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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

April 20, 2004

The Honorable Harry C. Stille  
Member, House of Representatives  
436-B Blatt Building  
Columbia, South Carolina 29211

Dear Representative Stille:

In a letter to this office you questioned whether an individual may concurrently serve on both the Abbeville County Memorial Hospital Board of Trustees and as a member of the Abbeville County School Board of Trustees. Your question raises an issue regarding dual office holding which is prohibited by this State's Constitution.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time..." with exceptions specified for an officer in the militia, a member of a lawfully and regularly organized fire department, a constable, and a notary public. For this provision to be contravened, a person concurrently must hold two offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

Numerous opinions of this office have concluded that a member of a county school board of trustees holds an office for dual office holding purposes. See: Ops. Atty. Gen. dated October 3, 2003; April 18, 2003; June 21, 2001 and August 29, 2000.

Pursuant to Act No. 435 of 1963, terms of office for members of the Board of Trustees of the Abbeville County Memorial Hospital are set forth. Pursuant to Act No. 1018 of 1962, specific powers and duties of the trustees are established. Such powers and duties include the authority to acquire a site and construct and equip a hospital, acquire real and personal property, accept gifts and donations, staff and equip the hospital, employ personnel, establish and promulgate rates for the hospital, promulgate regulations regarding use of the facilities, expend proceeds and funds derived from the charges, and to do all things necessary for the proper functioning of the hospital. Considering all the foregoing, it is my opinion that these powers and duties involve an exercise of a portion of the sovereign power of the State and, therefore, a member of the Board of Trustees of the Abbeville County Memorial Hospital would probably hold an office for dual office holding

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purposes. This conclusion is consistent with other prior opinions of this office that have concluded that members of the board of trustees of other hospitals most probably hold offices for dual office holding purposes. See: Ops. Atty. Gen. dated January 11, 1999; January 7, 1997; January 9, 1992; April 5, 1991; September 12, 1983.

Based upon the foregoing, it is my opinion that one who would serve simultaneously as a member of the Abbeville County Memorial Hospital Board of Trustees and as a member of the Abbeville County School Board of Trustees would most probably contravene the dual office holding prohibitions of the State Constitution.

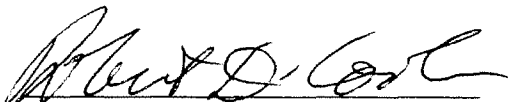
With kind regards, I am,

Very truly yours,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General.