OFFICIAL OPINION NO. 74

December 22, 1948.

Mr. Forrest V. Carmichael,
Executive Secretary,
Indiana State Teachers’ Retirement Fund,
Room 336, State House,
Indianapolis, Indiana.

Dear Mr. Carmichael:

I have your request for an opinion on the following question: May a teacher who is drawing annuity from the Teachers’ Retirement Fund teach handicapped children as provided in Chapter 276 of the Acts of 1947 and still continue to receive an annuity?

Section 28-3523, Burns’ Replacement Volume, the same being Section 3, Chapter 276, of the Acts of 1947, provides in part as follows:

“Any school or classes for handicapped children shall be operated by the school corporation establishing the same under the laws of this state applying to the operation of public schools and under the supervision of the division of special education. Teachers in classes and schools for handicapped children shall be appointed as are other public school teachers. They shall possess the usual qualifications required of teachers in the public schools and in addition thereto such special training as the division of special education may require.” (Our emphasis.)

It is my opinion that teachers of handicapped children are teachers in the public schools of the state, and as such, are deemed to come within the provisions of the Indiana State Teachers’ Retirement Act as teachers in the public schools. (Section 28-4511, sub-section (a), Burns’ 1948 Replacement.) As such, they are ineligible to continue on retirement annuity on return to such employment as a teacher in the public schools (Section 28-4511, sub-sections (i) and (j), Burns’ 1948 Replacement; 1943 Ind. O.A.G. p. 732).

I am therefore of the opinion a teacher who is drawing an annuity from the Teachers’ Retirement Fund may not con-
continue receiving said annuity while teaching handicapped children under the provisions of Chapter 276 of the Acts of 1947.

OFFICIAL OPINION NO. 75

December 22, 1948.

Mr. F. W. Quackenbush,
State Chemist,
Purdue University Agricultural Experiment Station,
Lafayette, Indiana.

Dear Sir:

Your letter of December 16, 1948, has been received requesting an official opinion on the following questions:

"1. Under the Indiana Fertilizer Law (Acts of 1881, p. 511, or Revised Statutes, Sections 4894-4899; Acts of 1899, Ch. 33, p. 49; Acts of 1901, Ch. 184, p. 413), can the State Chemist by rule or regulation require a distributor of commercial fertilizer to include in his guarantee an element other than nitrogen, phosphoric acid, and potassium oxide when the distributor adds such an element and sells the mixture to a consumer?

"2. If the State Chemist cannot require such a guarantee, can he rule that a distributor will be permitted to include such an additional element in the guarantee when it is to be included in the fertilizer?"

Following your questions you give the following supplemental information which is deemed pertinent to a full understanding of the problem presented:

"The reason for this request is that certain Indiana soils are now known to require fertilizer elements other than nitrogen, phosphoric acid, and potassium oxide, as was thought to be the case when the Law was written. Some of the muck soils of the state require copper salts, and some of the upland soils require manganese salts for the production of suitable crop