

OPINION NO. 69-057**Syllabus:**

A school bus driver under contract with a board of education is qualified to receive sick leave benefits which he has accumulated under Section 143.29, Revised Code, from the time he fails to pass the required physical examination for bus driver to the date of disability pension approval.

To: David M. Griffith, Trumbull County Pros. Atty., Warren, Ohio
By: Paul W. Brown, Attorney General, June 9, 1969

I have before me your request for an opinion on the following question:

"Can a board of education pay sick leave provision to a bus driver from the date he was

denied a license renewal due to a physical disability and prior to the date of disability pension approval?"

Section 143.29, Revised Code, reads in pertinent part:

"* * *each employee of any board of education shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths hours with pay. Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, and to illness or death in the employee's immediate family. Unused sick leave shall be cumulative up to ninety work days, unless more than ninety days are approved by the responsible administrative officer of the employing unit."

The statutory right of a non-teaching employee to receive sick leave pay has been confirmed by Opinion No. 67-003, Opinions of the Attorney General for 1967.

The language of Section 143.29, Revised Code, is broad enough to include within sick leave payments the time between denial of a bus driver's license due to a physical disability and the date of disability pension approval. A physical disability which precludes a bus driver from performing his duties should be compensated up to the amount that the non-teaching employee has accumulated as sick leave pay.

Informal Opinion No. 136, Informal Opinions of the Attorney General for 1963, states that when a bus driver under contract with a board of education fails to pass his physical examination due to diabetes, he is entitled to sick leave payments for the amount he has accumulated under Section 143.29, supra.

Therefore, it is my opinion and you are hereby advised that a school bus driver under contract with a board of education is qualified to receive sick leave benefits which he has accumulated under Section 143.29, Revised Code, from the time he fails to pass the required physical examination for bus driver to the date of disability pension approval.