

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Stephen Kavol,
Petitioner

Docket No. CR-26-0272

v.

State Board of Retirement,
Respondent

ORDER OF DISMISSAL

Petitioner Stephen Kavol appeals the decision by the State Board of Retirement (SBR) to deny his request to purchase military service as creditable service for retirement purposes. The SBR stated that Mr. Kavol's DD-214 indicates that his military service from April 17, 2006, to May 13, 2006, was for active duty for training purposes and that such service is not eligible for purchase as creditable service. G.L. c. 32, § 4(1)(h). On June 26, 2026, I ordered Mr. Kavol to show cause why I should not dismiss his appeal for failure to state a claim. Mr. Kavol responded promptly, asserting that his status as a disabled veteran entitles him to a different analysis than other veterans and that his eligibility for other types of veterans' benefits should have an impact on his retirement benefit. He provided his DD-214, which contains a complete summary of a veteran's military service, and other documents relating to his service that ended with an honorable discharge.

As noted in the Order to Show Cause, the opportunity to purchase retirement credit under Section 4(1)(h) is available to "veterans" as the state retirement law defines that word. G.L. c. 32, § 1. *See Flemings v. Contributory Ret. App. Bd.*, 431 Mass. 374, 375 (2000) (Chapter 32 "clearly sets out the two requirements for eligibility for the creditable retirement service: veteran

status and ten years' membership in the retirement system.”). As Mr. Kavol observes, different parts of Massachusetts law define “veteran” differently and state law differs from federal law,¹ and people might qualify as a “veteran” for one purpose but not for another. However, because this case involves the retirement law, the Division of Administrative Law Appeals must follow the provisions of Chapter 32 and cannot negotiate “some kind of middle ground agreement” as Mr. Kavol asks. *See Garcia v. State Bd. of Ret.*, CR-21-0085 (Contributory Ret. App. Bd. June 15, 2026) (“[W]e must apply the statute as written and do not have the power to grant equitable relief.”).

Turning to Chapter 32, Section 1 defines a “veteran” as any person who:

(a) is a veteran as defined in **clause Forty-third of section seven of chapter four**; or (b) meets all the requirements of said **clause Forty-third** except that instead of performing wartime service as so defined he has been awarded one of the campaign badges enumerated in the definition of “Veteran” in section one of chapter thirty-one; or (c) meets all the requirements of **said clause Forty-third** except that instead of performing ninety days' active service, including ten days' wartime service, he has performed active service in the armed forces of the United States at any time between April sixth, nineteen hundred and seventeen and November eleventh, nineteen hundred and eighteen, inclusive.

G.L. c. 32, § 1 (emphasis added). Thus, to fall within the definition of “veteran” for the retirement law, a person must meet the definition of “veteran” in Chapter 4, Section 7, Clause 43 of the General Laws. That definition includes three parts; it starts by describing:

(1) any person, (a) whose last discharge or release from his **wartime service** as defined herein, was under honorable conditions and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States, or on full time national guard duty . . . for not less than 90 days active service, **at least 1 day of which was for wartime service**; provided, however, than any person who so served in wartime and was awarded a service-connected disability or a Purple

¹ For example, Chapter 115, which governs some veterans' issues, defines “veteran” to include those who “served on active duty, to include active duty solely for training purposes[.]” G.L. c. 115, § 1. Under federal law, the word “veteran means a person who served in the active military” including those who served “any period of active duty for training[.]” 38 U.S.C. § 101.

Heart, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete 90 days of active service

G.L. c. 4, § 7(43). “Wartime service” includes that performed by a:

Spanish War veteran”, a “World War I veteran”, a “World War II veteran”, a “Korean veteran”, a “Vietnam veteran”, a “Lebanese peace keeping force veteran”, a “Grenada rescue mission veteran”, a “Panamanian intervention force veteran”, a “Persian Gulf veteran”, or a member of the “WAAC” as defined in this clause during any of the periods of time described herein or for which such medals described below are awarded.

G.L. c. 4, § 7, cl. 43. Mr. Kavol’s appeal states that he served “during drill weekends and during my 2 mandatory weeks a year at my base[.]” Neither he nor his DD-214 refer to “wartime service.” Thus, the first part of the definition of “veteran” does not apply to Mr. Kavol because he did not provide “wartime service.”

The second part of the definition of “veteran” does not apply to Mr. Kavol because he did not serve between 1941 and 1946; this part refers to:

(2) a member of the American Merchant Marine who served in armed conflict between December 7, 1941 and December 31, 1946, and who has received honorable discharges from the United States Coast Guard, Army, or Navy[.]

Id.

Finally, the third part of the definition of “veteran” in Clause 43 provides that:

(3) any person (a) whose last discharge from **active service** was under honorable conditions, and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States for not less than 180 days **active service**; provided, however, that any person who so served and was awarded a service-connected disability . . . shall be deemed to be a veteran notwithstanding his failure to complete 180 days of active service.

Id. (emphasis added). When the Legislature defined “active service in the armed forces” it specifically excluded “active duty for training in the army national guard or air national guard or

active duty for training as a reservist in the armed forces of the United States.” *Id.* Mr. Kavol’s DD-214 indicates that for April 17, 2006, to May 31, 2006, he received an honorable discharge from the Air Force National Guard due to his “completion of initial active duty for training.” He is therefore excluded from the statutory definition of veteran for purposes of the retirement law.²

Based on the above analysis, I hereby dismiss Mr. Kavol’s appeal for failure to state a claim. 801 CMR 1.01(g)(1).

Dated: July XX, 2026

/s/ Judi Goldberg
Judi Goldberg
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² See *Flemings v. Contributory Ret. App. Bd.*, 431 Mass. 374, 377-78 (2000) (Legislature intended to limit application of Chapter 32 to veterans within the definition of G.L. c. 32, § 1 and G.L. c. 4, § 7(43)); *Nietupski v. State Bd. of Ret.*, No. CR-97-1690 (Contributory Ret. App. Bd. May 2, 2000) (active duty for training outside of Chapter 32 definition of veteran); *Barrows v. State Bd. of Ret.*, CR-25-0618 (June 5, 2026) (“[H]is service in the National Guard was limited to his two ADT periods and his national guard commitment; he was not otherwise in the armed forces and has no wartime service. Thus, he does not qualify as a ‘veteran.’”); *Emanuelson v. Mass. Tchrs.’ Ret. Sys.*, CR-24-0681, 2025 WL 752010 (Div. Admin. Law Apps. Feb. 28, 2025) (same); *Stanton v. Quincy Ret. Bd.*, CR-18-0121, 2019 WL 9054851 (Div. Admin. Law Apps. June 28, 2019) (affirming denial of service purchase because “his service during that time was not active duty service and was, instead, active duty for training as a reservist in the United States Naval Reserve”).