

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place, Room 503
Boston, MA 02108

STACY BORJESON, PATRICK BARON,
JASON BURNS, and BRIAN ALBERT,
Appellants

v.

B2-18-033-036

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellants:

Leah Marie Barrault, Esq.
Patrick Bryant, Esq.
Pyle Rome Ehrenberg, PC
2 Liberty Square, 10th Floor
Boston, MA 02109

Appearance for Respondent:

Mark Detwiler, Esq.
Human Resources Division
One Ashburton Place, Rm 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

FINAL DECISION

1. On August 30, 2018, the Civil Service Commission (Commission) issued an “[Initial Decision](#)”¹ in this matter relating to E/E credit for time served in an “acting” capacity, allowing the appeals, but providing the parties with thirty (30) days to provide the Commission with a form of proposed relief that, while granting relief to all exam applicants who took the 2017 Fire Lieutenant and Captain examinations , would lessen the burden on HRD in implementing said relief.
2. On September 17, 2018, the parties notified the Commission that they had reached a mutual agreement regarding the proposed relief.
3. The Commission, pursuant to its authority under G.L. c. 31, § 2(b) and Chapter 310 of the Acts of 1993, and consistent with the relief proposed by the parties, hereby orders the following:

¹ The Initial Decision is incorporated herein to this Final Decision.

- I. The Appellants' appeals under Docket Nos. B2-18-033-036 are *allowed*.
- II. HRD shall provide employment / experience (E/E) credit for time served in an "acting" capacity to all applicants who took the 2017 Fire Lieutenant and Captain Examinations, unless otherwise noted below.
- III. Such relief shall be prospective from January 1, 2019.
- IV. In the interim, hiring may continue off of the current eligible lists, until a new list is established that incorporates the E/E credit referenced above.
- V. Any existing eligible list with only one name will not be re-scored.
- VI. Any appointing authority who sends a letter to HRD, signed by the appointing authority and representative of the union, indicating that they do not use acting time, will not have their eligible list re-scored.
- VII. HRD shall be responsible for notifying exam applicants of the time period and requirements for requesting a re-scoring of their examinations.

SO ORDERED.²

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on September 20, 2018.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

² Prior to the parties reaching a mutual agreement regarding the relief to be granted, HRD file a Motion for Reconsideration and the Appellants filed an Opposition. The Motion for Reconsideration is denied.

Notice to:
Leah Barrault, Esq. (for Appellant)
Mark Detwiler, Esq. (HRD)