S T A T E O F T E N E S E
OFFICE OF THE
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Opinion No. 02-070

Eligibility of non-teaching school employee to run for and serve on local school board

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QUESTION

1. May a non-teaching school employee (specifically, a maintenance employee) run for election as a member of the local board of education?

2. If elected, may a non-teaching school employee serve on the local board of education without resigning as a school employee?

OPINION

1. Yes.

2. No.

ANALYSIS

Tenn. Code Ann. § 49-5-301 preserves the right of noninstructional personnel employed by local school systems to run for public office:

> Notwithstanding any provision of the law except §§ 8-23-201 and 49-2-203 to the contrary, noninstructional personnel employed by any public school in this state shall be eligible to run for public office.

However, once such a noninstructional employee is elected to the school board, that employee is subject to Tenn. Code Ann. § 49-2-203, which provides: "No member of any local board of education shall be eligible for election as a teacher, or other position under the board carrying with it any salary or compensation." This Office has previously opined that Tenn. Code Ann. § 49-2-203(a)(1)(D) prohibits a noninstructional employee, in that case a bus driver, from continuing employment by the school system

after he was elected to the school board.[1]

In conclusion, it is the opinion of this Office that a noninstructional employee of a school system may run for election to the school board without leaving his job, but if elected to the board this individual must quit his job for the school system in order to serve as a school board member.

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[1] Op. Tenn. Atty Gen. U90-124 (Aug. 29, 1990) (attached)