

DE 84-24 - July 6, 1984

**RESIGN TO RUN LAW
s. 99.012, F.S.**

To: Mr. Larry R. Lancaster, Russell Route, Box 681, Green Cove Springs, Florida 32043

Prepared by: Division of Elections

Pursuant to your request, this is a formal elections opinion under s. 106.23(2), F.S., on essentially the following question:

“Must the Director of Teacher Placement and Certification of the Clay County School Board resign to run for county commissioner?”

The Resign to Run Law requires an elected or appointed officer to resign irrevocably when seeking an elect office, the term of which runs concurrently with the term of office he or she currently holds. s. 99.012(2), F.S. The resignation requirement also applies to subordinate personnel, deputy sheriffs or police officers who seek an elected office held by one with authority to appoint, employ, promote or otherwise supervise them and who has qualified as a candidate for reelection to that public office. s. 99.012(7), F.S.

The Resign to Run Law applies to officers either elected or appointed. An officer is defined as one who exercises some portion of the sovereign power, either in making, executing or administering the laws and “whose duties are continuous in their nature, and defined by rules prescribed by government, and not by contract, consisting of the exercise of important powers, trusts, or duties, as a part of the regular administration of the government, the place and the duties remaining, though the incumbent dies or is changed.” *State ex rel. Clyatt v. Hocker* 39 Fla. 477, 22 So. 721 (1887). See also *State ex rel. Holloway v. Sheats*, 83 So. 508 (Fla. 1919).

The Director of Teacher Placement is recommended by the Superintendent and is appointed by the School Board. He is directly responsible to the Assistant Superintendent and the Superintendent. His duties are prescribed by the School Board and include the initial interviewing of prospective employees and the processing of original and renewals of teacher certification. Although the duties of the Director of Teacher Placement are continuous in nature, they do not involve the exercise of any sovereign powers. Therefore, the Director of Teacher Placement is not an officer within the meaning of the Resign to Run Law.

The Resign to Run Law, as mentioned above, also applies to subordinate personnel. A subordinate personnel, however, must be an officer who otherwise would be required by the Resign to Run Law to resign from his current office when seeking election to another. DE 83-12; AGO 079-81. The law does not apply to an employee. An employee does not exercise in one's own right any sovereign power or a prescribed

independent authority of a governmental nature. State ex. rel. Holloway v. Sheats, supra. Since you are not an officer, you are not a subordinate personnel within the meaning of the Resign to Run Law, but instead are an employee. The Resign to Run Law does not apply to employees and you are not required to resign or take a leave of absence to run for county commission.

However, you should note that this opinion is for purposes of the Resign to Run Law only. It does not take into account any local school board regulations that may require you to resign or take a leave of absence.

SUMMARY

A Director of Teacher Placement and Certification is not an officer within the meaning of the Resign to Run Law and need not resign or take a leave of absence in order to run for elective office.