administrative matter to be determined from the verified answers of the applicant in his or her application and with additional proof being necessary only in cases of doubt or dispute. In disputed claims, additional proof may be secured from factual data, on acts and intention, with guidance from the suggestions and tests set forth in this opinion. In accordance with Section 59-1422, supra, all disputed claims shall be submitted to and be reviewed by the Veterans' Affairs Commission, and no disputed claims shall be allowed by the Auditor of State unless first approved by the Veterans' Affairs Commission.

OFFICIAL OPINION NO. 40
September 17, 1957

Hon. Wilbur Young
State Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Young:

Your letter has been received, requesting an Official Opinion on the following question:

"Does the person in question have a vested right to receive a first grade license by virtue of the provisions inserted on the exchange license received in 1923 and 1927 even though such person would not qualify under the effective requirements of the State Board of Education of July 1, 1940, and under the present rules and regulations of the Teacher Training and Licensing Commission of the Indiana State Board of Education?"

Your question is prefaced by the following statements:

"A problem has arisen concerning the issuance of a teacher's license based on Chapter 11 of the 1923 Acts. The person in question was issued a second grade license in 1923 in exchange for a license previously held in accordance with the said act.

"For example, on December 13, 1923, a teacher was issued an elementary second grade license on three
terms of credit at Central Normal College and two years experience. Official records in the Teacher Training and Licensing Division reveal that on the back of the license the notation was made that in order to convert said certificate to a first grade the holder of the certificate should 'Consult Normal.'

"Our records also show that the applicant at the time of being issued the license had three terms or one year's work and earned one term or one-third of a year's work during the summer of 1924. Her next work was taken in 1954 and she has completed a total of thirty-two quarter hours or two-thirds of a year's work at the present time, making a total of slightly more than two years college training.

"I am quoting a part of the State Board of Education Minutes of March 12, 1937, which is as follows:

"'Dr. Pittenger moved that the Board adopt in principle the proposal of the Committee as a basis for teacher training in the State of Indiana. This motion was seconded by Supt. Campbell and unanimously carried.

"'The following provisions were approved upon a motion by Supt. Walker and seconded by Dean Dirks. Carried.

"'1. All students enrolling in training for elementary school licenses after November 1, 1937, will be required to complete the four-year curriculum.

"'2. Students may enroll in either the two year or four year elementary teacher education curriculum in the fall of 1937.

"'3. After July 1, 1940, elementary licenses will be issued only to persons who have completed the four year elementary teacher education curriculum.'

"On June 11, 1940, the State Board of Education took the following action:
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"'6a. In exchange of licenses in 1923, the State Board of Education issued the following kinds of licenses that may be affected by the four year elementary teacher education curriculum:

"‘Elementary school teacher's permit, valid for two years.

"‘Elementary school teacher's license, second grade, valid for two years.

"‘Elementary school teacher's license, second grade, valid for life.

"‘Some of these licenses include a statement on the reverse side as follows:

Required for conversion to 1st grade ....... terms, or ....... hours.

"‘The question has been raised several times as to whether or not the holder of any one of these types of licenses may convert such a license into first grade after July 1, 1940, upon the completion of the amount of training prescribed on the license. The committee recommends that we should continue to convert these licenses on such a basis.'

"I wish to advise that the State Board of Education in 1937 and in 1940 was made up of one board and not three commissions as prescribed by Chapter 330 of the 1945 Acts. The two State Board of Education regulations referred to above were not made into valid rules later as required by Chapter 120 of the 1945 Acts but all of the present Teacher Training and Licensing regulations require four years training and a bachelor's degree in order to qualify for a license or teaching certificate with the exception of an emergency permit. In some instances emergency permits may be granted with less than four years training and said regulation is a valid rule as prescribed by Chapter 120 of the 1945 Acts.

"It has been the administrative policy of the Teacher Training and Licensing Division of the State Depart-
ment of Public Instruction to convert a second grade license to a first grade license only when the second grade license issued included a statement on the reverse side, stating the definite number of terms or the number of hours (term hours or semester hours) as required by the State Board of Education regulation of June 11, 1940, provided the applicant will have earned a total of seventy-two weeks or more of professional training.

"If anything other than terms or hours was typed on the reverse side of said second grade license, it was not converted to a first grade license. In this particular case, our official records in the Teacher Training and Licensing Division reveal that the term 'Consult Normal' was typed on the reverse side of the second grade license."

Your question contains two items to be first considered: (1) "Even though such person would not qualify under the effective requirements of the State Board of Education of July 1, 1940"; and, (2) "and under the present rules and regulations of the Teacher Training and Licensing Commission of the Indiana State Board of Education." The first has direct reference to the statements contained in your letter that in 1937 resolution of the State Board, it was provided that after July 1, 1940, elementary licenses would be issued only to persons who have completed the four years elementary teacher education curriculum; and to the resolution of the Board of June 11, 1940, that the Board would give effect to the exchanges of licenses in 1923 regardless of the four-year requirement if they contained on the reverse side of the license a statement as to the required number of terms, or hours, for conversion to a first grade license. On this question it is submitted your original records show that there is only apparent on the reverse side the statement "Consult Normal." An investigation fails to reveal why some of these certificates contained specified terms and hours and other certificates contained the words "Consult Normal." The latter words are not self-explanatory but evidently refer to a reference to the normal school grades and records of college training. I do not think this point too material as a reason, for the distinction is
not apparent and in any event an examination of the records would be sufficient for this purpose, and no reasonable basis is evident for the differences in the markings on these certificates. The resolutions of 1937 and 1940, not having been carried forward as a newly adopted rule under Ch. 120 of the Acts of 1945, the uniform rule making statute, are not now in full force and effect, under the provisions of the Acts of 1945, Ch. 120, Sec. 2, as found in Burns' (1951 Repl.), Section 60-1502.

On the second phrase, above referred to, a somewhat similar situation was considered in the case of State ex rel. Blair v. Gettinger (1952), 230 Ind. 588, 105 N. E. (2d) 161, where the Court determined that Rule 14 of the Commission on Teacher Training and Licensing of the Indiana State Board of Education, adopted August 27, 1946, requiring four years of college training for elementary teachers' certificates was, by its own terms, applicable only to teachers who matriculate on and after September 1, 1946. This evidently refers to the beginning of school matriculation. The Court, in that case, held that said Rule would not apply to the teacher in that case under its terms and by virtue of the fact that it was not retroactive and the same construction would apply here that it is not retroactive as to those teachers who are entitled to special consideration and credit for teaching experience granted them by the 1923 statute. Said Rule 14 is still in full force and effect.

The 1923 statute referred to is Acts of 1923, Ch. 11, as found in Burns' (1948 Repl.), Section 28-4201 et seq. Sections 6, 7, 8, 9, 10 and 11 of said statute were specifically repealed by Acts of 1949, Ch. 224, Sec. 3, as found in footnotes to Burns' (1957 Supp.), Section 28-4332. However, it is to be noted that Section 13 of said statute was not repealed and is still in full force and effect, same being Burns' (1948 Repl.), Section 28-4213 which reads, in part, as follows:

"All licenses of superintendents, assistant superintendents, supervisors, principals, and teachers in force December 1, 1923, shall as soon thereafter as possible be exchanged for licenses of the kinds and grades and of such validity and duration as the licenses offered for exchange may have when equated on the basis of the
standards for the kinds and grades of licenses herein authorized:

"Provided, That the license offered for exchange shall be credited with at least the amount of academic and professional preparation represented and required by said license at the time it was issued:

"Provided, further, That in the exchange of old licenses for new licenses, due consideration and credit shall be given for successful experience in Indiana prior to December 1, 1923, and experience outside of Indiana may also be credited, in lieu of the academic and professional requirements for the given kind and grade of license as herein prescribed and as may be prescribed by the state board of education:

"Provided, further, That in granting licenses under this act to persons not in service December 1, 1923, due consideration and credit may be allowed for successful experience in Indiana prior to December 1, 1923, in lieu of the academic and professional requirements for the given kind and grade of license as herein prescribed and as may be prescribed by the state board of education: * * *

While I question the above statute gives teachers having teaching experience on or before 1923 a vested right to a license, it is apparent the Legislature in enacting said statute, and in continuing its existence even though many other sections of said Act were specifically repealed, has intended to continue a benefit to those teachers to the extent of their practical teaching experience recognized by said statute and to authorize the granting to them of licenses to teach based on such teaching experience and additional college training to be recognized and evaluated by said Teacher Training and Licensing Commission in passing upon the sufficiency of such application. Your letter states this applicant had two years teaching experience prior to 1923 and now has slightly more than two years college training. The Commission's action in granting or refusing this application would not, in my opinion, be subject to reversal unless arbitrarily or capriciously exercised. However, I do not believe the fact that the certificate does or does not recite all of the hours and terms required for
conversion but only states "Consult Normal," could be used as a determining factor. The Board, in other respects, should consider the application, records, and qualifications in a manner consistent with prior actions on like applications, many of which have been determined by said Commission under said statute.

I am, therefore, of the opinion, the Teacher Training and Licensing Commission of the Indiana State Board of Education, under the above referred to statute, has the authority to consider said application on the foregoing conditions, and if it sees fit to do so, to grant a license on that basis.

OFFICIAL OPINION NO. 41

October 7, 1957

Mr. T. M. Hindman
State Examiner
State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Hindman:

This is a sequel to 1956 O. A. G., page 175, No. 39, and in response to your Department's request for my further Official Opinion in clarification thereof, and in answer to the following questions:

"1. Assuming that 'Bank A' located in X Township of Y County has a branch bank located in Z Township of Y County and there is also another bank, designated as 'Bank B,' located and having its principal place of business in Z Township of Y County, do both of said banks qualify for the deposit of public funds of Z Township?

"2. If your answer to question (1) is in the affirmative, would the statutes require that both of said banks be designated as public depositories, provided both banks make application for the public funds of Z Township?