

Note from the Attorney General's Office:

1989 Op. Att'y Gen. No. 89-012 was questioned by
2008 Op. Att'y Gen. No. 2008-004.

1989 Op. Att'y Gen. No. 89-012 was modified in part
by 2009 Op. Att'y Gen. No. 2009-009.

OPINION NO. 89-012**Syllabus:**

1. Pursuant to R.C. 325.19(C), a county employee shall use his vacation leave during the year in which it accrues and prior to the next recurrence of the anniversary date of his employment, as such term is defined in R.C. 9.44(A), unless the appointing authority permits such employee, in special and meritorious cases, to carry over his vacation leave to the following year; in any event, the appointing authority may not allow any vacation leave to be carried over for more than three years. (1963 Op. Att'y Gen. No. 666, p. 632, syllabus, paragraph one, overruled; 1985 Op. Att'y Gen. No. 85-035, syllabus, paragraph two; 1958 Op. Att'y Gen. No. 2575, p. 510, modified.)
2. A county appointing authority may pay a county employee, at the time of separation, for any unused vacation leave accrued to his credit during the current year and for any such leave accumulated for the three years immediately preceding the employee's last anniversary date of employment. (1982 Op. Att'y

Gen. No. 82-093, syllabus, paragraph three, approved and followed; 1962 Op. Att'y Gen. No. 3081, p. 490, overruled.)

To: Lee C. Falke, Montgomery County Prosecuting Attorney, Dayton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 1, 1989

I have before me your opinion request concerning the vacation leave policy implemented by the county sheriff for his employees. Your questions concern the permissible deviations from the methods prescribed by R.C. 325.19 for the use and accumulation of vacation benefits and for the payment upon separation for unused vacation leave.

Initially, I note that although R.C. 325.19 provides vacation leave benefits for county employees generally, each county appointing authority who is empowered to fix the compensation of his employees may increase the amount of vacation benefits prescribed by statute. *Cataland v. Cahill*, 13 Ohio App. 3d 113, 468 N.E.2d 388 (Franklin County 1984). In addition, since vacation leave benefits are a form of compensation for services rendered, they are a matter subject to collective bargaining under R.C. Chapter 4117. 1988 Op. Att'y Gen. No. 88-089; 1985 Op. Att'y Gen. No. 85-102 n. 1 at 2-435 to 2-436. Because you have not stated that the policy about which you ask is part of a collective bargaining agreement, I will not address the extent to which the provisions of R.C. 325.19 may be varied by a collective bargaining agreement. Rather, I will limit my discussion to the requirements of R.C. 325.19 and the extent to which a county appointing authority may, pursuant to his power to fix his employees' compensation, vary the terms of R.C. 325.19.

R.C. 325.17 authorizes the county sheriff, among others, to "appoint and employ the necessary deputies, assistants, clerks, bookkeepers, or other employees" and to "fix the compensation of such employees." Concerning the sheriff's power to fix his employees' compensation, I stated in 1987 Op. Att'y Gen. No. 87-018 at 2-116:

A county sheriff is, therefore, empowered to fix the compensation, including fringe benefits, of his employees. 1984 Op. Att'y Gen. No. 84-061. R.C. 325.17 does, however, limit the sheriff's authority by limiting the aggregate compensation for those employed in his office to "the amount fixed by the board of county commissioners for such office." See, e.g., *County Commissioners v. Rafferty*, 19 Ohio N.P. (n.s.) 97 (C.P. Henry County 1916); 1975 Op. Att'y Gen. No. 75-078; 1965 Op. Att'y Gen. No. 65-32; 1964 Op. Att'y Gen. No. 1405, p. 2-359; 1941 Op. Att'y Gen. No. 3600, p. 190 (interpreting G.C. 2981, currently at R.C. 325.17).

As stated in 1981 Op. Att'y Gen. No. 81-052 at 2-202: "the authority to provide fringe benefits flows directly from the authority to set compensation and is circumscribed only by apposite statutory authority which either ensures a minimum benefit entitlement or otherwise constricts the employer's authority *via a via* a particular fringe benefit."

