

**OPINION NO. 83-098****Syllabus:**

The board of education of a joint vocational school district may classify its teachers as either full-time or part-time employees for purposes of determining the fringe benefits which will be granted to such teachers, so long as such classification does not reduce any minimum benefit or status conferred upon such teachers by statute or otherwise.

---

**To: William L. Thomas, Belmont County Prosecuting Attorney, St. Clairsville, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 21, 1983**

I have before me your opinion request in which you ask several questions concerning the compensation of teachers in a joint vocational school district which operates on a quarter system. It is my understanding that you have limited your questions to the following:

May the board of education of a joint vocational school district which operates on a quarter system of approximately 60 days per quarter classify those teachers who teach less than three quarters per year as part-time employees and those who teach three or four quarters per year as full-time employees for purposes of determining the fringe benefits to which such teachers are entitled?

R.C. 3311.18 provides for the creation of a joint vocational school district. Pursuant to R.C. 3311.19, the district is managed and controlled by the joint vocational school district board of education. As a creature of statute, the school board may exercise only those powers and duties which are expressly granted by statute or necessarily implied therefrom. See Schwing v. McClure, 120 Ohio St. 335, 166 N.E. 230 (1929); State ex rel. Clarke v. Cook, 103 Ohio St. 465, 134 N.E. 655 (1921). Thus, whether the school board may classify its teachers in the manner set forth in your request depends upon whether the board has statutory authority to do so.

Pursuant to R.C. 3313.482, a board of education of a joint vocational school district may, subject to the approval of the Department of Education, establish a school year of four quarters or 236 days. This statute also sets forth certain requirements for the operation of schools on a four quarter system, such as the number of days per quarter and the number of hours per day in which pupils must be in attendance. R.C. 3313.482 does not, however, specify the basis upon which to classify teachers as either full-time or part-time employees.

In order to answer your question, it is, therefore, necessary to examine the powers of a joint vocational board of education to compensate its teachers. R.C. 3319.07 states: "The board of education of each city, exempted village, and local school district shall employ the teachers of the public schools of their respective school districts." Since a joint vocational school district board of education has the same powers, duties, and authority for the management and operation of the joint vocational school district as are granted by law to a board of education of a city school district, R.C. 3311.19(D), a joint vocational board of education also has general authority to employ teachers for the joint vocational school district. It is pursuant to this express power to employ that a joint vocational school district board of education may fix the compensation of its employees. See 1981 Op. Att'y Gen. No. 81-052.

The authority of a joint vocational school district board of education to fix the compensation of its employees is not, however, without limit. As a general rule, a board of education may establish the compensation of its employees, subject to any limitations imposed by statute which directly address the granting of the particular benefit to those employed by the board. As stated in Op. No. 81-052 at 2-202:

If an applicable statute constitutes a minimum statutory entitlement to a particular benefit, the public employer may, pursuant to its power to compensate and in the absence of any statute constricting its action in the particular case, choose to provide such benefit in excess of the minimum statutory entitlement. If an applicable statute limits the general authority of the public employer to compensate its employees with the particular fringe benefit in question, it must, of course, be viewed as a restriction upon the employer's authority to grant the particular benefit.

If a particular benefit is not the subject of applicable legislation, the school board may, in its discretion, grant that benefit to its employees. In addition to the authority to establish the compensation of its teachers, a board of education has broad powers to "make such rules and regulations as are necessary for its government and the government of its employees. . . ." R.C. 3313.20. Greco v. Roper, 145 Ohio St. 243, 61 N.E.2d 307 (1945) (syllabus, paragraph one). Thus, a board of education may make necessary rules and regulations to implement its compensation plan.

Within this general framework, you specifically ask whether a joint vocational school district board of education which adopts a school year divided into four quarters may classify teachers who teach two quarters or approximately 120 days per year as part-time employees for purposes of determining the compensation to which such employees are entitled.

