

OPINION NO. 89-069**Syllabus:**

1. An individual may not simultaneously serve as a public school teacher in a local school district, president of a board of education in another local school district within the same county school district, and village council member, because, pursuant to the restriction in R.C. 731.12, the position of president of a board of education of a local school district is incompatible with the position of village council member.
2. The position of public school teacher in a local school district is compatible with the position of village council member. (1950)

Op. Att'y Gen. No. 1606, p. 181 and 1927 Op. Att'y Gen. No. 1396, vol. IV, p. 2555, syllabus, paragraph three, overruled.)

3. The position of public school teacher in a local school district is compatible with the position of president of a board of education in another local school district within the same county school district, unless the local school districts contract, pursuant to R.C. 3313.84, for the exchange of teaching services and such exchange includes the individual. (1973 Op. Att'y Gen. No. 73-108, modified.)

To: Steven L. Story, Meigs County Prosecuting Attorney, Pomeroy, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, September 6, 1989

I have before me your request for my opinion as to whether an individual may simultaneously serve as a public school teacher in a local school district, president of a board of education in another local school district, and village council member. In a telephone conversation with a member of my staff you stated that both local school districts and the village are located in Meigs County.

In order to answer your question, I must address the following:

1. Is the position of public school teacher in a local school district compatible with the position of village council member?
2. Is the position of public school teacher in a local school district compatible with the position of president of a board of education in another local school district within the same county school district?
3. Is the position of president of a board of education of a local school district compatible with the position of village council member?

In 1979 Op. Att'y Gen. No. 79-111, my predecessor established seven questions for determining whether two public positions are compatible. In analyzing whether two public positions are compatible, I must consider the following seven questions:

1. Is either of the positions a classified employment within the terms of R.C. 124.57?
2. Do the empowering statutes of either position limit the outside employment permissible?
3. Is one office subordinate to, or in any way a check upon, the other?
4. Is it physically possible for one person to discharge the duties of both positions?
5. Is there a conflict of interest between the two positions?
6. Are there local charter provisions or ordinances which are controlling?
7. Is there a federal, state, or local departmental regulation applicable?

Id. at 2-367 and 2-368.

I note initially that previous opinions of the Attorney General have deferred the answering of question four to the interested parties. Question four requires a determination as to the time demands that each position will make upon the

individual involved and, thus, is a factual question which is best answered by the parties concerned. See 1983 Op. Att'y Gen. No. 83-057 at 2-232 ("[t]his office is not equipped to serve as a fact-finding body.... I shall not attempt to make final determinations where issues of fact are involved"); see also 1988 Op. Att'y Gen. No. 88-020; 1986 Op. Att'y Gen. No. 86-030; Op. No. 79-111. Additionally, questions six and seven are primarily questions to be determined at the local level. See Op. No. 88-020; Op. No. 86-030; Op. No. 79-111. I am aware of no federal or state regulations which would be applicable. Therefore, for purposes of this opinion I will also assume that there are no local departmental regulations, charter provisions, or ordinances which would limit or prevent the holding of any of the positions with which you are concerned.

I turn now to your first question, which asks whether the position of public school teacher in a local school district is compatible with the position of village council member. To make this determination it is necessary to apply the remaining inquiries of the compatibility analysis of Op. No. 79-111.

