

**OPINION  
57-95**

March 19, 1957 (OPINION)

EDUCATION

RE: Teachers Insurance and Retirement - Disability Begins When

We have received your letter dated March 14, 1957, in regard to the interpretation of subsection 2 of section 15-3927 of the 1953 Supplement.

We note that the letter from Mr. Owen to Miss Nielson, dated August 28, 1944, is not signed by the then attorney general so it is not an opinion but simply an office letter. We further note that Mr. Owen states that it is his opinion that "all teachers should receive payments just as soon as your board is satisfied that such disability exists." He does not say that the board shall not authorize payment from the date or inception of the disability; he only says they shall receive such payments when the board is satisfied that a disability exists.

On January 24, 1956, Mr. Martin Rimestad of the board of auditors asked this office for an opinion by asking the following question: "In your opinion, and aside from the assessment provisions, are these benefits payable from the beginning of such total disability or only from the time of approval by the Board of Trustees of the Teachers' Insurance and Retirement Fund?" In our reply, which was dated January 24, 1956, we said that is was our interpretation of this law that payment for a disability commences at such time as the disability takes place, but is payable only the month following the determination by the board. Our files indicate that a copy of this opinion was sent to your office.

In any event, it is the opinion of this office that payments must be figured from the beginning of the disability and paid by the month following determination by the board.

In answer to your second question, we can only say that we do not know of any law authorizing the board of auditors to dictate administrative procedures to you or other departments. The board of auditors has the right to ask for opinions from this office as to legality of procedure in state departments.

LESLIE R. BURGUM

Attorney General