



Office of the Attorney General
State of Texas

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March 24, 1994

Honorable Keith Oakley
Chair
Public Safety Committee
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78769

Letter Opinion No. 94-030

Re: Whether a school employee who is physically assaulted in the performance of his or her regular duties is entitled to receive compensation during the period of his or her recovery (ID# 22115)

Dear Representative Oakley:

You ask whether section 13.904(f), Texas Education Code, authorizes payment of a teacher's salary while that individual is recuperating from injuries received in an assault on the job. We believe that section 13.904(f) requires payment of salary, coordinated with workers compensation benefits, during the period of time, up to two years, it takes for the teacher to recover from injuries received during an assault on the job. To reach that conclusion, we have examined the evolution of the provision through years of legislative change.

When subsection (f) was originally enacted, it was clear that the leave required under the subsection entailed compensation. When it was adopted, subsection (f) included the following language as its second sentence: "Days of leave taken under this subsection shall be reported and *reimbursed* as sick leave in accordance with Subsection (b) of this section, but may not be deducted from accrued sick leave." Acts 1983, 68th Leg., ch. 334, § 2, at 1737 (emphasis added). Subsection (b) had required school districts to report the number of statutorily mandated sick leave days granted to professional employees and required the Central Education Agency to reimburse those districts for that time under a formula in the subsection. A 1991 amendment deleted that second sentence and repealed subsection (b) because the state had stopped reimbursing school districts for the sick leave required by section 13.904. That same amendment extended sick leave and assault leave benefits to all school district employees. Acts 1991, 72d Leg., ch. 391, §§ 68, 69; *see also* House Comm. on Pub. Ed., Bill Analysis, H.B. 586,¹ 72d Leg (1991).

In 1993 subsection (f) was again amended to clarify the fact that the required assault leave is compensated leave, because the amendment requires that assault leave benefits be coordinated with workers compensation benefits to equal the employee's usual

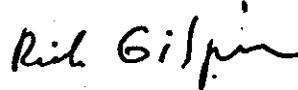
¹H.B. 586 was incorporated into H.B. 2885, 72d Leg., as a floor amendment adding sections 68 and 69. Acts 1991, 72d Leg., ch. 391, at 1475, 1502.

rate of pay. Acts 1993, 73d Leg, ch. 378 § 1, Vernon's Sess. Law Serv. at 1675; *see* House Comm. on Pub. Ed., Bill Analysis, S.B. 936, 73d Leg. (1993); *see also* Attorney General Opinion JM-915 (1988). The 1993 amendment also allows the district, after investigation, to change assault leave status to regular sick leave (presumably on finding that the injuries were not the result of assault on the job) and to charge the leave against the employee's salary if he does not have enough accrued sick leave.

S U M M A R Y

Texas Education Code, section 13.904(f), requires a school district to pay the salary of an employee who is physically assaulted during the performance of his regular duties while that employee is recovering from the injuries. The salary payment is coordinated with workers compensation benefits, during the period of time, up to two years, that it takes to recover from injuries received during the assault.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee