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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON  
ATTORNEY GENERAL

January 25, 1999

Mr. Lonnie J. Saxon  
201 Glen Laurel Drive  
Easley, South Carolina 29642

**RE: Informal Opinion**

Dear Mr. Saxon:

Your opinion request has been forwarded to me for reply. You have informed this Office that you presently serve as Director of Law Enforcement and supervisor of the parking enforcement personnel for Clemson University (hereinafter "Director"). You are paid by Clemson University and your law enforcement authority is derived from a State constable's commission. You indicate that you are now considering running for mayor of Easley, South Carolina. You have asked whether the dual office holding prohibitions of the State Constitution would be violated if you were to simultaneously serve in these positions.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time, but any person holding another office may at the same time be an officer in the militia, member of a lawfully and regularly organized fire department, *constable*, or a notary public." (emphasis added). For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

This Office has concluded on numerous occasions that one who serves as a mayor of a municipality holds an office for dual office holding purposes. Ops. Atty. Gen. dated September 18, 1997, April 9, 1997 and November 2, 1994.

In regards to the position of Director, you state that your law enforcement authority is derived solely from a State constable commission signed and issued by the Governor and

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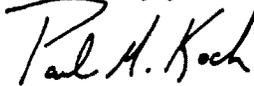
the Chief of SLED. State law provides that campus security departments are staffed by constables commissioned pursuant to Section 23-1-60 of the South Carolina Code of Laws. S.C. Code Ann. § 59-116-20. Therefore, since the Director's law enforcement powers are derived solely from the constable commission, the position must be analyzed for dual office holding purposes in the same manner as any other constable position. As such, the Director's position would fall under the exception provided for constables found in the Constitution.

Based on the foregoing, due to the exception found in the Constitution for constables, it would appear that the dual office holding prohibitions would not be violated if you were to serve as Director and the mayor of Easley. However, I would recommend that you contact SLED to determine whether that agency possesses any rules and regulations on this subject.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General