

**OPINION  
46-282**

February 1, 1946            (OPINION)

TEACHERS' RETIREMENT FUNDS

RE: Benefits - How Calculated

This office is in receipt of your letter of January 28, 1946, in which you say that the teachers insurance and retirement law provides that the minimum annuity which may be paid to a retired teacher is \$350.00; that a teacher is interested in knowing what she would receive if she should retire at the age of fifty. You say: "We find that computing it actuarially she would get \$316.52 which is less than the minimum. The puzzle for which we need your solution is would we be allowed to give her at fifty the actuarial equivalent of what she would get a fifty-five? If so, \$316.52 is less than the minimum set by law."

Subsection 1 of section 15-3928 of the 1943 Revised Code provides that if a teacher shall have attained the age of fifty-five years at the time of applying for an annuity, such teacher is entitled to receive the annuity prescribed in said subsection, which shall not be less than \$350.00. In other words, in order to be entitled to an annuity in the amount of \$350.00, event though such amount is in excess of "one-fiftieth of her average annual salary for the years of service for which assessments were paid, multiplied by the whole number of years of service as a teacher," applicant for the annuity must have attained the age of fifty-five years. The minimum fixed by subsection 1 of section 15-3928 of the Revised Code clearly applies only to teachers who have attained the age of fifty-five.

If a teacher applies for an annuity before she is fifty-five years of age, then the amount thereof must be determined on the actuarial basis provided in subsection 2 of section 15-3928. Therefore, if \$316.52 is the actuarial equivalent of the annuity the teacher referred to in your letter would receive at the age of fifty-five, then, in my opinion, that is the amount to which she will be entitled if she retires when she is fifty years old.

NELS G. JOHNSON

Attorney General