

May 9, 2006
OPINION 06-0094

Mr. Carl R. Toups
10808 Louisiana Highway 339
Erath, Louisiana 70533

78 Dual Officeholding
R.S. 42:63(D); R.S. 42:66(B)
The job description of individual employed at the University of Louisiana at Lafayette reflects someone employed in a professional education capacity; thus, he may run for local elective office of school board member.

Dear Mr. Toups

You advise this office that you are currently employed as a Data Systems Coordinator at the New Iberia Research Center, owned and operated by the University of Louisiana at Lafayette. You ask if you may also hold the local elective office of school board member.

R.S. 42:63(D) of the Louisiana Dual Officeholding and Dual Employment Law, R.S. 42:61, et seq., provides, in pertinent part:

D. No person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision thereof. No such person shall hold at the same time employment in the government of this state, or in the same political subdivision in which he holds an elective office. . . . (Emphasis added).

An employee of the university holds employment in the executive branch of government of this state,¹ while a school board member holds local elective office in a political subdivision of this state. R.S. 42:63(D) prohibits one from holding state employment and the local elective office of school board member.

Despite the prohibition of R.S. 42:63(D), there is an exemption in the law which permits the holding of these two positions. R.S. 42:66(B) states:

¹ R.S. 42:62(6) states:

(6) The executive branch of state government includes the following named offices and all other officers, agents, employees, or other persons holding or exercising an employment with them, namely, the governor; lieutenant governor; secretary of state; attorney general; treasurer; commissioner of agriculture; commissioner of insurance; superintendent of education; commissioner of elections; members of the State Civil Service Commission, the Public Service Commission, the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the State Board of Elementary and Secondary Education, the Board of Trustees for State Colleges and Universities, and the State Bond Commission. The executive branch shall also include the officers, members, agents, and employees of any department, office, agency, instrumentality, board, commission, or other entity created by the constitution or by law whose functions are not primarily legislative, judicial or local in nature or operation.

- B. Nothing in this Part shall be construed to prevent a school teacher or person employed in a professional educational capacity in a grade school, high school, or other educational institution, parish or city school board from holding at the same time an elective or appointive office.

Thus, a person who is employed in a professional educational capacity at a university may, in general, hold a local elective office such as school board member.

The phrase "professional educational capacity" is not defined by statute. However, this office has interpreted this phrase to include those employments where the job description includes duties that affect the curriculum taught at the university or college, duties that require participation in the delivery of educational programs at the institution, or duties that require the planning of long and short range educational goals for the students. See Attorney General Opinions 03-0197, 02-0293, 02-0307, and 02-0076.

You advise us that in your employment at the university primate research center you supervise the historical documentation of medical record data on all research primates. You are also responsible for the formulation and disposition of standard operating procedures at the research center. In addition you function as facility biosafety instructor. You teach a biosafety class to the staff on a quarterly basis, which is a requirement of federal law. You also teach the technical staff a seventeen-week preparatory course for the AALAS (Association for the Advancement of Laboratory Animal Science) technician certification examination.

Our review of your job duties leads us to conclude that your position with the university is a largely academic one. You routinely serve the university as a researcher and instructor. We consider the position to be one of an individual employed in a "professional educational capacity", despite the fact that you do not teach students directly. Your position ultimately impacts the educational curriculum at the university. For this reason, we consider the exemption applicable to you, and it is the opinion of this office that you may run for and hold the position of school board member.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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KERRY L. KILPATRICK
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