

## OPINION NO. 76-007

**Syllabus:**

A county children services board, established pursuant to R.C. Chapter 5153, may not establish a vacation benefit for its employees which exceed those provided for in R.C. 325.19.

**To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio**

**By: William J. Brown, Attorney General, January 30, 1976**

I have before me your request for my opinion concerning establishment of employee vacation benefits, by a resolution of a county's Children Services Board, which are in excess of the benefits provided for by R.C. 325.19.

County Children Services Boards are established pursuant to the provisions of R.C. Chapter 5153. Under R.C. 5153.11, the executive secretary of such a board appoints the board's employees, but neither he nor the board itself has the power to fix their compensation. Pursuant to R.C. 5153.12 the employees of the board are in the classified civil service. This situation is, then, distinguished from that described in 1969 Op. Att'y Gen. No. 69-134, and in 1975 Op. Att'y Gen. No. 75-078, wherein certain appointing authorities, as county officers, were concluded to have the power to fix certain provisions for employee compensation on the basis of their listing in R.C. 325.27 and the statutory authority of R.C. 325.17 to fix compensation. This situation is also different than that in 1971 Op. Att'y Gen. No. 71-042, where I concluded that the board of trustees of a county tuberculosis hospital has the power to make certain pay provisions not otherwise statutorily expressed, upon the authority, under R.C. 339.30, 339.33, to hire employees and fix their compensation.

Employees of children services boards, as county employees, are subject to the provisions of R.C. 325.19, which sets out the amount of vacation time "each full-time employee in the several offices and departments of the county service" shall receive. It is accepted in the law that measures providing for the spending of public funds are to be strictly construed. State, ex rel. Leis, v. Ferguson, 149 Ohio St. 555 (1948). R.C. 325.19 is such a measure, and so, it must be construed strictly. Therefore, since neither the executive secretary nor the county children services board is otherwise empowered to fix compensation for employees or otherwise increase vacation benefits it appears that R.C. 325.19 is controlling and stands as the only authority for vacation benefits to employees of children services boards.

It has been urged that 1965 Op. Att'y Gen. No. 65-222, issued by one of my predecessors, provides support for the position that R.C. 325.19 is not a limitation on the amount of vacation leave an employee may receive, but is rather a guarantee that at least that much be given. However, this opinion deals with the employees of county officials listed in R.C. 325.27 who have broad authority under R.C. 325.17 to fix the compensation of their employees, just as did the other opinions which were discussed above.

Neither the executive secretary nor the county children services board has authority to fix compensation under R.C. 325.17. Nor is this situation similar to the facts that led to my 1972 Op. Att'y Gen. No. 72-079. There I held that a board of education may grant more vacation leave than the minimum required by R.C. 3319.084. However, my opinion in that case was based on the fact that R.C. 3319.084 expressly stated that two weeks vacation was to be the minimum paid vacation allowed, and R.C. 3317.12 empowered the board to fix the compensation of its employees. "Paid vacation is clearly a part of employees' compensation . . . ." Id. In the present case, R.C. 325.19 does not provide for a minimum vacation leave, nor does R.C. Chapter 5153 empower the executive secretary or the children services board to fix the compensation of the board's employees. Based on the foregoing, then, I must conclude that R.C. 325.19 is controlling, and a county children services board may not establish a vacation benefit for its employees which is at variance with it.

In specific response to your question it is my opinion, and you are so advised that a county children services board, established pursuant to R.C. Chapter 5153, may not establish a vacation benefit for its employees which exceeds those provided for in R.C. 325.19.