nated his surviving spouse as a lump sum beneficiary, or as an annuity survivor beneficiary, as I am of the opinion the teacher still has this right of election under the statute.

Since the changes in the statute, and as interpreted in this opinion, have broadened the word "beneficiary" to include one entitled to either a lump sum settlement or an annuity survivorship, it is highly recommended that all participants in the Teachers' Retirement Fund clarify their designations of beneficiaries in the records of the Indiana State Teachers' Retirement Board.

OFFICIAL OPINION NO. 15

March 5, 1954

Mr. B. W. Johnson
Executive Secretary
Indiana State Teachers' Retirement Fund
336 State House
Indianapolis, Indiana

Dear Sir:

Your letter has been received and reads as follows:

"Charles R. Helper, a member of the state teachers' retirement fund holding membership under the 1951 law, died July 1, 1953, while in active teaching service. He had named his wife as beneficiary, but had made no designation of her as an annuity survivor.

"An attorney representing Mrs. Helper has requested that we secure an opinion as to whether she had any right of option to such survivorship annuity. Mr. Helper had not transferred to the 1953 retirement fund law amendments.

"We respectfully request your opinion in this matter."

In an Official Opinion of this office, requested by you concurrently with this request for an opinion, same being 1954 O. A. G., No. 14, it was held:
"That the right of election given to the married teacher by the Acts of 1953, Ch. 149, Sec. 2, subsection (e), does not supersede the designation of beneficiary filed under a preceding law, when the member has transferred to and accepted the provisions of the 1953 law, without further designation of beneficiary, except in the case of the husband or wife being the previously designated beneficiary. In the latter case, he or she would have the right of election or option of taking the death benefit payments, or of converting the sum into an annuity, in accordance with subsection (i) of said section of the statute."

The only practical difference in the statement of facts presented by this request, than that considered in the foregoing opinion, is the fact that there the teacher did in fact transfer to the 1953 Retirement Fund, at a time he had a designated beneficiary (under the 1945 law), while in the instant case the teacher was a member of the 1951 Retirement Fund under which he had designated his wife as beneficiary.

Attention is called to the new provisions of the Acts of 1953, Ch. 149, Sec. 2, subsection (j), same being Burns' Indiana Statutes (1948 Repl., 1953 Supp.), Section 28-4511, being a part of the Teachers' Retirement statute which provides as follows:

"Any person who shall have attained the age of fifty (50) years and who shall have taught twenty (20) years or more in the public schools and who ceases to be in the employ of the public schools of the state, or in any state institution wherein service credit is granted, for any cause, may in lieu of any other benefit be entitled to an annuity of such amount as the then present value of the annuity which would otherwise have ultimately been available after thirty (30) years of service from the contributions of the teacher and the state, computed on the actuarial basis provided for, will purchase at such teacher's years of service; and if more than thirty (30) years shall have been served then also said additional years of service shall be taken into consideration, based upon actuarial tables and rules and regulations adopted by the board of trustees: Provided,
1954 O. A. G.

That the provisions of this act shall be applicable to all persons who shall have completed twenty (20) years or more of teaching service as defined herein whether or not they have heretofore qualified for same, but no annuity payment shall be made pursuant to this act for time in retired status prior to July 10, 1953, or final filing of service record, whichever is later.” (Our emphasis)

The last proviso (emphasized) is the controlling part applicable to this question and is new language inserted by the 1953 Legislature.

By the above provision any teacher who has completed twenty years or more of teaching service, as defined in said Act, is entitled to the benefits of the 1953 amendatory provisions of the statute, and I am, therefore, of the opinion that although this teacher was not a member of the 1953 Retirement Fund, the wife of the teacher mentioned in your request would be entitled to the beneficial provisions of the 1953 amendatory statute. This would give her the right of election to take either the lump sum death benefits under the statute, or the option of having the same converted in accordance with the Acts of 1953, Ch. 149, Sec. 2, subsection (i), the latter being the right of election as an annuity survivor, providing such teacher had completed twenty years or more of teaching service, as defined in said Act.

OFFICIAL OPINION NO. 16

March 5, 1954

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

Dear Sir:

Your letter has been received requesting an Official Opinion and reads as follows:

“The Board of School Trustees of the School City of