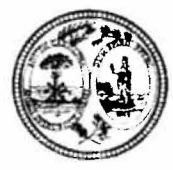


# The State of South Carolina



## Office of the Attorney General

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ATTORNEY GENERAL

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November 4, 1991

Mr. Charles Riley  
Board of Directors  
Lower Savannah Council of Governments  
P. O. Box 850  
Aiken, South Carolina 29802

Dear Mr. Riley:

Your recent opinion request has been referred to me for response. You state that you are presently serving on the Board of Directors of the Lower Savannah Council of Governments and that you have been asked to serve on the Denmark Technical College Board. You ask whether your acceptance of the membership on the second board will violate the prohibition against dual office holding.

Pursuant to Article XVII, Section 1A of the South Carolina Constitution, "...(n)o person may hold two Offices of honor or profit at the same time...(except) an officer in the militia, member of a lawfully and regularly organized fire department, constable or a notary public." A public officer has been defined as

one who is charged by the 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...

Sanders v. Belue, 78 S.C. 171, 58 S.E.2d 762, 763 (1907). Other relevant indicia include whether statutes or other authority establish the position, prescribe its duties, tenure, salary, and bond or require oath or qualifications. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980) See Op. Atty Gen. dated August 6, 1991.

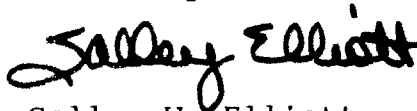
Mr. Riley  
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This Office has previously opined, and Article VII, Section 15 and Article VIII, Section 13 specifically state, that the prohibition against dual office holding does not apply to any elected or appointed official serving on a regional council of government. See Ops. Atty. Gen. February 13, 1984 and February 1, 1973. It is not necessary, then, to address whether membership on the Denmark Technical College school board would constitute an office for the purposes of Article XVII, Section 1A.

Therefore, it is the opinion of this Office that it would not be a violation of the dual office prohibition for you to serve simultaneously on the Denmark Technical College School Board and the Lower Savannah Council of Governments if the latter was created and you serve pursuant to the authority of Article VIII, Section 13 or Article VII, Section 15 of the State Constitution.

With kind regards, I am,


Sincerely,



Salley W. Elliott  
Assistant Attorney General

SWE/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions