



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS



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FILE NO. 91-031

COMPATIBILITY OF OFFICES:
School Board Member and
Township Park Board Member

Honorable Edward A. Burmila, Jr.
State's Attorney, Will County
14 West Jefferson Street
Joliet, Illinois 60431

Dear Mr. Burmila:

I have your letter wherein you inquire whether one person may simultaneously hold the offices of school board member and township park board member. For the reasons hereinafter stated, it is my opinion that these offices are incompatible and, therefore, one person may not simultaneously hold both.

Incompatibility arises where the constitution or a statute specifically prohibits the occupant of one office from holding another, or where the duties of the two offices are

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such that the holder of one cannot, in every instance, fully and faithfully discharge the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; see generally People ex rel. Teros v. Verbeck (1987), 155 Ill. App. 3d 81.) There are no constitutional or statutory provisions which expressly prohibit one person from simultaneously holding the two offices in question. It is, therefore, necessary to examine the duties, functions and powers of the two offices to determine whether a conflict of duties could arise.

The provisions of the Park District Code (Ill. Rev. Stat. 1989, ch. 105, par. 1-1 et seq.) govern the operations of township park districts. Section 8-18 of the Park District Code (Ill. Rev. Stat. 1989, ch. 105, par. 8-18) provides, in pertinent part:

"Every park district shall have the power and authority to develop, operate, finance and participate in joint recreational programs with * * * school districts * * * and to enter into joint agreements pertaining thereto, including the joint use of facilities and equipment and the securing of liability insurance in connection with such use."

Similarly, section 10-22.12 of the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 10-22.12) grants a school board the power:

"* * * To lease, for a period not exceeding 99 years, any building, rooms, grounds and appurtenances to be used by the district for the use of schools or for school administration purposes; and to pay for the use of such leased property in accordance with the terms of the lease. The board shall not make or renew any lease for a term longer than 10 years, nor alter the terms of any lease whose unexpired term may exceed 10 years without the vote of 2/3 of the full membership of the board." (Emphasis added.)

Under the statutes quoted above, it is foreseeable that a school board and a township park board could enter into a contract whereby the park board would make its playground and athletic facilities available to a school district. Moreover, other provisions of the Park District Code (Ill. Rev. Stat. 1989, ch. 105, par. 1-1 et seq.) specifically contemplate school districts and park boards entering into lease agreements for the provision of swimming pools and ice skating rinks (Ill. Rev. Stat. 1989, ch. 105, par. 9-1d), golf course facilities (Ill. Rev. Stat. 1989, ch. 105, par. 9.1-5) and tennis court, handball court and zoo facilities (Ill. Rev. Stat. 1989, ch. 105, par. 9.2-5).

A park district board member, in implementing the powers granted to the board under the Park District Code is under a duty to represent the interests of the park district faithfully. (Ill. Rev. Stat. 1989, ch. 105, par. 4-1 et seq.) A school board member is under a similar duty to represent and protect the interests of the district which he or she serves. It is well established that one person cannot adequately represent the interests of two governmental units when those units contract with one another. Ill. Att'y Gen. Op. No. 91-023, issued June 6, 1991; Ill. Att'y Gen. Op. No. 91-015, issued March 14, 1991; Ill. Att'y Gen. Op. No. 85-019, issued November 19, 1985; 1976 Ill. Att'y Gen. Op. 116.

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Because of the potential conflicts of duties present when one governmental unit is authorized to contract with another, an individual serving as both a township park board member and a school district board member would be unable to represent the units of both entities adequately, fully and faithfully. Therefore, it is my opinion that one person may not simultaneously hold the positions of school board member and township park board member.

Respectfully yours,

A handwritten signature in cursive script, reading "Roland W. Burris". The signature is written in dark ink and is positioned above the typed name.

ROLAND W. BURRIS
ATTORNEY GENERAL