

SCHOOLS:) (1) University of Missouri may charge Veterans.
SERVICEMEN:) Administration non-resident tuition fees for resident
veterans; (2) Lincoln University may charge Veterans
Administration non-resident tuition fees for resident
veterans; (3) State Teachers Colleges may charge
Veterans Administration non-resident tuition fees for
resident veterans.

January 23, 1946



Honorable Ray J. Cunningham
Chief Attorney
Veterans Administration
707 Market Street
St. Louis 1, Missouri

Dear Sir:

We are hereby withdrawing an official opinion issued to you by this department on July 9, 1945, holding: (1) that the University of Missouri may not charge Veterans' Administration tuition for veterans over the age of 16 years who are residents of the State of Missouri; (2) that state teachers colleges may not charge Veterans' Administration tuition fees for veterans that are residents of the State of Missouri, unless they charge tuition to all residents of the State of Missouri.

The opinion mentioned above was based upon the provisions of Public Law 346, 78th Congress (Servicemen's Readjustment Act of 1944), Section 1505, which authorized the deduction of any benefits received by, or paid for, any veteran under the Servicemen's Readjustment Act of 1944, the same being charged against and deducted from any later adjusted compensation that might have been provided for the veteran in the future, making the payment of tuition by the Veterans Administration in reality a contingent liability that would have been deducted from any future adjusted compensation that possibly in the future might personally affect the veteran in his own rights.

Since rendition of the opinion on July 9, 1945, Section 1505, supra, has been repealed by Section 9 of Public Law 268, 79th Congress, finally passed and approved December 28, 1945.

Since the repeal of Section 1505, supra (Servicemen's Readjustment Act of 1944), the reason that the University of

Missouri was not permitted to charge and receive from the Veterans Administration tuition fees for veterans properly enrolled as students under the provisions of Public Law 346, 78th Congress, and that the state colleges were not permitted to charge and receive from the Veterans Administration tuition fees for veterans properly enrolled as students under the provisions of Public Law 346, 78th Congress (Servicemen's Readjustment Act of 1944), no longer exists.

The Administrator of Veteran affairs, General Hines, requested a number of persons connected with educational institutions to serve as an advisory committee to the Veterans Administration in determining operating policies under the GI Bill. The members of that advisory committee included the civilian members of the joint Army-Navy Board of contract negotiations, which established the policies for the war training courses contracts of the Army and Navy. That advisory committee recognized the inequity of allowing state-supported universities the regular resident tuition only, and since the Army and Navy had made contracts with the state universities on the basis of the payment of non-resident tuition in addition to regular fees, it was felt that this would be a fair arrangement for the payment of fees and tuition under the provisions of the GI Bill.

Under date of March 7, 1945, the Veterans Administration accordingly issued a letter of instructions for the guidance of all concerned on the subject of whether under Public Law No. 16 and No. 346, 78th Congress, there is authority to pay a charge for instruction of trainees in excess of that paid for other students for identical courses of instruction. Paragraph A, Item (2) of that letter reads as follows:

"In the case of State and municipal schools, colleges, or universities, and other approved institutions which have non-resident tuition fees, the charges for such tuition, laboratory, library, health, infirmary and other similar fees which were in effect prior to June 22, 1944, or as may be established after said date if applicable to all classes of students are determined as the customary charges for all veteran trainees except that the charge for the tuition fee of a full-time veteran trainee shall be not less than \$15.00

per month (\$45.00 per quarter or \$60.00 per semester), provided that the charges are not in conflict with existing laws or other legal requirements. Under this provision a school may not charge to a resident veteran such part of a non-resident tuition fee as will result in a charge in excess of \$500 for an ordinary school year."

The above paragraph, read in its entirety, definitely contemplates the payment of non-resident tuition fees as the customary charges for all veteran trainees as a general proposition. We understand that some stress is laid on the words "provided that the charges are not in conflict with existing laws or other legal requirements" by the Veterans Administration as raising some doubt on the question of whether or not non-resident tuition can be paid for resident veteran trainees. It would seem that such words could not have been intended to nullify the effect of the language in the first part of the paragraph determining the non-resident fees to be the customary charges for all veteran trainees, subject to the \$500 maximum limitation.

