

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

JOHN P. WALTHALL,
Appellant

v.

HUMAN RESOURCES DIVISION,
Respondent

Docket number:

B2-25-173

Appearance for Appellant:

Galen Gilbert, Esq.
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Boston, MA 02109

Appearance for Respondent:

Michael J. Owens, Esq.
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Commissioner:

Paul M. Stein

SUMMARY OF DECISION

The Commission allowed, in part, an examination appeal brought by a candidate who took the 2025 Statewide Fire Captain promotional examination, having determined he submitted sufficient documentation to establish that he completed the necessary academic course of study to earn an associate's degree and was improperly denied Experience, Certification, Training & Education (ECT&E) credit by the Human Resources Division (HRD) for that degree. The Appellant's remaining claims were denied.

DECISION ON RESPONDENT'S MOTION FOR SUMMARY DECISION

On July 27, 2025, the Appellant, John P. Walthall, a Fire Lieutenant with the Burlington Fire Department (BFD), appealed to the Civil Service Commission (Commission), pursuant to G.L. c.

31, § 24, asserting that he was denied credit by the Human Resources Division (HRD) for certain “trade licenses” and the university education he claimed on the Experience, Certifications, Training & Education (ECT&E) component of the 2025 Statewide Fire Captain Examination.

I held a remote pre-hearing conference on this appeal on August 19, 2025, at which time the Appellant raised two additional issues: (1) the change in the score of another candidate, which moved the Appellant from first place to second place on the Burlington Fire Captain eligible list; and (2) denial of ECT&E credit for “outside supervisory experience” as the owner of a furnace repair company. By Procedural Order dated August 23, 2025, the Appellant filed an Amended Complaint (Claim of Appeal) to include his additional claims.

On September 10, 2025, HRD supplemented its initial Pre-Hearing Memorandum to address the Appellant’s additional claims. On September 17, 2025, the Appellant filed a second supplement to his Pre-Hearing Memorandum with additional documents in support of his claims, save for waiving the issue of rescoring the other candidate. HRD responded to the Appellant’s second supplemental filing with its own supplemental filing on September 24, 2025.

At a remote status conference held on September 25, 2025, I deemed the submissions of the parties as Cross-Motions for Summary Decision which I took under advisement at that time.

On September 26, 2025, the Appellant filed a third supplement to his Pre-hearing memoranda in which he objected to the Commission’s decision in this appeal by summary decision and requested an evidentiary hearing on all of his claims. After careful review of the information provided, the Cross Motions for Summary Decision are allowed in part and denied in part. The Appellant’s appeal is allowed as to his claim to ECT&E credit for an associate’s degree and otherwise is denied.

UNDISPUTED FACTS

Based on the submissions of the parties, the following facts are not disputed:

1. The Appellant, John P. Walthall, is a Fire Lieutenant employed by the Town of Burlington Fire Department (BFD). (*Appellant Pre-Hearing Memo; HRD Prehearing Memo [Exh.6 – NEOGO Master Record]*)

2. On or about February 7, 2025, the Appellant applied to take the April 12, 2025 Statewide 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. (*HRD Pre-Hearing Memorandum [Exh.3 – Candidate Prep Guide; Exh.6 [NEOGOV Master Record]*)

3. The Appellant participated in the written component of the examination administered by HRD on April 12, 2025. (*HRD Pre-Hearing Memorandum*)

4. On or about April 10, 2025, the Appellant submitted a timely on-line ECT&E application.

The items for which the Appellant claimed ECT&E credit included:

Q.9 – Outside Supervisory Experience (Not in a Fire Department) – 17 years

Q.11 – Education – Related Associate's Degree

Q.13 – Tier 1 Certifications – Fire Instructor I, Fire Officer I & Fire Officer II

Q.14 – Tier 2 Certifications – Firefighter I, Firefighter II, Hazardous Materials Operations Level

Q.15 – Tier 3 Certifications – Driver Operator/Pumper, Driver Operator Aerial

Q.16 – Relevant Trade Licenses – Driver's License: Class A, Class B; Gas Fitter, Journeyman, Master, Limited, Limited Undiluted; Refrigeration: Technician, Contractor

(*HRD Pre-Hearing Memorandum [Exh.4 – ECT&E Claim]*)

According to HRD, the Appellant submitted the following documentation to HRD in support of his ECT&E claims described above:

Q.9 – DD214 US Navy Reserve-E4; Mass Sec'y State Certificate for Titan Oil, LLC incorporated in August 2011 and listing Appellant and M.J. Walthall as Managers

- Q.11 - Columbia Southern University Comprehensive Degree Report (Appellant enrolled in third year of study toward a B.S. degree in Fire Administration/Fire Investigation and earned 66 credits toward a bachelor's degree requiring 120 credits)¹
- Q.13 – Proboard Certification for Fire Instructor I, Fire Officer I and Fire Officer II
- Q.14 – Proboard Certification for Firefighter I and Firefighter II
- Q.15. – No accredited Certifications
- Q.16 – No suitable record of Licenses

(HRD Pre-Hearing Memorandum; HRD Amended Pre-Hearing Memo)

5. On June 12, 2025, HRD issued an ECT&E score notice to the Appellant. The notice informed the Appellant that he was awarded the following ECT&E points:

Experience: 52 points out of a Maximum of 52 Experience Points
 Certification/Training: 13.50 points out of a Maximum of 28 Certification/Training Points
 Education: 0.00 points out of a Maximum of 20 Education Points.

HRD informed the Appellant that it had made the following amendments to his claims relevant to this appeal:

. . . Q(9): Supervisor Work experience not within Fire Dept. Claimed (17 years) Recalculated to (1 year) No supporting documents provided; Q(11): Degree Claimed (Related Associate's degree) Awarded (No degree) - No supporting documents provided (official transcript or combination of unofficial transcripts and copy of diploma); Q(14): Certifications earned Claimed (3 certifications earned) Recalculated to (2 certifications earned) No supporting document provided; Q(15): Certifications earned Claimed (2 certifications earned) Recalculated to (No certifications earned) Insufficient verification - Proper accreditation certificate not provided. Q(16): Trade License earned Claimed (2 trade licenses) Awarded (No trade licenses) Trade submitted not on approved list;

¹ The 66 credits earned by the Appellant included: 21 out of 36 credits in Major Requirements (Principles of Fire & Emergency Services; Principles of Fire and Emergency Services Safety & Survival, Fire Service Personnel Management, Fire Behavior and Combustion, Building Construction for Fire Protection, Introduction to Fire Prevention, Fire Protection Structure and Systems); 6 out of 12 credits in required Program Electives (Legal Aspects of Emergency Services; Professional Training – Fire Instructor I); 21 out of 30 credits in Open Electives (3 credits - Learning Strategies for Success; 18 transferred credits- Professional Training [Emergency Medical Technician, Emergency Vehicle Driver Training & Military training (Machinist's Mate)]; 3 of 6 required credits in Natural Sciences (Non-major Biology); 3 of 3 required credits in Mathematics (College Algebra); 6 of 12 required credits in Humanities & Social & Behavioral Sciences (Critical Thinking & General Psychology); 3 out of 6 required credits in English Composition (English Composition I) *(HRD Pre-Hearing Memorandum, Exh.2- CSU Transcript)*

(HRD Second Pre-Hearing Memorandum [Exh.5 – June 12, 2025 Score Notice (emphasis added)])

6. The June 12, 2025 Score Notice contained the following notice:

Pursuant to Massachusetts General Law (MGL) Chapter 31, Section 24[sic] the administrator [HRD] shall determine the form of appeals and petitions. To submit an ECT&E request for review, go to [2025 Promotional Exam Review](#). Please read the 2025 Promotional Exam Review application completely before submitting a review. Your request for review and supporting documentation must be received by HRD no later than 17 calendar days after the emailing of this notice. No new claim(s) for additional ECT&E points may be submitted at this time. Candidates may only provide additional clarifying information specific to an initial claim made prior to the original statutory deadline.

