



ALAN WILSON  
ATTORNEY GENERAL

July 10, 2025

The Honorable Richard L. "Richie" Yow  
Member  
South Carolina House of Representatives  
1105 Pendleton St.  
327-C Blatt Bldg.  
Columbia, SC 29201

Dear Representative Yow:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter forwards a constituent's request for an opinion addressing the following:

I am writing to respectfully request an official opinion from your office regarding a matter involving the Lancaster County School Board and the legality of Policy BBBE, which addresses board member compensation.

In June 2016, the Lancaster County School Board adopted Policy BBBE (issued June 28, 2016), which sets compensation for board members at \$700 per month, with an additional \$100 per month for the board chair due to additional responsibilities. The policy also includes provisions for annual compensation increases tied to certified staff raises, as well as reimbursements for travel and conference expenses.

In October 2022, the school board reaffirmed all of its policies-except Policy BBBE. This omission has raised concerns, particularly given that the authority for board members to set or receive compensation may conflict with the state statute that established the consolidated school district in the early 1990s. As I understand it, the original statute may not grant the board the authority to determine its own compensation.

Given these concerns, I respectfully request your opinion on the following:

1. Whether Policy BBBE, which allows the Lancaster County School Board to set and increase its own compensation, is consistent with the state statutes that govern the authority of the board and the structure of the district.
2. Whether the 2022 failure to reaffirm Policy BBBE has any legal impact on its current enforceability.
3. Whether reimbursement and travel-related provisions for board members, as outlined in the policy, are subject to statutory or constitutional limits.

### Law/Analysis

This opinion will address your constituent’s questions in turn.

1. Whether Policy BBBE, which allows the Lancaster County School Board to set and increase its own compensation, is consistent with the state statutes that govern the authority of the board and the structure of the district.

The Lancaster County School District (the “District”) was created by Act Number 777 of 1988. Section 1 of Act 777 states:

There is created the Lancaster County School District, a body politic and corporate with a governing body known as the Lancaster County School District Board of Trustees. The district is vested with all the rights, privileges, and responsibilities as other school districts possess under the provisions of the general law of South Carolina. The area and boundaries of the district are the same as the area and boundaries of the county.

Id. (emphasis added). Unlike many local laws that abolish a county board of education and establish a county wide school district, Act 777 did not devolve the county board’s powers onto the district. Rather, it specified that the district would have the rights, privileges, and responsibilities provided under the general law of the state. With the repeal of the prior provisions governing the county board member’s compensation, the District’s board members compensation per diem, and mileage are governed by S.C. Code § 59-1-350. It reads:

Members of the county board of education or board of trustees may serve without pay. Each member of the board may receive a per diem for attendance at board meetings and may be paid mileage to and from such meetings. No member may receive per diem and mileage unless in actual attendance upon a meeting of the board. When any member of a board is directed to travel outside the county or school district on official business of the board, he may be allowed actual expenses incurred as a result.

Id. While section 59-1-350 states that members of a board of trustees "may serve without pay," this language is permissive. In fact, each provision in section 59-1-350 concerning compensation, per diem, mileage, and actual expenses use the permissive "may." Unless there is a local law or other controlling authority to the contrary, a district board of trustees may develop its own policies addressing these topics in conformance with these parameters. Our research for this opinion has not revealed there is such a local law addressing these topics for the Lancaster County School District board of trustees.

Other public bodies are limited by statute concerning when salary increases may go into effect. For example, S.C. Code § 5-7-170 contains the following restriction regarding municipal council compensation.

The council may determine the annual salary of its members by ordinance; *provided*, that an ordinance establishing or increasing such salaries shall not become effective until the commencement date of the terms of two or more members elected at the next general election following the adoption of the ordinance, at which time it will become effective for all members whether or not they were elected in such election.

Id. There is no similar statutory restriction concerning the timing of compensation increases for members of a school district board of trustees.

2. Whether the 2022 failure to reaffirm Policy BBBE has any legal impact on its current enforceability.

We take this opportunity to clarify our policy concerning when a public body requests an opinion it should do after an affirmative vote of the majority of the body at a public meeting or by a request from its attorney. This policy provides greater assurance that the facts and law that our opinions analyze are accurate representations of the public body's actions, positions, and legal questions. The constituent letter you submitted was written by a single member of the Lancaster County School District board of trustees. The questions therein required research into the local laws applicable to the Lancaster County School District and review of the school district board of trustee's meeting minutes and related documents. There were discrepancies between the letter's characterization regarding reaffirming Policy BBBE and those provided on behalf of the Board. To the extent that this opinion discusses information that conflicts with the description in the constituent's letter, that information was obtained from the Board's meeting minutes or was provided by the Board's attorney in documents which are available to the public.

This Office cannot find facts in an opinion. See Op. S.C. Att'y Gen., 2006 WL 1207271 (April 4, 2006) ("Because this Office does not have the authority of a court or other fact-finding body, we are not able to adjudicate or investigate factual questions."). Our opinions will often

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assume the facts presented for purposes of analysis, but where there are differences between the facts described by a requestor/single-member of a public body and those described by the public body, we are unable to resolve such inconsistencies.

Here, the request letter states the Board “reaffirmed all of its policies – except Policy BBBE” in October 2022. Yet, the Board’s meeting minutes for November 15, 2022, state, “A motion to affirm the board policies for 2023 was made by Mr. Stroble and seconded by Ms. Green. The motion passed unanimously (7-0).” The meeting minutes do not list any policies that were exceptions to this vote. A memorandum drafted by J. Alexander Sherard, Esq. for the Lancaster County School Board dated June 24, 2025, regarding the status of Policy BBBE stated that “most policies contained in District Board Policy ... were recommend to the Board for substantive review either through policy additions, revisions, deletions or incorporation into other policies.” The memorandum explained, “[I]t does not appear that District Board Policy BBBE was recommended to the Board for revision.” If one attempted to harmonized these two seemingly inconsistent positions, it may be that there is a misunderstanding regarding the policy being reaffirmed on November 15, 2022, and that it remained unamended from when it was adopted in in June 2016. This opinion makes no determination on these positions because, again, this Office cannot adjudicate factual questions. If the school district would like this Office to address the enforceability of its policies, it is welcome to request an opinion, and we would rely on the facts provided on behalf of the entire body.

3. Whether reimbursement and travel-related provisions for board members, as outlined in the policy, are subject to statutory or constitutional limits.

In addition to the provisions of S.C. Code § 59-1-350 discussed above, the South Carolina Comptroller General’s website has published guidance addressing statewide disbursement regulations establishing parameters on per diem allowance, mileage, subsistence, and travel-reimbursement procedures. See SC Comptroller General, Accounts Payable Policies and Procedures, Disbursement Regulations, <https://cg.sc.gov/sites/cg/files/Documents/Guidance and Forms for State Agencies/CGs Accounting Policies and Procedures/6-30-25/Accounts Payable Policies and Procedures/Disbursement Regulation 2026.pdf> (last visited July 10, 2025). Reference can be made to this document for specific reimbursement concerns.


Sincerely,



Matthew Houck  
Assistant Attorney General

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REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook", is written over a horizontal line.

Robert D. Cook  
Solicitor General