

OPINION NO. 67-114**Syllabus:**

Section 143.10 (D), Revised Code, requires the Board of Trustees to establish a charge for meals provided employees which is reasonably related to the costs of the meals provided them and does not permit the Board of Trustees to provide meals at no charge to any of its employees. (Third branch of the syllabus of Opinion No. 5964, Opinions of the Attorney General for 1955, affirmed).

To: Vernon R. Alden, President, Ohio University, Athens, Ohio
By: William B. Saxbe, Attorney General, December 5, 1967

I have your request of November 27, 1967, for my opinion whether the Board of Trustees of Ohio University may provide meals without charge to its food service employees.

Section 143.10 (D), Revised Code, provides:

"(D) The above salary and wage ranges represent gross amounts. If meals, lodging, laundry, or other personal services are furnished an employee, such employee shall pay therefor, in such amounts and manner as shall be determined by the appointing authority. An appointing authority shall file a copy of such schedule with the director of personnel."

You have advised me that the Board of Trustees has approved a program of providing food service employees meals during duty hours at no charge. The language of Section 143.10 (D), supra, requires that the employees "shall pay therefor" and this language cannot be interpreted to authorize providing meals at no charge. I recognize and have considered the language "in such amounts and manner as shall be determined by the appointing authority." However, this language clearly requires a charge in some amount and does not authorize the Board of Trustees to determine that amount to be \$0.00.

In Opinion No. 5964, Opinions of the Attorney General for 1955, p. 580, my predecessor considered essentially the same language which was then Division (E) of Section 143.10, supra. The then Division (E) of that Section provided:

"(E) The above salary and wage ranges are based upon full-time service by the employee and represent gross amounts; and if meals, lodging, laundry, or other personal services are furnished employees, such employees shall pay such amounts therefor, and in such manner, as shall be determined by the particular department involved."

My predecessor concluded that payments by the employees should be reasonably related to the costs of the meals.

The third branch of the syllabus of Opinion No. 5964, supra, reads:

"3. Under the provision for the departmental determination of the amounts to be paid by recipients of maintenance, as set out in Division (E) of Section 143.10, Revised Code, as amended effective October 1, 1955, the amounts so determined must be reasonably related to the cost incurred by the state in supplying such maintenance."

I concur in the Opinion of my predecessor as expressed by the third branch of the syllabus in Opinion No. 5964, supra. There have been no changes in Section 143.10, supra, since that Opinion which would require me to diverge from the conclusion thereof. The only significant change from the language of Division (E) as it existed in 1955 and Division (D), supra, as it exists at present is the addition of the requirement that the appointing authority file a copy of a schedule of the amounts re-

quired by the employee to be paid with the Director of Personnel. This provision reinforces my opinion that a charge must be made for the meals to food service employees.

In determining a charge which is reasonably related to the cost, the Board of Trustees must consider the cost of the food provided and may consider other factors such as the quality control value of having food service personnel eating their product and the convenience of the food service personnel eating at the job location. Such charge may not be \$0.00 or a merely nominal amount.

Therefore, it is my opinion and you are accordingly advised that Section 143.10 (D), Revised Code, requires the Board of Trustees to establish a charge for meals provided employees which is reasonably related to the costs of the meals provided them and does not permit the Board of Trustees to provide meals at no charge to any of its employees. (Third branch of the syllabus of Opinion No. 5964, Opinions of the Attorney General for 1955, affirmed).