

1209

ONE PERSON MAY SIMULTANEOUSLY HOLD THE POSITION OF COUNTY ATTENDANCE OFFICER AND TOWNSHIP TRUSTEE WITHIN THE SAME COUNTY—§3321.15, R.C.

SYLLABUS:

One person may simultaneously hold the positions of county attendance officer of a county board of education provided for in Section 3321.15, Revised Code, and township trustee within the same county, provided it is physically possible to perform the duties of both positions.

Columbus, Ohio, March 25, 1960

Hon. J. B. O'Brien, Prosecuting Attorney
Meigs County, Pomeroy, Ohio

Dear Sir:

Your request for my opinion asks whether the offices of county attendance officer of a county board of education and township trustee within the same county are compatible.

A township trustee is a township officer elected pursuant to the provisions of Section 505.01, Revised Code. Authority for a county board of education to employ a county attendance officer is found in Section 3321.15, Revised Code. On reviewing these and other statutes dealing specifically with these positions, I find no provision against one person holding both positions at the same time. Under the common-law rule I also find no cause to declare the positions incompatible. This rule is concisely set forth in the case of *State, ex rel. v. Gebert*, 12 O.C.C. (N.S.), at page 275, as follows:

“Offices are considered incompatible when one is subordinate to or in any way a check upon, the other; or when it is physically impossible for one person to discharge the duties of both.”

The offices in the instant case are not subordinate to one another; neither is one a check upon the other. As to physical possibility, this is a matter of fact not law, but it might be noted that the office of township trustee is a part-time job and it is probable that one person could perform the duties of both positions. This question, however, is one to be determined by the employer of the county attendance officer, the county board of education.

Accordingly, it is my opinion and you are advised that one person may simultaneously hold the positions of county attendance officer of a county board of education provided for in Section 3321.15, Revised Code, and township trustee within the same county, provided it is physically possible to perform the duties of both positions.

Respectfully,
MARK McELROY
Attorney General