

1982 WL 189472 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 22, 1982

*1 Charles W. Whetstone, Jr., Esquire
Felder and Whetstone
Post Office Box 437
St. Matthews, South Carolina 29135

Dear Mr. Whetstone:

You have requested the opinion of this Office on the question of whether the dual office holding provisions of the South Carolina Constitution prohibit a person from serving simultaneously on the Calhoun County District School Board of Trustees and on the County Board of Voter Registration.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) 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 \(1907\)](#). 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, 266 S.E.2d 61 \(1980\)](#).

The Board of Trustees for the School District of Calhoun County was established by Act No. 1030 of the 1974 Acts and Joint Resolutions, and the terms of Office and duties of its members are provided for therein. Among the powers and duties prescribed for the Board members by this Act are the powers to adopt administrative policies, to issue short-term notes, to provide for school elections, administer State aid to public schools, and exercise the right of eminent domain. Furthermore, they would also have those powers generally prescribed for school trustees in [§ 59-19-90, Code of Laws of South Carolina](#), 1976, as amended, which include the power to promulgate rules and regulations prescribing scholastic standards of achievement and standards of conduct and behavior, to control school property and to charge and collect matriculation fees. These types of functions certainly involve an exercise of the sovereign power of the State and therefore school trustees would be considered officers under the dual office holding provisions of the South Carolina Constitution. This is in keeping with previous opinions of this Office which have reached this same conclusion. See, Opinion dated September 24, 1982 to Senator Lindsay and opinions cited therein (copies attached).

County Boards of Registration are established by [§§ 7-5-10 et seq., Code of laws of South Carolina](#), 1976, as amended, and the terms of office and duties of their members are provided for therein. This Office has concluded in several past opinions that members of these Boards are officers for dual office holding purposes. See, Opinion dated August 5, 1981 to Representative Matthews; Opinion dated July 17, 1963 to Mr. Mishoe; and 1961 Op. Att’y. Gen., No 1115 (copies attached).

Based on the foregoing, it is the opinion of this Office that it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve concurrently on a District School Board of Trustees and on a County Board of Registration.

Very truly yours,

*2 Helen T. Zeigler
Assistant Attorney General

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