

tion Department of the State, under the statute to prevent the further infection of corn by the European corn borer, was a reasonable rule, said on page 420 of the opinion:

“Courts have uniformly held, and the law is well settled, that valid rules and regulations, when adopted by an administrative body in accordance with the provisions of the act by which the administrative body was created, are, in effect, a part of the statute. Chicago, etc., R. Co. v. People (1907), 136 Ill. App. 2. *However, a rule, to be valid, must be reasonable and within the authority delegated by the statute.*”

Also see: Blue v. Beach (1900), 155 Ind. 121, 130.

It is, therefore, my opinion that the State Superintendent of Public Instruction may adopt reasonable rules and regulations defining “professional training” by setting forth the required course of studies necessary to be taken by such teacher for her to qualify under the Act. However, when such teacher has taken such required course for the number of weeks set forth in the statute, she is entitled to the benefits therein granted without the necessity of having a degree. The required number of weeks may entitle the teacher to a degree, or it may not, but we are not entitled to take judicial knowledge of the requirements for degrees of the various colleges.

It is, therefore, my opinion that each of your questions should be answered in the negative.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:
Rights in Indiana Teachers' Retirement of beneficiaries
of deceased teacher.

December 17, 1943.

Dr. Clement T. Malan,
 State Superintendent of Public Instruction,
 Indianapolis 4, Indiana.

Dear Dr. Malan:

Your letter of November 23, 1943, received as follows:

“Will you kindly give me a written opinion relative to the following questions:

“A public school teacher in Indiana who has contributed to and is a member of the Indiana State Teachers’ Retirement Fund dies before she is eligible for retirement. The paid-in installments and interest thereon are due someone designated by her or to her estate.

“1. In case she does not designate someone to receive this money, will it have to be administered through the courts before her estate can receive the money?

“2. If she designates someone to receive this money, can this money be levied upon for any purposes, like the paying of debts, etc.?”

Section 28-4511, Clause (e), Burns’ 1943 Supplement, being a part of Section 14, Ch. 182, Acts of 1915, as amended by Sec. 1, Ch. 28, Acts of 1939, provides:

“(e) Death before Retirement—Benefit. In the event of the death of any teacher who is a member under the provisions of this act, before such teacher has retired on an annuity, then and in that event the estate of the deceased teacher (or a beneficiary theretofore designated to the board in writing by said teacher) shall be entitled to a sum chargeable to the annuity savings account equal to the contributions of the teacher with interest thereon compounded annually at four (4) per cent, if application therefor be made within three (3) years after the death of such teacher, but not otherwise.”

In answer to your first question, where the deceased teacher has not designated a beneficiary to receive the fund, it should only be paid to the duly appointed, qualified and acting administrator or executor of said decedent’s estate, who should furnish certified copies of letters of administration showing such appointment and qualification as such executor or administrator. Such payment, in my opinion, would release the State of Indiana from any further liability in the matter. .

In answer to your second question, I wish to advise that Section 28-4513, Burns' 1933, being Sec. 19, Ch. 182, Acts of 1915, provides as follows:

"All the annuities granted and payable out of said state teachers' retirement fund shall be and are exempt from seizure or levy upon attachment, supplemental process, and all other process; and such annuities, or any payment of the same, shall not be subject to sale, assignment or transfer by any beneficiary; and any such sale, assignment or transfer shall be absolutely void."

The last quoted section of the statute is a part of the original Act of 1915. Until the enactment of Chapter 28 of the Acts of 1939, *supra*, a teacher did not have a right to designate a beneficiary. The 1939 Act did not repeal the last quoted section of the statute, and, therefore, it is necessary to determine the meaning of the word "annuities" as used therein and its possible effect on Section 1, Chapter 28, Acts of 1939, *supra*.

The term "annuity" is generally understood as an agreement to pay specified sum to the annuitant annually during his life.

In re: Thornton's Estate, — Minn. —, 243 N. W. 389, 391;

Wiegand v. Woerner, 155 Mo. App. 227, 134 S. W. 596, 603;

See also: Cases cited in "Words and Phrases", Vol. 3, page 487, *et seq.*

It is, therefore, clear that the last quoted section of the statute does not control the money to be received by a beneficiary designated by the teacher. This beneficiary receives only the amount paid in, plus interest thereon, compounded annually at four per cent.

Your second question is broad enough to cover two possible situations, to-wit: (1) Whether the money can be levied upon for the debts of the deceased teacher, and (2) whether the money may be levied upon for the debts of the beneficiary.

It is clear that the money could not be levied upon or used for the debts and claims of the deceased teacher for the reason

that the above statute exempts such funds, and, after the death of the teacher, the remaining balance is not assets of the estate of the teacher for any purpose and forms no part of the estate of the deceased teacher.

In the case of the beneficiary, no vested right arises unless the beneficiary makes an "*application*" for the remaining funds within three years after the death of the teacher. Prior to such application having been made, it is my opinion that the amount due to such beneficiary is a contingent estate which is not subject to levy or execution of any kind. After such application has been made, it is my opinion that the right to said fund is vested, and the creditors of such beneficiary may, by appropriate legal process and proceeding, cause said fund to be levied upon to the same extent that other similar credits and choses of action due to a debtor may be levied upon under the Indiana Statutes.

WELFARE INVESTIGATION COMMISSION: Power of commission to appoint investigators.

December 17, 1943.

Hon. Earl B. Teckemeyer, Chairman,
Welfare Investigation Commission,
130 North Delaware Street,
Indianapolis, Indiana.

Dear Mr. Teckemeyer:

I have your letter of December 3rd in which you ask my opinion upon the following question:

May the Welfare Investigation Commission appoint investigators for the purpose of looking into specific cases?

The Welfare Investigation Commission was created by a Joint Resolution of the 83rd General Assembly which appears in Chapter 318 of the Acts of 1943. The powers of the commission are enumerated in Section 2 of that resolution, as follows:

"The commission shall serve until December 31, 1944. The Commission shall make an investigation of