

The State of South Carolina



Office of the Attorney General

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October 9, 1991

The Honorable James L. Solomon, Jr.
Commissioner, South Carolina Department
of Social Services
Post Office Box 1520
Columbia, South Carolina 29202-1520

Dear Commissioner Solomon:

You have requested that Opinion No. 77-127 issued in 1977 concerning mileage and per diem reimbursement to county directors and supervisors to attend meetings of their private organization be reviewed and updated. You indicate that the focus of the meetings has changed since 1977 to now provide actual training for which certification credits are given.

It is the longstanding policy of this Office that we will not supersede a prior opinion unless the opinion is clearly erroneous or unless there has been a change in the law. After reviewing the 1977 opinion, it does not appear that the opinion is either clearly erroneous or that there has been an intervening change in the law. In fact we revisited and relied upon Opinion No. 77-127 in a June 2, 1988 opinion to you in which we addressed a similar issue. We have enclosed this opinion for your review.

However the situation as you describe it appears to turn more on whether the facts have changed given that the reimbursement of employees, while traveling on the business of the state, was found to be permissible under the 1977 opinion and would be permissible today. We have previously opined that the fact that this is a private corporation with its membership composed of state employees would not necessarily preclude reimbursement as long as the facts indicate that the employees were on official business and not meeting for some private purpose. See Op. Atty. Gen. October 15, 1987. Whether or not the state's criteria for reimbursement can be met in

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the specific situation about which you inquire is a factual determination which should be made by the particular agency involved. The enclosed opinion dated October 15, 1987 sets forth guidelines which you may take into consideration in resolving the issue.

If you need additional information, please advise.

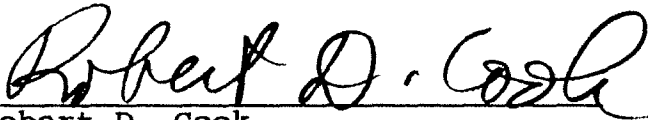
Sincerely,



Ruby Brice McClain
Assistant Attorney General

RBM/an
Enclosures

REVIEWED AND APPROVED BY:



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