

June 28, 2006
OPINION 06-0144

Mr. Oliver Myers
9850 Joor Road
Baton Rouge, LA 70818

27 ELECTIONS

R.S. 17:428(A); R.S. 42:141; R.S. 17:428

To qualify and campaign for a seat on the parish school board an employee of the school board does not have to resign. However, if elected he must resign his employment.

Dear Mr. Myers:

You have asked this office to advise whether you may serve as an elected member of the East Baton Rouge Parish School Board and retain your employment as a school teacher in the East Baton Rouge Parish school system.

Your attention is directed to R.S. 17:428(A) providing:

A. After July 27, 1960 no supervisor, principal or teacher or any other school employee of any school board in this state shall be eligible to serve as a member of the board employing such person; however, such person shall be eligible to serve on any other parish or city school board if duly elected or appointed thereto. Whenever any supervisor, principal, teacher or other school employee is elected as a member of any parish or city school board or accepts any appointment to fill an unexpired term thereon and such board is his employer, he shall immediately submit his resignation to his employing board of which he is now a member. Should any such person fail to submit his resignation, the position he holds under such employing board shall be declared vacated by the taking of the oath of office as a member of the employing board. No resignation shall be required of any supervisor, principal, teacher, or other school employee because of his election or appointment to a parish or city school board of which he is not an employee. (Emphasis added).

You need not resign your employment in order to qualify and campaign for the position of school board member. However, pursuant to R.S. 17:4128(A) quoted above, upon your election, you must immediately resign your employment.

Upon election you are entitled to the position on the school board, and you become a member upon taking the oath. In this regard, in Attorney General Opinion 90-577 this office stated, "you will note that upon election of a school teacher to a school board he shall immediately submit his resignation, and should he fail to do so, the position that

the teacher holds under the school board shall be declared vacated by his taking of the oath of office as a member of the school board.” It was further observed therein that under R.S. 42:141 each public officer within 30 days of receipt of his commission shall take the oath of office prescribed by law.

R.S. 17:428 has been specifically retained as a viable statute by the Act creating Louisiana’s Dual Officeholding Law, Act 700 of the Louisiana Regular Legislative Session of 1979. Section 8 of that Act states:

Section 8. Except for the provisions of Section 428 of Title 17 of the Louisiana Revised Statutes of 1950, all other laws or parts of laws in conflict herewith are hereby repealed and Sections 31, 31.1, 33, and 38 of Title 42 and Section 137 of Title 14, all of Louisiana Revised Statutes of 1950 are hereby specifically repealed.

In accord with the foregoing, upon your election to the school board which employs you as a teacher, you must resign your employment.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Mr. Oliver Myers
10200 E. Brookside Drive
Baton Rouge, LA 70818

Date Received:
Date Released: June 28, 2006

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL