



STATE OF KANSAS

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February 10, 1989

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ATTORNEY GENERAL OPINION NO. 89- 14

The Honorable Eloise Lynch
State Representative, Seventy-First District
State Capitol, Room 155-E
Topeka, Kansas

Re: Labor and Industries--Payment of Compensation--
Definitions; Wages, Unused Sick Leave

Synopsis: Absent contractual agreement, teachers employed by
school districts are not entitled to payment for
accrued sick leave. Cited herein: K.S.A. 44-312;
44-313; 75-5517.

* * *

Dear Representative Lynch:

You request our opinion regarding the definition to be
attributed the term "wages" as used in the wage payment act,
K.S.A. 44-312 et seq. Specifically you question whether
unused sick leave accrued and earned pursuant to the terms of
a teaching contract constitutes "wages" as defined by K.S.A.
44-313(c).

Kansas courts have considered whether unused vacation time
should be included when calculating an employee's earned wages
at the time employment is terminated, and have held that
generally, absent agreement, nothing in Kansas law requires an
employer to convert accrued vacation time to wages upon
termination. Mid America Aerospace, Inc. v. Department of
Human Resources, 10 Kan.App.2d 144, 146, 147 (1985).
See Sweet v. Stormont Vail Regional Medical Center,
231 Kan. 604, 605, 606, 607 (1982). We believe the same

would apply when determining whether accrued sick leave constitutes wages earned at the time of termination. See Richardson v. St Mary Hospital, 6 Kan.App.2d 238, 239, 241, 242 (1981).

For public employment, the rule is stated generally:

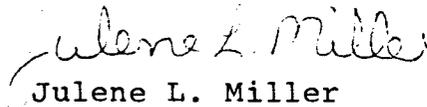
"Where a statute or contract provides that an employee may accumulate his sick leave with cash on termination, the sick benefit is not contingent, but is vested as soon as the sick leave is accumulated; however, when there is no provision for a cash payment on termination, the sick leave benefits are contingent upon the employee becoming sick during the term of employment and they are lost upon termination of the employment, or at least upon his termination while in a healthy condition." 63A Am.Jur.2d Public Officers and Employees §473 (1984).

You have stated the the contract is silent on the matter of converting accrued sick leave to a lump sum payment upon termination. Further, we can find no statutory right to payment for accrued sick leave for teachers employed by school districts. Compare K.S.A. 75-5517, sick leave allowance for civil service employees retired from service. Thus, the employer/school district is not required to include such unused sick leave in calculating earned wages.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm