



DUAL OFFICE HOLDERS

ATTORNEY GENERAL LIZ MURRILL

LOUISIANA DEPARTMENT OF JUSTICE



Attorney General
Liz Murrill

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Protecting Our Democracy

As your Attorney General, I am dedicated to upholding the law and supporting public officials in fulfilling their duties. In line with this commitment, our office has assembled valuable resources to aid you in your role as a public servant.

Please review the enclosed materials carefully, which outline Louisiana's regulations regarding public officials or employees holding multiple public offices or positions. It is crucial to adhere to these laws to maintain the integrity of our governmental institutions.

I take my oath to uphold the Constitution and the rule of law seriously, and I am here to collaborate with you in ensuring compliance with dual officeholding laws. Together, let's continue to make Louisiana a better place to live, work, and thrive.

DECLARATION OF POLICY

It is essential to the maintenance of a democratic society that public officials and employees perform the public business in a manner which serves to promote and maintain in the general citizenry a high level of confidence and trust in public officials, public employees, and governmental decisions. The attainment of this end is impaired when a public official or employee holds two or more public offices or public jobs which by their particular nature conflict with the duties and interest of each other. The attainment of a high level of confidence and trust by the general citizenry in public officials, employees, and governmental decisions is further impaired by the excessive accumulation of governmental power which may result from public officials or employees holding two or more public offices or public jobs. La. R.S. 42:61(A).

THE BASICS

PURPOSE

The purpose of the Dual Officeholding and Dual Employment Law is to maintain a high level of trust and confidence by the citizens of this state in our public officials, employees, and their decisions by defining and regulating dual officeholding and dual employment. La. R.S. 42:61(B).

DEFINITIONS

The Dual Officeholding and Dual Employment Law sets forth certain prohibitions relevant to a person holding particular combinations of public employment and/or public office. In a dual officeholding analysis, the positions proposed to be held must first be categorized pursuant to La. R.S. 42:62, which provide the dual officeholding definitions as follows:

DEFINITIONS

ELECTIVE OFFICE

Any position established or authorized by the constitution, state law, local charter or ordinance, filled by a vote of the citizens of the state or a political subdivision. It is not a political party office.

APPOINTIVE OFFICE

Any office established or authorized by the constitution, state law, local charter or ordinance, filled by appointment or election by an elected or appointed public official or governmental body.

EMPLOYMENT

Any paid job, compensated on a salary or per diem basis, with the state government or a political subdivision that is not an elective or appointive office.

FULL TIME

At least seven hours per day and at least thirty-five hours per week of work in an appointive office or employment.

PART TIME

Anything less than full time.

POLITICAL SUBDIVISION

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. Mayor's courts, justice of the peace courts, district attorneys, sheriffs, clerks of court, coroners, tax assessors, registrars of voters, and all other elected parochial officials are separate political subdivisions.

EXECUTIVE BRANCH OF STATE GOVERNMENT

Includes 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. It includes officers, members, agents, employees, of any department, office, agency, instrumentality, board, commission or other entity created by constitution or by law whose functions are not primarily legislative, judicial, or local in nature or operation.

LEGISLATIVE BRANCH OF STATE GOVERNMENT

Includes the members of the State Legislature, officers, agents, and employees of the State Legislature, the legislative auditor, the legislative fiscal officer, or any other agency created by law which is primarily legislative in nature, and any other legislative officer, office, or instrumentality of the state.

DEFINITIONS

JUDICIAL BRANCH OF STATE GOVERNMENT

Includes all judges, employees, and agents of the supreme court, the judicial administrator, courts of appeal, district courts, including the civil and criminal district courts of Orleans Parish, city courts, juvenile courts, family courts, and any other judicial offices and instrumentalities of the state. It does not include judges or employees of courts not enumerated in the Dual Officeholding and Dual Employment Law.

PROHIBITIONS

The legislature has set forth specific prohibitions, including provisions governing incompatible offices, in the Dual Officeholding and Dual Employment Law. La. R.S. 42:63. In general, no individual may hold two full time positions. A person cannot hold positions in two separate branches of state government. A part time position and a full time position will generally not constitute a dual officeholding violation, nor will the holding of two part time positions. General questions regarding the holding of two public positions may be answered by the charts included herein. If you have specific questions, please contact our office or request an attorney general opinion.

