

1983 WL 181938 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 8, 1983

*1 The Honorable William S. Branton, Jr.
Member
House of Representatives
100 E. Dorchester Road
Summerville, South Carolina 29483

Dear Representative Branton:

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 an individual to serve on both the Dorchester County Vocational Education Board of Trustees and a Dorchester 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.2d 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 present Dorchester County Vocational Education Board of Trustees was created pursuant to Act No. 1627 of the 1972 Statutes at Large. Its members are empowered to do the following: adopt procedures as may be necessary to develop, maintain, manage and operate the facilities and programs; employ a vocational school director; and, in relation to property, facilities and programs, exercise the general powers and duties of school trustees derived from the general laws of the State. These functions involve the exercise of the sovereign power of the State, and therefore, the members of the Dorchester County Vocational Education Board of Trustees would be considered offices for dual office holding purposes.

Similarly, this office has repeatedly expressed the opinion that members of county school boards are public officers for dual office holding purposes. See, 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 Dorchester County Vocational Education Board of Trustees 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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