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April 27, 2007

OPINION NO. 2007-007

Timothy A. Espich, Director
Governor's Office of Veterans Affairs
77 South High Street, 7th Floor
Columbus, Ohio 43215

Dear Director Espich:

You have requested an opinion concerning the eligibility for financial assistance under R.C. 5901.08 of a veteran whose active duty service was solely for training purposes. You have indicated that it has been the practice of your office to find such veterans ineligible for such financial assistance.

Let us begin by examining the provisions of R.C. 5901.08, which states:

> Each applicant for financial assistance under sections 5901.02 to 5901.15 of the Revised Code shall be a *veteran*, an active-duty member of the armed forces of the United States, or the spouse, surviving spouse, dependent parent, minor child, or ward of a veteran or active-duty member of the armed forces of the United States, who has been a bona fide resident of the county in which application is being made for at least three months. (Emphasis added.)

In order to apply for financial assistance under R.C. 5901.02-.15, an individual must have been a resident of the county for at least three months prior to making application, and must also fall within one of the three following categories: 1) a veteran, 2) an active-duty member of the Armed Forces of the United States, or 3) the spouse, surviving spouse, dependent parent, minor child, or ward of a veteran or active-duty member of the Armed Forces of the United States.

For purposes of R.C. Chapter 5901, the General Assembly has provided alternate definitions of the word "veteran."[1] Concerning the use of the word "veteran" in R.C. 5901.08, however, R.C. 5901.01(B) states, in pertinent part:

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[1] R.C. 5901.01(A) defines "veteran," for purposes of R.C. 5901.01-.37, in part, as follows:

> *As used in section 5901.08* and other sections of the Revised Code with regard to applications for financial assistance under sections 5901.02 to 5901.15 of the Revised Code, "veteran" means either of the following:
>
> (1) A person who served in the armed forces of the United States on active military duty and was *discharged* from the service *under honorable conditions, and* who either *served on active duty for reasons other than training* or, while serving on active duty for training, incurred a disability recognized by the department of veterans affairs or department of defense as service-connected. . . . (Emphasis added.)

Thus, a person who served on active duty in the Armed Forces of the United States and received an honorable discharge from service is a veteran, as defined in R.C. 5901.01(B)(1), only if that person either 1) served on active duty for reasons other than training, or 2) "while serving on active duty for training, incurred a disability recognized by the department of veterans affairs or department of defense as service-connected." Unlike the definition of "veteran" set forth in R.C. 5901.01(A), which does not require that an individual's active service have been for purposes other than training, R.C. 5901.01(B)(1) expressly requires that an individual's active duty have been for purposes other than training. *See* 2006 Op. Att'y Gen. No. 2006-032 (finding that the definition of "veteran" found in R.C. 5901.01(B) applies only to the use of that word in R.C. 5901.08 and other sections of the Revised Code with regard to applications for financial assistance under sections 5901.02-.15).

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> (A) *Except as otherwise provided in division (B)* of this section, "veteran" means either of the following:
>
> (1) A former member of the armed forces of the United States who served on active military duty and received an honorable discharge or honorable separation, a member of the armed forces of the United States who died on active military duty, or a member of the armed forces of the United States missing in action more than ninety days;
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> (2) A member of the United States merchant marine to whom either of the following applies:
>
> (a) The member has an honorable report of separation from the active duty military service, form DD214 or DD215.
>
> (b) The member served in the United States merchant marine between December 7, 1941, and December 31, 1946, and died on active duty while serving in a war zone during that period of service. (Emphasis added.)

*See generally* 2006 Op. Att'y Gen. No. 2006-032 (applying the definition of "veteran" found in R.C. 5901.01(A) to the word "veteran," as used in R.C. 5901.02, concerning eligibility for appointment as a member of a veterans service commission).

Because the definition of "veteran" prescribed by R.C. 5901.01(B)(1) applies to the use of that term in R.C. 5901.08, a person who served on active duty in the Armed Forces of the United States and received an honorable discharge from service and who did not incur, while on active duty for training purposes, a disability recognized by the Department of Veterans Affairs or the Department of Defense as a "service-connected" disability is not a "veteran" for purposes of R.C. 5901.08, unless the person served on active duty for reasons other than training.

Based upon the foregoing, it is my opinion, and you are hereby advised that, a person who served on active duty in the Armed Forces of the United States and received an honorable discharge from service and who did not incur, while on active duty for training purposes, a disability recognized by the Department of Veterans Affairs or the Department of Defense as a "service-connected" disability is not a "veteran" for purposes of R.C. 5901.08, unless the person served on active duty for reasons other than training.

Respectfully,

MARC DANN
Attorney General

April 27, 2007

Timothy A. Espich, Director
Governor's Office of Veterans Affairs
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SYLLABUS: 2007-007

A person who served on active duty in the Armed Forces of the United States and received an honorable discharge from service and who did not incur, while on active duty for training purposes, a disability recognized by the Department of Veterans Affairs or the Department of Defense as a "service-connected" disability is not a "veteran" for purposes of R.C. 5901.08, unless the person served on active duty for reasons other than training.