



## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

### RIN 3133-AF64

### Dependent Care and Board Member Expense Reimbursement

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board proposes to amend its regulations concerning the reimbursement of reasonable expenses for federal credit union (FCU) officials. The proposed rule would enable FCU boards to establish policies that allow for the payment of reasonable dependent care costs incurred by volunteer officials while attending board meetings and performing their official duties. This proposed amendment would include dependent care costs as a reimbursable expense. The proposed changes aim to provide FCUs with greater flexibility to create family-friendly policies, thereby alleviating dependent care costs for volunteer officials, which may otherwise hinder their ability to volunteer.

**DATES:** Comments must be received by on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit written comments by any of the following methods identified by RIN (Please send comments by one method only):

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for Docket Number NCUA-2026-0067.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- *Hand Delivery/Courier:* Same as mail address.

Mailed and hand-delivered comments must be received by the close of the comment period.

*Public Inspection:* All public comments are available on the Federal eRulemaking Portal at <https://www.regulations.gov> as submitted, except when impossible for technical reasons. Public comments will not be edited to remove any identifying or contact information. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518-6540 or emailing [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Keisha L. Brooks, Attorney-Advisor, Office of General Counsel at (703) 518-1156 or by mail at the address above. Office of Examination and Insurance (E&I): Lauren G. Kamin, Risk Officer, by telephone at (703) 664-3868 or by mail at the address above.

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

#### *A. Background*

Since 1934, the Federal Credit Union Act (the FCU Act) has restricted FCU board compensation.<sup>1</sup> The FCU Act provides that only one FCU board member may be compensated as such. No other FCU official may receive compensation for serving as a board or committee member. In 1975, the NCUA added 12 CFR 701.33 (§ 701.33). This section clarified that compensation excludes payments for reasonable and proper costs incurred by FCU officials in carrying out their responsibilities.<sup>2</sup> Section 520 of the Garn-St. Germain Depository Institutions Act of 1982 amended section 111 of the FCU Act (section 111) to codify that such expenses are not considered compensation.<sup>3</sup>

Under the NCUA regulation, reasonable and proper costs incurred by an official in carrying out their responsibilities may be paid directly or reimbursed by an FCU. This is contingent on the payment being determined by the FCU board of directors to be necessary or appropriate to carry out official credit union business. And, the payment must be in accordance with written policies and procedures established by the board of directors. The NCUA Board considers the “necessary or appropriate” requirement to mean that the reimbursement is appropriate for the official to fulfill their responsibilities to the members in the effective management of the FCU. Such policies should also ensure that such payments are reasonable in amount in relation to the FCU’s resources and financial condition. This means that the reimbursement should be limited to an

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<sup>1</sup> Federal Credit Union Act, 12 U.S.C. 1761(a), 1761(c), 1761a.

<sup>2</sup> 40 FR 30261 (July 18, 1975) (adding 12 CFR 701.33).

<sup>3</sup> Garn-St. Germain Depository Institutions Act of 1982, Pub. L. 97-320, title V, sec. 520, 96 Stat. 1531 (1982) (adding 12 U.S.C. 1761(c)).

amount that the FCU can afford while maintaining financial stability and capital adequacy.<sup>4</sup>

Although the NCUA is not bound by Internal Revenue Service (IRS) rulings in this area, the NCUA has previously followed IRS interpretations when construing the word “compensation” as used in section 111 and § 701.33.<sup>5</sup> The NCUA has consistently viewed reimbursable payments, which do not count as compensation, as limited to out-of-pocket costs. However, indirect costs such as lost wages or paid leave used while attending credit union activities have been considered compensation under § 701.33. In 1988, the NCUA proposed eliminating this distinction for FCU officials’ attendance at board and committee meetings.<sup>6</sup> In the past, some credit unions expressed a need to reimburse their board members for lost wages or leave to attract and keep qualified volunteers.<sup>7</sup> The NCUA suggested reimbursing lost wages for credit union board members to attract qualified volunteers.<sup>8</sup>

