

1975 WL 29131 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 8, 1975

***1** An individual may serve on the Richland County Board of Social Services and the Central Midlands Health District Advisory Board at the same time without violating the Constitutional restriction on dual office holding.

TO: Collie L. Moore
Chief Chaplin
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QUESTION PRESENTED:

Can an individual serve as a member of the Richland County Board of Social Services and the Central Midlands Health District Advisory Board at the same time without violating dual office holding restrictions?

STATUTES, CASES, ETC.

South Carolina Constitution, Article XVII, Section 1A;

Code of Laws of South Carolina, 1962, Section 71-31 et seq., and Section 32-7, as amended;

[Edge v. Town of Cayce](#), 187 S. C. 172, 197 S. E. 216;

[Sanders, et al. v. Belue, et al.](#), 78 S. C. 171, 58 S. E. 762.

DISCUSSION OF ISSUES:

Article XVIII, Section 1A of the South Carolina Constitution provides that no person shall hold two offices of honor or profit at the same time. An office has been defined by the South Carolina Supreme Court in [Sanders, et al. v. Belue, et al.](#), 78 S. C. 171, 58 S. E. 762, 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.

Section 71-31 et seq., Code of Laws of South Carolina, 1962, creates in each county a board of social services. Such board acts as the representative of the State in administering welfare activities, in seeing that all laws are enforced for the protection and welfare of minors, and in expending funds supplied to it by the county. The Statute sets up the terms of office for board members and the method for appointment and qualification of such members. Clearly such a position is an office within the definition of the [Sanders](#) case, supra. See also 1971-72 Op. Att'y. Gen., No. 3387, p. 248.

The nature of the position as member of the Central Midlands Health District Advisory Board is less clear. Such advisory board was apparently created pursuant to Code Section 32-7, which creates in such advisory board the duty of advising the district medical director or administrator is all matters of sanitary interest and scientific importance bearing upon

the protection of the public health. The statute provides that the executive committee of the State Board of Health may establish district advisory boards. The number of members on each advisory board is also left to the determination of this executive committee. No specific term of office is provided for the members. The statute makes each advisory board subject to the supervision and advisory control of the State Board's executive committee.

This general language places only advisory power in the Health District Advisory Board, and does not charge the Advisory Board with duties exercising the sovereign power of the State. The question is close, but the previous opinion of this office on a similar position has been that where the number of members is indeterminate and the entity serves only in an advisory capacity, there is no office in the constitutional sense. See 1969 Op. Att'y. Gen., No. 2795, p. 289.

CONCLUSION:

*2 Since membership on the Central Midlands Health District Advisory Board is not an office, no conflict exists between such membership and membership on the Richland County Board of Social Services.

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