ferred to the township school corporation, pursuant to statutory provisions therefor, then and in such event the employment of the teachers and the management and control of the schools come under the exclusive jurisdiction of the township trustee.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:
Eligibility of teacher while serving as attendance officer to draw earned annuity payments from State Teachers' Retirement Fund.

December 23, 1943.

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

Dear Dr. Malan:

This will acknowledge receipt of your recent letter which reads as follows:

"Will you kindly give us your official opinion on the following question:

"Is a teacher who has met all requirements to retire, disqualified for annuity benefits because she is employed as attendance officer for a city school system but draws her entire salary from the county auditor?"

The above question is the same identical question propounded to the Attorney General of Indiana in 1942 and which was answered by an official opinion of the Attorney General under date of November 16, 1942. See Opinions of the Attorney General 1942, page 249. In this opinion the then Attorney General answers your question in the following language:

"* * * I am of the opinion, therefore, that an attendance officer working in a city school system, even though paid out of civil county funds, is not—while such relationship exists—eligible to draw his earned annuity payments from the State Teachers' Retirement Fund."
A reading of this opinion discloses that the above conclusion was based upon the following reason, to-wit:

"* * * Clearly the attendance officer is under the control of the schools and undoubtedly his service is a service to the schools of his particular district. * * * ."

Under the teachers' retirement fund act as embodied in Burns' R. S. 1943 Supplement, Section 28-4511, sub-divisions I and J respectively, the Legislature has expressly provided that in order to be entitled to receive an annuity benefit under the Act such person must be one "who ceases to be in the employment of the public schools of the state, for any cause."

In the 1943 session of the General Assembly, Chapter 112, Acts 1943, which is Burns' 1943 Supplement, Section 28-4319, providing for the minimum compensation to be paid to teachers, was enacted and the Legislature defined a teacher in the following language, to-wit:

"The term 'teacher' as used in this act shall be construed to include all persons working in the public schools who are required by law to secure a license from the state as a prerequisite to the performance of such work and all the terms of this act shall apply to all such teachers for as long a period as their work in the public school shall continue with the exception that kindergarten teachers may be engaged for a school term of less than eight (8) months."

In an official opinion to Honorable Otto K. Jensen, State Examiner, Department of Inspection and Supervision of Public Offices, dated June 19, 1943, I construed the above language with reference to the question as to whether or not an attendance officer duly appointed for a local school attendance district was included within the definition of teacher under the provisions of Chapter 112, Acts 1943, supra, and I held that an attendance officer was a teacher within the purview of Chapter 112, Acts 1943. A copy of this opinion is included herewith and made a part of this opinion. See Opinions of the Attorney General, 1943, page 364.

The above provisions of Chapter 112, Acts 1943, are an additional reason for the conclusion reached by the Attorney
General in his opinion of November 16, 1942, as to why an attendance officer is still performing services of the school and has not ceased to be in the employment of the public schools of the state for any cause, as required by Section 28-4511, *supra*, which is a prerequisite to be entitled to receive annuity benefits under the teachers' retirement fund act.

In conclusion, I reaffirm the previous opinion, written by the Attorney General, to your question, and in my opinion your question must be answered in the affirmative for the reason that under the present statutes such teacher is still an employee of the public school system of Indiana, under the classification of a teacher.

---

DEPARTMENT INSPECTION AND SUPERVISION OF PUBLIC OFFICES: Interpretation of Chapter 55 of the Acts of 1943 with reference to the benefits of burial allowance for members of the armed force of World War II. Effect of medical discharge.

December 27, 1943.

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection and Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of December 11, 1943, received as follows:

"This department has received many inquiries regarding Chapter 55, Page 138, Acts 1943, the same being Sec. 59-1009, Burns' Ind. Statutes Replacement 1943, and we are desirous of receiving an official opinion on the following:

"1. Are the members of the armed forces, now engaged in World War II, resident of any county in the State of Indiana, who die or have died while in such service, entitled to receive the benefits of the burial allowance of not to exceed $75.00 and, if neces-