

**BANKS AND BANKING: Depositories of Board of Education funds.
SCHOOLS: Depositories of school funds.**

A member of a board of education of any school district may not serve as director of a bank which is a depository for school district funds or which in any way contracts with the board of education.

No. 4032A

March 1, 1963.

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You have asked whether the ruling of Opinion No. 4032, that a member of the board of education of a second class school district may not serve as director of a bank which is a depository for board of education funds, is to be extended to any school district.

Opinion No. 4032 is based on the common law of agency, and particularly *People vs. Board of Overysse*.¹ This doctrine deals with the incapacity of the agent to render fidelity to one principal with interests opposed to another principal served by the same agent, and holds contracts affected by such dual agency void as against public policy.

We find no provision of the 1955 School Code or other statute affecting any school district which alters the doctrine of dual agency as set forth in the *Overysse* and related cases.

Therefore, it is my opinion that a member of a board of education of a school district may not serve as a director of a bank which is a depository for the board of education funds, or which has made any contract with the board of education, for the reason that the dual agency threatens the integrity of contracts between the school board and the bank. Your attention is called to the fact that the rulings in Opinion No. 4032 and in this opinion are focused upon the membership in the governing body of both the school district and the bank, as distinguished from mere ownership of stock in the bank.

Your question is therefore answered by the ruling that the doctrine of prohibited dual agency as found in the case law of agency applies to all school districts and prohibits such dual membership in the governing body of the school board and the bank, if there are contracts between the school board and the bank.

FRANK J. KELLEY,
Attorney General.

¹ 11 Mich. 222 (1863)