructors after examinations. The feedback would tell the instructors what areas the examinees did well on and what they struggled with. This feedback stopped when the State started using the NREMT exams. (Clevenger, Hahn, and Miller Testimony)
70. Dulaney also admitted to sending the above quoted text message<sup>3</sup> to the six new recruits. Dulaney does not deny that he asked the six new recruits to bring back questions and answers from the exam. Dulaney did not think that doing this violated any rules, nor did he think that it constituted cheating because NREMT preparation questions were readily available in books, study guides, and online. Dulaney's intent was to get information on trends that the NREMT is testing so that he could make sure students were prepared for future examination. (Dulaney Testimony)
71. Dulaney regrets texting the six new recruits that they owe him and that he wanted to see how much the six new recruits were willing to invest back in him. Dulaney intended the text to be a motivational text that went wrong. Dulaney meant in the text that he wanted to see how much the six new recruits were willing to invest back into MFD, not himself personally, and if they were willing to pay it forward to future students and recruits at MFD. Dulaney has a great pride in his community and the MFD and wanted the six new recruits to understand that it was their responsibility to pay it forward after they complete and pass the exam. (Dulaney Testimony)
72. Dulaney's testimony at the hearing was credible and supported by other credible evidence. Dulaney's intensity and passion while testifying was compelling and lent credibility to his testimony.
73. Wesley Miller, Scott Hahn, Christopher Deeds, Jason Chaffin, and James Clevenger, Jr. testified positively to Dulaney's character and do not believe that Dulaney intentionally tried to have others cheat on the NREMT exams. All five are or were high ranking employees at MFD with years of familiarity with Dulaney's work performance and ethic. (Wesley Miller, Scott Hahn, Christopher Deeds, Jason Chaffin, and James Clevenger, Jr.)
74. Dulaney was known as one of the best tutors at MFD. If someone was struggling with a skill or subject, that person was generally sent to Dulaney to assist the student. Dulaney spent extra time with each individual student until they learned the skill. Dulaney did not receive

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<sup>3</sup> The text message is quoted in Finding of Fact 59.

extra pay or a promotion for assisting students. Dulaney simply enjoyed working with the students to learn new skills. (Clevenger Testimony)

### 2023 Ropes Examination

75. After the cheating allegations were made to DHS, all the questions on the upcoming 2023 Ropes Examination were changed by DHS. (Mathews and Kinney Testimony)
76. All the students from MFD who took the 2023 Ropes Examination failed. (Mathews and Kinney Testimony)
77. No specific correlation was made between the 2023 Ropes examination failure and Dulaney. The evidence is not clear as to what role, if any, Dulaney played in the 2023 Ropes Course instruction and/or examination. (Totality of Evidence)

## **Conclusions of Law**

### Jurisdiction

1. The Firefighting Board has the authority to issue and revoke certifications to fire service persons. 655 IAC 1-1-5.1<sup>4</sup> and 655 IAC 1-1-7.
2. A fire service person who disputes a decision by the Firefighting Board to revoke a certification may seek an administrative review pursuant to Indiana Code Chapters 22-17-7 and 4-21.5-3. 655 IAC 1-1-8.
3. When a petition for administrative review is filed regarding a Firefighting Board's decision, OALP has jurisdiction to appoint an ALJ to preside in the matter. Ind. Code § 4-15-10.5-12.

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<sup>4</sup> The relevant administrative rules, 655 IAC 1, were repealed, effective August 31, 2024. See 20240828-IR-655240059FRA. The rules DHS has relied on were in effect at the time of the incidents and the hearing. Moreover, neither party raised this as an issue at any time. Consequently, the subsequently repealed rules in 655 IAC 1, remain applicable in this case.

## Hearing Procedures

4. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, Indiana Code 4-21.5-3. 655 IAC 1-1-2.
5. Proceedings held before an ALJ are *de novo*, which means the ALJ may not defer to an agency's initial determination. Ind. Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its role as factfinder, the ALJ must independently weigh the evidence in the record and may base its findings and conclusions only upon that record. *Id.* At a minimum, the ALJ's findings "must be based upon the kind of evidence that is substantial and reliable." Ind. Code § 4-21.5-3-27(d). "[S]ubstantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support the decision..." *St. Charles Tower, Inc. v. Bd. of Zoning Appeals*, 873 N.E.2d 598, 601 (Ind. 2007).
6. The DHS has the burden of proof and the burden of persuasion. Ind. Code § 4-21.5-3-14.

## Directed Verdict

7. After DHS's case in chief, Petitioner requested a Directed Verdict. Partial relief was granted on Petitioner's Directed Verdict.
8. Specifically, DHS did not present evidence that Dulaney violated 655 IAC 1-1-13(a)(4)(C). The Firefighting Board concluded in its Order that Dulaney "did not uphold the Board's practices and policies in his capacity as a proctor, in violation of 655 IAC 1-1-13(a)(4)(C)." DHS did present evidence that Dulaney served as a proctor. But 655 IAC 1-1-3(a)(4)(C) regulates lead evaluators, not proctors. Specifically, lead evaluators must sign a written acknowledgement that is prepared by the Firefighting Board, in which the lead evaluator acknowledges a commitment to uphold the Firefighting Board's practices and policies. 655 IAC 1-1-13(a)(4)(C). DHS presented no evidence that Dulaney met the qualifications to be a lead evaluator as defined by 655 IAC 1-1-13(a). DHS presented no evidence that Dulaney was a lead evaluator in any course held by MFD. DHS presented no evidence that Dulaney did or did not sign a written acknowledgment committing to uphold the Firefighting Board's practices and policies. Therefore, Petitioner's request for a Directed Verdict was granted as to the issue of whether Dulaney violated 655 IAC 1-1-13(a)(4)(C).
9. The request for a Directed Verdict as to whether Dulaney violated 655 IAC 1-1-12(j)(12) was denied.



