

OPINION NO. 83-077**Syllabus:**

In computing a full-time nonteaching school employee's service credit for purposes of vacation leave under R.C. 3319.084, a school district must credit the employee with years served with the state or another political subdivision so long as such service immediately precedes the employee's service with the school district in which he is currently earning vacation credits.

To: Gregory W. Happ, Medina County Prosecuting Attorney, Medina, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 2, 1983

I have before me your opinion request in which you ask "Can a Local Board of Education pursuant to [R.C. 3319.084] require [nonteaching] employee[s] to have continuous service with that Local Board of Education for ten or more years before they are entitled to vacation leave with full pay for a minimum of three calendar weeks?"

R.C. 3319.084, which establishes vacation benefits for full-time nonteaching school employees of all school districts, states, in pertinent part:

In all school districts each full-time nonteaching school employee including full-time hourly-rate and per diem employees, after service of one year with a board of education, shall be entitled, during each year thereafter, while continuing in the employ of such board of education, to vacation leave with full pay for a minimum of two calendar weeks, excluding legal holidays. Employees continuing in the employ of such board of education for ten or more years of service shall be entitled to vacation leave with full pay for a minimum of three calendar weeks, excluding legal holidays. Employees continuing in the employ of such board of education for twenty or more years of service shall be entitled to vacation leave with full pay for a minimum of four calendar weeks, excluding legal holidays. (Emphasis added.)

Pursuant to this statute, once a full-time nonteaching school employee has completed one year of service with a board of education, he is entitled to two weeks of vacation leave during each year "while continuing in the employ of such board of education." Those employees "continuing in the employ of such board of education" for at least ten years are entitled to a minimum of three weeks of vacation leave per year.

You specifically ask whether R.C. 3319.084 requires that an employee have ten years of uninterrupted service with a single school district in order to be entitled to a minimum of three weeks of vacation leave. R.C. 3319.084 grants three weeks of vacation leave to those employees "continuing in the employ of such board of education" (emphasis added) for ten or more years. The phrase "such board of education" could only refer to the board of education in which the employee is required to complete one year of service in order to qualify for vacation benefits under the statute. It appears, therefore, that the General Assembly intended that service time, for purposes of R.C. 3319.084, be with a single board of education. Further, the use of the word "continuing" implies that such employment must be without break. See Webster's New World Dictionary 308 (2d college ed. 1978) (defining "continue," in part, as meaning "to remain in the same place or position; stay"). Compare R.C. 3319.084 with R.C. 124.13 (providing vacation leave for full-time state employees "after service of one year with the state, or any political subdivision of the state" and additional vacation leave for such employees "with eight or more years of service with the state or any political subdivision of the state") and R.C. 325.19 (providing vacation leave for full-time county employees "after service of one year with the county or any political subdivision of the state" and additional vacation leave for such employees "with eight or more years of service with the county or any political subdivision of the state") (interpreted in 1983 Op. Att'y Gen. No. 83-019 as not requiring an employee to have uninterrupted service in order to be entitled to additional vacation leave).

In addition to R.C. 3319.084, one must also consider R.C. 9.44, which establishes a general rule regarding prior service credit for purposes of computing vacation leave benefits for various public employees, and which states:

A person employed, other than as an elective officer, by the state or any political subdivision of the state, earning vacation credits currently, is entitled to have his prior service with any of these employers counted as service with the state or any political subdivision of the state, for the purpose of computing the amount of his vacation leave. 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. (Emphasis added.)

Since school districts are political subdivisions, City of Cleveland v. Public Library Board, 94 Ohio St. 311, 114 N.E. 247 (1916), R.C. 9.44 entitles a school district employee, who is earning vacation credits currently, to receive credit for prior service with the state or any political subdivision, as if such service were with the school district in which he is currently earning vacation credits. See 1974 Op. Att'y Gen. No. 74-088 (suggesting that the General Assembly intended to include employees of boards of education within the entitlement of R.C. 9.44).

It is a fundamental rule of statutory construction that, statutes relating to the same matter, even though passed at different times and making no reference to each other, are in pari materia and should be read together to determine and effectuate the legislative intent. State ex rel. Pratt v. Weygandt, 164 Ohio St. 463, 132 N.E.2d 191 (1956) (syllabus, paragraph two). Since both R.C. 3319.084 and R.C. 9.44 concern vacation benefits for school district employees, they should be read together and, if possible, harmonized so as to give effect to the provisions of each statute.

As stated above, R.C. 3319.084 appears to require that service with a board of education be uninterrupted for at least ten years before an employee is entitled to three weeks of vacation leave. Reading R.C. 3319.084 with R.C. 9.44, however, it appears that an employee is entitled to credit for service time with the state or another political subdivision. Thus, in computing his service time under R.C. 3319.084, an employee is entitled to have his service time with the state or other political subdivisions counted as if it were service with his current school board employer. However, because R.C. 3319.084 requires an employee to be "continuing in the employ" of the board for ten or more years, which, as I have discussed above, requires the employee's service to be uninterrupted for that period of time, an

employee is entitled to be credited only with that service time with the state or other political subdivisions where such service immediately precedes the person's employment with the school district.

It is, therefore, my opinion, and you are advised, that in computing a full-time nonteaching school employee's service credit for purposes of vacation leave under R.C. 3319.084, a school district must credit the employee with years served with the state or another political subdivision so long as such service immediately precedes the employee's service with the school district in which he is currently earning vacation credits.