



HENRY McMASTER  
ATTORNEY GENERAL

August 4, 2006

Ms. Tammy B. Hewett  
217 Burch Street  
Mt. Croghan, South Carolina 29727

Dear Ms. Hewett:

We issue this opinion in response to your letter concerning your desire to run for a position on the Town Council for the Town of Mt. Croghan ("Town Council"). In your letter, you state:

I work at the South Carolina Department of Motor Vehicles as an Administrative Specialist II. I am seeking a seat with the town council on the Town of Mt. Croghan S.C. Would it be unethical for me to run for this position?

Additionally, you indicate your desire to obtain approval from the State to run for this position.

Initially, if you desire an analysis of whether your campaigning for or service as a member of Town Council violates the Ethics Reform Act, you must contact the State Ethics Commission. The State Ethics Commission is specifically granted the authority to interpret the Ethics Reform Act. In addition, this Office cannot approve or disapprove of your running for a particular position. Nevertheless, we will attempt to provide you with guidance as to possible issues that may arise due to your employment with the Carolina Department of Motor Vehicles ("DMV"). However, because of the time constraints under which you desire a response to your request, our review of potential issues will be brief and may not include all issues that may arise due to your employment with the DMV while running or serving on Town Council.

First, if elected, your service on the Mt. Croghan Town Council does not appear to violate article XVII, section 1A of the South Carolina Constitution (Supp. 2005). This constitutional provision prohibits a person from holding "two offices of honor or profit at the same time, but any person holding another office may at the same time be an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public." S.C. Const. art. XVII, § 1A. Although we determined on numerous occasions that membership on a town council is office holding for dual office holding purposes, your position as an Administrative Specialist II with the DMV is clearly a position of an employee and not an officer. See Sanders v. Belue, 78 S.C. 171,

*Respectfully,  
Henry McMaster*

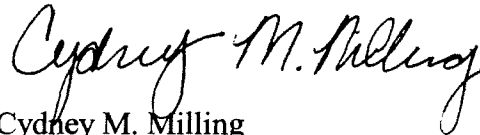
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174, 58 S.E. 762, 763 (1907) (distinguishing between an officer and an employee). Therefore, we do not believe your service on Town Council would violate the dual office prohibition.

Second, as we noted in previous opinions, no statutory provision prohibits a state employee from running for elected office. Ops. S.C. Atty. Gen., June 12, 1992; June 4, 1986. However, in these opinions we cautioned the requester that despite the absence of a state law prohibiting his or her ability to seek elected office, some state agencies have their own policies and regulations that limit or prohibit an employee from engaging in such activities. Id. Thus, we suggest you seek guidance from your employer as to whether such a policy exists.

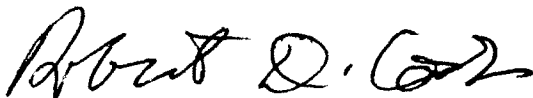
We hope this information proves useful to you in your decision to run for a position on Town Council.

Very truly yours,



Cydney M. Milling  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General