

STATE OF TENNESSEE

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Opinion No. 02-083

Veteran's Service Officer under Tenn. Code Ann. § 58-3-111(c)

QUESTIONS

Under Tenn. Code Ann. § 58-3-111(c), the executive director or service officer for a county must be an “honorably discharged veteran of some war in which the United States has participated.”

1. What are the wars that qualify?
2. Does “veteran of some war” mean only those who were literally in a theater of war, or would the statute include anyone in active service during those time periods?

OPINIONS

1. The term “war in which the United States has participated” includes the Spanish American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the Persian Gulf War, all as those terms are defined in 38 U.S.C. § 101, which defines the terms governing federal veterans’ benefits.

2. The term “veteran of some war” refers to any individual who served on active duty in the military, naval or air service during a period of war as defined under federal law. Some of these statutes confine the term to personnel in specific geographic areas during particular periods.

ANALYSIS

This opinion addresses the qualifications for an executive director or service officer of a county service office. Under Tenn. Code Ann. § 58-3-109, county and city legislative bodies may establish service offices for the purpose of advising veterans of all wars in which the United States participated, and their dependents, of all benefits to which they may be entitled under state or federal law, or through private institutions. These offices are under the charge of an executive director or service officer chosen by the governing body of the political subdivision creating the service office. Tenn. Code Ann. § 58-3-111(a). Subsection (c) of this statute provides in relevant part that “[t]he executive director or service officer shall be an honorably discharged veteran of some war in which the United States has participated.” The request

asks for guidance in interpreting this provision.

1. “Wars in Which the United States Has Participated”

The first question is the meaning of the phrase “wars in which the United States has participated.” The statute does not define the term any further. Since one of the functions of the service office created under the statutory scheme is to assist veterans in making claims for federal benefits, it is appropriate to refer to federal laws governing veterans’ benefits for further guidance. Federal statutes define the term “veteran of any war” to refer to any veteran who served in the active military, naval, or air service during a period of war.” 38 U.S.C. § 101(12). The term “period of war” includes the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.” 38 U.S.C. § 101(11). The same statute defines these periods as follows:

The term “Spanish-American War” (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

38 U.S.C. § 101(6).

The term “World War I” (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

38 U.S.C. § 101(7).

The term “World War II” means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

38 U.S.C. § 101(8).

The term “Korean conflict” means the period beginning on June 27, 1950, and ending on January 31, 1955.

38 U.S.C. § 101(9).

The term “Vietnam era” means the following:

(A) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

(B) The period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.

38 U.S.C. § 101(29).

The term “Mexican border period” means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

38 U.S.C. § 101(30).

The term “Persian Gulf War” means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

38 U.S.C. § 101(33). Research has found no Presidential proclamation or law setting an ending date for the Persian Gulf War.¹

2. “Veteran of Any War”

The second question is whether the term “veteran of any war” used in Tenn. Code Ann. § 58-3-111(c) includes any individual on active duty during a period of war, or just those military personnel actually in the theater of war. The federal statutes quoted above limit the term “veteran of any war” to include only service personnel serving in specific geographic areas during some of the time periods defined as periods of war. *See, e.g.*, 38 U.S.C. § 101(29)(A)(defining February 28, 1961 to August 4, 1964 as a part of the “Vietnam era” and therefore a “period of war” only with respect to veterans who served in the Republic of Vietnam during that time, but defining August 5, 1964 to May 7, 1975 as part of the “Vietnam era” and therefore a “period of war” with respect to all veterans who served during that time). These federal statutes provide the only guidance for determining which military personnel during a period of war should be classified as veterans of a war and which should not. We therefore conclude that the term “veteran of any

¹ Federal law has not yet defined “period of war” to include the current military action against terrorism. In the absence of this designation, it is not possible to determine at this point whether a veteran of this action is eligible to be appointed under Tenn. Code Ann. § 58-3-111(c).

war” as used in Tenn. Code Ann. § 58-3-111(c) refers to any individual who served on active duty in the military, naval or air service during a period of war as defined, and, in certain cases, limited, by federal law.

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