

MASSACHUSETTS VETERANS' TENURE ACT GUIDELINES



Massachusetts General Laws, Chapter 30, Section 9A: Veterans Holding Unclassified Positions; Separation from State Service

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THE MASSACHUSETTS VETERANS' TENURE ACT GUIDELINES

INTRODUCTION

The Massachusetts Veterans' Tenure Act (the "Act") applies to governmental agencies. In general the Law provides that veterans who hold state non-civil service positions for more than three (3) years may not be involuntarily separated from such positions without a hearing before the appointing authority or a disinterested third party. Furthermore, a veteran may not be laid off for lack of work or funds when similar offices or positions in the same group or grade exist, unless such offices or positions are held by veterans, in which case separation shall occur in inverse order of their seniority.

The information contained in these Guidelines is intended as a general guide. It does not provide complete details on all aspects of the Act. For detailed information on all aspects of the Act, readers are encouraged to review the provisions of M.G.L.c.30, § 9A.

LANGUAGE OF M.G.L.c. 30, § 9A

A veteran, as defined in section one of chapter thirty-one, who holds an office or position in the service of the commonwealth not classified under said chapter thirty-one, other than an elective office, an appointive office for a fixed term or an office or position under section seven of this chapter, and has held such office or position for not less than three years, shall not be involuntarily separated from such office or position except subject to and in accordance with the provisions of sections forty-one to forty-five, inclusive, of said chapter thirty-one to the same extent as if said office or position were classified under said chapter. If the separation in the case of such unclassified offices or positions results from lack of work or lack of money, such a veteran shall not be separated from his office or position while similar offices or positions in the same group or grade, as defined in section forty-five of this chapter, exist unless all such offices or positions are held by such veterans, in which case such separation shall occur in the inverse order of their respective original appointments.

WHO IS PROTECTED UNDER THE ACT:

The Act applies to “**Veterans**.” For a definition of “Veteran,” please see the definition section of the Guidelines.

VETERANS COVERED BY THE ACT:

The Act applies to veterans who hold specific ***non-classified positions*** or offices. See M.G.L.c. 31, § 48. Please see the list attached to the Guidelines as Exhibit A for a list of positions/offices protected under the Act.

DURATION OF SERVICE REQUIREMENT:

In order to be protected under the Act, the Veteran must be in such position for not less than ***three (3) years***. Thus the Act does not apply to Veterans in protected positions/offices who have been in such positions/offices for less than three (3) years.

PROTECTION UNDER THE ACT:

Veterans who hold protected positions/offices listed in Exhibit A for no less than three years ***cannot be involuntarily separated from such positions/offices without a hearing*** before the appointing authority or a disinterested party. The appointing authority must have just cause for the separation.

PROCEDURES REQUIRED IN CASE OF SEPARATION FOR LACK OF WORK OR MONEY:

If the separation results from lack of work or lack of money:

- Such veterans cannot be separated from his/her office or position while similar offices or positions in the same group or grade exist, unless all such offices or positions are held by other protected veterans in which case such separation must be made in inverse order of seniority.

In case of separation because of lack of work, money, or abolition of position:

- Appointing authority must provide the veteran a notice of hearing at least 7 calendar days prior to the hearing, and include in the notice a copy of Sections 39 - 40 of M.G.L.c. 31.

PROCEDURES REQUIRED IN CASE OF AN INVOLUNTARY SEPARATION:

In case of an involuntary separation, the employer needs to follow all of the following procedures:

- Give the veteran a written notice:
 - include the action contemplated, and
 - the specific reasons for such action.
- Give the veteran a copy of sections 41 - 45 of M.G.L.c. 31, and

- Hold a full hearing concerning reasons for involuntary dismissal:
 - hearing must be before the appointing authority or a disinterested party if the veteran or appointing authority so requests.

Procedures concerning the hearing are set forth in sections 41 – 45 of M.G.L.c. 31.

Appointing authorities are required to follow the procedures set forth in those sections when conducting a hearing.

DEFINITIONS:

A veteran, as defined in section one of chapter thirty-one:

Any person: (a) whose last discharge or release from his wartime service¹ 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 under Titles 10 or 32 of the United States Code or under sections 38, 40 and 41 of chapter 33 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 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; (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; (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 or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran notwithstanding his failure to complete 180 days of active service.

or,

- comes within the above definition except that instead of having performed “wartime service,” he has been awarded the Congressional Medal of Honor or one of the following campaign badges: Second Nicaraguan Campaign, Yangtze Service, Navy Occupation Service, Army of Occupation or Medal for Humane Action; or,
- is a person eligible to receive the Congressional Medal of Honor or one of the campaign badges enumerated above and who presents proof of such eligibility which is satisfactory to the administrator.
- A veteran shall not include 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.

¹ Wartime service" shall mean service 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" (any woman who was discharged and so served in any corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States) during any of the periods of time described in Chapter 4, Section 7, Clause 43 or for which medals described in said clause are awarded.

EXHIBIT A

LIST OF NON-CIVIL SERVICE POSITIONS PURSUANT TO G.L.c. 31, § 48

Chaplain	
Counsel	
License Practical Nurse	
Physician	
Physician Specialist	
Registered Nurse	
Teacher	DOC only