R.C. 325.19, governing vacation leave of county employees generally, provides in part:

(A) *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* with the county or any political subdivision of the state, *shall have earned and will be due upon the attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay.* One year of service shall be computed on the basis of twenty-six biweekly pay periods. A full-time county employee with eight or more years of service with the county or any political subdivision of the state shall have earned and is entitled to one hundred twenty hours of vacation leave with full pay....*Such vacation leave shall accrue to the employee at the rate of three and one-tenth hours each biweekly period for those entitled to*

eighty hours per year [and] four and six-tenths hours each biweekly period for those entitled to one hundred twenty hours per year....

....
(C)Vacation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of his employment; provided, the appointing authority may, in special and meritorious cases, permit such employee to accumulate and carry over his vacation leave to the following year. No vacation leave shall be carried over for more than three years. An employee is entitled to compensation, at his current rate of pay, for the prorated portion of any earned but unused vacation leave for the current year to his credit at time of separation, and in addition shall be compensated for any unused vacation leave accrued to his credit, with the permission of the appointing authority, for the three years immediately preceding the last anniversary date of employment. (Emphasis added.)

R.C. 325.19 thus provides for two weeks of vacation leave upon attainment of the first year of employment and annually thereafter for a full-time county employee with at least one year of service credit. Further, pursuant to R.C. 325.19, the amount of vacation leave to which an employee is entitled increases after eight, fifteen, and twenty-five years of service.

You first question the permissibility of the accrual and use of vacation under the policy which you describe as follows:

The manner of accounting for accrual used by the Sheriff's Office and common to various county offices is to allow employees, with the approval of the appointing authority, to accrue and maintain a "bank" of vacation hours up to the maximum amount of hours accruable in three years, regardless of the actual year in which any of the hours may have been accrued. Once this maximum number of hours has been attained, no more vacation is carried over into subsequent years, although vacation which accrues in the current year is allowed to be used without reduction in the three year "bank" of accrued but unused time. The method of accounting used in this system seems to operate on a first-in first-out basis, wherein the vacation used in the current year is attributed to that vacation accrued but unused in the first of the prior three years.

I begin by noting, as concluded in 1985 Op. Att'y Gen. No. 85-035 (syllabus, paragraph one): "Pursuant to R.C. 325.19, a full-time county employee does not accrue vacation benefits during his first year of employment." After such year, however, the employee accrues a portion of his annual vacation leave each biweekly period. R.C. 325.19(A). See 1982 Op. Att'y Gen. No. 82-093 (syllabus, paragraph one). See generally Op. No. 88-089 n. 1 slip op. at 3 ("[p]rior to its amendment in 1974 Ohio Laws, Part II, 334 (Am. S.B. 408, eff. July 22, 1974), R.C. 325.19 provided for the crediting of vacation leave to each employee 'upon each successive annual recurrence of the anniversary date of his employment; provided, the anniversary date may be deferred because of periods of time which the employee is not in active pay status.' 1973 Ohio Laws, Part I, 782 (Am. S.B. 177, eff. Dec. 17, 1973)"). As an employee's vacation benefits accrue, he may use them. Op. No. 82-093 (syllabus, paragraph two) ("[a] full-time county employee is entitled to use the vacation leave accrued under R.C. 325.19(A) as soon as it accrues"). Thus, an employee must generally use his vacation benefits during the year in which they accrue and prior to the next recurrence of the anniversary date of his employment, unless the appointing authority allows the employee to accumulate and carry over the unused leave to the following year. R.C. 325.19(C).

Pursuant to R.C. 9.44(A), certain public employees are entitled to receive credit for prior service with various public employers in calculating the amount of vacation leave to which they are entitled. Further, R.C. 9.44(A) states: "The anniversary date of his employment for the purpose of computing the amount of his vacation leave, unless deferred pursuant to the appropriate law, ordinance, or regulation, is the anniversary date of such prior service."

I recently considered the significance of an employee's anniversary date of employment for purposes of R.C. 325.19 and noted:

Pursuant to R.C. 325.19, however, an employee's anniversary date of employment is no longer used "for the purpose of computing the amount of his vacation leave" (emphasis added), as specified in R.C. 9.44(A). Rather, an employee's anniversary date of employment is used as a limitation upon the time within which he may use his annual vacation benefits or as the date from which to measure the amount of unused vacation leave for which he may receive compensation. R.C. 325.19(C). (Footnote omitted.)

Op. No. 88-089, slip op. at 3. Although the definition of an employee's anniversary date of employment set forth in R.C. 9.44(A) is not used in R.C. 325.19 for the purpose of computing the amount of a county employee's vacation benefits, I find that, in the absence of another definition, the definition provided by R.C. 9.44(A) applies to R.C. 325.19 as well. See generally *State ex rel. Northwestern Mutual Life Insurance Co. v. Tomlinson*, 99 Ohio St. 233, 124 N.E. 220 (1919) (syllabus, paragraph one) ("[w]here the language of an existing statute is ambiguous, and the legislature by a previous enactment upon the same subject has in express language, or by clear and indubitable inference, defined the meaning of the ambiguous word or phrase used in such statute, it will be presumed, in the absence of a later expression to the contrary, to have used the word or phrase in subsequent legislation in the same sense").

In Op. No. 85-035, I considered the operation of R.C. 325.19 in conjunction with R.C. 9.44. The situation considered in that opinion concerned a county employee who had prior service of less than one year as an employee of another county. Thus, on the date the employee completed one year of county service, he had been in the employ of his new appointing authority for less than one year. The issue considered was whether, pursuant to R.C. 325.19, the employee was entitled to receive eighty hours of vacation leave upon completion of his first year of county service, although such service was with more than one county. Reading R.C. 325.19 in conjunction with the definition of the term "anniversary date of his employment" set forth in R.C. 9.44, I stated that: "The statutory scheme governing vacation benefits, thus, contemplates the accrual and use of vacation leave on an annual basis, such year being calculated with reference to the date on which the employee first became employed by the state or one of its political subdivisions." Op. No. 85-035 at 2-126 (emphasis added). Based upon this analysis, I concluded in the second paragraph of the syllabus that:

Pursuant to R.C. 325.19, a full-time county employee who completes one year of county service, although such service is with more than one county, becomes entitled to eighty hours of vacation leave with full pay upon completion of the first year of service. Such vacation leave is to be paid entirely by the county in which the employee completes his first year of service.

It is important to note, however, that the facts considered in Op. No. 85-035 involved a county employee who had formerly served as a county employee in another county. Thus, his service in both instances was as an employee. In that situation, therefore, the terms service and employment were interchangeable.¹ It

¹ Due to the amendment of R.C. 9.44 in Am. Sub. H.B. 178, 117th Gen. A. (1987) (eff. June 24, 1987), the prior service credit to which certain public employees are entitled has been changed. See generally 1988 Op. Att'y Gen. No. 88-089 (syllabus, paragraph three) ("[e]xcept for a person initially employed by a county on or after July 5, 1987, a county employee is entitled to receive service credit pursuant to R.C. 325.19 for prior service with a county or any political subdivision of the state, and, pursuant to R.C. 9.44(A), for prior service with the state or any political subdivision, for purposes of calculating the amount of his vacation benefits under R.C. 325.19; a person who is initially employed by a county on or after July 5, 1987, however, is limited by R.C. 9.44(B)(2) to receiving such service credit only for prior service with a county").

is necessary, however, to clarify the wording of that syllabus to allow for those situations where a county employee has prior service as an officer, rather than as an employee. See generally Op. No. 88-089 (syllabus, paragraph two) ("[f]or purposes of determining the amount of vacation benefits to which a county employee is entitled under R.C. 325.19, prior service credit is given for time spent as an officer or employee with the state, a county, or other political subdivision, as allowed by R.C. 325.19 and R.C. 9.44" (emphasis added)); 1980 Op. Att'y Gen. No. 80-057 (syllabus, paragraph four) ("[w]hen a county employee is reemployed by the county after service as a county officer, the years served as a county officer are included as periods of service for purposes of computing vacation leave under R.C. 325.19(A)"). Pursuant to R.C. 325.19(A), set forth above, a full-time county employee has not earned, and is not due, eighty hours of vacation leave until "attainment of the first year of employment" (emphasis added). Since a county employee may complete one year of service, by virtue of previous service as an officer, prior to completion of his first year of employment, I hereby modify Op. No. 85-035 (syllabus, paragraph two) to read as follows:

Pursuant to R.C. 325.19, a full-time county employee who completes one year of county employment, although such employment is with more than one county, becomes entitled to eighty hours of vacation leave with full pay upon completion of the first year of employment. Such vacation leave is to be paid entirely by the county in which the employee completes his first year of employment.

