

OPINION NO. 68-095**Syllabus:**

1. Section 3319.081, Revised Code, provides that all non-teaching employees of a school district who have been employed for three or more years as of November 24, 1967 are automatically granted continuing contracts.

2. Section 3319.081, Revised Code, provides that each non-teaching employee of a school be granted a continuing contract upon the completion of three years of continuous employment.

3. The requirement that non-teaching employees of a school district be granted a continuing contract upon the completion of three years of service is mandatory.

4. Section 3319.081, Revised Code, authorizes a school board to give a newly hired non-teaching employee of a school district a contract for less than one year.

5. For continuing contract purposes, a year consists of not less than one hundred twenty days of actual service between July 1 and June 30 of the succeeding calendar year.

To: Marshall E. Peterson, Greene County Pros. Atty., Xenia, Ohio
By: William B. Saxbe, Attorney General, June 11, 1968

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

"1. Does Section 3319.081 require that all non-teaching personnel who have been working in systems for 3 or more years are automatically on continuing contracts?

"2. Does it require that they must be given a continuing contract on the anniversary of their present contract if they have been employed for 3 years or more?

"3. Is it mandatory to grant continuing contracts at the end of 3 years?

"4. Division A states employment shall be for a period of not more than one year -

"a. Does this mean you can give a contract for a lesser amount of time?

"b. If so, what length of time constitutes a year for continuing contract purposes?"

In answer to your first question I direct your attention

to Section 3319.081 (D):

"All employees who have been employed by a school district, where the provisions of sections 143.01 to 143.08, inclusive, of the Revised Code do not apply, for a period of at least three years at the time of the effective date of this section, shall hold continuing contracts of employment pursuant to this section."

I note that this statute became effective November 24, 1967. Therefore, it is my opinion that all non-teaching employees of school districts not subject to the provisions of Section 143.01 to 143.08, inclusive of the Revised Code, that had been employed by the district for three or more years prior to November 24, 1967 are granted continuing contracts by operation of law.

Section 3319.081, supra, further provides, in part:

"In all school districts wherein the provisions of sections 143.01 to 143.48, inclusive, of the Revised Code do not apply the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

"(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are re-hired, their subsequent contract shall be for a period of two years.

"(B) After the termination of the two-year contract provided in division (A) of this section, if the contract of a nonteaching employee is renewed, the employee shall be continued in employment, and the salary provided in the contract may be increased but not reduced unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district."

This portion of the statute requires that as each non-teaching employee of a school district completes three years of employment after November 24, 1967, he shall be granted a continuing contract and this requirement is mandatory.

The statutory requirement of Section 3319.081 (A), supra, is that new employees be given a written contract for a period of not more than one year. It is my opinion that such employee may be granted a contract for less than one year.

"Year" * * * is defined by Section 3319.09, Revised Code, which states in part as follows:

"As used in sections 3319.08 to 3319.18, inclusive, of the Revised Code:

* * * * *

"(B) '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."

School year is defined by Section 3313.62, Revised Code, which reads as follows:

"The school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year. A school week shall consist of five days, and a school month of four school weeks."

Therefore, for the purposes of Section 3319.08 (D), supra, years of service for a continuing contract means not less than one hundred twenty days of actual service between the first day of July and the thirtieth day of June of the succeeding calendar year.

Therefore, it is my opinion and you are hereby advised that:

1. Section 3319.081, Revised Code, provides that all non-teaching employees of a school district who have been employed for three or more years as of November 24, 1967 are automatically granted continuing contracts.
2. Section 3319.081, Revised Code, provides that each non-teaching employee of a school be granted a continuing contract upon the completion of three years of continuous employment.
3. The requirement that non-teaching employees of a school district be granted a continuing contract upon the completion of three years of service is mandatory.
4. Section 3319.081, Revised Code, authorizes a school board to give a newly hired non-teaching employee of a school district a contract for less than one year.
5. For continuing contract purposes, a year consists of not less than one hundred twenty days of actual service between July 1 and June 30 of the succeeding calendar year.