

OPINION 65-62**Syllabus:**

A quorum of the Ohio Higher Education Assistance Commission is five (5) members and that the affirmative vote of a quorum is necessary before the Commission can take any official action.

To: B. H. Maddox, Executive Director, Ohio Higher Education Assistance Commission, Columbus, Ohio

By: William B. Saxbe, Attorney General, April 12, 1965

I have received your request for my opinion which reads as follows:

"The Ohio Higher Education Assistance Commission consists of nine members representing various segments of the public, appointed by the Governor with the advice and consent of the senate.

"A resignation, and the termination of three appointments on February 8, 1965, has reduced the membership of the Commission to five members, and replacements have not yet been named.

"In Section 3351.06 of the Ohio Revised Code is found the wording, 'A majority of the commissioners shall constitute a quorum for the transaction of business and the approval of a quorum is necessary to undertake any act of the commission.'

"The questions that we direct to your office for informal written opinions are:

"What number shall be considered to be a quorum of the Commission in situations where vacancies have been created by resignations and or expiration of terms?

"How many affirmative votes must be cast at Commission meetings in order that the business of the body must be legal and binding?"

Section 3351.06, Revised Code, to which you refer in your letter , reads in part as follows:

"The Ohio higher education assistance commission shall be composed of nine members, to be appointed by the governor with the advice and consent of the senate* * *. Upon the expiration of the term of office of a member of the commission, his successors shall be appointed by the governor, with the advice and consent of the senate, for a term of three years. Vacancies shall be filled by appointment to the unexpired terms.

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"The commission shall provide for the holding of regular and special meetings. A majority of the commissioners shall constitute a quorum for the transaction of any business and the approval of a quorum is necessary to undertake any act of the commission.

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(Emphasis added)

As you will note from the provisions of Section 3351.06, supra, the General Assembly provided that the commission was to consist of nine (9) members. Provisions were made whereby vacancies could be filled if the membership of the commission would fall below the number provided for by the General Assembly. Therefore, the provision in a later paragraph of Section 3351.06, supra, that a majority of the commissioners shall constitute a quorum must refer to the commission as established by the General Assembly. A majority of the commission as it was established by the General Assembly is five (5) members. I must conclude that the obvious intent of the General Assembly was that a quorum would, in all cases, be five (5) members of the commission. This is in keeping with the "plain meaning" rule of statutory interpretation. Sears v. Weimer, 143 Ohio St., 312.

The answer to your second question is found in Section 3351.06, supra, wherein it provides that "the approval of a quorum is necessary to undertake any act of the commission." Since I have concluded that a "quorum" within the meaning of Section 3351.06, Revised Code, is five (5) members of the commission, the answer to your second question is that five (5) members of the commission must approve any act of the commission.

Therefore, it is my opinion and you are advised that a quorum of the Ohio Higher Education Assistance Commission is five (5) members and that the affirmative vote of a quorum is necessary before the Commission can take any official action.