

**Opinion No. 26**

**TEACHERS RETIREMENT ACT; A d d i t i o n a l Contributions;  
Withdrawals—TEACHERS RETIREMENT ACT; Interest—  
TEACHERS RETIREMENT ACT; Withdrawals — Sec-  
tion 75-2707 (8) (a), R.C.M., 1947.—Section 75-  
2709(1)(e) R.C.M., 1947.**

**HELD:** Interest earned by additional contributions to the Teachers Retirement System must be treated in the same manner as is interest on normal contributions when such contributions are withdrawn.

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November 12, 1963

Mr. J. Hugh McKinny  
Executive Secretary  
Teachers Retirement System  
Mitchell Building  
Helena, Montana

Dear Mr. McKinny:

You have advised me that members of the Teachers Retirement System are permitted to make additional contributions to the system under Section 75-2709 (1) (e), R.C.M., 1947. The Teachers Retirement Board allows any teacher who makes extra contributions to withdraw the extra contributions at any time. Upon such withdrawal, the interest earned by these additional contributions remains in his normal annuity savings account rather than being divided between the pension accumulation fund and the expense fund as is done with interest earned on normal contributions when those are withdrawn prior to death or retirement. You ask if this is proper

Section 75-2709 (1) (e), R.C.M., 1947, which allows a teacher to make these additional contributions, provides in part:

“Such additional amounts so deposited shall become a part of his accumulated contributions, . . .”

Section 75-2707 (8) (a), R.C.M., 1947, provides:

“A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.”

Sections 75-2701 (12) and 75-2709 (1) (e), R.C.M., 1947, provide that the interest earned upon withdrawn accumulated contributions shall be divided three-fourths to the pension accumulation fund and one-fourth to the expense fund.

Since the statute makes no distinction between normal contributions and additional contributions for purposes of withdrawal, I can perceive no justification for making such a distinction. It is therefore my opinion that the interest earned by additional contributions must be treated in the same manner as is interest on normal contributions when such contributions are withdrawn.

This opinion has no application to additional contributions made prior to July 1, 1945. Persons who made additional contributions before that date are entitled, upon withdrawal of their contributions, to a refund of three-fourths of the interest accrued thereon.

72            OPINIONS OF THE ATTORNEY GENERAL

See 22, Report and Official Opinions of the Attorney General, page  
246 (Op. No. 153).

Very truly yours,

FORREST H. ANDERSON  
Attorney General