



Mead, Talemman & Costa, LLC  
Attorneys at Law

# **Civil Service and Article 49 Contents**

- 
- What is Civil Service?
  - When did Stoughton enter Civil Service?
  - How can Stoughton leave Civil Service?

# Civil Service Law

## Purpose

- 
- Merit system for hiring and promoting: Appointing authorities select applicants qualified by taking a competitive examination or completing a registration process.
  - Original purpose was to correct “political considerations, favoritism, and bias in governmental employment decisions, including, of course, promotions, and to protect efficient public employees from political control.” *City of Cambridge v. Civil Service Com’n*, 43 Mass. App. Ct. 300, 304 (1997).

# Civil Service Law

## Layout

### Rules

- Civil Service Law, General Laws Chapter 31
- Personnel Administration Rules  
Players
- Prospective workers: applicants to become civil service (public) employees.
- Employees subject to Law: permanent, temporary, provisional, tenured
  - Labor service: the composite of all civil service positions whose duties are such that a suitable selection for such positions may be made based upon registration pursuant to G.L. c. 31, § 28 rather than by competitive examination.
  - Official service: the composite of all civil service positions not in the labor service, suitability based on competitive examination.
- Public employers: accept Civil Service Law and hire from Eligible List, the pool of qualified applicants.
- Civil Service Unit within the Human Resources Division:  
administers civil service system.
- Civil Service Commission: hears bypass, disciplinary and reclassification appeals for public service employees.



# Civil Service Law

## Eligible List

- A list established by the administrator, pursuant to the civil service law and rules, of persons who have passed an examination; or a re-employment list established pursuant to G.L. c. 31, § 40; or a list of intermittent or reserve fire or police officers as authorized under the provisions of § 60; or any other list established pursuant to the civil service rules from which certifications are made to appointing authorities to fill positions in the official service.
- Order
  - Chapter 534 Applicant (post-hearing Commission decision)
  - Resident 402A Applicant (child of police officer or fire fighter if parent killed in line of duty)
  - Non-Resident 402A Applicant
  - Resident Disabled Veteran Applicant
  - Resident 402B Applicant (child of police officer or fire fighter if parent permanently and totally disabled in line of duty)
  - Non-Resident 402B Applicant
  - Resident Veteran Applicant
  - Resident Civilian Applicant
  - Non-Resident Disabled Veteran Applicant
  - Non-Resident Veteran Applicant
  - Non-Resident Civilian Applicant

# Civil Service Law In Stoughton

1906 Police Department Entered

1912 Chief of Police Entered

1935 & 1936 Fire Department Entered

1950 Call Firemen Exited

1960 DPW Entered

1978 G.L. c. 31, § 52 automatically enters certain town  
positions

1978 Police Chief Exited

1997 Fire Chief Exited

# Civil Service Law

## Exiting: Benefits

---

- Drawbacks to the Law: too rigid; favors test takers and other criteria not linked to performance over actual performance evaluations; Civil Service Unit and Commission no longer certify appointments or promotions.
- Law is Unnecessary: modern comprehensive policies and collective bargaining achieve the Law's primary purpose of original correct political considerations, favoritism, and bias in employment decisions.
- Immediate Benefits to Town
  - More flexibility in hiring and promotional process
  - Town-collective process to set higher eligibility minimums than Law (ex. Education level) and more favorable and performance-related qualifications (residency, military experience, Paramedic/EMT certifications, language proficiency, prior academy training) into hiring decisions and experience (work product, contribution to the community and performance evaluations) into promotion decisions
  - Larger applicant pool
  - Diversification
- Uniformity among communities as list of towns shrinks.
- Current employees retain their civil service status and right to appeal discipline to the Civil Service Commission.

# Civil Service Law

## Exiting: Procedure

- 
- Leave the Law how the Town entered the Law.
  - G.L. c. 31, § 52: The civil service law and rules shall also be applicable to any of the following in a town which accepts such applicability pursuant to the provisions of sections fifty-four and fifty-five:
    - (a) The chief of police, or the officer performing similar duties, whatever the title of his office, in any town.
    - (b) The chief of the fire department, or the officer performing similar duties, whatever the title of his office in any town.
    - (c) The police force, the fire force and the call fire force in any town.
  - Police Department (excluding Chief), Fire Department (excluding Chief and Call Firefighters) remain in civil service.



# Civil Service Law

## Exiting: Procedure

- G.L. c. 4, § 4B allows towns to revoke local option laws in the same manner as the towns accepted them. The Town's acceptances here pass the timing requirements, and no exceptions apply.
- Stoughton accepted the Law for the Police Department by voting on Article 7 of the June 4, 1906, Town Meeting, and for the Fire Department by voting on Article 2 of the March 26, 1935, Town Meeting.
- So, **Article 49** of this Town Meeting, May 6, 2024, asks to the Town to vote to rescind those acceptances of G.L. c. 31, § 52. This section of the vote alone is sufficient for the Police and Fire Departments to exit Civil Service Requirements.
- Article 49 also proposes special legislation, which is a confirmatory, due diligence measure to ensure a proper exit, because the Town changed its form of government from Open Town Meeting to Representative Town Meeting since accepting Civil Service.