

1975 S.C. Op. Atty. Gen. 233 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4178, 1975 WL 22473

Office of the Attorney General

State of South Carolina

Opinion No. 4178

November 12, 1975

**\*1** The position of member of the Lander College Board of Visitors does not constitute an office subject to constitutional restrictions on dual office holding.

TO: Rudolph Mitchell

Chairman of the South Carolina Public Service Commission

QUESTION PRESENTED:

Does the position of member of the Lander College Board of Visitors constitute an office subject to constitutional restrictions on dual office holding?

STATUTES, CASES, ETC:

South Carolina Constitution, Article XVII, Section 1A and Article VI, Section 3;

Act No. 353, § 4(14), 56 S. C. Acts & J. Res. 616 (1969);

Act No. 1393, § 1, 57 S. C. Acts & J. Res. 2582 (1972):

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

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

DISCUSSION OF ISSUES:

Article XVII, Section 1A and Article VI, Section 3, of the South Carolina Constitution provide 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 the Sanders case, supra., 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.

Pursuant to Act No. 1393 of the 1972 Acts, supra, Lander College is now a state supported institution of higher learning. Pursuant to Act No. 353, § 4(14) of the 1969 Acts, supra, the State College Board of Trustees has appointed a Board of Visitors for Lander College.

The duties imposed on this Board of Visitors, the length of terms of office, and the number of members are left to the discretion of the State College Board of Trustees. Under present regulations adopted by the State Board, the Lander

College Board of Visitors serves in an advisory capacity to the College President. In addition it is the function of the Visitors to become familiar with the programs of the College and to aid in informing the public thereof.

Such duties are very general and of an advisory nature, and do not appear to involve an exercise of the sovereign power of the state. It should be noted such Board of Visitors is not mandated, but merely authorized by Act No. 353.

When a position is of indefinite duration and of an advisory nature, and the duty to create the position is not absolute, it is difficult to find that an office exists. See 1969 Op. Atty. Gen., No. 2795, p. 289.

CONCLUSION:

Membership on the Lander College Board of Visitors does not constitute an office. Your position as member of the Public Service Commission while serving as a member of the Lander College Board of Visitors is not in violation of the dual office holding provision of the State Constitution.

George C. Beighley  
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