

1974 WL 27941 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 28, 1974

\*1 Mr. E. H. Heustess, Jr.  
City Manager  
City of Cayce  
P. O. Box 4  
Cayce, South Carolina

Dear Mr. Heustess:

Thank you for your letter of August 14, 1974, in which you raised various questions concerning eligibility of certain individuals serving as mayor and council in the City of Cayce. Specifically you have raised the following questions:

(1) Are State employees eligible to run and serve as mayor and council?

No South Carolina statute would prohibit a State employee offering as a candidate for mayor or councilmember, unless the city in which the candidate is offering for election has a council-manager form of government. South Carolina Code of Laws, 1962, Section 47-699.23 states

Councilmen shall be qualified electors of the city and shall hold no other public office or public employment with the city, county or State, except that of notary public, appointed school board member or member of the National Guard or other Federal military reserve.

Therefore, a State employee may run for the office of mayor or councilman unless the city has a council-manager form of government in which case candidacy by a State employee would be prohibited.

(2) Does the receipt of Federal funds by the agency of which they are employed effect their eligibility?

(3) Can Federal employees run and serve as mayor and council?

If a State employee is paid in whole or in part by federal funds, or if his job is related to an activity which receives federal funds, he comes within the provisions of the Hatch Act and determinations of permissible activities must be made by the Office of General Counsel for the United States Civil Service Commission in Washington, D. C.

However, a federal employee comes under the prohibitions of the Hatch Act which does prohibit federal employees, or those receiving federal funds from becoming a candidate in a partisan election.

(4) Can State and Federal employees serve on committees of a municipality? Does the fact that they serve and receive remuneration effect their eligibility?

A State employee would not be prohibited from serving on a committee of a municipality by State statute. However, any State agency may promulgate its own rules and regulations which govern an employee of that agency. Therefore, if an agency establishes rules and regulations that prohibit an employee serving on a municipal committee this guideline would control an employee of that agency. Whether or not a federal employee would be prohibited from serving on a municipal

committee would be a question that should be determined by the Office of General Counsel for the United States Civil Service Commission in Washington, D. C. which makes determinations of permissible activities under the Hatch Act.

If an individual does serve on a municipal committee and offers for election in that municipality the possibility of dual office holding would arise and would by necessity have to be determined case by case.

Sincerely,

\*2 Treva Ashworth  
Assistant Attorney General

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