

Note from the Attorney General's Office:

1990 Op. Att'y Gen. No. 90-049 was limited in part by 2006 Op. Att'y Gen. No. 2006-032.

OPINION NO. 90-049**Syllabus:**

1. Pursuant to R.C. 5901.01, the word "veteran," as used in R.C. Chapter 5901, means "an honorably discharged member of the armed forces of the United States who served on active duty for reasons other than training."
2. Benefits that are available under R.C. Chapter 5901 to an eligible veteran or to an eligible relative or dependent of a veteran are not conditioned upon whether the veteran served during time of peace or time of war, unless a statute specifically so provides.
3. The provision of financial assistance by a veterans service commission pursuant to R.C. 5901.08, 5901.14, or 5901.15 is available to an eligible veteran, or to an eligible relative or dependent of a veteran, regardless of whether the veteran served during time of peace or time of war.

To: Stephen M. Stern, Jefferson County Prosecuting Attorney, Steubenville, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, July 13, 1990

I have before me your request for an opinion relating to the provision of assistance by a veterans service commission.¹ You have asked whether, "under Chapter 5901 and Section 5901.08, an applicant who otherwise meets the eligibility requirements, must have served in an actual declared war rather than merely active duty during peace time."

R.C. Chapter 5901 governs the veterans service commissions that exist in each county. *See* R.C. 5901.02. Members of a veterans service commission are appointed by a judge of the court of common pleas in accordance with R.C. 5901.02. A veterans service commission is authorized to provide various types of assistance to veterans and their families. *See, e.g.,* R.C. 5901.07 (advice and assistance in presenting claims or obtaining rights or benefits under any law of the United States or of this state); R.C. 5901.14(A) (award of allowance); R.C. 5901.14(B) (provision of transportation services); R.C. 5901.15 (grant of immediate financial assistance in

¹ Prior to the enactment of Am. Sub. H.B. 626, 117th Gen. A. (1988) (eff. Sept. 14, 1988), a veterans service commission was known as a "soldiers' relief commission."

case of sickness, accident, or great destitution); *State ex rel. Semetko v. Board of Commissioners*, 30 Ohio App. 2d 130, 130, 283 N.E.2d 648, 649 (Lucas County 1971) ("R.C. Chapter 5901 provides a comprehensive plan for the payment of welfare benefits to indigent veterans of the armed forces of the United States"); 1989 Op. Att'y Gen. No. 89-056. A veterans service commission is also authorized to provide burial plots and assistance. See R.C. 5901.16-.37.

A veterans service commission may appoint veterans service committees to serve townships and city wards. Members of such a committee must be veterans unless there are no veterans who are residents of the township or ward. R.C. 5901.05. The commission is required to employ one or more county veterans service officers, who must be veterans. R.C. 5901.07. The commission is authorized to employ investigators and clerks, who must be veterans or spouses, children, or parents of veterans. R.C. 5901.06. The commission is required to employ necessary personnel to assist the service officer, and such personnel must, "whenever possible," be veterans or spouses, children, or parents of veterans. R.C. 5901.07.

Your question is whether an individual who applies for financial assistance from a veterans service commission under R.C. 5901.08, and who otherwise meets the eligibility requirements, must have served in a declared war. R.C. 5901.08 states:

Each applicant for financial assistance under sections 5901.02 to 5901.15 of the Revised Code shall be a needy veteran or the needy spouse, surviving spouse, parent, minor child, or ward of a veteran, who has been a bona fide resident of the state for at least one year and of the county for at least six months.

R.C. 5901.01(A) contains the following definition, applicable to R.C. 5901.01-.37: "'Veteran' means an honorably discharged member of the armed forces of the United States who served on active duty for reasons other than training."²

