

DE 84-8 - February 9, 1984

**RESIGN TO RUN LAW
USE OF PAID VACATION
s. 99.012, F.S.**

To: Mr. Charles P. Vitunac, City Attorney, City of Vero Beach, P. O. Box 1389, Vero Beach, Florida 32960

Prepared by: Division of Elections

This is a Division of Elections Advisory Opinion under s. 106.23(2), F.S. on essentially the following question:

May a police captain who is seeking to run for the office of sheriff use paid vacation leave during the required leave of absence?

Though a resignation is not required in this case, a police captain must take a leave of absence without pay from his employment during the period in which he is seeking election to public office. s. 99.012(7), F.S.

DE 80-12 (May 21, 1980). While I am unfamiliar with the personnel policies of the City of Vero Beach pertaining to vacation leave, the term vacation time is generally defined in Florida law governing state career service employees as earned annual leave with pay - a form of leave of absence with pay. Chapter 110, F.S.; Florida Administrative Code Rule 22A-8.10. In the absence of legislative or judicial clarification, the term leave of absence without pay should be strictly construed. Therefore, I do not believe that a police captain may use any form of paid leave during the period he is required to take a leave of absence without pay. See, DE 83-12 (July 27, 1983).

SUMMARY

Under a strict construction of the term "leave of absence without pay," a police captain may not use paid vacation time during the required leave of absence.