

OPINION NO. 70-041**Syllabus:**

A reduction in the weekly salary of a non-teaching employee resulting from a resolution of the board of education restricting all non-teaching employees to forty hours per week may legally be made under Section 3319.082, Revised Code, but this can be done only in connection with the school board's annual notice of yearly salary to the non-teaching employee given as of July first and applicable to the next succeeding school year.

To: Bernard W. Freeman, Huron County Pros. Atty., Norwalk, Ohio
By: Paul W. Brown, Attorney General, April 14, 1970

I have your request for my opinion concerning the legality of a reduction in salary of a certain non-teaching school district employee under the provisions of Section 3319.082, Revised Code. You set forth the fact situation in your request letter.

as follows:

"The Monroeville Local School Board apparently reduced the salary of a Mrs. W. She was holding two (2) part time jobs. Her schedule prior to February 1, 1969 was apparently this:

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| "Assistant Cook | 30 Hrs. per wk. | 1.62 |
| "Assistant Custod. | <u>12</u> " | 1.74 |
| | 42 | |

and after February 1, 1969, her schedule was as follows:

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| "Assistant Cook | 30 hrs. per wk. | 1.70 |
| "Assistant Custod. | <u>10</u> " | 1.74" |
| | 40 | |

Section 3319.082, supra, provides as follows:

"In all school districts wherein the provisions of sections 143.01 to 143.48, inclusive, of the Revised Code do not apply, each board of education shall cause notice to be given annually not later than the first day of July to each non-teaching school employee, who holds a contract valid for the succeeding school year, as to the salary to be paid such school employee during such year. Such salary shall not be lower than the salary paid during the preceding school year unless such reduction is a part of a uniform plan affecting the non-teaching employees of the entire district. This section does not prevent increases of salary after the board's annual notice has been given."

There are two questions it appears that must be answered under your statement of facts. First, was the particular salary reduction in question made as a part of a uniform plan affecting the non-teaching employees of the entire school district. Secondly, if the reduction in salary does qualify as part of such a uniform plan, as of what date can the salary reduction be made effective.

Turning to the first question, I note that you have attached to your letter thermo-fax copies of your complete file. The information is disclosed that on February 11, 1969, the Monroeville School Board passed a resolution to the effect that all employees will not be paid overtime unless approved by the board of superintendent and they must restrict their weekly time sheets to a maximum of 40 hours. This resolution was made effective as of February 1, 1969. The reduction in work hours of the employee in question from 42 hours to 40 hours per week resulted in her above stated weekly salary reduction. The school board's resolution purports to cover all non-teaching employees. The letter of the local school superintendent is in confirmation of that conclusion. It is my opinion that the limitation of the work week to 40 hours with elimination of overtime pay applicable to all non-teaching employees of the school district does constitute a uniform plan affecting the employees of the entire district within the meaning of such language as used in Section 3319.082, supra.

Then arises the second question, as of what date can the reduction in salary be made effective. Section 3319.082, supra, provides that each board of education shall annually, not later than the first of July, give notice to each non-teaching employee holding contract for the succeeding year the amount of the salary to be paid the employee during such year. It is further provided that this section shall not prevent increases of salary after the board's annual notice. It is my opinion that Section 3319.082, supra, expresses the legislative intent that no reduction in the amount of the annual salary can be made during the school year following July first, below the amount expressed in the required prior annual notice. It must be assumed that the Monroeville School Board gave the annual notice required by law to the non-teaching employee in question and that the amount of her yearly salary therein expressed was in conformity with the figures you listed on a weekly basis in your statement of facts.

I am therefore of the opinion and you are so advised that a reduction in the weekly salary of a non-teaching employee resulting from a resolution of the board of education restricting all non-teaching employees to forty hours per week may legally be made under Section 3319.082, Revised Code, but this can be done only in connection with the school board's annual notice of yearly salary to the non-teaching employee given as of July first and applicable to the next succeeding school year.