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SCHOLARSHIP—CERTAIN CHILDREN OF DECEASED OR DISABLED VETERANS—INCLUDES EXEMPTION FROM PAYMENT OF TUITION OR MATRICULATION FEES—QUARTERLY OR SEMESTER REGISTRATION FEES INCLUDED—STATE SUPPORTED COLLEGES AND UNIVERSITIES—DOES NOT INCLUDE EXEMPTION FROM LABORATORY OR SIMILAR FEES—CHAPTER 5910., RC.

SYLLABUS:

The scholarship for which provision is made in Chapter 5910., Revised Code, for certain children of deceased or disabled veterans includes exemption from payment of tuition or matriculation fees, including quarterly or semester registration fees, at state supported colleges and universities but does not include exemption from laboratory or similar fees.

Columbus, Ohio, May 15, 1956

Hon. R. M. Eyman, Superintendent of Public Instruction
Department of Education, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“I would respectfully call your attention to the provisions of Sec. 5910.04 of the Revised Code as enacted in Amended S.B. 21, 101st General Assembly. This section provides that a scholarship shall be granted by state supported colleges and universities to the children of deceased or disabled veterans on the basis of one such scholarship for each 1,000 full time students enrolled the previous year at such colleges and universities. This section also states that these scholarships shall be limited to *free tuition* for attendance at colleges and universities which receive support from the State of Ohio.

“At the meeting of the War Orphans Scholarship Board held on Friday, March 9, it was pointed out that the state universities and colleges of Ohio are forbidden by law to charge tuition as such to residents of Ohio, but in lieu of such, these state universities and colleges of Ohio do charge a registration fee. The War Orphans Scholarship Board hereby requests your opinion as to whether or not freedom from the registration fee in universities and colleges may be considered as free tuition as specified in the bill.”

Section 5910.04, Revised Code, referred to in your inquiry, reads as follows:

“Scholarships granted under sections 5910.01 or 5910.06, inclusive, of the Revised Code, shall be limited to free tuition for attendance at colleges and universities which receive support from the state of Ohio and are approved by the superintendent of public instruction.”

In Webster's New International Dictionary, Second Edition, the word “tuition,” in the general sense it is here used, is defined as follows:

“The price of, or payment for, instruction.”

In *State v. Regents of University of Wisconsin*, 54 Wis., 159, 11 N.W., 472, the headnotes, as reported in 11 N.W., read in part:

“Section 388, Rev. St., which provides that no student who has been a resident of the state for one year next preceding his admission to the state university shall be required to pay “any fees for tuition” therein, except in the law department and for extra studies, must be construed as prohibiting only fees for instruction, and not charges made to meet incidental expenses.”

This definition, and the decision in the Wisconsin case, *supra*, suggest the propriety of according a narrow technical meaning to the word “tuition,” a meaning in harmony with its historical literal meaning. However, in view of the circumstance that we are here dealing with welfare legislation, which is ordinarily given a liberal construction in favor of those whom it is designed to benefit, and in view of the nugatory effect of following the strict interpretation suggested above, I am not persuaded that such narrow interpretation is justified in the instant case.

The classification as welfare legislation of the act here in question is evident from the following provisions in Section 5910.03, Revised Code:

“Scholarships shall be granted only to children of deceased or disabled veterans who entered the armed services of the United States as legal residents of Ohio. To be eligible for a scholarship, such child shall:

“(A) At the time of application, have attained his sixteenth, but not his twenty-first birthday;

“(B) At the time of application, have resided in the state for the last preceding year;

“(C) Be in financial need, as determined by the board;

“(D) Be recommended by the principal of a high school he has attended.”

The nugatory effect of a narrow technical interpretation of the term "tuition" becomes evident when Sections 5910.03 and 5910.04, *supra*, are considered in relation to Sections 3345.01 and 3345.02, Revised Code. These sections provide :

Section 3345.01

"The boards of trustees of the Ohio state university, Miami university, Ohio university, Kent state university, Bowling Green state university, or Central state college, may charge reasonable tuition for the attendance of pupils who are non-residents of Ohio."

