

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

DAVID McCANN,

Appellant

v.

HUMAN RESOURCES DIVISION,

Respondent

Docket number:

B2-25-147

Appearance for Appellant:

David McCann

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. Stein

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 but failed to complete the ECT&E component by filing the required ECT&E on-line claim.

DECISION ON RESPONDENT’S MOTION FOR SUMMARY DECISION

On June 20, 2025, the Appellant, David McCann, a Fire Lieutenant 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-hearing conference on this appeal on July 16, 2025. Pursuant to an oral Procedural Order made at the Pre-Hearing Conference, HRD's Pre-Hearing Memorandum was deemed a Motion for Summary Decision and the Appellant's Claim of Appeal and his July 13, 2025 email supplement were deemed an Opposition to HRD's motion. On July 18, 2025, HRD supplemented its Motion with an email clarification of representations by counsel concerning the Appellant's documents, as I had requested. 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 submitted six exhibits with its Pre-Hearing Memorandum (*Resp.Exhs.1 through 6*) and two documents with its Supplemental email (*Resp.Exhs.7 & 8*). The Appellant submitted three documents with his email supplement (*App.Exhs.1 through 3*). Based on the submissions of the parties, the following facts are not dispute:

1. The Appellant, David McCann, is a Fire Lieutenant employed by the Boston Fire Department (BPD).
2. On or about January 29, 2025, the Appellant applied to take the April 12, 2025 BPD Fire Lieutenant Promotional Examination. The examination was comprised of two written components and an Education/Certification/Training/Experience (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:

Experience/Certification/Training & Education (ECT&E): *All candidates must complete the 2025 Boston Fire Lieutenant 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 Civil 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 2, 2025, HRD sent an e-mail reminder about the ECT&E claim process to all candidates, including the Appellant, which stated, in relevant part:

1. Click this [link] 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 have successfully submitted your ECT&E Claim application when you receive a confirmation email acknowledging receipt of the ECT&E Claim.

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)

6. On April 3, 2025, HRD sent the Appellant a reminder to submit his on-line ECT&E Claim which included the same set of the instructions provided on March 22, 2025. (*Resp.Exh.3*)

7. On April 6, 2025, the Appellant sent an email to HRD reporting that he was having technical difficulties updating some additional documentation concerning his Acting Captain experience that he had just received from the BFD. (*App.Exh.1*).

8. On April 12, 2025, the Appellant appeared for and participated in the 2025 BFD Fire Captain promotional exam. (*HRD Pre-Hearing Memorandum; Resp.Exh.6*)

9. On April 15, 2025, HRD sent the Appellant a second reminder to submit his on-line ECT&E Claim, which included the same set of the instructions provided on March 22, 2025. (*Resp.Exh.4*)

10. On April 18, 2025, the Appellant submitted an online “Promotional Exam Review” form to HRD. (*App.Exh.2; Resp.Exh.3*)

11. The Appellant did not submit an ECT&E Claim 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 Claim form. (*HRD Pre-Hearing Memorandum; Resp.Exh.6; HRD email dated 7/18/25 with Resp.Exhs.7 & 8 attached*)

12. After 11:59 am on April 19, 2025, the on-line ECT&E claim portal closed and no longer was available to candidates; any candidates who attempted to access the portal after the filing deadline were “locked out”. (*HRD Pre-Hearing Memorandum*)

13. The Appellant relied on the information in his civil service master record that acknowledged he had “submitted” his 2025 Boston Fire Captain application and his 2025 Promotional Exam Review application, as well as the information that he had no “incomplete” applications pending. (*Appellant’s email supplement dated 7/13/2025 with App.Exhs. 2 & 3 attached; Resp.Exh.6*)

14. On June 6, 2025, HRD issued an email notice to the Appellant which informed him of his score on the written components and stated that he had received an INCOMPLETE on the ECT&E component. (*Resp.Exh.5*)¹

15. In its email supplement, HRD explained:

[T]he “Incomplete” tab of the Appellant’s “Applications” page of their online profile (shown in attached screenshots provided by Appellant) relates only to applications a candidate started but did not complete and submit. This “Incomplete” tab is not in reference to their overall completion of the entire test administration process. Furthermore, a candidate must have started, completed, and submitted an application for it to appear under the “Submitted” tab.

(*HRD email supplement dated 7/18/2025*)

16. In his Claim of Appeal to the Commission, filed June 20, 2025, the Appellant states:

I was told I dint [sic] complete my experience application portion of the test which resulted in an automatic failure, I was unaware that I had technical difficulties with the site, I uploaded my certificates and updated my EMT license dates, I emailed civil service on 4/6/2025 saying the site had me locked out and i was unable to update my acting time experience which the Boston Fire Department had just released, Being locked out leads you to believe that everything is all set, in previous exams you could go back into the site to update any additional information, it seems that it is now a one time thing, there is several other firefighters in the same situation, I understand there was a few general reminders to complete the application process, being locked out falsely leads people to think it was completed, if i was to go onto the site before the deadline i wouldn't have access to complete it, I think there's a technical issue with locking it out after going on the site once, this was never the case, there was a firefighter having a similar issue and was allowed to complete it again in, I'm asking for the same courtesy.

17. I received no further specific information about the “other firefighters in the same situation” or the one firefighter “allowed to complete” the ECT&E form late.

¹ I note that the score notice the Appellant received informed him that he had a right to request a review by HRD of the marking of his answers to multiple choice questions, but did not provide any notice of a right to review any other aspect of the administration or scoring of the exam, including in particular, the INCOMPLETE score on the ECT&E component; or, indeed, any right of appeal to the Commission. (*Resp.Exh.5*)

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 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 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, specifically 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 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 __ (05/15/2025); Bell v. HRD, 38 MCSR 44 (2025); Donovan v. HRD, 38 MCSR 60 (2025); Donovan v. HRD, 38 MCSR 60 (2025); Weaver v. HRD, 37 MCSR 313 (2024); DiGiando v. HRD, 37 MCSR 252 (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).

The Appellant acknowledges that he understood that the ECT&E component involved a two-step process – filing the online ECT&E Claim form and submitting the necessary supporting documentation. In fact, his civil service master file shows that he did follow the proper two-step process for filing an ECT&E Claim for the prior 2023 BPD Fire Captain examination. Moreover, when he submitted his supporting documentation, he apparently went to the wrong portal and, instead of accessing the link to the ECT&E claim portal, he apparently clicked on the link to submit a request for HRD review of his claim. He then assumed that, because he had received

confirmation of the receipt of his supporting documentation and, when he checked his civil service master file, he noted that it stated that he had no "incomplete" applications pending, he had done all that was necessary to "complete" his ECT&E Claim.

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 promotion to the command position of Fire Captain, where good judgment, attention to detail, and response under pressure are critical parts of the job. Failure to file the on-line form, in any event, was a fatal mistake.

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 B2-25-147 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:

David McCann (Appellant)

Michael J. Owens, Esq. (for Respondent)