

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

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

**RICHARD H. ZIOBRO,**  
*Appellant*

v.

**HUMAN RESOURCES DIVISION,**  
*Respondent*

Docket number: B2-25-086

Appearance for Appellant: Richard H. Ziobro  
*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 allowed an examination appeal brought by a candidate who took the 2025 Medford Police Department (MPD) Lieutenant Sole Assessment Center Examination, concluding that the method employed for calculating the Appellant's length of prior service as a MPD Patrol Officer was unreasonable and arbitrary.

**DECISION ON CROSS MOTIONS FOR SUMMARY DECISION**

On March 27, 2025, the Appellant, Richard H. Ziobro, a Police Sergeant with the Medford Police Department (MPD) appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 24, after the state's Human Resources Division (HRD) denied his request for credit for certain prior employment on the Experience/Training & Education (E&E) component of the 2025 Medford Police Lieutenant Sole Assessment Center examination. I held a remote pre-

hearing conference on April 22, 2025. HRD's Pre-Hearing Memorandum was deemed a Motion for Summary Decision and the Appellant's May 13, 2025 submission as an Opposition and Cross Motion. After review of the parties' submissions, HRD's Motion for Summary Decision is denied and the Appellant's appeal is allowed.

## **UNDISPUTED FACTS**

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

1. The Appellant, Richard H. Ziobro, is a Police Sergeant with the MPD.
2. The Appellant began his employment with the MPD as a Patrol Officer on July 21, 2013.
3. The Appellant served continuously in his position of MPD Patrol Officer until his promotion to MPD Police Sergeant, effective January 20, 2023.
4. The Appellant duly registered and took the February 8, 2025 MPD Police Lieutenant promotional examination, which included an Education and Experience (E&E) component, accounting for 20% of the total exam score.
5. On February 25, 2025, HRD informed the Appellant that he had passed the MPD Police Lieutenant promotional examination with an Assessment Center final score of 70.82 (out of 80 possible points) and a final E&E score (after scaling) of 19.47 (out of a possible 20 points), for a total final score of 90.39, rounded to a final score of 90.
6. The Appellant's "raw" E&E score, prior to scaling, was 17.794, calculated as follows: (1) 17.80 raw points for Experience (54%); 11.01 raw points for Training (22%); 24.00 raw points for Education (24%)<sup>1</sup>.

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<sup>1</sup> The Appellant calculated that the adjustment for scaling of his E&E raw score was the product of applying a factor of 1.095 to each raw score ( $17.80 \times 0.54 \times 1.095 + 11.01 \times 0.22 \times 1.095 + 24 \times 0.24 \times 1.095 = 19.47$ )

7. The Appellant's E&E Experience raw score was adjusted downward when HRD reduced his claim to 10 years of experience as an MPD Patrol Officer (worth 9.88 raw E&E points) down to 9 years (worth 9.14 raw E&E points).

8. HRD's adjustment was made based on a calculation that the Appellant had served 9 years, 5 months and 30 days as a MPD patrol officer, which HRD rounded down to 9 years.

9. The Appellant claims that his service as a MPD patrol officer from July 21, 2013 to January 20, 2023 should be counted as 9 years, 6 months, which would then be rounded up to 10 years.

10. The Appellant's name presently appears ranked 4<sup>th</sup> on the MPD Police Lieutenant's eligible list.

11. The Appellant calculates that the 0.74 difference between crediting him for 9 years versus 10 years of service as a MPD Patrol Officer would increase his E&E Experience score from 17.80 to 18.54, which would increase his E&E final score to 19.92 and produce an overall final score of 90.74, rounded up to 91.<sup>2</sup>

12. The Appellant duly requested that HRD review his E&E score and, on March 18, 2025, HRD informed the Appellant that it would not change his score. HRD explained:

“Work experience Claimed (10 years) Recalculated to (9 years), 7/21/2013 - 1/20/2023 = 9 years 5 months and 30 days which rounds down to 9 years.”

*(emphasis added)*

## **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

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<sup>2</sup> HRD did not respond to my request for confirmation as to how, if at all, an adjustment of one point on the Appellant's rounded score would change his ranking on the current MPD Lieutenant eligible list.

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 Brd., 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 HRD, establish that this appeal must be allowed.

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.”

The Commission, generally, defers to HRD’s expertise and discretion to establish reasonable requirements, consistent with basic merit principles, for crafting, administering, and scoring examinations so long as HRD’s methodology for scoring training and experience credits was

neither arbitrary nor unreasonable. See, e.g., Battaglia v. HRD, CSC No.B2-24-171 (2025); Dunnigan v. HRD, 36 MCSR 439 (2023); Adjemian v. HRD, 36 MCSR 308 (2023); Shea v. HRD, 36 MCSR 397 (2023); Flannery v. HRD, 36 MCSR 285 (2023); Cooley v. HRD, 35 MCSR 81 (2022); Murphy v. HRD, 34 MCSR 242 (2021); Pierce v. HRD, 34 MCSR 79 (2021); Toothaker v. HRD, 33 MCSR 374 (2020) ; Paiva v. DOC, 33 MCSR 328 (2020), *aff'd in relevant part sub nom. Paiva v. Civil Service Comm'n*, CA 1982-CV-01309 (Norfolk Sup. Ct. 2023); Mailea v. HRD, 33 MCSR 289 (2020); Kenneally v. HRD, 31 MCSR 108 (2018). See also Helms v. HRD, B2-24-178 (5/15/2025), Bell v. HRD, B2-24-180 (2/20/2025); Donovan v. HRD, B2-24-117 (1/9/2025); 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 45 (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).

