

Opinion No. 121

**Veterans—University of Montana
Fees and Tuition**

- Held:** 1. Persons who are eligible to receive educational benefits under the servicemen's readjustment act of 1944 (public law 346, 78th Congress, 1944), and acts supplementary and amendatory thereto, shall not receive free fees and tuition in the units of the University of Montana, as ruled in Official Opinion No. 121, Volume 21, Report and Official Opinions of the Attorney General.
2. Veterans who have been honorably discharged from service with the United States force in any of its wars and were bona fide residents of the state of Montana at the time of such entry into said forces—and who have exhausted all their benefits, and are no longer eligible to any benefits under the servicemen's readjustment act of 1944, supra, and as amended, shall have free fees and tuition in any and all the units of the University of Montana, in accordance with Chapter 44, Laws of 1945, and as interpreted in Official Opinion No. 155, Volume 20, Report and Official Opinions of the Attorney General.

June 30, 1948

Veterans Welfare Commission
State of Montana
Helena, Montana

Attention: Mr. E. J. Callaghan,
State Service Officer

Gentlemen:

You have asked this office if a veteran who has exhausted his rights under the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th Congress, 1944)—commonly referred to as the G. I. Bill of Rights—may avail himself of the benefits provided by Chapter 194, Laws of 1943, as amended by Chapter 44, Laws of 1945, to receive free fees and tuition in the units of the University of Montana.

Chapter 194, Laws of 1943, as amended by Chapter 44, Laws of 1945, provides:

"All honorably discharged persons who served with the United States forces in any of its wars and who were bona fide residents of the State of Montana at the time of their entry into said United States forces shall have free fees and tuition in any and all of the units of the University of Montana, including the law and medical departments, and for extra studies in any of the units of the University of Montana, provided, however, that the provisions of this act shall not apply to persons who qualify under the provisions of the 'Servicemen's Readjustment Act of 1944,' being 'public law 346 of the seventy-eighth Congress, Chapter 268, second session' and 'Public Law 16 of the seventy-eighth Congress, Chapter 22, first session,' and all acts supplementary and amendatory thereof."

This office has previously considered the above quoted section in Official Opinions 68, 104 and 121 of Volume 21, Report and Official Opinions of the Attorney General and in Official Opinion No. 89, Volume 22, Report and Official Opinions of the Attorney General.

It is Official Opinion No. 121 of Volume 21 which gives us the most aid in answering your present question. It was held there that persons "who qualify" under the Servicemen's Readjustment act of 1944 and acts supplementary and amendatory thereto, are persons who are eligible to receive education benefits under that federal legislation—and as such they are excepted from the benefits bestowed by Chapter 194, Laws of 1943, as amended by Chapter 44, Laws of 1945.

However, once a veteran has exhausted his rights under the federal act, it is obvious he is no longer eligible for federal benefits. Hence, under the interpretation by this office applied in Opinion No. 121, Volume 21, supra, such a veteran no longer "qualifies." He then becomes eligible to the benefits bestowed by our legislative assembly in Chapter 194, Laws of 1943, as amended by Chapter 44, Laws

of 1945, and if he meets all qualifications regarding honorable discharge, service and residence, shall have free fees and tuition, as set forth in Official Opinion No. 155, Volume 20, Report and Official Opinions of the Attorney General, in any and all of the units of the University of Montana.

It is therefore, my opinion:

1. Persons who are eligible to receive educational benefits under the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th Congress, 1944), and acts supplementary and amendatory thereto, shall not receive free fees and tuition in the units of the University of Montana, as already ruled by this office in Official Opinion No. 121, Volume 21, Report and Official Opinions of the Attorney General.

2. Veterans who have been honorably discharged from service with the United States forces in any of its wars and who were bona fide residents of the state of Montana at the time of such entry into said forces—and who have exhausted all their benefits, and are no longer eligible to any benefits under the Servicemen's Readjustment Act of 1944, supra, and as amended, shall have free fees and tuition in any and all of the units of the University of Montana, in accordance with Chapter 194, Laws of 1943, as amended by Chapter 44, Laws of 1945, and as interpreted in Official Opinion No. 155, Volume 20, Report and Official Opinions of the Attorney General.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General