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Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3680

March 6, 1989

The Honorable D. N. Holt, Jr.
Member, House of Representatives
Box 70093
North Charleston, South Carolina 29406

Dear Representative Holt:

Your recent letter addressed to Attorney General Medlock has been referred to me for reply. You have inquired if a person can serve on the Charleston County Constituent School Board and on the Charleston County Substance Abuse Commission.

This Office has determined on numerous occasions that a member of the Constituent School District of Charleston is an office for dual holding purposes. See enclosed opinions, January 16, 1976; September 30, 1981.

A person serving on the Charleston County Substance Abuse Commission would also appear to hold an office within the meaning of the dual office holding provisions of Article XVII, § 1A of the South Carolina Constitution which provides that "... no person shall hold two offices of honor or profit at the same time." 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).

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The Substance Abuse Commission was established in 1973 by Act 452. The Commission is given specific terms of office, duties and powers and is authorized to exercise part of the sovereign power of the State.

Therefore, a person serving simultaneously as a member of the Charleston County Substance Abuse Commission and the Charleston County Constituent School Board would most probably contravene the dual office holding prohibitions of the State Constitution.

Sincerely,



Treva G. Ashworth
Senior Assistant Attorney General


TGA:bvc
Enclosures

REVIEWED AND APPROVED BY:



EDWIN E. EVANS

Chief Deputy Attorney General



ROBERT D. COOK
Executive Assistant for Opinions