January 21, 1943.

Hon. Robert B. Hougham,
Executive Secretary,
Indiana State Teachers' Retirement Fund,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you request an official opinion as to the scope and meaning of the term, "regularly employed", as the same appears in Section 14(a) of the Indiana State Teachers' Retirement Fund Act. The above section, which is Section 28-4511 of the June, 1942, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated, 1933, provides in part as follows:

"(a) The members and beneficiaries of this fund shall include any legally qualified and regularly employed teacher, teacher-clerks, supervising principal, principal, supervisor, superintendent of schools, person in charge of teaching any special department of instruction or training, or any other teacher or instructor legally qualified and regularly employed as such in any of the public schools of this state * * *" Burns' June, 1942, Cumulative Pocket Supplement to Burns' Indiana Statutes Annotated. 1933. Sec. 28-4511.

You ask specifically as to the meaning and scope of the words, "regularly employed". These words have not been judicially defined, so far as I can ascertain, by either the Indiana Appellate or Indiana Supreme Court as applied to the particular setting in which they are found. They are not, however, technical words, and under the mandate of the Statute setting up rules of construction they are to be taken "in their plain, or ordinary and usual, sense." Burns' Indiana Statutes Annotated 1933, Section 1-201, Subdivision First. It seems to me that the words, "regularly employed", when taken in their ordinary and usual sense imply a service under contract which is continuous as compared with intermittent. I think, too, that they imply a service of some duration, as
distinguished from one day or two days. It should not be so limited, however, as to eliminate the possibility of certain days off duty or even a part-time service, so long as the service is under contract and is rendered at fixed and regular periods. I think the above considerations will probably be sufficient to furnish a measure to meet such cases as may come before you since, after all, I think most cases will have to be decided upon their own peculiar facts.

INDIANA STATE TEACHERS' RETIREMENT FUND: Eligibility of Superintendent of Muscatatuck Colony to receive annuity.

Whether principal of Ft. Wayne State School is a member of the Fund.

January 22, 1943.

Mr. Robert B. Hougham,  
Executive Secretary,  
Indiana State Teachers’ Retirement Fund Board,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of January 19, 1943, requesting an official opinion in answer to the following question:

“The superintendent of the Muscatatuck Colony has completed 35 years of service in the public schools of Indiana, prior to his appointment to the Muscatatuck post, and under the retirement fund law he is entitled to an annuity, having left the public school service. Is he eligible to receive such annuity at the same time that he is employed as superintendent of the Colony?”

The appropriate provision of the Statute bearing upon this subject is Subdivision (i), Section 28-4511, of June, 1942, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated, 1933, which provides as follows:

“Any person coming under the provisions of this act who shall have rendered thirty-five (35) years or