

**Public School Teachers, Retirement of. Retirement, of Public School Teachers. State Institutions, Teachers in. Teachers Retirement Fund, Who Eligible. Statutes, Chapter 95, Laws of 1915, Construed.**

The law relating to retirement of public school teachers is not broad enough to include presidents, superintendents and members of the faculty of state educational institutions, but may under certain conditions include teachers in such institutions.

December 8, 1915.

Hon. H. A. Davee,  
Supt. of Public Instruction,  
Helena, Montana.

Dear Sir:

I acknowledge receipt of your communication submitting the following question:

Are teachers and executives employed in the state university, the agricultural college, the normal college, the school of mines, the state industrial school, the school for the deaf and blind, and the state orphan's home, entitled to the benefits of Chapter 95, Session Laws of 1915, known as the "Teachers' Retirement Act?"

This Act, as expressed in the title, is an Act creating certain funds \* \* \* to provide for the retirement of public school teachers\* \* \*. The president, superintendent and members of the faculty of the state institutions named in your question, cannot properly be designated as public school teachers. Such positions partake more of the nature of public offices, or public employments than they do of "public school teachers." Hence, the Act cannot apply as to them.

Where, however, the work performed by the *teachers* in such institutions is the same as that required of teachers in the public schools, and of the same grade and kind and follow the same curriculum, and the teachers possess the legal qualifications, there is not any reason why the Act should not apply, and I believe as to these, it does apply.

Yours very truly,

J. B. POINDEXTER,

Attorney General.