



The Attorney General of Texas

September 23, 1980

MARK WHITE
Attorney General

Affirmed by MW-427

Supreme Court Building
P.O. Box 12548
Austin, TX. 78711
512/475-2501

Honorable Evans N. Wentz
Executive Director
Texas Commission for the Blind
Austin, Texas

Opinion No. MW-247

Re: Whether a terminated employee
of the State Commission for the Blind
was entitled to be paid for accrued
sick leave

701 Commerce, Suite 200
Dallas, TX. 75202
214/742-8944

Dear Mr. Wentz:

4824 Alberta Ave., Suite 160
El Paso, TX. 79905
915/533-3484

You have requested our opinion as to whether an employee terminated by the State Commission for the Blind on June 25, 1979, is entitled to be paid for accrued sick leave. We assume that there is no question of wrongful termination.

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Houston, TX. 77002
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The 1975-77 General Appropriations Act, which expired on August 31, 1977, contained a provision requiring that all state employees, upon separation, be paid for one-half of their accrued sick leave. Acts 1975, 64th Leg., ch. 743, art. V, sec. 7(b), at 2850. See Attorney General Opinion H-1083 (1977). Neither of the appropriations acts enacted since 1975, however, has contained any provision permitting payment for sick leave.

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The sick leave provisions of the General Appropriations Act are applicable to all employees paid with funds appropriated thereby. Attorney General Opinion H-996 (1977). On June 25, 1979, when the employee of whom you inquire was terminated, the 1977-79 General Appropriations Act was in effect. That individual's compensation, as well as that of other employees of the Commission for the Blind, was clearly included within the agency's appropriation. Acts 1977, 65th Leg., ch. 872, art. II, at 2729-34. As a result, unlike the situation in Attorney General Opinion H-1083 (1977), agency policy regarding payment of sick leave is irrelevant. The statute controls, and therefore, no payment may be made.

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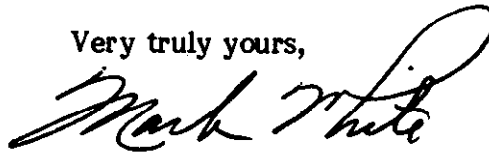
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Neither do we believe that refusal of the Commission to pay this employee for accrued sick leave constitutes a violation of the Federal Rehabilitation Act of 1973, 29 U.S.C. section 794. The individual has not been denied any benefits to which he was lawfully entitled.

S U M M A R Y

An employee of the State Commission for the Blind who was terminated on June 25, 1979, is not entitled to be paid for accrued sick leave.

Very truly yours,



MARK WHITE
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JOHN W. FAINTER, JR.
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APPROVED:
OPINION COMMITTEE

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