Having clarified that a county employee's anniversary date of employment for purposes of R.C. 325.19 is the date on which he began his prior service as either an officer or employee with a public employer, as authorized by R.C. 325.19 and R.C. 9.44, see Op. No. 88-089, I will discuss the provisions of R.C. 325.19 concerning the use and accrual of vacation leave as restricted by the employee's anniversary date of employment. R.C. 325.19(C), as set forth above, states in pertinent part:

Vacation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of his employment; provided, the appointing authority may, in special and meritorious cases, permit such employee to accumulate and carry over his vacation leave to the following year. No vacation leave shall be carried over for more than three years.

Thus, R.C. 325.19(C) requires a full-time county employee to use his vacation leave, not only during the year in which it accrued, but also prior to the next recurrence of the anniversary date of his employment, unless the appointing authority permits the employee to accumulate and carry such leave over to the following year. R.C. 325.19(C) imposes the further limitation that vacation leave may be carried over for no more than three years.² Because of the definition of an employee's anniversary date of employment set forth in R.C. 9.44(A), the anniversary date of a county employee who is entitled to prior service credit will not necessarily coincide with the date on which he completes a year of employment with his current appointing authority. Since the employee's anniversary date of employment, as defined in R.C. 9.44(A), is used as a limitation upon the time within which he may use his vacation leave, it appears that a year, for purposes of the carry-over of vacation leave under

² In 1963 Op. Att'y Gen. No. 666, p. 632, one of my predecessors concluded in the first paragraph of the syllabus that: "Pursuant to [R.C. 325.19], a county employee may accumulate earned but unused vacation leave with pay for any prior year to the extent he was entitled to vacation leave with pay in such prior year." At the time 1963 Op. No. 666 was issued, however, R.C. 325.19 stated in pertinent part:

The annual leave during any one calendar year may be extended to include unused vacation leave of previous years provided the total leave taken in any one year shall not exceed six weeks. An employee shall be entitled to compensation for the pro-rated

R.C. 325.19, is the twelve-month period from anniversary date to anniversary date. Thus, once an employee begins accruing vacation leave, *i.e.*, after attainment of the first year of employment, he may accumulate such leave as it accrues; upon his anniversary date, if such vacation leave for the current year has not yet been used, he may, with permission of his appointing authority, carry such leave over into the next year. R.C. 325.19(C), however, states that no leave shall be carried over for more than three years. Any vacation leave accrued but unused during the current year is not considered to be carried over until the occurrence of the employee's anniversary date of employment. Thus, it is possible that at any time, an employee receiving vacation benefits under R.C. 325.19 could have to his credit those vacation leave credits accrued during his current year of employment, plus the vacation leave accumulated but unused for the three years immediately preceding his last anniversary of employment.

The vacation leave policy about which you ask appears to comport with the accrual and use provisions of R.C. 325.19(C). Pursuant to the policy, an employee may accumulate vacation leave earned but unused during the three years immediately preceding his last anniversary date of employment; further, the vacation leave accrued during the current year is used without reduction in the amount of leave previously accumulated. As set forth above, R.C. 325.19(C) states in part that vacation leave "shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of his employment." This portion of R.C. 325.19(C), when read alone, appears to require that vacation leave accrued during the current year be used during the current year, prior to using any vacation leave carried over from prior years. Thus, upon an employee's anniversary of employment, he would be considered to have used the vacation leave accrued during the current year and only vacation leave used in excess of the current year's accrual would be deducted from his accumulated balance; any remaining leave accumulated during the first of the three years prior to the last anniversary date of employment could no longer be carried forward and would be deducted from the accumulated balance. It is a fundamental rule of statutory construction, however, that a statute is to be read as a whole, and effect given to each of its provisions. *Black-Clawson Co. v. Evatt*, 139 Ohio St. 100, 38 N.E.2d 403 (1941). Thus, the portion of R.C. 325.19(C) which empowers an appointing authority to allow an employee to carry over unused vacation leave from the current year "in special and meritorious cases" may reasonably be read to authorize an appointing authority to allow an employee to carry over vacation leave from the current year so that he may use the vacation leave carried over from three years earlier in order to avoid losing such leave. Such a reading results in accounting

portion of any earned but unused vacation leave to his credit at time of separation.

1959 Ohio Laws 627 (Am. Sub. H.B. 208, eff. Nov. 4, 1959). Based upon the language of R.C. 325.19 as it currently reads, limiting the number of years for which vacation leave may be carried over, I hereby overrule 1963 Op. No. 666 (syllabus, paragraph one).

