

1979 WL 43072 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 19, 1979

*1 Honorable David O. Hawkins
South Carolina House of Representatives
Blatt Office Building
Columbia, South Carolina 29201

Dear Representative Hawkins:

You have asked whether an individual simultaneously serving as a trustee on the Spartanburg County School Board and as a commissioner of a special district fire department violates the constitutional provision prohibiting dual office holding.

[Section 1A, of Article XVII, of the South Carolina Constitution](#), provides that no person shall hold two offices of honor or profit at the same time. In [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762, the Supreme Court defined a public officer as follows:

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

This Office has on numerous occasions advised that a trustee on a local school board is an office for dual office holding purposes. See 1976 Attorney General Opinion No. 4469, page 332.

It is unclear how the special purpose fire district in question was established. [Section 4-19-10, Code of Laws of South Carolina](#), 1976, authorizes the governing body of each county to establish, operate and maintain a system for fire protection. However, this chapter of the [Code](#) does not provide for the appointment or election of commissioners for such districts.

[Section 6-11-10, et seq., Code of Laws of South Carolina](#), 1976, establishes special service districts for, among other things, fire protection. For purposes of this opinion, we assume that it was pursuant to this authority that the fire district in question was established. This Office has previously advised that the office of commissioner of such a fire district is an office for dual office holding purposes. See Attorney General Opinion dated July 15, 1975, a copy of which is enclosed.

Therefore, it is the opinion of this Office that an individual may not simultaneously hold positions as a trustee of a local school board and as a commissioner of a special service fire district, without violating the constitutional provision prohibiting dual office holding.

Sincerely,

James W. Johnson, Jr.
Assistant Attorney General

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