

**APPOINTMENT GUIDELINES
& RECOMMENDED BEST PRACTICES**

VETERANS SERVICE COMMISSIONS

A. Under the Appointment Statute

Background

In 1886, the Ohio General Assembly created Soldiers Relief Commissions in each county to distribute assistance from a local fund for the relief of indigent Union soldiers, sailors and marines and the indigent wives, widows and minor children of indigent or deceased Union soldiers, sailors or marines. These original commissions consisted of three county residents, two of whom were to be honorably discharged Union soldiers, appointed by the judge of the Court of Common Pleas for staggered three-year terms.

Today

Under Ohio Revised Code §5901.02, these commissions are now known as Veterans Service Commissions and are comprised of five residents of the county, appointed to five-year terms by a judge of the Court of Common Pleas¹. Each member must be an honorably discharged or an honorably separated veteran. Within the State of Ohio, the county Veterans Service Commissions are the primary resource for care and service to Ohio's veterans' community.

Duties of Veterans Service Commissions

The members of the Veterans Service Commission are required to meet at least once a month in order to regularly perform their statutory duties which can be divided into either service or administrative functions.

Service

The primary service function of the Veterans Service Commission is to provide direct and indirect financial assistance to veterans and their dependents who have met with an unexpected hardship. The Commission is also specifically charged with establishing regularly scheduled transportation for veterans to and from the Veterans Administration medical center affiliated with the county. Commission staff, including county veterans' service officers, are supposed to establish programs of outreach and coordination with other agencies to enhance other available services to veterans within the county. The county veterans service officers also advise and assist present and former members of the armed forces, veterans, and their spouses, surviving spouses, children, parents, and dependents in presenting claims or obtaining rights or benefits under any federal or state law. The Commissions also provide assistance with burying indigent veterans, or the parent, spouse, or surviving spouse of any such veteran.

Administrative

While each county's Veterans Service Commission needs to present a budget for the Commission and the veterans' service office to the board of county commissioners for approval, the Commission is not a county department. As such, it must establish policies and procedures for the administration of the Commission and the veterans' service office, inclusive of hiring and setting compensation for all staff. This also includes promoting, monitoring, and providing funding for ongoing education and training for Commissioners and staff.

- May be appointed or removed by any judge of the Court of Common Pleas of that county
- Appointments must be made by January 15th of the corresponding year
- Members must be an honorably discharged or an honorably separated veteran

In order to perform their statutory duties, the Commission may hire as many investigators and clerks as are necessary. An executive director may be employed to assist the Commission, but is not required. Each Commission is required to hire at least one or more veterans' service officers, one of whom could act as an executive director. The Commission may also hire the necessary clerks, stenographers, and other personnel to assist the veterans' service officers. Any executive director shall be a veteran. All veterans' service officers shall be honorably discharged or honorably separated veterans. All other staff for the Commission and the veterans service office shall be a veteran or, if a qualified veteran is not available, the spouse, surviving spouse, child, or parent of a veteran.

Veterans Service Commissions receives funding for services and administration from the board of county commissioners. Under Revised Code §5901.11, the board shall make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county to support the administration and services of the Veterans Service Commissions. As such, the Commissioners have responsibility for significant public funds. In 2010, the Ohio Department of Veterans Services reported that annual budgets for Veterans Service Commissions ranged from \$76 thousand dollars in Vinton County to \$8 million dollars in Cuyahoga County.

Role of the Judge

In 2006, the Ohio Supreme Court ruled that Revised Code §5901.02 confers a legal duty on the part of a common pleas court judge to make appointments to a local county Veterans Service Commission which is not in conflict with the Canons of the Code of Judicial Conduct. (*State ex rel. Union Cty. Veterans Serv. Comm. v. Parrott*, 108 Ohio St.3d 302). Aside from the appointment authority, a common pleas court judge shall also remove a member of the local county Veterans Service Commission if the member was appointed by a judge and fails to maintain certification or if the certification is revoked by the director of veterans' services. Under Ohio Revised Code §5901.03, a common pleas court judge may also remove a judicially appointed member for cause, upon complaint and hearing. If a judicially appointed member is removed, then a common pleas court judge shall fill the vacancy for the unexpired term in the same manner as the original appointment.

Judicial Appointments

The judicial appointments are made from lists of up to three recommended persons made by each affiliated post or chapter in the county. The appointments are staggered to allow for one new commissioner to be regularly appointed each year. One person is to be represented from each of the following groups:

- American Legion – for terms to commence in years ending in zero and five
- Veterans of Foreign Wars – for terms to commence in years ending in one and six
- Disabled American Veterans – for terms to commence in years ending in two and seven
- AMVETS – for terms to commence in years ending in three and eight
- Military Order of the Purple Heart of the U.S.A.; the Vietnam Veterans of America; or the Korean War Veterans Association – for terms to commence in years ending in four and nine

Prior to Appointments

On or before the fifteenth day of October of each year, an appointing judge shall notify each post or chapter of each organization within the county from which the member may or must be appointed that it may submit a list containing three recommendations of persons who are eligible for appointment. If any of the above mentioned organizations has no post or chapter located in the county, the appointment may be made from lists of recommended persons submitted by posts or chapters of any other congressionally chartered veterans

organizations located in the county. If the judge does not receive any recommendations within sixty days after providing the required notification, the judge may appoint any qualified veteran to represent the veteran community.

