

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**  
One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 727-2293

NATHAN SOUZA,  
Appellant

v.

B2-15-159

HUMAN RESOURCES DIVISION,  
Respondent

Appearance for Appellant:

Kenneth Costa  
Massachusetts Correction Officers  
Federated Union (MCOFU)  
71 North Street  
Fairhaven, MA 02719

Appearance for Human Resources Division:

Patrick Butler, Esq.  
Human Resources Division  
One Ashburton Place: Room 211  
Boston, MA 02108

Appearance for Department of Correction:

Joseph Santoro  
Department of Correction  
P.O. Box 946: Industries Drive  
Norfolk, MA 02056

Commissioner:

Christopher C. Bowman

**DECISION**

On August 1, 2015, the Appellant, Nathan Souza (Mr. Souza), filed an appeal with the Civil Service Commission (Commission), contesting the amount of education and experience (E&E) credit awarded to him by the state's Human Resources Division (HRD) regarding a promotional examination for Correction Officer II, administered on March 21, 2015. Specifically, Mr. Souza argues that he should be awarded an additional .6 E&E points related to his participation in the Recruit Training Program at DOC.

On August 25, 2015, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Souza, his union representative, counsel for HRD and a DOC representative.

On August 26, 2015, I issued a Procedural Order which ordered: 1) DOC to provide HRD with additional information related to the Recruit Training Program; and 2) HRD to determine if, based on this additional information, it wished to reconsider its determination regarding Mr. Souza's E&E claim.

DOC subsequently provided HRD with the information requested and HRD informed the Commission that it would not be modifying its determination regarding Mr. Souza's E&E claim. I scheduled a full hearing and joined DOC as a party.

A full hearing was conducted at the offices of the Commission on October 21, 2015.<sup>1</sup> CDs were made of the digitally-recorded hearing. A copy was retained by the Commission and both parties were provided with copies as well.<sup>2</sup> At my request, the parties made closing arguments in lieu of submitting post-hearing briefs.

#### **FINDINGS OF FACT:**

After hearing and ruling on objections, I entered twenty (20) exhibits into evidence. Based upon the documents entered into evidence, the testimony of:

*Called by HRD:*

- Gilbert Lefort, Examination Administration Specialist, HRD;

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00, *et seq.*, apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

<sup>2</sup> If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, this CD should be used by the plaintiff in the judicial appeal to transcribe the recording into a written transcript.

*Called by Mr. Souza:*

- William Dupre, Director of Staff Development, DOC;
- Lt. Ryan Frink, Coordinator of Field Training Program, DOC;
- Nathan Souza, Correction Officer I, DOC (Appellant);

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, policies, and reasonable inferences from the credible evidence, I make the following findings of fact:

*DOC Recruit Training Program*

1. Upon their appointment, all new Correction Officer I (CO I)s are required to complete a Recruit Training Program at DOC that has the following three components: a) a ten (10)-week academy-based training module that is conducted during normal business hours Monday through Friday; b) a six (6)-month field training program that is completed after the CO I has completed the academy-based training and been assigned to a correctional facility; and c) a one (1)-week orientation module. (Testimony of Mr. Dupre)
2. William Dupre has been the Director of Staff Development at DOC since 2005. He has been employed by DOC for twenty-eight (28) years. (Testimony of Mr. Dupre)
3. In his capacity as Director of Staff Development, Mr. Dupre oversees the Recruit Training Program at DOC. (Testimony of Mr. Dupre)
4. The goal of the recruit training program is to: a) ensure that new recruits have the knowledge, skills and abilities to perform the essential functions of their job; b) help new recruits understand the mission and vision of DOC; and c) create a learning environment that is conducive to acquiring new skills. (Testimony of Mr. Dupre)

