

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200
Boston, MA 02114

GREGORY HELMS,

Appellant

v.

HUMAN RESOURCES DIVISION,

Respondent

Docket Number:

B2-24-178

Appearance for Appellant:

Gregory Helms, Pro Se

Appearance for Respondent:

Ashlee N. Logan, Esq.
Labor Counsel
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Paul M. Stein

SUMMARY OF DECISION

The Commission denied the appeal of a candidate who took the September 2024 Statewide Police Sergeant examination and received an “INCOMPLETE” on the Experience/Certifications/Training & Education (E&E) component which resulted in his failing to pass the examination and, under the law applicable at the time of the examination, prevented him from and being placed on the eligible list issued in January 2025.

DECISION ON RESPONDENT’S MOTION FOR SUMMARY DECISION

On November 19, 2024, the Appellant, Gregory Helms, a police officer with the City of Newton Police Department (NPD), appealed to the Civil Service Commission (Commission)¹, after the state’s Human Resources Division (HRD) denied his request for review of his score on the Experience, Certification, Training & Education (E&E) component of the September 21, 2024

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 (formal rules), apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

Statewide Police Sergeant promotional examination. I held a remote pre-hearing conference on this appeal on December 10, 2024 and follow-up remote status conferences on January 28, 2025. Pursuant to a Procedural Order dated February 21, 2025, on March 10, 2025 HRD filed a Motion for Summary Decision to which the Appellant filed a Response on March 31, 2025. After carefully reviewing the submissions and oral arguments of the parties, I have determined that the Appellant has not raised sufficient issues of fact and law that would warrant a full evidentiary hearing and that HRD's Motion for Summary Decision should be allowed.

UNDISPUTED FACTS

Based on the submission of the parties and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences therefrom, I find that the following facts are not in dispute:

1. The Appellant, Nicholas Gregory Helms is a tenured civil service NPD Police Officer.
2. The Appellant took the statewide Police Sergeant promotional examination administered by HRD on September 21, 2024.
3. The statewide Police Sergeant promotional examination consisted of a Technical Knowledge (TK) component and a Situational Judgement Test (SJT) component, together worth 80% toward the final exam score, plus an Education and Experience (E&E component) worth 20% toward the final exam score.
4. The E&E component required the candidate to submit an online claim form, together with supporting documentation to claim points for E&E credit in three categories: Job Experience, within and outside the candidate's current department; Certifications/Training/Licenses; and Education.

5. The portal to submit the E&E on-line claim opened on September 1, 2024. The deadline to submit the on-line claim form expired at 11:59 P.M. on September 28, 2024. At that time, the E&E on-line claim portal is programmed to close and no longer is accessible to candidates.

6. On July 29, 2024, the Appellant sent HRD's Civil Service Unit an email to civilservice@mass.gov with his supporting documentation for his E&E claim. HRD responded that the portal would not open until September 1, 2024.

7. On August 30, 2024, HRD sent an email to all candidates, including the Appellant, reminding them of the obligation to submit an on-line E&E claim form and included specific instructions on how to access, complete and confirm submission of the E&E claim form. The emails contained, among other instructions, the following specific requirements:

The E&E Claim application is an examination component and is separate from the Written Exam application you submitted to take the exam.

E&E claims must be submitted electronically through the ONLINE application using the application link below.

As stated in the exam poster, all E&E claims must be submitted ONLINE.

To assist you in filling out the E&E online application, an E&E Prep Guide is available on the Civil Service website as well as under the Resource Section below. 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.

To access this exam component: 1. Click here to access the application 2. Carefully read all information in the posting; 3. Click "Apply"; 4. Complete the online E&E claim as instructed electronically. 5. You have successfully submitted your E&E Claim application when you receive a confirmation email acknowledging receipt of the E&E Claim.

The claim application must be submitted online and no later than 11:59 pm on **Saturday, September 28, 2024**. Late applications will not be accepted. If you do not receive an automated confirmation email after you submit your claim, your E&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 E&E claim application and supporting documentation.

8. On August 30, 2024, the Appellant resubmitted his July 29, 2024 email to civilservice@mass.gov.

9. On September 3, 2024, the Appellant received an email from HRD's Civil Service Unit which stated:

Good morning,

We have received your supporting documents for the E&E exam component. As a reminder, for candidates who have not completed the E&E application, it must be completed by September 28, 2024. (*emphasis added*)

10. On September 13, 2024, the Appellant received a second email reminder to submit his on-line E&E claim form by September 28, 2024, which included the details on how to submit that claim.

11. On September 21, 2024, the Appellant sat for the Police Sergeant promotional examination.

12. On September 24, 2024, the Appellant received a third email reminder to submit his on-line E&E claim form by the deadline of September 28, 2024 that repeated the detailed instruction on how to submit that claim.

13. HRD did not receive an on-line E&E claim form from the Appellant on or before September 28, 2024.

14. On November 18, 2024, HRD sent the Appellant his Score Notice informing him that he received an "INCOMPLETE" for the E&E component and, as a result, he did not achieve an overall passing score on the examination.

15. On November 18, 2024, at 1:33 PM, the Appellant sent an email to HRD at civilservice@mass.gov to which he again attached his August emails and supporting documents.

16. On November 18, 2024, at 6:30 PM, HRD responded to the Appellant by email which stated, in relevant part:

The E&E application is a separate exam component application. Instructions and reminders were sent to all candidates on 8/30/24, 9/13/24, and 9/24/24. We show that you did not fill out the E&E application. We are unable to accept E&E applications after the 9/28/24 deadline.

17. On November 18, 2024, at 7:41 PM, the Appellant replied to HRD:

I did fill it out well before the reminders. I even have an email from your office saying thank you for submitting.

18. HRD and the Appellant then had these further email exchange on November 19, 2024:

- At 7:52 AM: HRD wrote: “Records show that you submitted documents to support a claim, but the E&E application was never submitted.”
- At 8:20 AM, the Appellant replied: “The application would not load so when I reached out to CS & followed prior email instructions, it said as long as the email was received before the 28th with all supporting documents that would suffice. If someone can please call me at 617-877-9193 I would greatly appreciate it.”
- At 8:27 AM, HRD responded: “We are unable to make a call since this is an exam component. Please send us that correspondence and we will review it.”
- At 8:30 AM, the Appellant responded: “I followed the steps mentioned below from your previous reminder emails. All documents were sent at the end of July and again the first week in September.”
- At 8:32 AM, HRD replied: “Can you send the email you sent to Civil Service describing your technological problem as mentioned in the {8:20 AM} message [above]?”

19. This appeal to the Commission then ensued.

APPLICABLE LEGAL STANDARD

The Commission may, on motion or upon its own initiative, dismiss an appeal at any time for lack of jurisdiction or for failure to state a claim upon which relief can be granted. 801 CMR 1.01(7)(g)(3). 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 Bd., 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 Dep’t, 26 MCSR 176 (2013) (“a party may move for summary decision when ... that 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]”.

First, the Appellant did not follow HRD’s instructions for submitting an E&E claim. The instructions and reminder emails, that the Appellant acknowledged he received, were clear:

The E&E Claim application is an examination component

E&E claims must be submitted electronically through the ONLINE application using the application link below.

To assist you in filling out the E&E online application, an E&E Prep Guide is available on the Civil Service website as well as under the Resource Section below. 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 submitted online and no later than 11:59 pm on **Saturday, September 28, 2024**. Late applications will not be accepted. If you do not receive an automated confirmation email after you submit your claim, your E&E claim application has not been received by Civil Service and will not be scored. . . . [Y]ou must resubmit your online application **THROUGH THE APPLICATION LINK ABOVE**, prior to the submission deadline, until you have received a confirmation email. . . . 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 Application and supporting documentation. (emphasis added)

Although the Appellant did email supporting documents to HRD in July and August (albeit outside the 9/1/24-9/28/24 window within which HRD informed him that the on-line claim portal would be open), he never completed and submitted that on-line E&E claim form. He was specifically reminded on August 30, 2024, and again on September 3, 2024, and on three other occasions, that he needed to submit an on-line claim form by September 28, 2024. His subsequent emails acknowledge that he received this information. Not until November 19, 2024, however, did he first mention that the “application would not load”—and, when HRD asked for further details, he did not respond.

HRD makes clear that it cannot provide advice to candidates about the claims process, as compliance with the instructions is considered a part of the examination but, had the Appellant stated that he was having technical difficulties, HRD would have addressed them. I understand the Appellant’s frustration with the mechanics of completing an E&E claim, but following instructions is a reasonably required part of the examination process. That is especially true as it

applies to a candidate for a supervisory position of police sergeant, where good judgment, attention to detail, and response under pressure are critical parts of the job.

The Commission defers 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, e.g., Donovan v. HRD, CSC No. B2-24-117 (1/9/2025); Kiley v. HRD, 36 MCSR 442 (2023); 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).

Second, the Appellant argues that the Commission should recognize that he had taken and passed the prior police sergeant promotional exam and his name appeared ranked third on the prior eligible list established 2/15/2024. Had he not taken the September 2024 exam, his eligibility for promotion would have continued, likely until February 2026. He claims that due to misinformation he received from his command staff, he allegedly was told he "had to take" the September 2024 exam and that the results from the two lists would be merged. Under the law in effect at the time of the September 2024 promotional examinations, the applicable statute (G.L. c. 31, § 25) provided that, when lists are merged, the score on the "last examination taken" shall replace the score from the prior examination. A candidate, however, remained free to elect to take

the next exam (which, if taken and passed, would extend his eligibility or to keep his original score), in which case his eligibility would expire sooner.

The Appellant argues that his decision to take the September 2024 exam was based on misinformation that was not due to any fault of his own and he should, as a matter of equity, be allowed to keep his prior score and remain on the eligible list as the current law now provides.²

I requested that the Appellant provide an affidavit which would identify the specific details about the source of the misinformation but the Appellant was unable to provide such an affidavit. (Email from the Appellant dated 2/20/2025)

I do appreciate that the Appellant, in retrospect, believes that, had he been fully informed about the law at the time of the examination, he may have decided not to take the test. On the state of this record, however, I must find that the Appellant's dilemma is most directly due to the fact that he did not pass the September 2024 exam, which is not something that the Commission can change.

In sum, consistency and equal treatment are important hallmarks of basic merit principles under civil service law. The present appeal presents no basis to deviate from the Commission's well-established line of decisions directly on point.

CONCLUSION

For the reasons stated above, HRD's Motion for Summary Decision is *allowed*, and the Appellant's appeal under Docket Number B2-24-178-is *dismissed*.

Civil Service Commission

/s/Paul M. Stein
Paul M. Stein
Commissioner

² As of November 2024, the law was changed (Section 127 of c. 238 of the Acts of 2024) so that a candidate's "highest examination score achieved" on the two examinations could be used to rank the candidate on the merged list and establish the period of his eligibility. As the examination in this appeal was administered prior to the law change, HRD applied the law as it existed at the time of the examination. See Bell v. Human Resources Division, 38 MCSR 44 (2025).

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on May 15, 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:

Gregory Helms (Appellant)

Ashlee N. Logan, Esq. (for Respondent)

George R. McMains, Chief of Police