A related issue was considered in 1958 Op. Att'y Gen. No. 2575, p. 510, the syllabus of which states: "A county employee with fifteen years service with the county, continuous or intermittent, and regardless over what period the service was performed, is entitled to three (3) weeks vacation leave, and *any such employee with accumulated vacation leave may in special cases as determined by the head of the department or office, be granted unused vacation leave not to exceed six (6) weeks in any one year, as provided in [R.C. 325.19].*" (Emphasis added.) R.C. 325.19, as then in effect, stated in part: "In special cases as determined by the head of the department or office affected, the annual leave during any one calendar year may be extended to include unused vacation leave of previous years provided the total leave taken in any one year shall not exceed six weeks." 1955-1956 Ohio Laws 416 (Am. H.B. 27, eff. Sept. 23, 1955). Based upon the current language of R.C. 325.19(C), concerning the use of accrued vacation leave, I modify 1958 Op. Att'y Gen. No. 2575 to the extent that it is inconsistent with the analysis set forth herein.

for vacation leave used on a first-in first-out basis, as described in the policy about which you ask.

In light of the limitations imposed upon the use and accumulation of vacation leave under R.C. 325.19, the question arises as to whether a county appointing authority, such as the sheriff, may vary the scheme established by R.C. 325.19 for the use and accumulation of such leave. As I stated in 1987 Op. Att'y Gen. No. 87-063 at 2-388:

The court in Cataland v. Cahill, 13 Ohio App. 3d at 114, 468 N.E.2d at 390 determined that: "Sick leave and vacation leave prescribed by statute are minimums only and, where the appointing authority is authorized to establish compensation of employees, either sick-leave or vacation-leave benefits in addition to the minimums prescribed by statute may be granted as part of compensation." The court's discussion, however, addressed the statutory provisions concerning only the number of hours of vacation leave to which a county employee is entitled. See generally R.C. 325.19(A) and (B); 1965 Op. Att'y Gen. No. 65-222 at 2-487 (R.C. 325.19 "is not a limitation on the amount of vacation allowance a county employee may receive. Rather, [it] is a guarantee that county employees will receive at least the vacation allowance specified therein"). The possible constricting effect upon an appointing authority of other portions of R.C. 325.19 was not addressed.

I then concluded that: "Although an appointing authority may grant vacation leave to employees beyond the minimum number of vacation leave hours to which an employee is entitled under the statute, R.C. 325.19 limits, among other things, the instances in which an employee may receive payment for such unused leave." *Id.* Similarly, I must find that the General Assembly has limited a county appointing authority's power with regard to establishing a policy for his employees concerning the use and accrual of vacation leave. R.C. 325.19(C) states that, "[v]acation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of his employment," (emphasis added), and has conferred upon an appointing authority the limited power to "permit [an] employee to accumulate and carry over his vacation leave to the following year," but only "in special and meritorious cases." Further, the General Assembly has limited to three years the time for which an employee may carry over any unused vacation leave; a county appointing authority may not, therefore, allow his employees to carry over unused vacation leave for more than three years.

Your second question asks about payment for unused vacation leave at the time a county employee separates from county service. The policy about which you ask is described in your opinion request as follows:

[The vacation leave policy] sets forth the maximum number of hours of vacation accruable, and convertible upon separation, based upon years of service....[T]he maximum number of hours accruable are equal to three times the annual amount accruable plus one hour less than that amount accruable in the fourth year of employment.

Your opinion request then asks about a specific situation in which an employee converted 639 hours of vacation leave into pay upon separation. The employee separated from his employment in April of 1988. You state that the employee entered county service in 1969, and his anniversary date was July 14. According to the policy about which you ask, an employee with fifteen, but less than twenty-five, years of service may accumulate 160 hours of vacation leave per year, to a maximum accumulation of 639 hours.

