

September 17, 2007
Opinion Number 07-0239

Mr. Jerry W. Agnew, Sr.
Chief of Police
Bogalusa Police Department
214 Arkansas Avenue
Bogalusa, Louisiana 70427

90-A-2 PUBLIC FUNDS, Loan, Pledge, or Grants
La. Const. VII, §14,

Employees of the Bogalusa Police Department may not take a paid vacation day off and work on that vacation day in order to draw both vacation pay and regular (and overtime). To do so would violate the provisions of the Louisiana Constitution Article VII, Section 14 of the Louisiana Constitution.

Dear Chief Agnew:

On behalf of the Bogalusa Police Department, you have requested an opinion of this office regarding whether an employee of the police department may take a paid vacation day off and work overtime, in the same or a different classification, for the City on this day off in order to receive time and one half for the same hours.

Because your request questions the use of public funds, it must be addressed in light on Article 7, Section 14 of the 1974 Louisiana Constitution, which prohibits the donation, loan, or pledge of public funds by the state or one of its political subdivisions. Any compensation paid to public employees must be in return for services rendered and not a mere gratuity or donation.

Our office previously opined that a public employee may not receive both his vacation pay and regular pay for the same period of time. Atty. Gen. Op. No. 00-470. When a public employee is on vacation, his status for payroll purposes is annual leave with pay. Conversely, if he is on the job he is paid for services actually rendered. It is the opinion of this office that the employee cannot be classified both ways during the same period of time. Paying a public employee for his vacation time during which the employee is performing his regular duties and drawing his regular pay is a donation of public funds in violation of Art. 7, Sec. 14 of the Louisiana Constitution.

Accordingly, it is the opinion of this office that employees of the Bogalusa Police Department may not take a paid vacation day off and work on that vacation day in order to draw both vacation pay and regular (or overtime) pay.

We trust that this adequately responds to your request. If you have any additional questions, please do not hesitate to contact our office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

RICHARD L. MCGIMSEY
Assistant Attorney General

CCF, JR/RLM/LWH/dam

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Syllabus

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Date Received:

Date Released: September 17, 2007

Richard McGimsey
Assistant Attorney General