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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
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November 15, 2023
OPINION 23-0110

Dr. Stephen Chapman
1135 Lake Drive
Woodworth, LA 71485

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 37:751, *et seq.*

La. Const. VIII, § 9
La. R.S. 17:51, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a member of the Rapides Parish School Board from serving as a member of the Louisiana State Board of Dentistry.

Dear Dr. Chapman:

Our office received your request for an opinion regarding whether a member of the Rapides Parish School Board may serve as a member of the Louisiana State Board of Dentistry.

Pursuant to La. Const. art. X, § 22, the legislature has enacted laws regulating dual employment and defining, regulating, and prohibiting dual office holding in state and local government. 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 Rapides 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.* A member of the Rapides Parish School Board is elected in accordance with the provisions of La. R.S. 17:52. A member of the Rapides Parish School Board holds an “elective office” for the purposes of the Dual Officeholding and Dual Employment Law.¹

The Louisiana State Board of Dentistry was created within the Louisiana Department of Health pursuant to the provisions of La. R.S. 37:753, *et seq.* The Louisiana Board of Dentistry is governed by fifteen members who are appointed by the governor.² A member of the Louisiana State Board of Dentistry holds a “part time” “appointive office” for the purposes of the Dual Officeholding and Dual Employment Law.³

¹ “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).

² La. R.S. 37:753(B)-(C).

³ “Part time” means the period of time which a person normally works or is expected to work in an appointive office or employment which is less than the number of hours of work defined in this Section as full time. La. R.S. 42:62(5). “Appointive office” means any office in any branch of government or other

The Rapides Parish School Board is classified as a political subdivision of the state for the purposes of the Dual Officeholding and Dual Employment Law.⁴ The Louisiana State Board of Dentistry is classified as part of the executive branch of state government for the purposes of the Dual Officeholding and Dual Employment Law.⁵

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

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

The prohibition of La. R.S. 42:63(D) is not applicable because the appointive office is part time.

Based on the applicable provisions of law 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 member of the Rapides Parish School Board from serving as a member of the Louisiana State Board of Dentistry.

Please note that our expressed opinion is limited to an examination of the state law relating to Dual Officeholding and Dual Employment. Further, it does not address the potential applicability of the provisions of the Louisiana Code of Governmental Ethics,

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).

⁴ "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).

⁵ The executive branch of state government includes the following named officers and all other officers, agents, employees, or other persons holding or exercising an employment with them, namely, the governor; lieutenant governor; secretary of state; attorney general; treasurer; commissioner of agriculture; commissioner of insurance; superintendent of education; members of the State Civil Service Commission, the Public Service Commission, the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the State Board of Elementary and Secondary Education, the Board of Trustees for State Colleges and Universities, and the State Bond Commission. The executive branch shall also include the officers, members, agents, and employees of any department, office, agency, instrumentality, board, commission, or other entity created by the constitution or by law whose functions are not primarily legislative, judicial, or local in nature or operation. La. R.S. 42:62(6).

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,

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BY: 
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JL: MSC