The comments received on the 1988 proposal, however, signaled that the vast majority of FCUs felt such reimbursement was unnecessary and may be harmful to the credit union volunteer spirit. Noted concerns included that voluntarism distinguishes credit unions from other financial institutions and that easing the reimbursement restrictions could endanger the tax-exempt status of credit unions. Many credit unions opposed the proposal, citing concerns about harming the volunteer spirit, potential tax issues, uneven reimbursements among board members, additional IRS reporting, and verification challenges.<sup>9</sup> Given the credit union community’s overwhelming opposition to

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<sup>4</sup> Proposed Rule, 57 FR 18837, 18838-39 (May 1, 1992).

<sup>5</sup> OGC Legal Op. 92-0626 (June 1992), <https://ncua.gov/regulation-supervision/legal-opinions/1992/compensation-officials-0>; OGC Legal Op. 93-0233 (Mar. 12, 1993) (holiday gifts of nominal value given to volunteer board members are not considered compensation), <https://ncua.gov/regulation-supervision/legal-opinions/1993/gifts-committee-members>.

<sup>6</sup> Proposed Rule, 53 FR 4992 (Feb. 19, 1988).

<sup>7</sup> OGC Legal Op. 95-1218 (Jan. 1996), <https://ncua.gov/regulation-supervision/legal-opinions/1996/reimbursement-expenses>.

<sup>8</sup> Proposed Rule, 53 FR 4992 (Feb. 19, 1988).

<sup>9</sup> Final Rule, 53 FR 29640 (Aug. 8, 1988).

reimbursing volunteer officials for lost pay or leave, the NCUA Board decided not to go forward with the 1988 proposal.<sup>10</sup> As discussed further in this preamble, other amendments to § 701.33 have provided FCUs with clarity as to what types of expenses the NCUA has found to be consistent with the law.

### 1. Reasonable and Proper Costs

With certain exceptions discussed in this section of the preamble, the NCUA has generally granted each FCU's board flexibility in determining which costs are necessary or appropriate to carry out official credit union business, including official travel costs. This flexibility is consistent with the general powers granted to FCU boards under the FCU Act. Section 113 of the FCU Act provides that an FCU's board of directors shall have the general direction and control of the affairs of the FCU.<sup>11</sup> The FCU board of directors must oversee the credit union's operations to ensure the credit union operates in a safe and sound manner. For example, the FCU board must be kept informed about the credit union's operating environment, as well as hire and keep competent management. FCU boards must also ensure that the credit union has a risk management structure and process suitable for the credit union's size and activities. The NCUA Board also clarified that this flexibility was based in part on public comments received in rulemaking.<sup>12</sup>

Specifically, in 1992, the NCUA Board solicited public comments on whether to include a reasonableness test or common business practice test in the regulation, or leave the determination to the FCU's management under NCUA oversight.<sup>13</sup> Based on the comments, the NCUA Board left these matters to each FCU's board of directors, within the boundaries of reasonableness and safety and soundness.<sup>14</sup> Further, the NCUA may

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<sup>10</sup> Final Rule, 53 FR 29640 (Aug. 8, 1988).

<sup>11</sup> 12 U.S.C. 1761b.

<sup>12</sup> Final Rule, 57 FR 54499, 54501-02 (Nov. 19, 1992).

<sup>13</sup> Proposed Rule, 57 FR 18837, 18838-39 (May 1, 1992).

<sup>14</sup> Final Rule, 57 FR 54499, 54501-02 (Nov. 19, 1992).

take exception or object to policies and procedures that are unreasonable, unsafe and unsound, or present an undue risk to the National Credit Union Share Insurance Fund. NCUA staff interpretations help clarify ambiguities in § 701.33 when necessary.<sup>15</sup> The NCUA Board believes this framework provides sufficient boundaries while keeping flexibility for FCUs.

