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## State of Louisiana

DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
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February 13, 2023  
OPINION 23-0015

The Honorable Raymond E. Garofalo, Jr.  
Louisiana House of Representatives  
District 103  
100 Port Blvd., 2<sup>nd</sup> Floor  
Chalmette, LA 70043

64-1 LIBRARIES

La. R.S. 25:214

La. R.S. 33:1415

A local governing authority may remove its library board of control appointees at any time. Recalls La. Atty. Gen. Op. No. 01-29, in part.

Dear Representative Garofalo:

We received your request for an opinion of this office regarding the removal of members of a library board of control. Specifically, you asked whether a local governing authority may remove its appointees to a library board of control prior to the expiration of their terms.

State law, La. R.S. 25:211–224, governs the creation, control, operation, and funding of most parish and municipal public libraries in Louisiana.<sup>1</sup> The local governing authority of a parish or municipality may, or in some cases must, “create, establish, equip, maintain, operate and support a public library in such parish or municipality.” La. R.S. 25:211.<sup>2</sup> The governing authority of a parish or municipality, such as a police jury, parish council, or city council, creates a public library by ordinance. La. R.S. 25:212. Each public library is governed by a board of control. The governing authority of a parish or municipality appoints citizens of the parish or municipality as the members of the library board of control—five members for municipal libraries and five to seven members for parish libraries. La. R.S. 25:214(A) and (B). Members of a library board of control serve five-year terms as set forth in statute. *Id.*<sup>3</sup> The mayor or parish president, or their designee, also serves as a member of the library board of control. *Id.*

A previous opinion of this office answers your question in the negative, stating, “[W]here the legislature specifically provided terms for these positions, it is the opinion of this office

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<sup>1</sup> These statutes apply to all parishes and municipalities that do not operate under a home rule charter. Home rule charter jurisdictions possess the authority to create and operate public libraries without reliance on La. R.S. 25:211–224, though the libraries in some home rule jurisdictions may be created pursuant to these laws. The library statutes “are unnecessary to empower home rule governments to create libraries.” La. Atty. Gen. Op. No. 17-0193. However, “once a parish has established a library pursuant to La. R.S. 25:211, it must adhere to the provisions of that title regardless of the plan of government.” La. Atty. Gen. Op. No. 16-0163 (citing La. Atty. Gen. Op. No. 76-1843).

<sup>2</sup> A local governing authority *must* create a library “when not less than twenty-five per cent of the duly qualified property taxpayers resident in such parish or municipality shall petition the governing authority thereof to establish such a public library for such parish or municipality.” *Id.*

<sup>3</sup> The first members of a library board of control serve terms of staggered lengths, but all subsequent members serve five-year terms. *Id.*

that the Lafourche Parish Council lacked the authority to terminate members of the [library] board prior to the expiration of their term.” La. Atty. Gen. Op. No. 01-29. This 2001 opinion cites to La. Atty. Gen. Op. No. 74-1732, which reached the same conclusion in reliance on earlier jurisprudence, *Stoker v. Police Jury of Sabine Par.*, 190 So. 192 (La.App. 2 Cir. 1939).

However, La. Atty. Gen. Op. No. 01-29 failed to consider a relevant statute enacted in 1987. That statute provides, in relevant part, “Where a parochial or municipal governing authority is given the power to appoint members to boards or commissions, whether presently or hereafter created, the governing authority shall also have the power to remove and replace the members or commissioners.” La. R.S. 33:1415(A). At least two Louisiana appellate courts have interpreted La. R.S. 33:1415(A) and applied it to permit parish governing authorities to remove board members whom the governing authorities appointed to their positions.

In *Law Enforcement District v. Avoyelles Parish Police Jury*, 98-996 (La.App. 3 Cir. 2/3/99), 736 So.2d 842, the court found that the legislature enacted La. R.S. 33:1415(A) “to specifically grant to governing authorities the power to remove and replace members of an agency created by them,” and that the language of the provision “unconditionally empowers the Police Jury to remove and replace members of this committee.” *Id.* at 846–47.<sup>4</sup> Similarly, the court in *McIntosh v. Madison Parish Police Jury*, 554 So.2d 227 (La.App. 2 Cir. 1989), recognized the authority of a parish police jury to remove members of a port commission “at will,” pursuant to La. R.S. 33:1415(A), even where the port commission was created by legislation which also provided the lengths of the commissioners’ terms of office. *Id.* at 229. Thus, in view of La. R.S. 33:1415(A) and the appellate courts’ interpretations thereof, where a local governing authority is empowered to appoint members to a board or commission, the governing authority also possesses the ability to remove said appointees.<sup>5</sup>

We acknowledge that another provision of La. R.S. 33:1415 could be misconstrued to cast doubt on the above principle as applied to library boards of control. Louisiana Revised Statute 33:1415(C) provides that if there is a conflict between La. R.S. 33:1415 and any provision of La. R.S. 25:211–224, the latter prevails. One could assume that a local governing authority’s power to remove the members of a library board of control must conflict in some way with La. R.S. 25:211–224. However, nothing in La. R.S. 25:211–224 purports to limit a local governing authority’s discretion in managing its appointments to a library board of control. Although La. R.S. 25:214 establishes five-year terms for library board of control members, the statute does not prohibit or otherwise regulate removal of appointees. The mere existence of a set term for an appointee does not conflict with a governing authority’s ability to remove an appointee and appoint a

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<sup>4</sup> The court also reasoned that La. Const. art. VI, § 15’s grant of “general power” to parish governing authorities over the bodies they create “contemplates the power to remove members of the agency, restricted or limited only when other provisions of law place limitations on the power of removal as to a particular agency.” *Id.* at 846.

<sup>5</sup> See also La. Atty. Gen. Op. No. 17-0121 (Pursuant to La. R.S. 33:1415(A), parish council “may establish by ordinance the bases for removal of recreation district board members, including removal without cause.”).

replacement for the remainder of that statutorily established term. See *McIntosh*, 554 So.2d at 229.

Instead, La. R.S. 33:1415(C) prevents local governing authorities from exercising other facets of power over library boards of control. In La. Atty. Gen. Op. No. 04-0053, we relied on La. R.S. 33:1415(C) to advise that a police jury could not reduce or line-item veto library employees' salaries—an exercise of fiscal control over the library otherwise seemingly allowed by La. R.S. 33:1415(B)—because to do so would conflict with the library board of control's express authority to employ and set salaries for library employees, as set forth in La. R.S. 25:215(A). Moreover, if the Legislature did not intend for library boards of control to be subject to at least some of the provisions of La. R.S. 33:1415, these boards would have been included in La. R.S. 33:1415(D), which exempts planning commissions, zoning commissions, and ethics commissions from all aspects of La. R.S. 33:1415.

Considering the foregoing, it is the opinion of this office that a local governing authority may remove its library board of control appointees at any time. To the extent La. Atty. Gen. Op. No. 01-29 conflicts with this conclusion, that opinion is recalled.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

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