



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON  
ATTORNEY GENERAL

October 8, 1998

Janie A. Davis, Executive Director  
Commission for Minority Affairs  
2611 Forest Drive, Suite 203  
Columbia, South Carolina 29204

**RE: Informal Opinion**

Dear Ms. Davis:

Your opinion request has been forwarded to me for reply. You have asked whether an individual may simultaneously serve as a magistrate and on the Commission for Minority Affairs without violating the dual office holding prohibitions of the South Carolina Constitution.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or notary public. 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 many occasions that a magistrate holds an office for dual office holding purposes. Ops. Atty. Gen. dated January 29, 1998 and August 13, 1986 as representative of these numerous opinions. We have also concluded that membership on the Commission for Minority Affairs is most probably not an office. Op. Atty. Gen. dated November 21, 1996.

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Based on the foregoing, it is this Office's opinion that an individual could most probably serve simultaneously as a magistrate and as a member of the Commission for Minority Affairs without contravening the dual office holding prohibitions of the State Constitution. However, the individual in question may wish to consult the Advisory Committee on Standards of Judicial Conduct to make certain that no provisions of the Code of Judicial Conduct would be violated.

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