

1975 S.C. Op. Atty. Gen. 47 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3974, 1975 WL 22272

Office of the Attorney General

State of South Carolina

Opinion No. 3974

February 19, 1975

*1 The Honorable John W. Matthews, Jr.

Member

House of Representatives

Box 159

Bowman, South Carolina 29018

Dear Mr. Matthews:

You have inquired as to whether the same individual may hold a position of member of Board of Trustees of School District No. 1 of Orangeburg County and at the same time serve as a member of the governing board of Orangeburg Regional Hospital.

I advise that, in my opinion, each of these positions is an office within the meaning of the dual officeholding provision of the Constitution of this State and that, therefore, the same person cannot hold both offices at the same time. The constitutional provision provides:

‘No person shall hold two offices of honor, trust or profit at the same time—.’

The definition of ‘office’ as used in the constitutional provision is not precise but it generally comprehends the occupancy of a position which involves the exercise of some portion of the sovereignty. Among the indicia of an office are: term, duties prescribed by law, its continuing nature as contrasted with an intermittent or transient status, and other criteria which affect consideration of the problem. Chiefly among these, however, is that the position be created by law and that it involve the execution of some portion of the sovereignty. In my opinion, the positions of school trustees and membership upon the governing body of a public hospital each clearly constitutes an office. Therefore, the constitutional provision is applicable.

Very truly yours,

Daniel R. McLeod

Attorney General

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