ENFORCEMENT & PENALTIES

The attorney general, district attorney, or any citizen of the state may file suit for a declaratory judgment against a person alleged to hold a combination of positions prohibited by the Dual Officeholding and Dual Employment Law. La. R.S. 42:65. Before filing suit, the attorney general or district attorney must send written notice by

certified mail to the person explaining the alleged violation.

If the person is found in violation of the Dual Officeholding and Dual Employment Law, the court can declare the office with the term first to expire or one of the employments vacant and enjoin the person from carrying out the duties of that office or employment. A person holding elective office, however, is required to continue to serve and perform the duties of his office until his successor has qualified.

If a court determines that a person has violated the Dual Officeholding and Dual Employment Law, it may order that the person pay back all compensation received from the vacated position (up to six months before the court filing). However, if the person obtained an opinion of the attorney general that was issued before the filing of the suit stating the positions are not in violation of the dual officeholding laws, no reimbursement may be ordered.

Additionally, if the person leaves the office or position within 14 days after written notice of the violation sent, he will not be required to pay back his compensation.

AG OPINION REQUESTS

If a person would like an opinion from the attorney general concerning Dual Officeholding and Dual Employment Law, he should provide the following information:

- 1.Name, address and phone number of the requestor;
- 2.A description of each of the positions;
- 3.The number of hours worked per week;
- 4.What branch of government the positions are within; and
- 5.Any other information the attorney general deems necessary.

Requests for an opinion may be submitted to the Attorney General's Office, as follows:

Attorney General Liz Murrill
Louisiana Department of Justice
Post Office Box 94005
Baton Rouge, LA 70804
Facsimile: 225-326-6098

Questions raising ethical concerns under the Louisiana Code of Governmental Ethics, La. R.S. 42:1111, et seq., should be submitted to the Louisiana State Board of Ethics (www.ethics.state.la.us).

EXEMPTIONS

There are several specific exemptions to the Dual Officeholding and Dual Employment Law which allow a person to simultaneously hold a combination of positions that are otherwise prohibited under the general provisions.

Below is a list of the most common exemptions:

- 1.A teacher may simultaneously hold an elective or appointive office.
- 2.Any official who holds another office by virtue of the office to which he is elected or appointed.
- 3.A municipal officer may hold another municipal office if authorized under La. R.S. 33:381(C).
- 4.A deputy sheriff can serve as the mayor or alderman in a municipality of 2,500 or less.
- 5.A chief of police of a municipality with a population of less than 5,000 can also be a deputy sheriff.
- 6.A coroner can hold another physician position in a governmental entity.
- 7.A state employee can hold elective office in a municipality of less than 6,500, unless incompatible or against public policy.
- 8.A municipal and/or parochial officer or employee may hold another municipal and/or parochial office or employment if authorized by a legislative or home rule charter.

For a complete listing of the exemptions to the Dual Officeholding and Dual Employment Law see La. R.S. 42:66.

ABOUT THE LOUISIANA DEPARTMENT OF JUSTICE

If you are seeking justice for yourself in a personal, corporate, or family matter, you try to get the best legal representation. But if an entire State or its political subdivisions are injured or victimized by the federal government, a multinational corporation, or even another State -- that requires an Attorney General.

The Office of the Attorney General *is* the Louisiana Department of Justice, and we work to protect the people of Louisiana as whole. We fight for Louisiana's natural resources, investigate fraud, secure justice for our most vulnerable, and so much more.

We also provide educational content meant to help you make wise choices based on guidance you can trust. With that in mind, we hope this guide to Louisiana Dual Officeholding and Dual Employment Law has been helpful; but should you need more information, please feel free to reach out to our office or your local parish representative.

ABOUT
ATTORNEY GENERAL
LIZ MURRILL



AG Liz Murrill is committed to defending the rule of law and protecting the people of our State. She has argued multiple cases before the U.S. Supreme Court and served as lead counsel in many cases challenging federal overreach, ranging from open border policies and attacks on religious liberty to COVID-19 mandates and First Amendment violations. With more than 30 years experience working in state and federal government, including eight as Louisiana's first Solicitor General, Liz Murrill has been a champion for women, children, and victims demanding justice. Now she is leading the fight to preserve our rights, our industries, and Louisiana's unique way of life. You can learn more at www.AGLizMurrill.com.



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