

OPINION NO. 68-052

Syllabus:

1. In crediting "years of teaching service in another public school," a local board of education must include all years of teaching service in any elementary or secondary school which is a part of the public school system of this state.

2. A local board of education may, in the exercise of its discretion, evaluate a teacher's background and experience in giving credit for "years of teaching service" where such service was performed in any other school or in similar work experience.

**To: Martin Essex, Supt. of Public Instruction, Department of Education,
Columbus, Ohio**

By: William B. Saxbe, Attorney General, March 18, 1968

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

"For purposes of teacher salary computations in the State Foundation formula, R.C. Section 3317.13 (A) (2) provides for the crediting of 'years of teaching service in another public school.'

"In administering the provisions of this section, may 'public school' be construed to include a public elementary or secondary school in the United States and its possessions, or an elementary or secondary school operated by a state university, or an overseas dependents' school operated by the Department of Defense?

"May 'public school' be construed to exclude a foreign school, a domestic non-public school, a college or university, and related work experience including the Peace Corps?"

Section 3317.13, Revised Code, reads in pertinent part as follows:

"(A) As used in this section, 'years of service' includes the following:

"(1) All years of teaching service in the same school district, regardless of training level, with each year consisting of at least one hundred twenty days under a teacher's contract;

"(2) All years of teaching service in another public school, regardless of training level, with

each year consisting of at least one hundred twenty days under a teacher's contract; and

"(3) All years of active military service in the armed forces of the United States, as defined in section 3307.02 of the Revised Code to a maximum of five years.* * *"

This statute further provides for a minimum salary schedule for all teaching personnel employed in the public school system. Prior to this revision, a number of questions were raised over what should be included in crediting "years of service." I discussed this in Opinion No. 66-016, Opinions of the Attorney General for 1966:

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"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.

* * * * * * * *"

In enacting Section 3317.13, Revised Code, it seems the legislature intended to make clear that "years of service" included (1) all years in the same district and (2) all years in another public school which would include any public school in Ohio regardless of district.

"Another public school" as used in this section should include any elementary or secondary school in Ohio which is wholly or partly controlled and supported by public funds. There is no reason either in purpose or policy to give it a broader meaning. In providing for minimum salaries and crediting of "years of service" the legislature recognized that many teachers in our public school system may find it necessary to move to other areas within the state. Section 3317.13, supra, guarantees them a minimum salary based upon their years of teaching experience.

The State Board of Education has control over public schools within the State of Ohio and it issues teachers certificates pursuant to Sections 3319.22 to 3319.31, inclusive, Revised Code. It is inconceivable that a board of education should be required to give credit for teaching in a public school in another state when we have no control over the qualifications of that state's teachers. This should not be interpreted to prohibit a board giving credit in such a case but only that they should not be required to do so.

Section 3317.14, Revised Code, reads in pertinent part as follows:

"Any board of education participating in funds distributed under Chapter 3317 of the Revised Code shall annually adopt a teacher's salary schedule with provisions for increments based upon training and years of service. Notwithstanding section 3317.13 of the Revised Code the board may establish its own service requirements provided no teacher receives less than the amount required to be paid pursuant to section 3317.13 of the Revised Code and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of section 3317.13 of the Revised Code is given to each teacher."

The above quoted statute permits any board of education to establish its own service requirements provided it meets the minimum salary requirements of Section 3317.13, supra, and provided full credit is given to each teacher for a minimum of five years of actual teaching and military experience as defined in Section 3317.13, supra. Thus, a board in evaluating a teacher's background and experience may decide to give credit for years of teaching service in the cases you mentioned.

It is, therefore, my opinion and you are advised that:

(1) In crediting "years of teaching service in another public school," a local board of education must include all years of teaching service in any elementary or secondary school which is a part of the public school system of this state.

(2) A local board of education may, in the exercise of its discretion, evaluate a teacher's background and experience in giving credit for "years of teaching service" where such service was performed in any other school or in similar work experience.