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1. PARK DISTRICT, BOARD OF PARK COMMISSIONERS OF TOWNSHIP—HAS AUTHORITY TO ADOPT PLAN TO PAY SALARIES TO EMPLOYEES FOR REASONABLE PERIOD OF ABSENCE DUE TO ILLNESS.
2. BOARD HAS AUTHORITY TO PROVIDE FOR FULL COMPENSATION FOR REASONABLE PERIOD TO EMPLOYEE INCAPACITATED BY INJURIES RECEIVED IN PERFORMANCE OF DUTIES—MAY SUPPLEMENT AWARD MADE BY INDUSTRIAL COMMISSION.

SYLLABUS:

1. The board of park commissioners of a township park district has authority to adopt a plan providing for payment of salaries to employees for a reasonable period of absence occasioned by illness of such employees.
2. Such board has authority to adopt a plan providing for full compensation for a reasonable period to an employee who is incapacitated by injuries received in the performance of his duties, and for such purpose may supplement an award made to such employee by the Industrial Commission.

Columbus, Ohio, March 24, 1943.

Bureau of Inspection and Supervision of Public Offices,
Columbus, Ohio.

Gentlemen:

I have your request for my opinion, reading as follows:

"We are enclosing herewith an extract from the minutes of the Board of Park Commissioners, Youngstown Township Park District, making provision for payment of compensation to employes during illness or for time lost due to accidents suffered in the course of their employment.

According to the adopted resolution, the board would pay such employe for twenty-one days' absence on account of illness upon submission of the required proof. In case of accidents, the board would pay the full compensation for the first seven days during which time the employe would not receive benefits from the Workmen's Compensation Fund, and for fourteen days, would pay such employe the difference between the benefits granted by the Industrial Commission and the amount the disabled employe would have earned had he been able to perform his regular duties.

We respectfully request your opinion on the following questions:

1. Does the Board of Park Commissioners have authority to adopt a plan providing for payment to employes for a period of twenty-one days' absence, occasioned by illness of said employe?

2. Does the Board of Park Commissioners have authority to adopt a plan providing for full compensation to an employe who is injured in the performance of his duties, for a period of seven days, and thereafter for a period of fourteen days provided that such employe be paid from park funds the difference between the amount granted by the Industrial Commission and the amount the employe would have earned had he been able to perform his duties?"

Accompanying your letter is a resolution adopted by the board, embodying substantially the same facts outlined in your questions.

Sections 3415, et seq., General Code, provide for the organization of a township park district and for the appointment of a board of park commissioners.

Section 3421, relating to the powers and duties of such park commissioners, provides in part as follows:

“* * * They may appoint a guardian for the park and all other necessary officers and employes, fix their compensation and prescribe their duties, * * *.”

The questions which you present appear to be answered, in principle at least, in the affirmative, in an opinion which I rendered on June 9, 1939, found in Opinions of Attorney General, 1939, page 917, where it was held:

“County employes on a monthly basis are entitled to a reasonable leave of absence for vacation or a sick leave if the contract of hire so provides either expressly or by necessary reasonable implication.”

In that opinion, after calling attention to the fact that there was nothing in the statutes which would prevent public officers from providing that their employes might have a reasonable time off for sick leave, I stated:

“From the above it will be seen that it is within the discretion of the public officer to grant sick leaves. It is also within his discretion to determine the length of time for such leave providing the period granted is of reasonable duration. What is a reasonable period must be left entirely up to the hiring official for there is no provision in the law to which we may refer as being analogous. * * *

As a matter of sound public policy, leaves of absence for vacation or sickness are desirable and in all instances should be read into the contract of hire, if not expressly, then by reference to the general policy followed in private business and in state and federal governments.”

The question as to what is reasonable with respect to time is scarcely a matter of law. As I assume that the employes in this case are full-time all-year employes, it would seem to me that twenty-one days' sick leave in a year would not be unreasonable.

Specifically answering your questions, it is my opinion:

1. The board of park commissioners of a township park district has authority to adopt a plan providing for payment of salaries to employes for a reasonable period of absence occasioned by illness of such employes.

2. Such board has authority to adopt a plan providing for full compensation for a reasonable period to an employe who is incapacitated by injuries received in the performance of his duties, and for such purpose may supplement an award made to such employe by the Industrial Commission.

Respectfully,

THOMAS J. HERBERT,
Attorney General.