5. Examples of skills needed to perform essential functions include: communication skills related to de-escalation tactics; emergency response skills; use of force tactics, including verbal and physical tactics; proper use of restraining equipment; firearms training; emergency care; transportation skills; body search protocol; key control; inmate counts; tool control, etc. (Testimony of Mr. Dupre)
6. The ten (10)-week training academy component of the Recruit Training Program takes place at a stand-alone facility, formerly located in Shirley, now in Milford. The facility has classrooms, an auditorium, a gymnasium and a “mock institution” with such things as a mock pedestrian trap, mock cell, mock control center, etc. (Testimony of Mr. Dupre)
7. There are twenty (20) full-time staff assigned to the training academy, including administrators, curriculum development staff and 8-10 “core faculty” training instructors that include senior drill instructors. (Testimony of Mr. Dupre)
8. When a new recruit class is appointed, the training academy temporarily supplements its staff with “guest drill instructors” to assist with the 10-week academy-based training. Guest drill instructors have already been trained and are “pulled” from their institutions to provide course instruction. During the most recruit training program, eight (8) guest drill instructors were pulled from their institutions to provide instruction to one hundred fifty (150) new recruits. (Testimony of Mr. Dupre)
9. After completing the ten (10)-week academy-based training, recruits are assigned to an institution where they are to work and complete the second component of the Recruit Training Program, known as the Field Training Program (FTP). (Testimony of Mr. Dupre)
10. The FTP is now an important part of the overall training of new recruits and has helped DOC reduce its attrition rate related to new recruits. (Statement of Joseph Santoro)

11. The FTP is meant to be a continuation of the academy-based training. Designed in 2008, and formalized in DOC policies in 2010, the FTP has a formal curriculum that includes thirty-six (36) “task maps” related to the essential functions of the job of a CO I. To create these task maps, DOC identified all of the essential functions of the job of a CO I and documented all of the knowledge and guidance needed to complete these tasks. For example, one (1) task is a “pat search”. The task map associated with a pat search would provide all of the policies, procedures and guidelines that relate to conducting a pat search. While recruits learn how to do pat searches in the academy-based training, that training continues as part of the FTP, where recruits are able to conduct actual pat searches while being observed and coached by a Field Training Officer. (Testimony of Mr. Dupre)
12. Field Training Officers must get certified through a four (4)-day academy-based program that includes formal classroom instruction and making presentations to recruits at the academy-based training under the supervision of a lead drill instructor. (Testimony of Mr. Dupre)
13. Field Training Officers are expected to coach, mentor and formally assess new recruits regarding the thirty-six (36) task maps while they are working in an institution after completing the academy-based training. (Testimony of Mr. Dupre)
14. DOC has trained approximately three hundred (300) Field Training Officers since 2008. (Testimony of Mr. Dupre)
15. Field Training Officers are not relieved of their normal duties and responsibilities. Rather, in most cases, the Field Training Officer observes one (1) or more new recruits while still performing their regular job duties. (Testimony of Mr. Dupre) For example, if a Field Training Officer, as part of his normal job duties and responsibilities, was conducting a pat search, he may facilitate having the new recruit join him or her and have the new recruit

perform the pat search while the Field Training Officer observes, coaches and assesses the new recruit. (Testimony of Mr. Souza)

16. There are times, however, when the Field Training Officer is given permission to leave his / her assigned area to go and observe a new recruit while he/she performs one of the thirty-six (36) essential tasks. (Testimony of Mr. Souza)

17. There are also times that the Field Training Officer is relieved of his/her normal duties to provide formal instruction to the new recruit in a common or training area at the facility. (Testimony of Mr. Dupre)

18. At a minimum, the Field Training Officer must meet with the new recruit at least three (3) times per week to observe the new recruit perform a task and provide feedback and coaching to the new recruit. (Testimony of Mr. Dupre)

19. The Field Training Officer is responsible for submitting an observation feedback form at least once per week regarding the progress of the new recruit listing the strengths and weaknesses of the new recruit. (Testimony of Mr. Dupre)

20. Within three (3) months, the Field Training Officer is required to observe the new recruit perform all thirty-six (36) tasks and assess the new recruit's ability to complete each of those tasks. The Field Training Officer must indicate whether the new recruit has successfully completed each task or needs improvement completing any of the tasks. The Field Training officer can continue to assist the new recruit in areas where he/she needs improvement over the remaining three (3) months of this six (6)-month FTP. (Testimony of Mr. Dupre)

21. The Field Training Program is referenced in DOC regulations (103 DOC 216.08) stating in relevant part: "The FTP is a structured on-the-job training program designed to bridge the

foundation knowledge, skills and competencies received from recruit training, to the workplace environment, under the coaching and mentoring of Certified FTOs.” (Exhibit 15)

22. DOC Regulations distinguish the Field Training Program from In-Service Training. In-Service Training is defined, in part, as consisting of “mandatory courses/topics designed to meet the annual minimum training requirements specific to all position categories.” (Exhibit 15)

*Findings Related to Mr. Souza and his involvement in the FTP*

23. Mr. Souza has been a CO I at DOC since 2012. (Testimony of Mr. Souza)
24. After completing his nine (9)-month probationary period, Mr. Souza received approval to become certified as a Field Training Officer. (Testimony of Mr. Souza)
25. A 2014 flier from DOC’s Division of Staff Development references the Field Training Officer Certification Program. Under the heading, “Benefits of a Certified Field Training Officer”, it states in part, “Receive civil service credit for promotional exams.” (Exhibit 10)
26. In March 2013, Mr. Souza completed the four (4)-day Field Training Officer Certification program. (Testimony of Mr. Souza and Mr. Dupre)
27. During the first day of the FTO training, Mr. Souza attended an orientation in the morning. In the afternoon, Mr. Souza and the other FTO trainees broke up into groups and engaged in various scenarios in the mock institution. (Testimony of Mr. Souza)
28. During the second day of the FTO training, Mr. Souza and the other FTO trainees watched power point presentations regarding various techniques; received classroom instruction; and observed drill instructors teach new recruits. (Testimony of Mr. Souza)
29. On the third and fourth day of training, Mr. Souza and the other FTO trainees received more specific information regarding what to expect when the new recruits actually show up to

work at the institution. For example, the FTO trainees were coached on how to look for training opportunities for the new recruits. (Testimony of Mr. Souza)

30. For approximately two and a half (2 ½) hours on the fourth and final day of training, FTO trainees are provided with “scenarios” (i.e. – “Pat search Scenario”). Mr. Souza would observe new recruits enrolled in the Academy perform these scenarios and provide coaching and feedback to the new recruits consistent with that they had learned during the first three (3) days of training. A lead instructor then provided feedback to Mr. Souza regarding his coaching skills. (Testimony of Mr. Souza)
31. Upon completing the FTO Training Program, Mr. Souza received a certificate and returned to the DOC facility where he is normally assigned, the Massachusetts Alcohol and Substance Abuse Center (MASAC) in Bridgewater, MA. (Testimony of Mr. Souza)
32. Five (5) new recruits were assigned to MASAC in 2013. (Recruit Class I) During their first week, prior to beginning their duties, the new recruits participate in the facility’s orientation program that is coordinated by the facility’s “Institutional Training Officer” (ITO). Mr. Souza was pulled from his normal duties and responsibilities for approximately twenty-four (24) hours during that orientation week to assist the ITO with instruction on the facility’s policies and procedures. (Testimony of Mr. Souza)
33. After the new recruits completed the one (1)-week orientation at MASAC, they were assigned to their shifts. Two (2) of the new recruits were assigned to the 3:00 P.M. – 11:00 P.M. shift and Mr. Souza, who works the same shift, was assigned as their FTO. (Testimony of Mr. Souza)
34. Over the next six (6) months, on average, Mr. Souza would observe, coach and/or instruct the two (2) new recruits assigned to him on at least one (1) occasion on three (3) out of (5) days



during the work week. Mr. Souza spent approximately six (6) hours per week performing these FTO-related duties over a six (6)-month period. That is equivalent to one hundred forty-four (144) hours over the entirety of the program, in addition to the twenty-four (24) hours of assisting with orientation. (Testimony of Mr. Souza)

35. By the end of the six (6)-month period, Mr. Souza observed and provided formal feedback to two (2) new recruits regarding thirty-six (36) task maps. Mr. Souza had to provide documentation regarding all thirty-six (36) task maps and submit six (6) observation reports for each recruit. (Testimony of Mr. Souza and Exhibits 16 and 17)

