



ALAN WILSON  
ATTORNEY GENERAL

December 17, 2018

**VIA U.S. MAIL AND FAX 843-374-2946**

Florence County School District Three Board of Trustees  
PO Drawer 1389  
Lake City, SC 29560

Dear Trustees:

You have requested an opinion from this Office regarding whether it would be dual office holding for a person to simultaneously serve as a trustee on the Florence County School District Three Board of Trustees and on both the Executive Board<sup>1</sup> and as a Delegate for the South Carolina Democratic Party.

**LAW/ANALYSIS:**

Dual office holding is prohibited by the South Carolina Constitution, which provides:

[n]o person may hold 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 . . . The limitation above set forth does not prohibit any officeholder from being a delegate to a constitutional convention.

S.C. Const, art. XVII § 1 A.

The South Carolina Supreme Court explains that an "office" for dual office holding purposes is:

"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." *Sanders v. Belue*, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907), "In considering whether a particular position is an office in the constitutional sense, it must be demonstrated that "[t]he power of appointment comes from the state, the authority is derived from the law, and the duties are exercised for the benefit of the

---

<sup>1</sup> We believe that you are referring to the Florence County Democratic Party Executive Committee and are answering your question on that basis.

public.” Willis v. Aiken County, 203 S.C. 96, 103 S.E.2d 313, 316 (1943). “The powers conferred and the duties to be discharged with regard to a public office must be defined, directly or impliedly, by the legislature or through legislative authority . . .” 63C Am Jur.2d Public Officers and Employees § 5 (2009).

Segars-Andrews v. Judicial Merit Selection Commission, 387 S.C. 109, 691 S.E.2d 453 (2010).

Other relevant considerations for an office are:

whether the position was created by the legislature; whether the qualifications for appointment are established; whether the duties, tenure, salary, bond, and oath are prescribed or required; whether the one occupying the position is a representative of the sovereign; among others.

Op. S.C. Atty. Gen., 2013 WL 3243063 (June 17, 2013) (quoting State v. Crenshaw, 274 S.C. 475, 478, 266 S.E.2d 61, 62 (1980)).

Our Office has consistently advised that a school board trustee is an office for dual office holding purposes. See Op. S.C. Atty. Gen., 2014 WL 2591468 (May 20, 2014); Op. S.C. Atty. Gen., 1991 WL 633003 (June 19, 1991). In contrast, we have concluded on numerous occasions that a person may serve as a political party officer without violating the dual office holding provision, because a political party officer does not occupy a statutory or constitutional office within the meaning of the provision. See Op. S.C. Atty. Gen., 1982 WL 189187 (Feb. 24, 1982); Op. S.C. Atty. Gen., 1982 WL 189216 (March 23, 1982); Op. S.C. Atty. Gen., 2003 WL 23138219 (Dec. 15, 2003); Op. S.C. Atty. Gen., 2008 WL 317750 (Jan. 18, 2008); Op. S.C. Atty. Gen., 1986 WL 289806 (July 29, 1986); Op. S.C. Atty. Gen., 1978 WL 34722 (Feb. 24, 1978).

Because a political party officer does not hold a public office, our opinion is that an individual can serve simultaneously as a trustee on the Florence County School District Three Board of Trustees, a committeeman on the Florence County Democratic Party Executive Committee, and as a delegate for the South Carolina Democratic Party.

We want to emphasize that our conclusion is based on an individual serving as a delegate for a political party, and not as an elector, since this Office has previously determined that an elector is a public officer. See Op. S.C. Atty. Gen., 1976 WL 23076 (Sept. 21, 1976). Delegates differ from electors in that delegates represent their geographic area within their political party, while electors cast their state’s electoral votes for president and vice-president after the presidential election is held. Cf. S.C. Code Ann. § 7-9-70 & 80 (1976 Code, as amended) (discussing party delegates), § 7-19-70 (1976 Code, as amended) (governing the election of presidential electors). Therefore the role of a delegate is consistent with our prior opinions regarding political party officers, and distinguished from our prior opinions regarding electors. See id.; see also Op. S.C. Atty. Gen., 1976 WL 23076 (Sept. 21, 1976).

**CONCLUSION:**

Because a political party officer does not hold a public office, we believe that an individual can serve simultaneously as a trustee on the Florence County School District Three Board of Trustees, a committeeman on the Florence County Democratic Party Executive Committee, and as a delegate for the South Carolina Democratic Party. We want to emphasize, however, that our conclusion is based on an individual serving as a delegate for a political party, and not as an elector, since this Office has previously determined that an elector is a public officer. See Op. S.C. Atty. Gen., 1976 WL 23076 (Sept. 21, 1976).

Sincerely,



Elinor V. Lister  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General