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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

August 9, 2013
OPINION 13-0068

92-A-2-(b) RETIREMENT- Clerk of Courts
92-A-2-(g) RETIREMENT- State Employees

La. R.S. 11:411 La. R.S. 11:1503
La. R.S. 11:1511 La. R.S. 11:1512

Mr. Derek Ransome
Director of Finance
Nineteenth Judicial District Court
300 N. Blvd., Suite 3606
Baton Rouge, Louisiana 70801

A court reporter who was formerly a member of the Clerks' of Court Retirement System and Relief Fund was correctly placed in the Louisiana State Employees' Retirement System upon her rehire.

Dear Mr. Ransome:

Our office received your request for an opinion on whether Ms. Charlotte Webre ("Ms. Webre") may rejoin and make contributions to the Clerks' of Court Retirement System and Relief Fund ("Clerks' of Court Retirement System").¹ Your opinion request states that Ms. Webre was employed as a court reporter by the Nineteenth Judicial District Court from November 2, 1981, until October 15, 2000. During this time, Ms. Webre was a member of the Clerks' of Court Retirement System. Ms. Webre was subsequently rehired as a court reporter with the Nineteenth Judicial District Court on September 1, 2004. Upon her rehire, Ms. Webre became a member of the Louisiana State Employees' Retirement System.² Your opinion request letter indicates you contacted the Clerks' of Court Retirement System on behalf of Ms. Webre and asked whether she was eligible to rejoin or renew her membership with their retirement system. The Clerks' of Court Retirement System responded that Ms. Webre could not rejoin their retirement system because she did not meet the definition of "employee" under La. R.S. 11:1503 (4). You would like to know whether Ms. Webre should be allowed to rejoin and make contributions to the Clerks' of Court Retirement System.

The Clerks' of Court Retirement System was established by Act 51 of the 1950 Louisiana Legislative Session. When Ms. Webre was initially hired by the Nineteenth Judicial District Court, the Clerks' of Court Retirement System included in its membership the position of deputy clerk of court.³ Counsel for the Clerks' of Court

¹ See La. R.S. 11:1501 *et seq.*

² See La. R.S. 11:401 *et seq.*

³ Act 51 of the 1950 Louisiana Legislative Session, Section 1 created a Clerks' of Court Retirement System for each Parish except Orleans Parish for the "Clerk of Court, deputies, and employees throughout the State." This act was codified in former La. R.S. 13:931. Act 421 of the 1964 Louisiana Legislative Session amended and reenacted La. R.S. 13:931 and created a retirement system for each Parish including Orleans Parish for "the clerks of the criminal and civil district courts, their deputies and

Retirement System has informed our office that prior to 2001, it was common practice for court reporters in East Baton Rouge Parish to be "deputized" so that they were eligible to participate in the Clerks' of Court Retirement System, even though they were not employed by the clerk's office. Your office has confirmed that Ms. Webre was in fact sworn in as a deputy clerk during her initial employment with the Nineteenth Judicial District Court. During her initial employment tenure, Ms. Webre was eligible to participate in the Clerks' of Court Retirement System because she was a deputy clerk.

Louisiana Revised Statute 11:1503 (4) was amended by Act 739 of the 2001 Louisiana Legislative Session ("Act 739"), which removed the position of "deputy clerk" from the definition of an employee entitled to participate in the Clerks' of Court Retirement System.⁴ However, the amendment allows any court reporter employed by either Orleans Parish or East Baton Rouge Parish who was enrolled in the fund on or before July 1, 2001, (the effective date of Act 739) to remain in the fund as a member. In effect, Act 739 allows the court reporters in Orleans and East Baton Rouge Parish who were participating in the Clerks' of Court Retirement System as "deputy clerks" on or before July 1, 2001 to remain in the system. Louisiana Revised Statute 11:1503 (4) does not protect a member once they terminate their membership with the Clerks' of Court Retirement System.

Membership in the Clerks' of Court Retirement System ceases when the member "resigns, is dismissed, retires, or is otherwise separated from services as a clerk or employee."⁵ Based on the facts you have presented, Ms. Webre's membership in the Clerks' of Court Retirement system ceased on October 15, 2000, when she left her position as court reporter/deputy clerk with the Nineteenth Judicial District Court.

On Ms. Webre's date of rehire, September 1, 2004, the Clerks' of Court Retirement System no longer allowed deputy clerks to be members of its retirement system.⁶ Upon rehire, Ms. Webre was correctly placed in the Louisiana State Employees' Retirement System, which requires that "each person who becomes an employee in the state service...shall become a member of the system as a condition of employment."⁷

employees and the minute clerks and stenographers or reporters of the criminal and civil district courts of Orleans Parish...." La. R.S. 13:931-13:960.2 were redesignated into Title 11 by Act 74 of the 1991 Louisiana Legislative Session.

⁴ La. R.S. 11:1503 (4) defines the word "employee" for purposes of the Clerks' of Court Retirement and Relief Fund to mean:

any regular employee of a clerk, minute clerk, and employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, who works more than an average of twenty hours per week. Any court reporter employed by either Orleans Parish or East Baton Rouge Parish who was enrolled in the fund on or before July 1, 2001, shall be allowed to remain in the fund as a member or active member of the fund and to become eligible to receive retirement benefits as required by law.

⁵ La. R.S. 11:1512.

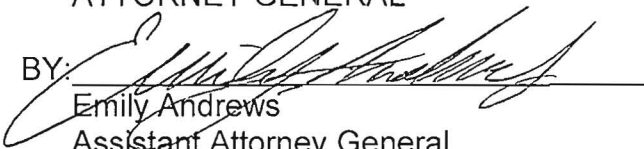
⁶ La. R.S. 11:1511 and La. R.S. 11:1503 (4).

⁷ La. R.S. 11:411.

In conclusion, it is the opinion of our office that Ms. Webre is not eligible to rejoin the Clerks' of Court Retirement System. We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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BY: 

Emily Andrews
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JDC: EGA