The powers and duties of a village council member are statutorily granted in R.C. Chapter 731 and related provisions. Village council members are vested with various powers and duties related to the government of the village. *E.g.*, R.C. 731.14 (power to contract on behalf of village); R.C. 731.17 (power to pass ordinances); R.C. 731.47 (control of village finances and property); R.C. 735.27 (provide for care, supervision and management of public institutions in village). A public school teacher, however, is a contractual employee of the school board that employs him. The duties of a teacher are set forth in the employment contract. See R.C. 3319.07 (public school teachers employed by board of education of district); R.C. 3319.08 (the employment contract between the board of education and teacher shall set forth the teacher's duties and provide for the salary and compensation); *State ex rel. Scarl v. Small*, 103 Ohio App. 214, 217, 145 N.E.2d 200, 202 (Portage County 1956) ("[a] teacher is under contract to perform duties under the control of the board of education"). R.C. 3319.32 does, however, require that teachers keep school records and "prepare reports in such manner as to enable the preparation of the annual reports required by law." Additionally, it is generally held that teachers have such implied duties as are necessary to the teacher's discharge of the primary duty of educating. See, *e.g.*, *Boyer v. Jablonski*, 70 Ohio App. 2d 141, 146, 435 N.E.2d 436, 439 (Cuyahoga County 1980) ("[a] teacher's duty to maintain proper classroom decorum arises from the fact that students are unlikely to learn in an undisciplined setting"). See generally 68 Am. Jur. 2d *Schools* §135 (1973) ("[i]t is inherent in the profession that a teacher's duties are not limited to classroom work, but may require outside work, even without compensation, regardless of whether this is specifically mentioned in the employment contract").

The first question of the compatibility analysis asks whether either of the positions are in the classified employment within the terms of R.C. 124.57. R.C. 124.57, which prohibits classified employees or officers from engaging in partisan political activity other than to vote and express their political views, applies specifically to any "officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, and civil service townships." R.C. 124.57 does not expressly mention officers or employees in the service of a village or local school district; thus, the statute does not apply to such officers or employees. See generally Ohio Const. art. XV, §10; R.C. 124.01(A); *State ex rel. Giovanello v. Village of Lowellville*, 139 Ohio St. 219, 39 N.E. 2d 527 (1942).

The second question asks whether the empowering statutes of either position limit outside employment. R.C. 3319.07, which authorizes a board of education to employ teachers, contains no limitations on the outside employment of public school teachers. R.C. 731.12, which states the qualifications of village council members, provides that "[n]o member of the legislative authority shall hold any other public office, be interested in any contract with the village, or hold employment with said village."¹ A public school teacher is not a public officer, but rather a public

¹ In 1927 Op. Att'y Gen. No. 1396, vol. IV, p. 2555 and 1950 Op. Att'y Gen. No. 1606, p. 181, my predecessors concluded that the position of public school teacher is incompatible with the position of village council member.

employee. *State ex rel. Scarl v. Small* (syllabus, paragraph two) ("[a] person employed as a teacher in a public school system is not holding a "public office" within the meaning of that term as used in Section 731.12, Revised Code"); see also 1927 Op. Att'y Gen. No. 1288, vol. III, p. 2325 at 2325 ("neither the executive heads of local school systems nor teachers in the public schools are public officers as that term is used in the constitution and statutes, they are public employes"). Additionally, R.C. 731.12 prohibits a village council member from having an interest in a contract or holding employment with the village. A board of education of a local school district is a separate and distinct entity apart from a village. *Bronson v. Board of Educ. of City School Dist.*, 578 F. Supp. 1091, 1097 (S.D. Ohio, W.D. 1984) ("Ohio's local school districts are in fact separate and autonomous entities"); *Cline v. Martin*, 94 Ohio St. 420, 426, 115 N.E. 37, 38 (1916) ("boards are agencies of the state for the organization, administration and control of the public school system of the state, separate and apart from the usual political and governmental functions of other subdivisions of the state"); see also R.C. 3313.17 ("[t]he board of education of each school district shall be a body politic and corporate"). A board of education is responsible for employing public school teachers. R.C. 3319.07; R.C. 3319.11; *Justus v. Brown*, 42 Ohio St. 2d 53, 325 N.E.2d 884 (1975); see also R.C. 3319.08 (board of education shall contract for employment of teachers). Clearly, a public school teacher's employment contract is between the teacher and board of education which employs such teacher. A village is not a party to this contract. Hence, the village council member, who is employed by a local school district as a teacher, would not have an interest in a village contract nor be employed by the village. Therefore, the prohibition contained in R.C. 731.12, which places some limitations on additional employment by village council members, does not apply to the situation with which you have presented me. I am aware of no other statutes expressly governing village council members or public school teachers, which would prohibit the simultaneous holding of the positions of public school teacher and village council member. Thus, the second question may be answered in the negative.

