

**OPINION
46-238**

September 3, 1946 (OPINION)

TEACHERS RETIREMENT

RE: Fund - Time of Teaching Out of State - Sec. 15-3915

This is in reply to your letter of August 31, 1946, in which you inquire:

"May teaching in the Indian Service be counted toward retirement under the North Dakota Insurance and Retirement Fund Laws?"

Section 15-3915 of the 1943 Revised Code provides as follows:

"Any teacher who comes from a school or educational institution not included within the provisions of this chapter and becomes a teacher in a public school or state institution within this state, before receiving any retirement annuity, shall pay assessments to the fund for his years of teaching service in the excluded school or educational institution based upon his first annual salary in a public school or state institution in this state, in the amounts specified in section 15-3914 and shall pay the assessments specified in said section."

Subsection 1 of section 15-3927 provides as follows:

"After a period or periods aggregating twenty-five years of service as a teacher of which eighteen years, including the last five years, of teaching shall have been spent in public schools or state institutions of this state, if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. If a teacher shall retire before attaining the age of fifty years, eligibility for the retirement annuity shall be deferred until the age of fifty years is attained; * *"

Interpreting these two statutes together, I am of the opinion that if a teacher has taught twenty-five years, eighteen of which, including the last five years of teaching, shall have been spent in public schools or state institutions of this state, if such teacher shall have paid into the fund all assessments required, then not to exceed seven years spent in teaching in Indian schools, may be counted, provided such teacher pays the assessments as provided in said section 15-3915.

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