

Note from the Attorney General's Office:

1965 Op. Att'y Gen. No. 65-125 was overruled by
1982 Op. Att'y Gen. No. 82-064.

OPINION NO. 65-125**Syllabus:**

The right of a county employee to vacation leave under Section 325.19, Revised Code, accrues after the completion of employment for a one year period following the date of re-employment, where the employee has been re-hired after terminating previous county employment.

To: Thomas R. Spellerberg, Seneca County Pros. Atty., Tiffin, Ohio
By: William B. Saxbe, Attorney General, July 12, 1965

Your request for my opinion reads as follows

"The question was asked whether or not a county employee who had 23 years prior service in one county department, and who left county employment for several years and then came back to work for another county department, would be entitled to her three weeks vacation pay prior to having served at least a year on her renewed employment.

"1958 Ohio Attorney General's Opinion 2575 at page 51 clearly answers the question that the right to three weeks vacation pay is not dependent upon continuous service, but does not answer the specific question we are asking as to when after being re-employed, does the right to the vacation accrue."

Section 325.19, Revised Code, governs vacation leave for county employees and provides in pertinent part as follows:

"Each full-time employee in the several offices and departments of the county service, including full-time hourly-rate employees, after service of one year, shall be entitled during each year thereafter, to two calendar weeks, excluding legal holidays, to vacation leave with full pay. Employees having fifteen or more years of county service are entitled, during each year thereafter, to three calendar weeks, excluding legal holidays, of vacation leave with full pay. Two calendar weeks of leave with pay will have been earned and will be due an employee upon attainment of the first anniversary of employment and annually thereafter, and three calendar weeks of leave with pay will have been earned and will be due an employee upon attainment of the fifteenth anniversary of employment and annually thereafter * * *."

(Emphasis added)

The italicized language of Section 325.19, Revised Code, quoted, supra, causes me to conclude that the right to vacation leave is dependent upon the completion of twelve consecutive months of employment during the period next preceding the time at which vacation leave is to commence. It is to be noted that the instant opinion is not concerned with unused vacation leave of previous years.

In Opinion No. 40, Opinions of the Attorney General for 1963, I held that the phrase "anniversary of employment", as used in Section 121.161, Revised Code, is the annual recurrence of the date of last hire. Although Section 121.161, Revised Code, governs vacation leave for state employees, while Section 325.19, Revised Code, governs vacation leave for county employees, both sections contain in the same context the phrase "anniversary of employment". Hence, my prior opinion is herein pertinent. I remain in agreement with that opinion, and applying it to the facts presented in your request find additional support for concluding that twelve consecutive months of employment must next precede the commencement of vacation leave regardless of the number of years of prior employment.

Accordingly, it is my opinion that the right of a county employee to vacation leave under Section 325.19, Revised Code, accrues after the completion of employment for a one year period following the date of re-employment, where the employee has been re-hired after terminating previous county employment.