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

Dear Sir:

Your letter has been received and reads as follows:

"The Teacher Training and Certification Commission of the Indiana State Board of Education unanimously adopted in its meeting April 27, 1951, Rule 32, which describes the duties and the certification requirements of Teacher-Clerks.

I am asking for an official opinion on answers to the following questions:

Question 1: Must a Teacher-Clerk be paid according to the State Teachers Minimum Salary Schedule?

Question 2: If a Teacher-Clerk is paid according to the State Teachers Minimum Salary Schedule does experience as a Teacher-Clerk prior to issuance of the certificate count for salary purposes?"

Section 2, Chapter 293, Acts 1951, same being Sec. 28-4333 Burns (1951 Suppl.), same being the Minimum Salary Act for Teachers in the common schools of the state, among other things, provides as follows:

"The term 'teacher' as used in this act (§§ 28-4332—28-4335) shall be construed to include all persons working in the public schools who are required by law to secure license from the licensing board of the state department of education as a prerequisite to the performance of such work and the salary provisions of this act shall apply to all such teachers for as long a period as their work in the public school shall continue. * * *"
An examination of Rule No. 32 and reference to in your letter shows that a Teacher-Clerk meeting the requirements of said rule, may be issued one of the Teacher-Clerk certificates authorized by such rule. Said rule does not require any such certificate before such duties of Teacher-Clerk could be performed in the local school corporation. Also, there is no statute making such a certificate a prerequisite for the performance of the duties and functions of such position. It is, therefore, clear that such Teacher-Clerks are not teachers within the meaning of the above statute. While, as a matter of policy, because of the vocational or professional parallels a minimum salary schedule might be respected, it cannot be considered that such payments of minimum salaries are compulsory and required under the Act.

The foregoing obviates the requirement of an answer to your second question. However, it might be well to point out that, in my opinion, even if there was a legal requirement for such certificate or license prior to the performance of such duties, the experience of the person in such position prior to the obtaining of a required license would not count for such salary purposes unless specifically provided by statute. This question was ruled upon by this office as to public school librarians, public school nurses and public school attendance officers being entitled to service credit in the Teachers' Retirement Fund for years in which they served prior to statutes authorizing membership in such fund, and it was held in Official Opinion No. 1, 1946 Ind. O. A. G., page 1, that in such case such person could not claim credit for such prior service.

OFFICIAL OPINION NO. 91

October 8, 1951.

Mr. Robert M. Reel,
Executive Secretary,
Indiana Real Estate Commission,
1433 North Meridian Street,
Indianapolis, Indiana.

Dear Mr. Reel:

Your request for an official opinion in substance is as follows:

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