

OPINION NO. 66-016**Syllabus:**

1. The eight months provision and other relevant language of Section 3317.02, Revised Code, apply to teachers employed by a board of education on January 1, 1962 and thereafter.

2. Credit on the salary schedule shall be given for each school year of service which shall consist of at least one hundred twenty days of service under a teacher's contract, whether the service occurred within or without the district; and/or credit for years of service in the armed forces should be determined for periods longer than eight months by multiples of twelve months of actual continuous service, with any fractional period remaining to be credited as a year of service or an additional year of service if it is of at least eight months duration.

2. The eight months of continuous service in the armed forces of the United States, provided for in Section 3317.02, Revised Code, need not be within a calendar year.

To: Robert L. Perdue, Ross County Pros. Atty., Chillicothe, Ohio
By: William B. Saxbe, Attorney General, January 18, 1966

I have before me your request for my opinion in which the following questions are set forth:

"1. Does the eight month provision of the law, and other relevant language

apply to teachers employed by a board of education prior to August 16, 1965, or does it apply only to teachers employed subsequent to such date?

"2. In the event that such law applies to teachers employed prior to August 16, 1965, how is proper credit on the salary schedule now to be granted?

"3. Do four months of continuous actual service in the armed forces during the last four months of a particular year, plus four such months during the first four months of the succeeding year, constitute a year of service in the armed forces within the meaning of Revised Code, Section 3317.02, or must such eight months be within a particular year?"

The portion of Section 3317.02, Revised Code, effective August 16, 1965, which pertains to your questions provides as follows:

"A board of education shall provide in the teacher's salary schedule, that each teacher on January 1, 1962, or thereafter employed by the board shall be given full credit in the form of annual money increments on such schedule for each school year of service outside the district as a regular public school teacher or for each year of service in the armed forces of the United States or a combination of such respective periods of service to a total of not less than five years. The annual money increments granted for such service shall be the same as the salary increments currently granted by the employing board to teachers without teaching service in other school districts or without service in the armed forces. 'Armed forces,' as used in this section, has the meaning set forth in section 3307.02 of the Revised Code. 'School year of service,' as used in this section, means actual service of at least one hundred twenty days under a teacher's contract. A year of service in the armed forces, as used in this section, shall be at least eight months of continuous actual service in the armed forces."

(Emphasis added)

A problem similar to your first two questions was considered by one of my predecessors in 1960 in construing Section 3317.06, Revised Code, since amended, which provides:

"A board of education shall provide in the teachers salary schedule, adopted pur-

suant to section 3317.14, Revised Code, that each teacher employed by the board shall be given full credit on such schedule for each year of service outside the district as a regular public school teacher or for service in the armed forces of the United States or a combination thereof to a total of at least five years. The salary increments granted for such service shall be the same as those currently granted by the employing board to teachers without teaching service in other school districts or without service in the armed forces. 'Armed forces' as used in this section has the meaning set forth in section 3307.02, Revised Code."

In interpreting this section of the code, my predecessor stated in Opinion No. 1165, Opinions of the Attorney General for 1960, page 114, paragraphs 2, 4, and 5 of the syllabus as follows:

"2. Pursuant to Section 3317.06, Revised Code, a teacher is entitled to service credit on the salary schedule for time spent in the Armed Forces prior to his first job of teaching. Opinion No. 926, Opinions of the Attorney General for 1951, followed and affirmed.

"4. The service credit provisions of Section 3317.06, Revised Code, are applicable to all teachers currently employed by any board of education and all such teachers should be given immediate credit for all prior service as required by such section.

"5. In the allowance for each year of outside service, pursuant to Section 3317.06, Revised Code, the salary increment to be used by the employing board should be the same as currently used for teachers as a yearly increment for service with such board."

My conclusion in interpreting the current Section 3307.02, *supra*, is in keeping with the interpretation of my predecessors when construing similar provisions, in that the benefits provided therein shall apply to all teachers employed on January 1, 1962, or thereafter employed by a local school board. Although the effective date of this section of the Revised Code, is August 16, 1965, it is my opinion that the provisions are applicable to any teacher employed by the board on or after January 1, 1962.

I believe the intention of the legislature, in enacting Section 3307.02, *supra*, was to provide equal credit on the salary schedule for teaching service both within and without

the district and for credit for service in the armed forces of the United States.

A teacher with service acquired outside the district, consisting of a school year of actual service of at least one hundred twenty days under a teacher's contract, should be given the same increment credit for each such school year of service outside of the district as teachers acquiring service solely within the district so that the increments will be equal.

As to the increment of credit to be given for service in the armed forces, I note that Section 3317.02, Revised Code, provides that for the purposes of this statute, credit for a year of service under the salary schedule can be acquired by at least eight months on continuous actual service in the armed forces. I consider this provision (eight months) to be applicable to portions of continuous actual service in the armed forces of less than twelve months in computing total years of service for increment increases.

Credit for years of service in the armed forces should be determined for periods longer than eight months by multiples of twelve months of actual continuous service, with any fractional period remaining to be credited as a year of service or an additional year of service if it is of at least eight months duration.

The applicable statute, Section 3317.02, supra, makes no requirement that the service in the armed forces be within a calendar year. The only requirement is that the service be continuous for at least eight months.

Therefore, it is my opinion and you are hereby advised that:

1. The eight months provision and other relevant language of Section 3317.02, Revised Code, apply to teachers employed by a board of education on January 1, 1962 and thereafter.

2. Credit on the salary schedule shall be given for each school year of service which shall consist of at least one hundred twenty days of service under a teacher's contract, whether the service occurred within or without the district; and/or credit for years of service in the armed forces should be determined for periods longer than eight months by multiples of twelve months of actual continuous service, with any fractional period remaining to be credited as a year of service or an additional year of service if it is of at least eight months duration.

3. The eight months of continuous service in the armed forces of the United States, provided for in Section 3317.02, Revised Code, need not be within a calendar year.