

**Opinion No. 3.****Teachers' Retirement—Pension Computations.**

HELD: The average annual compensation a teacher would receive, if she taught the normal time, during her last ten years of service, as distinguished from the amount she actually receives, would constitute her average annual salary to be used to calculate her pension retirement allowance.

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December 5, 1938.

The Honorable Ray N. Shannon  
Chairman of the Teachers'  
Retirement Board  
Capitol Building

My Dear Mr. Shannon:

You have submitted to this office the question as to the proper manner to calculate the average salary of a teacher over the past ten years, in establishing her pension allowance upon her retirement, under the State Teachers' Pension System, where the teacher has taught for a shorter period than nine months during the year.

Paragraphs 13 and 14, Section 1, Chapter 87, L. 1937, provide:

"'Earnable compensation' shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time except that any compensation in excess of \$2,000 per annum shall be used as \$2,000 for the purpose of this system. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"'Average final compensation' shall mean the average annual compensation, pay or salary earnable by a member during his last ten years of service as a teacher."

Under the statutory definition, the earnable compensation is not what the teacher actually receives, but what she would receive if she worked the full normal time.

The average annual compensation or pay the teacher would receive if she taught the normal time, during her last ten years of service, as distinguished from the amount she actually receives, would constitute her average annual salary. By this method of computation the rate of compensation the teacher receives per month, if she taught less than nine months in any one year, multiplied by the number of months, which the retirement board has fixed as the minimum requirement to constitute a year's service, would constitute her annual earnable compensation and normal period of work. (See paragraph 2, Section 5, Chapter 87, *supra*.)