

TOWN LAW § 175(3); VILLAGE LAW §§ 3-300(3), 10-1006(2).

An elected trustee of a village, who is also a member of the village volunteer fire department, may be appointed as a member of the board of fire commissioners of the village volunteer fire department or as the single fire commissioner in charge of the department.

August 16, 1999

Howard I. Krantz, Esq.  
Village Attorney  
Village of Lake George  
161 Ottawa Street  
Lake George, NY 12845

Informal Opinion  
No. 99-23

Dear Mr. Krantz:

You have asked whether an elected Trustee of the Village of Lake George, who is also a volunteer firefighter in the Village Volunteer Fire Department, may be appointed as a member of the Board of Fire Commissioners or as the single Fire Commissioner in charge of the Fire Department.

We note that village officers specifically are permitted under the Village Law to serve as volunteer firefighters. Village Law § 10-1006(2). We also note that in towns the Legislature specifically has authorized volunteer firefighters to serve as fire district commissioners. Town Law § 175(3). Additionally, it is very common for commissioners to also serve as volunteer firefighters. Op Atty Gen (Inf) No. 91-70. Thus, a person may simultaneously serve as a volunteer firefighter and as a fire commissioner or member of the board of trustees. The question is whether all three positions are compatible and, therefore, may be held by one person.

Village Law § 3-300(3) provides as follows:

No person shall simultaneously hold an elective and an appointive village office except that: not more than two members of the board of trustees may be members of each board and commission; members of the board of trustees may be single commissioners in charge of village departments except as provided in the zoning article of this chapter.

Because up to two trustees may be members of each village board and commission and a trustee may serve as a single commissioner in charge of a village department, it seems clear that a trustee may be appointed as a member of the board of fire commissioners of a village volunteer fire department provided that not more than one other trustee is already a member of the board. Alternatively, a trustee may be appointed as the single fire commissioner in charge of a fire department.

We conclude that an elected trustee of a village, who is also a member of the village volunteer fire department, may be appointed as a member of the board of fire commissioners of the fire department or as the single fire commissioner in charge of the department.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

YVONNE M. HOVE  
Assistant Attorney General