The basis for the finding of incompatibility in both opinions was that under G.C. 4218 [currently R.C. 731.12] "a person holding the position of school teacher is ineligible to membership in a village council." 1927 Op. No. 1396 (syllabus, paragraph three). G.C. 4218, as quoted in 1950 Op. No. 1606 at 181 and 182, read as follows:

"Each member of council shall have resided in the village one year next preceding his election, and shall be an elector thereof. *No member of the council shall hold any other public office or employment, except that of notary public or member of the state militia, or be interested in any contract with the village.* Any member who ceases to possess any of the qualifications herein required or removes from the village shall forfeit his office." (Emphasis added.)

See also 1927 Op. No. 1396 at 2556. A public school teacher is a public employment; thus, the prohibition of R.C. 731.12 prevented a village council member from holding the position of public school teacher. However, since the writing of 1927 Op. No. 1396 and 1950 Op. No. 1606, R.C. 731.12 has been amended so as to provide that "[n]o member of the legislative authority shall hold any other public office, be interested in any contract with the village, or hold employment with said village, except that such member may be a notary public, a member of the state militia, or a volunteer fireman of said village." (Emphasis added.) 1965 Ohio Laws 264, 1481 (Am. S.B. 102, eff. Sept. 20, 1965); see also 1955-1956 Ohio Laws 287 (Am. S.B. 320, eff. Sept. 30, 1955). The current version of R.C. 731.12, thus, prohibits a village council member from holding a public employment in the same village where he also serves on council. It contains no prohibition against a village council member from holding a public employment outside such village. See 1956 Op. Att'y Gen. No. 6674, p. 447 (syllabus, paragraph one) ("[s]ection 731.12, Revised Code, as amended by the 101st General Assembly in Amended Senate Bill No. 320, does not prohibit a member of village council from holding other public employment so long as such employment is not with said village").

Question number three asks whether one position is subordinate to, or a check upon, the other. This question is part of the common law test of incompatibility. *State ex rel. Attorney General v. Gebert*, 12 Ohio C.C. (n.s.) 274, 275, 21 Ohio C.C. Dec. 355, 356 (Franklin County 1909); *see also* Op. No. 79-111. A village council member as an elected official, R.C. 731.09, is directly responsible to the people who elected him. *See* 1982 Op. Att'y Gen. No. 82-085. A public school teacher, as a contractual employee of a local school district, is accountable to the board of education which employs him. *See* R.C. 3319.08; *Cline v. Martin*, 94 Ohio St. at 426, 115 N.E. at 38 ("whether the lines of the political subdivisions are, or are not, coextensive with the school district, the administration and control of schools is not vested in the officers of that political subdivision but in a board of education for each school district"); *State ex rel. Scarl v. Small*; *see also* R.C. 3313.20 ("board of education shall make such rules as are necessary for...the government of its employees"); *Ballard v. Goshen Local Bd. of Educ.*, 13 Ohio App. 3d 439, 469 N.E.2d 951 (Clermont County 1984) (per curiam) (syllabus) ("[a]dditional duties can be assigned to a teacher through a board of education's rules and regulations without entering into a supplemental contract (pursuant to R.C. 3319.08)"). Thus, each position operates independently of the other and is not subordinate to the other. *See generally Pistole v. Wiltshire*, 22 Ohio Op. 2d 464, 467, 189 N.E.2d 654, 657-58 (Scioto County 1961) (a township trustee is responsible to the people who elected him and a deputy sheriff is responsible to the county sheriff who appointed him; neither position is subordinate to, or a check upon, the other). Furthermore, I have been unable to find a situation in which one position would be a check upon the other. Therefore, I conclude that the positions of public school teacher and village council member are not subordinate to, or in any way a check upon, the other.

