

## OPINION NO. 70-072

**Syllabus:**

"County service" as intended in Section 325.19, Revised Code, does not include time spent as an elected city official, a school teacher, or an employee of a health district, but does include time spent as an employee of the county commissioners.

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**To: Robert D. Webb, Ashtabula County Pros. Atty., Jefferson, Ohio**  
**By: Paul W. Brown, Attorney General, June 19, 1970**

Your request for my opinion asks the following questions:

"First, under Section 325.19 of the Revised Code, pertaining to vacation pay, can an employee who has worked eight years for the Probate Juvenile Staff tack on their previous time at which the same employee was an elected official of the City of Geneva, as well as a school teacher, prior to employment by the Juvenile Department, thereby increasing his base service from eight years to twelve years of service, and resulting in three weeks vacation rather than two weeks?

"The second question, there are several Deputy Clerks who had prior service with the County Commissioners and Health Department of Ashtabula County before joining the Juvenile Staff. Would this time in these Departments be counted as base service in determining vacation leave?"

Section 325.19, Revised Code, pertains to vacation leave and holiday pay, and reads in 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, is entitled during each year thereafter, to two calendar weeks, excluding legal holidays, of vacation leave with full pay. Employees having ten or more years of county service are entitled, during each year thereafter, to three calendar weeks of vacation leave with full pay.  
\* \* \*"

It can readily be seen, then, from a reading of this statutory section, that the benefits bestowed by Section 325.19, Revised Code, are to apply only to those employees in the county service for employment in the county service. The answers to your questions, therefore, depend entirely upon whether the prior employment in each instance in question was such as to be considered in the county service.

Your first question is concerned with a county employee whose prior employment was as an elected city official and as a school teacher. It is obvious that the time spent as an elected city official cannot be construed as being in the county service and,

thus, the time spent in that position cannot be added to the county service years now accumulated.

Similarly, for several reasons, employment as a school teacher is not such as can be considered in the county service. The basic regulations and requirements pertaining to our public school system and employment therein are established on a state-wide basis in various chapters and sections of Title 33, Revised Code. Teachers in our public school system contribute to their own state-wide retirement system and tenure is based on the time spent as a public school teacher. Thus, although the employing agent of a teacher in our public school system is the appropriate school board or other agency within the state by which the teacher is employed and paid, the time spent as a public school teacher is counted in that "system" and cannot be considered as county service.

Recognition of these separate employment "systems" is noted in Section 143.29, Revised Code, the "sick leave" statute, which begins:

"Each employee, whose salary or wage is paid in whole or in part by the state, and each employee in the various offices of the county service and municipal service, and each employee of any board of education \* \* \*." (Emphasis added.)

Your second question pertains to the computation of county service time when the prior employment of the county employees involved was with either "the County Commissioners and the Health Department of Ashtabula County."

In Opinion No. 3425, Opinions of the Attorney General for 1962, although the exact question involved was the meaning of the word "separation" in Section 325.19, Revised Code, a predecessor of mine did hold that the clerk of the board of county commissioners is a county employee as contemplated by Section 325.19, supra. I concur with that result. Any time spent, therefore, as an employee of the county commissioners may be counted in determining vacation leave under Section 325.19, supra.

Information received subsequent to your request discloses that "the Health Department of Ashtabula County" to which you referred, actually is a health district as provided for in Chapter 3709, Revised Code, and is not a county health department which may be established only by charter provision pursuant to the terms of Section 301.24, Revised Code. As is contemplated in Section 3709.07, Revised Code, this health district is a union of the city health district of the City of Geneva and the general health district of the townships and villages of Ashtabula County and is known as the Ashtabula County General Health District.

In Opinion No. 121, Opinions of the Attorney General for 1965, my immediate predecessor held that a health district as provided for in Chapter 3709, Revised Code, is not a part of municipal or county government and that employees of a general health district are not eligible for vacation benefits under Section 325.19, supra, because a general health district is not a part of county service. I agree completely with that holding.

It is therefore my opinion and you are advised that "county service" as intended in Section 325.19, Revised Code, does not include time spent as an elected city official, a school teacher, or an employee of a health district, but does include time spent as an employee of the county commissioners.