



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

June 29, 2016

The Honorable Louise Bond
Ouachita Parish Clerk of Court
301 South Grand Street, Suite 104
Monroe, Louisiana 71201

Dear Clerk Bond:

As you are aware, my Investigative Audit staff visited the Ouachita Parish Clerk of Court's office to assess certain financial matters. This letter briefly summarizes the results of our work. We stress the importance of addressing these issues and encourage you to consider our recommendations as you work to resolve the following:

Employees Paid for Days off Not Recorded in Leave Records

From December 2014 to December 2015, the Ouachita Parish Clerk of Court's Office (Clerk of Court) paid 51 different employees a total of \$35,569 for up to five additional days off that were not recorded in these employees' leave records. During this period, you allowed employees to take additional days off during the work weeks of Christmas and New Years' in 2014 and the work weeks of Thanksgiving and Christmas in 2015 without having their leave balances reduced. By allowing your staff paid time off that was not recorded in leave records, you may have violated the Louisiana Constitution,¹ which prohibits the donation of public funds, and state law.²

¹ **Louisiana Constitution Article VII, Section 14(A)** states, in part, "Prohibited Uses. Except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."

² **Louisiana Revised Statute 42:1461 (A)** provides that, "Officials, whether elected or appointed and whether compensated or not, and employees of any 'public entity,' which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed."

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According to the policy you provided us, full-time employees accrue vacation time based on years of service. After the first year of service, the appropriate amount of vacation time is credited to each employee as of January 1 of each year. The policy is not clear as to whether or not vacation time can be carried over but expressly states that the Clerk of Court "will not allow any vacations during the week of Thanksgiving and the week of Christmas." The policy further states that Thanksgiving and Christmas are very busy times, and the Clerk needs everyone to be at work during those times.

Employees are also credited with two weeks (10 days) of sick leave on January 1 of each year. Sick leave days cannot be carried over to the following year. Further, each employee is afforded two personal days that can be used for any purpose. In December 2015, we were notified that Clerk of Court employees were paid for days off (during the weeks of Thanksgiving and Christmas) that were not recorded in their leave records.

Employees Paid for Days Off Not Recorded in Leave Records

We reviewed Clerk of Court payroll records and found that during the work weeks of Christmas (December 22-26, 2014) and New Years' (December 29, 2014 to January 2, 2015) in 2014, and the weeks of Thanksgiving (November 23-27, 2015) and Christmas (December 21-25, 2015) in 2015, the Clerk of Court's office paid 51 different employees a total of \$35,569 for as many as five additional days off that were not recorded in these employees' leave records. This amount included \$12,260 paid to employees in 2014 for two additional days off that were not recorded and \$23,309 paid to employees in 2015 for three additional days off that were not recorded.

Clerk of Court records indicate that you issued memos to employees addressing extra time off in November 2014 and November 2015. The November 2014 memo indicated that the Clerk of Court's office would operate at half-staff during the weeks of Christmas (December 22-26, 2014) and New Years' (December 29, 2014 to January 2, 2015) in 2014. During each of these weeks, half of the Clerk of Court's staff was given two additional days off (the remaining three days each week had been declared paid holidays), allowing employees to take an entire week off without any leave deducted from their leave records.

Similarly, your November 2015 memo indicated that the Clerk of Court's office would operate at half-staff during the weeks of Thanksgiving (November 23-27) and Christmas (December 21-25) in 2015. During each of these weeks, half of the Clerk of Court's staff was given three additional days off (the remaining two days each week had been declared paid holidays), allowing employees to take an entire week off without any leave deducted from their leave records.

You stated that during the 2014 and 2015 holiday seasons, you allowed all full-time employees time off with pay without having their leave time deducted. You further stated that this was done as a way to boost morale in the office and that you were unaware that allowing

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employees to be paid for extra days without reducing leave balances was an issue. You also indicated that you were willing to do whatever you have to do to correct the issue.

During our audit, your attorney provided us with a copy of *Louisiana Attorney General Opinion No. 89-634*, which was addressed to the Jefferson Parish Clerk of Court and provided that “he may establish days where only a skeleton crew is necessary and allow those employees other days off with pay. As long as all the employees are treated equally insofar as the number of days leave with pay, there is nothing that would constitute a prohibited donation.” However, before reaching that ultimate conclusion, the opinion cited *Louisiana Attorney General Opinion No. 82-154* (directed to this office) for the proposition that “employees of a clerk of court are hired by the clerk and are subject to the policies, regulations and procedures promulgated by each clerk.” In the instant case, your policies run counter to your actions.

