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ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
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February 27, 2025
OPINION 24-0130

Ms. Becky Chustz
First Assistant District Attorney
18th Judicial District
P.O. Box 880
Plaquemine, Louisiana 70765

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. Const. art. 5, § 26

La. R.S. 16:1, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law prohibit a member of the Iberville Parish Council from serving as an employee of the District Attorney for the 18th Judicial District if the position is an appointive office or is funded by the Iberville Parish Council.

Dear Ms. Chustz:

Our office received your request for an opinion regarding whether a member of the Iberville Parish Council may serve as an employee of the District Attorney for the 18th Judicial District.

Question: Whether a member of the Iberville Parish Council may serve as an employee of the District Attorney for the 18th Judicial District.

Conclusion: The provisions of the Dual Officeholding and Dual Employment Law prohibit a member of the Iberville Parish Council from serving as an employee of the District Attorney for the 18th Judicial District if the position is an appointive office or is funded by the Iberville Parish Council.

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.

Iberville Parish is a local governmental subdivision operating under a home rule charter under the authority of La. Const. art. VI, § 5.¹ The charter provides for a president-council form of government.² A member of the Council holds an “elective office” for the purposes of the Dual Officeholding and Dual Employment Law.³

¹ Section 1-01, Iberville Parish Home Rule Charter.

² Section 1-02, Iberville Parish Home Rule Charter.

³ “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).

The District Attorney for the 18th Judicial District, who is an elected official, is authorized to hire employees as necessary.⁴ While you stated the position is full time, you did not identify the position.⁵ The positions of stenographer, clerk, secretary, special officer and investigator are classified as "appointive offices" for the purposes of the Dual Officeholding and Dual Employment Law.⁶ All other employees hold positions of "employment" for the purposes of the Dual Officeholding and Dual Employment Law.⁷

The Parish of Iberville and the District Attorney are considered separate political subdivisions of the state for the purposes of the Dual Officeholding and Dual Employment Law.

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.

Louisiana Revised Statute 42:63(D) prohibits holding an elective office and a full-time appointive office. The Council member is prohibited from holding a position classified as an appointive position.

You have concerns that the positions may be incompatible offices because the Parish of Iberville funds certain expenses of the District Attorney's Office in accordance with the provisions of La. R.S. 16:6.⁸ If the salary of an employee, whether holding an appointive

⁴ La. Const. art. V, § 26 and La. R.S. 16:6.

⁵ "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).

⁶ "Appointive office" means 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).

⁷ "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).

⁸ The district attorneys of this state, the parish of Orleans excepted, shall be entitled to an expense allowance for salaries of stenographers, clerks and secretaries, and salaries of special officers, investigators and other employees and an expense allowance for stationary forms, telephones, transportation, travel, postage, hotel and other expenses incurred in the discharge of their official duties. The police juries of the various parishes of the state of Louisiana are hereby authorized to pay from their

office or employment, is funded by Iberville Parish, the positions would also be incompatible offices pursuant to La. R.S. 42:64(A)(6).⁹

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 prohibit a member of the Iberville Parish Council from serving as an employee of the District Attorney for the 18th Judicial District if the position is an appointive office or is funded by the Iberville Parish Council.

Please note that our expressed opinion relative to state law is limited to an examination of the Dual Officeholding and Dual Employment provisions. It does not address the potential applicability of the State of Louisiana civil service laws, rules and regulations. 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,

LIZ MURRILL
ATTORNEY GENERAL

BY: Madeline S. Carbonette
Madeline S. Carbonette
Assistant Attorney General

LM: MSC

general fund any of the items of expense, as provided for herein, incurred by the several district attorneys of this state when acting in their official capacities. La. R.S. 16:6.

⁹ In addition to the prohibitions otherwise provided in this Part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers: (6) Funds received by one office or employment are deposited with or turned over to the other office or position. La. R.S. 42:64(A)(6).