

501 CMR 16.00: HARBORMASTER TRAINING COUNCIL

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16.01: Purpose and Scope

- (1) 501 CMR 16.00 sets forth the requirements that all harbormasters be assigned to and satisfactorily complete both an initial prescribed course of study and annual in-service training, all of which shall be approved by the Harbormaster Training Council.
- (2) 501 CMR 16.00 applies to every harbormaster training program operated or approved by the Harbormaster Training Council.

16.02: Definitions

As used in 501 CMR 16.00, the following words and phrases shall have the following meanings:

Harbormaster. For training purposes, an individual appointed by the mayor of a city or the selectmen of a town where a harbor is situated, by the Colonel of the Massachusetts State Police, by the Police Commissioner of Boston, or by the Secretary of Energy and Environmental Affairs, with the power to issue permits for temporary mooring of floats and rafts, regulate the movement and anchorage of vessels within the harbor, order the removal of any vessel lying within the harbor or at a public wharf, and regulate and station all vessels in the channels of the harbor. Additional duties may also include, but are not limited to, patrolling the harbor, providing services and assistance to boaters, conducting investigations of boating crimes, and generally enforcing the law in the harbor. The appointment may be for a full harbormaster or assistant harbormaster and may be on a full-time or permanent part-time basis.

Harbormaster Training Council (Council). The council established within the Executive Office of Public Safety and Security pursuant to M.G.L. c. 6, § 116F to set policies and standards for training harbormasters and assistant harbormasters in accordance with all applicable laws and regulations, including M.G.L. c. 102, §§ 19, 20, and 21.

Harbormaster Training Program. An initial prescribed course of study for harbormasters approved by the Harbormaster Training Council.

In-service Training. The annual required course of training for harbormasters approved by the

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Seasonal Employee. An individual who has been hired by a harbormaster or other appointing authority for a specific temporary seasonal period of not more than 24 weeks.

16.03: Meetings

- (1) The Council shall meet at least four times per calendar year.
- (2) The Council is subject to Massachusetts open meeting laws: M.G.L. c. 30A, §§ 18 through 25 and 940 CMR 29.00: *Open Meetings*.

16.04: Notification of Harbormaster Hiring

An employing or appointing authority shall submit to the Council the name of any person expected to exercise harbormaster powers within 30 days of the appointment.

16.05: Initial Training for Harbormasters

(1) Unless granted an exemption by the Council pursuant to 501 CMR 16.06, every harbormaster shall, prior to exercising harbormaster powers, be assigned to and satisfactorily complete the harbormaster training program.

(a) Any harbormaster holding a full-time or permanent part-time position before March 23, 2009 shall be exempt from the initial training requirement.

(b) This training requirement shall not apply to seasonal employees.

(2) Upon completion of the harbormaster training program, any individual who does not become employed as a harbormaster within two years must re-attend the applicable harbormaster training program prior to exercising harbormaster powers. An individual who does not become employed within the two-year requirement may apply to the Council for a waiver of 501 CMR 16.05(2).

16.06: Exemption from Initial Training for Harbormasters

(1) Upon petition to the Council by the harbormaster's employing authority, a person appointed to serve as a harbormaster may be granted an exemption from the harbormaster training program in certain limited circumstances.

(a) To petition for such an exemption, the employing authority shall provide to the Council documentation of the harbormaster's successful completion of training that is substantially equivalent to or greater than that of a Massachusetts harbormaster at a comparable level of experience, including: a record of the entry-level training the harbormaster attended and the curriculum at the time of the harbormaster's attendance; all in-service, specialized and other training courses completed by the harbormaster; and documentation that the harbormaster has obtained a minimum of two years of harbormaster experience since completion of the entry-level harbormaster training program.

(b) Employing authorities petitioning for an exemption shall forward letters of request and applicable documentation to the Council, or its designee, for approval. Employing authorities will be notified, in writing, within 30 days following the Council's decision.

(c) No harbormaster shall exercise harbormaster powers unless and until an exemption is granted by the Council.

16.07: In-service Training

(1) All harbormasters must complete annual in-service training as prescribed by the Council. This training requirement shall not apply to seasonal employees.

16.08: Training Requirements Following an Interruption in Harbormaster Service

(1) The employing authority is responsible for notifying the Council if any harbormaster who has undergone an interruption in harbormaster service of one or more years during which the harbormaster has not exercised harbormaster powers substantially equivalent to those of a Massachusetts harbormaster at a comparable level of experience, or any harbormaster who has failed to complete in-service training, is seeking to exercise harbormaster powers.

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(2) Before such an individual may exercise harbormaster powers, the harbormaster must conform to the following standards:

(a) If the harbormaster has had an interruption in service of one to two years or has failed to complete required in-service training for one to two years, the harbormaster must:

1. Be compliant with M.G.L. c. 111, § 201 (first-aid and CPR); and
2. Complete the current annual in-service training approved by the Council within 90 days after the interruption in service ends; and
3. Complete all required updates for reserve-intermittent training pursuant to MPTC policies.

16.08: continued

- (b) If the harbormaster has had an interruption in service of two to five years or has failed to complete required in-service training for two to five years, the harbormaster must:
1. Be compliant with M.G.L. c. 111, § 201; and
  2. Successfully complete, within 90 days, all Council in-service exams and training programs not taken and passed during the period of interruption; and
  3. Complete all required updates for reserve-intermittent training pursuant to MPTC policies; and
  4. Complete any additional training required by the employing authority, including but not limited to field training programs.
- (c) If the harbormaster has had an interruption of five or more years or has failed to complete required in-service training for five or more years, the harbormaster must complete the entire initial harbormaster training program.

