

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
(617) 979-1900

DEVON WILDES,
Appellant

v.

B2-20-048

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Devon Wildes

Appearance for Respondent:

Alexis N. Demirjian, Esq.
Human Resources Division
100 Cambridge Street, 6th Floor
Boston, MA 02108

Commissioner:

Christopher C. Bowman

DECISION ON RESPONDENT'S MOTION FOR SUMMARY DECISION

1. On March 10, 2020, the Appellant, Devon Wildes (Mr. Wildes), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the state's Human Resources Division (HRD) to not give him 6.0 education and experience (E&E) points on a recent Fire Lieutenant examination for a bachelor's degree that the Appellant received from Columbia Southern University.
2. On May 12, 2020, I held a pre-hearing conference via videoconference which was attended by Mr. Wildes and counsel for HRD.
3. As part of the pre-hearing conference, the parties stipulated to the following:
 - A. On November 18, 2019, the Appellant took the Fire Lt. examination.

- B. As part of that examination, Mr. Wildes timely completed the E&E portion of the examination, seeking 6.0 points for his bachelor's degree
 - C. Mr. Wildes was initially given 6.0 points for his bachelor's degree.
 - D. After HRD conducted an audit, the 6.0 E&E points were removed as Columbia Southern University is not accredited by one of the regional accrediting organizations related to higher education.
 - E. As a result, Mr. Wildes's overall score was reduced from a total of 80 to 77.
 - F. An eligible list for Haverhill Fire Lt. was established on 2/3/20.
 - G. Mr. Wilde's rank is now second.
 - H. Had Mr. Wilde received 6.0 E&E points, his rank, according to the Appellant, would have been first.
 - I. The first ranked candidate has now been promoted.
 - J. Mr. Wildes anticipates that another vacancy for Fire Lt. will become available before the expiration of the eligible list and he will be eligible for consideration for that promotion.
4. At the pre-hearing conference, Mr. Wildes argued that Columbia Southern University is accredited by an organization known as the Distance Education and Training Council, and, as such, HRD should give him credit for his bachelor's degree.
5. Similar arguments were addressed most recently in [Mercado v. HRD](#), CSC Case No. B2-18-095 (2018), citing [Carroll v. HRD](#), 27 MCSR 157 (2014), in which the Commission concluded that HRD's reliance on the regional accrediting entities was not arbitrary and capricious.

6. As part of the pre-hearing conference, I asked HRD to provide any information regarding whether Columbia Southern University had ever sought regional accreditation and to refresh my memory on the decision-making process that resulted in HRD not accepting the Distance Education and Training Council accreditation for the purposes of awarding credit for a college degree.
7. HRD had 30 days from the date of the pre-hearing to file a Motion for Summary Decision and the Appellant had 30 days thereafter to file a reply.
8. HRD submitted a Motion for Summary Decision. The Appellant did not submit a reply.

Analysis

This is not a new issue for the Commission. As referenced above, in Carroll v. Human Resources Division, 27 MCSR 157 (2014), the Appellant sought E&E credit for a Fire Science degree conferred by Columbia Southern University (CSU). HRD denied credit for that degree, because CSU had accreditation from the Distance Education and Training Council (DETC), a national, but not regional, accreditation body. The Commission determined that:

“In view of HRD’s statutory considerable discretion in granting E&E credit, its expertise, and the manner in which HRD has exercised its discretion, the Commission cannot state that HRD’s actions were clearly arbitrary or otherwise unsupported by ‘logic and reason’ ... Further, the Appellant’s disagreement with HRD’s E&E determination does not render it arbitrary, unfair, or an abuse of discretion. HRD established a policy, approximately seven years prior to the Appellant’s exam, that it would grant E&E credit only for degrees or credits from regionally accredited institutions of higher education. The U.S. DOE website references two forms of accreditation: regional and national. HRD’s policy indicates that it chose to accept credits from one of two available sources of accreditations. I find nothing arbitrary, unfair or unreasonable in HRD’s policy.”

As part of its Motion for Summary Decision, HRD provided some additional information which supports the Commission’s prior decision that HRD’s policy here is not arbitrary and capricious. First, prior to students enrolling in a Fire Science Program at CSU, CSU specifically notifies students from Massachusetts that they “should contact the Civil Service to determine eligibility to sit for promotional exams”. Second, HRD provides clear notice to all candidates that it will only accept a degree conferred by a regionally accredited institution with the United States. Third, credits obtained at a nationally accredited institution (i.e. – CSU), according to HRD, are not accepted as transfer credits by regionally accredited schools.

HRD has continued to adhere to the same uniform policy regarding E&E credits here and there is no reason for the Commission to effectively reverse its decision in Carroll.

Conclusion

For all of the reasons stated in HRD’s Motion for Summary Decision, including those referenced above, the motion is allowed and Mr. Mercado’s appeal under Docket No.B2-20-048 is hereby *dismissed*.

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 August 27, 2020. .

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:

Devon Wildes (Appellant)

Alexis Demirjian, Esq. (for Respondent)