

Opinion No. 46-4955

October 3, 1946

BY: C. C. McCULLOH, Attorney General

TO: E. R. Cooper Assistant District Attorney Fourth Judicial District Las Vegas, New Mexico

{*276} Reference is made to your letter of October 2, 1946, in which you request an opinion of this office as to whether a county clerk should collect a fee for certified copies of servicemen's discharges, when the copies are to be furnished to the Veterans' Administration. Section 35-416 of the Supplement to the 1941 Compilation, provides:

"When a copy of any public record is required by the Veterans' Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans' Administration, the official custodian of such public record shall, without charge, provide the applicant for such benefits, or any person acting on his behalf, or the authorized representative of the Veterans' Administration, with a certified copy of such record."

Your question is answered by an Opinion written on July 28, 1945, by Mr. Robert W. Ward, Assistant Attorney General, a copy of which is attached hereto for your information.

From a reading of the above statute and the attached opinion, it is clear that a county clerk should not make any charge for certified copies of servicemen's discharges when the copy of the discharge is to be used by the Veteran's Administration, and when that copy has been requested by any of the following: (1) The applicant for benefits made available by the Veterans' Administration; (2) Any person acting on an applicant's behalf; (3) An authorized representative of the Veterans' Administration.

Trusting the above answers your inquiry, I remain

By WILLIAM R. FEDERICI,

Asst. Atty. General