

**OPINION 65-68****Syllabus:**

The positions of city safety director and member, board of education of a city school district, are not incompatible as long as it is physically possible for one person to discharge the duties of both, assuming that the city in question does not have a charter provision prohibiting the safety director from holding other offices.

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**To: John F. Marshal, Darke County Pros. Atty., Greenville, Ohio**  
**By: William B. Saxbe, Attorney General, April 23, 1965**

I am in receipt of your request for my opinion in which you ask whether the position of safety director of a city is compatible with the position of member of the board of education of a city school district.

In answering your question, I am assuming that there is nothing in your city charter that would prevent the safety director from holding the position in question.

The safety director of a city, under Chapter 737, Revised Code, is the executive head of the police and fire departments, and chief administrative authority of the charity, correction and building departments. He is required to make all contracts in the name of the city with reference to the management of such departments. (Section 737.02, Revised Code). There is no specific statutory authority which prevents the safety director from holding another position.

A member of the board of education of a city school district, according to section 3313.20, Revised Code, shall make such rules and regulations as are necessary for the government of its employees and the pupils of schools.

There being no statutory prohibition, the only question remaining to be answered is whether the two offices are incompatible under the common law. The rule involved is found in State ex rel. v. Gebert, 12 C. C. (N. S.) 274:

"\* \* \* \* \*"

"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 to discharge the duties of both.

"\* \* \* \* \*"

An examination of the statutory duties of the safety director of a city and member, board of education of a city school district, does not reveal any situations in which either office would be subordinate to, or a check upon, the other.

As to whether or not it is physically impossible for one person to discharge the duties of both positions, this is a question of fact which can best be answered on a local level.

Thus, it is my opinion and you are hereby advised that the positions of city safety director and member, board of education of a city school district, are not incompatible as long as it is physically possible for one person to discharge the duties of both, assuming that the city in question does not have a charter provision prohibiting the safety director from holding other offices.