

April 1, 2026

The Honorable Eric J. Figlewicz
Wyandot County Prosecuting Attorney
137 S. Sandusky Avenue
Upper Sandusky, Ohio 43351

SYLLABUS:

2026-002

Generally, a person may not serve simultaneously as a juvenile court probation officer and as a member of a school district board of education located within the same county.



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OPINION NO. 2026-002

The Honorable Eric J. Figlewicz
Wyandot County Prosecuting Attorney
137 S. Sandusky Avenue
Upper Sandusky, Ohio 43351

Dear Prosecutor Figlewicz:

You have requested my opinion on whether a person may serve simultaneously as a Wyandot County juvenile court probation officer and as an elected member of the board of education of a school district within the same county. Under the circumstances presented in this request, I conclude that a person may not.

I

Your question concerns the compatibility of two public positions: a juvenile court probation officer and school board member in the same county. You have informed me that Wyandot County has three juvenile court probation officers. Each of them serves at the direction of the juvenile court judge; their duties extend county-wide; and they are not assigned to specific geographical areas within the county. You have advised us that a probation officer expressed a desire to serve on the board of education of a local school district.

In determining whether two public offices are compatible, we apply a seven-part test:

1. Is either of the positions a classified employment within the terms of R.C. 124.57?
2. Do the empowering statutes of either position limit employment in another public position or the holding of another public office?
3. Is one position subordinate to, or in any way a check upon, the other?
4. Is it physically possible for one person to discharge the duties of both positions?
5. Is there an impermissible conflict of interest between the two positions?
6. Are there local charter provisions, resolutions, or ordinances which are controlling?
7. Is there a federal, state, or local departmental regulation applicable?

2015 Ohio Atty.Gen.Ops. No. 2015-032, Slip Op. at 1; 2-308.

“In order for two positions to be found compatible, all seven questions must be resolved in favor of

compatibility.” *Id.*, quoting 1989 Ohio Atty.Gen.Ops. No. 89-052, at 2-218. However, “[i]f the answer to any of the above is dispositive in finding against compatibility, that suffices to end the analysis.” 2025 Ohio Atty.Gen.Ops. No. 2025-014, Slip Op. at 4; 2-100; *see, e.g.*, 2022 Ohio Atty.Gen.Ops. No. 2022-005 and 2022 Ohio Atty.Gen.Ops. No. 2022-006.

Here, the answer to question five is dispositive. Under the circumstances presented, there are multiple conflicts of interest between the two positions which would prevent a person from fulfilling the responsibilities of either position free of the influence of the other. Those conflicts appear unavoidable.

II

“A person may not serve simultaneously in two positions when an impermissible conflict of interest exists between the positions.” 2021 Ohio Atty.Gen.Ops. No. 2021-027, Slip Op. at 2; 2-97. “A conflict of interest exists ‘when an individual’s responsibilities in one position are such as to influence the performance of his duties in the other position, thereby subjecting him to influences which may prevent his decisions from being completely objective.’” *Id.*, quoting 1989 Ohio Atty.Gen.Ops. No. 89-052, at 2-220. In other words, “a conflict of interest exists when a public servant is subject to divided loyalties and conflicting duties or exposed to the temptation of acting other than in the best

interest of the public.” 1998 Ohio Atty.Gen.Ops. No. 1998-033, at 2-188 to 2-189.

A

To evaluate the potential for impermissible conflicts of interest, I will first review the powers and duties of each position at issue.

The powers and duties of a juvenile court probation officer are generally prescribed by R.C. 2151.14. The probation officer is under the juvenile judge’s direction and control and must “make any investigations that the judge directs, keep a written record of the investigations, and submit the record to the judge or deal with them as the judge directs.” R.C. 2151.14(A). The officer must also “keep informed concerning the conduct and condition of each person” under supervision and “report on their conduct and condition to the judge as the judge directs.” *Id.* The “chief probation officer, under the direction of the juvenile judge,” is in charge of the probation department’s work. *Id.*

The probation department’s reports and records must be kept confidential. R.C. 2151.14(B). The probation officer may request information about any child who has been found to be an unruly child, delinquent child, or juvenile traffic offender from the child’s board of education. If the parties cannot agree on the production of records, the probation department may request an

order from the juvenile court for the school district to release the student's records. *See* R.C. 2151.14(D)(1) to (3).

The probation officer is obligated to carry out duties assigned by the juvenile judge. *See* R.C. 2151.14(A). For example, “[i]f a child is adjudicated an unruly child for being an habitual truant,” a juvenile court judge may order a board of education to place the child in an alternative school. R.C. 2151.354(C). The juvenile probation officer may be called on to enforce compliance with that order. *See* R.C. 2151.14.

“Probation officers have all the powers of regular police officers and shall perform any duties that are designated by the judge or judges of the court.” R.C. 2301.27(A)(1)(c). Juvenile court probation officers also have authority to make warrantless arrests of any juvenile “upon reasonable information or upon view of” a violation of juvenile law (*i.e.*, R.C. Chapter 2151 or 2152). R.C. 2151.14(B). The probation officer may detain the person arrested until a warrant is issued. *Id.* Depending on the conditions of community control, the probation officer may also be authorized to test a probationer for drug or alcohol use. R.C. 2152.19(A)(4)(f). The officer may search a delinquent child's person, residence, automobile, and personal property if the officer has “reasonable grounds to believe that the delinquent child is not abiding by the law” or violating the conditions of community control. R.C. 2152.19(F).

Specifically in Wyandot County, you have informed me that juvenile probation officers are responsible for supervising all juvenile probationers in the county. The officers communicate with school officials on a regular basis; conduct in-person visits with juvenile probationers at the juvenile court; conduct home and school visits to check on juvenile probationers; administer drug tests to probationers; make filings to advise the court of probation violations; and testify regarding those violations in juvenile court when necessary.

Further, the chief probation officer is also responsible for procuring grant money for the Wyandot County Juvenile Court from the Ohio Department of Youth Services. *See* R.C. 5139.34; Adm.Code 5139-67. You have informed me that the grants are ultimately signed and approved by the juvenile court's administrative judge and the president of the board of county commissioners, but the chief probation officer makes funding recommendations based upon the amounts received and the needs of the department and county. Some of the money received in grants is distributed among various law enforcement agencies to provide school resource officers and to fund counseling services in schools throughout the county.

B

I turn next to the duties of a member of a school district board of education. A board member's primary duty is to "make any rules that are necessary for [the school district's] government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises." R.C. 3313.20(A). A school board, therefore, has the power to establish rules for who may enter onto school property, including where persons other than students, staff, or faculty may go, and what they may do while there.

The board of education "shall have the management and control of all of the public schools . . . it operates in its respective district." R.C. 3313.47. The board "shall adopt a policy of zero tolerance for violent, disruptive, or inappropriate behavior and establish strategies to address such behavior that range from prevention to intervention." R.C. 3313.534. Additionally, a school district's board of education must "[i]mplement a positive behavior intervention and supports framework on a system-wide basis" in compliance with R.C. 3319.46 and "any policy and standards adopted" by the Department of Education and Workforce (DEW). R.C. 3319.46(B)(1)(a)-(b). DEW's administrative rule similarly requires school districts to adopt "written policies and procedures for the implementation of positive behavior intervention and supports and the use of

seclusion and restraint” consistent with the statute and the administrative rule. Adm.Code 3301-35-15(I).

R.C. 3321.191 further requires the board of education of every school district to adopt a “policy to address student absences” and “[i]dentify strategies to prevent students from becoming chronically absent.” The juvenile court must be consulted in developing the policy, along with parents, guardians, and appropriate state and local agencies. R.C. 3321.191(B) and (C)(2). To enforce the school’s attendance policies, R.C. 3321.16 compels the school’s attendance officer to file a complaint in juvenile court against any student who is habitually truant without legitimate excuse unless the school district “determines that the student and the student’s family are making satisfactory progress in improving the student’s attendance at school.” R.C. 3321.16(B)(1) and (2). In some school districts, a juvenile court probation officer may be designated as the attendance officer. *See* R.C. 3321.15.

Finally, while the suspension or expulsion of a student is a matter decided by the principal and superintendent, the student, a parent, or guardian has the right to appeal any decision to the board of education. R.C. 3313.66(E). The board must then hold a hearing and decide whether to affirm, reverse, or modify the order of suspension or expulsion. *Id.*

III

As the above discussion shows, the powers and responsibilities of a school board member intersect with the duties of a juvenile court probation officer in multiple ways. Consequently, a person holding both positions is subject to overlapping influences and conflicting loyalties as detailed below. As a result, the person would not be entirely free to exercise independent judgment when acting in either position.

A

One potential conflict arises from each position's access to or need for confidential records of any student who is under the juvenile court's supervision. A probation officer has authority to obtain a wide variety of records about a student-probationer besides those from the school district, including records from law enforcement, prosecutors, child-placing agencies, and children's services agencies. *See* R.C. 2151.14(D). A school board or administrator may seek to obtain those confidential records from the probation department for disciplinary action against the student. A person serving simultaneously as a juvenile probation officer and school board member would have conflicting loyalties—a duty to the court and to the school district—in determining whether to release such records.

As to the records of a local board of education, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and R.C. 3319.321 protect the privacy of a wide variety of student information. See 1992 Ohio Atty.Gen.Ops. No. 92-071, at 2-298 to 2-302; 1990 Ohio Atty.Gen.Ops. No. 90-099, at 2-434 to 2-436. R.C. 3319.321 generally prohibits the release of personally identifiable information, other than directory information, concerning a student in public school without parental consent. R.C. 3319.321(B). This may include records of a student's academic performance, disciplinary records, and even information concerning students' illegal drug or alcohol use, to name but a few. According to that same statute, however, "[a] principal or chief administrative officer of a public school, or any employee of a public school who is authorized to handle school records," must comply with a juvenile court's request for records, including a request from the juvenile probation department, or any order from the juvenile court to release records. R.C. 3319.321(G) and 2151.14(D).

The school board could have reasons to protect student records from disclosure that conflict with the juvenile probation department's interest. While it is hard to predict a particular circumstance that may bring the department into conflict with the school board, any resulting litigation would create a conflict of interest for a person serving as both chief probation officer and member of the school board, particularly if the matter

comes before the juvenile judge to whom the probation officer reports. *See* R.C. 2151.14(D).

I must also note a related concern: a person serving in both positions would likely have access to confidential information from each position that normally would not be available to the other. Even if the person in this dual role exercises appropriate discretion in handling such confidential records by keeping each segregated to the appropriate public position, the dual role greatly increases the risk of inadvertently violating FERPA, R.C. 3319.321, and other confidentiality provisions in law, which opens the school board or probation department to potential lawsuits and liability.

Furthermore, R.C. 2151.14(D) allows for a number of potentially adverse parties, such as a parent, prosecutor, or board of education, to seek the release of records in juvenile court, where the probation officer's duty of loyalty to the court may clash with the duty to the school as a board member. Holding both positions invites a myriad of conflicting interests whenever the person requests or rejects a request for confidential records, determines what information to present to the court, or reports confidential matters to the juvenile judge.

B

Conflicting interests could also arise from competition among school boards for grant funds distributed by the juvenile court probation department. The Wyandot County chief probation officer is responsible for writing and submitting grant applications to acquire funding for school districts to employ school resource officers. The juvenile court ultimately receives and disburses these funds but receives the recommendations of the chief probation officer. A person holding the dual positions of chief juvenile probation officer and member of a school board may be tempted to influence grant awards to the greater benefit of the board member's school district. Assigning these duties to another probation officer, someone who reports to the chief officer, does little to mitigate the potential conflict. This dual capacity places the officer in an untenable situation of divided loyalties if he serves both the juvenile court and school district.

C

A juvenile probation officer's investigative duties and authority present additional obstacles to serving on a school district's board of education. As noted earlier, a probation officer employed by a court of common pleas, including the juvenile division, possesses the powers of a regular police officer, including arrest powers. R.C. 2301.27(A); *see also* R.C. 2151.14(B). A juvenile court

probation officer also has authority to make warrantless arrests of any juvenile “upon reasonable information or upon view of” a violation of R.C. Chapter 2151 or 2152 and may detain the person arrested until a warrant is issued. R.C. 2151.14(B).