Question number five of the analysis in Op. No. 79-111 concerns the possibility of a conflict of interest between the two positions. An individual may not simultaneously hold two public positions if he would be subject to divided loyalties and conflicting duties or exposed to the temptation of acting other than in the best interest of the public. *See* 1985 Op. Att'y Gen. No. 85-042; Op. No. 79-111. I have been unable to locate any area in which the duties of one position conflict with the duties of the other position. Thus, I conclude that there is no conflict of interest which renders the positions incompatible.

Since I have answered all questions of the compatibility analysis favorably, I conclude that the position of public school teacher in a local school district is compatible with the position of village council member.

The second question you asked concerns the positions of public school teacher in a local school district and president of a board of education in another local school district within the same county school district. In response to a similar question my predecessor determined in 1973 Op. Att'y Gen. No. 73-108 that the position of public school teacher in a local school district and member of the board of education of another local school district within the same county school district are compatible.² The president of a board of education of a local school district is elected from the members of such board of education. R.C. 3313.14. I find no additional duties of the president which would distinguish the analysis applicable to president from that applicable to a mere member of the board. I do note, however, Op. No. 73-108 utilized the common law test of compatibility to determine the

² 1973 Op. Att'y Gen. No. 73-108 overruled 1959 Op. Att'y Gen. No. 1063, p. 744 on the grounds that the conflict articulated in 1959 Op. No. 1063 is too remote and speculative. The possible conflict cited to in 1959 Op. No. 1063 at 746 is that a local school district "lacks the degree of independence enjoyed by other school districts and...is, in fact, subservient to the authority of the board of a county school district" and, thus, violates the common law rule of incompatibility. My predecessor in Op. No. 73-108 at 2-414, while acknowledging that a possible conflict exists, held:

Clearly, this language points out a real possibility of friction. But does it reveal two offices, one of which is

compatibility of the positions. The common law test of compatibility, which was set forth in *State ex rel. Attorney General v. Gebert*, 12 Ohio C.C. (n.s.) at 275, 21 Ohio C.C. Dec. at 356, provided that "[o]ffices 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." Since the issuing of Op. No. 73-108 the common law test of compatibility has been incorporated into the more comprehensive compatibility test of Op. No. 79-111. Therefore, a re-examination of the compatibility of the positions is appropriate.

The powers and duties of a board of education member are set forth in R.C. Chapter 3313. Members of a board of education are granted various powers and duties related to the administration of a local school district. *E.g.*, R.C. 3313.20 (establish rules which "are necessary for its government and the government of its employees, pupils of its schools, and all other persons entering upon its school grounds or premises"); 3313.47 (management and control of schools); R.C. 3313.72 (contract with health district to acquire services of a school physician, dentist, or nurse); R.C. 3313.77 (rental of school house); R.C. 3313.81 (may provide food services); R.C. 3313.95 (contract for police services in alcohol and drug programs); R.C. 3313.96 (may develop a fingerprinting program).

Question number one of the analysis in Op. No. 79-111 asks whether either of the positions are in the classified employment within the terms of R.C. 124.57. I have already stated that R.C. 124.57 does not apply to officers or employees in the service of a local school district. Furthermore, candidates for member of a local board of education are nominated by petition, rather than in a primary election. R.C. 3513.254. Candidates nominated by petition seek election on a nonpartisan ballot. R.C. 3505.04. Therefore, the prohibition contained in R.C. 124.57 does not bar an individual from holding both positions.

Question two of the analysis asks whether the empowering statutes of either position limit outside employment. As stated above, R.C. 3319.07 contains no limitations on the outside employment of public school teachers. The president of a board of education of a local school district as a member of a board of education, see R.C. 3313.14, is subject to the membership restrictions of R.C. 3313.13, which provides:

Except as otherwise provided in this section, no prosecuting attorney, city director of law, or other official acting in a similar capacity shall be a member of a board of education.

