

1983 WL 181937 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 8, 1983

\*1 The Honorable Robert B. Brown  
Member  
House of Representatives  
Post Office Drawer 660  
Marion, South Carolina 29571

Dear Representative Brown:

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 Marion County Election Commission to also serve as a member of a county school board.

[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 the Marion County Election Commission holds an office within the meaning of the dual office holding provisions of the Constitution. [See](#), 1978 Op. Atty. Gen., dated March 21, 1978 (copy enclosed). This conclusion appears to be based upon the fact that they are given the broad powers pursuant to [§ 7-13-70 of the Code of Laws of South Carolina](#), 1976, to carry on general and special elections, are appointed to their positions by the Governor and are required to take an oath before assuming their duties.

Similarly, this office has repeatedly expressed the opinion that members of county school boards are public officers for dual office holding purposes. [See](#), 1979 Op. Atty. Gen., dated March 6, 1979, and 1982 Op. Atty. Gen., dated September 24, 1982 (copies enclosed). This is true regardless of whether the members are elected or appointed, as their duties involve an exercise of the sovereign power of the State.

Based on the foregoing, it is the opinion of this office that a person serving on the Marion County Election Commission and a county school board would be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black  
Staff Attorney

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