

1974 S.C. Op. Atty. Gen. 180 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3799, 1974 WL 21306

Office of the Attorney General

State of South Carolina

Opinion No. 3799

June 12, 1974

*1 Section 22–56, Code of Laws of South Carolina, (1962) as amended extends the benefits of free tuition in any State-supported college, university or post high school technical education institution to children of qualified veterans who were former POW's during any war, regardless of whether the veteran parent presently resides in this State.

TO: Director

South Carolina Department of Veterans Affairs

You have inquired whether or not the child of a former prisoner of war would be eligible for free tuition under the provisions of Section 22–58, Code of Laws of South Carolina (1962), as amended, if the veteran father no longer resides in the State of South Carolina. You have advised us that the veteran in question was a resident of this State at the time of his entry into military service and during such service and, although he returned to this State for a period of time following his emancipation as a prisoner of war, has now left this State and resides in another. You have further advised that the veteran in question is not disabled and no claim is made for coverage by reason of permanent and total disability.

Act Number 952, 1974 Acts and Joint Resolutions of the General Assembly of the State of South Carolina amended Section 22–56 on March 19, 1974, so as to provide in pertinent part:

‘A child of a veteran, who was a resident of this State at the time of entry into service and during service and, in the event the veteran is disabled, still resides in this State, who served honorably in a branch of the military service of the United States during a war period, . . .

. . . .

(4) who was a prisoner of war as defined by Congress or Presidential proclamation during such war period;

. . . .

may, upon application to and approval by the South Carolina Department of Veterans Affairs, be admitted to any State-supported college, university or post high school technical education institution free of tuition so long as his work and conduct is satisfactory to the governing body of the institution.’

That statute is clear on its face and establishes the following as the only criteria required for the child of a veteran to become eligible for free tuition as a result of his parent's prior status as a prisoner of war:

1. that the veteran parent was a resident of South Carolina at the time of his or her entry onto service and during such service,
2. that the veteran parent served honorably in a branch of the military service of the United States during a war period as defined by [38 U.S.C. Section 101](#), and
3. that the veteran parent was a prisoner of war as defined by Congress or Presidential proclamation during such war period.

No requirement exists under present law that the veteran parent remain a resident of this State or be a resident of this State at the time his or her child seeks eligibility for free tuition. The language 'still resides in this State; contained in Section 22-56 as now written is a requirement only in the event the veteran is disabled.

*2 It is noted that Section 22-56 as previously written extended benefits to the children of veterans of the Vietnam War who were or had been prisoners of war but with the proviso that the veteran upon his release as a prisoner of war had to return to the State and be a resident thereof at the time his child was eligible for post high school education. The prior restriction of benefits to children of prisoners of the Vietnam War and the requirement that the veteran return to this State and remain a resident in order to establish eligibility have been deleted from Section 22-56 as now written.

In summary it is the opinion of this Office that Section 22-56 as presently written extends the benefit of free tuition to children of qualified veterans who were former prisoners of war during any war period, whether or not such veteran presently resides in this State.

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