

1983 WL 181999 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 15, 1983

\*1 Gary R. Baker  
Executive Director  
State Ethics Commission  
SCN Center  
Suite 930  
1122 Lady Street  
Columbia, South Carolina 29201

Dear Mr. Baker:

You have requested the opinion of this office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a member of the Orangeburg County Board of Education to also serve as a Branchville City Councilman.

[Article XVII, § 1A of the South Carolina Constitution](#) 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).

This office has previously determined that a member of a city council holds an office within the meaning of the dual office holding provisions of the Constitution. See, 1981 Op. Att’y. Gen., dated September 20, 1981, and 1982 Op. Att’y. Gen., dated June 18, 1982 (copies enclosed). This conclusion appears to be based upon the fact that the position of municipal councilman is an elective office which duties involve an exercise of the sovereign power of the State.

Similarly, this office has repeatedly expressed the opinion that members of County Boards of Education and public officers for dual office holding purposes. See, 1983 Op. Att’y Gen., dated February 8, 1983 and 1967 Op. Att’y. Gen., No. 2328 (copies enclosed).

Accordingly, it is the opinion of this office that a person serving as a member of the Orangeburg County Board of Education and as a Branchville City Councilman would be violating the dual office holding provisions of the South Carolina Constitution. Sincerely,

Robert D. Cook  
Executive Assistant for Opinions

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