

OFFICE OF THE DISTRICT ATTORNEY
FIFTEENTH JUDICIAL DISTRICT

POST OFFICE BOX 3306
LAFAYETTE, LOUISIANA 70502
(337) 232-5170
FAX: (337) 235-1354

MICHAEL HARSON
DISTRICT ATTORNEY

PARISHES OF:
ACADIA
LAFAYETTE
VERMILION

October 6, 2014

Mark Cockerham
418 Breemen Circle
Lafayette, LA 70508

Certified Mail
Return Receipt Requested

Mr. Cockerham:

A complaint was filed with my office by Nancy Cech and Dawn Morris. Complainants assert that, although you were elected to the Lafayette Parish School Board (LPSB) District 7 for the current term running from January 1, 2011 through December 31, 2014, you have effectively vacated the District 7 seat on the date you moved out of District 7. This move, at the latest, would be August 20, 2014, the date on which you filed your Notice of Candidacy for the next LPSB election whereon you certified that your "domicile address" was 418 Breemen Circle, Lafayette, Louisiana. This address of 418 Breeman Circle, is in the current LPSB District 9.

Pursuant to La.R.S. 18:673, I am hereby providing to you and to the Lafayette Parish School Board my written opinion.

La.R.S. 17:52(E)(2)&(3), which pertains to election and qualification for School Board members provides (emphasis added):

- (2) **The seat of any member who changes his domicile from the district he represents or, if elected after reapportionment, whose domicile is not within the district he represents at the time he is sworn into office shall be vacated thereby, any declaration of retention of domicile to the contrary notwithstanding.**
- (3) For purposes of this Section, "domicile" means a person's principal or habitual place of residence.

La.R.S. 18:581(3), found in the Election Code, provides (emphasis added):

"Vacancy" occurs in an elective office when the office is or will be unoccupied by reason of the death of the official who was elected to the office, or by reason of his retirement or resignation, removal from office by any means, failure to take office for any

Mr. Mark Cockerham
10/6/2014
Page Two

reason, or when it becomes certain that the person elected to the office will not take the office on the day when the term for which he was elected commences, or **when the person elected to or holding the office no longer meets the residence or domicile requirements of that office**, any declaration of retention of domicile to the contrary notwithstanding, or when an office is created due to a reclassification of a municipality.

This complaint is NOT a challenge to your qualifications to run for School Board, District 7, for the upcoming election on November 4th, for the term of office commencing on January 1, 2015, HOWEVER, your "domicile address" to which you certified on your Notice of Candidacy that you filed on August 20, 2014, is 418 Breemen Circle, Lafayette, Louisiana, which is in the current LPSB District 9. Thus, as of at least August 20, 2014, you are no longer domiciled in LPSB District 7.

According to La.R.S. 18:463(A)(1)(a), the address a person qualified under to run for office is the domicile address of the individual. La.R.S. 18:463 also mandates that an individual filing a notice of candidacy sign and certify that the information provided in the notice of candidacy is true and correct. Because you listed 418 Breemen Circle as your domicile address on the Notice of Candidacy filed August 20, 2014 with the 15th JDC Clerk of Court, it is my opinion that you are domiciled at 418 Breemen Circle for purposes of this investigation.

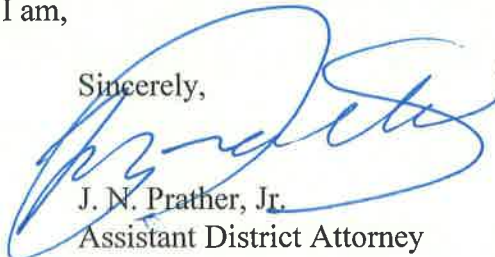
I was provided with and reviewed an Affidavit by Michael C. Hefner, along with the 2002 reapportionment map which shows the location of 418 Breemen Circle, Lafayette, Louisiana. According to the 2002 district map, it is my opinion that when you changed your domicile to 418 Breemen Circle, you moved out of District 7 and into District 9.

Thus, it is my opinion under La.R.S. 18:581(3), when you moved to 418 Breemen Circle, you vacated the LPSB, District 7 seat and this vacancy occurred at the latest on August 20, 2014, the day you filed your Notice of Candidacy for the primary election to be held on November 4, 2014.

Pursuant to La.R.S. 18:674, if you do not publically acknowledge that you vacated your LPSB District seat on or before August 20, 2014, (Notice of Candidacy filing), I am mandated to institute suit against you within ten (10) days of the issuance of this opinion to obtain a judgment declaring the LPSB District 7 seat to be vacated since at least August 20, 2014. A hearing shall be held on said suit within twenty (20) days of service of the suit upon you.

With best professional regards, I am,

Sincerely,

A handwritten signature in blue ink, appearing to read "J. N. Prather, Jr.", is written over the typed name and title.

J. N. Prather, Jr.
Assistant District Attorney

Mr. Mark Cockerham

10/6/2014

Page Three

cc: Hunter Beasley, President

LPSB

113 Chaplin Drive

Lafayette, LA 70508

Gary McGoffin

Attorney for Mark Cockerham

William Goode

Attorney for Complainants

The Advertiser

(In accordance with R.S. 18:673)