

**Opinion No. 21-2796**

January 24, 1921

**BY:** HARRY S. BOWMAN, Attorney General

**TO:** Mr. E. L. Hinton, Encino, New Mexico.

**Offices Justice of Peace and School Director May Not Be Held by Same Person.**

**OPINION**

{\*19} Your letter of the 17th instant addressed to the Secretary of State asking if the statutes provide for one person holding the office of Justice of the Peace and School Director at the same time, has been referred to this office for reply.

There is nothing in the statutes of this state which either specifically permits or prohibits the holding of these two offices by one person.

We are of the opinion, however, that the duties of the two offices are incompatible and, therefore, that one person could not perform the duties of both without conflict.

Section 4856, Code 1915, provides for the conviction and punishment of members of boards of education and other school officers who violate the provisions of the laws governing school matters, and the penalties imposed range from twenty-five to five hundred dollars. If a member of the board of school directors should violate the laws and become subject to the penalty, he must necessarily be tried before a Justice of the Peace, either for final trial or to be bound over to the grand jury. In such a case the person holding the two positions named might be called upon to pass upon his own guilt or innocence, if charged with any violation of any part of the school laws. This, of course, presents an impossible condition.

For the foregoing reasons, it is our opinion that a Justice of the Peace should not hold a position as a member of the Board of Directors of a School.