At the time of appointment or reappointment to the commission, no Commissioner shall be an employee of the commission or hold an elective or other appointive office of the county served by the commission. Additionally, within sixty days after the date of appointment, each commission member shall file the member's form DD-214 (discharge papers or certificate of release/separation) with the Ohio Department of Veterans Services in accordance with guidelines established by the director of that department. As such, it is prudent for a judge making the appointment to make inquiries into the eligibility of the person seeking the appointment. It would be appropriate for the judge to inquire into both the candidates' ability to serve a five year term and their past and current involvement in community and veteran service organization activities.

Appointments

The judge shall make the appointment on or before the fifteenth day of January of each year. If any vacancy in a judicially appointed membership occurs, it shall be filled in the same manner as the original appointment. While not required under the statute, the appointing judge should consider holding a public appointment ceremony with pictures inclusive of all the members of the Veterans Service Commission and with the appropriate veteran service organizations' chapter or post leaders. This could provide the judge an opportunity to have pictures taken in the court room with the appointee and other veterans.

After the Appointment – Monitoring

There are several statutory duties that the Veterans Service Commissions are required to perform. As such, an appointing judge has an opportunity to monitor the activities of the Commission, under the powers to remove for cause, to verify that it is performing to a basic standard. Commissioners are required to select one of its members as president, one as vice-president, and one as secretary. Judges should request to be notified when officers are selected or changed. Among the duties of the Commission is to make reports to the organizations represented on the commission and to others, upon request. So, an appointing judge should feel free to request both a report, annually, regarding the activities of the commission and copies of the minutes, monthly, of the commission meetings. The judge may also wish to monitor the local newspaper to see that notices of meetings are published along with notices that the commission provides financial assistance to those they serve.

B. Recommended Best Practices for Implement Rules

Since any common pleas court judge, from any division, has the legal duty to appoint or remove a member of the local county Veterans Service Commission appointed under Ohio Revised Code §5901.02, the following recommended practices may serve as guidance to those judges unfamiliar with this role.

Judges in multi-judge Courts of Common Pleas may wish to discuss how to proceed in the handling of these duties. Since the appointment and/or removal of members of the local county Veterans Service Commission could potentially result in an administrative problem common to all divisions of the Court of Common Pleas, a court may wish to allow the presiding judge or a judge designated by the presiding judge to handle issues related to the appointment and/or removal of Veterans Service Commission members, or may choose to have the entire bench review and vote on appointments. Either way the procedure should be discussed and clarified. It would also be good transparency to let the public know what the procedure will be.

Prior to Appointment

- Judges should get to know the veteran service organizations in their county and how each is organized and commanded.
- Judges should timely notify the appropriate veteran service organizations' chapter or post leaders regarding recommendations for appointments prior to October 15th.
- Judges should request that form DD-214 (discharge papers or certificate of release/separation) be submitted along with recommended names.
- Judges should verify with the Ohio Department of Veterans Services that the individuals recommended for appointment are honorably discharged or honorably separated veterans.
- Judges should interview all individuals recommended for appointment and inquire as to how the veteran has been active in the community and in the veteran service organization.
- Judges should confirm that the individuals are not employees of the commission or hold an elective or appointive county office.

At the time of Appointment

- Judges should provide all interviewees with the statutory list of duties for commissioners.
- Judges should hold a yearly public appointment ceremony with pictures inclusive of all the members of the Veterans Service Commission and with the appropriate veteran service organizations' chapter or post leaders to emphasize the importance of the position.

After the Appointment – Monitoring

- Veterans Service Commissions are required to select one of its members as president, one as vice-president, and one as secretary. Judges should request to be notified when officers are selected or changed.
- Judges should request both a report, annually, regarding the activities of the commission and copies of the minutes, monthly, of the commission meetings.
- Since a judge has a duty to remove a member appointed by a judge who fails to maintain certification or whose certification is revoked by the Director of the Ohio Department of Veterans Services, judges have an obligation to request verification of certification every year.
- Judges should monitor the local newspaper to see that notices of meetings are published along with notices that the commission provides financial assistance to those they serve.
- Judges should not automatically reappoint members recommended by local veteran service organizations without conducting a new interview to verify that the individual is still capable of handling the duties of a commissioner. Since many veterans are older or retirees, judges should question both the physical and time demands that may be placed on these Commissioners.

Final Recommendation

Since standard operating practices vary widely across the state from commission office to commission office, judges should vigilantly verify that the Veterans Service Commissions have active hours and are actually providing services to present and former members of the armed forces, veterans, and their spouses, surviving spouses, children, parents, and dependents. Because there is minimal oversight authority for these Commissions, it is imperative that judges utilize the statutory authority given to them to ensure that the needs of Ohio's veterans are being met. Failure by the court to monitor the management, activities and policies of the

commission may have a detrimental effect on the veteran community and will reflect poorly on the appointing court or judge in the event that bad management or other poor practices come to light. Following these guidelines should ensure that such a situation will not reoccur in this state.

ⁱ There is an exception for counties with populations of more than five hundred thousand to have a larger commission. Under O.R.C. §5901.21, if a county meets the population requirement, and either the veterans service commission submits a budget request for the ensuing fiscal year that exceeds twenty-five-thousandths of one per cent of the assessed value of property in the county; or if the commission's budget increases by more than ten percent, then the board of county commissioners, by resolution, may create up to six additional memberships for the veteran service commission for a possible total of 11 members. These additional members are appointed by the board and must only be residents of the county and honorably discharged or separated veterans. The county appointed commissioners can serve terms of up to five years, as prescribed by the board. The board of county commissioners may remove, for cause, any of the members they appoint.