

1984 WL 250031 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 31, 1984

\*1 Mr. J. D. Jones  
Member  
Chesterfield County Council  
146 Main Street  
Chesterfield, South Carolina 29709

Dear Mr. Jones:

You have asked whether one person may simultaneously serve on the local Health and Environmental Board and also on the local School Trustee Advisory Board without violating the dual office holding provisions of the State Constitution.

[Article XVII, § 1A of the South Carolina Constitution](#) provides that ‘no person shall hold two office of honor or profit at the same time.’ 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 tenure, 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 determined on numerous occasions that one who would serve on a local board of health would hold an office for dual office holding purposes. [See Ops. Atty. Gen.](#) dated December 16, 1977 and June 15, 1972, copies of which are enclosed.

You have referred to the other position as membership on the School Trustee Advisory Board. For the purposes of this opinion, it is assumed that you are referring to the Chesterfield County Education Advisory Council, created by Section 7 of Act No. 1010, 1968 Acts and Joint Resolutions. Members of the Council are elected from attendance districts within the county and serve two-year terms. They are not compensated for their service on the council. Section 7 of Act No. 1010 specifies that the Council is to perform such duties as directed by the Chesterfield County School District Board of Education. An examination of the duties of the Chesterfield County Education Advisory Council provided to this Office shows that the functions of the Council are to advise and make recommendations to the District Board of Education in such areas as personnel, housekeeping, extracurricular and other programs, communications, and other general areas. Final decision-making is reserved to the District Board. Considering all factors, one who would serve on the Council would most probably not hold an office for dual office holding purposes.

In conclusion, one who would serve simultaneously on the local board of health and on the Chesterfield County Education Advisory Council would most probably not contravene the dual office holding prohibition of the State Constitution.

Sincerely,

Patricia D. Petway  
Assistant Attorney General

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