



MEMO

The Scott County Attorney's Office has been advised of a potential conflict with Supervisor Maxwell serving on both the Scott County Board of Supervisors and the North Scott School Board. The conflict arises because both positions *require* membership on the Davenport City Conference Board (Iowa Admin. Code 71.19(2)). Due to both positions requiring membership on the city conference board, the offices of county supervisor and school board member in this situation are incompatible. A 1965 case holds "if a person, while occupying one office, accepts another incompatible with the first, he *ipso facto* vacates the first office and his title thereto is terminated without any other act or proceeding." *State ex rel. LeBuhn v. White*, 133 N.W. 2d 903 (Iowa 1965). Supervisor Maxwell was elected to the North Scott School Board while he was a sitting member of the Scott County Board of Supervisors. The *Lebuhn* case does not address the removal process. State law enacted after the *LeBuhn* case does address the vacancy of an elected office. Iowa Code Section 69.2 addresses when a vacancy occurs and Code Section 331.214 addresses the removal process for a vacancy in the supervisor's office. The actions contemplated by these code sections have never occurred regarding supervisor Maxwell. Assuming the board of supervisors wish to address this issue, the county attorney's office is further researching the law in order to advise the supervisors of the actions that may be taken. I wanted to alert you of the situation so you can begin to formulate a plan of action and to prepare any specific legal questions you may have going forward. I request that those questions are provided in writing to me and assistant county attorney Rob Cusack.