



STATE OF ARKANSAS  
ATTORNEY GENERAL  
LESLIE RUTLEDGE

Opinion No. 2016-049

July 15, 2016

The Honorable Stephanie Flowers  
State Senator  
217 South Main Street  
Pine Bluff, AR 71601

Dear Senator Flowers:

This is in response to your request for an opinion on the following question:

When an elected official of a city of the first class resigns, is the person chosen to fill the remaining time of the official's term eligible to run as a candidate in the next election for that position?

**RESPONSE**

There is no general constitutional or statutory prohibition against a person running to succeed himself after being chosen to fill a vacancy in a city office. The answer to your question is therefore "yes," unless a statute applicable to the particular city office prohibits a person from succeeding himself in that specific office after filling a vacancy. You did not identify a particular office when presenting your question. In the course of researching your question, no statute applying to a specific city office came to my attention. But without knowing the particular office involved, I cannot definitively state that no such specific prohibition exists.

**DISCUSSION**

There is no *constitutional* impediment to a city officer succeeding himself after being chosen to fill a vacancy in the city office. Section 2 of Amendment 29 to the Arkansas Constitution does make appointees to certain offices ineligible for

succession.<sup>1</sup> With certain exceptions not relevant to your question, however, that prohibition applies only to persons who were appointed to fill vacancies in “the office of United States Senator, and in all elective state, district, circuit, county, and township offices.”<sup>2</sup> It does not apply to city officers.<sup>3</sup>

Nor is there any general statutory impediment to a city officer running to succeed himself after filling a vacancy in the city office. In order to provide a definitive answer to your question, however, it would be necessary to know the exact city office involved. The person chosen to fill a vacancy in an elected city office will be eligible to run as a candidate for that position in the next election as long as no statute applicable to that particular office makes the person ineligible for succession.

Sincerely,



LESLIE RUTLEDGE  
Attorney General

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<sup>1</sup> Ark. Const. amend. 29, § 2 (stating that no person appointed under Section 1 of Amendment 29 “shall be eligible for appointment or election to succeed himself.”).

<sup>2</sup> *Id.* at § 1.

<sup>3</sup> See *Johnson Cty. Bd. of Election Comm’ns v. Holman*, 280 Ark. 128, 655 S.W.2d 408 (1983). *Accord* Ops. Att’y Gen. 2006-123, 2004-282, 2004-253, 99-242, 98-176.

It should perhaps be noted that *Johnson County* involved a municipal judge. Amendment 80 re-designated the former “municipal judges” as “district judges.” And as I have previously observed, Amendment 29 now applies to the position of district court judge through Amendment 80. See Op. Att’y Gen. No. 2015-018, at note 11.