

1975 WL 29702 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1975

*1 The Honorable Allen M. Flowers
Magistrate for Marion County
County Office Building
West Court Street
Post Office Box 357
Marion, South Carolina 29571

Dear Judge Flowers:

Thank you for your letter of March 26, 1975, inquiring if you may serve as a member of the Human Resources Development Commission for Dillon and Marion Counties while at the same time occupying the position of magistrate.

The position of magistrate is undoubtedly an office within the meaning of the dual officeholding provision of the Constitution of this State.

The position of member of the Human Resources Development Commission for Dillon and Marion Counties is created by Act No. 1397 of 1974. Members receive no salary but the primary function of the Commission is to promote communication and cooperation among the various Federal, State, County and City programs aimed at improving the health, education, welfare, housing or employment of persons in the County. The Commission has power to contract to carry out this purpose and may receive and expend funds for these programs. It has the authority to purchase, lease or acquire by gift, real or personal property.

It is my opinion that the position you occupy as a member of the latter Commission is an office also in that it is created by law, with some duties involving the exercise of the sovereign power.

Therefore, in my opinion, you may not occupy both of such positions at the same time.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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