

**OPINION 65-215****Syllabus:**

If a full-time regular employee in county service for more than one year should take his vacation during the first two weeks of October, he is not entitled to an extra day of vacation leave with full pay because Columbus Day, October 12, falls within that vacation period.

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**To: James W. Freeman, Coshocton County Pros. Atty., Coshocton, Ohio**  
**By: William B. Saxbe, Attorney General, December 1, 1965**

Your recent request for my opinion contained the following question:

"If a full-time employee in county service for more than one year should take his vacation during the first two weeks of October, 1966, is he entitled to an extra day of vacation leave with full pay since 'Columbus Day', October 12, falls within the vacation period?"

Section 143.12, Revised Code, was only recently enacted, becoming effective in July, 1965. It is not analogous to the former Section 143.12, Revised Code, which had to do with adjustment of pay ranges according to a consumers' price index. That Section was repealed in 1960. The present Section is simply entitled "Holidays", and reads in pertinent part as follows:

"An employee, whose salary or wage is paid in whole or in part by the state, shall not be required to work on days declared in this section to be holidays, unless in the opinion of the employee's responsible administrative superior failure to work on such holidays would impair the public service. Such holidays shall be the first day of January, the twelfth day of February, the twenty-second day of February, the thirtieth day of May, the fourth of July, the first Monday of September, the eleventh day of November, the twenty-fifth day of December, and any day appointed and recommended by the governor of this state or the president of the United States as a day of fast or Thanksgiving. In the event that any of the aforesaid holidays should fall on Saturday, the Friday immediately preceding shall be observed as the holiday. In the event that

any of the aforesaid holidays should fall on Sunday, the Monday immediately succeeding shall be observed as the holiday. If an employee's work schedule is other than Monday through Friday, he shall be entitled to holiday pay for holidays observed on his day off regardless of the day of the week on which they are observed."

Section 325.19, Revised Code, has been amended several times in recent years, and its present interpretation will be determinative of your question. The following parts of Section 325.19, supra, are relevant:

"Each full-time employee in the several offices and departments of the county service, including full-time hourly-rate employees, after service of one year, shall be entitled during each year thereafter, to two calendar weeks, excluding holidays, of vacation leave with full pay. \* \* \* Days specified as holidays in section 143.12 of the Revised Code shall not be charged to an employee's vacation leave \* \* \*

"In addition to such vacation leave, such county employee, working on a per diem basis, hourly basis, or salary basis, shall be entitled to eight hours of holiday pay for New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, of each year, if he is a regular employee with at least six months full-time county service prior to the month when such holiday occurs \* \* \*"

The problem arises initially from the statement "excluding legal holidays" found in the first paragraph of Section 325.19, supra. This is language retained from the original form of the statute. It is followed by the recently added statement to the effect that "Days specified as holidays in Section 143.12 of the Revised Code shall not be charged to an employee's vacation leave". The status of "Columbus Day", October 12, then becomes a source of confusion since at least in some contexts "Columbus Day" is considered a legal holiday. Section 5.21, Revised Code, states in part:

"The twelfth day of October of each year shall be known as 'Columbus Day' and is a legal holiday. If said day falls on Sunday, the following Monday shall be the legal Columbus Day holiday."

October 12 is also included in the listing of legal holidays set forth in Section 1.14, Revised Code.

It is my interpretation of Section 325.19, supra, as presently amended, that the only legal holidays which may be excluded from an employee's vacation leave are those set forth in Section 143.12, supra. The recent enactment of Section 143.12, supra, and the amendment of Section 325.19, supra, lead me to conclude that the legislature must have intended only these holidays enumerated in those sections to be considered in calculating vacation leave.

Therefore, it is my opinion, and you are hereby advised, that if a full-time regular employee in county service for more than one year should take his vacation during the first two weeks of October, he is not entitled to an extra day of vacation leave with full pay because Columbus Day, October 12, falls within that vacation period.