

OPINION NO. 84-018**Syllabus:**

R.C. 505.211 allows a township trustee to be appointed to serve as an officer of a volunteer fire department provided that such appointment does not entitle the officer to receive compensation for his services.

To: Lowell S. Petersen, Ottawa County Prosecuting Attorney, Port Clinton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, April 30, 1984

I have before me your request for my opinion as to whether a township trustee may under R.C. 505.011 serve as an officer in a township volunteer fire department.

As you indicate in your request, R.C. 505.011 addresses this issue as follows:

A member of a board of township trustees may be appointed as a volunteer fireman and in such capacity be considered an employee of the township, or he may be a member of a private fire company which has entered into an agreement to furnish fire protection for the township of which such member is trustee; provided that such member shall not receive compensation for his services as a volunteer fireman. (Emphasis added.)

The statutory provision effectively negated 1960 Op. Att'y Gen. No. 1166, p. 120, which concluded that membership on a board of trustees was incompatible with employment or service on a volunteer fire department. In 1978 Op. Att'y Gen. No. 78-017 my predecessor opined that "the obvious purpose of R.C. 505.011 is to allow township trustees to serve their communities as volunteer firemen without jeopardizing their trusteeships," and that "the only caveat is that the trustee may not receive any compensation."

It is a well settled rule of statutory construction that words used in a statute are to be construed in accordance with their ordinary meaning. R.C. 1.42; Carter v. City of Youngstown, 146 Ohio St. 203, 65 N.E.2d 63 (1946). A member, in its ordinary meaning, refers to "a person belonging to some association, society, community, party, etc." Webster's New World Dictionary 885 (2d college ed. 1972). An officer, in its ordinary meaning, refers to "a member of any grade above the lowest." Id. at 988.

In interpreting a statute, words used may not be deleted, nor may words be inserted. See Dougherty v. Torrence, 2 Ohio St. 3d 69, 442 N.E.2d 1295 (1982) (Interpreting the statutory use of the words "members of the fire department" and "firemen" as including volunteer firemen since there was no indication that volunteer firemen were to be differentiated from other types of firemen and excluded from the statute); 1983 Op. Att'y Gen. No. 83-047; 1983 Op. Att'y Gen. No. 83-028. There is no indication in R.C. 505.011 that an officer of a volunteer fire department, who is defined as a particular kind of member but a member nonetheless, is to be excluded from the operation of R.C. 505.011. The statute contains no qualifying language as to the type of volunteer fireman included within its terms, and I am unable, in interpreting R.C. 505.011, to insert such language. Thus, it is my opinion that R.C. 505.011 allows a township trustee to serve as an officer of a township volunteer fire department provided that such position does not entitle the officeholder to receive compensation for his services.

With respect to the particular situation about which you have inquired, it is my understanding that the trustee wishes to serve as the assistant chief in the volunteer fire department. In this particular situation the board of township trustees appoints the chief of the volunteer fire department and the chief then appoints the assistant chief. I have recently opined that public officials who have

appointive powers may not serve in a position over which they exercise such powers, directly or indirectly. 1984 Op. Att'y Gen. No. 84-003; 1983 Op. Att'y Gen. No. 83-070. While I remain committed to this principle as a general rule, I do not believe it is applicable in this particular instance. In this particular instance the General Assembly by enacting R.C. 505.011 has implicitly sanctioned this use of appointive powers. The General Assembly has evidently deemed that the potential conflicts of interest which might arise between a township trustee and volunteer firefighter, see 1960 Op. No. 1166, are outweighed by the need for firefighters. See Op. No. 78-017. Cf. R.C. 135.11 (stating that an officer, director, stockholder, employee, or owner of an interest in a public depository is deemed not to have an interest in the deposit of public moneys for purposes of statutes prohibiting a public official from having an interest in the contracts of the public entity which he serves, even though such officials of a public depository would otherwise be deemed to have such an interest, Ohio Ethics Commission, Advisory Opinion No. 83-003).

Accordingly, it is my opinion, and you are advised, that R.C. 505.011 allows a township trustee to be appointed to serve as an officer of a volunteer fire department provided that such appointment does not entitle the officer to receive compensation for his services.