Fifth Circuit Court of Appeal
State of Louisiana

No. 26-CA-91

JEFFERSON FIRE FIGHTERS ASSOCIATION LOCAL 1374, ET AL.

versus

ARITA BOHANNON, ET AL.

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 869-035, DIVISION "P"
HONORABLE LEE V. FAULKNER, JR., JUDGE PRESIDING

November 25, 2026

TIMOTHY S. MARCEL

JUDGE

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and Timothy S. Marcel

VACATED; REMANDED

TSM
MEJ
SJW

TRUE COPY



MORGAN NAQUIN
DEPUTY CLERK

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MARCEL, J.

In this case concerning appointment to the Jefferson Parish Fire Civil Service Board, plaintiffs Jefferson Fire Fighters Association Local 1374, I.A.F.F., Inc., and its president, Robert Burkett, a resident of Jefferson Parish, appeal an October 30, 2025 judgment of the trial court that denied their Petition for Declaratory Judgment, Writ of Mandamus, and Injunctive Relief filed against individual members of the Jefferson Parish Council in their official capacities and the Parish of Jefferson, (hereafter "Parish defendants"). For the following reasons, we vacate the judgment of the trial court and remand this matter to the trial court for proceedings consistent with our decision herein.

BACKGROUND

Appointment of members to the Jefferson Parish Fire Civil Service Board is governed by Louisiana Revised Statute 33:2536, which states that the appointment of one board member is to be made from a list of four nominees furnished "by the executive head of a regularly chartered and established four-year institution of higher education located within the area served; or, if there is no such institution in the area served, by the executive head of such an institution which is within the state and which is the most geographically proximate to the area served."

The area served at issue here is the East Bank Consolidated Special Service Fire Protection District as defined by Jefferson Parish Code of Ordinances, Sec. 13-36. First on August 21, 2019, then on August 10, 2022, and again on September 17, 2025, the Jefferson Parish Council appointed Mr. Glenn Scorsone to the Fire Civil Service Board, a nominee from a list solicited from and furnished by the University of

New Orleans.[1] Parish defendants aver this appointment is consistent with Council practice for more than thirty six years, and that the Parish has appointed nominees from lists furnished by UNO since 1989 without challenge.

On September 24, 2025, plaintiffs filed a Petition for Declaratory Judgment, Writ of Mandamus, and Injunctive Relief seeking to have the appointment of Mr. Scorsone declared unlawful, to enjoin the Board from recognizing Mr. Scorsone as a lawful member, and a writ of mandamus directing the members of the Jefferson Parish Council to solicit a list of nominees from Xavier University. Plaintiffs aver in their petition that, because Jefferson Parish has no "regularly chartered or established four-year institution of higher education" located within the East Bank Consolidated Special Service Fire Protection District, Xavier University, as the most geographically proximate to the district, is the proper institution to furnish the list of Board nominees pursuant to La. R.S. 33:2536.

In their answer to this petition, the Parish defendants argued that the Council's solicitation of a list of nominees from UNO was proper because, since July 1, 2000, the University of New Orleans Foundation has leased a studio space at 800 Distributors Row in the Elmwood Industrial Park area of Jefferson Parish, for the Robert and Jeri Nims Center for Entertainment and Multimedia Technology, (the "Nims Center"). Defendants argue that plaintiffs are not entitled to mandamus relief because the determination of whether a four-year

[1] On July 1, 2026, the University of New Orleans officially changed its name to Louisiana State University in New Orleans, LSUNO. For simplicity, we refer to it here by its previous name, UNO.

institution qualifies under La. R.S. 33:2536 as being "located within the area served" necessarily involves factual findings and the exercise of judgment. Defendants claim that the Council was acting within its discretion in determining that UNO is a four-year institution maintaining an academic facility within the geographic boundaries of the fire district.

