

## Incompatible Municipal Offices

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### Issue

Does state law contemplate one individual holding multiple municipal offices? If so, do any laws or court cases limit the circumstances under which this may happen?

The Office of Legislative Research is not authorized to issue legal opinions, and this response should not be considered one.

### Summary

State law contemplates municipal candidates running for, and holding, more than one municipal office. For example, if a candidate is elected to two or more municipal offices but is prohibited by statute, charter, or ordinance from holding more than one, then he or she must notify the registrars of voters and town clerk of the office to which he or she declines election (in which case, the candidate receiving the next highest number of votes is deemed elected) ([CGS § 9-322b](#)).

The general statutes establish certain prohibitions and restrictions on holding more than one municipal office (referred to as “incompatible offices”), but these prohibitions and restrictions apply only in specific situations, which we describe below. Separately, there is also a common law doctrine of incompatible offices under which courts in other jurisdictions have held certain offices to be incompatible even absent a constitutional or statutory prohibition. However, it does not appear that Connecticut courts apply the common law doctrine.

Relatedly, the law also addresses service by municipal employees on local boards and commissions. Specifically, it allows the employees to serve on appointed or elected local government bodies in towns where they live, with specified exceptions.

# Incompatible Offices

## *State Law*

The general statutes establish certain prohibitions and restrictions on holding more than one municipal office. For example, within the same town, the law prohibits the following:

1. selectmen from being town clerk, town treasurer, tax collector, or probate judge (for the district where the municipality is located);
2. town treasurers from being tax collector;
3. town clerks or selectmen from being registrar of voters;
4. registrars of voters from being town clerk;
5. assessors from being on the board of assessment appeals; and
6. board of finance members from holding any salaried town office, unless authorized by special act ([CGS § 9-210](#)).

With respect to planning and zoning commissions, the law prohibits the following:

1. alternate members of the municipality's zoning commission or combined planning and zoning commissions from serving on the planning commission or zoning board of appeals ([CGS § 8-1b](#));
2. regular and alternate members of the zoning board of appeals from being members of the zoning commission ([CGS § 8-5](#)); and
3. alternate members of the planning commission from serving on the zoning commission or zoning board of appeals ([CGS § 8-19a](#)).

The law also prohibits board of education members from receiving compensation for any position in the school system for which the board has responsibility ([CGS § 10-232](#)).

## *Common Law*

According to *American Jurisprudence*, which is a survey of national law, the common law incompatible offices doctrine “developed to preclude one person from holding two public offices, the duties of which could give rise to possible conflicts of governmental, as distinguished from personal or private, interests” (63C *Am. Jur. 2d Public Officers and Employees* § 62).

It does not appear that Connecticut courts apply this doctrine. We found one case in which the Superior Court, after conducting a common law analysis, held that a charter provision that made the Borough of Naugatuck's mayor a member of its board of education was invalid because the

offices were inherently incompatible. However, the Appellate Court reversed the judgement, holding that the trial court should not have applied the common law doctrine (*Board of Education v. Naugatuck*, 70 Conn. App. 358, 374-78 (2002), rev'd in part on other grounds).

The state's Home Rule Act authorizes municipalities to alter the method of election, appointment, or organization of officers, departments, agencies, boards, and commissions unless specifically prohibited by the state constitution or the general statutes ([CGS § 7-193\(b\)](#)). The Appellate Court noted that this language omits any references to common law (e.g., it does not say "unless otherwise prohibited by law"). Citing prior Connecticut Supreme Court opinions, the Appellate Court also noted that unless there is evidence to the contrary, statutory itemization means for a list to be exclusive. Thus, if the legislature had intended to preclude mayors from serving on boards of education, it would have included that pairing of offices in [CGS § 9-210](#).

## **Municipal Employees**

The law allows municipal employees to serve on appointed or elected local government bodies in towns where they live, except (1) bodies responsible for supervising them directly as employees; (2) boards of finance; (3) bodies exercising zoning, land use, or planning powers; or (4) bodies regulating inland wetlands and watercourses. The last three exceptions do not apply if (1) a town charter or home rule ordinance allows an employee to serve or (2) the employee serves only in his or her capacity as a member of the town's legislative body. In addition, the last two exceptions do not apply if a local ordinance authorizes an employee to serve ([CGS § 7-421\(e\)](#)).

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