

November 7, 2012
OPINION 12-0186

15—Courts
46—A—Fees & Costs

Ann S. Siddall
First Assistant District Attorney
Seventh Judicial District Court
Concordia Office
4001 Carter St., Suite 9
Vidalia, Louisiana 71373

R.S. 13:996.51; R.S. 46:2361; R.S. 46:2362; R.S. 46:2364; R.S. 46:2370

Louisiana Interpreter Law, R.S. 46:2364, *et seq.*, requires that the appointing authority, or presiding officer of the court, appoint and pay for a qualified interpreter during those stages of a judicial proceeding in state court where a hearing impaired person is a party involved in direct communication with other hearing impaired persons or his/her legal representative. R.S. 46:2370 provides that interpreters are entitled to a reasonable fee for their services, which includes waiting time and travel time. When an interpreter is appointed pursuant to the Louisiana Interpreter Law, the Louisiana Commission for the Deaf may pay the interpreter's fees set by the court. If the Louisiana Commission for the Deaf does not cover an interpreter's fees, then the Judicial Expense Fund for the Seventh Judicial District would be another viable source of such payment.

Dear First Assistant Siddall:

We have received your request for an opinion submitted on behalf of the Concordia Parish Police Jury pertaining to payment of interpreters for the hearing impaired during a civil court proceeding. Recently, during a hearing in a civil case in the Seventh Judicial District Court arising out of a divorce and community property settlement, the judge appointed interpreters for the parties who were hearing impaired. The judge also ordered that the interpreters be paid pursuant to R.S. 46:2361, *et seq.* The issue presented to our Office is whether the Concordia Parish Police Jury is responsible for paying these fees, and, if so, may they be paid out of the Parish General Fund, or should they be paid from another fund (e.g., Judicial Expense Fund)?

The Louisiana Interpreter Law is located in Title 46 of the Louisiana Revised Statutes, entitled "Public Welfare and Assistance." The purpose for enacting the Louisiana Interpreter Law is captured in R.S. 46:2361 which states as follows:

It is the policy of this state to secure the rights of persons with hearing impairments who cannot readily understand or communicate in spoken languages and who consequently cannot equally participate in or benefit from proceedings, programs, and activities of the courts . . . , of the state and its subdivisions unless qualified interpreters/transliterators are available to facilitate communication.

R.S. 46:2364 sets forth those instances where an interpreter or transliterator is required:

A. **Whenever a hearing-impaired person is a party** or witness at any stage involving direct communication with hearing-impaired persons or his legal representative or custodian during **any** judicial or quasi-judicial proceeding in this state . . . including but not limited to proceedings of any **civil . . . court . . . the appointing authority shall appoint and pay for a qualified interpreter**/transliterator to interpret or transliterate the proceedings to the hearing impaired person and to interpret or transliterate the hearing-impaired person's testimony.

(West 2012)(emphasis added).

Based on the foregoing statutory provisions, the appointing authority, or presiding officer of the court,¹ must appoint and pay for a qualified interpreter during those stages of a judicial proceeding in state court where a hearing impaired person² is a party involved in direct communication with other hearing impaired persons or his/her legal representative. Based upon your inquiry, it may be assumed that the judge handling the civil litigation in your inquiry found that the hearing impaired parties met the qualifications necessary to be appointed interpreters to facilitate communication and ensure their rights were protected allowing them to equally participate in the proceedings before the state court. Furthermore, a literal reading of R.S. 46:2364(A) requires the appointing authority to pay for the qualified interpreter without offering more guidance.

However, compensation for interpreters under the Louisiana Interpreter Law is specifically addressed in R.S. 46:2370. Interpreters are entitled to a reasonable fee for their services, which includes waiting time and travel time. The Louisiana Commission for the Deaf may pay this fee, and when an interpreter is required for a judicial proceeding, the fee must be set by the court. Reimbursement for travel and subsistence expenses shall be set at rates provided by law for state employees. Therefore, when an interpreter is appointed pursuant to the Louisiana Interpreter Law, the Louisiana Commission for the Deaf may pay the interpreter's fees set by the court.

Although the Louisiana Interpreter Law does not specify a mandatory source or specific fund from which an interpreter's fees and costs must be paid, should the Louisiana Commission for Deaf decline paying said costs, then the Judicial Expense Fund for the Seventh Judicial District Court established by R.S. 13:996.51 may be a viable source of such payment. The Seventh Judicial District Court judges, sitting *en banc*, "shall have control over and administer the funds and all disbursements made from the fund." R.S. 13:996.51(B). They shall also have the authority to appoint "other personnel as they deem necessary to expedite the business and function of the court and fix and pay all or

¹ R.S. 46:2362(1).

² A "hearing impaired person" is defined as "a person who, because of a hearing impairment, has difficulty understanding the communication occurring." R.S. 46:2362(2).

any part of the salaries or reasonable expenses of such personnel out of the monies of the judicial expense fund.” R.S. 13:996.51(C). The Judicial Expense Fund for the Seventh Judicial District Court also contains a catch-all phrase that permits its use for “any purpose or purpose connected with, incidental to, or related to the proper administration or function of the court . . . and is supplemental to . . . all other funds, salaries, expenses, or other monies that are now or hereafter provided, authorized, or established by law for any of the aforesaid purposes.” R.S. 13:996.51(D).

As it is clear that the appointment of interpreters for a hearing impaired person meeting the requirements of R.S. 46:2364 would expedite the business operation and allow for the proper administration or function of the court, it would be our Office’s opinion that if the Louisiana Commission for the Deaf does not cover an interpreter’s fees, then the Judicial Expense Fund for the Seventh Judicial District would be a viable source of such payment.

We hope that this information sufficiently answers your inquires. If we can be of further assistance, please do not hesitate to contact us.

Very truly yours,

JAMES D. “BUDDY” CALDWELL
ATTORNEY GENERAL

By: _____
KATHERINE K. GREEN
Assistant Attorney General

SYLLABUS
OPINION 12-0186

15—Courts
46—A—Fees & Costs

R.S. 13:996.51; R.S. 46:2361; R.S. 46:2362; R.S. 46:2364; R.S. 46:2370

Louisiana Interpreter Law, R.S. 46:2364, *et seq.*, requires that the appointing authority, or presiding officer of the court, appoint and pay for a qualified interpreter during those stages of a judicial proceeding in state court where a hearing impaired person is a party involved in direct communication with other hearing impaired persons or his/her legal representative. R.S. 46:2370 provides that interpreters are entitled to a reasonable fee for their services, which includes waiting time and travel time. When an interpreter is appointed pursuant to the Louisiana Interpreter Law, the Louisiana Commission for the Deaf may pay the interpreter's fees set by the court. If the Louisiana Commission for the Deaf does not cover an interpreter's fees, then the Judicial Expense Fund for the Seventh Judicial District would be another viable source of such payment.

Ann S. Siddall
First Assistant District Attorney
Seventh Judicial District Court
Concordia Office
4001 Carter St., Suite 9
Vidalia, Louisiana 71373

DATE RECEIVED:

DATE RELEASED: November 7, 2012

KATHERINE K. GREEN, ASSISTANT ATTORNEY GENERAL