

Opinion No. 64-82

June 12, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Jerry Wertheim, Assistant Attorney General

TO: Hon. C. V. Conder, Mayor, Village of Des Moines, Des Moines, New Mexico

QUESTION

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Can a member of the board of trustees of the Village of Des Moines hold the position of fire chief for the same village?

CONCLUSION

No.

OPINION

ANALYSIS

Your opinion request to the State Fire Marshal has been referred to this office for answer. The problem which you pose is controlled by Section 14-17-4, N.M.S.A., 1953 Compilation, which provides in pertinent part that:

"The city council, or board of aldermen, or board of trustees of any incorporated city, town or village shall constitute the legislative branch of the city, town or village government, and shall not perform any executive functions of government. **Any person holding the office of city councilman, or alderman, or village trustee, is hereby disqualified for holding any office or employment under any city, town or village government..** ." (Emphasis supplied)

Clearly, a village fire chief would come within the language "any office or employment under any city, town or village government." Moreover the statute makes no distinction between a village office or employment which receives remuneration and one which does not. Therefore, it is the conclusion of this office that a village trustee would not be qualified to occupy the position of fire chief for the same village. Accord, Attorney General's Opinion No. 60-130, July 5, 1960.