Section 3345.02

"Any citizen of this state who has resided within the state for one year and who was in the active service of the United States as a soldier, sailor, nurse, or marine between April 6, 1917 and November 11, 1918, and who has been honorably discharged from such service, shall be admitted to any school, college, or university which receives state funds in support thereof, without being required to pay any tuition or matriculation fee, but is not relieved from the payment of laboratory or similar fees."

These provisions quite plainly imply that no tuition is to be charged of students who are residents of Ohio; and in the case of honorably discharged veterans who are citizens of the state, and residents therein for one year, the waiver applies to the "tuition or matriculation fee." The significance of these provisions lies in the fact that if the veteran is also a "resident" of Ohio then no "tuition," in the narrow sense of that word, would be exacted of him by reason of the plain implication in Section 3345.01, Revised Code; and there would be no reason to include that term in the waiver provision of Section 3345.02, Revised Code. Hence this provision suggests that the terms "tuition" and "matriculation fee" are used redundantly in the latter section.

The word "matriculate" is defined in Webster's New International Dictionary, Second Edition, in the sense here used, as follows :

"To enroll; to enter in a *register*; specif., to enter or admit to membership in a body or society, particularly in a college or university, by entering the name in the *register*."

(Emphasis added.)

It is understood to be the practice in some, if not all of the state supported colleges and universities in Ohio, to make a distinction between

“matriculation fees” and “registration fees,” the former being a non-recurring fee exacted upon initial enrollment as a student, and the latter being a fee for enrollment at the beginning of each quarter or semester in which the student is entered as such. Because a matriculation fee is a charge for being entered in the institution’s “register” of students, I am unable to distinguish such fees, the one from the other, as a matter of law.

Moreover, it has been the long-continued practice among the several Ohio institutions to exact both such fees of Ohio residents, and to exact, in addition to these fees, a tuition fee of students who are non-residents. Thus there exists an administrative precedent of long standing by which matriculation and registration fees are deemed to be excluded from the term “tuition” as used in Section 3345.01, Revised Code, which by implication prohibits the exaction of a tuition charge in the case of Ohio residents. Such precedent includes also a construction of the term “matriculation fee,” as used in Section 3345.02, Revised Code, as including “registration fees,” for I am advised that veterans qualifying under such section have not been required to pay either, such precedent in this regard being in harmony with my conclusion, above expressed, that such fees could not be distinguished as a matter of law. On this point, therefore, I specifically conclude that the expression “tuition or matriculation fee” as used in Section 3345.02, Revised Code, includes those charges commonly known as “registration fees” which are exacted upon enrollment as a student at the beginning of each formal period of study commonly designated as a quarter or a semester. By the plain language of the statute, however, this expression does not comprehend “laboratory or similar fees.”

In the scholarship provision for war orphans in the act here in question, if the term “tuition” is accorded its historical literal meaning it becomes clear that, as to every one of the supposed beneficiaries, i.e., those who meet the test of residence in the state “for the last preceding year,” as provided in division (B) of Section 5910.03, *supra*, they would receive no benefit whatever to which they were not already entitled under the provisions of the already existing Section 3345.01, Revised Code. Thus there would be no beneficiaries whatever under this legislation, and the act would be wholly nugatory. Such a nugatory construction is the last extremity to which the courts usually go in the interpretation of **statutes** and I cannot believe that such extremity is the necessary result in the instant case.

In this situation I think it proper that the act here in question be considered in relation to Section 3345.02, Revised Code, and as intended to provide for "war orphans" the same privileges which had heretofore been given veterans who were also Ohio citizens and residents; and thus to avoid the wholly nugatory effect above pointed out.

For this reason, in specific answer to your inquiry it is my opinion that the scholarship for which provision is made in Chapter 5910., Revised Code, for certain children of deceased or disabled veterans includes exemption from payment of tuition or matriculation fees, including quarterly or semester registration fees, at state supported colleges and universities but does not include exemption from laboratory or similar fees.

Respectfully,
C. WILLIAM O'NEILL
Attorney General