

1975 WL 29203 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 25, 1975

*1 Ms. Lois E. McGaha
Management Review Office
Office of the Governor
State of South Carolina
P. O. Box 11450
Columbia, South Carolina 29201

Dear Ms. McGaha:

You have inquired as to whether a state employee can serve as an appointed member of the Commission on the Status of Women.

In response to your inquiry, a distinction must be drawn between an officer and an employee of the state. An officer of the state cannot accept a second office without vacating the first. See Article VI, § 3 Constitution of South Carolina. Thus, using the example mentioned in your letter, Dr. Nance could not accept appointment to the Ethics Commission without surrendering his first office, the Presidency of South Carolina State College.

An employee of the state, on the other hand, exercises none of the sovereignty of the state and therefore can accept appointment to the Commission while retaining his employment. Of course, any state agency may have a policy against permitting any of its employees to hold an office in which a conflict of interest could arise between one's duties as an employee of the state and those as an officer of the state. Thus, using a common example, a school teacher could accept an office without surrendering the teaching position or being in violation of the law.

Admittedly the distinction between an employee and an officer of the state may be somewhat nebulous and not always readily discernable. Various situations may require examination on an individual basis but my conclusion is that while officers of the state cannot accept appointment to the Commission without surrendering their first office, a state employee could accept such an appointment and retain the position of employment.

If you have further questions, do not hesitate to contact me.

Sincerely,

W. Joseph Isaacs
Staff Attorney

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