

**Opinion No. [30-13]**

September 2, 1930

**BY:** J. A. MILLER, Assistant Attorney General

**TO:** Dr. John H. Sanford, Mayor, Santa Rosa, New Mexico.

OFFICES -- Incompatibility between offices. Sec. 96-107, Code 1929.

**OPINION**

I have before me yours of the 29th inst. in which you request an opinion from this office as to whether or not it is unlawful for your Village Clerk, who draws a salary from the municipal corporation, to at the same time be engaged as a teacher in the public schools, thereby drawing two salaries from the municipality.

The Supreme Court of this State in a case involving an interpretation of § 96-107, Codification of 1929, which provides that any county, precinct, district, city, town or village office shall become vacant by an officer in that class accepting and undertaking to discharge the duties of another incompatible office, defines incompatibility between offices as follows:

"Incompatibility between offices is an inconsistency between the functions thereof, as where one is subordinate to the other, or where a contrariety and antagonism would result in the attempt by one person to faithfully and impartially discharge the duties of both. Held that office of member of city board of education and clerk thereof are incompatible."

After examining such statutes as we have pertaining to the duties of a school teacher and the duties of a village clerk, I am of the opinion that there is no incompatibility between those offices, if indeed they are to be called offices, being in my mind rather mere employments.

There being no incompatibility, I know of no statute or reason in law which would prevent one individual from at the same time performing the duties of village clerk and the duties of a grade teacher in the municipal schools of this district.