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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

January 10, 2020
OPINION 20-0002

Ms. Kathy Edmonston
43510 N. Pinecrest St.
Gonzales, Louisiana 70737

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 17:51, *et seq.*

La. Const. art. VIII, § 9

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full time Special Education Parent Facilitator employed by the Ascension Parish School Board from serving as State Representative for District 88.

Dear Ms. Edmonston:

Our office received your request for an opinion regarding whether a full time Special Education Parent Facilitator employed by the Ascension Parish School Board may serve as State Representative for District 88.

The provisions of the Dual Officeholding and Dual Employment Law, found at La. R.S. 42:61, *et seq.*, govern questions concerning the ability to hold two or more public offices and/or positions simultaneously. Classifying the correct nature of the positions held is essential for the purposes of applying the Dual Officeholding and Dual Employment Law.

The Ascension Parish School Board was created by the legislature pursuant to La. Const. art. VIII, § 9 and is governed by the provisions of La. R.S. 17:51, *et seq.* According to the information provided to this office, you are employed by the Ascension Parish School Board as a full time Special Education Parent Facilitator. Your position is under the supervision of the Director of Special Education. Your duties include serving as a liaison between parents and schools in order to provide educational services to special education students, informing parents of educational programs, services and resources available to special education students, and attending school meetings involving educational services provided to special education students. Your position as Special Education Parent Facilitator is classified as a position of "full time" "employment" for purposes of the Dual Officeholding and Dual Employment Law.¹

¹ "Full time" means 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). "Employment" means 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. La. R.S. 42:62(3).

The legislative branch of state government includes members of the House of Representatives. The position of State Representative is classified as an "elective office" for the purposes of the Dual Officeholding and Dual Employment Law.²

The Ascension Parish School Board is considered a political subdivision of the State for the purposes of the Dual Officeholding and Dual Employment Law.³

The most applicable provision of the Dual Officeholding and Dual Employment Law is La. R.S. 42:63(C), which provides in pertinent part:

No person holding an elective office in the government of the state shall at the same time hold another elective office, a full-time appointive office, or employment in the government of this state or in the government of a political subdivision thereof.

La. R.S. 42:63(C) generally prohibits holding an elected office in the government of the state and employment in the government of a political subdivision. However, La. R.S. 42:66 establishes exemptions to the Dual Officeholding and Dual Employment Laws. In particular, La. R.S. 42:66(B) provides as follows:

Nothing in this Part shall be construed to prevent a school teacher or person employed in a professional educational capacity in a grade school, high school, other educational institution, parish or city school board from holding at the same time an elective or appointive office.

While there is no definition of "professional educational capacity" found in the Dual Officeholding and Dual Employment Law, our office has consistently opined that the exemption found in La. R.S. 42:66(B) is for school teachers and those employed in a professional education capacity in a school or other educational institution.⁴ Our office has interpreted the phrase "professional educational capacity" to include employments where the job description includes duties that affect the curriculum taught, that require participation and delivery of educational programs or require the planning of long and short term educational goals for students.⁵

² "Elective office" means any position which is established or authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof, which is not a political party office, and which is filled by vote of the citizens for this state or of a political subdivision thereof. La. R.S. 42:62(1).

³ "Political subdivision" means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions. In addition for the purposes of this Part, mayor's courts, justice of peace courts, district attorneys, sheriffs, clerks of court, coroners, tax assessors, registrars of voters, and all other elected parochial officials shall be separate political subdivisions. La. R.S. 42:62(9).

⁴ La. Atty. Gen. Op. Nos. 10-0145 and 94-278.

⁵ La. Atty. Gen. Op. Nos. 11-0160, 11-0145, 03-0197, 02-0293, 02-0307, 02-0076 and 97-131.

In a similar factual situation, our office opined that the Facilitator of the Research-Based Educational Practices at LSU HSC New Orleans was employed in a professional educational capacity.⁶ The specific duties of this position included working with teachers to evaluate the needs of disabled students, providing technical assistance and consultations in schools, group training and planning and conducting educational workshops.

A full time Special Education Parent Facilitator employed by the Ascension Parish School Board holds employment in a professional education capacity in an educational institution and is exempt from the provisions of the Dual Officeholding and Dual Employment Law pursuant to La. R.S. 42:66(B).

Based on the applicable provisions of law, our prior opinions and the information you have provided, it is the opinion of this office that the provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full time Special Education Parent Facilitator employed by the Ascension Parish School Board from serving as State Representative for District 88.

Please note that our expressed opinion relative to state law is limited to an examination of the Dual Officeholding and Dual Employment Law. Further, it does not address the potential applicability of the provisions of the Louisiana Code of Governmental Ethics, La. R.S. 42:1111, *et seq.* Advisory rulings addressing questions under the Ethics Code are within the jurisdiction of the Louisiana State Board of Ethics. The Board may be contacted at the following address: P.O. Box 4368, Baton Rouge, LA 70821, phone: 225-219-5600.

We hope that this opinion adequately addresses 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,

JEFF LANDRY
ATTORNEY GENERAL

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Madeline S. Carbonette
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⁶ La. Atty. Gen. Op. No. 13-0144.