If we are to give meaning to the entire paragraph in question and to carry out the apparent intention of those who participated in formulating the program, the applicability of the words "provided that the charges are not in conflict with existing laws or other legal requirements," must be restricted to those cases, and those cases only, where "existing statutes or other legal requirements" definitely forbid the university from accepting any sum in excess of the resident tuition and fees for resident students.

The Constitution of the State of Missouri, 1945, Article IX, Section 9, provides as follows:

"The government of the State University shall be vested in a Board of Curators consisting of nine members appointed by the Governor, by and with the advice and consent of the Senate. * * * "

Section 10814, Missouri Statutes Annotated, grants the Board of Curators the right to collect reasonable tuition in the

professional departments, and necessary fees for maintaining the laboratories in all departments of the university, and to establish all reasonable fees for library, hospital, incidental expenses or late registration, as they may deem necessary.

Pursuant thereto the University through its Board of Curators has been accepting resident veteran trainees upon a non-resident tuition basis as contemplated by the provisions of the Veterans Administration service letter mentioned supra, and we do not find that the acceptance of these students upon such basis is in any way "in conflict with Missouri laws or other legal requirements" so as to preclude the University of Missouri from receiving tuition for such trainees from the Veterans Administration.

As to Lincoln University, its control and management is under a Board of Curators appointed by the Governor, with the advice and consent of the Senate. Under the provisions of Section 10778, R. S. Mo. 1939, it is provided that the Board of Curators of Lincoln University shall be organized after the manner of the Board of Curators of the State University of Missouri, and that they shall have the same general powers and authority.

In regard to the State teachers colleges, they are divided into five districts, known as the Northeast Missouri State Teachers College, Central Missouri State Teachers College, Southeast Missouri State Teachers College, Southwest Missouri State Teachers College and Northwest Missouri State Teachers College, and all of these teachers colleges are under the general control and management of their board of regents, which for each school are appointed by the Governor, with the advice and consent of the Senate.

There is no statutory provision in regard to the payment of tuition in the various state teachers colleges, and if the board of regents of any of the state teachers colleges desires to admit veteran trainees upon a non-resident tuition basis as contemplated by the provisions of the Veterans Administration service letter mentioned supra, we find that the acceptance of these students upon such basis is not "in conflict with Missouri laws or other legal requirements" so as to preclude the various state teachers colleges from receiving tuition for trainees on a non-resident basis from the Veterans Administration.

Conclusion

Therefore, it is the opinion of this department that (1) the University of Missouri, under the laws of the State of Missouri, is permitted to charge and receive from the Veterans Administration tuition fees for all veterans properly enrolled as students under the provisions of Public Law 346, 78th Congress (Servicemen's Readjustment Act of 1944), based upon the non-resident tuition fees as ordered and approved by the Board of Curators of the University of Missouri; (2) Lincoln University, under the laws of the State of Missouri, is permitted to charge and receive from the Veterans Administration tuition fees for all veterans properly enrolled as students under the provisions of Public Law 346, 78th Congress (Servicemen's Readjustment Act of 1944), based upon the non-resident tuition fees as ordered and approved by the Board of Curators of Lincoln University; and (3) the Northeast Missouri State Teachers College, Central Missouri State Teachers College, Southeast Missouri State Teachers College, Southwest Missouri State Teachers College and Northwest Missouri State Teachers College, under the laws of the State of Missouri, are permitted to charge and receive from the Veterans Administration tuition fees for all veterans properly enrolled as students under the provisions of Public Law 346, 78th Congress (Servicemen's Readjustment Act of 1944) based upon the non-resident tuition fees as ordered and approved by the Board of Regents of the various state teachers colleges.

Respectfully submitted,

A. V. OWSLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

AVO:EG