

1978 WL 34832 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1978

*1 Ms. Jacquelyn S. Dickman
Staff Attorney
Office of General Counsel
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Dear Ms. Dickman

On September 7, 1977, we advised that membership on the Statewide Health Coordinating Council (SHCC) and service as a school board trustee would not offend [Article XVII, Section 1A of the South Carolina Constitution](#), the dual office holding provision, because SHCC was a creature of federal law and not state law. A state statute has now been proposed that would establish a South Carolina State-wide Health Coordinating Council, and you inquire as to whether membership on a state-created SHCC would 'be considered as a state office within the prohibition against dual office holding, if the . . . Council is granted powers under state law in addition to the powers prescribed by federal law.' We think that it would.

As was noted in our formal opinion, a test used to determine whether one holds an 'office' within the meaning of the dual office holding provision depends upon whether some portion of the sovereignty of the State is exercised in the proper discharge of the responsibilities of the position in question. See, [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762; [Edge v. Town of Cayce](#), 187 S.C. 172, 197 S.E. 216. Obviously, therefore, if the General Assembly creates a state SHCC and prescribes for it powers in addition to those prescribed by federal law, membership thereupon would involve the exercise of state sovereignty and, accordingly, would constitute the holding of a state 'office' and not the holding of a state 'employment position.'

Best wishes,

C. Tolbert Goolsby, Jr.
Deputy Attorney General

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