

CLIENT ALERT: Massachusetts Human Resources Division Issues 2009 Civil Service Eligibility Lists Without Bands

The Massachusetts Human Resources Division (“HRD”) has issued the 2009 police eligibility lists for sergeant, lieutenant, and captain promotions utilizing the traditional scoring method which had been used in previous years. HRD’s decision to issue the eligibility lists without bands comes as a result of an injunction issued by the Suffolk Superior Court prohibiting the agency’s use of banding on the 2009 lists. HRD has also announced that it will not be using banding for the scoring of the November 2008 fire promotional exams, even though they were not a subject of the Court’s injunction

Traditionally, HRD has scored civil service examinations with numbered scores between 1 and 100. Following the administration of the police promotional examinations for the ranks of sergeant, lieutenant and captain in October 2008, HRD announced its intention to score these exams in bands. In March 2009, police unions challenged this change in methodology to the Civil Service Commission. The Commission ruled for HRD and held that the exams could be scored in bands. (For more information on the Civil Service Commission’s ruling and its impact, see [MBJ’s March 27, 2009 Client Alert](#).) The police unions subsequently brought a lawsuit in Suffolk Superior Court, resulting in the Court’s issuance of the injunction against HRD. That injunction prohibits the HRD’s use of banding for the 2009 eligibility lists.

The Court’s injunction does not affect the agency’s decision to utilize the scoring method for future exams. Indeed, HRD has announced that it intends to move forward with rulemaking for score banding in the future. Presumably, this means that HRD may proceed through its own formal rulemaking procedures, which would strengthen the agency’s legal position should parties challenge its use of banding for future civil service examinations.

While the 2009 police and fire promotional eligibility lists will operate in the same manner as years past, municipalities should prepare for the



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possibility of banding's implementation in the near future. For more information on the effects of banding on municipalities, please visit our March 27, 2009 Client Alert.

Please check our website for updates, or contact your MBJ attorney for the most up-to-date information.

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