



STATE OF ARKANSAS
**Department of Finance
and Administration**

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August 2, 2021

Dr. Janet Dickinson
Superintendent
Arkansas School for the Deaf
2400 W. Markham
Little Rock, Arkansas 72205

Re: Advisory Opinion No. 2021-08

Dear Dr. Dickinson:

This letter is in response to a written request for an advisory opinion pursuant to Arkansas Code Annotated § 19-11-715(c), which was sent to my office in a letter dated June 15, 2021, and received via email on June 17, 2021, regarding the circumstances described below in regard to Rose Burleson, who is an interpreter at the Arkansas School for the Deaf (ASD) campus.

This opinion is based upon the following facts that have been presented to me and upon which I am relying. It should be noted that if one or more of these facts are later shown to be incorrect, then that could result in a revised opinion.

1. Ms. Burleson has been involved with the Deaf community for over 25 years;
2. Ms. Burleson's exposure to American Sign Language, as well as Deaf culture, has enabled her to proficiently interpret between hearing and Deaf individuals;
3. Ms. Burleson possesses an interpreting license with the highest level of qualification for the Arkansas state test as well as many additional certifications;
4. ASD has between 20 and 50 interpreting assignments each week;
5. Ms. Burleson is qualified to interpret for multiple assignments at ASD;
6. In December 2020, Ms. Burleson married Nathan Burleson, who is Assistant Director of Technology at ASD;
7. Mr. Burleson has been employed by ASD for five years and does not participate in the decision-making process of scheduling interpreter assignments;
8. Interpreter assignments are scheduled without bias through ASD's department of Student and Family Support Services, and the assignments are scheduled according to availability and compatibility of the interpreter and the given topic;
9. Most of Ms. Burleson's assignments include Mental Health with students, Psych Exams for students, and IEP's and other educational-related meetings on campus; and
10. Highly qualified interpreters are rare in Arkansas, and ASD often does not have enough interpreters to fill the needs for its students and families.

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Subsequently, on July 14, 2021, you supplemented the original request with the following information:

11. Ms. Burleson is a freelance interpreter, and she has interpreted for ASD from September 2020 through May 2021;
12. Ms. Burleson previously worked as a freelance interpreter for the Alabama School for the Deaf;
13. Upon moving to the City of Little Rock in September 2020, Ms. Burleson notified ASD of her availability to interpret;
14. In order to work for ASD, an interpreter must be licensed in the state of Arkansas as well as show proof of their level of certification as an interpreter;
15. Ms. Burleson holds an Arkansas State Interpreter License and a 5/5 level of certification, which is the highest level of certification; and
16. Interpreter assignments are filled according to the level of interpreter needed for the position and the interpreter's availability.

Additionally, on July 16, 2021, Whitney Raney, Finance Division of the Arkansas Department of Education, confirmed that:

17. The total amount ASD paid to Ms. Burleson for her interpreter services in Fiscal Year 2021 was \$13,707.50.

I. Relevant Law

The ethical strictures set forth in Ark. Code Ann. § 19-11-705(a)(1)(A) prohibit state employees from participating directly or indirectly in any particular matter pertaining to any state agency contracts in which an employee or an employee's immediate family member has a financial interest. Arkansas Code Ann. § 19-11-705(a)(2) defines "direct or indirect participation" as including, but not being limited to, "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity."

For purposes of interpreting Ark. Code Ann. § 19-11-701, *et seq.*, Ark. Code Ann. § 19-11-701 (8) defines "employee," as "an individual drawing a salary from a state agency, whether elected or not, and any non-salaried individual performing personal services for any state agency." "State agency" is defined in Ark. Code Ann. § 19-11-701(16) as meaning "any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state."

Arkansas Code Ann. § 19-11-701(2) defines "business" to mean "any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity." The term "financial interest" is defined in Ark. Code Ann. § 19-11-701(9)(C) as meaning:

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- (A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;
- (B) Ownership of more than a five percent (5%) interest in any business; or
- (C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management; ...

II. Analysis

Based on the above facts, Mr. Burleson's ASD employment qualifies him as an employee subject to the ethics statutory provisions, and Ms. Burleson's provision of interpreter services that are paid by ASD serves as the basis for the application of the ethics statutory provisions.

In this case, although Mr. Burleson's ASD employment as the Assistant Director of Technology precedes Ms. Burleson's provision of paid interpreter services to ASD, I am persuaded by your representation that he does not participate in the decision-making process of scheduling interpreter assignments in concluding that Ms. Burleson's selection to provide interpreter services is not due to inappropriate influence or conduct. Of additional significance is the process by which interpreters are assigned and its reliance upon interpreter availability, project compatibility, and skill level. Finally, based on these factors, interpreter assignments are scheduled through ASD's department of Student and Family Support Services.


Consequently, as Mr. Burleson has no apparent procurement authority or responsibility in selecting or scheduling interpreter services for ASD, I conclude that any conflict is insubstantial and remote.

III. Decision

Thank you for seeking my counsel and approaching the issue with evident transparency. I am persuaded that, under the facts as stated above, any ethical conflict that might exist is insubstantial or remote, and I grant permission to proceed to such extent and upon such terms and conditions as specified in this letter. This decision grants a waiver in accordance with Arkansas Code Ann. § 19-11-715(c) regarding ASD paying Ms. Burleson for interpreter services as long as Mr. Burleson continues to have no procurement authority or responsibility at ASD and is not involved with the scheduling or selection of interpreter services.

Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Ark. Code Ann. §19-11-701 *et seq.*

Sincerely,


Larry W. Walther
Secretary

cc: Edward Armstrong, Office of State Procurement
Amy Fecher, Secretary