## 2. Dependent Care Costs

In 2024, the NCUA received feedback about past staff interpretations deeming childcare costs as not reasonable and proper under § 701.33. These opinions cited the considerations leading the NCUA Board to reject lost wages in 1988 as applicable to childcare costs.<sup>16</sup> In a letter, a national trade organization for credit unions requested the NCUA Board explicitly permit reimbursement of childcare and dependent care costs for FCU board members attending official board meetings.<sup>17</sup> The organization cited several factors supporting an amendment.

First, dependent care costs are inextricably tied to the time and travel required for board meetings and, therefore, should be reimbursable.<sup>18</sup> Second, it believed family

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<sup>15</sup> Legal Opinions, NCUA, <https://ncua.gov/regulation-supervision/legal-opinions> (last visited Dec. 10, 2025). These legal opinions provided helpful guidance based on the specific facts stated in the letters. The legal opinions were not intended to present an exhaustive list of reimbursable expenses and do not necessarily apply to circumstances involving different or additional facts.

<sup>16</sup> OGC Legal Op. 89-0414F (Apr. 14, 1989); OGC Legal Op. 92-0507 (Jun. 10, 1992), <https://ncua.gov/regulation-supervision/legal-opinions/1992/compensation-officials>; OGC Legal Op. 98-1215 (Mar. 1999) (“Our view is that payment of childcare expenses, like reimbursement for lost leave or pay for volunteers who take time away from their jobs to attend to credit union business, would violate NCUA’s regulation.”), <https://ncua.gov/regulation-supervision/legal-opinions/1999/reimbursement-credit-union-volunteers-child-care>.

<sup>17</sup> Letter from Luke Martone, Senior Director of Advocacy & Counsel, America’s Credit Unions to the NCUA (May 7, 2024) (Permitting Childcare Expenses as Reimbursable Under 12 CFR 701.33), [https://americascus.widen.net/view/pdf/a3086514-002b-4638-858e-afc1a9d78a2d/ACU-Letter-to-NCUA-re-Childcare-Expense\\_final.pdf](https://americascus.widen.net/view/pdf/a3086514-002b-4638-858e-afc1a9d78a2d/ACU-Letter-to-NCUA-re-Childcare-Expense_final.pdf). See also CU Today, “It’s ‘Outdated’: Effort Underway to Get Change Made in NCUA Rule Prohibiting Reimbursing Childcare Expenses for Board Members” (May 7, 2024), <https://www.cutoday.info/Fresh-Today/Its-Outdated-Effort-Underway-to-Get-Change-Made-in-NCUA-Rule-Prohibiting-Reimbursing-Childcare-Expenses-for-Board-Members>.

<sup>18</sup> The NCUA has long recognized reasonable costs associated with a director’s attendance at board meetings, training events, and conferences on behalf of the FCU as permissible under the FCU Act. Such costs typically include transportation, meals, and lodging. See OGC Legal Op. 91-0215 (May 1, 1991), <https://ncua.gov/regulation-supervision/legal-opinions/1991/meal-reimbursement-directors>. Currently, § 701.33 also permits reimbursement for one guest’s travel costs if the payment meets the “necessary or appropriate” and written board policy requirements. 12 CFR 701.33(b)(2)(i). This policy evolved over

structures and childcare responsibilities are significantly different now than in the past. Last, the organization suggested that allowing reimbursement would attract and retain FCU board members with dependent care responsibilities. The organization noted that, without this support, volunteer officials might be unable to attend board meetings or promote credit union activities. The organization also noted that this expense can be amplified for a single parent or head of household with a dependent.

The NCUA Board recognizes the tension between attracting skilled volunteers and the prohibition against compensation. The NCUA Board acknowledges that credit union directors face more complex duties in delivering financial services. Directors also have a fiduciary responsibility to credit union members to maintain high standards of professional conduct, including ensuring appropriate compensation policies, avoiding misuse of the credit union for unauthorized or inappropriate personal gain, and acting ethically and impartially in carrying out appropriate credit union policies and procedures.<sup>19</sup> The FCU system's success depends on dedicated volunteers who accept these responsibilities.