Although no statute of which I am aware specifies the amount of service which a teacher must render in order to be considered a full-time employee of the school district, the Revised Code does discuss the term "years of service" in relation to a teacher's contract status and the salary portion of a teacher's compensation. Pursuant to R.C. 3317.14, a board of education which participates in the distribution of funds under R.C. Chapter 3317 is required to adopt a teacher's salary schedule providing increments based upon training and years of service. In adopting a salary schedule under R.C. 3317.14, a school board is required to provide at least the minimum annual salaries set forth in R.C. 3317.13. Included as "years of service" for purposes of R.C. 3317.13 are: years of teaching in the same school district with each year consisting of at least 120 days under a teacher's contract; years served as a certified teacher in a chartered nonpublic school district with each year consisting of at least 120 days under a teacher's contract; and years of teaching service in certain schools or institutions with each year consisting of at least 120 days. 1969 Op. Att'y Gen. No. 69-069 concluded that although the salary schedule established by R.C. 3317.13 is stated in terms of minimum annual salaries, a board of education need not pay a teacher full increments on the salary schedule for half-time or part-time teaching.

Op. No. 69-069 noted that, for purposes of determining a teacher's placement on the salary schedule, credit is given for certain years of teaching service, so long as those years consist of at least 120 days. The opinion stated that although the statutes do not expressly state that a year of service must be at least 120 days of full-time service, such a conclusion is clearly implied. Op. No. 69-069 also cited the statutory provisions governing a teacher's contract status based upon the teacher's years of service, e.g., R.C. 3319.08, R.C. 3319.09 and 3319.11. R.C. 3319.09(B) states that, as used in R.C. 3319.08 through R.C. 3319.18, "year," "as applied to term of service means actual service of not less than one hundred twenty days within a school year; provided that any board of education may grant a leave of absence for professional advancement with full credit for service" (emphasis added). Relying on the definitions of "years of service" and "year" as consisting of at least 120 days of full-time service, the opinion concluded that a teacher who works only part-time during the year is not entitled to a full year of service credit for that year and also is not entitled to the full minimum annual salary set forth in the salary schedule. See 1974 Op. Att'y Gen. No. 74-004 (teachers employed by a local school district on an annual basis to teach two to three hours per day are part-time teachers); 1956 Op. Att'y Gen. No. 7452, p. 855 (teacher may be placed on half-time service and receive half-time pay).

Your question specifically asks about the classification of teachers as full-time or part-time employees for purposes of granting fringe benefits. Since a teacher may be considered a part-time or full-time employee for salary purposes, I see no reason why such classification could not also be made for purposes of fringe benefits, which are merely other components of the teacher's compensation, see State ex rel. Parsons v. Ferguson, 46 Ohio St. 2d 389, 348 N.E.2d 692 (1976). In establishing standards for classifying teachers as either full-time or part-time employees, the school board could certainly consider the above-cited definitions of years of service as consisting of at least 120 days and could also consider the number of hours per day in which the teacher is scheduled to teach. Upon consideration of these and any other relevant factors, the board of education may classify teachers as either full-time or part-time employees for purposes of granting fringe benefits, so long as the board acts in a reasonable manner. See 1981 Op. Att'y Gen. No. 81-062; 1978 Op. Att'y Gen. No. 78-057.

Your letter contains certain background information which indicates that the board of education may be contemplating the adoption of a fringe benefit policy in which only those teachers classified as "full-time" would be entitled to participate. As stated above, the authority of a board of education to provide fringe benefits for its teachers is subject to any statutory provisions which apply to the school district or to its employees and which directly address the particular benefit under consideration. For example, concerning sick leave, R.C. 3319.141 states:

Each person who is employed by any board of education in this state shall be entitled to fifteen days sick leave with pay, for each year under contract, which shall be credited at the rate of one and one-fourth days per month. . . . Teachers and nonteaching school employees who render part-time, seasonal, intermittent, per diem, or hourly service shall be entitled to sick leave for the time actually worked at the same rate as that granted like full-time employees.

R.C. 3319.141 establishes a minimum sick leave benefit, Op. No. 81-052, to which even part-time employees are entitled. Thus, although a board of education may classify a particular teacher as "part-time," the teacher is entitled to the minimum sick leave benefits established by R.C. 3319.141.

Since you have not specified the particular fringe benefits which the board of education contemplates providing for its teachers, I cannot determine the extent to which those classified as part-time teachers may be entitled to participate in such benefits. Such a determination can be made only upon examination of any applicable statutory provisions which directly address the provision of that particular benefit.

Based on the foregoing, it is my opinion, and you are advised, that the board of education of a joint vocational school district may classify its teachers as either

full-time or part-time employees for purposes of determining the fringe benefits which will be granted to such teachers, so long as such classification does not reduce any minimum benefit or status conferred upon such teachers by statute or otherwise.