

1981 WL 158144 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 11, 1981

\*1 Thomas O. Lawton, Jr., Esquire  
Attorney at Law  
Post Office Box 646  
Allendale, South Carolina 29810

Dear Mr. Lawton:

You have asked the opinion of this Office on whether a person may concurrently be a member of the Allendale County Library Board and the Allendale County Board of Education or the Allendale County Aeronautics Commission.

[Article XVII, § 1A of the South Carolina Constitution](#) states that ‘. . . no person shall hold two offices of honor and profit at the same time.’ Also see Article VI, § 3. For 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. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other criteria such as tenure, salary, oath, etc., also may be relevant. [State v. Crenshaw](#), South Carolina Supreme Court, Op. No. 21189, 4-9-80.

A review of the laws creating the Allendale County Board of Education and the Allendale County Aeronautics Commission and providing them with certain powers and duties establishes that membership on either of these bodies constitutes an office within the meaning of the aforementioned constitutional provisions. Act No. 112, Acts and Joint Resolutions, 1965, as amended; Act No. 842, Acts and Joint Resolutions, 1973.

It is assumed that the Allendale County Library Board referred to in your letter was established pursuant to [Sections 4-9-35 to 4-9-39 of the Code of Laws of South Carolina](#), Cum.Supp., 1980. A review of these sections confirms that membership of this Board also is an office.

Therefore, based on the foregoing, it is the opinion of this Office that concurrent membership by a person on the Allendale County Library Board and the Allendale County Board of Education or the Allendale County Aeronautics Commission would constitute dual office holding in violation of [Article XVII, Section 1A of the South Carolina Constitution](#). If the Allendale County Council has lessened the powers of the Library Board or the Aeronautics Commission by ordinance, it may affect this conclusion and require a reconsideration of this opinion.

Sincerely,

James M. Holly  
Assistant Attorney General

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