In response, plaintiffs filed a memorandum with exhibits where they pointed out that UNO's charter, issued under La. R.S. 17:3217(9) establishes the university in Orleans Parish. They also state that the UNO Foundation is a separate legal entity from the University of New Orleans. Plaintiffs further argued that, under the Parish's interpretation of the statute, many other universities could be considered "located within" the service area: Louisiana State University maintains an office for the LSU AgCenter in the Parish Government Building and Tulane University has an Elmwood campus less than a hundred yards away from Jefferson Parish Fire Headquarters. Plaintiffs argued that the use of the word "shall" in the relevant portion of La. R.S. 33:2536 indicates a mandatory rather than a discretionary duty.

A hearing on the petition was held on October 30, 2025, at which time the court accepted exhibits from defendants into the record. On the same day, the court issued a judgment denying the petition. (The court included the following language in the judgment, "In [denying the petition], this court acknowledges the intertwine of the Nims Center as a division of the University of New Orleans Foundation and thereby noting that although division is not impossible, it has not been

established as matter of law.") Plaintiffs' timely appeal of the judgment followed.

On appeal, plaintiffs raise multiple assignments of error which may be summarized as: (1) whether the Council's duties set forth in La. R.S. 33:2536(C)(2)(b) are ministerial or discretionary; (2) what constitutes a "regularly chartered and established four-year institution of higher education within the area served" under the statute; and (3) whether the trial court procedurally erred in dismissing the entire petition when the October 30, 2025 hearing was set only on the writ of mandamus. We consider these questions in our discussion below.

DISCUSSION

A writ of mandamus may be directed to a public officer to compel the performance of a ministerial duty required by law. La. C.C.P. art. 3863. As a general rule, a trial court's judgment on a writ of mandamus is reviewed under an abuse of discretion standard, while the trial court's factual findings are subject to manifest error standard of review. *Perrilloux v. St. John the Baptist Par. Gov't by & through Par. Council of St. John the Baptist Par.*, 24-280, p. 6 (La. App. 5 Cir. 10/18/24), 398 So.3d 1212, 1218. However, questions of law, such as the proper interpretation of a statute, are reviewed *de novo*. *Id.* (citing *Louisiana Municipal Association v. State*, 04-0227 (La. 1/19/05), 893 So.2d 809, 836). At issue in appellants' first assignments of error is the correct interpretation of the relevant portions of La. R.S. 33:2536, therefore we conduct our review *de novo*.

The starting point in the interpretation of any statute is the language of the statute itself as what the legislature says in the text of

a statute is considered the best evidence of its intent and will. *Glorioso v. City of Kenner*, 19-298, p. 2 (La. App. 5 Cir. 12/18/19), 285 So.3d 601, 603, (citing *Mayeux v. Charlet*, 16-1463 (La. 10/28/16, 8), 203 So.3d 1030, 1036); *Par. of Jefferson v. Hous. Auth. of Jefferson Par.*, 17-272, p. 8 (La. App. 5 Cir. 12/13/17), 234 So.3d 207, 214; *Yount v. Handshoe*, 14-919, p. 7 (La. App. 5 Cir. 5/28/15), 171 So.3d 381, 386. When the law is clear and unambiguous and its application does not lead to absurd consequences, then the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. La. C.C. art. 9. However, when the language of the law is susceptible to different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. C.C. art. 10. Finally, when the words of the law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole. La. C.C. art. 12.

La. R.S. 33:2536 governing fire and police civil service boards states in pertinent part[2]:

> (2) The members of the board shall be appointed by the governing body as follows:
> (a) One shall be appointed by the governing body upon its own nomination.
>
> (b)(i) Two members shall be appointed from a list of four nominees which shall be furnished, within sixty days after the governing authority makes a request by certified letter for such list, by the executive head of a regularly chartered and established four-year institution of higher education located within the area served; or, if there is no such institution in the area served, by the executive head of such an institution which is within the state and which is the most geographically proximate to the area served.

