

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200
Boston, MA 02114
617-979-1900

GARY CULLINANE,
Appellant

v.

HUMAN RESOURCES DIVISION,
Respondent

Docket number:

B2-25-137

Appearance for Appellant:

Gary Cullinane
Pro Se

Appearance for Respondent:

Michael J. Owens, Esq.
Labor Counsel
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Paul M. Stein¹

SUMMARY OF DECISION

The Commission denied an examination appeal brought by a candidate who took the 2025 Boston Fire Department (BFD) Fire Captain promotional examination as he failed to complete the required Experience, Certification, Training & Education (ECT&E) on-line claim.

DECISION ON RESPONDENT’S MOTION FOR SUMMARY DECISION

On June 9, 2025, the Appellant, Gary Cullinane, a Firefighter with the Boston Fire Department (BFD), appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 24, after the state’s Human Resources Division (HRD) informed him that he had failed to complete the ECT&E component of the 2025 BFD Fire Captain promotional examination. I held a remote pre-

¹ The Commission acknowledges the assistance of law clerk Erasmus Ablernarh in the drafting of this decision.

hearing conference on this appeal on June 25, 2025. Each party submitted a Pre-Hearing Memorandum. Pursuant to a Procedural Order made at the Pre-Hearing Conference, HRD's Pre-Hearing Memorandum was deemed a Motion for Summary Decision. The Appellant was allowed the opportunity to file an Opposition but declined to do so. After careful review of the information provided, HRD's Motion for Summary Decision is allowed, and the Appellant's appeal is dismissed.

UNDISPUTED FACTS

HRD attached seven exhibits to its Pre-Hearing Memorandum (*Resp.Exhs. 1 through 7*). The Appellant submitted one document with his Pre-Hearing Memorandum (*App.Exh. 1*) and submitted two additional documents. (*App.Exh.2 [Civil Service Application Screen Shot] & App.Exh.3 [Exam Application, EVF and EMS certification]*)

Based on the parties' submissions, the following facts are not in dispute:

1. The Appellant, Gary Cullinane, is a Firefighter employed by the Boston Fire Department (BFD) and currently holds the rank of Lieutenant. (*App.Exh.3*)
2. On or about January 13, 2025, the Appellant applied to take the April 12, 2025 BFD Fire Captain Promotional Examination. The examination was comprised of a Written component and an ECT&E component. The ECT&E component was a required component and accounted for 20% of the total exam score. (*Undisputed Facts [HRD Pre-Hearing Memorandum]*)
3. The examination poster contained, in relevant part, the following statement concerning the ECT&E component:

All candidates must complete the 2025 Boston Fire Captain Promotional Examination ECT&E Claim application online. Instructions and a link to the ECT&E Claim will be emailed to candidates prior to the examination date. A confirmation email will be sent upon successful submission of an ECT&E Claim application.

Submitting an ECT&E claim in any way other than through the online claim process will result in an "INCOMPLETE" score on this exam component. In addition, candidates who fail to include any supporting documentation to their ECT&E

application by the deadline of April 19, 2025, will receive an "INCOMPLETE" score. All claims and supporting documentation must be received within seven calendar days following the examination. Supporting documentation must be scanned and attached to the application or emailed to civilservice@mass.gov no later than April 19, 2025. Documents can be uploaded to your Ci3vil [SIC] Service account when submitting your ECT&E application. Documents such as educational transcripts that have already been submitted and are attached to your Civil Service account do not need to be resubmitted. A new EVF must be provided for each examination.

(Resp.Exh. 1) (emphasis added)

4. On March 22, 2025, HRD sent an e-mail reminder about the ECT&E claim process to the Appellant, which stated, in relevant part:

To access this exam component:

1. Click this [sic] application link to access the ECT&E Claim;
2. Carefully read all information in the application posting;
3. Click Apply;
4. Complete the online ECT&E claim as instructed electronically.
5. You successfully submitted your ECT&E Claim application when you receive a confirmation email acknowledging receipt of the ECT&E Claim

...