16.09: Harbormaster Training Program Sub-regulatory Policies and Procedures

- (1) The agency operating a harbormaster training program has the authority to establish such sub-regulatory policies, procedures, and rules as are deemed necessary by the operating agency for the effective and efficient operation of the training program, provided they do not contravene 501 CMR 16.00 or any other policies, procedures, and rules established by the Council. The Council must approve, in writing, any such sub-regulatory policies, procedures, and rules prior to the start of a harbormaster training program.
- (2) A harbormaster is subject to the policies, procedures, and rules of the employing or sponsoring authority, the Council, and the harbormaster training program in which the student harbormaster is enrolled. When determining the applicability of one set of policies, procedures, and rules versus another, the stricter standard shall always apply.
- (3) Each student shall be provided with a copy of 501 CMR 16.00, applicable Council sub-regulatory policies, procedures, and rules as well as training program-specific sub-regulatory policies, procedures, and rules. A statement of compliance, signed by both the student and the harbormaster of the employing or sponsoring authority, must be submitted as part of the enrollment process.

16.10: Harbormaster Training Program Enrollment

- (1) No candidate shall be accepted into a harbormaster training program without employment or sponsorship by the harbormaster or other appointing authority of any city or town or, if authorized by the Council, some other law enforcement department. An offer of employment may be conditional upon successful completion of the training. Each candidate's employer or sponsor shall sign and comply with the terms of the Council Agreement to Support a Harbormaster. Candidates who are sponsored shall sign and comply with the terms of the Council Waiver and Release form.
- (2) All issues of civil liability shall be determined in accordance with the Council Waiver and Release form and M.G.L. c. 258.
- (3) No one younger than 18 years old shall be eligible to attend any Council training.
- (4) No one convicted of any felony as defined by M.G.L. c. 274, § 1 or of a like offense in

another state or the United States or a military, territorial or Indian tribal authority shall be eligible to attend a harbormaster training program.

16.11: Harbormaster Training Program Separation

(1) If a student becomes separated from a training program after beginning but before completing the prescribed course of study, the training program director shall complete a Separation Notice and distribute it in accordance with the directions on the form. The categories of separation from a harbormaster training program are as follows:

## 16.11: continued

(a) A student harbormaster may initiate a voluntary separation if, without coercion and for personal reasons, the student harbormaster chooses to withdraw from the harbormaster training program. The student harbormaster shall make the request to withdraw in writing to the training program director, who shall notify the employing or sponsoring authority. Student harbormasters separated under 501 CMR 16.11(1)(a) shall be eligible for enrollment in a subsequent harbormaster training program, subject to appropriate employment or sponsorship and compliance with applicable enrollment requirements.

(b) A student harbormaster's employing or sponsoring department may initiate the withdrawal of the student harbormaster from the harbormaster training program. Student harbormasters separated under 501 CMR 16.11(1)(b) shall be eligible for enrollment in a subsequent harbormaster training program, subject to appropriate employment or sponsorship and compliance with applicable enrollment requirements.

(c) A student may be dismissed from a harbormaster training program for non-disciplinary reasons, including, but not limited to, excessive absences, nonpayment of required fees, or performance deficiency. Dismissal for non-disciplinary reasons may only be initiated by the training program director. Students separated under 501 CMR 16.11(1)(c) shall be eligible for enrollment in a subsequent harbormaster training program, subject to appropriate employment or sponsorship and compliance with applicable enrollment requirements.

(d) A student may be dismissed from a harbormaster training program for disciplinary reasons. Dismissal for disciplinary reasons may only be initiated by the training program director. Student harbormasters separated under 501 CMR 16.11(1)(d) shall not be eligible for enrollment in any subsequent harbormaster training program for a minimum of two years.

(e) If a student harbormaster sustains an injury during participation in a harbormaster training program, the student harbormaster may be granted a Medical Deferment. A deferment may be granted only if the student harbormaster is under the care of a medical physician who determines the student harbormaster is unable to return to the harbormaster training program or unable to participate in the physical requirements of the curricula for an extended period of time, causing the student harbormaster to exceed the allowable maximum number of allowed absences.

1. If granted, a Medical Deferment begins the date the Separation Notice issued and expires one year from that date.

2. Within that year, the student harbormaster must re-enter the next available harbormaster training program.

3. Prior to being accepted for readmission, the student harbormaster must furnish a statement from a physician stating the student harbormaster's injury has healed completely and stating that the student harbormaster is physically able to fully participate in training without restrictions.

4. If the student harbormaster has not re-entered a harbormaster training program prior to the expiration of the Medical Deferment, all application, admission, and tuition requirements shall apply and must be met if the student harbormaster reapplies to attend a harbormaster training program.

(2) Any criminal charge brought against a student harbormaster pursuant to federal or state law, municipal ordinance, or town bylaw must be reported to the training program director as soon as possible. The Council will determine the sanctions to be imposed on the student harbormaster, which may be up to and including dismissal from the program.

(3) The Council shall establish sub-regulatory policies and procedures for appeals of a dismissal from a harbormaster training program.

16.12: Severability

If any provision of 501 CMR 16.00, or the application thereof, is held to be invalid, such invalidity shall not affect the other provisions or the application of any other part of 501 CMR 16.00 not specifically held invalid and, to this end, the provisions of 501 CMR 16.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

501 CMR 16.00: M.G.L. c. 6, § 116F.