



HENRY McMASTER
ATTORNEY GENERAL

April 26, 2010

Harry W. Davis, Director
Children's Law Center
University of South Carolina
1600 Hampton Street, Suite 502
Columbia, South Carolina 29208

Dear Mr. Davis:

You have requested an opinion of this office as to whether a member of the Board of Trustees of the College of Charleston may also serve as a member of the Joint Citizens and Legislative Committee on Children without violating the dual office holding provisions of the State 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).

Prior opinions of this office dated October 13, 2006, October 8, 2003, and August 12, 2003 have concluded that a position on a State college or university board of trustees would constitute an office for dual office holding purposes. As to the Joint Citizens and Legislative Committee on Children, S.C. Code Ann. §63-1-50 provides for the establishment of such Committee. Pursuant to such provision, the Committee

...shall study issues relating to children as the committee may undertake or as may be requested or directed by the General Assembly. The committee may contract for all necessary legal research and support services, subject to funding as provided in subsection (E)...The committee must submit an annual written report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House no

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later than the first of February, commencing in 2009. The report must detail the work of the committee, account for the committee's expenditures, and provide any findings and recommendations the committee develops relating to children's issues it has studied.

In the opinion of this office, such duties of the Committee do not involve an exercise of the sovereign power of the State. As a result, in the opinion of this office, an individual may serve on the Board of Trustees of the College of Charleston and as a member of the Joint Citizens and Legislative Committee on Children without violating the dual office holding provisions of the State Constitution.

With kind regards, I am,

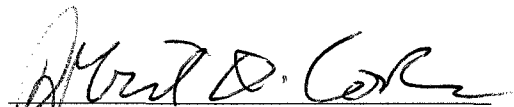
Very truly yours,

Henry McMaster
Attorney General

A handwritten signature in black ink, appearing to read "Charles H. Richardson".

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in black ink, appearing to read "Robert D. Cook".

Robert D. Cook
Deputy Attorney General