

1990 WL 599331 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 19, 1990

*1 The Honorable Burley Joe
Chairman
Board of Trustees
School District of Williamsburg County
Post Office Box 1067
Kingstree, South Carolina 29556

Dear Mr. Joe:

By your letter of October 9, 1990, you have asked whether a member of the Williamsburg County School Board may also serve as an Assistant Solicitor without violating the dual office holding prohibitions of the State Constitution.

Article XVII, Section 1A of the state Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public. 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 concluded on numerous occasions that one who serves as a trustee or member of a county board of education would hold an office for dual office holding purposes. See, for examples, *Ops.Atty.Gen.* dated October 21, 1985 and January 17, 1985 (copies enclosed) as representative opinions.

Likewise, this Office has concluded on numerous occasions that an assistant solicitor would hold an office for dual office holding purposes. See, for examples, *Ops.Atty.Gen.* dated July 24, 1980 and August 18, 1980 (copies enclosed) as representative opinions.

Thus, it must be concluded that one who would serve simultaneously on a county school board and as an assistant solicitor would most probably hold dual offices in contravention of the dual office holding prohibitions of the state Constitution.

With kindest regards, I am
Sincerely,

Patricia D. Petway
Assistant Attorney General

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