

1979 WL 42958 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 24, 1979

**\*1 RE: Dual Office Holding**

Richard Ruhle, Esquire  
P. O. Box 107  
Anderson, South Carolina 29622

Dear Mr. Ruhle:

You have asked whether the simultaneous holding of various positions violates the constitutional provision which prohibits dual office holding.

In [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762, the South Carolina Supreme Court defined an office as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

A.

Trustee of a School District and Member of the City of Anderson Planning and Zoning Commission:

This Office, in previous opinions, has held that membership on a local school board is an office under the [Sanders](#) definition. See 1976 Op. Atty. Gen., p. 332.

The City of Anderson's Planning and Zoning Commission was apparently created pursuant to [Section 5-23-410, et seq., Code of Laws of South Carolina](#), 1976. These sections authorize municipalities to create planning and zoning commissions and set forth these commissions' duties and powers. Among other things, such commissions are authorized and empowered to contract with city planners, engineers, architects and other consultants for such services as they may require. Additionally, these commissions approve certain subdivision plats, master plans for the municipality and the construction of streets, buildings, etc. within the areas included in the master plan. Such duties and functions clearly make a member of the Anderson Planning and Zoning Commission an officer within the [Sanders](#) definition.

It is the opinion of this Office that the simultaneous holding of positions on a local school board and the City of Anderson Planning and Zoning Commission violates the dual office holding provision of the South Carolina Constitution.

B.

Member of the City of Anderson Planning and Zoning Commission and a Member of the Board of Directors of the Anderson County Hospital Association:

As discussed above, this Office is of the opinion that the City of Anderson Planning and Zoning Commission is an office under the [Sanders](#) definition.

You have indicated that the Anderson County Hospital Association is an eleemosynary corporation, and its trustees are elected or appointed under provisions of law relating to eleemosynary corporations. In this instance, you state that the director in question has been elected by the incumbent directors. The status of director of that eleemosynary corporation would not conflict with the dual office holding provisions of the South Carolina Constitution. See Atty. Gen. Op. dated September 6, 1961, a copy of which is enclosed.

You have also asked what the effect of accepting a second office has on the office already being held. The law in South Carolina is clear on this point. The acceptance of the second office is deemed to be an abandonment of the first. [Darling v. Brunson](#), 94 S.C. 207, 77 S.E. 860.

\*2 Your final request concerns the simultaneous holding of positions on the Anderson County Airport Commission and the City of Anderson Board of Personnel Grievances. Before answering this question, I need a copy of the ordinance creating the appeal to that Board, if any.

With kind regards, I am  
Sincerely,

James W. Johnson, Jr.  
Assistant Attorney General

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