

August 28, 2000
OPINION NUMBER 2000-262

Ms. Eula P. LeJeune
Registrar of Voters
Parish of West Baton Rouge
P. O. Box 31
Port Allen, LA 70767-0757

23 - ELECTIONS - Ballots - Absentee Votes - Military
33-A ELECTIONS - Assistance to voters by Commissioners
of Clerks
Reaffirming Atty.Gen.Op.Nos. 99-342 and 00-136 for the
proposition that a voter is not entitled to assistance unless and
until he meets the requirements of law allowing for assistance,
and it is the voter's mandatory responsibility to fill out the
information on the absentee ballot affidavit.

Dear Ms. LeJeune:

Your request for an Attorney General's Opinion regarding absentee affidavits has been assigned to me for research and reply. Your question is as follows:

Pursuant to R.S. 18:1309(E)(2), is it legal for the Registrar of Voters or one of her deputies to fill out the absentee affidavit at the request of the voter prior to the voter retiring to the voting booth to cast his or her ballot?

R.S. 18:1309(E)(2) provides for the registrar to hand to the voter the ballot, ballot envelope, and the certificate, and for the voter to sign the precinct register prior to executing the absentee ballot.

We are enclosing herein a copy of two recent Attorney General's Opinions, Numbers 99-342 and 00-136, which we believe address your question. In Number 99-342, we answered questions regarding the right to vote and the right to receive assistance in voting by handicapped persons specifically, and all persons in general. We discussed the case of *Fanara v. Candella*, 94-491 (La.App. 3 Cir. 4/18/94), 640 So.2d 406, which made it very clear that a voter is not entitled to assistance in voting unless the requirements of R.S. 18:564 are met. We stated, "R.S. 18:564 is a mandatory precondition for receiving assistance in voting and if it is not satisfied before assistance is extended to voters by election officials, it is the act of assistance pro se which is unlawful and casts doubt on the validity of the vote."

In Opinion Number 00-136, we addressed the circumstances under which an absentee ballot may be challenged for cause for failure to substantially comply with the law. We quoted R.S. 18:1306, which in sum states that it is mandatory that the voter fill in all blanks on the certificate on the ballot envelope flap. We quoted from *Adkins v. Huckabay*, 99-3605 (La. 2/25/00), 2000 WL222576, that "[a]bsentee voting is not an absolute right. Instead, it is an exception to the

traditional method of voting at the polls and is restricted to specifically enumerated situations and qualifications.” Therefore, if a voter chooses to exercise his right to vote by absentee ballot, he must comply with the law in order to cast such a ballot.

Thus, in sum it is our opinion that neither the registrar, nor her deputies, are authorized by law to assist a voter in filling out an absentee ballot affidavit unless the voter is entitled to assistance in accordance with the law. We reaffirm our earlier opinions and further conclude that assistance by the registrar, where assistance is not authorized by law, may subject that ballot to challenge and thus, cast doubt on the validity of the vote.

If you have any further questions, please do not hesitate to contact our office.

Yours very truly,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

ANGIE ROGERS LAPLACE
Assistant Attorney General

RPI/ARL;mjb

Cc: Hon. Suzanne Haik Terrell

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SYLLABUS

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Date Received:
Date Released: August 28, 2000

ANGIE ROGERS LAPLACE
Assistant Attorney General