In its letter, the organization noted that the only option for a FCU board member to attend a board meeting is to ensure their dependent has proper care. In many situations, this requires a paid caregiver. The standard FCU bylaws require one in-person board of directors meeting per year.<sup>20</sup> All other meetings may be conducted virtually. In its letter,

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several years in response to feedback from the credit union community. See Proposed Rule, 57 FR 18837, 18838 (May 1, 1992); Final Rule, 66 FR 65628, 65629 (Dec. 20, 2001). Initially, NCUA staff reasoned that travel costs for an accompanying spouse did not qualify for reimbursement because there was no direct benefit to the FCU. As such, NCUA staff considered these costs to be prohibited compensation. This reasoning was based, in part, on past IRS interpretations regarding business expense tax deductions taken for spousal travel expenses. See for example, OGC Legal Op. 88-0927 (Oct. 20, 1989), OGC Legal Op. 90-0117 (Jan. 10, 1991) and OGC Legal Op. 98-0619 (Aug. 1998) (reimbursement of travel expenses for a director's companion), <https://ncua.gov/regulation-supervision/legal-opinions/1998/reimbursement-travel-expenses-directors-companion>.

<sup>19</sup> See 12 CFR 701.4; NCUA, Letter to Credit Unions 22-CU-05, CAMELS Rating System (March 2022), <https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/camels-rating-system>. The CAMELS rating system is based upon an evaluation of six critical elements of a credit union's operations: Capital adequacy, Asset quality, Management, Earnings, Liquidity and Sensitivity to Market Risk.

<sup>20</sup> Standard FCU Bylaws, 12 CFR part 701, App. A.

the organization noted that holding virtual or after-hours meetings does not resolve dependent care concerns, as such care is still required outside of standard work hours. According to the organization, FCU board members attending in-person meetings may face not only travel expenses but also childcare costs to ensure proper care for their dependents.

Several bodies of research point to increasing childcare costs in America and the rising share of family income they take up, especially in single-parent, low-income, and multiple-child families. In 2023, 22.4 million children ages five and younger lived in the U.S.<sup>21</sup> According to the Federal Reserve Bank of St. Louis, in 2021, about 53 percent of working adults were parents, and 37 percent of those parents had young children.<sup>22</sup> Between 1991 and 2024, daycare and preschool costs rose at nearly twice the pace of overall inflation.<sup>23</sup> The cost of childcare has increased by over 220 percent since 1990.<sup>24</sup> Median full-day childcare price for one child in 2022 ranged from \$6,552 (\$7,266 in 2024 dollars) to \$15,600 (\$17,300) per year, depending on provider type, the child's age, and geographic location, representing 8.9 to 16.0 percent of median family income.<sup>25</sup> Part-time care for school-aged children comprised 8.1% to 9.4% of median family income, ranging from \$5,943 (\$6,591) to \$9,211(\$10,215) per child annually.

Families that pay for the care of multiple children experience a compounded effect. About 30 percent of families with children under age six have two or more

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<sup>21</sup> Federal Interagency Forum on Child and Family Statistics. Table POP1. "Child population: Number of children (in millions) ages 0–17 in the United States by age, 1950–2023 and projected 2024–2050." Retrieved Dec. 15, 2025 from <https://www.childstats.gov/americaschildren/tables.asp>.

<sup>22</sup> Gascon et al. "The Economic Impact of Child Care by State." The Federal Reserve Bank of St. Louis. Retrieved Aug. 29, 2024 from <https://www.stlouisfed.org/community-development/child-care-economic-impact>.

<sup>23</sup> "Crisis in childcare and the state of work in America." KPMG, 28 May 2024. Retrieved Dec. 15, 2025 from <https://kpmg.com/us/en/articles/2024/may-2024-childcare-crisis-state-work-america.html>.

