

File No. 92670

November 9, 1956

Mr. Philip Wagner, Executive Secretary
Employees Retirement System
Room 216 City Hall
Baltimore - 2, Maryland

Dear Mr. Wagner:

Ten employees of the Department of Education have requested the Board of Trustees of the Employees Retirement System to reconsider its prior decision, based upon opinions of this office, denying them credit in the Employees Retirement System under Ordinance No. 819, approved October 6, 1953, for service they performed under the War Production Training Program which was in effect from July 1, 1940, to May 31, 1945. The sole question, as we see it, is whether the service of these persons under this wartime training program of the United States Government constituted service as an "employee" of the City of Baltimore within the meaning of the Pension Ordinance.

As you are aware, this office in an opinion recorded in Volume 43, folio 161, of the Opinions of the City Solicitor, held that employment under this program did not constitute employment with the Mayor and City Council of Baltimore. This decision was made at a time when records and facts were currently known and ascertainable. On July 9, 1954, this question was raised before the Board of Trustees and it was again decided that the employment did not constitute creditable service. The Board accordingly denied such credit. At the request of the Director of Personnel of the Department of Education and the several persons herein involved, the Board consented to reconsider its denial of service credit, and pursuant thereto again referred the matter to the City Solicitor's office. On February 21, 1955, after reviewing the entire record and all the information available, this office held that the War Training Program was a Federal project, financed by the Federal Government and was administered through City facilities only as a matter of expediency. The Board of Trustees thereupon affirmed its prior denial of credit for this service. Now the same employees have again requested a reconsideration by the Board of its denial, and once more this office is asked for its opinion.