

**Opinion No. 44-4476**

March 10, 1944

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

**TO:** Mr. J. L. Leftow, Assistant District Attorney, Hot Springs, New Mexico

I have your letter of March 8, 1944, wherein you request our opinion concerning whether the position of chairman of a county school board and member of the board of trustees of a town are incompatible within the meaning of Section 10-301 of the New Mexico 1941 Compilation.

The Supreme Court of New Mexico, in the case of *State ex rel Chapman v. Truder*, 35 N.M. 49, 51, stated, in connection with the determination of the question concerning whether or not the offices of district attorney and mayor of a city were incompatible:

"It has not been pointed out to us and we are unable to discover from our examination of the statutes prescribing the duties of the offices of the district attorney and mayor, where one is subordinate to the other or where a contrariety and antagonism would result in the attempt of one person to faithfully and impartially discharge the duties of both."

I have carefully studied this matter and it seems to me that the above quotation is equally applicable to the offices about which you now inquire, and it is my opinion that by applying the test adopted in *Haymaker v. State*, 22 N.M. 400, 168 P. 248, the offices that you inquire about are not incompatible under Section 10-301 of the New Mexico 1941 Compilation.

Hoping that the above fully answers your questions, I am,

By HARRY L. BIGBEE,

Asst. Atty. General