Although the Commission rarely exercises the authority to overrule HRD's decisions in matters of examinations, as arbitrary or unreasonable, rarely does not mean never. See, e.g., Cote v. HRD, CSC B2-25-0546 (5/29/2025); Rubeski v. HRD, 37 MCSR 298 (2024); Silva v. HRD, 35 MCSR 132 (2022); Callahan v. HRD, 34 MCSR 225 (2021); Naylor v. HRD, 31 MCSR 113 (2018), *after full hearing*, 32 MCSR 351 (2019); Clarke v. HRD, 30 MCSR 295 (2017), *supplemental decision*, 30 MCSR 410 (2017); K. Souza v. HRD, 29 MCSR 15 (2016); Wilbanks v. HRD, 29 MCSR 22 (2016), *aff'd*, CA 2016-0356 (Suffolk Sup. Ct. 2017, *on further review*,

30 MCSR 316 (2017); N. Souza v. HRD, 28 MCSR 624 (2015). This appeal presents one of the rare cases in which HRD's decision is unreasonable and arbitrary and the Commission's intervention is warranted. Although the required adjustment to the Appellant's score is not only likely to change his place on the current eligible list, but, unless corrected, the error will recur in all future examinations that the Appellant takes.

The undisputed facts establish that the Appellant served as a MPD Patrol Officer from July 21, 2013 through January 20, 2023. As the Appellant points out, this period covers 9 years and 183 days. Common sense suggests that such a period is more than 9 and a half years, other than in a leap year in which it would be exactly half a year.<sup>3</sup> Under HRD's basic method of rounding up, six months is rounded up to a full year.

**“Rounding:** Sections I, II, II, & V of the EVF are calculated in years. If a candidate's experience is 6 months or over, round up to the next full year. If experience is less than 6 months, round down to the previous lower year.”

HRD Candidate Preparation Guide, Experience and Education (E&E) Claim, p.6 (*emphasis added*).

HRD claims that the Appellant's service was nine years (July 21, 2013 through July 20, 2022), plus five months (July 21, 2022 through December 20, 2022), plus 30 days (December 21, 2022 through January 20, 2023). HRD claims that five months and thirty days is less than 9 years six months and, therefore, five years and 30 days rounds down to nine years.

The Appellant claims that HRD's methodology is unreasonable and arbitrary. He points to several anomalies that HRD's methodology creates. For example, under HRD's method, the period from January 1 through July 1 would be considered six months although the number of

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<sup>3</sup> I take administrative notice that neither 2013 nor 2023 were leap years and that only two of the ten years covering the Appellant's tenure as a Patrol Officer were leap years (2016 and 2020).

days in that period is 182 days, one day less than the period of the Appellant's service as a MPD Patrol Officer from July 21, 2022 to January 20, 2023. In other words, candidates whose appointments or promotions come in the beginning of a year (and include February) will accrue six months service under HRD's method in fewer days than a candidate who is appointed or promoted in the last six months of the year. One's place on an eligible list should not turn on such a fortuity, if there are other more equitable ways to calculate the E&E experience. For example, the Appellant suggests that using 183 days as the cut-off for rounding up would treat all candidates equally, whenever during the year their service or promotion began or ended.

Moreover, even HRD's Preparation Guide seems to undermine its conclusion that, because "days are not used" to calculate a half-year, Appellant's service was less than six months. In the example HRD's uses to illustrate that point, HRD uses 29 days, not 30 days, as the apparent cut-off for rounding down.

"Days are not considered when rounding to the nearest year. Therefore, if a candidate has 1 year, 5 months, and 29 days of experience in a rank that will round to 1 year of experience in that rank."

*Id. (emphasis added)*

Similarly, when calculating "acting time", HRD specifically prescribes that experience of 16 days or more is considered equal to and rounded up to a full month.

"Acting Time is calculated in months. If a candidate has 16 or more days of experience, round up [to] the next month. Therefore, if a candidate has 2 months and 16 days of experience of acting time, this would round to 3 months."

I do not overlook the fact that some, perhaps most "acting time" ordinarily will be less than a year, so that rounding to months rather than years in the case of permanent appointments makes sense. However, HRD has provided no basis on which I can reconcile a method that accepts 16 days as a full month for one purpose but requires more than 30 days to constitute a full month in the Appellant's case.

In sum, this appeal presents the rare occasion that the Commission finds that HRD's method of rounding cannot be justified as a matter of common sense and is inconsistent with HRD's own methodology. Basic merit principles require that civil service rights be applied rationally; one cannot arbitrarily disadvantage some persons over others similarly situated when there are other reasonable computational methods available.

## CONCLUSION

For the reasons stated above, HRD's Motion for Summary Decision is *denied* and the Appellant's Cross Motion is *allowed*. The Appeal under Docket Number B2-25-086 is *allowed*. HRD shall provide the Appellant with 10 years of E&E Experience credit for his service as a MPD Patrol Officer, adjust his E&E score and final score accordingly, and adjust his place on the eligible list consistent with this Decision.

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 June 26, 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:

Richard H. Ziobro (Appellant)  
Michael J. Owens, Esq. (for Respondent)