

File No. 98233

July 23, 1956

Mr. Philip Wagner, Executive Secretary
Employees Retirement System
216 City Hall

RE: William J. Holsey, Jr., Registry No. 45657

Dear Mr. Wagner:

You have requested an opinion as to whether or not under Section 4, sub-section (6) of the Pension Ordinance service credit can be given to the above member for military service resulting from his enlistment for four years after the end of World War II. The facts show that the member, a patrolman in the Police Department, joined the Employees Retirement System on October 10, 1950, and on November 17, 1951, was granted a leave of absence without pay, for military service. He was discharged from such service on November 15, 1955, and returned to the employ of the Police Department on November 21, 1955. He claims credit for the four years he served in the Armed Forces. However, the Employees Retirement System is of the opinion that the section of the Ordinance referred to does not cover credit for periods of enlistment other than during World War II, which is referred to in the Pension Ordinance as "the present war".

Sub-section (6) of Section 4 was enacted by Ordinance No. 920 (1942-1943) and the pertinent part thereof reads as follows:

"(6) The rights and status of any person heretofore or hereafter inducted into the land or naval forces of the United States for training and service pursuant to the Act of Congress known as the Selective Training and Service Act of 1940, or any subsequent Acts of a similar nature, and any member of any reserve component of the land or naval forces of the United States, who is on active duty or service, or who may be ordered or assigned to active duty or service, as well as any person who, during the present war, has heretofore enlisted in or who may hereafter enlist in the Armed Forces of the United States, and who, because of such induction or in order to perform such active duty or service, or because of such enlistment, has left or leaves a position, other than a temporary position, in the employ of the City of Baltimore and who may be absent in such military service shall be as follows in the Employees' Retirement System of Baltimore City: * * *."

It is noted that the ordinance makes a decided distinction between persons inducted into the military service and those who enlisted. In the former case, anyone inducted as a result of the 1940 Selective