36. Mr. Souza's work was reviewed and audited by Lt. Ryan Frink, the Coordinator of the Field Training Officer Program, who also conducted an exit interview with Mr. Souza. (Testimony of Lt. Frink)

37. Later in 2013 (and early 2014) Mr. Souza served as a FTO for another recruit class (Recruit Class II) For Recruit Class II, Mr. Souza was assigned five (5) new recruits. He spent less time with each recruit when compared to Recruit Class I, but his overall time spent on FTO-related duties was the same as Recruit Class I. (Testimony of Mr. Souza)

*HRD Review of E&E Request*

38. On March 21, 2015, Mr. Souza took the promotional examination for Correction Officer II (CO II), administered by HRD. (Testimony of Mr. Souza) Education and Experience (E&E) accounted for forty (40)% of the examination score. (Testimony of Mr. Lefort)

39. Applicants seeking to claim E&E credit must complete an "Education and Experience Claim" questionnaire. (Testimony of Mr. Lefort and Exhibit 5)

40. Question 13 of the E&E Questionnaire for the 2015 CO II Examination stated, in its entirety:  
"COLLATERAL SKILLS: For each category, indicate the number of courses you have taught in a recognized college, university, Department of Correction recruit training

academy, or non-degree granting school above the high school level as of the date of the examination. HRD does not credit teaching in-service workshops or classes. DO NOT INDICATE THE SAME COURSE IN MORE THAN ONE CATEGORY. DO NOT COUNT THE SAME COURSE MORE THAN ONCE IF YOU HAVE INSTRUCTED IT ON MORE THAN ONE OCCASION. Any claim of course teaching must be verified in writing by the teaching institutions. Instructor certificates alone are insufficient as proof of actual teaching. Course Subjects: Criminal justice, criminology, law enforcement, corrections, sociology, psychology, education, social work, human services, rehabilitation, or counseling.

- No claim in this category
- 1 course taught (.2 points)
- 2 courses taught (.4 points)
- 3 courses taught (.6 points)
- 4 courses taught (.8 points)
- 5+ courses taught (1.0 point)” (Exhibit 5)

41. Gilbert Lefort is an Examination Administration Specialist with HRD. He has a Master’s in Business in Administration, has been employed by HRD since 2013 and was involved in processing E&E claims for the CO II promotional examination. This was the first promotional examination process that Mr. Lefort was involved in. (Testimony of Mr. Lefort)
42. When processing E&E claims under Question 13 for the 2013 CO II promotional examination, HRD defined “taught” as someone who “provided formal instruction” and “developed or followed a lesson plan.” “Formal instruction,” according to HRD, involves “a classroom setting, where the instructor is standing at the front of the room directing whomever they are speaking to.” (Testimony of Mr. Lefort)
43. Mr. Lefort has limited knowledge of DOC’s Recruit Training Program. He has not visited the DOC training facility or spoken with anyone at DOC who is responsible for administering the Recruit Training Program. Until preparing for the hearing before the Commission, he was not aware that part of the Recruit Training Program involves a Field Training Program which DOC considers a continuation of the Academy-based training. (Testimony of Mr. Lefort)

44. HRD considers “in-service workshops or classes” (for which no E&E credit is awarded) to be “anything that’s done to someone who is employed by DOC” such as “refresher training.”  
(Testimony of Mr. Lefort)
45. As part of his E&E request for the 2014 promotional examination, Mr. Souza submitted a letter dated December 19, 2014 from Mr. Dupre stating:  
“Please accept this letter as verification that Nathan Souza, Correctional Officer I, has **completed** the following courses/programs:
- Field Training Officer Certification Program in March 2013
  - Filed Training Program Practicum, Class 312 in September 2013
  - Field Training Program Practicum, Class 313 in February 2014.”  
(**emphasis added**) (Exhibit 1)
46. Mr. Dupre provided a similar letter to many other DOC employees who served as FTOs. Similar to the letter provided to Mr. Souza, Mr. Dupre stated that the employee “completed” the courses and/or programs. (Testimony of Mr. Dupre)
47. Mr. Souza was seeking .2 E&E points for each of the three (3) bullet points listed in Mr. Dupre’s letter. (Testimony of Mr. Souza)
48. Via an email dated June 16, 2015, HRD notified Mr. Souza that he was not receiving any E&E points for Question 13, stating: “Q(13): No verification of courses taught – Claimed (0.6) Awarded (0.0).” (Exhibit 2)
49. HRD’s denial was based, at least in part, on that part of the letter from Mr. Dupre stating that the courses in question were completed, as opposed to taught. (Testimony of Mr. Lefort)
50. Mr. Souza appealed HRD’s E&E determination and submitted his FTO “Certificate of Completion” from DOC. (Testimony of Mr. Souza and Exhibits 6 and 7)