<sup>24</sup> The Annie E. Casey Foundation. "2023 Kids Count Data Book." Retrieved Dec. 15, 2025 from <https://assets.aecf.org/m/resourcedoc/aecf-2023kidscountdatabook-2023.pdf>.

<sup>25</sup> Poyatzis and Livingston. "NEW DATA: Childcare Costs Remain an Almost Prohibitive Expense." U.S. Department of Labor. DOL Blog, 19 Nov. 2024. Retrieved Dec. 15, 2025 from <https://blog.dol.gov/2024/11/19/new-data-childcare-costs-remain-an-almost-prohibitive-expense>.

children in this age group.<sup>26</sup> In 2024, the average price of center-based childcare for two children (an infant and a 4-year-old) was above the median rent in every state and D.C. and was higher than the median mortgage in D.C. and all but four states.<sup>27</sup>

The burden of childcare costs is even higher for single-parent and low-income families. Low-income families are more likely to reduce work outside the home to care for young children while high-income families are more likely to pay for care, with differing financial consequences.<sup>28</sup>

Other families may have added responsibilities caring for aging parents or adult children with physical or mental impairments. Adult dependent care costs (for example, care for persons who are permanently and totally disabled, or eldercare) vary widely by an individual's needs, facility type, and location.<sup>29</sup> Adult homecare services include homemaker services – assistance with “hands off” everyday tasks and general companionship – and home health aides, who provide “hands on” assistance. In 2024, the median hourly rates for adult homemaker services and home health aides nationally were \$33 and \$34, respectively.<sup>30</sup> Compared with 2023, the median hourly rate increased 10 percent (from \$30) for homemaker services and 3 percent (from \$33) for home health

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<sup>26</sup> Landivar et al. “Childcare Prices in Local Areas: Initial Findings from the National Database of Childcare Prices.” Women’s Bureau, U.S. Department of Labor. January 2023. Retrieved Dec. 15, 2025 from [https://www.dol.gov/sites/dolgov/files/WB/NDCP/508\\_WB\\_IssueBrief-NDCP-20230213.pdf?qls=QMM\\_12345678.0123456789](https://www.dol.gov/sites/dolgov/files/WB/NDCP/508_WB_IssueBrief-NDCP-20230213.pdf?qls=QMM_12345678.0123456789).

<sup>27</sup> Child Care Aware of America. “2024 Price of Care: Child Care Affordability Analysis” Table XI: “2024 Average Prices for Two Children in Center- Based Child Care Versus Median Housing Costs by State.” Retrieved Dec. 15, 2025 from [https://info.childcareaware.org/hubfs/Affordability\\_Analysis\\_2024.pdf](https://info.childcareaware.org/hubfs/Affordability_Analysis_2024.pdf). Note: information for New Mexico was not available.

<sup>28</sup> “Childcare Costs, Reduced Work, and Financial Strain: New Estimates for Low-Income Families, U.S. Department of Commerce.” June 27, 2024. Retrieved Dec. 15, 2025 from <https://www.commerce.gov/news/blog/2024/06/childcare-costs-reduced-work-and-financial-strain-new-estimates-low-income>. Note that the definition of “low-income families” can vary according to source and may differ from the term “low-income member” as defined in the NCUA regulation at 12 CFR 701.34.

<sup>29</sup> Adult day care falls into two broad groups: social care and health care. Both generally include providing meals and activities, but health care involves additional medical services, such as medication dispensing and therapy. Goldy Brown and Clem. “Adult Day Care Costs: 2025 Data and Price Guide.” Dec. 6, 2025. Retrieved Dec. 15, 2025 from [www.seniorliving.org/adult-day-care/costs/](http://www.seniorliving.org/adult-day-care/costs/).

<sup>30</sup> Genworth. “Cost of Care Survey 2024.” March 4, 2025. Retrieved Dec. 15, 2025 from <https://pro.genworth.com/riiproweb/productinfo/pdf/131168.pdf>.

aide services. The national median price of adult day health care services was \$100 per day (up to 8 hours) in 2024, 5 percent above the 2023 level of \$95 per day.

