

**OPINION NO. 67-048**

**Syllabus:**

State employees are not entitled to time off with pay in order to participate in civil defense activities.

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**To: C. Howard Johnson, Franklin County Pros. Atty., Columbus, Ohio**  
**By: William B. Saxbe, Attorney General, May 25, 1967**

Your request for my opinion reads in pertinent part

as follows:

"Can a state employee who, due to his community spirit, has also become well trained and well qualified in a necessary civil defense emergency skill, when excused during his normal work hours from his normal state job assignment, be paid on the state payroll at his normal salary?"

Section 143.11, Revised Code, states that forty hours shall be the standard work week for all employees whose salary or wage is paid in whole or in part by the state. Section 121.161, Revised Code, provides for certain enumerated holidays with full pay to each employee whose salary is paid in whole or in part by the state. Section 143.29, Revised Code, provides that each full time employee whose salary is paid in whole or in part by the state shall be entitled to sick leave of one and one fourth work days with pay for each completed month of service.

The only other time off with pay which the General Assembly has seen fit to give officers and employees of the state is set forth in Section 5923.05, Revised Code, which provides for military leave as follows:

"All officers and employees of the state or the political subdivisions thereof who are members of the Ohio national guard, the Ohio defense corps, the Ohio naval militia, or members of other reserve components of armed forces of the United States are entitled to leave of absence from their respective duties without loss of pay for such time as they are in the military service on field training or active duty for periods not to exceed thirty-one days in any one calendar year."

(Emphasis added)

It is clear that the General Assembly did not include organizations for civil defense within the terms of Section 5923.05, supra.

The language of this section makes it apparent that members of organizations for civil defense are not included within its terms.

Further, in Section 5915.10, Revised Code, we find this provision:

"(A) The state, any political subdivision, municipal agency, civil defense volunteer, or another state or a civil defense force thereof or of the federal government or of another country or province or subdivision thereof performing civil defense services in this state \* \* \*, shall not be liable for any injury or death to

persons, or damage to property as the result thereof during training periods, test periods, practice periods or other civil defense operations, or false alerts, as well as during enemy attack, actual or imminent, and subsequent to the same except in cases of willful misconduct. \* \* \*!"  
(Emphasis added)

We may readily conclude, therefore, that each person designated as a "civil defense volunteer" is in fact a volunteer in the usually accepted meaning of that term.

Furthermore, my research reveals a complete absence of any statutory authority, implied or expressed, which would entitle state employees to time off from their respective duties without loss of pay for such time as they are participating in civil defense operations.

Accordingly, in specific answer to your question, it is my opinion that state employees are not entitled to time off with pay in order to participate in civil defense activities.