

OFFICIAL OPINION NO. 133

December 21, 1945.

Hon. Forrest V. Carmichael, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
Room 334, State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of November 24, 1945, received as follows:

"It has been the practice of the Board of Trustees when a teacher has received a year of service credit in the Fund, that this year of service credit is established and therefore, cannot be removed from the record upon the request of the teacher. Under the 1945 law, we are having numerous requests from teachers asking to have certain years removed from their service credit. This involves the changing of the beginning age of service which is a basis for rates and also, a recalculation of the entire record of the teacher.

"Was it the intention of the General Assembly to permit years of service credit to be removed from the teachers service record and by so doing re-establish a new basis for her status in the Fund?"

Section 3, subsection (3), Clause (h) of Chapter 328 of the Acts of 1945 provides in part as follows:

"Teachers coming under the provisions of this act except those teachers provided for in paragraph (3) of subdivision (a) of this section shall be required to pay as arrearages an amount equal to the amount which would have accumulated from their contributions with four per cent (4%) compound interest had they been members under this act *for the number of years which they claim for prior service*, provided that a teacher may waive his right to former service and pay only current rates from the time when the membership begins and receive no credit for prior service. * * *" (Our emphasis.)

Section 3, subsection (3), Clause (c) of Chapter 328 of the Acts of 1945 provides as follows:

“The said board shall determine the actuarial liability incurred by the years of service of the present teachers who shall elect membership in the fund as provided for in this act, or who are granted credit for prior experience as provided for by this act, and shall determine the state's share as hereinbefore declared of this liability, and shall distribute the payment of this liability over a period of years which will be equitable to the state and to the fund. The said board shall issue to each person claiming prior service, upon the presentation of that claim in the form established and approved by the board, a certificate of the amount of prior service allowed by the board.”

Under the provisions of the foregoing sections of the statute I am of the opinion that since teachers have a right to elect whether or not to become members of the Teachers' Retirement Fund under the 1945 Act, that at the time of making such election and becoming members of said Fund under the 1945 Act they may designate the number of years for which they claim credit for prior service, which need not be all the years for which such credit could be granted, and that thereupon the Board should allow credit for the years claimed by the teacher and issue a certificate therefor.

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December 24, 1945.

Hon. Clarence E. Ruston, State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis 4, Indiana.

Dear Mr. Ruston:

Your letter of November 27, 1945, received requesting an official opinion on the following questions: