

1982 WL 189359 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 9, 1982

*1 The Honorable Richard W. Riley
Governor of South Carolina
Post Office Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

You have requested the opinion of this Office on the question of whether it is a violation of the dual office holding provision of [Article VI, Section 3 of the South Carolina Constitution](#) for a person to serve concurrently on the Board of Commissioners on Grievances and Discipline and on the Governor's Resource Panel on the Elderly.

In determining whether a position constitutes an office under either [Article VI, Section 3](#), or [Article XVII, Section 1A of the South Carolina Constitution](#), the key factor to be considered is whether the position is charged by law with duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1902\)](#). 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. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

An examination of Executive Order No. 82-02, by which the Governor's Resource Panel on the Elderly was created reveals that the Panel acts in an advisory capacity to the Governor and is not authorized to exercise any portion of the sovereign power of the State. Its basic function is to investigate the status of the elderly in this State, determine goals to meet the needs of the elderly over the next ten to twenty years and make recommendations for action to the Governor in attaining these goals. Since it functions as a recommendatory body only, its members would not hold offices for purposes of the dual office holding provisions of the South Carolina Constitution.

Based on the foregoing, it is the opinion of this Office that there would be no violation of either [Article VI, Section 3](#) or [Article XVII, § 1A](#) for a member of the Board of Commissioners on Grievances and Discipline to serve on the Governor's Resource Panel.

Very truly yours,

Helen T. Zelgler
State Attorney

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