

1976 WL 30611 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1976

\*1 Mr. William B. Regan  
Corporation Counsel  
City of Charleston  
Post Office Box 1237  
Charleston, South Carolina 29401

Dear Mr. Regan:

Your letter of January 15, 1976, requests my opinion on whether one who occupies the position of Trustee of a Constituent School District of Charleston County and also the position of assistant Corporation Counsel of the City of Charleston thereby violates the dual officeholding provision of the State Constitution.

The position of member of a Constituent School Board is, in my opinion, an office within the meaning of the constitutional provision.

As your letter discloses, the position of assistant Corporation Counsel is not provided for by State law but is referred to in Section 2-65 of the City Code of Charleston in the following manner:

'The Corporation Counsel shall be allowed an assistant or assistants whose salaries shall be such an amount as may be provided by the City Council.'

No duties are set forth in the City Code for these positions. The duties are assigned administratively and there is no set term of office; instead, the Mayor makes the appointments at his discretion and may remove at his discretion. No oath or bond is required nor is confirmation by City Council required. Any increase or decrease in the number of assistants is accomplished without municipal ordinance merely through an appropriation. The assistants have no policy-making authority and serve in a part-time capacity.

It is my opinion, based on the foregoing, that assistants to the Corporation Counsel are not officers within the meaning of the dual officeholding provision of the Constitution. The indicia of such an office are generally set forth in the case cited below and consideration of these factors, as well as others laid down in decisions of the Supreme Court of this State, in my opinion, clearly impel the conclusion set forth herein.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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