

1975 S.C. Op. Atty. Gen. 210 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4141, 1975 WL 22437

Office of the Attorney General

State of South Carolina

Opinion No. 4141

September 29, 1975

\*1 Dual Office Holding results if an individual serves as school district trustee and county hospital commission member at the same time.

TO: Frank Hart  
Superintendent of Schools  
Marion District # 1

QUESTION PRESENTED:

Can an individual serve as Chairman of the Marion District #1 School Board and serve as a Marion County Hospital District Commissioner at the same time?

STATUTES, CASES, ETC.

South Carolina Constitution, Article XVII, Section 1A; [Sanders et al., v. Belue, et al.](#), 78 S. C. 171, 56 S. E. 762; [Edge v. Town of Cayce](#), 187 S. C. 172, 197 S. E. 216; [Ashmore v. Greater Greenville Sewer District](#), 211 S. C. 77, 44 S. E. 2d 88; Act No. 926, Sections 22 and 23, South Carolina Acts and Joint Resolutions of 1974.

DISCUSSION OF ISSUES:

Article XVII, Section 1A of the South Carolina Constitution provides that no person shall hold two offices of honor or profit at the same time. The South Carolina Supreme Court defined public officer in [Sanders v. Belue](#), 78 S. C. 171, 58 S. E. 762, as follows:

‘One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing, and not occasional or intermittent, is a public officer.’ [Emphasis added]

Under a long line of Attorney General Opinions, the position of school board member has been considered an office under the above definition. (1972 Op. Atty. Gen. 76, 1971 Op. Atty. Gen. 116). Therefore, attention must be directed toward the position of Commissioner of the Marion County Hospital District.

The Marion County Hospital District was apparently created by merger of two pre-existing districts, pursuant to the authority granted in Act No. 926 of the 1974 Acts and Joint Resolutions. Act No. 926, Section 22 allows creation of the Commission and sets up a term of years each Commissioner shall serve. Commissioners are appointed by the Governor upon recommendation of a majority of the county legislative delegation. Section 23 gives the Commission the powers of all pre-existing districts consolidated and all powers of predecessor commissions. Section 24 allows the power to issue revenue bonds to continue in effect.

Clearly such a position is created by law, with legally defined duties relating to the continuing exercise of the State's sovereign authority. There is no question that the public is concerned with this exercise of the State's duty to protect the health and welfare of its citizens.

CONCLUSION:

Under such an analysis the position of Commissioner on the Marion County Hospital District Commission is an office subject to constitutional restrictions on dual office holding. Therefore the same person cannot hold this office and the position of school district trustee at the same time, in harmony with the South Carolina Constitution.

\*2 George C. Beighley  
Staff Attorney

1975 S.C. Op. Atty. Gen. 210 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4141, 1975 WL 22437