

## OFFICIAL OPINION NO. 84

August 18, 1945.

Hon. Clement T. Malan,  
State Superintendent of Public Instruction,  
State House,  
Indianapolis, Indiana.

Dear Sir:

Your letter of August 6, 1945, received requesting an official opinion upon the following question:

“At the regular meeting of the Commission on Teacher Training and Licensing on July 26, 1945, President Tirey moved, Mr. Allman seconded and it was carried, that the Teacher Training and Licensing Division approve properly certified teaching experience in the Armed Forces month for month to count on the conversion of a regular license to a life license.

“QUESTION: Will you kindly give me an official opinion as to whether or not the Teacher Training and Licensing Division has the power to pass the foregoing resolution under the 1945 Acts?”

Chapter 330 of the Acts of 1945 created the Indiana State Board of Education, was approved by the Governor under date of March 9, 1945, and contained an emergency clause under which it took effect on May 1, 1945, and said Act provides in part as follows:

“The commission shall have the power to fix standards for license to teach such new subjects of study or to perform such duties in connection with school administration as shall from time to time become necessary as a result of developments in science, aviation, business, and the social life of the people of the State *and shall have the power to evaluate work experience and military service in terms of higher education and experience equivalency.*” (Our emphasis.)

The “Commission” referred to in said statute is the Commission on Teacher Training and Licensing of the Indiana

State Board of Education. The above quoted part of said statute clearly gives such Commission the power to evaluate work experience and military service in terms of higher education and experience equivalency. Said section of said statute is therefore subject to the well known rule of statutory construction that where the provisions of a statute are clear and unambiguous it is not subject to construction by the court.

Section 4502, Sutherland's Statutory Construction, 3rd Edition;

Hord v. State (1907), 167 Ind. 622, 624;

Citizens T. and S. Bank v. Fletcher American Company (1934), 207 Ind. 328, 334.

I am therefore of the opinion that the Commission on Teacher Training and Licensing of the Indiana State Board of Education has authority to pass the above rule. However, since said rule seeks to establish a standard of teaching experience on a month to month basis, that the same thereby affects the minimum salary which may be paid such teachers under the minimum teachers' salary law, and it would be necessary that said rule be adopted by said Commission pursuant to the provisions of Chapter 120 of the Acts of 1945, which statute sets out the procedure to be followed by any agency of the State of Indiana in adopting rules having the full force and effect of law in this State.

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OFFICIAL OPINION NO. 85

August 20, 1945.

Hon. Forrest Carmichael, Executive Secretary,  
Indiana State Teachers' Retirement Fund Board,  
State House,  
Indianapolis, Indiana.

Dear Sir:

Your letter has been received requesting an official opinion on the following question:

"House Bill No. 51 passed by last session of the General Assembly, Chapter 350, provides for the pay-