(HRD Second Amended Pre-Hearing Memorandum [Exh.5 – June 12, 2025 Score Notice; Exh.6 - NEOGOV Master Record])

7. The record does not reflect that the Appellant sought any HRD review within the 17-day window specified in the Jun 12, 2025 Score Notice. *(Claim of Appeal; Appellant's Amended Complaint)*

8. On July 24, 2025, HRD informed the Appellant that, after review, it had revised his ECT&E score as follows:

Experience: 52 points out of a Maximum of 52 Experience Points
Certification/Training: 19.50 points out of a Maximum of 28 Certification/Training Points²
Education: 0.00 points out of a Maximum of 20 Education Points.

(HRD Second Pre-Hearing Memorandum [Exh.1 – July 24, 2025 Score Notice (emphasis added)])

9. The increase in the Appellant's ECT&E score came as a result of an internal audit conducted by HRD that found that certain candidates were not awarded correct points for certain training credits on the Statewide Captain Examination. All candidates affected by this adjustment had a score increase. *(HRD Amended Pre-Hearing Memorandum)*

² I infer this score represents credit for the Appellant's EMT license (2 points), three Tier I training certifications (10.5 points), two Tier 2 training certifications (6 points), and one trade license (1 point) = 19.5. (Administrative Notice [\[Statewide Fire Captain ECT&E Score Guide\]](#))

10. According to the Appellant, the July 24, 2025 score adjustments resulted in another candidate on the Burlington FPD Captain list having “... his score raised several points above the Appellant’s score” so that the Appellant was moved from first place to second place on the eligible list. This change prompted the Appellant to file the present Appeal. (*Claim of Appeal; Appellant’s Amended Complaint*)

11. Upon further review after this appeal was filed with the Commission, HRD issued an updated ECT&E score notice to the Appellant which confirmed that HRD had allowed the Appellant’s Q.16 claim for his trade license for Gas Fitter. (*HRD Second Pre-Hearing Memorandum [Exh.1]*)

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 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, save for the Appellant's claim to an Education credit for his "related" associate's degree, 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 MSCR __ (5/15/2025); Bell v. HRD, 38 MSCR 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).

A threshold question arises as to whether the failure of the Appellant to seek an HRD review of his ECT&E score within 17 days of the June 12, 2025 Score Notice precludes the Commission from considering his appeal. Section 24 of Chapter 31 provides:

“An applicant may appeal to the commission from a decision of [HRD] . . . relative to [examination scores] . . . filed no later than seventeen days after the [receipt] of the decision of [HRD] The commission shall refuse to accept any [ECT&E] petition for appeal unless the request for appeal, which was the basis for such petition, was filed by the required time and form and unless a decision on such request for review has been rendered by [HRD].”

Had HRD not issued a revised score notice on July 24, 2025, the Appellant’s failure to seek an HRD review would be fatal to his present appeal. A request for HRD review is not merely a ministerial act; it is jurisdictional. The reason for this requirement is two-fold: it provides an efficient process through which HRD can cure any minor issues with HRD’s exam scoring and it prevents the Commission from being burdened to assume the role of HRD as the initial reviewer of such minor issues.

Here, however, I conclude that the Appellant’s prompt appeal of the revised July 25, 2025 score notice (which did not provide any reference to an HRD review but directed the Appellant to file an appeal with the Commission), warrants the Commission to take jurisdiction. Ordinarily, when an appeal is mistakenly, but timely, filed with the Commission, the Commission would dismiss the appeal with a future effective date, and return the matter to HRD for a proper review.

In the particular circumstances of this matter, the undisputed facts make such a deferral unnecessary. Accordingly, I proceed to address the merits of the Appellant's claims.

Experience Credits

The undisputed facts establish that HRD allowed the Appellant proper credit for his military supervisory experience and correctly denied the Appellant's claims to additional outside supervisory experience other than in a fire department.

First, the Appellant was awarded the maximum 52 points for experience based on his claims for experience in the fire service (and one year of military supervisory experience). To allow him additional credits for his outside supervisory experience with Titan Oil, LLC would not have made any difference to his ECT&E score.

