



Jeff Landry
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State of Louisiana

DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
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ATTORNEY GENERAL'S OPINIONS

Contact: *Adrienne Gauthier*
225-326-6050

November 7-10, 2022

#22-0061

Incentive pay plans are constitutionally permissible provided the plan passes under the *Cabela's* analysis. The fire and police civil service board may establish a plan for incentive pay for classified employees as long as the plan complies with La. R.S. 33:2586. Any incentive pay issued to an employee of the Department pursuant to any qualification, certification, or degree held that is already required for the employee's position is prohibited under La. Const. art. VII, § 14(A). (Lester)

Op to Mr. Terence Morris, Fire Chief, City of Kenner, Kenner, LA

Date Released: November 7, 2022

#22-0099

Louisiana law expressly provides that the costs of transportation of abandoned human remains in the possession of a funeral establishment from the parish in which the funeral establishment is located to a coroner's office in another parish are to be borne solely by the funeral establishment. (Seidemann)

Op to Mr. Jonathan D. Hunter, M.D., Coroner, Rapides Parish, Alexandria, LA

Date Released: November 7, 2022

#22-0089

A determination of whether certain employees or elected officials are considered "eligible workers" is left to the public entity that will be expending ARPA funds for the purpose of granting retroactive premium pay. However, the U.S. Department of Treasury will be the ultimate arbiter of whether a local government has used ARPA funds properly. Lastly, the payment of retroactive premium pay under ARPA is discretionary for the entity receiving ARPA funds, and therefore, any use of the ARPA funds is left to the decision of the entity expending such funds. (Lester)

Op to Honorable Judi F. Abrusley, Judge, 33rd Judicial District Court, Oberlin, LA

Date Released: November 9, 2022

ATTORNEY GENERAL'S OPINIONS

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#22-0118

Any member of the Monroe City Council may submit an item to the Council Clerk for inclusion on the upcoming agenda. (Sudduth)

Op to Honorable Katrina Jackson, State Senator, District 34, Honorable Pat Moore, State Representative, District 17, and Honorable Adrian Fisher, State Representative, District 16, Monroe, LA

Date Released: November 10, 2022

#22-0123

The form "Election Expense Manual for Clerks of Court and Parish Boards of Election Supervisors" is compliant with Louisiana law and is approved for printing and distribution. (Wale)

Op to Mr. R. Kyle Ardoin, Secretary of State, State of Louisiana, Baton Rouge, LA

Date Released: November 10, 2022



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November 7, 2022
OPINION 22-0099

Hon. Jonathan D. Hunter, M.D.
Rapides Parish Coroner's Office
701 Murray Street, Suite 202
Alexandria, LA 71301

13 CORONERS

La. R.S. 9:1551
La. R.S. 13:5715

La. R.S. 13:5706

Louisiana law expressly provides that the costs of transportation of abandoned human remains in the possession of a funeral establishment from the parish in which the funeral establishment is located to a coroner's office in another parish are to be borne solely by the funeral establishment.

Dear Dr. Hunter:

You have requested an opinion from this office asking the following question: "Is the funeral home in possession of human remains that they have declared abandoned responsible to deliver the abandoned remains to the coroner willing to accept jurisdiction of the remains?" In support of this request, you relate the following facts.

A decedent who resided in Rapides Parish was picked up by a funeral home in Lafayette Parish at the family's request. Following the pickup, the family refused to move forward with the disposition of the decedent's remains, leaving the remains in the charge of the funeral home. The funeral home, pursuant to La. R.S. 9:1551, declared the remains as abandoned. While the Rapides Coroner's Office accepts responsibility for its obligation to undertake the disposition of the decedent's remains under the law, it does not believe that the costs of transporting the remains back to Rapides Parish can be borne by the coroner's office under the law. The funeral home insists that the costs of the transportation fall to the coroner of the parish of residence (i.e., Rapides), citing to La. R.S. 13:5706(E) and La. R.S. 13:5715 as authority.

This office has regularly opined regarding the responsibilities of coroners with regard to the disposition of abandoned and pauper's remains.¹ In La. Atty. Gen. Op. No. 21-0131, we opined that La. R.S. 9:1551 is the applicable law when handling the disposition of abandoned human remains. That conclusion remains correct today. In that law, the Legislature has provided (in pertinent part) that:

The coroner shall have and exercise custody over the remains of all persons who die within the parish and whose remains are abandoned, not claimed, or unclaimed by the person or persons authorized in R.S. 8:655, or by the person to whom the coroner has released the remains under the provision of Paragraph (1) of this Subsection, and the remains of persons that are abandoned while in the possession of a funeral establishment as provided in Subsection C of this Section.²

¹ See e.g., La. Atty. Gen. Op. Nos. 21-0131, 13-0127, 10-135, 09-0312, 07-0240, 88-411, 84-586.

² La. R.S. 9:1551(A)(2).

For the purposes of answering your opinion request, we assume that the prerequisites noted in the quotation above have been met and that the Rapides Parish Coroner has properly taken responsibility for the disposition of the subject decedent's remains.

Under the facts that you relate, the decedent has become, "...abandoned while in the possession of a funeral establishment."³ In this situation, La. R.S. 9:1551(C)(2) instructs that, in the event of an abandonment occurring while the decedent is, in the possession of a funeral establishment:

the funeral establishment shall transport the human remains of the decedent at their costs to the coroner of the parish of the decedent's domicile, if located in Louisiana, or to the coroner of the parish where the death occurred if the decedent's domicile is not in Louisiana, who shall assume jurisdiction of the case, and accept the remains for future disposition all in accordance with law.

Accordingly, it is the opinion of this office that Louisiana law expressly provides that the costs of and responsibility for the transportation of abandoned human remains in the possession of a funeral establishment from the parish in which the funeral establishment is located to a coroner's office in another parish are to be borne solely by the funeral establishment. This conclusion makes logical sense, especially where, as you relate is the case here, the funeral establishment caused the now-abandoned remains to be transported from Rapides Parish to Lafayette Parish for business purposes. In other words, but for the business decision of the funeral establishment in this situation who was presumably hoping to be compensated by the family for funeral services, the subject remains likely would not have left Rapides Parish such that the transportation provisions of Louisiana law would not now be in question.

Moreover, we reject the assertion that La. R.S. 13:5706(E) or La. R.S. 13:5715 are applicable to this situation. Louisiana Revised Statute 13:5706(E) sets forth how the coroner is to be reimbursed for certain expenditures. That law does not contain provisions regarding whether the coroner or a funeral establishment is required to cover the costs of transportation of abandoned remains in the possession of a funeral establishment. In addition, La. R.S. 13:5715 covers general matters related to the release of human remains. That law also does not contain provisions regarding whether the coroner or a funeral establishment is to cover the costs of transportation of abandoned remains in the possession of a funeral establishment.

³ La. R.S. 9:1551(A)(2).

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

By:


Ryan M. Seidermann, Ph.D.
Assistant Attorney General

JL/RMS/cw