

4450 Liberty

The State of South Carolina



Office of the Attorney General

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September 8, 1992

C. D. Morton, Chief
York Police Department
Post Office Box 500
York, South Carolina 29745

Dear Chief Morton:

By your letter of August 19, 1992, you have asked whether an individual could serve simultaneously as a police officer and as a member of the York School District No. 1 board of trustees, citing potential conflicts of interest. Because the State Ethics Commission is the agency which provides guidance as to the state's ethics laws, I must respectfully refer you to that agency for assistance with respect to ethics questions. The potential problem about which our Office would offer guidance is that of dual office holding.

Article XVII, Section 1A of the state Constitution provides that "no person may hold two offices of honor or profit at the same time . . .," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public. For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). 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, 274 S.C. 475, 266 S.E.2d 61 (1980).

This Office has advised on numerous occasions that a law enforcement officer such as a police officer would be

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considered an office-holder for dual office holding purposes. See State v. Crenshaw, supra; Ops. Atty. Gen. dated January 31, 1992 as to police officers (copy enclosed); December 11, 1990 (sheriff); February 16, 1983 (sheriff's deputy); and many more.

By an opinion dated April 22, 1960, this Office advised the chairman of York School District No. 1 that service as a school district trustee would constitute an office. Copies of that opinion in typewritten form and in published form are enclosed.

Based on the foregoing, simultaneous service as a police officer and as a trustee of the York School District No. 1 by the same individual would most probably be considered dual office holding. We would further advise that offering for election to the school board would not cause problems from the dual office holding standpoint; the problem would arise if the police officer were elected and began to exercise the duties of the second office (school board).

We trust that the foregoing will provide as much assistance as is in the province of this Office and suggest that the State Ethics Commission be consulted as to your questions of an ethical nature. Please advise if we may provide clarification or additional assistance.

With kindest regards, I am

Sincerely,

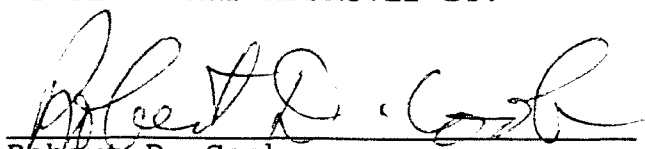
Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:



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