### 3. Declines in Volunteering

As dependent care costs increased, many communities experienced declines in volunteering.<sup>31</sup> The 2021 Current Population Survey Civic Engagement and Volunteering Supplement released by AmeriCorps and the Census Bureau showed that formal volunteering declined from 30 percent to 23.2 percent between 2019 and 2021.<sup>32</sup> A 2024 AmeriCorps report indicates that formal volunteering rates remain over 5 percentage points below pre-pandemic figures in 11 states and the District of Columbia metro area.<sup>33</sup>

Voluntarism remains one of the cornerstones of the credit union philosophy.<sup>34</sup> Securing new talent requires credit unions to intentionally engage in recruitment strategies that include enlisting people of borrowing age and broadening their talent pool to attract volunteer officials that use a variety of credit union services like electronic banking, credit cards, and loans. According to the national trade organization, reimbursing reasonable expenses may lessen the financial burden and, in turn, may encourage volunteering to serve as credit union officials. The NCUA Board invites comments on how the NCUA permitting dependent care reimbursement for volunteer

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<sup>31</sup> See Rebecca Nesbit, Laurie E. Paarlberg & Suyeon Jo, *The Decline of Volunteering in the United States: Is it the Economy?*, CES Working Paper No. 25-41, U.S. Census Bureau (June 23, 2025), <https://www2.census.gov/library/working-papers/2025/adrm/ces/CES-WP-25-41.pdf>, Putnam, Robert D. (2000). *Bowling Alone: The Collapse and Revival of American Community*.

<sup>32</sup> Spinney, S., & Clinton, Y. (2024). *Engaging Volunteers: A Comprehensive Literature Review*. ICF, [https://www.americorps.gov/sites/default/files/document/Literature%20Review%20for%20Volunteer%20Management\\_0.pdf](https://www.americorps.gov/sites/default/files/document/Literature%20Review%20for%20Volunteer%20Management_0.pdf).

<sup>33</sup> Schlachter, Laura Hanson. (2024). *Renewed Engagement in American Civic Life*. Washington, DC: AmeriCorps.

<sup>34</sup> See NCUA, *The Future Role of Voluntarism in Credit Unions* (June 1976) reprinted in *9 Volunteer Administration* 13 (Winter 1976), <https://ellisarchive.org/sites/default/files/2021-11/VOLUNTEER-ADMINISTRATION-9-4.pdf> (defining voluntarism as the principle that overall policy decisions, operational controls, audit supervision and, for some credit unions, part or all the operations themselves, are the direct responsibility of volunteer members).

officials can better support credit unions in attracting new talent to the credit union system.

#### 4. Other Federal Agency Guidance on Dependent Care Costs

The NCUA has found IRS guidelines to be persuasive in determining the reasonableness of expenses under § 701.33.<sup>35</sup> Current IRS guidelines exclude childcare expenses from deductible volunteer costs (even if a taxpayer would be unable to volunteer without childcare).<sup>36</sup> Historically, courts have not viewed childcare as a business-related expense.<sup>37</sup> Instead, these expenses are treated as personal or family expenses.<sup>38</sup>

Other tax code provisions allow different income exclusions for the dependent care tax credit for unreimbursed dependent care expenses necessary for gainful employment and dependent care assistance programs.<sup>39</sup> However, volunteer work is not considered gainful employment.<sup>40</sup> In this regard, these guidelines may not align with the unique characteristics of FCUs, which are inherently volunteer based. By law, all but one FCU board member must serve without compensation. For these volunteers, section 111 allows FCUs to pay their reasonable expenses incurred in conducting credit union business.

Guidance from the Office of Management and Budget (OMB) allows temporary dependent care costs as travel costs for federal awards.<sup>41</sup> In 2013, OMB introduced this

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<sup>35</sup> See supra note 5. I.R.S. Info. Ltr. 2000-0145 (June 26, 2000), <https://www.irs.gov/pub/irs-wd/00-0145.pdf>.

