

SCHOOL BOARDS' EMPLOYEES: A person who is not a member of a town school board may serve as secretary to that board and receive the maximum compensation allowed by law and also serve as secretary to the superintendent of schools of such district.



January 7, 1958

Honorable Charles Jack Hoover
Prosecuting Attorney
Grundy County
Trenton, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"The County Superintendent of Schools of Grundy County has requested that I receive an official opinion, from your office, relative to construction and application of Section 165.360 R.S. Mo., 1949. The specific question he has propounded is, 'May a secretary of a School Board be paid the maximum amount allowed by statute for such services, and, in addition thereto, be compensated for rendering services as Secretary to the Superintendent of Schools?'"

Since writing the above, you have orally informed us that the secretary to the school board of the City of Laredo in Grundy County is not a member of the board. You have further informed us that the employment as secretary to the "Superintendent of Schools" is the superintendent of the schools of the Laredo School District.

You refer us to Section 165.360, RSMo 1949, which reads in part:

"No member of any public school board of a city, town or village in this state having less than twenty-five thousand inhabitants shall hold any office or employment of profit from said board while a member thereof except the secretary and treasurer, who may receive reasonable compensation for their services; provided, the compensation of the secretary shall not exceed one hundred and fifty dollars, and that of the treasurer shall not exceed fifty dollars for any one year; * * *"

Honorable Charles Jack Hoover

In view of the fact that the secretary is not a member of the school board, the question is whether there is any incompatibility in the positions of secretary to the school board and secretary to the superintendent of schools. We cannot see that there could possibly be any such incompatibility in view of the fact that both positions are simply secretarial. It is a familiar principle of law in this state that the same individual may hold a limitless number of positions so long as they are not incompatible, that is, that the duties do not conflict, and so long as there is no conflict or statutory prohibition against the holding of such positions by one individual. In the case of Walker v. Bus, 135 Mo. 325 at l.c. 338, the court stated:

"At common law the only limit to the number of offices one person might hold was that they should be compatible and consistent. The incompatibility does not consist in a physical inability of one person to discharge the duties of the two offices, but there must be some inconsistency in the functions of the two; some conflict in the duties required of the offices, as where one has some supervision of the other, is required to deal with, control or assist him."

We assume, of course, and it would so appear that the same individual would be able to fully perform the duties of both positions. Being secretary to the school board is, of course, only a part time employment for which the inconsiderable sum of one hundred and fifty dollars per year is paid. We believe, therefore, that the same person may hold both positions simultaneously when such person is not a member of the school board.

CONCLUSION

It is the opinion of this department that a person who is not a member of a town school board may serve as secretary to that board and receive the maximum compensation allowed by law and also serve as secretary to the superintendent of schools of such district.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

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