

"A board of education of a city school district may in its discretion appoint its superintendent of schools as attendance officer if circumstances are such that it is physically possible for one person to perform the duties of both positions."

It is a fact that in many of the smaller cities and exempted village school districts the superintendent or one of his assistants performs the work of an attendance officer. In these districts, however, the details of the work of a superintendent and his staff are largely left to the control of the board of education, and are not fixed by statute as are those of an assistant county superintendent by the terms of Section 7706, *supra*. It is because of the terms of this latter statute which fixes the duties of an assistant county superintendent of schools and in so doing allocates those duties in such a way as to occupy his entire time, that led two former Attorneys General, in opinions found in the reported Opinion of the Attorney General for 1921 at page 793, and for 1928 at page 956, to hold that one person could not lawfully be appointed to the position of assistant county superintendent of schools and county attendance officer. The reason given is that the law provided in Section 7706, General Code, that all the time of an assistant county superintendent of schools was taken up in the performance of the duties fixed therein and that it was therefore physically impossible for him to perform the duties of attendance officer.

No consideration was given in either of these opinions to the question of whether or not appointments might be made to these positions for part time service. The county board of education appoints the incumbents of each position and fixes the compensation therefor, and I see no reason why a county board of education may not appoint an assistant county superintendent or an attendance officer for part time service if it desires to do so in the absence of any express statutory provision that either of the incumbents of these positions shall devote their entire time to the duties of their respective positions. If that is done any incompatibility that might exist by reason of its being physically impossible to perform the duties of both positions is removed. For that reason I believe the former opinions should be modified.

I am therefore of the opinion, in specific answer to your question that a county board of education may in its discretion appoint an assistant county superintendent of schools or a county attendance officer for part time service, and may under such circumstances lawfully appoint one person to the two positions.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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APPROVAL, BONDS OF VILLAGE OF AMHERST, LORAIN COUNTY,  
OHIO—\$49,500.00.

COLUMBUS, OHIO, December 4, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*