The provisions of R.C. 325.19 concerning payment for unused vacation leave upon separation were addressed by my predecessor in Op. No. 82-093, at 2-259 to 2-260, as follows:

Pursuant to [R.C. 325.19(C)], an employee is entitled to payment upon separation for any unused vacation leave that has accrued to his credit during the current year, and that vacation leave that has accrued to his

credit, with the approval of his appointing authority, for the three years immediately preceding the last anniversary date of his employment.¹ As stated above, an employee who has completed eight years of service is entitled to have an additional forty hours of vacation leave placed to his credit and will accrue four and six-tenths hours of vacation leave during the first biweekly period in his ninth year of service and biweekly thereafter. If that employee separates from county service at the end of the first biweekly period of his ninth year of service, he is entitled to payment upon separation for those forty-four and six-tenths hours. An employee who separates from service during, but prior to the completion of, his eighth year of service, however, is entitled only to any unused vacation leave accrued to his credit during his eighth year or, with the permission of his appointing authority, during the three years immediately preceding his last anniversary date of employment. Such employee is not entitled to receive any pro-rated portion of the forty hours of vacation leave that would otherwise be placed to his credit upon completion of his eighth year of service.

¹While the statute suggests that it will be necessary to pro-rate the employee's earned but unused vacation leave for the current year, the necessity to pro-rate vacation leave earned during the year of separation was obviated by the enactment of the biweekly accrual method in 1974. Prior to this amendment, vacation leave accrued to the employee only upon each successive annual recurrence of his anniversary date of employment. See 135 Ohio Laws, Part II 334 (Am. S.B. 408, eff. July 22, 1974).

Op. No. 82-093 concludes in paragraph three of the syllabus:

R.C. 325.19(C) entitles an employee to payment upon separation for any unused vacation leave he has accrued during the current year and to any unused vacation leave accrued to his credit, with the permission of his appointing authority, for the three years immediately preceding his last anniversary date of employment.

I concur with this interpretation.³ Op. No. 82-093, however, addresses only the requirements of R.C. 325.19, without discussing the extent to which a county appointing authority may vary the payment policy established by R.C. 325.19(C).

Recently I had occasion to consider whether a county appointing authority may allow payment for unused vacation leave at times other than as specified in R.C. 325.19(C), and concluded:

R.C. 325.19 limits the power of an appointing authority to pay employees for unused vacation leave. Payment for unused vacation leave earned under R.C. 325.19 is authorized only upon the employee's separation from county service or in the case of an employee's death.

Op. No. 87-063 (syllabus, paragraph two). Similarly, I must find that a county appointing authority's power to fix his employees' vacation benefits is constricted by R.C. 325.19(C) with respect to payment for more unused vacation leave than is authorized by that division.

³ 1962 Op. Att'y Gen. No. 3081, p. 490, states in the syllabus: "Under [R.C. 325.19], an employee is entitled at the time of separation to compensation for any vacation leave to which he was entitled but did not use, either before or after November 4, 1959." Since R.C. 325.19(C) currently limits the amount of unused vacation leave for which an employee may be paid upon separation, I must overrule 1962 Op. No. 3081.

Thus, as set forth above, an employee who has completed his first year of employment begins accruing vacation benefits at a certain number of hours per biweekly period in accordance with R.C. 325.19(A), with the exceptions noted in Op. No. 82-093. A person who separates during a year, as calculated with reference to his anniversary date of employment pursuant to R.C. 9.44(A), is, therefore, entitled to receive payment only for any unused vacation leave accrued during the year until the date he separates, in addition to any vacation leave which he was allowed to carry over for the three years preceding his last anniversary date of employment. Thus, in the situation you pose, since the employee's anniversary date of employment was July 14, but he separated in April, he could not have accrued a full year's worth of vacation leave in the year he separated, having been employed for less than twenty-six biweekly pay periods during that year.

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

1. Pursuant to R.C. 325.19(C), a county employee shall use his vacation leave during the year in which it accrues and prior to the next recurrence of the anniversary date of his employment, as such term is defined in R.C. 9.44(A), unless the appointing authority permits such employee, in special and meritorious cases, to carry over his vacation leave to the following year; in any event, the appointing authority may not allow any vacation leave to be carried over for more than three years. (1963 Op. Att'y Gen. No. 666, p. 632, syllabus, paragraph one, overruled; 1985 Op. Att'y Gen. No. 85-035, syllabus, paragraph two; 1958 Op. Att'y Gen. No. 2575, p. 510, modified.)
2. A county appointing authority may pay a county employee, at the time of separation, for any unused vacation leave accrued to his credit during the current year and for any such leave accumulated for the three years immediately preceding the employee's last anniversary date of employment. (1982 Op. Att'y Gen. No. 82-093, syllabus, paragraph three, approved and followed; 1962 Op. Att'y Gen. No. 3081, p. 490, overruled.)