



ALAN WILSON
ATTORNEY GENERAL

April 28, 2025

Shayla R. Hayes
General Counsel
S.C. Department of Children's Advocacy
Foster Care Review Division
1205 Pendleton Street, Suite 441
Columbia, SC 29201

Dear Ms. Hayes:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter requests an opinion addressing the following:

The Foster Care Review Board consists of a state board of directors with seven board members and 43 local boards composed of citizen volunteers appointed by the Governor. ...

S.C. Code § 63-11-700(C) provides that members of the State Board shall receive per diem, and subsistence as provided by law for members of boards, commissions, and committees while engaged in the work of the board.

S.C. Code § 63-11-740 states that members of local boards may not receive compensation for their services but must be allowed mileage, per diem, and subsistence as provided by law for state boards at board meetings.

State of South Carolina Statewide Disbursement Regulations permit members of state boards whose duties are not full-time and who are paid on a per diem basis, to be allowed reimbursement for actual expenses incurred while away from their places of residence on official business of the State.

1. Is the Foster Care Review Division required to pay (or reimburse) local board members for mileage, per diem, and subsistence for participation in events that constitute official business that extend beyond board meetings (i.e. community events)?

2. In addition to mandatory annual trainings, the Foster Care Review Division offers monthly virtual trainings that last about an hour. Attendance to the virtual trainings is not mandatory, and recordings are available to view any time on a secured portal online. Are board members entitled to per diem and/or subsistence payments for attendance to a virtual, hour-long training?
3. Unlimited payments to board members participating in board meetings, official business and trainings make it difficult for the Foster Care Revision Division to predict budgetary expenses associated with disbursements. Is the Foster Care Review Division allowed to restrict, in any way, the amount of funds paid to any board member for the number of board meetings they attend or their participation in any other official business?
4. All case review meetings by local boards (and any substitutions for local board members by state boards members) are held virtually; however, in one county, local board members have chosen to gather in-person and view the other virtual participants on a screen at a board member's workplace. The workplace is located in the same county as their homes. This board was notified that current Foster Care Revision Division policies no longer authorize case reviews to be held in-person. Those board members who have chosen to meet in-person for the virtual reviews have requested reimbursement for mileage from their homes to the board member's workplace. Are local board members who have chosen to meet in-person at a location within their county of residence for a virtual review entitled to mileage payments or are mileage payments restricted to travel outside of the board member's county of residence?

Law/Analysis

It is this Office's opinion that S.C. Code § 63-11-740, concerning meetings of local boards, limits the allowable mileage, per diem, and subsistence for members of local foster care review boards to "attendance at board meetings." As your letter notes, the members of the State Board are granted per diem, mileage, and subsistence for a broader range of circumstances "while engaged in the work of the board." S.C. Code § 63-11-700(C). This distinction demonstrates that the General Assembly intended to permit these payments to local board members in more limited circumstances. Therefore, it is this Office's opinion that a court would hold mileage, per diem, and subsistence are not authorized for local board members at community events.

"Board meetings" is not a defined term within the statutes governing the Foster Care Review Board in Article 7 of Title 63. The primary rule of statutory construction requires a determination of the General Assembly's intent. Mitchell v. City of Greenville, 411 S.C. 632, 634, 770 S.E.2d 391, 392 (2015) ("The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible."). The South Carolina Supreme Court has held that when the meaning of a statute is clear on its face, "then the rules of statutory interpretation are

not needed and the court has no right to impose another meaning. The words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Catawba Indian Tribe of S.C. v. State, 372 S.C. 519, 525-26, 642 S.E.2d 751, 754 (2007) (citations omitted) (internal quotations omitted). Black's Law Dictionary defines "meeting" as:

meeting *n.* (14c) 1. A coming together or gathering of people, whether few or many. 2. An assembly, convention, or congregation. 3. *Parliamentary law*. A single official gathering of people to discuss or act on matters in which they have a common interest; esp., the convening of a deliberative assembly to transact business.

MEETING, Black's Law Dictionary (12th ed. 2024); see also Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/meeting> ("an act or process of coming together"). A board meeting for purposes of the local boards would include a convening of the board for case review. Whether the receipt of information in a training, occurring virtually or in-person, could be considered a board meeting will depend on the facts in a given case. 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").

The South Carolina Code of State Regulations authorizes agencies to place further limits on travel and subsistence. See S.C. Code Regs. 19-101.07 ("Travel and subsistence limitations may be made more restrictive by the agency head or director as dictated by agency requirements.")¹ Whether the Division has already implemented such a restriction on the local board by notifying that case reviews are no longer authorized to be held in person is a question of fact which is beyond the scope of this Office's opinions. See Op. S.C. Att'y Gen., *supra*. However, even if a restriction has not been implemented, travel expenses are authorized "only when officially justified and by those means which meet State government requirements consistent with good management practices." S.C. Code Regs. 19-101.01. It is this Office's opinion that a court would not find mileage reimbursement at State expense is permitted for unauthorized in-person case review because it would not be officially justified.

¹ While this regulation is listed within the Travel Regulations for State Employees, the State of South Carolina Statewide Disbursement Regulations clarify, "Board, Commission and Committee members are considered State employees for the purposes of filing for travel reimbursement." SC Comptroller General, Accounts Payable Policies and Procedures, Disbursement Regulations, at 13 <https://cg.sc.gov/sites/cg/files/Documents/Guidance%20and%20Forms%20for%20State%20Agencies/Accounting/03-31-25/Disbursement%20Regulations%20-%20June%202024.pdf> (last visited April 24, 2025).

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Page 4

April 28, 2025

Sincerely,



Matthew Houck

Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook

Solicitor General