

1309

EDUCATION — CONTRACTS, NON-TEACHING EMPLOYEES, TERM OF—"YEAR" AS USED IN §3319.081, RC, DEFINED IN §3319.09(B), RC—ONE YEAR OF SERVICE PRIOR TO EFFECTIVE DATE OF §3319.081, RC IS TO BE CONSIDERED.

SYLLABUS:

1. The word "year" in Section 3319.081, Revised Code, is subject to the definition contained in Section 3319.09 (B), Revised Code.

2. For the purpose of determining the proper term of renewal contracts of employment with non-teaching employees, one year of service prior to the effective date of Section 3319.081, Revised Code, is to be considered.

Columbus, Ohio, November 19, 1957

Hon. James A. Rhodes, Auditor of State  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Local Boards of Education employ non-teaching persons to act as cooks, bus drivers, janitors, etc., and since September 1, 1955 by the provisions of R. C. 3319.081 are required to contract with such employees as is provided for in this section, namely:

"(A) Employees, with at least one year of service in the school district, provided their employment is continued, shall be employed for a period of not less than one year nor more than five years.

"(B) After the termination of the contract provided in division (a), and thereafter provided their employment is continued, the contract shall be for not less than two years nor more than five years.'

"The cook, in N. C. L. S. D. rendered service during 1954-55 school year. She was continued in her employment for the school year 1955-56. In 1957 the board has contracted to give the cook another one year contract. The cook serves only 9 months in a calendar year, however, the cook serves the *whole* school year.

"Insofar as the provisions of Sections 3319.08 to 3319.18 inclusive of the R. C. are concerned provides:

"(B) "Year" as applied to term of service means actual service of not less than one hundred twenty days within a school year; \* \* \*

"If we are to consider the school year, then the cook in this school district would be entitled to a contract for two to five years. However, if we are to consider the time served on the calendar year basis, then such cook would not be entitled to a contract for the period from two to five years.

"An opinion is respectfully requested as to whether or not (1) the provisions of 3319.09 R. C. are applicable to non-teaching employees; and (2) whether or not a cook, bus driver or other employees who have had two years of service, as provided for by Section (A), with the first year being prior to the effective date of this Statute, shall be given a contract for a two year term."

The statutes to which you refer, Sections 3319.081 and 3319.09, Revised Code, read as follows:

3319.081:

"In all school districts wherein the provisions of sections 143.01 to 143.38, inclusive, of the Revised Code do not apply the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

"(A) Employees, with at least one year of service in the school district, provided their employment is continued, shall be employed for a period of not less than one year nor more than five years.

"(B) After the termination of the contract provided in division (A), and thereafter provided their employment is continued, the contract shall be for not less than two years nor more than five years.

"(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. Such contracts may be terminated only for violation of regulations as set forth by the board of education. Any nonteaching school employee may terminate his contract of employment thirty days subsequent to the filing of a written notice of such termination with the clerk of the board."

3319.09:

*“As used in sections 3319.08 to 3319.18, inclusive, of the Revised Code:*

*“(A) \* \* \**

*“(B) ‘Year’ as applied to term of service means actual service of not less than one hundred twenty days within a school year; provided that any board of education may grant a leave of absence for professional advancement with full credit for service.*

*“(C) \* \* \*.”*

(Emphasis added)

It should be pointed out that Section 3319.081, Revised Code, does not apply to those school employees of city school districts under the Civil Service laws, Sections 143.01 to 143.48, inclusive, Revised Code.

In 37 Ohio Jurisprudence, 495, Section 269, the following rule would appear to be dispositive of your first query:

“The general assembly, in enacting a statute, is assumed, or presumed, to have legislated with full knowledge and in the light of all statutory provisions concerning the subject-matter of the act, because the legislative mind, in the enactment of a statute, is directed to what has been enacted **and exists as a part** of the statutory law of the state on the same subject, or subjects related to it.”

The enactment carried with it a section number falling within the scope of Section 3319.09, Revised Code. See 126 Ohio Laws, 162; Amended Senate Bill No. 200; 37 Ohio Jurisprudence 620, Section 342.

This reasoning is further strengthened when additional criteria for demarcation between “term of service” for nonteaching employees and teachers seem to disappear. In the course of normal school operation both groups may perform contracts during like periods, receive compensation based on the same period of time, and remain subject to the same or similar rules and regulations of the board of education.

It is apparent that a board of education is as desirous of obtaining contracts for services of all necessary school personnel at times before the actual opening of school sessions as it is of establishing a measure of personnel continuity, and the General Assembly can be supposed to have had these considerations in mind when they acted upon the proposal here in question.

Your first question must therefore be answered in the affirmative, and the term "year," insofar as it is used in connection with "term of service" in Section 3319.081, Revised Code, is subject to the definition in Section 3319.09, Revised Code.

The application of this statute so as to include prior service in determining the future employment period under division (A), Section 3319.081, Revised Code, appears to be clear for the employee in question. A statute speaks as of the date it becomes effective. On September 1, 1955, the statute thus applied to "*Employees with at least one year of service in the school district,*" and this clearly expresses the intention that past employment is to be considered and shall serve as a criterion for future employment periods under the Act.

It will also be noted that this section does not apply to initial contracts of employment. It seeks to provide a guide for contracting procedure after the employee has had "at least one year of service in the school district." To hold that only periods of employment since the effective date of the Act could be counted as provided for in the Act would render the Act inoperative for one year after its effective date, a result manifestly contrary to the express intention of the General Assembly.

Therefore, in specific answer to your enumerated questions, it is my opinion and you are accordingly advised that :

1. The word "year" in Section 3319.081, Revised Code, is subject to the definition contained in Section 3319.09 (B), Revised Code.
2. For the purpose of determining the proper term of renewal contracts of employment with non-teaching employees, one year of service prior to the effective date of Section 3319.081, Revised Code, is to be considered.

Respectfully,  
WILLIAM SAXBE  
Attorney General