

1980 WL 120758 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 30, 1980

\*1 Honorable Hoyt B. Hill, Jr.  
Director  
Department of Veterans Affairs  
227 Brown State Office Building  
1205 Pendleton Street  
Columbia, South Carolina 29201

Dear Mr. Hill:

You have requested an Opinion from this office as to whether a child of a veteran previously approved for free tuition, based upon a rating of the veteran as permanently and totally disabled by an agency other than the VA, can continue to receive this benefit if she transfers to another state institution.

The following specific facts are pertinent to this opinion: On December 29, 1978, this office rendered its Opinion No. 78-213 which found that the rating of total and permanent disability must be made by the Veterans Administration (VA), and not by other public agencies or departments, in order for the veteran's child to be entitled to free tuition at state institutions under [Section 59-111-30\(5\) of the South Carolina Code of Laws \(1976\)](#). Prior to this Opinion, approvals for free tuition had been based upon the ratings of other agencies as well as the VA, but this practice ceased upon the issuance of that Opinion. However, it was determined by your Department that such prior approvals would not be terminated but rather would be 'grandfathered' under the ruling of the 1978 Opinion. The present issue now arises because a dependent under the 'grandfathered' category desires to transfer from one state institution to another.

The approval form which was attached to your opinion request indicates that free tuition approval terminates on a specific date (normally the date the child reaches twenty-six years of age). The approval period, therefore, is usually for approximately eight years, which is sufficient to permit the dependent to complete an undergraduate and a graduate program. No procedures for tuition approvals are specified in [Section 59-111-30](#) or by regulation. Therefore, there does not appear to be any specific requirement that approvals be periodically reviewed, or that new approval be made when the dependent transfers from one state institution to another. Any such procedure would merely be an internal policy of the Department.

In this particular instance, it should be noted that if this dependent chose to remain at her present school, she would be permitted to continue to receive free tuition under the Department's prior approval and its 'grandfathering' policy. It does not appear fair or reasonable that the dependent should lose free tuition merely because she desires to pursue an educational program offered only at another state institution. In this office's Opinion No. 2892, dated April 29, 1970, it was noted that:

Obviously, the foregoing statute is grounded upon principles of a humane public policy, and it unquestionably has a benevolent purpose, i.e., to assist in obtaining a college education, for the children of South Carolinians who, for example, were killed in action while in the military service of this country during a time that it was at war.

\*2 'A liberal construction is generally accorded statutes which are regarded . . . as humanitarian and beneficial, . . . or which have a benevolent . . . purpose . . . Such statutes should be given a favorable construction to the end that their manifest humanitarian and beneficent purpose may be effectuated to the fullest extent compatible with their terms.' (Citation omitted.)

1969-1970 Op. Atty. Gen. No. 2892, p. 132 (April 29, 1970).

It is my opinion that a fair, reasonable, equitable and liberal interpretation and application of the Department's free tuition approval 'policy', taking into consideration the Department's decision to 'grandfather' all approvals made prior to Opinion No. 78-213, would be that the dependent should be permitted to keep her free tuition status until the date indicated upon the Department's original approval, regardless of which state institution she may desire to attend.

Very truly yours,

Richard B. Kale, Jr.  
Senior Assistant Attorney General

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