

April 27, 2009
OPINION 08-0324

Honorable Betsy Stoner Williams
Executive Administrator
Board of Election Supervisors
Parish of Orleans
1340 Poydras Street, Suite 2020
New Orleans, LA 70112

26 ELECTIONS – Commissioners
26-A ELECTIONS – Board of Supervisors
92-A-1 REGISTRAR OF VOTERS

La. R.S. 18:424
La. R.S. 18:425

Dear Ms. Williams:

There should be at least a minimum number of commissioners and commissioners-in-charge at the precinct on Election Day as provided under La. R.S. 18:425. Election commissioners-in-charge and commissioners cannot leave the polling place on Election Day. However, they may take reasonable breaks so long as the breaks are taken in a prudent manner and the election process is neither stopped nor delayed.

You have requested an opinion of the Attorney General regarding whether election commissioners are allowed to take breaks during Election Day, and if so, whether commissioners are allowed to leave the polling place during such breaks. Your request has been assigned to me for research and reply.

The Election Code, La. R.S. 18:1 et seq., imposes certain duties upon the commissioners-in-charge and commissioners on Election Day. Under La. R.S. 18:424(C)(1), the commissioners-in-charge shall preside over the election and the counting and tabulation of votes. The commissioners shall conduct primary and general elections at each polling place, shall enforce the election laws, and shall maintain order at the polling place during the election and the counting and tabulation of votes. La. R.S. 18:425(C). Both the commissioners-in-charge and commissioners shall not electioneer, engage in political discussions, unnecessarily delay a voter at the polling place, or prepare a list of persons voting at the polling place other than the official poll lists. La. R.S. 18:424(C)(2) and La. R.S. 18:425(C)(2).

The Election Code also provides for the number of commissioners-in-charge and commissioners that shall be present at every precinct. La. R.S. 18:424(A) states that there must be one commissioner-in-charge at every precinct. In addition to the commissioner-in-charge, each precinct must have an additional number of commissioners at each precinct. La. R.S. 18:425(A).

La. R.S. 18:425 provides in pertinent part:

A. Number.

(1) In addition to the commissioner-in-charge, at the following elections there shall be the following number of additional commissioners at each precinct:

(a) For the gubernatorial primary and general elections, the congressional primary and general elections, and the primary and general elections for municipal officers in a parish containing a municipality with a population of four hundred seventy-five thousand or more held every four years beginning in 1994:

(i) Four commissioners for precincts with more than three hundred registered voters.

(ii) Three commissioners for precincts with three hundred registered voters or less.

(b) For all elections not specifically provided for in Subparagraph (A)(1)(a) or in Part III of Chapter 6 of this Code:

(i) Three commissioners for precincts with more than three hundred registered voters.

(ii) Two commissioners for precincts with three hundred registered voters or less.

(2) The governing authority of a municipality, the governing authority of a parish, or the governing authority of a district having a governing authority, with the approval of the parish board of election supervisors, may adopt a resolution to reduce the number of such additional commissioners to not less than two for each precinct in the municipality, in the parish outside of a municipality, or in the district outside of a municipality in a district election, respectively, whenever in the opinion of the governing authority such reduction is not detrimental to the conduct of an election. **In no event shall there be less than one commissioner-in-charge and two additional commissioners per precinct.** (Emphasis added).

Finally, as far back as 1904, the Louisiana Supreme Court has held that commissioners should not leave the polling precincts during the time for voting. See *Endom v. City of Monroe*, 112 La. 779, 36 So. 681 (1904).

Based on the foregoing, it is the opinion of this office that there should be at least a minimum number of commissioners and commissioners-in-charge at the precinct on Election Day as provided under La. R.S. 18:425. Furthermore, commissioners-in-charge and commissioners cannot leave the polling place on Election Day. However, they may take reasonable breaks, e.g., restroom or meal, when necessary, so long as the breaks are taken in a prudent manner, and the election process is neither stopped nor delayed.

We hope that this sufficiently answers your inquiry. However, if we may be of further assistance, please do not hesitate to contact our Office.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: _____
ERIN C. DAY
Assistant Attorney General

JDC/ECD/sfj

SYLLABUS

OPINION 08-0324

26 ELECTIONS – Commissioners
26-A ELECTIONS – Board of Supervisors
92-A-1 REGISTRAR OF VOTERS

La. R.S. 18:424

La. R.S. 18:425

There should be at least a minimum number of commissioners and commissioners-in-charge at the precinct as provided under La. R.S. 18:425. Election commissioners-in-charge and commissioners cannot leave the polling place on Election Day. However, they may take reasonable breaks so long as the breaks are taken in a prudent manner and the election process is neither stopped nor delayed.

Honorable Betsy Stoner Williams
Executive Administrator
Board of Election Supervisors
Parish of Orleans
1340 Poydras Street, Suite 2020
New Orleans, LA 70112

DATE RECEIVED:

DATE RELEASED: April 27, 2009

Erin C. Day
Assistant Attorney General