

1974 WL 27526 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 5, 1974

*1 Ms. Laura Mack Sims
227 St. Margaret Street
Charleston, South Carolina 29403

Dear Ms. Sims:

Thank you for your letter of November 23, 1974, concerning the question of whether or not you may serve as a member of the Cosmetic Art Board of Examiners while at the same time occupying the position of member of School District No. 20 Constituent Board of Charleston County.

As a member of a Constituent School District of Charleston County, you serve upon a board which has certain authorities as set forth in the Act creating such boards which includes authority to transfer pupils, to suspend or dismiss pupils, and to make recommendations annually to the Board of Trustees of the Charleston County School District relative to the educational affairs of the District. Specific terms of office are provided for and the actions of the Constituent Boards are subject to appeal to the Board of Trustees to the Charleston County School District.

As a member of the Constituent Board, you are, in my opinion, an officer within the meaning of the dual officeholding provision of the State Constitution. As a member thereof, you participate in exercising a portion of the sovereignty of the State, *i.e.*, the conduct of educational affairs, although the powers so granted are somewhat minimal. In other respects, the members of the Constituent Boards of Trustees meet the generally accepted indicia of an officer as that term is used in the constitutional sense.

As a member of the Board of Cosmetic Art Examiners, you similarly serve as an officer.

The fact that no compensation is paid to the holder of an office is not determinative of whether the position is or is not an office—each of the positions is an office of trust or honor, which are the additional descriptive terms used in the Constitution.

I do not feel that you can constitutionally occupy both of these offices at the same time and I recognize that your desire to serve will be of lasting benefit to this State. The fact that you are serving in this dual capacity does not, however, render any actions taken by you in either capacity invalid and you must continue in them unless and until your successor has been appointed and has qualified.

With my best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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