

DE 85-07 - July 23, 1985

**RESIGN-TO-RUN
s. 99.012(5), F.S.**

To: Jeffrey S. Book, Esquire, Post Office Box 1403, Mount Dora, Florida 32757

Prepared by: Division of Elections

Pursuant to your request, this is a formal elections opinion under Section 106.23(2), Florida Statutes, on essentially the following question.

Must a person serving by appointment of the Governor as a trustee of a community college resign or take a leave of absence to run for the school board of the same county?

The Resign-to-Run Law requires an elected or appointed officer to resign irrevocably when seeking an elected office, the term of which runs concurrently with the term of office he or she currently holds. Section 99.012(2), Florida Statutes. The resign-to-run law, however, contains an exception that exempts a person “who serves as a member of any appointive board or authority without salary” from the resignation requirements of Section 99.012(2), Florida Statutes. Section 99.012(5), Florida Statutes.

Section 240.313(3), Florida Statutes, provides that the trustees of a community college shall be appointed by the Governor, approved by four members of the State Board of Education and confirmed by the Senate. Section 240.313(4), Florida Statutes, further provides that members of the board of trustees “shall receive no salary but may receive reimbursement for expenses as provided in Section 112.061...” Reimbursement for expenses does not constitute receiving a salary.

A person serving as a trustee of a community college pursuant to Section 240.313, Florida Statutes, therefore, would fall within the exception to the resign-to-run requirement contained in Section 99.012(5), Florida Statutes. Such a person need not resign or take a leave of absence in order to run for the school board.

SUMMARY

A person serving by appointment as a trustee of a community college who serves without salary need not resign or take a leave of absence to run for school board.