



ALAN WILSON
ATTORNEY GENERAL

April 25, 2014

The Honorable Harvey S. Peeler, Jr.
Senatorial District No. 14
213 Gressette Senate Office Building
Columbia, SC 29202

Dear Senator Peeler:

By your letter dated February 28, 2014 you have asked for the opinion of this Office regarding a seat on the Winthrop University (“the University”) Board of Trustees (“the Board”). Per your letter, you explain one of the potential candidates for a seat on the Board serves as an adjunct professor at the University. You further add that the potential candidate is also the “full time executive director of the Catawba Regional Council of Governments.” In light of this you ask, “[i]s there any case law or statute that would prohibit an adjunct professor from serving on [the Board]” of this institution?” Because serving as both a professor and member of the Board would create a conflict of interest, we believe that there is.¹

In a 1986 opinion of this Office we said that a conflict of interest arises when an individual serves both as a professor and member of the Board at the same state educational institution. Op. S.C. Atty. Gen. 1986 WL 289867 (June 25, 1986). Continuing, we explained that such a relationship “would create a master-servant problem” which is a specific type of conflict based on the common law principle that where one office is subordinate to the other, and subject in some degree to the supervisory power held by the other office, a single individual should not hold both positions. Op. S.C. Atty. Gen. 1986 WL 289867 (June 25, 1986) (citing 67 C.J.S. Officers § 27). Indeed, our Supreme Court, in McMahan v. Jones, 94 S.C. 362, 77 S.E. 1022 (1913) affirmed this principle stating,

¹ However, we note that a dual-office holding issue is not presented by the circumstances mentioned in your letter. See Op. S.C. Atty. Gen., 2005 WL 2250213 (August 29, 2005) (concluding that individual serving as the executive director of a regional council of government does not occupy an office for purposes of the South Carolina Constitution’s dual-office holding prohibition); Op. S.C. Atty. Gen., 1986 WL 289867 (June 25, 1986) (finding that an individual who is a professor at a state educational institution does not hold an office for purposes of a dual-office holding analysis).

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No man in the public service should be permitted to occupy the dual position of master and servant; for, as master, he would be under the temptation of exacting too little of himself, as servant; and as servant, he would be inclined to demand too much of himself, as master. There would be constant conflict between self-interest and integrity.

94 S.C. at 365, 77 S.E. at 1023.

In light of both our prior opinion on this matter and the underlying principle regarding the master-servant conflict of interest, it is the opinion of this Office that the Board candidate mentioned in your letter would be unable to serve as both an adjunct professor and member of the Board. That said, we would advise you, consistent with our prior opinions, "that the problem may be cured by permitting the individual to choose which position he [wishes] to hold, [while] giving up the remaining position." Op. S.C. Atty. Gen., 1986 WL 289867 (June 25, 1986).

Sincerely,



Brendan McDonald
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General