

**Opn. No. 98-6**

COUNTY LAW § 411; TOWN LAW § 42.

A member of the county legislature may also serve as a deputy supervisor of a town within the county.

February 9, 1998  
Informal Opinion  
No. 98-6

Thomas B. Hayner, Esq.  
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County of Schenectady  
County Office Building  
620 State Street  
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Dear Mr. Hayner:

You have asked whether a county legislator may also hold the position of deputy supervisor of a town in the county.

The State Legislature has regulated dual office-holding by county legislators. Under section 411 of the County Law, an elective county officer is ineligible to also hold any other "elective county or town office". The position of deputy supervisor is appointive and, therefore, does not fall within this provision. Town Law § 42. The deputy supervisor is appointed by the supervisor or, upon his failure to appoint, by the town board. *Id.* During the absence of the supervisor, if he is unable to serve or during a vacancy in the position of supervisor, the deputy supervisor presides at meetings of the town board and has the powers of the supervisor except the power to vote in matters before the town board. *Id.* Also, the deputy supervisor does not serve as a member of the county board of supervisors. *Id.* In the event the office of supervisor becomes vacant, the deputy supervisor continues serving until a successor has been appointed.

Therefore, it is clear that the deputy supervisor does not succeed to the position of supervisor. The deputy performs the duties of supervisor as authorized by section 42. The position of deputy supervisor is an appointive office and does not fall within the prohibition of section 411 of the County Law.

We conclude that a member of the county legislature may also serve as a deputy supervisor of a town within the county.

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,

JAMES D. COLE  
Assistant Attorney General  
In Charge of Opinions