



Conflicts of Interest: Trustees as School Employees¹

Q. May a person serve simultaneously as an employee and a school board member in the same district?

- A. No. The common-law doctrine of incompatibility prohibits a person from holding two positions simultaneously when one position might impose its policies on the other or subject it to control in some other way.

One of the three types of incompatibility, *self-employment incompatibility*, was first recognized in a 1975 letter advisory opinion of the Texas attorney general. Tex. Att’y Gen. LA-114 (1975). In that opinion, the attorney general considered whether a public school teacher was barred by common-law incompatibility from serving as a trustee of the district in which she was employed. The attorney general noted that public school teachers “are accountable to the school trustees, are under their dominion, and are subordinate to them,” and that “trustees may interfere with the teacher’s performance of duty.” In conclusion, the attorney general asserted that “the common law doctrine of incompatibility prevents a public school teacher in Texas from serving at the same time as a member of the board of trustees for the employing district.”

Q. May a trustee be employed by a school district after completing his or her service on the district’s board?

- A. Yes, but not until one year has passed. A trustee of an independent school district is prohibited from accepting employment with that district until the first anniversary of the date the trustee’s membership on the board ends. Tex. Educ. Code § 11.063. However, the attorney general opined that this statute does not prevent a former trustee from working in the district within the year after leaving office if placed there by a third party staffing company. Op. Tex. Att’y Gen. No. GA-749 (2009).

Q. Does the substitute teacher exception to the nepotism law allow a trustee to work for the district as a substitute?

- A. No. As discussed above, a trustee is precluded from simultaneous employment with the district and is also prohibited from accepting employment for one year after service on the board ends. Although an exception to the nepotism law’s general rule (against hiring board

¹ An electronic version of this document is available on TASB School Law eSource at tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/trustees-as-sch-employees.pdf.

members' relatives) permits a school district to hire board members' relatives as substitute teachers, that exception does not allow the hiring of board members themselves. Tex. Gov't Code § 573.061(6).

Q. May a trustee be employed in a neighboring district?

A. Yes, a trustee may work in another district because the board on which the trustee serves cannot impose its will on employees in the other district. Op. Tex. Att'y Gen. No. DM-55 (1991).

Q. What TASB policies apply?

A. Please see TASB Policies DC(LEGAL) and BBC(LEGAL) for more information.

Q. Where can I get more information?

A. For more information on this or other legal topics, please call the TASB Legal Line at 800.580.5345. The TASB Legal Line is staffed by TASB Legal Services attorneys and is available to all school district trustees and administrators. Additional legal resources are available at no cost online at legal.tasb.org or for purchase at the TASB Store at tasb.org/store.

For more information on this and other school law topics,
visit TASB School Law eSource online at schoolawesource.tasb.org.

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