TEACHERS' RETIREMENT FUND BOARD: "Disability" as used in act embraces teaching disability only.

January 6, 1939.

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

Dear Sir:

I have before me your letter in which you state that the Indiana Teachers' Retirement Fund Board has before it a question as to whether a teacher who has been placed on disability because of inability to teach would still be entitled to such disability if it were shown that said teacher was physically able to do other types of work. You request an official opinion with respect to the above subject.

Your question requires a consideration of Section 3 (j) of Chapter 189 of the Acts of 1937 on the subject of Teachers' Retirement Fund benefits, which provides as follows:

"Any teacher in the service of the public schools of the State may be temporarily or permanently retired for disability on a benefit in accordance with this act after he or she shall have served as such teacher according to the provisions of this act for a period of ten years or more: and Provided further, That when a teacher is retired for any disability such retirement shall continue only until such disability is relieved or removed, and no disability benefit shall be paid to such teacher after medical examination made on demand of the board of trustees of the Indiana state teachers' retirement fund and by a physician approved by the said board and made at the expense of said teacher shall establish to the satisfaction of the board that such disability is removed. No benefit for disability continuing for less than one-half of a school year shall be paid. The disability benefits paid shall be at the rate of five hundred dollars per annum, provided, however, that no disability benefit will be paid at a greater rate than five-eighths of the contract salary of the year in which the disability occurred."
The Act nowhere defines the term "disability," but in the absence of some restrictive definition, I think the above language must be construed as referring to a disability to teach school not including, of course, professional disability by which I mean a disability to teach on account of failure to comply with licensing provisions or disqualification by reason of revocation or suspension of a license.

TEACHERS' RETIREMENT FUND BOARD: Teachers belonging to local funds prior to 1915 are eligible for membership under 1937 act.

January 6, 1939.

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

Dear Sir:

I have before me your request for an official opinion in answer to the question as to whether teachers who were members of the local retirement funds under the 1915 Acts which funds came into the Indiana State Teachers' Retirement Fund under the amendment of 1921,—as to whether such teachers will be eligible for membership under the amendment of 1937.

In defining the members of the fund under the 1937 Act, the statute provides as follows:

"The members of the fund shall be as follows:

"1. All teachers as herein defined, who are employed to teach in the public schools of the State and whose services in such schools began after June 30, 1921, or whose services shall begin hereafter.

"2. Those teachers who entered service in such schools of the State prior to July 1, 1921, but who were not members of the state pension system, and who, before December 31, 1936, elected to receive membership in this system by the payment of arrearages under the conditions set forth by this Act.

"3. Teachers who entered service in the schools of the State prior to July 1, 1921, and who failed to elect