

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

NICHOLAS LAPALME,

Appellant

v.

HUMAN RESOURCES DIVISION,

Respondent

Docket Number:

B2-25-016

Appearance for Appellant:

Nicholas LaPalme, *pro se*

Appearance for Respondent:

Eric Hammerlund, 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 Statewide Deputy Fire Chief examination and received an “INCOMPLETE” on the Experience/Certifications/Training & Education (ECT&E) component after experiencing technical difficulties that prevented him from submitting the required on-line ECT&E application form. Although the Appellant’s attempt to report his technical difficulties to HRD and submission of supporting claim documentation by e-mail prior to the submission deadline might be deemed close to substantial compliance with HRD’s examination instructions, a review of the documentation submitted revealed that, even if HRD had awarded him full credit for all of his ECT&E claims, it is unlikely that his final examination score would increase enough to earn him a passing grade.

DECISION ON RESPONDENT'S MOTION FOR SUMMARY DECISION

On October 1, 2024, the Appellant, Nicholas LaPalme, a Lieutenant with the West Springfield Fire Department (WSFD), 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 (ECT&E) component of the November 16, 2024 statewide Deputy Fire Chief examination. I held a remote pre-hearing conference on this appeal on February 11, 2025. Pursuant to a Procedural Order issued that day, as amended, on March 4, 2025, HRD submitted a Motion for Summary Decision, which the Appellant opposed. After carefully reviewing the submissions and oral arguments of the parties, I have determined that the Appellant has not raised sufficient issues of fact or law that would warrant a full evidentiary hearing and that HRD's Motion to Dismiss 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 LaPalme, is a Fire Lieutenant in the West Springfield Fire Department (WSFD).
2. The Appellant took the statewide Deputy Fire Chief's promotional examination administered by HRD on November 16, 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.

3. The statewide Deputy Fire Chief’s promotional exam contained a Technical Knowledge (TK) component and a Situational Judgement Test (SJT) component together worth 80% toward the final exam score, plus an ECT&E component worth 20% toward the final exam score.

4. The ECT&E component required the submission of an online claim form, together with certain supporting documentation to claim points for ECT&E credit in three categories: Job Experience, within and outside the candidate’s current department; Certifications/Training/Licenses; and Education.

5. The deadline to submit the on-line ECT&E claim form expired at 11:59 P.M. on November 23, 2024. At that time, the ECT&E link is automatically programmed to close and no longer is accessible to candidates.

6. Prior to the examination date, HRD provided all candidates, including the Appellant, with three email reminders of their obligation to submit an on-line ECT&E claim form and included specific instructions on how to access, complete, and confirm submission of the ECT&E claim form. The emails contained, among other instructions, the following specific requirements to report any technical difficulties encountered during the claim submission process:

The claim application must be electronically submitted online THROUGH THE APPLICATION LINK ABOVE and *no later than 11:59 pm on Saturday, November 23, 2024. Late applications will not be accepted. . . . 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)*

7. The Appellant acknowledged receiving these reminders.

8. Following the date of the examination, the Appellant “was struggling to upload” his ECT&E claim materials. He made several phone calls to HRD’s civil service unit and received no reply.

9. On Wednesday, November 20, 2024, the Appellant sent an email to civilservice@mass.gov

stating:

Good Afternoon.

Please see the attached documents as supplementary education and employment verification for the Deputy Fire Chief Exam.

Thank you.

Nick

10. The Appellant's November 20, 2024 email attached the following documents:

- Diploma – Associate's Degree in Fire Science from Springfield Community College
- Employment Verification Form showing the following service with the WSPD:
Permanent Firefighter – 5/14/2008 to 9/13/2023
Permanent Lieutenant – 9/11/2023 to 11/16/2024 (exam date)
- Certifications – Firefighter I & II, HAZMAT, IS-100, 200 700 & 800

11. On Tuesday, November 26, 2024, at 10:01 AM, the Appellant received the following email from civilservice@mass.gov:

Good morning.

Your account shows that no ECT&E application has been submitted. The ECT&E application is a separate application and the deadline to submit was seven days after the examination.

Respectfully,

HRD, Civil Service Unit

12. The Appellant emailed a response to HRD on November 26, 2024 at 10:37 AM:

Thank you for your response. I reached out within the 7 day time period to which I received a response that stated: "We will respond accordingly as soon as possible." If you require immediate assistance, please call 617-878-9700. I called the number numerous times and did not receive a call back. When I spoke to the department today, the woman said that she did not know who handled these requests to be able to transfer me. I am guessing that the only reason I was responded to today is because I called and was not given information. This is incredibly frustrating to not hear a response and then not be provided with what steps I need to take to be successful. There is a disconnect with your instructions on submissions and I would appreciate your support in mitigating this matter.

