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ATTORNEY GENERAL

State of Louisiana

DEPARTMENT OF JUSTICE

P.O. BOX 94005

BATON ROUGE

70804-9005

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OPINION 13-0203

Mr. Marston Fowler
Office of Juvenile Justice
7919 Independence Blvd.
State Police Building
Baton Rouge, Louisiana 70896

78 DUAL OFFICEHOLDING

La. R.S. 42:61, *et seq.*

A juvenile probation officer is not prohibited from working part time as a drug court compliance officer if that work is done through a professional service contract.

Dear Mr. Fowler:

Our office received your opinion request regarding whether a juvenile probation officer with the Office of Juvenile Justice may also serve as a district court compliance officer in the 15th Judicial District.

Specifically, you have asked this office to render a legal opinion regarding whether the provisions of the Louisiana Dual Officeholding and Dual Employment Law, La. R.S. 42:61, *et seq.*, would prohibit the holding of these positions concurrently. Classifying the correct nature of the positions is essential for the purposes of applying the dual officeholding provisions.

The position as a juvenile probation officer is considered a full time¹ state appointive position.² In contrast, this specific drug court compliance officer position would be characterized as contractual part time³ work according to the information you provided. Our office has previously opined that if a position is with a public entity through a

¹ Full time is defined as "the period of time which a person normally works or is expected to work in an appointive office or employment and which is at least seven hours per day of work and at least thirty-five hours per week of work." La. R.S. 42:62(4).

² Appointive office is defined as "any office in any branch of government or other position on an agency, board, or commission or any executive office of any agency, board, commission, or department which is specifically established or specifically authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof and which is filled by appointment or election by an elected or appointed public official or by a governmental body composed of such officials of this state or of a political subdivision thereof." La. R.S. 42:62(2).

³ Part time is defined as "the period of time which a person normally works or is expected to work in appointive office or employment which is less than the number of hours worked in this Section as full-time." La. R.S. 42:62(5).

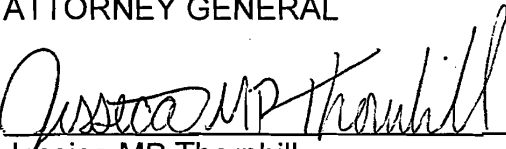
professional service contract, it would not meet the dual officeholding definition of employment.⁴ See La. Atty. Gen. Op. Nos. 12-0241, 02-0436 and 96-0009. Since this position as a drug court compliance officer is contractual,⁵ there is no dual officeholding prohibition to hold both of these positions simultaneously.

As an aside, our expressed opinion relative to state law is limited to an examination of the dual officeholding provisions. Any ethical questions raised by this matter are within the jurisdiction of the Louisiana State Board of Ethics. The Board renders advisory opinions regarding the Louisiana Code of Governmental Ethics, La. R.S. 42:1111, *et seq.* The mailing address is P.O. Box 4368, Baton Rouge, Louisiana 70821, and phone number is 225-219-5600.

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,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: 
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JDC: JMPT

⁴ Employment is defined as "any job compensated on a salary or per diem basis, other than an elective or appointive office, in which a person is an employee of the state government or of a political subdivision thereof." La. R.S. 42:62(3).

⁵ There is no indication that this drug court compliance officer position falls within either the dual officeholding definitions of "elective office" or appointive office" as defined in La. R.S. 42:62.