

OPINION NO. 70-042**Syllabus:**

1. A substitute teacher must be employed under a written contract specifying the salary and compensation to be paid such teacher.
2. A substitute teacher must be employed under a limited contract for a term not to exceed one year.
3. A substitute teacher need not be paid according to the teachers' salary schedule immediately upon employment. Where such substitute teacher has not been assigned to one specific position and has not yet completed 60 days of service, the board may negotiate and pay such teacher a salary other than that specified in the schedule.

To: Paul E. Work, Erie County Pros. Atty., Sandusky, Ohio
By: Paul W. Brown, Attorney General, April 14, 1970

Your request for my opinion asks the following questions:

1. Is it necessary that each substitute teacher be employed under a written contract specifying the salary and compensation such teacher is to be paid?
2. What type of contract is to be used for a substitute teacher?

3. Must a substitute teacher be paid according to the teachers' salary schedule immediately upon employment?

All teachers, including substitute teachers, must be employed under a written contract as provided in Section 3319.08, Revised Code. Opinion No. 68-120, Opinions of the Attorney General for 1968. Section 3319.08, Revised Code, provides in pertinent part as follows:

"The board of education of each city, exempted village, local, and joint vocational school district shall enter into written contracts for the employment and reemployment of all teachers. The board of education of each city, exempted village, local, and joint vocational school district, which authorizes compensation in addition to the base salary stated in the teachers' salary schedule for the performance of duties by a teacher which are in addition to the teacher's regular teaching duties, shall enter into a supplemental written contract with each teacher who is to perform additional duties. Such supplemental written contracts shall be limited contracts. Such written contracts and supplemental contracts shall set forth the teacher's duties and shall specify the salaries and compensation to be paid for regular teaching duties, respectively, either or both of which may be increased but not diminished during the term for which the contract is made, except as provided in section 3319.08 of the Revised Code.

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"Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts. A limited contract for a superintendent is a contract for such term as authorized by section 3319.01 of the Revised Code, and for all other teachers for a term not to exceed five years. A continuing contract is a contract which shall remain in effect until the teacher resigns, elects to retire or is retired pursuant to section 3307.37 of the Revised Code, or until it is terminated or suspended and shall be granted only to teachers holding professional, permanent, or life certificates * * *."

This section requires that the employment contracts be in writing and specify the salary and compensation to be paid both for regular and additional teaching duties, either of both of which may be increased but not diminished during the term for which the contract is made. Section 3319.10, Revised Code provides that teachers may be employed as substitute teachers for terms not to exceed one year. Such teachers would, therefore, be employed under a limited contract, as provided for in Section 3319.08, supra.

Section 3317.13, Revised Code, set forth the salary schedule for teachers. However, Section 3319.10, supra, which specifically applies to substitute teachers, provides that teachers with an assignment to one specific teaching position shall, after 60 days of service, be granted a salary not less than the minimum salary on the current adopted salary schedule. Where a substitute

teacher has been assigned to one specific teaching position and has served 60 days, he shall be entitled to the minimum salary in the salary schedule.

However, the board of education is at liberty to negotiate and agree upon a salary to be paid a substitute teacher who has not been assigned to one specific position and who has not yet completed 60 days service.

It is, therefore, my opinion and you are hereby advised that:

1. A substitute teacher must be employed under a written contract specifying the salary and compensation to be paid such teacher.
2. A substitute teacher must be employed under a limited contract for a term not to exceed one year.
3. A substitute teacher need not be paid according to the teachers' salary schedule immediately upon employment. Where a substitute teacher has not been assigned to one specific position and has not yet completed 60 days of service, the board may negotiate and pay such teacher a salary other than that specified in the schedule.