A city director of law who was appointed to his position under a city charter, village solicitor or other chief legal officer of a municipal corporation may serve as a member of a board of education for which he is not the legal adviser and attorney under section 3313.35 of the Revised Code. A city director of law who was appointed to his position under a city charter may serve as a member of a board of education for which he is the legal adviser and attorney under section 3313.35 of the Revised Code, but only if the board uses no legal services of his office or if the legal services of his office that it does use are performed under contract by persons not employed by his office.

Additionally, R.C. 3313.70 provides that "[n]o member of the board of education in any district shall be eligible to the appointment of school physician, school dentist, or school nurse during the period for which he is elected." Although R.C. 3313.13

"subordinate to, or in any way a check upon the other"? (*State ex rel. Attorney General v. Gebert, supra*). Each position — teacher and member of a local district board of education — bears a relationship to the county board of education or its superintendent which could be described as "subordinate" or "a check upon the other". But the offices themselves are wholly independent. While they might exert some indirect influence upon each other through the county board of education, as my predecessor hypothesized, they clearly do not fit within the common law test of incompatibility.

and R.C. 3313.70 place some limitations on additional employment by a president of a board of education of a local school district, such limitations do not apply to holding the position of public school teacher. Therefore, the second question may be answered in the negative.

The next question of the analysis asks whether one position is subordinate to, or a check upon, the other. See Op. No. 79-111. As stated above, each board of education is a separate and distinct entity. *Bronson v. Board of Educ. of City School Dist; Cline v. Martin; see also R.C. 3313.17*. Further, the president of a board of education of a local school district as an elected official, see R.C. 3313.01; R.C. 3313.14, is responsible to the people of the local school district who elected him. A public school teacher, however, is accountable to the board of education which contracts for his services. See *State ex rel. Scarl v. Small*. Since the positions are located in different local school districts, they operate independently of each other. Therefore, I conclude that the positions are not subordinate to, or in any way a check upon, each other.

I turn now to the final question of the analysis which concerns the possibility of a conflict of interest between the two positions. I note that in Op. No. 73-108 my predecessor indicated that a possible conflict of interest may exist in that the superintendent of the county board of education acts as superintendent of all local schools within the county school district "with regard to the assignment of pupils and teachers for local school districts under the supervision of the county board." R.C. 3319.01. The superintendent of schools of the county school district must nominate all teachers to be employed by a local school district in his county. R.C. 3319.07. However, the board of education of a local school district may by a majority vote of its full membership, "after considering two nominations for any position made by the county superintendent, reemploy a person not so nominated for such position." *Id.* Thus, a potential conflict could exist in that:

[a] situation can conceivably arise in which such person may wish in the exercise of his best judgment, to vote as a member of the board in local school district "B" for the re-employment of a teacher or principal who has not been nominated by the county school superintendent, but such person may think twice before so doing, in the belief, whether well founded or not, that he may thereby incur the displeasure or worse, of his superior the county superintendent, as teacher in local school district "A." In any event, the vote of such member under the indicated circumstances could be a target of suspicion from many directions, regardless of the motivations behind the vote. Such suspicions, once aroused, might inevitably lead to misunderstandings and possible unspoken recriminations that could eventually reach the classrooms and the impairment of the highest attainable standards of instruction would be the probable result of such an atmosphere.

Op. No. 73-108 at 2-414 (quoting 1959 Op. Att'y Gen. No. 1063, p. 744 at 747). Thus, there is a possibility of a conflict in that a president of a board of education of a local school district may not vote in the public's best interest for fear of reprisals, in his position as school teacher, by the superintendent of schools of the county school district.