All ECT&E claims must be submitted electronically through the ONLINE application using the application link below. To assist you in filling out the ECT&E online application, an ECT&E Prep Guide is available on this link Civil Service website and on the Civil Service website. Please be advised that, in order to ensure that no one receives any type of unfair advantage in the claim process, we are unable to provide individualized assistance to any applicant. All candidates are responsible to carefully review and follow the instructions... The claim application must be electronically submitted online THROUGH THE APPLICATION LINK ABOVE and no later than 11:59 pm, seven days after the written examination. Late applications will not be accepted. If you do not receive an automated confirmation email after you submit your claim, your ECT&E claim application has not been received by Civil Service and will not be scored. If you have not received a confirmation email, you must resubmit your online application THROUGH THE APPLICATION LINK ABOVE, prior to the submission deadline, until you have received a confirmation email. This will ensure your application is processed under the accurate Person ID number. In the event an unforeseen technological problem prevents you from successfully submitting the online claim, you must notify Civil Service at civilservice@mass.gov prior to the deadline above, requesting consideration of the claim, describing the technical issue, and attaching your completed ECT&E claim application and supporting documentation.

(*Resp.Exh. 2*) (*emphasis added*)

5. On April 3, 2025, HRD resent the March 22, 2025 e-mail reminder about the ECT&E process to the Appellant. (*Resp.Exh. 3*)

6. On April 4, 2025, the Appellant emailed HRD's Civil Service Unit and attached his Employment Verification Form (EVF) and his EMT certification. In his message, the Appellant inquired about both the proper method for submitting the EVF and the appropriate ID number to use. His email stated:

Not sure if this is where I send this but I tried putting it on my profile and didn't find where to place it. Also, I'm not sure what ID number I'm supposed to use here. If there is a specific place to put this please let me know. Thank you very much.

The Appellant's email did not state that he was having any issues submitting his ECT&E claim application online. (*App.Exh.3; Resp.Exhs. 4*)

7. The Appellant received an automated response confirming receipt of his email. The message included standard language indicating that the HRD's Civil Service Unit had received his inquiry and that a representative would follow up with him. (*App.Exh.1; Resp.Exh. 4*)

8. The Appellant participated in the Written component of the examination administered by HRD on April 12, 2025. (*Undisputed Fact [Respondent's Pre-Hearing Memorandum]*)

9. On April 15, 2025, HRD's Civil Service Unit sent an e-mail reminder about the ECT&E claim process to the Appellant, which stated, in relevant part:

To access this exam component:

1. Click this [sic] application link to access the ECT&E Claim;
2. Carefully read all information in the application posting;
3. Click Apply;
4. Complete the online ECT&E claim as instructed electronically.
5. You successfully submitted your ECT&E Claim application when you receive a confirmation email acknowledging receipt of the ECT&E Claim

...

All ECT&E claims must be submitted electronically through the ONLINE

application using the application link below. To assist you in filling out the ECT&E online application, an ECT&E Prep Guide is available on this link Civil Service website and on the Civil Service website. Please be advised that, in order to ensure that no one receives any type of unfair advantage in the claim process, we are unable to provide individualized assistance to any applicant. All candidates are responsible to carefully review and follow the instructions... The claim application must be electronically submitted online THROUGH THE APPLICATION LINK ABOVE and no later than 11:59 pm, seven days after the written examination. Late applications will not be accepted. If you do not receive an automated confirmation email after you submit your claim, your ECT&E claim application has not been received by Civil Service and will not be scored. If you have not received a confirmation email, you must resubmit your online application THROUGH THE APPLICATION LINK ABOVE, prior to the submission deadline, until you have received a confirmation email. This will ensure your application is processed under the accurate Person ID number. In the event an unforeseen technological problem prevents you from successfully submitting the online claim, you must notify Civil Service at civilservice@mass.gov prior to the deadline above, requesting consideration of the claim, describing the technical issue, and attaching your completed ECT&E claim application and supporting documentation.