13. On November 26, 2024, at 11:43 AM, the Appellant received another email from civilservice@mass.gov:

We are sorry to hear that. ECT&E instructions were sent on 10/25/24, 11/12/24 and 11/18/24. It also shows that emails were opened on the same day. Our records indicate that your [sic] sent supporting documents, but no ECT&E application was submitted to review against those documents. We are unable to open the application after the deadline.

14. As a result of his failure to submit a completed ECT&E claim, the Appellant received an INCOMPLETE score on the ECT&E component. As his marks on the other two components (57 out of 80) did not put him above the passing grade (72), he received an overall failing score on the examination.

15. According to the Deputy Fire Chief ECT&E Scoring Guide, the Appellant's job experience, certifications and education as stated in the documentation he submitted to HRD on November 20, 2024, would have been credited 48.6 points, out of 100 possible Maximum Allowable Points, to be weighted and standardized toward 20% of his overall score, as follows:

Job Experience (52 Maximum Allowable Points): Q4. Permanent Firefighter – 15 yrs 4 mos = 11.96 points; Q5. Permanent Lieutenant - 1 yr 2 mos = 2.14 points

Certifications (25 Maximum Allowable Points): Q.15. Relevant Certifications – 7 = 17.5 points

Education (23 Maximum Allowable Points): Q.13. Related Associate's Degree = 17 points

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 ECT&E claim. The instructions and reminder emails, that the Appellant acknowledged he received, were clear:

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 all of the necessary supporting documentation to HRD within the deadline, his email did not identify that he did so because he was having technical problems submitting the on-line application, and he did not include the application form itself. Although I am inclined to believe that the latter omission would not, alone, be deemed a material noncompliance, the failure to flag that the reason for the email was a technical problem with the on-line application process was a critical mistake. As HRD points out, as a general rule, HRD makes clear that it cannot provide advice to candidates about the claims process, as independent compliance with the instructions is considered a part of the examination; but, had the Appellant made clear that he was not seeking advice on how to comply but was having technical difficulties, HRD would have addressed them. I understand the Appellant's frustration with the mechanics of completing an ECT&E claim, but HRD argues that following instructions is a reasonably required part of the examination process. I agree, especially as it applies to a candidate for the senior fire service command position of Deputy Fire Chief, where good judgment, attention to detail, and response under pressure are critical parts of the job.

Second, I find problematic that, even if the Appellant's attempt to submit his ECT&E claim by alternative means were deemed substantial compliance, his documented job experience, education and training likely were not sufficient to have earned him enough ECT&E points to bring his overall exam score above the passing grade threshold of 72. The Appellant would need to add 14.5 overall ECT&E points to his overall grade of 57 (out of 80) on the other exam components to achieve a passing grade. Based on the documents he submitted, he could have been credited with no more than 14.10 raw ECT&E points out of 52 Maximum Allowable Points (1 year as a permanent Lieutenant and 15 years as a Firefighter) and an additional 34.5 raw points out of 48

Maximum Allowable Points for his Associate's Degree and relevant certifications and training. Although the Appellant's final ECT&E score is subject to a process of standardization and I cannot precisely calculate it without further input, I find that the undisputed facts presently known do not raise above a speculative level that the Appellant's total 48.6 raw points out of 100 raw ECT&E Maximum Allowable Points, after standardization and weighting, would earn him a passing mark; i.e., that it would come close to producing a standardized and weighted overall ECT&E score of 14.5 out of a maximum 20 overall ECT&E points (worth 20% of the total overall score), thus placing his ECT&E score in the top quartile of all candidates who took the Deputy Fire Chief's examination. If it were a closer call, I would order HRD to provide the precise hypothetical calculation, but that is not necessary here.

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).

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. Instead, I defer to HRD's exercise of reasonable expertise in the matter of ECT&E claim design and scoring.

CONCLUSION

For the reasons stated above, HRD's Motion for Summary Decision is *allowed*, and the Appellant's appeal under Docket Number B2-25-016 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 March 20, 2025.

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)(1), 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:
Nicholas LaPalme (Appellant)
Eric Hammerlund, Esq. (for Respondent)