



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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Jim Ryan
ATTORNEY GENERAL

I - 98-037

COMPATIBILITY OF OFFICES:
Educational Labor Relations Board
and School Board Member

Ms. Julie Hughes
General Counsel
Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601-3101

Dear Ms. Hughes:

I have your memorandum wherein you inquire whether a member of the Illinois Educational Labor Relations Board may serve simultaneously as a member of a public school board. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the question you have raised.

Offices are deemed to be incompatible where the constitution or a statute specifically prohibits the occupant of one office from holding the other, or where, because of the duties of either office a conflict of interest may arise, or the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; People ex rel. Fitzsimmons v. Swailes (1984), 101 Ill. 2d 458, 465.) Neither the constitution nor any statute prohibits a member of the Illinois Educational Labor Relations Board from simultaneously serving as a member of a public school board. Therefore, it is necessary to determine whether the duties of the two offices are such that a conflict may arise if one person seeks to perform the duties of both offices, or whether one would

Ms. Julie Hughes - 2.

be able, in every instance, to perform all the duties of both offices properly and faithfully.

The duties of public school boards are set out in article 10 of the School Code (105 ILCS 5/10-1 et seq. (West 1996)). These duties encompass the overall management of the affairs of the school district, and include, specifically, appointing and fixing the salary of teachers (105 ILCS 5/10-20.7 (West 1996)). School boards are necessarily the employers of all teachers and other personnel of a school district, and are "educational employers" as defined by section 2 of the Illinois Educational Labor Relations Act (115 ILCS 5/2 (West 1996)).

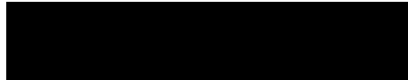
Under the provisions of the Illinois Educational Labor Relations Act (115 ILCS 5/1 et seq. (West 1996)), the Illinois Educational Labor Relations Board has jurisdiction over all educational employers and employee organizations. The Board recognizes bargaining representatives and bargaining units (115 ILCS 5/7 (West 1996)); conducts elections with respect to representation (115 ILCS 5/8 (West 1996)); initiates mediation in impasse situations (115 ILCS 5/12 (West 1996)); and investigates and adjudicates charges of unfair labor practices between educational employers and educational employees and their representatives (115 ILCS 5/15 (West 1996)).

The Board clearly has jurisdiction over every public school board in the State. As such, the Board may be called upon to resolve a dispute directly affecting any school board upon which a Board member may simultaneously serve. In those circumstances, the Board member in question could not properly and faithfully perform all of the duties of both offices. He would be required to abstain from acting as a member of each entity on any matter which might affect the other, thereby depriving each entity of his full, faithful service. Therefore, it appears that one person may not hold the offices of school board member and member of the Illinois Educational Labor Relations Board simultaneously.

Ms. Julie Hughes - 3.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Sincerely,



MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Bureau

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