

1975 S.C. Op. Atty. Gen. 195 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4122, 1975 WL 22418

Office of the Attorney General

State of South Carolina

Opinion No. 4122

September 18, 1975

*1 Mr. Lionel S. Lofton
Executive Assistant
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Lionel,

In your letter of September 11, 1975, you request an opinion from this Office on the question of whether it would be dual office holding for a member of the State Board for Technical and Comprehensive Education to also serve on the State Personnel Advisory Council. A second letter, dated September 12, 1975, poses the question of whether a member of the Advisory Council on Technical and Vocational Education can also serve on the State Personnel Advisory Council.

Response to both questions hinges upon a determination of whether membership on the State Personnel Advisory Council is an Office within the ambit of the constitutional prohibition of dual office holding. In [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762, the Supreme Court defined public officer 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.’ [Emphasis Added]

The State Personnel Advisory Council was created by Act No. 190 during the last session of the General Assembly. Functions of the Council are set forth in Section 6 of Act No. 190 as follows:

‘[T]o meet on a regular basis with the State Personnel Director to review and to comment on proposed policies, procedures and regulations and to make suggestions to the State Personnel Director on these or other matters referred to the Advisory Council.’

Thus, the Council, as its name implies, is an advisory council authorized to comment and suggest but not to administer or control the State Personnel Division. Accordingly, the Council exercises no part of the sovereign power of this State. On the basis, I am of the opinion the membership on the State Personnel Advisory Council is not an office subject to this constitutional prohibition on dual office holding. Since membership on the Council is not an Office, no complete exists between membership on the Council and membership on either the State Board for Technical and Comprehensive Education or the Advisory Council on Technical and Vocational Education.

Sincerely,

Daniel R. McLeod
Attorney General

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