

OPINION NO. 74-069

Syllabus:

The board of education is required to pay for the annual tuberculosis examination of school teachers and other school employees pursuant to R.C. 3313.71.

To: Harry A. Sargeant, Jr., Sandusky County Pros. Atty., Fremont, Ohio
By: William J. Brown, Attorney General, August 21, 1974

I have before me your request for my opinion, which asks whether a board of health is required by R.C. 3313.71 to provide the annual tuberculosis examination to school teachers and other employees of a board of education free of charge.

R.C. 3313.71 reads in part as follows:

"School physicians may make examinations, which shall include tests to determine the existence of hearing defects, and diagnoses of all children referred to them. They may make such examination of teachers and other school employees and inspection of school buildings as in their opinion the protection of health of the pupils, teachers, and other school employees requires.

"Boards of education shall require and provide in accordance with section 3313.67 of the Revised Code annual examinations of full-time, part-time, and substitute teachers and all other school employees to determine if tuberculosis in a communicable stage is present. * * *"

(Emphasis added.)

R.C. 3313.67, referred to in the foregoing statute, reads as follows:

"The board of education of each city, exempted village, or local school district may make and enforce such rules and regulations to secure the vaccination and immunization of, and to prevent the spread of communicable diseases among the pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interest of the public require. Boards of health, legislative authorities of municipal corporations, and boards of township trustees, on application of the board of education of the district, at the public expense, without delay, shall provide the means of vaccination and immunization to such pupils as are not provided therewith by their parents or guardians."

In Opinion No. 73-046, Opinions of the Attorney General for 1973, I construed a statute similar to R.C. 3313.71. In that Opinion I concluded that a requirement that a board of education "shall provide for a physical examination of each [bus] driver" (R.C. 3327.10(A)), requires the board to pay for such examinations. The reasoning of that Opinion is equally applicable to the instant fact situation. I can see no important difference, for purposes of your question, between the phrases "shall provide" (R.C. 3327.10(A)) and "shall require and provide" (R.C. 3313.71).

The reference to R.C. 3313.67, in R.C. 3313.71, apparently refers to the rules and regulations promulgated by the board of education pursuant to the first sentence of that Section. The second sentence, which implies that parents or guardians of pupils rather than the board of education are responsible for certain costs, does not contradict the conclusion reached herein. That sentence refers only to the provision of means of vaccination and immunization to pupils, and consequently does not affect the provision of tuberculosis examinations to teachers and other employees. Therefore, neither the employees nor the board of health is required to bear the cost of such examinations, which is the responsibility of the board of education.

In specific answer to your question, it is my opinion and you are so advised that the board of education is required to pay for the annual tuberculosis examination of school teachers and other school employees pursuant to R.C. 3313.71.