The fact that there is conceivably a conflict of interest, however, does not necessarily render the positions incompatible. Each potential conflict should be decided on its particular facts with respect to:

the degree of remoteness of a potential conflict, the ability or inability of an individual to remove himself from the conflict, whether the individual exercises decision-making authority in both positions, whether the potential conflict involves the primary functions of each position, and whether the potential conflict may involve budgetary controls.

Op. No. 79-111 at 2-372. Hence, the possibility of a conflict does not automatically result in a finding of incompatibility.

With respect to your specific inquiry, a determination as to the immediacy of the conflict of interest must be made. "[W]here possible conflicts are remote and speculative, the common law incompatibility or conflict of interest rules are not violated." *Id.* at 2-372. A conflict is considered too remote and speculative when the two positions are part of completely independent entities and the connection between the two positions is indirect. *See* Op. No. 73-108; 1972 Op. Att'y Gen. No. 72-066; 1971 Op. Att'y Gen. No. 71-081. Boards of education of local school districts, as stated earlier, are completely independent entities. *Bronson v. Board of Educ. of City School Dist.*; *Cline v. Martin*. Further, any influence which would be extended upon the president of a local board of education to vote differently would be indirect in that such influence would be through a county board of education. Op. No. 73-108 at 2-414. Hence, I find the conflict of interest too remote and speculative. Additionally, an individual could remove himself from the conflict by abstaining and not voting on the issue. Furthermore, a public school teacher has no control over budgetary matters. *See* R.C. Chapter 3317; R.C. Chapter 3318; R.C. 3313.31 ("treasurer to perform all duties relating to moneys"). Nor is a public school teacher in a supervisory or decision-making position. For these reasons, together with the fact that such a contract would constitute only a small fraction of the daily affairs of a school board, I conclude that the above potential conflict does not render these positions incompatible.

A second potential conflict may exist, however, in that the individual could become a teacher in the same local school district in which he is president of the board of education. R.C. 3313.84, which authorizes the exchange of teaching services, provides in part:

In order that school districts may secure the benefits of knowledge of educational methods and practices in other school districts either inside or outside the United States and for the purpose of securing the educational benefits of international understanding and good will, boards of education may enter into contracts with boards of education or other educational authorities for the exchange of teaching services and in the performance of such contracts may send teachers in their employ to serve in other districts in exchange for similar services to be furnished to them by such other districts.

Where an individual's "responsibilities in one position are such as to influence the performance of his duties in the other position, thereby subjecting him to influences which may prevent his decisions from being completely objective," a potential conflict of interest exists. 1985 Op. Att'y Gen. No. 85-100 at 2-427 (quoting 1980 Op. Att'y Gen. No. 80-035 at 2-149). In the conflict presented, the positions are not part of completely independent entities. Pursuant to the contract, both positions would be part of the same local school district. Further, there is a direct connection between a teacher and board of education. A teacher is subject to the rules and policies of the local school district in which he teaches. *See* R.C. 3313.20 (school board establishes rules necessary for government of its employees); R.C. 3313.47 (school board manages and controls public schools in district). Furthermore, the teacher would be subject to the supervision and control of the board of education acquiring his services. "[I]t is clear that the duties incumbent upon an employe would be incompatible with the duties of his employer." 1927 Op. No. 1288 at 2326. I find, accordingly, that an individual who serves as a president of a board of education of a local school district is not barred by conflict of interest from holding employment as a public school teacher in another local school district, provided the individual does not render teaching services, pursuant to a contract under R.C. 3313.84, to the local school district which he serves as president of the board of education.

Therefore, I agree with the reasoning in Op. No. 73-108, and conclude that the position of public school teacher in a local school district is compatible with the position of president of a board of education in another local school district within the same county school district, unless the local school districts contract pursuant to R.C. 3313.84 for the exchange of teaching services and such exchange includes the individual.

