

Note from the Attorney General's Office:

1969 Op. Att'y Gen. No. 69-133 was questioned by
1999 Op. Att'y Gen. No. 99-027.

OPINION NO. 69-133**Syllabus:**

The positions of an assistant prosecuting attorney and a member of a board of education are not compatible and may not be concurrently held by the same individual.

To: Vincent E. Gilmartin, Mahoning County Pros. Atty., Youngstown, Ohio
By: Paul W. Brown, Attorney General, October 6, 1969

Your request for my opinion is an inquiry as to the compatibility of the offices of an assistant prosecuting attorney and a member of a board of education as mentioned in the following quotation from your letter:

"A member of the staff of the Prosecuting Attorney of Mahoning County has filed petitions for the Office of Board of Education of the City of Campbell, Ohio. The City of Campbell has its own Solicitor."

I shall assume you are referring to an assistant prosecuting attorney in your question which states "a member of the staff of the Prosecuting Attorney."

Section 3313.13, Revised Code, states as follows:

"No prosecuting attorney, city solicitor,

or other official acting in a similar capacity shall be a member of a board of education."

In reading this statute, it is obvious that a prosecuting attorney shall not be a member of any board of education. Therefore, we must now determine whether an assistant prosecuting attorney would be included under this statute.

Opinion No. 25, Opinions of the Attorney General for 1963, held that an assistant prosecuting attorney holds the same duties and responsibilities as the prosecuting attorney. A quotation from the pertinent part of that opinion reads as follows:

"* * * I find no specific language in the law which directs that the duties of a duly appointed assistant prosecuting attorney shall be other than to assist in all of the duties of the office of the elected official by whom he has been appointed, such duties to be carried out under the supervision of his superior.
* * *"

Therefore, it is my opinion and you are hereby advised that the positions of an assistant prosecuting attorney and a member of a board of education are not compatible and may not be concurrently held by the same individual.