[2] The requirement for two members in this provision is only applicable to five-member boards. Here, the Board consists of three members; therefore, only one member is to be selected from a higher education institution. La. R.S. 33:2536(N)

> (ii) If a list of nominations is not submitted within sixty days after submission of request for such list, such failure shall be considered a failure to perform a ministerial duty required by law of a public official or corporate officer. To this end, the district attorney for the parish in which the institution is located shall provoke the issuance of a writ of mandamus to compel the official or officer to act as provided by law.
>
> …

This statute sets forth a mandatory scheme for the appointment of members of the fire civil service board, as indicated by the language "the members of the board shall be appointed by the governing body as follows." Any appointments made in a manner not specified by the statute would be unlawful and a writ of mandamus is the proper remedy for compelling the governing body to make a proper appointment. The additional language of subsection (b)(ii) directed towards the executive head of the institution of higher education further indicates that the Legislature intended the duties of this statute to be ministerial and contemplated mandamus as the proper enforcement mechanism for noncompliance.

The statute does not define "regularly chartered and established four-year institution of higher education" or specify how one should determine the location or geographical proximity of such an institution. The Parish defendants argue that the correct interpretation of this statute is that the Legislature intended that the governing body exercise its discretion to make a factual determination as to what constitutes an institution of higher education located within the service area. We disagree. Such an interpretation disregards the plain language of the statute; and in particular the phrase "regularly chartered and established". Institutions of higher education are not

regularly chartered and established in the abstract, but rather in a particular place as specified in the charter document.[3] Furthermore, the mandates of this statute are not directed towards any official at the institution of higher education, but the executive officer in charge. Such executives maintain offices with definite geographic locations on the campus of the institution, usually known as the office of the president.

The office of the president of UNO is located at 2000 Lakeshore Drive, New Orleans, in Orleans Parish. To find that UNO is a "regularly chartered and established four-year institution of higher education" within Jefferson Parish because the UNO Foundation, a legal entity distinct from the university, leases a warehouse there is absurd.[4] This is clear when one considers the additional language of the statute stated in subsection (b)(ii): if the president of UNO fails to furnish a requested list, then, under the Parish defendants' theory, the district attorney for Jefferson Parish is required to file a writ of mandamus against her, thereby setting up a potential conflict with the district attorney for Orleans Parish the place where the president's office is located. Similarly, the Parish defendants' proposed interpretation creates additional potential for conflict whereby different

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[3] For example, the Charter of Loyola University New Orleans states in Article II:

The principal office and legal domicile of this Corporation shall be 6363 St. Charles Avenue, New Orleans, Louisiana, 70118. The President of the Corporation, or in his or her absence or incapacity, any other officer of the Corporation shall be the proper person upon whom legal process shall be served. The present agent for service of legal process is University President, 6363 St. Charles Avenue, New Orleans, Louisiana, 70118.

[4] The Parish defendants' failure to acknowledge the presence of either the LSU AgCenter office or Tulane Elmwood Campus suggests that Parish Council's determination of the geographic location is arbitrary rather than grounded in the text of the statute.

governing bodies reach different conclusions about whether an institution is located within their service areas.

We acknowledge that institutions of higher education in Louisiana may own or operate facilities or offices in multiple parishes, but we do not believe the Legislature intended the determination of the location of a "regularly chartered and established four-year institution of higher education" to be a discretionary decision made by the governing body. The location of such an institution may be clearly ascertained by reference to either the charter document or identification of the official address of the office of the president or other institution executive head to whom the request to furnish the list must be directed. In the rare situations where there are multiple such institutions geographically located within a service area, the governing body may have discretion to select which institution head must furnish the required list; however, that question is not before us at this time.

In light of our finding that the trial court legally erred in its interpretation of the statute, we vacate the October 30, 2025 judgment of the trial court in its entirety. We remand this matter to the trial court for a new hearing consistent with our decision herein on the petition in its entirety as well as any evidence properly presented and placed in the record.

VACATED; REMANDED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **NOVEMBER 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-CA-91

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HON. LEE V. FAULKNER, JR. (DISTRICT JUDGE)
BRANDON J. VENEGAS (APPELLANT)
AMANDA PLAISCIA (APPELLEE)
CRAIG R. WATSON (APPELLEE)
GUICE A. GIAMBRONE, III (APPELLEE)

MAILED