

Opinion No. 63

VETERANS AND VETERANS AFFAIRS; Education; War Orphans, waiver of fees—ORPHANS; of veterans—UNIVERSITY OF MONTANA; Fees; waiver of for war orphans—Section 75-506, Section 77-909, Revised Codes of Montana, 1947

Held: Exemption from fees authorized by Section 77-909, RCM, 1947, for the war orphans of Montana veterans includes non-resident fees.

July 5, 1960

Miss Dorothy Green, Secretary
University of Montana
Capitol Building
Helena, Montana

Dear Miss Green:

You present the following facts for my opinion:

A person who is presently a resident of Idaho is the son of a Montana resident who died of an injury or disease incurred in World War II. This person now has enrolled as a student in a University of Montana unit.

Your question is whether he must pay the fee required of non-resident students.

Quite plainly he need not. His father was a Montana resident upon entry into military service and died as a result of such service. This student is thus a war orphan as defined by Section 77-909, RCM, 1947.

This section provides:

"There shall be established under this act the authority of the state board of education to waive, the charges for the matriculation, tuition, any and all educational fees, for such children of members of the armed forces of the United States who served on active duty during World War II and/or the Korean conflict and who, at the time of entry into such service, had legal residence in this state and who were heretofore, or shall hereafter be, either killed in action or shall have died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States, as are now attending or may hereafter attend any of the units of the greater university of Montana, provided any such child shall enter such institution prior to attaining the age of twenty-one (21) years."

This statute impowers the state board of education to waive the charges for "matriculation, tuition, any and all educational fees" for war orphans.

Non-resident fees are described in Section 75-506, RCM, 1947, as being non-resident tuition. Therefore, since it is synonymous with tuition it is expressly waived under Section 77-909, RCM, 1947 (*supra*) if the board of education asserts the authority granted by that section.

It is therefore my opinion that the exemption of fees authorized for the war orphans of Montana veterans includes non-resident fees.

Very truly yours,
FORREST H. ANDERSON
Attorney General