The final question which you asked is whether the position of president of a board of education of a local school district is compatible with the position of village

council member. In analyzing this question, I will focus on question two of the compatibility analysis of Op. No. 79-111. Two public positions are considered incompatible, if, *inter alia*, the empowering statute of either position limits outside employment. See Op. No. 79-111. R.C. 731.12 sets forth the qualifications for village council members, and provides in part:

Each member of the legislative authority of a village shall have resided in the village one year next preceding his election, and shall be an elector of the village. *No member of the legislative authority shall hold any other public office*, be interested in any contract with the village, or hold employment with said village, except that such member may be a notary public, a member of the state militia, or a volunteer fireman of said village, provided that such member shall not receive any compensation for his services as a volunteer fireman of the village in addition to his regular compensation as a member of the legislative authority. Any member who ceases to possess any of such qualifications or who removes from the village shall forfeit his office. (Emphasis added.)

The position of president of a board of education of a local school district is a public office. *Schwing v. McClure*, 120 Ohio St. 335, 166 N.E. 230 (1929); 1983 Op. Att'y Gen. No. 83-091; see also R.C. 3313.01. Therefore, R.C. 731.12 expressly prohibits a village council member from serving as president of a board of education of a local school district.³ Cf. Op. No. 83-091 (syllabus) ("R.C. 731.02⁴ prohibits a member of city council from holding the position of member of a board of education of a city school district"). (Footnote added.)

Therefore, it is my opinion, and you are hereby advised, that:

1. An individual may not simultaneously serve as a public school teacher in a local school district, president of a board of education in another local school district within the same county school district, and village council member, because, pursuant to the restriction in R.C. 731.12, the position of president of a

³ The Seventh Circuit Court of Appeals in Ohio, in *State ex rel. Weems v. Kinney*, 20 Ohio C.C. 325, 337, 11 Ohio Cir. Dec. 261, 269 (Belmont County 1899), held that "[t]he offices of member of council and of the board of education are not incompatible, and may be held by the same person." The court reasoned that the prohibition contained in R.S. 1717, 1870 Ohio Laws 69 §69, which provided that "[n]o member of council shall be eligible to any other office, or to any position on any board provided for in this chapter, or created by any law or ordinance of council save as provided in chapter 46 of this act," only applied to public offices created by law or ordinance for the government of the village. I note, however, that the Second Circuit Court of Appeals in Ohio reached the conclusion that the prohibition of R.S. 1717 extended "to any board created by a law of the state or by an ordinance of a municipal corporation." *State ex rel. Monnett v. McMillan*, 15 Ohio C.C. 163, 166, 8 Ohio Cir. Dec. 380, 382 (Clark County 1897). Further, R.S. 1717 was repealed by 1902 Ohio Laws 20, 96-102 (S.B. 1, eff. Oct. 22, 1902). Thus, it is my opinion, that R.C. 731.12 sets forth the qualifications of a village council member and, as currently written, expressly prohibits a village council member from holding "any other public office." See generally *State ex rel. Stanton v. Zangerle*, 117 Ohio St. 436, 439, 159 N.E. 823, 824-25 (1927) ("[t]here is no dispute...as to what the law specifically provides with respect to these matters. There is practically no occasion for any construction of the statutes. They are very definite and very plain, and need only to be read to ascertain their meaning").

⁴ R.C. 731.02 is analogous to R.C. 731.12 and provides, in part, that "[e]ach member of the legislative authority [of a city]...shall not hold any other public office, except that of notary public or member of the state militia."

board of education of a local school district is incompatible with the position of village council member.

2. The position of public school teacher in a local school district is compatible with the position of village council member. (1950 Op. Att'y Gen. No. 1606, p. 181 and 1927 Op. Att'y Gen. No. 1396, vol. IV, p. 2555, syllabus, paragraph three, overruled.)
3. The position of public school teacher in a local school district is compatible with the position of president of a board of education in another local school district within the same county school district, unless the local school districts contract, pursuant to R.C. 3313.84, for the exchange of teaching services and such exchange includes the individual. (1973 Op. Att'y Gen. No. 73-108, modified.)