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HENRY MCMASTER
ATTORNEY GENERAL

July 21, 2006

Ms. Gwendolyn Conner
Post Office Box 12271
Rock Hill, South Carolina 29731

Dear Ms. Conner:

We received your letter seeking our opinion regarding dual office holding. You state you currently serve as the Director General for the South Carolina Baptist Congress of Christian Education and are considering running for a position as trustee for Rock Hill School District Three.

> Provision in the South Carolina Constitution (Article VI, Section 3) prohibits dual office holding. Since members of the School Board are officers of the state, please advise me of any potential legal ramifications that may occur as a result of my being elected to the School Board, while also serving as an elected member of the SC Baptist Congress of Christian Education.

After our review of the these two positions, we find your service as the Director General for the South Carolina Baptist Congress of Christen Education does not constitute an office for dual office holding purposes. Accordingly, service in both this position and as a trustee for Rock Hill School District Three do not violate the constitutional prohibition on dual office holding.

Law/Analysis

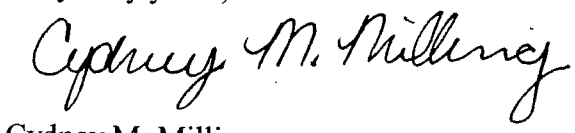
You are correct that article VI, section 3 of the South Carolina Constitution (Supp. 2005) prohibits a person from holding "two offices of honor or profit at the same time." Furthermore, article XVII, section 1A of the South Carolina Constitution (Supp. 2005) also prohibits a person from holding "two offices of honor or profit at the same time . . . ." In order to contravene these provisions, a person concurrently must hold two offices having duties that involve the exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 174, S.E. 762, 763 (1907). Furthermore, our courts recognize other relevant considerations in determining whether a individual holds an office, such as, whether a statute, or other such authority, establishes the position, proscribes the position's duties or salary, or requires qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980).

Request Letter

On numerous occasions, this Office determined a member of a county school board or board of trustees is an officer for dual office holding purposes. Ops. S.C. Atty. Gen., April 20, 2006; December 20, 2005; May 27, 2004; April 20, 2004; January 17, 1985; July 8, 1983. Thus, we must solely determine whether your position as the Director General for the South Carolina Baptist Congress of Christian Education is an office for purposes of dual office holding.

In your letter, you describe the South Carolina Baptist Congress of Christian Education as an auxiliary of the South Carolina Baptist Educational and Missionary Convention, Inc. In addition, you included a copy of the South Carolina Baptist Congress of Christian Education's Constitution with your letter. From this information we infer that the South Carolina Baptist Congress of Christian Education is a private, religious organization. We also presume such an organization is not created through any action of the State or its political subdivisions and thus, its governing body does not have any authority to exercise the sovereign power of the State. Accordingly, we do not find your position to be an office for dual office holding purposes. As such, your simultaneous service as the Director General for the South Carolina Baptist Congress of Christian Education and as a trustee for Rock Hill School District Three would not violate of the dual office holding prohibition contained in the Constitution.

Very truly yours,



Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General