(Resp.Exh. 5) (emphasis added)

10. The Appellant did not submit an ECT&E application through the on-line portal prior to the deadline of April 19, 2025, nor did he inform HRD of any technical issues concerning his attempts to submit an ECT&E on-line claim. *(Resp.Exh. 6)*

11. After 11:59 am on April 19, 2025, the on-line ECT&E claim portal was closed and no longer available to candidates. *(Undisputed Facts [Respondent's Pre-Hearing Memorandum])*

12. On June 9, 2025, HRD notified the Appellant via email that he had received an 'INCOMPLETE' score due to his failure to submit the ECT&E application by the stated deadline of 4/19/2025, or due to failure to include supporting documentation for his ECT&E application. *(Resp.Exh. 6)*

13. The Appellant stated in his appeal to the Commission, filed June 9, 2025:

I was having issues with downloading my ECT&[sic] Employment Verification form. I sent an email on 4/4 stating this and was sent a return email that someone would respond accordingly. I also called a couple times

but never got a call back. “Email was received” I thought that meant they got the info so I didn’t keep calling since I know they’re inundated with calls and emails.

(Claim of Appeal)

14. The documents submitted by the Appellant to the Commission included a screen shot showing that the only application submitted by him to HRD in 2025 was his application to TAKE the Fire Captain Examination, as distinguished by the information on the screen shot which shows that, as to the 2023 Fire Captain Exam, the Appellant “submitted” both the original application to take the exam (on 12/27/2022) and also later separately filed the ECT&E claim form as required (3/13/2023). (*App.Exh.2*)

APPLICABLE LEGAL STANDARD

A motion to dispose of an appeal, in whole or in part, via summary decision may be allowed by the Commission pursuant to 801 C.M.R. 1.01(7)(h) when, “viewing the evidence in the light most favorable to the non-moving party”, the undisputed material facts affirmatively demonstrate that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case”. See, e.g., Milliken & Co. v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008); Lydon v. Massachusetts Parole Board, 18 MCSR 216 (2005). See also Mangino v. HRD, 27 MCSR 34 (2014) and cases cited (“The notion underlying the summary decision process in administrative proceedings parallels the civil practice under Mass.R.Civ.P.56; namely, when no genuine issues of material fact exist, the agency is not required to conduct a meaningless hearing.”); Morehouse v. Weymouth Fire Dept, 26 MCSR 176 (2013) (“a party may move for summary decision when . . . there is no genuine issue of fact relating to his or her claim or defense and the party is entitled to prevail as a matter of law.”)

ANALYSIS

The undisputed facts, viewed in a light most favorable to the Appellant, establish that this appeal must be dismissed.

Section 22 of Chapter 31 of the General Laws prescribes that “[t]he administrator [HRD] shall determine the passing requirements of examinations.” According to the Personnel Administration Rules (PAR) 6(1)(b), “[t]he grading of the subject of training and experience as a part of a promotional examination shall be based on a schedule approved by the administrator [HRD] which shall include credits for elements of training and experience related to the position for which the examination is held.” Pursuant to Section 24 of Chapter 31, “. . . the commission shall not allow credit for training or experience unless such training or experience was fully stated in the training and experience sheet filed by the applicant at the time designated by the administrator [HRD]”.

The Commission repeatedly has held that consistency and equal treatment are fundamental as important hallmarks of the basic merit principles under civil service law. DiGiando v. HRD, 37 MCSR 252 (2024). The Commission generally has deferred to HRD’s expertise and discretion to establish reasonable requirements, consistent with basic merit principles, for crafting, administering, and scoring examinations. In particular, in deciding prior appeals, the Commission has concluded that, as a general rule, HRD’s insistence on compliance with its established examination requirements for claiming and scoring training and experience credits was neither arbitrary nor unreasonable. See Helms v. HRD, 38 MCSR __ (5/15/2025); Bell v. HRD, 38 MCSR 44 (2025); Donovan v. HRD, 38 MCSR 60 (2025); Weaver v. HRD, 37 MCSR 313 (2024); Medeiros v. HRD, 37 MCSR 56 (2024); Dunn v. HRD, 37 MCSR (2024); Kiley v. HRD, 36 MCSR 442 (2024); Evans v. HRD, 35 MCSR 108 (2022); Turner v. HRD, 34 MCSR 249 (2022); Amato v. HRD, 34 MCSR 177 (2021); Wetherbee v. HRD, 34 MCSR 173 (2021); Russo v. HRD, 34 MCSR 156 (2021);

