



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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

September 19, 2014
OPINION 14-0110

Honorable Mike Tregre
Sheriff, St. John the Baptist Parish
P.O. Box 1600
LaPlace, Louisiana 70069

Dear Sheriff Tregre:

57 JUSTICES OF THE PEACE
107 SHERIFFS - Constables & Marshals

La. Const. art. XI, § 4; La. R.S. 18:1465

Absent a personnel policy or other rule prohibiting such act, a leave of absence from employment as deputy sheriff need not be taken while running for political office as long as the individual fulfills his job duties and does not use official time for election activities.

You have requested an opinion of the Attorney General in regards to a deputy sheriff seeking the office of justice of the peace. You ask whether the deputy sheriff may run for office of justice of the peace while continuing to serve as a deputy sheriff with the St. John the Baptist Sheriff's Office. In the event the deputy sheriff is elected to the office of justice of the peace, you ask whether he may simultaneously serve as a deputy sheriff.

In response to your first question, we note that the St. John the Baptist Sheriff's Office has not elected to be governed by a civil service system. Additionally, your office does not have a personnel policy that regulates the rights of employees to engage in political activity. There is no state law requiring an unclassified employee to take a leave of absence from his employment in order to campaign. However, the law does require the employee conduct campaign activities during non-work hours. Campaign activities conducted while on-duty are a violation of La Const. art. XI, § 4, which states that "no public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated to a candidate or political organization...." The language of this constitutional provision also appears in La. R.S. 18:1465, which imposes criminal penalties as follows:

A. No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated to a candidate or political organization. This provision shall not prohibit the use of public funds for dissemination of factual information relative to a proposition appearing on an election ballot.

B. Whoever violates any provision of this Section shall be fined not more than one thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

Based on the foregoing, it is the opinion of this office that a non-civil service deputy sheriff may run for the elected office of justice of the peace without taking a leave of absence from his job or resigning as long as he fulfills his job duties and does not use official time for election activities. As our office has addressed in previous opinions, any campaigning must occur when the candidate is off-duty.¹

As one office has addressed in previous opinions, any campaigning must occur when the candidate is off-duty. With regard to your second question, be advised that Justices of the Peace are governed by the Code of Judicial Conduct, which is within the authority of the Judiciary Commission. We suggest that you contact the Judiciary Commission, 601 St. Charles Avenue, New Orleans, LA 70130, phone (504) 568-8299, regarding your inquiry as to whether it would violate the Canons of the Code of Judicial Conduct to hold both positions at the same time.

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: Erin C. Day
Erin C. Day
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JDC:ECD/jmr

¹ See also La. Atty. Gen. Ops. No. 02-178, 96-236, 86-405, and 83-559.