

**OPINION  
59-100**

July 30, 1959           (OPINION)

EDUCATION

RE: Teachers' Insurance and Retirement Fund -

Retired Teacher's Annuity

This is in reply to your question, "May a teacher retiring under the old formula with an \$1800.00 maximum, have his or her annuity increased by \$60.00 per year in excess of that amount?"

This question was dealt with in a letter dated April 16, 1959, page 2, paragraph 3, and is as follows:

These conditions are retroactive on a perspective basis. It is retroactive in so much that the formula established under this bill can be applied retroactively after July 1, 1959, by any teacher actively teaching. Any teacher retiring after July 1, 1959, comes under the new formula even if the teaching service was performed prior to July 1, 1959. The new amendments do not apply to teachers or persons who were on the pension rolls unless they returned to active teaching service. This is because of the special provisions of section 15-3941 which provides that pension rights, privileges and benefits which have become fixed and determined shall remain unchanged unless specifically by law provided otherwise."

These conditions relate to the new amendments. Your question as I understand it refers to those who retired under the old law or formula. If that is correct, section 15-3941 controls. However, if such retired individual resumes teaching he or she is entitled to the additional benefits allowed under the new amendment, even though the benefits exceed \$1800.00 per year as the result of additional time spent teaching.

Any teacher retiring after July 1, 1959 is entitled to the benefits as set out in the 1959 amendments; the new law or formula applies and if her teaching service salary warrants she may receive an annuity in excess of \$1800.00 per year.

The \$1800.00 limitation was removed by the 1959 legislature and the new formula without limitations applies to all who retire after July 1, 1959 or who resume teaching after having retired. In addition subsection E of section 15-3928 is also available to those who can qualify under the provisions of said section on a voluntary basis.

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