10. The request for a Directed Verdict as to whether Dulaney violated Indiana Code § 35-43-5-4 was taken under advisement.

#### Violation of 655 IAC 1-1-12(j)(12)

11. The Firefighting Board has authority to revoke a certification issued by the Firefighting Board if the certification holder fails to comply with the Firefighting Board's rules. Ind. Code § 22-12-7-7 and 655 IAC 1-1-7.
12. It is a Firefighting Board rule that for written cognitive examinations a proctor is not permitted to "discuss any test question or possible answer thereto with any student taking the examination." 655 IAC 1-1-12(j)(12)
13. DHS presented evidence that Dulaney was the proctor for one examination—the 2021 Ropes Examination. Although evidence was presented that during the instructional class(es) for the Ropes Course Dulaney showed students questions and answers that he had on his phone, there was insufficient credible evidence presented that Dulaney showed examinees questions and answers **during** the examination. Furthermore, there was no evidence presented that the questions and answers that Dulaney showed students in the Ropes Course were questions and answers from the Ropes Examination. It remains unknown whether these questions and answers on Dulaney's phone were actual questions from the Ropes Examination or if they were questions and answers from a study guide.
14. DHS argued that the higher number of students who failed the 2023 Ropes Class after DHS changed the test questions shows that the students' earlier successes was because Dulaney helped them cheat. This argument is too attenuated and there simply is not enough evidence to link alleged cheating with different testing results. Correlation does not equal causation, and, even more so, correlation without context does not permit us to speculate about causation.
15. Therefore, DHS did not meet its burden that Dulaney violated 655 IAC 1-1-12(j)(12).

#### Violation of Indiana Code Section 35-43-5-4

16. The Firefighting Board asserts that Dulaney's certification should be revoked because he committed fraud as defined in Indiana Code § 35-43-5-4. Setting aside the discussion of whether there is sufficient reliable evidence to prove Dulaney committed fraud as defined

by Indiana Code § 35-43-5-4, the Firefighting Board may not revoke Dulaney's certification(s) for that commission without statutory authorization to do so (as a sanction). In this instance, the Firefighting Board has not been authorized to revoke Dulaney's certification(s) for committing fraud as defined by IC 35-43-5-4.

17. The Firefighting Board only has authority to revoke a certification based upon the reasons enumerated in 655 IAC 1-1-7. The Firefighting Board only found that Dulaney violated Indiana Code § 35-43-5-4, but did not allege that this violation was also a basis for revocation found in 655 IAC 1-1-7. The commission of a criminal offense is not a sufficient basis to support revocation unless there is a conviction and a correlation between the offense and whether the certificate holder should be entrusted to perform the activities permitted under the certification. 655 IAC 1-1-7. There was no evidence presented that Dulaney was charged with fraud and convicted.
18. Therefore, conduct that violates Indiana Code § 35-43-5-4, in and of itself, does not constitute a basis for revocation.
19. DHS has not met its burden to establish that Dulaney's certifications issued by the Firefighting Board should be revoked because his conduct violated Indiana Code § 35-43-5-4.

### **Decision and Order**

This non-final decision and order reverses the Findings and Order of the Board of Firefighting Personnel Standards and Education issued June 5, 2023, that revoked Troy Dulaney's certifications issued by the Firefighting Board. Troy Dulaney's certifications issued by the Firefighting Board should be reinstated in their entirety; this includes the following certificates: Fire Officer I, Fire Officer II, Fire Firefighter I, Firefighter II, Instructor I, Instructor II/III, Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First Responder Awareness, Hazmat First Responder Operation, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness.

So ordered on: September 24, 2024.



Hon. Carrie Ingram  
Administrative Law Judge

## **Appeal Rights**

In accordance with Ind. Code § 4-15-10.5-12(b), the OALP's order disposing of this matter is not final. If you wish to raise and preserve an objection to this order, you must file an objection, in writing, within fifteen (15) days after service of this order. If served only by mail, however, three (3) days will be added to this period to object. See Ind. Code § 4-21.5-3-2 for how to compute the period to object.

Your objection must identify the basis of the objection with reasonable particularity and be served on all parties and filed with the ultimate authority

1. By email at [firefighterboard@dhs.in.gov](mailto:firefighterboard@dhs.in.gov) or
2. By mail or personal service to:  
Board of Firefighting Personnel Standards and Education  
302 West Washington Street, Room E-208  
Indianapolis, IN 46204

If a timely objection is filed or a notice of intent to review the order is served by the ultimate authority in accordance with Ind. Code § 4-21.5-3-29, the ultimate authority will review the matter and either (1) issue a final order or (2) remand this matter back to the Office of Administrative Law Proceedings for additional proceedings. In the absence of an objection or notice of intent to review, the ultimate authority shall affirm the order in accordance with Ind. Code § 4-21.5-3-29(c).

### **Distribution:**

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