

Opinion No. 181.

**Teachers Retirement—School Nurses—
Nurses.**

Held: The question of whether a school nurse may be a member of the teachers retirement system should be determined by the members of the board of the teachers retirement system.

February 26, 1944.

Mr. R. W. Harper
Executive Secretary
Teachers Retirement System
State Capitol
Helena, Montana

Dear Mr. Harper:

You have submitted the following question:

Are school nurses eligible for membership in the teachers retirement system?

Section 1 of Chapter 87, Laws of 1937, as amended by Section 1 of Chapter 215, Laws of 1939, provides in part as follows:

“Teacher’ shall mean any teacher in the public elementary and high schools of the State. . . . and any other member of the teaching or **professional staff** of any public elementary or high school of this State. . . . In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.” (Emphasis mine.)

While a school nurse is not engaged in teaching as commonly understood, yet it can well be argued that she is a member of the “professional staff” of a school.

Under the provisions of the act as quoted above, the board has authority to determine in cases where there is doubt.

It is my opinion that the question of whether a school nurse may be a member of the teachers retirement system should be determined by the members of the board of teachers retirement system.

Sincerely yours,
R. V. BOTTOMLY
Attorney General