

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

JACOB WEAVER,

Appellant

v.

HUMAN RESOURCES DIVISION,

Respondent

Docket Number:

B2-24-158

Appearance for Appellant:

Jacob Weaver, *Pro Se*

Appearance for Respondent:

Erik Hammarlund, Esq.

Labor Counsel

Human Resources Division

100 Cambridge Street, Suite 600

Boston, MA 02114

Commissioner:

Paul M. Stein

SUMMARY OF DECISION

The Commission upheld HRD's scoring of the Appellant's Education & Experience (E&E) component of the Correction Officer II promotional examination as "incomplete" because the Appellant failed to submit the necessary on-line claim form in compliance with the exam instructions.

DECISION ON RESPONDENT'S MOTION FOR SUMMARY DECISION

On October 9, 2024, the Appellant, Jacob Weaver, a Correction Officer I with the Department of Correction (DOC), 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 Education & Experience (E&E) component of the Correction Officer II promotional examination. I held a

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.

remote pre-hearing conference on this appeal on October 29, 2024. HRD counsel attended the pre-hearing conference, but the Appellant did not. HRD filed a Motion for Summary Disposition on the grounds that the Appellant had failed to follow the instructions and never filed the required on-line E&E form necessary to receive any credit for that component of the exam. By Procedural Order on October 29, 2024, I provided the Appellant until November 8, 2024 to oppose the motion or withdraw the appeal. I received no response from the Appellant. For the reasons stated below, HRD's motion is allowed, and the Appellant's appeal is dismissed.

UNDISPUTED FACTS

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

1. The Appellant, Jacob Weaver, is Correction Officer I with the state's Department of correction (DOC).
2. The Appellant took the August 17, 2024 Correction Officer II promotional examination administered by HRD.
3. The Correction Officer II promotional exam contained three components: (1) a Technical Knowledge (TK) component and (2) a Situational Judgement Test (SJT) component, together worth 80% toward the final exam score; and (3) an E&E component worth a maximum of 20% toward the final exam score.
4. The E&E component required the submission of an online claim form, together with certain 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. A maximum of 100 ECT&E points could be claimed, which would be converted by a formula toward the maximum of 20 points that potentially would be added to the candidate's TK and SJT scores to produce the candidate's final exam score.

5. The deadline to submit the on-line ECT&E claim form expired on August 24, 2024.

6. On July 26, 2024, HRD provided all candidates, including the Appellant, with written instructions of the obligation to submit an on-line E&E claim form, including specific instructions on how to access, complete and confirm submission of the E&E claim form. Follow-up reminders were sent to all candidates on August 12, 2024 and August 20, 2024. The instructions and reminders contained the following specific information:

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

All 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 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 Online E&E Claim is now available. To access this exam component:

1. Click this application link to access the E&E Claim;
2. Carefully read all information in the posting;
3. Click "Apply";
4. Log in to your account; if you are unable to log into your account, contact the applicant support team for assistance at (855) 524-5627.
5. Complete the online E&E claim as instructed electronically.
6. You have successfully electronically completed and electronically submitted the E&E Claim application when you receive a confirmation email acknowledging receipt of the E&E Claim.

(AN APPLICATION IS NOT COMPLETE UNTIL YOU HAVE ELECTRONICALLY COMPLETED AND SUBMITTED THE ONLINE E&E CLAIM THROUGH THE APPLICATION LINK PROVIDED ABOVE, AND RECEIVED A CONFIRMATION EMAIL)

The claim application must be electronically submitted online THROUGH THE APPLICATION LINK ABOVE and no later than 11:59 pm on Saturday August 24, 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. 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.

7. On April 28, 2024, the Appellant sent an email to civilservice@mass.gov stating: “Here is my college transcript and employment history. Let me know if anything else is needed.” HRD never received an online E&E claim form from the Appellant

8. At some point on or about October 3, 2024, the Appellant received a notice from HRD informing him of the results of the examination he took on August 17, 2024. As the Appellant did not complete an online E&E Form, he received an INCOMPLETE on that component.

9. By email to civilservice@mass.gov on October 3, 2024, the Appellant requested that HRD explain “why I received zero credit on [the E&E component].”

10. On October 9, 2024, HRD responded that “Your Civil Service account shows that there was no E&E application filled out.”

11. This appeal to the Commission duly 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 Board*, 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 . . . 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]”.

Here, the Appellant did not follow HRD’s instructions for submitting an E&E claim.² I understand the frustration that some exam candidates have experienced with the mechanics of completing an E&E claim, but HRD argues that expecting that the Appellant will follow instructions is a reasonably required part of the examination process. I agree.

The Commission defers to HRD’s expertise and discretion to establish reasonable requirements, consistent with basic merit principles, for crafting, administering, and scoring

² The Appellant is not in a position to claim ignorance, as the documents included with HRD’s motion demonstrated that, when the Appellant took a prior Correction Officer II exam in 2015, he did, at that time, follow the instructions and complete and submit the required on-line E&E form.

examinations. In deciding prior appeals, the Commission has concluded that, generally, 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., 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 for the Commission to deviate from its well-established line of decisions directly on point; instead, it will defer to HRD's exercise of reasonable expertise in the matter of E&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 Case No. B2-24-158 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 & Stein, Commissioners) on November 14, 2024.

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 to:

Jacob Weaver (Appellant)

Erik Hammarlund, Esq. (for Respondent)