



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

June 17, 1958

Honorable Frank M. Jackson  
Executive Secretary  
Teacher Retirement System  
of Texas  
Austin, Texas

Opinion No. WW-451

Re: Payment of death benefits  
accruing under the account  
of Gussie Lee Teague, de-  
ceased, pursuant to the  
Teacher Retirement Act.

Dear Mr. Jackson:

Your request for an opinion states that Gussie Lee Teague on February 16, 1939, designated her sister as beneficiary to receive any death benefits due under the Teacher Retirement Act. This designation was made on the regular form prescribed by the System and duly filed in its office.

On February 7, 1957, she executed a will in which it was recited:

" . . . I hereby revoke all prior wills and testamentary instruments that I have heretofore made."

The will further provided:

"The residue of my estate, whether personal, realty or mixed and wherever located, I give, devise and bequeath to my brother, Truman G. Teague."

The member subsequently died, and at the time of her death the designation of beneficiary filed with the Teacher Retirement System on February 16, 1939, had not been revoked or changed by any subsequent designation filed with the System. The will has been duly probated, and you have asked whether the Retirement System should make payment of death benefits to the person named as beneficiary on the regular form filed in your office, or to the person named in the will pursuant to the devise above quoted.

You have further advised us that the sister of the decedent, Mina Belle Redmon, who was named beneficiary on the regular form, has expressed a desire to renounce any claim she might have against the System by reason of her

designation as beneficiary. We understand that she is ready and willing to file with the Retirement System an instrument in writing, duly acknowledged, wherein she would disclaim any entitlement to any benefits under the Teacher Retirement Law and in which she would recognize and acknowledge the brother of the decedent, Truman G. Teague, as the lawful beneficiary of all benefits payable.

In view of these special circumstances, this opinion shall be written upon the assumption that such an instrument, duly acknowledged, will be executed by Mina Belle Redmon and filed with the Teacher Retirement System.

In Attorney General's Opinion O-5126 (1943) it was held that where the original beneficiary named on the regular form on file with the Retirement System, pre-deceased the member and no further designation of beneficiary was made by the member with the System prior to her death, that death benefits were legally payable to a beneficiary named in the decedent's will "to receive all of her earthly goods". To the same effect is the holding in Attorney General's Opinion O-2907. When Mrs. Redmon files the instrument above described with the Retirement System renouncing any claim to death benefits which she may legally have, we believe that the situation then will be the same as if the member had died without a designation of beneficiary being on file with the System. This being the case, we further believe that the holding of the above cited opinions would render the beneficiary named in Mrs. Teague's will entitled to all death benefits payable under the provisions of the Teacher Retirement Law.

We need not determine what the legal rights of the parties would be in the event Mrs. Redmon fails to execute and file the described instrument.

You are, therefore, advised that it is our opinion, provided the condition mentioned is complied with, that death benefits payable under the account of Gussie Lee Teague, deceased, with the Teacher Retirement System should be paid to the beneficiary named in the will of Mrs. Teague, Truman G. Teague.

#### SUMMARY

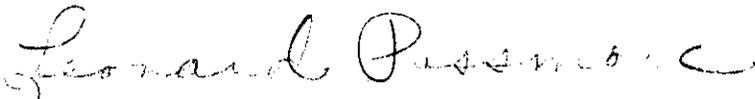
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with the Teacher Retirement System,  
should be paid to the brother of the  
deceased member, Truman G. Teague,  
provided there is compliance with  
the stated condition.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
Leonard Passmore  
Assistant

LP:mg

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

Linward Shivers

Milton Richardson

Arthur Sandlin

Morgan Nesbitt

REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert