

**OPINION
52-124**

October 30, 1952 (OPINION)

TEACHERS INSURANCE AND RETIREMENT

RE: Qualifications for Admission

We are in receipt of your communication of October 28, 1952, in which you present the following facts:

"We are in receipt of a communication from a former teacher who taught in North Dakota prior to January 1, 1914. She is now employed as a teacher in the state of Montana and is requesting that she be granted the privilege of membership in the North Dakota Teachers Insurance and Retirement Fund."

Your inquiry is whether or not under those circumstances this teacher may now qualify as a recipient of the annuities provided for by the Teachers Insurance and Retirement Fund.

Section 15-3901 of the North Dakota Revised Code of 1943 defines what is included in the term "teacher". It will there be noted that in every qualification a teacher is a person employed in an educational institution in this state supported by public taxation. In order to qualify therefor a teacher must conform to the requirements of this statute. Section 15-3915 gives to a teacher who comes from a school or educational institution supported by public taxation in another state of this nation, and who becomes a teacher in a public school or state institution within North Dakota, the privilege of using not to exceed seven years of such out-of-state teaching as a credit towards qualifying for membership in the Teachers Insurance and Retirement Fund. However, at the time that an application is made for the retirement annuity such teacher must then and at that time either be actively teaching or have retired, or have theretofore accumulated the required number of years provided for by the law.

Section 15-3912 does not in any manner change the requirements for membership in the Teachers Insurance and Retirement Fund except to the extent that it permits a teacher who taught prior to January 1, 1914 to use such a period towards qualifying for the number of years required.

It is therefore the opinion of this department that the person referred to in your communication may not now qualify as a member of the North Dakota Teachers Insurance and Retirement Fund, not being a teacher in any educational institution of this state. To this rule there could be one exception, and that is, if this person had established prior to leaving the state of North Dakota the required number of years of teaching, even though this period was prior to January 1, 1914, but such teacher may not use the number of years of teaching in another state towards qualifying in this state except as provided for by section 15-3915.

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Attorney General