



HENRY McMASTER  
ATTORNEY GENERAL

December 15, 2009

Rebecca C. Patrick, Chairwoman  
South Carolina Crime Victims Advisory Board  
1205 Pendleton Street  
Edgar Brown Building, Room 401  
Columbia, South Carolina 29201

Dear Ms. Patrick:

In a letter to this office you indicated that you chair the South Carolina Crime Victims Advisory Board (hereinafter "the Board"). The Board serves in an advisory capacity to the State Office of Victims Assistance (hereinafter "SOVA"). According to your letter, SOVA "...is responsible for managing the Victims Compensation Fund and distributing funds in accordance with the governing code provisions, S.C. Code Ann. §§ 16-3-1110 through 16-3-1350, to reimburse eligible crime victims, dependents, survivors, or intervenors for crime-related costs not covered by other payment sources. The Board also serves as an administrative appellate authority for claimants whose claims for reimbursement are denied by SOVA."

You indicated that on October 13, 2009, the director of SOVA, Dr. Larry Barker, responded to a request from the South Carolina Commission on Prosecution Coordination (hereinafter "the SCCPC") and informed that agency that its request to submit an application for a state grant of funds was approved and such application would be submitted to the Board for review. You further indicated that upon such initial review, the issue was tabled until the Board could obtain a legal opinion from this office regarding whether S.C. Code Ann. § 16-3-1410(A), the statute relied upon by the SCCPC for its technical assistance grant application, gave the Board authority to grant funds to the SCCPC. Such provision states in part that:

- (A) The Victim Compensation Fund is authorized to provide the following victim assistance services, contingent upon the availability of funds:
- (1) provide information, training, and technical assistance to state and local agencies and groups involved in victim and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters;....

According to a letter from Mr. Bilton dated November 2, 2009, the purpose of the grant would be to provide funding for the Victim/Witness Assistance Programs within the various solicitors' offices so as to cover reductions for such programs caused by budget cuts imposed by the State.

Referencing such, you have raised the following questions:

1. Does Section 16-3-1410(A) and, more specifically, the phrase "technical assistance" found within that code section, provide the authority for SOVA or its Board to grant funds from the Victims Compensation Fund to the SCCPC?
2. If so, which entity is the correct entity to grant funds pursuant to this code provision - the Director of SOVA or the Board?

In responding to your question regarding the phrase "technical assistance", while this office has been unable to locate a definition of such phrase, it is helpful to cite a definition for the word "technical." According to *The American Heritage College Dictionary*, 3<sup>rd</sup> Ed., a definition for "technical" includes "having special skill or practical knowledge, esp. in a mechanical or scientific field." Generally, as referenced in a prior opinion of this office dated September 26, 2005, consideration must be given to the "common and ordinary definition" of a term. See also: Ops. Atty. Gen. dated March 6, 2008 and August 8, 2005. Moreover, as referenced in an opinion of this office dated October 26, 2006,

[t]his office, as a matter of policy, typically defers to the administrative interpretation of the agency charged with the enforcement of... (a)... statute in question. See, e.g., Ops. Atty. Gen. dated March 9, 2000 and November 25, 1998. As noted in a prior opinion of this office dated October 20, 1997, "construction of a statute by the agency charged with executing it is entitled to the most respectful consideration... and should not be overruled absent cogent reasons." Moreover, where an administrative interpretation is long-standing and has not been expressly changed by the General Assembly, the agency interpretation is entitled to even greater deference. Marchant v. Hamilton, 279 S.C. 497, 309 S.E.2d 781 (Ct.App. 1983). As recognized in another prior opinion of this office dated March 12, 1997, if an administrative interpretation is reasonable, courts will defer to such construction even if that construction is not the only reasonable one or the one a court would have adopted in the first instance.

In this instance, Dr. Barker has determined that an application for a state grant of funds to the SCCPC for administrative support to the victim/witness assistance advocate within the Child Abuse Protection Unit met the criteria and approved such grant. See: Memorandum of Agreement dated July 23, 2009. Such interpretation, therefore, must be given consideration. Also, it is our understanding that Section 16-3-1410 has been interpreted in the past in other situations as authorizing other grants for "technical assistance."

Ms. Patrick  
Page 3  
December 15, 2009

While it remains clear in the opinion of this office that funds are a means of providing “technical assistance” services, nevertheless, as to the questions posed by you, this office cannot in an opinion determine whether Mr. Bilton’s request for a grant would be included within the phrase “technical assistance.” That would, in the opinion of this office, be a decision for SOVA as specified in Section 16-3-1410. See also: Section 16-3-1160 (statutory duties of the Board and duties as outlined in the request letter noted above). In short, it would be up to SOVA to determine whether Mr. Bilton’s request constituted “technical assistance” services using the common and ordinary definition of that term.

Referencing the above, as to your question of whether Sections 16-3-1410(A) and, more specifically, the phrase “technical assistance” found within that code section, provide the authority for SOVA or its Board to grant funds from the Victims Compensation Fund to the SCCPC, such would be a matter for consideration by the Director of SOVA, Dr. Barker.

With kind regards, I am,

Very truly yours,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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