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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

December 15, 2003

HENRY McMASTER  
ATTORNEY GENERAL

The Honorable Bob Walker  
Chairman, Spartanburg County Legislative Delegation  
Room 1210, 366 North Church Street  
Spartanburg, South Carolina 20303

Dear Representative Walker:

In a letter to this office you questioned whether an individual may serve concurrently as a member of the Spartanburg County Commission on Higher Education or Spartanburg County Technical Education Commission and as an elected officer of a county political party. I am interpreting your question as raising the issue of whether holding both positions would violate the dual office provisions of the South Carolina 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, member of a lawfully and regularly organized fire department, constable or a notary public. As stated in an opinion of this office dated July 17, 1996, "(f)or this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State." Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position.

This office has held that an individual who serves on the Spartanburg County Commission on Higher Education or the Spartanburg County Technical Education Commission would hold an office for dual office holding purposes. See: Ops. Atty. Gen. dated February 27, 2001 and July 17, 1996. However, this office has consistently advised that an officer of a local political party does not hold an office for purposes of the State constitutional prohibition against dual office holding. See: Ops. Atty. Gen. dated July 29, 1986; March 23, 1982. Accordingly, it is the opinion of this office that an elected officer of a county political party may serve simultaneously as a member of the Spartanburg County Commission on Higher Education or the Spartanburg County Technical Education Commission without violating the dual office holding prohibition of the State Constitution.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson".

Charles H. Richardson  
Senior Assistant Attorney General