



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

April 22, 1975

Opinion No. 75-173

The Honorable Robert Whittaker  
State Representative  
3rd Floor - State Capitol Building  
Topeka, Kansas 66612

Dear Representative Whittaker:

You advise that the mayor of the City of Andover has inquired whether a particular attorney is eligible for appointment as city attorney of that city, in light of the fact that the attorney is also a member of the local board of education.

In Dyche v. Davis, 92 Kan. 971 (1914), the court stated thus:

"Offices are incompatible when the performance of the duties of one in some way interferes with the performance of the duties of the other. This is something more than a physical impossibility to discharge the duties of both offices at the same time. It is difficult to give a definition which will have universal application." 92 Kan. at 977.

There is no legal inconsistency or incompatibility between the duties of a member of a board of education and those of the city attorney of the city. Thus, it is our opinion that the attorney in question is not ineligible for appointment as city attorney because of his membership on a board of education of a unified school district. I enclose a copy of an opinion issued by Attorney General Vern Miller dated February 14, 1972, to Mr. Robert Duncan, which discusses this same question.

Yours very truly,

CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj