

**Note from the Attorney General's Office:**

1976 Op. Att'y Gen. No. 76-018 was overruled by  
1980 Op. Att'y Gen. No. 80-087.

**OPINION NO. 76-018****Syllabus:**

Pursuant to R.C. 3709.13, employees of the board of health in a general health district, other than the commissioner, are employees in the classified state civil service and, as such, the sick leave provisions of R.C. 124.38 are applicable to those employees.

**To: Thomas R. Spellerberg, Seneca County Pros. Atty., Tiffin, Ohio**  
**By: William J. Brown, Attorney General, March 17, 1976**

I have before me your request for my opinion as to whether employees of a county general health district are covered by the sick leave provisions of amended R.C. 124.38.

R.C. 124.38 provides sick leave benefits as follows in pertinent part:

"Each employee, whose salary or wage is paid in whole or in part by the state, each employee in the various offices of the county, municipal and civil service township service, and each employee of any board of education for whom sick leave is not provided by section 3319.141 [3319.14.1] of the Revised Code, shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths hours with pay."

As you noted in your request, my predecessors have had occasion to address the applicability of these sick leave provisions to employees of general health districts in 1965 Op. Att'y Gen. No. 65-121 and 1960 Op. Att'y Gen. No. 1302. My predecessor, in Opinion No. 65-121, as noted in the syllabus, concluded:

"1. A general health district as provided for in Chapter 3709, Revised Code, is not a part of municipal or county government.

"2. The reimbursement of funds expended for salaries of certain employees of the general

health district under Section 3709.32, Revised Code, does not place these employees under the purview of Section 143.29 (now Section 124.38), Revised Code.

"3. Employees of a general health district are not eligible for vacation benefits under Section 325.19, Revised Code, since the general health district is not a part of county service."

The effect of this opinion, however, was limited in 1967 by amendment to R.C. 3709.13 in the form of specific provision that employees of a board of health in a general health district shall be in the classified service of the state.

R.C. 3709.13, as amended effective December 13, 1967, provides:

"In any general health district the board of health may, upon the recommendation of the health commissioner, appoint for full or part time service a public health nurse and a clerk and such additional public health nurses, physicians, and other persons as are necessary for the proper conduct of its work. Such number of public health nurses may be employed as is necessary to provide adequate public health nursing service to all parts of the district. Employees of the board, other than the commissioner, shall be in the classified service of the state, and all employees of the board may be removed for cause by a majority of the board."

(Emphasis added.)

It is the emphasized language of R.C. 3709.13 which I believe leads to the conclusion that employees of a general health district are to be provided the sick leave benefits set out in R.C. 124.38. The opposite conclusion, as quoted above, which had been reached by my predecessor has been directly addressed and disposed of by the Ohio legislature. That is, the legislature has included employees of a general health district within the state classified service and, as such, those employees are subject to the sick leave provisions of R.C. 124.38.

It is therefore my opinion, and you are so advised that, pursuant to R.C. 3709.13, employees of the board of health in a general health district, other than the Commissioner, are employees in the classified state civil service and, as such, the sick leave provisions of R.C. 124.38 are applicable to those employees.