² Prior to the enactment of Am. Sub. H.B. 626, 117th Gen. A. (1988) (eff. Sept. 14, 1988), R.C. 5901.01 defined the term "soldier," for purposes of R.C. 5901.16-.37 (burial and cemetery provisions), to mean "an honorably discharged soldier, sailor, or marine, who served in the army or navy of the United States." See generally 1971 Op. Att'y Gen. No. 71-056; 1966 Op. Att'y Gen. No. 66-051. With respect to the provision of financial assistance, R.C. 5901.08, as in effect prior to the enactment of Am. Sub. H.B. 626, provided for the preparation of a list "of all needy soldiers, sailors, marines, and airmen and of their needy parents, spouses, surviving spouses, and minor children....The list shall include soldiers, sailors, marines, and airmen of the Spanish American war, World War I, World War II, or the Korean war and their spouses, surviving spouses, needy parents, minor children, and wards...." This language, and similar provisions that preceded this version, were construed as not being limited to veterans of the wars that were named in the statute, but as encompassing all servicemen, regardless of the time during which they served. See Op. No. 66-051; 1962 Op. Att'y Gen. No. 2745, p. 6. 1951 Op. Att'y Gen. No. 693, p. 421 at 432, states expressly:

I am...of the opinion that *the words, "soldiers, sailors and marines" used in the law from the very beginning, are to be given a liberal construction and should be interpreted as including persons in every branch of the military service of the United States.* I think we may safely ascribe to the legislature the intention in its continued use of those words through successive amendments, to make them all-embracing and including without discrimination persons in every branch of the military service of the United States, and *regardless of whether they have or have not been engaged in any war or other military conflict.* (Emphasis added.)

Accord 1944 Op. Att'y Gen. No. 6951, p. 306; 1931 Op. Att'y Gen. No. 2976, vol. I, p. 278 at 279 ("[i]t would be doing violence to the definition of

The word "veteran," as used in R.C. 5901.08, thus applies to any honorably discharged member of the armed forces who served on active duty for reasons other than training. A person need not have served in a declared war in order to be a "veteran" for purposes of R.C. Chapter 5901.

It follows that a person who is otherwise eligible for financial assistance under R.C. 5901.02-.15 is not rendered ineligible by the fact that the service on which the status of veteran is based was performed during time of peace, rather than during time of war. In particular, the provision of financial assistance under R.C. 5901.08, 5901.14, or 5901.15 is available to an eligible veteran, or to an eligible relative or dependent of a veteran, regardless of whether the veteran served in a declared war.

There are a few instances in R.C. Chapter 5901 in which a distinction is made on the basis of wartime service. R.C. 5901.02 sets forth qualifications that the five members of each veterans service commission must meet, and certain of these qualifications require service during wartime.³ R.C. 5901.16-.37, which are not referenced in R.C. 5901.08, govern the burial of veterans and the provision of cemetery plots. Most of those provisions do not distinguish between persons who served during time of peace and those who served during time of war. R.C. 5901.22 does, however, state:

The board of county commissioners, the board of township trustees, and the legislative authority of a municipal corporation may enter into contracts with cemetery associations providing for the purchase and maintenance, in cemeteries within the county, of plots of ground for the burial of veterans and nurses who have been in the service of the United States *in time of war*. (Emphasis added.)

Apart from instances in which a statute specifies that wartime service is required, the benefits provided under R.C. Chapter 5901 are available to every eligible veteran, and to every eligible relative or dependent of a veteran, regardless of whether that veteran served during time of peace or time of war.

It is, therefore, my opinion, and you are advised, as follows:

1. Pursuant to R.C. 5901.01, the word "veteran," as used in R.C. Chapter 5901, means "an honorably discharged member of the armed forces of the United States who served on active duty for reasons other than training."
2. Benefits that are available under R.C. Chapter 5901 to an eligible veteran or to an eligible relative or dependent of a veteran are not conditioned upon whether the veteran served during time of peace or time of war, unless a statute specifically so provides.

the term 'soldier' to say that a person in the regular army is not a soldier simply because the country is not in a legal state of war").

³ R.C. 5901.02 states, in part:

Each person on the [veterans service] commission shall be an honorably discharged or honorably separated veteran. One member shall be a veteran of World War I and a member of the Veterans of World War I of the U.S.A., or a member of the Military Order of the Purple Heart of the U.S.A., or a veteran of the Vietnam conflict and a member of the Vietnam Veterans of America. One person shall be a member of the American Legion; one person shall be a member of the Veterans of Foreign Wars; one person shall be a member of the Disabled American Veterans; and one person shall be a member of the AMVETS.

3. The provision of financial assistance by a veterans service commission pursuant to R.C. 5901.08, 5901.14, or 5901.15 is available to an eligible veteran, or to an eligible relative or dependent of a veteran, regardless of whether the veteran served during time of peace or time of war.