

OPINION
56-132

March 29, 1956 (OPINION)

TEACHER'S RETIREMENT AND INSURANCE FUND

RE: Employees Covered - Right to Participate in Federal Social Security Program

This is in reply to your request for an opinion on the question "Can all the employees covered by the Teacher's Retirement and Insurance Fund, employed by a county, by the procedure provided in Chapter 306, Session Laws 1955, come under the Federal Old Age and Survivors Insurance?"

Under section 218(d) of the Federal Social Security Law 1954 teachers employed by a county and covered by Teacher's Retirement and Insurance Fund may be considered a coverage group. Section 52-0927 of the 1953 Supplement to the N.D.R.C. of 1943 permits participation by employees of political subdivisions in the Federal Social Security program if the governing board so authorizes and provides payments thereto.

Chapter 306 of the 1955 Session Laws provides the procedure to be followed by political subdivisions to participate in the Federal Social Security program, and also creates the state agency which may enter into agreements with the Federal Government for the various political subdivisions to participate in the Federal Social Security program.

The teachers employed by the county having a retirement program of their own, the Teacher's Retirement and Insurance Fund, which is a different retirement program than the one provided for the other county employees, the State OASIS Plan, are a separate coverage group.

Whether it is wise for the county commissioners to permit certain classes of its employees to participate in the Federal Social Security program and not allow the others to so participate is not a question for us to consider.

The initial question whether the county will authorize participation by its school teachers who are under the teachers retirement program is left to the discretion of the county commissioners.

In conclusion, under the Federal and State laws, it is our opinion that all the employees covered by the Teacher's Retirement and Insurance Fund employed by a county can participate and come under the Federal Social Security program by following the procedure outlined in Chapter 306 of the 1955 Session Laws and complying with the requirements of 52-0927 of the 1953 Supplement to the N.D.R.C. of 1943.

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