April 22, 2022

Dr. Akil E. Ross, Sr.
Superintendent
Lexington-Richland School District Five
1020 Dutch Fork Road
Irmo, South Carolina 29063

Dear Dr. Ross:

We received your letter requesting an opinion of this Office regarding dual office holding. Specifically, you inquire as to whether you may simultaneously serve as a commissioner for the Irmo-Chapin Recreation Commission and as superintendent of Lexington-Richland School District Five without violating the prohibition against dual office holding in section 1A of article XVII of the South Carolina Constitution.

**Law/Analysis**

Section 1A of article XVII of the South Carolina Constitution (2009) states: “No 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.” To contravene section 1A of article XVII, a person concurrently must hold two offices having duties that involve the exercise of some portion of the sovereign power of the State. *Sanders v. Belue*, 78 S.C. 171, 174, S.E. 762, 763 (1907). Furthermore, our courts recognize other relevant considerations in determining whether an individual holds an office, such as, whether a statute, or other such authority, establishes the position, proscribes the position’s duties or salary, or requires qualifications or an oath for the position. *State v. Crenshaw*, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980).

In several prior opinions, this Office concluded members of the Irmo-Chapin Recreation Commission are officers for purposes of dual office holding. We first made this determination in 1969, finding members of the Irmo-Chapin Recreation Commission exercise some part of the state’s sovereign power. *Op. Att’y Gen.*, 1969 WL 10714 (S.C.A.G. Aug. 13, 1969). A 2014 opinion reiterated this finding, which is in keeping with numerous other opinions of this Office similarly concluding that members of other recreation commissions are officers for purposes of dual office holding. *Op. Att’y Gen.*, 2014 WL 7210768 (S.C.A.G. Dec. 1, 2014) (“There is little doubt that members of the Irmo-Chapin Recreation Commission are officers for dual office holding purposes.”); *Ops. Att’y Gen.*, 1997 WL 87948 (S.C.A.G. Jan. 29, 1997) (finding members of the Charleston County Park and Recreation Commission are officers and stating “this Office has frequently concluded that members of other counties’ recreation commissions would be
Conclusion

Although we find your position as a member of the Irmo-Chapin Recreation Commission is likely an office for purposes of dual office holding, we do not believe your service as the superintendent for Lexington-Richland School District Five constitutes an office. As such, we are of the opinion that you may serve in both positions without violating the prohibition on dual office holding contained in section 1A of article XVII of the South Carolina Constitution.

Sincerely,

Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General