

Opinion No. 182.**Teachers Retirement System—School
Nurses—Nurses.**

Held: Nurses are covered by the
teachers retirement system.

February 26, 1944.

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

Dear Mr. Harper:

The teachers retirement system was set up by Chapter 87, Laws of 1937. In this act teachers in the University of Montana were not included.

By Chapter 215, Laws of 1939, said Chapter 87, Laws of 1937, was amended. Section 1, Subsection (4) reads as follows:

“Teachers’ shall mean any teacher in the public elementary and high schools of this State, and the University of Montana, as constituted in accordance with Section 852, Revised Codes of Montana, 1935, including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice principal, supervisor, superintendent, county superintendent of schools and any other member of the teaching or professional staff of any public elementary or high school of this state, and any administrative officer or member of the instructional or scientific staff of the University of Montana; provided that no person shall be deemed a teacher within the meaning of this act who is not so employed for full time outside vacation periods. . . . In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.” (Emphasis mine.)

Section 852, Revised Codes of Montana, 1935, above referred to, provides as follows:

“The state university of Missoula, the college of agriculture and mechanic arts at Bozeman, the school of mines at Butte, the normal college at Dillon, the eastern Montana state normal school at Billings and the

nothern agricultural and manual training school at Fort Assiniboine, and such departments of said institutions as may hereafter be organized, shall constitute the university of Montana, under the name and style of university of Montana." (Emphasis mine.)

In view of the foregoing statutes any teacher, administrative officer or member of the instructional or scientific staff of the University of Montana, provided such person is so employed for full time outside vacation periods, is covered by the act and entitled to the benefits thereof.

The nurses who instruct the student nurses are employed by the Montana State College, sign teaching contracts, and are paid monthly, the money being derived from tuition fees which are paid into the Montana State College, which in turn pay it over to the State Treasurer, who in turn pays the nurses doing the instructing from the Montana State College funds.

The instruction of the student nurses in the hospitals is a part of the established curriculum of the nursing course. If by any chance, the nurses giving instructions, could not be called teachers, most certainly they are instructors, so as to fall within the provisions of said subsection 4 of Section 1 of Chapter 215, Laws of 1939.

It is my opinion such nurses are covered by the teachers retirement system.

Sincerely yours,
R. V. BOTTOMLY
Attorney General