

Opinion No. 52.

Teachers' Retirement System—Retirement of Teachers, when—Compulsory Retirement.

Held: Should a teacher's seventieth birthday be on September 1, 1946, the Teachers Retirement Board will retire the teacher in the regular way on September 1, 1947.

July 7, 1945.

Mr. Robert W. Harper, Secretary
Teachers' Retirement Board
State Capitol
Helena, Montana

Dear Mr. Harper:

You have submitted the following question for my opinion:

One of the teaching members of the teachers' retirement system reaches the age of seventy years on the first day of September, 1946. Does this teacher retire on the first day of September 1946, or on the first day of September, 1947?

In answering the foregoing question, it is to be noted that Section 6 of Chapter 87, Laws of 1937, was amended by Section 2 of Chapter 137, Laws of 1945, as follows:

"That from and after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday."

Before the amendment above quoted, the requirement was that any member in service shall be retired forthwith or on the first day of the calendar month next succeeding that month in which said member shall have attained the age of seventy years. The legislature in amending the said section undoubtedly had in mind the disruption and trouble caused in a school under the law before the amendment, by the compulsory retirement of the teacher during the school year upon his or her attaining the age of seventy years, while under the amendment it is not mandatory for the teacher to be retired by the board

until the first day of September following his or her seventieth birthday.

Therefore, under the facts as you have given them to me, it is my opinion wherein the teacher's seventieth birthday is on September 1, 1946, the said teacher will be retired by the retirement board in the regular way on September 1, 1947.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General