

### **35.025 Dismissal of commissioned officers.**

- (1) The Governor may dismiss any officer by a written order, but no such written order shall be made until sixty (60) days after the Governor has served on the officer a detailed statement of the reasons for dismissal. No dismissal shall be made except for misconduct as defined in the punitive articles of this code. Any officer, dismissed by order of the Governor may within thirty (30) days of notice thereof, make a written application for trial by court-martial, setting forth under oath that he has been wrongfully dismissed. The Governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened shall have jurisdiction to try the dismissed officer on such charges. The court-martial may acquit the officer, adjudge the affirmance of the dismissal or, where appropriate, substitute a discharge for dismissal.
- (2) If the Governor fails to convene a general court-martial within sixty (60) days from the presentation of an application for trial under this code, the order of dismissal under subsection (1) is automatically rescinded.
- (3) If a discharge is substituted for a dismissal under this code, the Governor alone may reappoint the officer to the grade and rank as that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and such reappointment shall be considered as actual service for all purposes.
- (4) If an officer is discharged by administrative action or by board proceedings under law or is dropped from the rolls by order of the Governor, he has no right to trial under this section.

**History:** Amended 1970 Ky. Acts ch. 56, sec. 4. -- Created 1954 Ky. Acts ch. 99, sec. 4, effective July 1, 1954.