Although your policy expressly states that you “will not allow any vacations during the week of Thanksgiving and the week of Christmas,” your office paid 51 different employees a total of \$35,569 for up to five additional days off. Moreover, in *Louisiana Attorney General Opinion No. 03-0330*, the Attorney General opined that Art. VII, Section 14 of the Louisiana Constitution prohibited the Iberia Parish Clerk of Court from loaning, pledging, or donating funds to anyone. That opinion, which concerned the permissibility of an earned increase in compensation to clerk of court employees, stated that the Attorney General’s Office “has consistently opined that the payment of a bonus or any other gratuitous, unearned payment to public employees is prohibited by the constitution.” By allowing your staff paid time off in direct contravention of your own policy, you may have violated the Louisiana Constitution,¹ which prohibits the donation of public funds, and state law.²

Recommendations

We recommend that the Clerk of Court consult with legal counsel to determine what changes are necessary to bring her policies in line with her actions and ensure that all expenditures comply with the Louisiana Constitution, which prohibits the donation of public funds. We further recommend that the Clerk of Court consult with legal counsel to ensure that any policies adopted by the Clerk of Court’s office do not violate the Louisiana Constitution in regard to prohibitive donations of public funds. This correspondence represents our finding and recommendations as well as management’s response. This correspondence is intended primarily for the information and use of management of the Clerk of Court’s office.

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I trust this information will assist you in the efficient and effective operations of the Clerk of Court's office. Should you have any questions, please contact Greg Clapinski or Kunta Osberry at (225) 339-3800.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/ch

OPCC 2016

APPENDIX A

Management's Response

ROEDEL PARSONS KOCH
BLACHE BALHOFF & McCOLLISTER

A L A W C O R P O R A T I O N

JUDITH R. ATKINSON
THOMAS E. BALHOFF
CECIL J. BLACHE
CORINNE M. BLACHE
ANDRÉ G. BOURGEOIS
BRENT J. BOURGEOIS
RYAN R. BROWN
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THOMAS J. CAPELLA
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DAVID H. HARDY[†]
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BENJAMIN R. HUNTER
CARLTON JONES, III

K. SCOTT KIRKPATRICK
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JOHANNA POSADA KYLES
JENNIFER F. LEWIS
V. JOYCE MATTHEWS
STEPHEN G. McCOLLISTER
SHELLEY ANN McGLATHERY
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TYRON D. PICARD‡
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CHARLES M. PISANO
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June 16, 2016

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 943397
Baton Rouge, Louisiana 70804-9397

Re: Findings and Recommendations

Dear Mr. Purpera:

On behalf of Louise Bond, Ouachita Parish Clerk of Court, I would first like to thank you for your assessment of certain financial matters within the Ouachita Parish Clerk of Court's Office. Additionally, I want to thank your staff for their professionalism while visiting the Ouachita Parish Clerk of Court's office.

Prior to conversations with your staff it was her understanding that La. C.C.P. art. 255 providing, "[d]eputy clerks and other employees of a clerk of court are subject to his direction and supervision, and shall perform the duties assigned to them by law, the court, and the clerk," authorized her to set the working hours of the deputy clerks and other employees. It was also her understanding that establishing, "days where only a skeleton crew is necessary" and allowing "those employees other days off with pay" did not constitute a prohibited donation "[a]s long as all the employees are treated equally insofar as the number of days of leave with pay" as stated in La. A.G. Opinion No. 89-634. Finally, it was her understanding that she could revise the 2012 Policy Manual for the Ouachita Parish Clerk of Court which states on the first page, "the policies may change at any time" through memoranda distributed to all employees.

Ms. Bond's intent is and has always been to follow all applicable state and federal laws, to treat all employees fairly and to serve the public in an efficient and effective matter. In light of your recent findings and recommendations, Ms. Bond intends to distribute a new Employee Handbook to all employees on or about July 1, 2016, for her next term of office. The new Employee Handbook will clearly address your concerns regarding annual leave, paid days off and completion of leave records by employees.

Again, your recommendations to assist in the efficient and effective operations of the Ouachita Parish Clerk of Court's office are much appreciated.

Very truly yours,


Sheri M. Morris

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*Also licensed in Pennsylvania †Also licensed in Virginia ‡Of Counsel §Special Counsel
¶Also licensed in Alabama and Illinois

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