Second, HRD correctly established that the Appellant's submission of a Certificate from the Secretary of State fell short of the documentation required to establish such outside supervisory experience. Even the additional information supplied by the Appellant during this appeal failed to meet the requirements HRD established as a condition for such credit. In fact, the payroll records supplied by the Appellant list a number of employees but contain no record of any earnings paid to the Appellant or other documentation of the actual hours he worked for Titan Oil, LLC.

Training Certifications

HRD granted the Appellant full credit for the three Q.13 Tier 1 training certifications and the two Q.14 Tier 2 training certifications he claimed. The record does not contain any information that the Appellant initially provided to HRD, or even to the Commission in this appeal, any documentation that would raise a factual issue to dispute HRD's denial of the Appellant's claims

to the one additional Q.14 training certification (for HAZMAT “operation level”) and the two additional Q.15 training certifications (Driver Operator/Pumper, Driver Operator Aerial).

Licenses

HRD did confirm that it granted the Appellant credit for his Gas Fitter license, for which the Score Guide awards one ECT&E raw point. The Appellant provided documentation to the Commission that he held a Class B driver’s license, but the record is not clear whether that license was initially submitted to HRD. HRD claims it was not; the Appellant asserts that he did submit a copy but it must have been lost by HRD. According to the 2025 Statewide Fire Captain Score Guide, allowing credit for the Class B driver’s license would provide only one additional ECT&E raw point. Since the raw ECT&E score is standardized to be no more than 20% of a candidate’s overall score, adding one point to the Appellant’s raw ECT&E score would fall well short of adding enough points to his final exam score to change his place on the eligible list (in which he asserts he is now “several points” behind the candidate ahead of him on the list).

Education

The Appellant has shown that he submitted appropriate documentation to establish that he was enrolled in a course of study with an accredited institution (Columbia Southern University) and was in his junior year toward a B.S. degree in Fire Administration/Fire Science. He had earned 66 credits toward the required 120 credits for his bachelor’s degree, including completion of 7 out of 12 specified courses (21 out of 36 credits) required for his major of Fire Science and an additional 42 credits for other subjects that are generally recognized to be related to the work of a firefighter. Thus, save for one course in “Art Appreciation”, the Appellant devoted substantially all of his academic efforts (63 of 66 credits) on subjects of direct or indirect

relevance to a degree in Fire Science/Fire Administration.³ The Commission has previously held that, under those circumstances, HRD's decision to require a copy of a diploma for a "conferred" associate's degree was arbitrary and unreasonable. Goggin v. Boston Police Dep't, 29 MCSR 78 (2016).

I find that the principle established in Goggin applies to this appeal. The Appellant is entitled to receive credit for a "related associate's degree" in Fire Administration/Fire Investigation. According to the 2025 Statewide Fire Captain Score Guide, this credit entitles the Appellant to receive 14 raw Education points.

Score Changes Due to HRD's Audit

The Appellant acknowledged in his Second Pre-Hearing Amendment that "HRD says they rescored the T&E on the Fire Captain examination after finding an error in calculations. We accept that explanation, and do not request an evidentiary hearing on this issue." Accordingly, the Commission need not address this aspect of the Appellant's initial Claim of Appeal.

CONCLUSION

For the reasons stated above, the Cross Motions for Summary Decision are ***allowed in part and denied in part.***

The appeal of the Appellant, John P. Walthall under Docket Number B2-25-178 is ***allowed in part.*** HRD is ordered to add 14 points to the Appellant's raw ECT&E score and recalculate his overall ECT&E score and his final exam score on the 2025 Statewide Fire Captain Examination and, if applicable, adjust his place on the BFD Captain eligible list.

Except as herein ordered, the Appellant's appeal under Docket No. B2-25-178 is ***dismissed.***

³ The Appellant submitted an affidavit that he will be awarded a diploma for an Associate's Degree from Columbia Southern University but that it will take several months for him to receive it.

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 November 13, 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:

Galen Gilbert, Esq. (for Appellant)

Michael J. Owens, Esq. (for Respondent)