

August 15, 2006
OPINION 06-0217

Honorable Edmond J. Muniz
Mayor
City of Kenner
1801 Williams Blvd.
Building B, Suite 200
Kenner, LA 70062

90-A Political Subdivisions –Officers, Agents & Employees
R.S. 42:1411
Chief administrative officer was improperly suspended and must be reimbursed his salary and benefits for the period between his suspension and his formal resignation.

Dear Mayor Muniz:

You advise this office that Mr. Cedric Floyd was the Chief Administrative Officer of a prior administration in Kenner. He was suspended without pay by the former mayor on September 20, 2005. He was arrested by the Kenner Police Department on September 23, 2005. Criminal charges have yet to be filed against Mr. Floyd by the district attorney; however, he formally resigned his position on June 20, 2006 and has requested that he be paid his salary and all benefits for the time between his suspension and his resignation.

Mr. Floyd was suspended because of pending criminal charges; however, LSA-R.S. 42:1411 provides that a public officer shall be suspended from his office without compensation upon conviction of a felony rather than upon indictment for a criminal offense. R.S. 42:1411(A) and (B) provide:

§ 1411. Public officer; ground for removal; suspension; definitions

A. A public officer shall be removed from office for conviction, during his term of office, of a felony.

B. The conviction for a felony of a public officer shall automatically suspend that individual from his public office without compensation. The suspension from public office without compensation shall continue until the conviction is final and all appellate review of the original trial court proceedings is exhausted. During the period of suspension, the public official shall not perform any official act, duty, or function nor shall he receive any compensation, pay, allowance, emolument, or privilege of his office. If the conviction is reversed on appeal, the public official shall be entitled to and shall receive full back pay with legal interest thereon from the date of suspension, compensation, and all rights, duties, powers, allowances, emoluments, and privileges of office to which he would have been entitled had he not been suspended.

Thus, it is our opinion that the chief administrative officer was improperly placed on leave without pay in contravention to R.S. 42:1411. Since Mr. Floyd's suspension was premature, he is entitled to be reimbursed for his salary for the period between the date of his suspension and the date he formally resigned. His compensation includes his insurance and retirement benefits.

This office has issued a similar conclusion in Attorney General Opinion 02-0321 concerning the improper suspension without pay of a parish employee. We attach a copy of that opinion for your review.

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

KLK:ams

SYLLABUS

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Date Received:

Date Released: August 15, 2006

Kerry L. Kilpatrick
Assistant Attorney General