

1983 S.C. Op. Atty. Gen. 38 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-22, 1983 WL 142693

Office of the Attorney General

State of South Carolina

Opinion No. 83-22

June 24, 1983

*1 William P. Baskin, III, Esquire
Farmers Trust Building
Post Office Box 487
Bishopville, South Carolina 29010

Dear Mr. Baskin:

You have request 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 (in this case the chairman) of the Emergency Medical Services (EMS) Advisory Council to also serve on the Sumter Area Technical Education Commission.

[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).

The Sumter Area Technical Education Commission is created pursuant to [§ 59–53–1410 of the South Carolina Code](#) of Laws (1976). Its members are empowered under § 59–53–1430 to do the following: acquire a site and construct and equip facilities when funds are made available by the General Assembly; supervise the maintenance of facilities established to promote vocational or technical education; promulgate and enforce rules and regulations for the operation of its facilities; and expend all funds received. These functions involve the exercise of the sovereign power of the State, and therefore, the members of the Sumter Area Technical Education Commission would be considered officers for dual office holding purposes.

The EMS Advisory Council is created pursuant to [§ 44–61–30 of the South Carolina Code](#) of Laws (1976). Subsection (a) of this statute provides that ‘The Department of Health and Environmental Control, with the advice of the Emergency Medical Services Advisory Council, shall develop standards and prescribe regulations for the improvement of emergency medical services. . . . All administrative responsibility for this program shall be vested in the Department.’ Since the Council's role is merely to render advice and all administrative functions are carried out by DHEC itself, a member of the Council would not exercise any sovereign power of the State. This being the case, a member of the EMS Advisory Council would not be an officer for dual office holding purposes.

Based on the foregoing, it is the opinion of this office that a person serving on the Sumter Area Technical Education Commission and the Emergency Medical Services (EMS) Advisory Council would not be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black
Staff Attorney

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