

Office of the Attorney General
State of North Dakota

Opinion No. 82-78

Date Issued: December 2, 1982
Requested by: Lloyd F. Zander
Commissioner of Veterans Affairs

--QUESTION PRESENTED--

Whether Section 15-10-18.3 of the North Dakota Century Code requires junior colleges to waive tuition and fees for dependents of veterans who attend the junior colleges.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that Section 15-10-18.3, N.D.C.C., does not require junior colleges to waive tuition and fees for dependents of veterans who attend the junior colleges.

--ANALYSIS--

Section 15-10-18.3, N.D.C.C., states as follows:

15-10-18.3. FREE TUITION IN NORTH DAKOTA INSTITUTIONS OF HIGHER EDUCATION. Any dependent, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any North Dakota state-supported institution of higher education or state-supported technical or vocational school, shall be allowed to obtain a bachelor's degree, or certificate of completion, for so long as he is eligible, free of any tuition and fee charges, except those charged to retire outstanding bonds; provided, however, that such bachelor's degree or certificate of completion is earned within a thirty-six month or eight-semester period or its equivalent. Once a person qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, there shall be no removal from the benefits of this section due to such an occurrence as the return of the prisoner of war or person missing in action. (Emphasis supplied)

Section 15-10-18.3 is located in Chapter 15-10, N.D.C.C., which concerns institutions under the control of the North Dakota Board of Higher Education. Those institutions are the eight colleges and universities listed in Section 15-10-01, N.D.C.C., which do not include the junior colleges.

The placement of Section 15-10-18.3 within the North Dakota Century Code also indicates the section was meant to apply to the state institutions. Sections 15-10-18 and 15-10-18.1, N.D.C.C., both deal with tuition at institutions under the control of the Board of

Higher Education. It is reasonable to conclude that Section 15-10-18.3, N.D.C.C., also was intended to apply to such institutions. The headnote for Section 15-10-18.3, N.D.C.C., although not a part of the statute, states 'Free Tuition in North Dakota Institutions of Higher Education'. This is another indication the section was not meant to apply to junior colleges.

Junior colleges, rather than being state institutions, are under the control of school districts pursuant to Chapter 15-18, N.D.C.C. They are not state institutions even though they receive state aid. The policies that you refer to in your letter when you state that Lake Region Community College operates under policies established by the State Board of Higher Education are probably those pursuant to Section 15-18-04, N.D.C.C., which are of a limited, accrediting nature.

This interpretation of Section 15-10-18.3, N.D.C.C., is supported by the legislative history of the original bill. In testimony, on February 22, 1973, before the Senate Social Welfare and Veterans Affairs Committee, on House Bill 1390, Representative Jacob, who was the bill's prime sponsor, was paraphrased in the Minutes as follows:

. . . He further explained that the dependents would have to attend state schools, and he didn't think that junior colleges would be included. . . .

The legislative history is a significant factor in interpreting the legislative intent in passing this statute. Section 1-02-39, N.D.C.C.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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