

**Opinion No. 43-4361**

August 9, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Floran Hutchinson, Superintendent of School, Maxwell, New Mexico

In your letter dated August 6, 1943 you inquire whether it is unlawful for a School Board Member to be employed as a janitor in a school of which he is a member. You do not state whether he is a member of a municipal or a rural school. If the person you have in mind is a member of a municipal school board, he has charge of hiring employees of such school and for that reason he could not be a janitor without accepting employment incompatible with that of school board member, which is one of the means by which an office becomes vacant under Section 10-301, Sub-section 8 of the 1941 Compilation.

However, if he is a member of a rural school board such board has no authority to hire employees, but such authority is vested in the County Board of Education. Such a member could be employed as janitor in the rural school of the district in which he is a board member.

By C. C. McCULLOH,

First Asst. Atty. General