Villavizar v. HRD, 34 MCSR 64 (2021); Holska v. HRD, 33 MCSR 282 (2020); Flynn v. HRD, 33 MCSR 237 (2020); Whoriskey v. HRD, 33 MCSR 158 (2020); Bucella v. HRD, 32 MCSR 226 (2019); Dupont v. HRD, 31 MCSR 184 (2018); Pavone v. HRD, 28 MCSR 611 (2015); and Carroll v. HRD, 27 MCSR 157 (2014).

Here, the Appellant received an “Incomplete” score not due to any error by HRD, but because he failed to submit his ECT&E claim application by the deadline. The Appellant does not dispute that the online ECT&E application was never submitted. His sole contention is that he emailed his EVF due to difficulty "downloading" it. The Appellant asks the Commission to include the EVF in his score despite having not filed the required on-line form.

When the Appellant emailed his supporting documents to the HRD Civil Service Unit, he received an automated acknowledgment indicating that the email had been received and that a representative would follow up. The Appellant mistakenly believed that this constituted submission of his ECT&E application.

This belief was incorrect. The EVF is a supporting document that must be submitted online with the E&E application on-line, or separately, within seven days of the written exam. Emailing the supporting documents alone does not satisfy the requirement to submit the ECT&E application form, which must be filed online. Moreover, the Appellant did understand the instructions that required filing the separate on-line ECT&E claim form as a required condition to completing the ECT&E component of the exam; in fact, in the prior 2023 exam cycle, the Appellant complied with the requirements as the screen shot he submitted shows. Unfortunately, he did not do so in 2025.

Prior to the April 19 deadline, HRD sent multiple reminders emphasizing that the ECT&E application must be submitted online, with instructions and guidance for addressing technical issues. The Appellant's email to HRD’s Civil Service Unit did not report any such technical issue; rather, he

asked whether email was an acceptable way to send the EVF and inquired about which ID number to use. HRD's acknowledgment related specifically to that message—not to an ECT&E application submission.

HRD's notice of the "Incomplete" score made no mention of missing supporting documentation. The issue was the absence of the on-line ECT&E application. The Appellant appears to have confused HRD's acknowledgement that his application to take the examination was received and that acknowledgement of his email submission of the supporting documents sufficed to meet the filing requirements.

The Commission has consistently held that adherence to instructions, and attention to detail, among others, are reasonably required elements of the HRD examination process, particularly for supervisory-level positions. The Appellant, having received several email instructions on how to submit an ECT&E claim application failed to prove that he complied with these instructions. In the absence of any indication that the failure to submit was due to no fault of his own, the Commission will not intervene.

In sum, the undisputed facts and evidence establish that HRD acted consistently and impartially in enforcing strict compliance with its then established instructions, an essential aspect of the examination process. The present appeal fails to provide any basis to depart from the Commission's well-established precedents in this regard.

This is one of five decisions being issued today in which the exam applicant received no ECT&E (or E&E) points based solely on their failure to follow exam instructions related to completing the ECT&E (or E&E) component of the exam. While the onus is on the exam applicant to closely follow instructions, I note that there has been a significant uptick in HRD examination review requests and examination appeals to the Commission and I appreciate the frustration that has been expressed by

candidates who have been denied credits for hard-earned degrees, certifications and work experience for mistakes made in following exam instructions. The Commission will take care to ensure that this issue receives further thoughtful attention in the future.

CONCLUSION

For the reasons stated above, HRD's Motion for Summary Decision is *granted* and the Appellant's appeal under Docket Number B2-25-137 is *dismissed*.

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein

Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on September 4, 2025.

Either party may file a motion for reconsideration within ten days of 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).

Notice to:

Gary Cullinane (Appellant)

Michael J. Owens, Esq. (for Respondent)