

OPINION NO. 66-053

Syllabus:

The position of clerk of a local board of education is compatible with the office of member of a board of elections.

To: Robert O. Stout, Marion County Pros. Atty., Marion, Ohio
By: William B. Saxbe, Attorney General, March 3, 1966

I have before me your request for my opinion in which you inquire whether or not the office of Clerk of the Board of Education of a local school district is compatible with the office of Member of the Board of Elections.

There are no statutory prohibitions against a member of a board of elections obtaining other public employment in the unclassified civil service.

A clerk of a local board of education is made an unclassified civil service employee by Section 143.08, Revised Code, which reads in part as follows:

"(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service
* * *.

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"(7) All presidents, business managers, administrative officers, * * * connected with the public school system * * *.

* * * * * * * *"

If the two offices in question are incompatible, it must be in consequence of the common law rule found in State, ex rel. Attorney General v. Gebert, 12 O.C.C. (N.S.) 274, wherein it was stated:

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"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.

* * * * * * * *"

There do not appear to be any duties of the one position in question which are inconsistent with the duties of the other office, nor will the performance of the duties of one result in antagonism or a conflict of duties

with the other. Neither is one office subordinate to, nor in any way a check upon the other.

Whether or not incompatibility results because it is physically impossible for one person to discharge the duties of both offices is a question of fact to be determined by the local board of education and board of elections.

It is, therefore, my opinion and you are advised that the position of clerk of a local board of education is compatible with the office of member of a board of elections.