



HENRY McMASTER  
ATTORNEY GENERAL

April 20, 2006

The Honorable Ted M. Vick  
Member, House of Representatives  
929 Shag Road  
Chesterfield, South Carolina 29709

Dear Representative Vick:

In a telephone call to this office you questioned whether an individual could serve simultaneously as a member of the Chesterfield County Transportation Committee and as a member of the Chesterfield County School Board without violating the dual office holding prohibition of the South Carolina Constitution.

Article XVII, Section 1A of the South Carolina 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, or 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).

This office has advised in prior opinions that a member of a county transportation committee would likely be considered an office holder for dual office holding purposes. See: Ops. Atty. Gen. dated February 14, 2005; July 26, 2002; April 2, 1998; September 3, 1994; January 25, 1994; July 28, 1993. This office has also determined on numerous occasions that a member of a county school board or a school board of trustees would hold an office for dual office holding purposes. See: Ops. Atty. Gen. dated December 20, 2005; May 27, 2004; January 17, 1985; July 8, 1983.

Based upon the foregoing, if an individual were to serve simultaneously as a member of the Chesterfield County Transportation Committee and as a member of the Chesterfield County School Board, such service would most likely violate the dual office holding prohibitions of the State Constitution.

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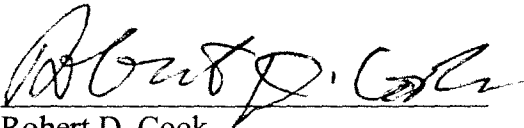
If there are any questions, please advise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson", followed by a horizontal flourish.

Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in cursive script, appearing to read "Robert D. Cook", written over a horizontal line.

Robert D. Cook  
Assistant Deputy Attorney General