

OPINION NO. 82-051**Syllabus:**

1. A salaried employee of a township who is a regular employee with at least six months prior service with the township is entitled by R.C. 511.10 to receive his full pay for a pay period during which his hours in actual service are reduced due to an enumerated holiday. (1965 Op. Att'y Gen. No. 65-216, approved and followed.)
2. An hourly employee of a township who is a regular employee with at least six months prior service with the township is entitled by

R.C. 511.10 to eight hours of pay for the enumerated holidays, whether or not he actually works on those holidays.

3. The holiday pay to which salaried and hourly township employees are entitled under R.C. 511.10 cannot be considered compensation for any service such employees actually perform on an enumerated holiday, and a township employee who actually renders service on an enumerated holiday must be compensated at his normal rate of pay.

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

By: William J. Brown, Attorney General, July 30, 1982

I have before me your request for my opinion in which you inquire:

Does [R.C. 511.10] grant to a regular township employee with at least six months full-time township service, regardless of classification, work schedule, or whether he works on the holiday, a minimum entitlement to eight hours pay for each such holiday, in addition to payment at his regular rate (salary or hourly) for all hours in active pay status (e.g., hours actually worked, authorized sick leave, authorized vacation, and other compensated absences) during the pay period during which the holiday occurred?

R.C. 511.10 states in pertinent part:

Any township employee working on a salary or hourly basis is entitled to eight hours of holiday pay for New Year's day, Martin Luther King day, Washington-Lincoln day, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, and Christmas day, of each year, provided that the employee is a regular employee with at least six months full-time township service prior to the month when such holiday occurs. Holidays shall occur on the days specified in section 1.14 of the Revised Code.

In 1981 Op. Att'y Gen. No. 81-061, I had occasion to note:

R.C. 511.10 clearly states that a township employee working on a salary or hourly basis who is a regular employee with at least six months prior service with the township is entitled to eight hours of holiday pay for the days specified. This statute grants an unconditional right to the employee to receive this pay. A board of township trustees does not have the authority to reduce, by resolution, an employee's benefits below the statutory minimum. See Ebert v. Board of Mental Retardation, 63 Ohio St. 2d 31, 406 N.E.2d 1098 (1980). . . .

As R.C. 511.10 makes it clear that salaried and hourly township employees are entitled to eight hours of holiday pay, the question must be what constitutes holiday pay.

The question of holiday pay for salaried township employees under R.C. 511.10 was addressed by one of my predecessors in 1965 Op. Att'y Gen. No. 65-216. It was his opinion that R.C. 511.10 guarantees that salaried employees' pay shall not be reduced due to the fact such employees do not work on the enumerated holidays. In other words, R.C. 511.10 provides that a salaried township employee shall receive his full salary for a pay period even though the time actually on the job for that period is reduced due to an enumerated holiday. I concur in this conclusion.

The next question is the rights of hourly township employees under R.C. 511.10. R.C. 511.10 states such employees shall be entitled "to eight hours of holiday

pay." As "holiday" and "pay" are nowhere defined for the purposes of R.C. Chapter 511, I must look to the plain meaning of these terms. R.C. 1.42; Swetland v. Miles, 101 Ohio St. 501, 130 N.E. 22 (1920). "Holiday" is defined as "a day of exemption from labor," Black's Law Dictionary 659 (5th Ed. 1979), and "pay" is defined as "[c]ompensation; wages; salary," Black's 1016. Thus, holiday pay literally means wages for a day of exemption from labor. Therefore, it is my opinion that R.C. 511.10 entitles hourly township employees to eight hours of pay, whether or not they work on an enumerated holiday. Cf. 1959 Op. Att'y Gen. No. 606, p. 316 (R.C. 325.19 entitles hourly and salaried county employees to eight hours of holiday pay for enumerated holidays, even when such holidays fall on a Saturday, a day on which such employees are not normally scheduled to work). I note again that the fact R.C. 511.10 speaks of holiday pay as an entitlement means a board of township trustees is required to provide it to township employees. Op. No. 81-061.

R.C. 511.10 does not address the issue of the rights of a township employee in the event he works on an enumerated holiday. See 1969 Op. Att'y Gen. No. 69-134. However, implicit in an entitlement to wages for a day on which no labor is provided is the principle that such wages cannot be considered compensation for services actually rendered during an enumerated holiday. Should an employee be required to work on an enumerated holiday, he must be compensated for the hours he actually works at his normal rate of pay in addition to receiving the eight hours of holiday pay to which he is entitled pursuant to R.C. 511.10. Any other result would render the provisions of R.C. 511.10 meaningless. See R.C. 1.47(C) (in enacting a statute, it is presumed that a just and reasonable result is intended).

Based on the foregoing analysis, it is my opinion, and you are advised:

1. A salaried employee of a township who is a regular employee with at least six months prior service with the township is entitled by R.C. 511.10 to receive his full pay for a pay period during which his hours in actual service are reduced due to an enumerated holiday. (1965 Op. Att'y Gen. No. 65-216, approved and followed.)
2. An hourly employee of a township who is a regular employee with at least six months prior service with the township is entitled by R.C. 511.10 to eight hours of pay for the enumerated holidays, whether or not he actually works on those holidays.
3. The holiday pay to which salaried and hourly township employees are entitled under R.C. 511.10 cannot be considered compensation for any service such employees actually perform on an enumerated holiday, and a township employee who actually renders service on an enumerated holiday must be compensated at his normal rate of pay.