

OPINION NO. 70-026**Syllabus:**

1. A school superintendent is under no statutory compulsion to issue an Age and Schooling Certificate to a former student who has the assurance of employment, but should consider such fact along with all other relevant factors in the determination of whether the requirements of Section 3331.01, Revised Code, have been met; such determination is left to the sole discretion of the school superintendent.

2. Minors of compulsory school age must, under the terms of Section 4109.01, Revised Code, obtain a certificate before obtaining employment in any of the occupations delineated in Section 4109.10, Revised Code.

To: William O. Walker, Director, Dept. Industrial Relations, Columbus, Ohio
By: Paul W. Brown, Attorney General, March 6, 1970

I have before me your request for an opinion on the following questions:

"Must the superintendent of a school district issue an Age and Schooling Certificate to a student no longer in school but has the assurance of employment? Is it mandatory that the above types of students have an Age and Schooling Certificate in order to work while they are out of school?"

"May the superintendent, at his discretion, issue a certificate to a minor under the above stated circumstances?"

Section 4109.01, Revised Code, provides, in pertinent part, as follows:

"Except as provided in section 4109.11 of the Revised Code, no minor of compulsory school age shall be employed by any person, firm, or corporation in any of the occupations mentioned in section 4109.10 of the Revised Code, unless such minor presents to such person, firm, or corporation, a proper age and schooling certificate, as a condition of employment.
* * *"

Prerequisites to the issuance of an age and school certificate appear in Section 3331.01, Revised Code, which, in part, reads as follows:

"An age and school certificate may be issued only by the superintendent of schools of the district of residence of the child in whose name such certificate is issued and only upon satisfactory proof that the child to whom the certificate is issued is over sixteen years of age and has satisfactorily completed a vocational education or special education program adequate to prepare students for an occupation.* * *"

Sections 3331.03 and 3331.04, Revised Code, provide for exemptions to the conditions for issuance presented in Section 3331.03, Revised Code, and refer principally to minors who are issued certificates based on their tested inability to profit from further schooling.

We are posed with the problem of students who drop out of school for reasons of health and hardship. Additionally, in some cases we are involved with students who have been expelled or suspended from school.

Section 4109.01, supra, explicitly states that the employment of minors in occupations listed under Section 4109.10, supra, must be predicated upon the issuance of a proper Age and Schooling Certificate. Section 3331.04, supra, expressly conditions the issuance of the certificate upon proof that (1) the child is over 16, and (2) he has satisfactorily completed a prescribed vocational or special education program adequate to prepare students for an occupation.

There is a dearth of statutory or case authority which can serve as a basis for a delimitation of vocational and special education. Nothing can be gleaned from the use of the terms in Section 3331.01, supra, which might serve as a basis for restricting the expansive interpretation given these terms by school superintendents in the various school districts around the state. Nor can help be obtained from any other sections of the Ohio Revised Code. Superintendents by necessity often take stock of a particular local situation in determining what constitutes a "program adequate to prepare students for an occupation." They must gauge whether the state educational system can further prepare a youth for employment under the circumstances where he has already been guaranteed gainful employment. The kind of employment offered and

the likelihood that such employment will necessitate that said student develop skills required by society are relevant in a determination of whether to issue an Age and Schooling Certificate. Vocational education by its terms means preparation for a particular trade or work skill, and on-the-job experience is sometimes the best method of gaining such requisite training.

Accordingly, it is my opinion and you are hereby advised that a school superintendent is under no statutory compulsion to issue an Age and Schooling Certificate to a former student who has the assurance of employment, but should consider such fact along with all other relevant factors in the determination of whether the requirements of Section 3331.01, Revised Code, have been met. Such determination is left to the sole discretion of the school superintendent. Minors of compulsory school age must, under the terms of Section 4109.01, Revised Code, obtain a certificate before obtaining employment in any of the occupations delineated in Section 4109.10, Revised Code.