51. Via an email dated July 29, 2015, HRD denied Mr. Souza's E&E claim. The denial letter stated in part, "No change made. Q(13): No pts. Awarded. Instructor certificates alone are insufficient as proof of actual teaching." (Exhibit 3)
52. On August 1, 2015, Mr. Souza filed an appeal with the Commission regarding HRD's decision to deny him .6 E&E points from Question 13 on the E&E application form. (Commission appeal form and Notice of Acknowledgment)
53. On August 25, 2015, a pre-hearing conference was held at the offices of the Commission. At the pre-hearing conference, Mr. Souza submitted an updated letter from Mr. Dupre dated July 31, 2015 which stated:
- "Please accept this letter as verification that Nathan Souza, Correctional Officer I, has **taught** the following Criminal Justice Courses **in the Department of Correction's Recruit Training Academy**:
- Coaching Practicum, March 2013
  - Field Training Program Practicum, Recruit Training Class 312, September 2013
  - Field Training Program Practicum, Recruit Training Class 313, February 2014" (Exhibit 9)
54. At the time he signed the letter, Mr. Dupre was aware that Mr. Souza and many other FTOs had been denied E&E credit. Mr. Dupre was surprised to learn this as it was his understanding that the FTO program did qualify for E&E credit and he had not heard of any problems during prior promotional examinations. (Testimony of Mr. Dupre)
55. The first bullet is meant to describe that portion of the four-day FTO training program in which the FTO trainee provides feedback and coaching to recruits and then receives feedback about their coaching techniques from a lead instructor. (Testimony of Mr. Dupre)
56. The second and third bullets are meant to describe the two (2), six (6)-month periods in which Mr. Souza provided one hundred forty-four (144) hours of coaching, mentoring and

instructing to new recruits at the facility where he worked, for a total of 288 hours.

(Testimony of Mr. Dupre)

57. Pursuant to a Procedural Order from the Commission, DOC also provided HRD with a ten-page “Program Overview” regarding the FTO program. (Exhibit 4)
58. Mr. Lefort reviewed the revised letter dated July 31<sup>st</sup> from Mr. Dupre as well as the ten-page Program Overview of the FTO program. He was advised by his supervisor at HRD to consult with Bruce Howard, the Customer Service Coordinator of HRD’s Civil Service Unit. It is Mr. Lefort’s understanding that Mr. Howard also discussed the issue with Regina Caggiano, Assistant Director of HRD’s Civil Service Unit. (Testimony of Mr. Lefort)
59. HRD decided not to reconsider its decision to award no E&E points to Mr. Souza for Question 13 based, in part, on the fact that the FTO program constitutes “post-Academy” training. (Testimony of Mr. Lefort)
60. HRD did award E&E points to individuals who taught courses at the 10-week Academy Training. For example, one applicant was given .2 E&E points for teaching a one-day body-search course during the 10-week Academy training. (Testimony of Mr. Lefort and Exhibit 20) I infer that this one-day training did not take any more than eight (8) hours.
61. Body-search training taught at the Academy is limited by the fact that recruits cannot perform a body search on an actual person in the classroom. Body search training done by the FTOs in the facility is more effective and valuable as it involves actual inmates being strip-searched. (Testimony of Mr. Dupre and Lt. Frink)
62. One individual received .2 E&E for *each* of the following five (5), one-day courses that she taught at the Academy, for a total of 1.0 E&E points: Report writing; Security Inspections;