When investigating possible violations of community control conditions, the officer may need to interview school employees (who are employees of the school board) for information about a person under supervision. Further, the officer may need to enter school property during the school day to carry out his supervisory and investigative duties. The officer could have reason to conduct a search on school property.

The capacity in which the probation officer is acting – as the school board member or as the probation officer – may confuse parents, teachers, or other school board members who may question the officer’s methods. Should the probation officer’s conduct be challenged in court as exceeding the officer’s authority, issues of liability and qualified or statutory immunity may result in an adversarial alignment between the school district and juvenile court’s probation department.

Further potential for conflicting interests and competing loyalties could arise from the school board’s duty and authority to establish rules for who may enter upon school property, what conduct is permitted on school property, and its truancy policy. Rules the

school board adopts could interfere with the practices, goals, and procedures of the juvenile court and its probation department. Additionally, the probation officer might propose or refrain from offering a sanction that conflicts with the school district's preference for the student to remain in school. These divided interests may compromise an individual's independent judgment in either or both positions.

IV

A potential conflict of interest between two positions does not necessarily mean that a person may not hold both positions. 1998 Ohio Atty.Gen.Ops. No. 98-033, at 2-189. Several factors determine whether a potential conflict of interest is an impermissible one which renders the positions incompatible. That analysis is best summarized in 2006 Ohio Atty.Gen.Ops. No. 2006-010, at 2-86 to 2-87:

If our review discloses such conflicts, we must next determine the immediacy of the conflicts to see whether the conflicts may be sufficiently avoided or eliminated entirely so as to allow the person to serve simultaneously in both positions. The pertinent factors used in making this determination include, but are not limited to, the probability of the conflict, the ability of the person to remove himself from

the conflict (should it arise), whether the person exercises decision-making authority in both positions, and whether the conflict relates to the primary functions of each position, or to financial or budgetary matters.

The foreseeable conflicts of interest detailed above, without more, are numerous enough that they cannot be appropriately mitigated. Because the probation officer's duties include exercising his statutory authority on school property around students and school employees, these conflicts are neither remote nor speculative. The current situation differs from when my predecessor found the positions of school board member and deputy sheriff compatible with restrictions. 2015 Ohio Atty.Gen.Ops. No. 2015-032. Although there are some similarities, the probation officer's responsibilities, unlike those of a deputy sheriff, require frequent and direct interaction with the school system, its employees, and its students. The juvenile probation officer's duties to report to the juvenile court, enforce any sanction the court imposes, and follow the judge's directives could readily put the probation officer at odds with a policy or directive of the school district's board of education.

The potential for multiple, significant conflicts makes it unlikely that a juvenile probation officer could sufficiently remove himself from impermissible conflicts of interest arising from simultaneously serving as a

member of a school district board of education. Neither can a school board member properly fulfill the member's supervisory and rulemaking authority by recusal; the potential conflicts of interest relate to the primary responsibilities of a school board member. "Constant abstentions" would "prevent [a board member] from competently and completely fulfilling his duties in that position." 2016 Ohio Atty.Gen.Ops. No. 2016-028, Slip Op. at 7; 2-328. *See also* 2012 Ohio Atty.Gen.Ops. No. 2012-008, 2-55 ("it would be impracticable for an individual serving simultaneously in both offices to recuse himself from every such matter."). I must therefore conclude, under the circumstances presented herein, that the two positions are incompatible.

I am mindful, however, that juvenile court judges have broad discretion to determine, assign, and direct the duties of the court's probation officers, and that a judge may alter or shift responsibilities of its probation officers to alleviate or sufficiently narrow the issues causing the two public positions to be incompatible. It is beyond the scope of an attorney general opinion to compile a list of possible actions or change of circumstances a judge might make, but sufficient changes of circumstance could affect the outcome of a future compatibility analysis.

Conclusion

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

Generally, a person may not serve simultaneously as a juvenile court probation officer and as a member of a school district board of education located within the same county.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive, flowing style.

DAVE YOST
Ohio Attorney General