

1976 S.C. Op. Atty. Gen. 114 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4293, 1976 WL 22913

Office of the Attorney General

State of South Carolina

Opinion No. 4293

March 11, 1976

***1 The position of school trustee and county library board trustee both constitute offices subject to the constitutional restrictions on dual office holding. Therefore, they could not be held simultaneously by the same person.**

Representative
Florence County
District 62

Article VI, Section 3 and Article XVII, Section 1A of the South Carolina Constitution provide that no person shall hold two offices of honor or profit at the same time. An office has been defined by the South Carolina Supreme Court in *Sanders, et al. v. Belue, et al.*, supra, as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

It has long been the opinion of this Office that the position of school board trustee is an office under the *Sanders* definition. See 1972 Op. Atty. Gen., 77.

The position of Florence County Public Library Trustee is created by Code Section 42-399, *infra*, and the duties and powers are spelled out at Section 42-402. The duties of the Library Board include purchasing and disposing of real estate and personalty, and acquiring and administering private, state and federal funds.

In my opinion this statutory creation of a position, its duration and method of appointment, coupled with explicit duties involving the exercise of part of the State's sovereignty, meets the *Sanders* definition of an office.

Thus, the position of school trustee and county library board trustee both constitute offices subject to the constitutional restrictions on dual office holding. Therefore they could not be held simultaneously by the same person.

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