Security Radio and Phone Procedures; Body Searches – Fully Clothed; Body Searches – Unclothed. (Testimony of Mr. Lefort and Exhibit 20)

*Legal Standard*

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn. of Minority Law Enforcement Officers v. Abban, 434 Mass. at 259, citing Cambridge v. Civil Serv. Comm'n., 43 Mass.App.Ct. at 304. "Basic merit principles" means, among other things, "assuring fair treatment of all applicants and employees in all aspects of personnel administration" and protecting employees from "arbitrary and capricious actions." G.L. c. 31, § 1. Personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. Cambridge at 304.

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by "... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations ...." It provides, *inter alia*,

"No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record."

Pursuant to G.L. c. 31, § 5(e), HRD is charged with: "conduct[ing] examinations for purposes of establishing eligible lists.

G.L. c. 31, § 22 states in relevant part: "In any competitive examination, an applicant shall be given credit for employment or experience in the position for which the examination is held."

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that “... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’ G.L. c. 31, § 22(1).”

*Analysis*

As referenced above, HRD, as the Personnel Administrator, is vested with broad authority regarding the type and weight of credit given for training and experience as part of examinations. The Commission, however, must ensure that HRD’s decisions are uniform, and not arbitrary or capricious.

Here, it appears that HRD, based on limited information, concluded that DOC’s Field Training Program was equivalent to in-service or on-the-job training. It is not. Rather, as shown by a preponderance of the evidence at the hearing before the Commission, the Field Training Program is a structured, seamless continuation of the Recruit Training Academy that is meant to provide new recruits with critical coaching, mentoring and instruction during their probationary period. DOC’s own regulations distinguish this program from in-service training and Mr. Dupre, DOC’s Director of Staff Development, repeatedly stated that the Field Training Program is a continuation of the Academy training for new recruits, as opposed to traditional in-service training.

Further, HRD’s conclusion here produces illogical results. For example, a DOC employee who teaches a one-day course in body searches *at the academy* is granted .2 E&E points. Based on the credible testimony of Mr. Dupre, the coaching, mentoring and instruction provided by FTOs regarding body searches *at the facility* is far more effective and valuable as the new recruit

is actually performing a strip search of an inmate and getting real-time instructions on what he/she is doing right or wrong. Yet, HRD grants no E&E for this type of FTO instruction, which involves several hours over a 6-month period, primarily because the instruction was not provided *in a classroom*. HRD did not offer any rational basis for this requirement.

Both Mr. Dupre and Lt. Frink, two veteran DOC employees who oversee parts of the overall Recruit Training Program offered credible and compelling testimony about the valuable instruction that is offered by FTOs in the facility over a 6-month period.

While HRD may be concerned that granting E&E credit here could open the door to E&E claims for all types of traditional on-the-job training, I'm firmly convinced that the structured nature of this program, including the need for FTOs to be certified during a four-day training program for which there is a comprehensive curriculum, starkly distinguishes this instruction from providing on-the-job training.

It is also noteworthy that DOC, both through its witnesses and its representative, strongly believe that the six (6) months of FTO instruction constitutes teaching for which .2 E&E credits should be awarded.

While the evidence shows that the instruction given by FTOs during the six (6)-month program should be counted as teaching for which E&E credit should be awarded, the same does not apply to the four (4) days in which a DOC employee is completing courses to be *certified* as an FTO. The overwhelming evidence shows that, for the vast majority of those four (4) days, the FTO trainee is a student and not an instructor. Thus, no E&E credit should be awarded for this four-day certification program.



*Conclusion*

For all the reasons stated above, Mr. Souza's appeal *is allowed in part*. HRD shall conduct a further review of Mr. Souza's E&E Claim, and all other similar claims submitted related to this promotional examination, and award .2 E&E points for each (six-month) period in which a DOC employee served as a Field Training Officer for (a) new recruit(s).

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman

Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on December 10, 2015.

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).

Notice:

Nathan Souza

Kenneth Costa (for Mr. Souza)

Patrick Butler, Esq. (for HRD)

Joseph Santoro (for DOC)