

March 12, 2004
OPINION 04-0045

Mayor Tim J. Tregle
P. O. Box 1218
Morgan City, LA 70381

Dear Mayor Tregle:

You advise this office that fireman Sidney Roy had received a non-disciplinary demotion from the position of assistant chief to captain within the Morgan City Fire Department. Mr. Roy was subsequently reinstated to the position of assistant chief by your civil service board.

The municipality reimbursed Mr. Roy the difference between pay of a captain and that of assistant chief retroactive to the date of demotion. In addition, the municipality paid the appropriate contributions for the position of assistant chief to the retirement system for that period.

You state that the duties of assistant fire chief include being placed on call once every third week. During his period of demotion, Mr. Roy was not an assistant fire chief; another assistant chief was placed on call and paid compensatory time for hours worked. Mr. Roy now claims he is entitled to compensatory time for the weeks he would have been scheduled to be on call. You ask if the municipality should pay Mr. Roy compensatory time for hours he did not work.

Our response is in the negative. Compensatory time is an earned benefit. This office has previously determined that the payment of funds as wages for hours which have not been earned violates Article VII, §14 of the Louisiana Constitution of 1974, which prohibits the donation of public funds. See Attorney General Opinions 02-0360 and 86-0652, copies attached.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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71 MUNICIPALITIES

77 OFFICERS

Fireman who is reinstated to his former position of assistant fire chief is not entitled to overtime compensation for hours he would have been on call but in fact did not work.

Mayor Tim J. Tregle
P. O. Box 1218
Morgan City, LA 70381

Date Received:

Date Released: March 12, 2004

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL