

1975 WL 29251 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 4, 1975

*1 The Honorable James B. Edwards
Governor
Columbia, South Carolina

Dear Governor Edwards:

You have requested my opinion as to whether appointment of Dr. Maceo Nance, President of South Carolina State College, to serve as a member of the State Ethics Commission is violative of the dual officeholding provision of the State Constitution.

As President of South Carolina State College, Dr. Nance is undoubtedly an officer within the meaning of the constitutional provision.

The State Ethics Commission is created by Act No. 191, approved May 29, 1975 (75 Acts 217). Among the duties imposed upon the Commission are those which require the investigation of complaints made alleging violation of the Ethics law; to take appropriate action thereon and to hold hearings and to recommend disciplinary or administrative action in appropriate cases or to refer alleged criminal violations to the Attorney General; to issue advisory opinions; and to promulgate and publish rules and regulations to carry out the provisions of the Act.

In my opinion, the duties so vested in the Ethics Commission involve an exercise of a portion of the sovereign function. Other indicia of an office within the meaning of the dual officeholding provision of the Constitution are present also.

I therefore advise that, in my opinion, membership upon the Ethics Commission is an office within the meaning of the constitutional provision and that should Dr. Nance accept membership thereon, such action would be violative of the dual officeholding provision of the Constitution.

Very truly yours,

Daniel R. McLeod
Attorney General

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