<sup>36</sup> Internal Revenue Serv., U.S. Dep't of the Treasury, Pub. No. 526, Charitable Contributions: For Use in Preparing 2023 Returns (Feb. 29, 2024), <https://www.irs.gov/pub/irs-pdf/p526.pdf>.

<sup>37</sup> See Shannon W. McCormack, America's (D)evolving Childcare Tax Laws, 53 Georgia Law Review 1094, 1111 (2019) (citing *Smith v. Commissioner*, 40 B.T.A. 1038, 1039-1040 (1939) *aff'd*, 113 F.2d 114 (2d Cir. 1940)).

<sup>38</sup> 26 U.S.C. 262. See also Limor Riza, In Retrospect of 40 Years, Another Look at Andrews' Personal Deductions Argument: A Comparison of Charitable Contributions and Child-Care Expenses 15 DePaul Bus. & Com. L.J. 55 (2017); *Kuntz v. Comm.*, T.C. Memo 2011-52101, T.C.M. (CCH) 1239 T.C.M. (RIA) 2011-52 (March 1, 2011) (applying *Smith* to caregiver expenses for a spouse).

<sup>39</sup> See 26 U.S.C. 21; 26 U.S.C. 129.

<sup>40</sup> 26 CFR 1.21-1(c)(1) ("Work as a volunteer or for a nominal consideration is not gainful employment").

<sup>41</sup> See 2 CFR 200.475(c)(1)(2024) (formerly 2 CFR 200.474).

flexibility to ease the financial burden of dependent care costs.<sup>42</sup> To prevent waste, fraud, and abuse, the guidance requires such costs be reasonable, temporary, above and beyond regular dependent care costs, and consistent with documented travel policies.<sup>43</sup>

The FCU Act and the NCUA regulations incorporate similar guardrails. Section 111 requires that the cost must be reasonable and incurred in the execution of official credit union duties. Additionally, under § 701.33, the FCU board must determine whether the cost is necessary or appropriate to carry out official credit union business and is in accordance with its written policies and procedures, including documentation requirements. Further, the NCUA may take exception or object to FCU policies and procedures that are unreasonable, unsafe and unsound, or present an undue risk to the National Credit Union Share Insurance Fund. The NCUA Board believes the existing regulation provides sufficient boundaries while keeping flexibility for FCUs. However, the NCUA Board invites comments on whether other federal agency guidance on dependent care costs provide fitting parallels in the credit union context.

### *B. Legal Authority*

The NCUA Board is issuing this proposed rule under its plenary rulemaking authority under the FCU Act.<sup>44</sup> Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions (FICUs).<sup>45</sup> The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and all federally insured, state-chartered credit unions (FISCUs). Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the NCUA Board to prescribe rules and regulations for the administration of

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<sup>42</sup> See 2 CFR 200.404; Final Guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 78 FR 78590, 78602 (Dec. 26, 2013).

<sup>43</sup> 2 CFR 200.475(c).

<sup>44</sup> 12 U.S.C. 1751 *et seq.*

<sup>45</sup> 12 U.S.C. 1752-1775.

the FCU Act.<sup>46</sup> Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.<sup>47</sup> Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA Board to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.<sup>48</sup> Accordingly, the FCU Act grants the NCUA Board broad rulemaking authority to ensure that the credit union industry and the National Credit Union Share Insurance Fund remain safe and sound.

Under the FCU Act, only one FCU board member may be compensated as a board officer. By statute, such compensation excludes the reimbursement of reasonable expenses incurred in executing their official duties. The 1982 amendment allowing such reasonable expenses provides no further definition. Further, while the legislative history on section 520 is limited, the 1982 amendment was among several changes designed to facilitate FCU management and operating flexibility.<sup>49</sup> Under the rules of statutory construction, words of a statute are interpreted according to their ordinary, contemporary, common meaning unless Congress clearly expressed a different intent.<sup>50</sup> “Reasonable” is generally understood to mean “possessing sound judgement” and “not extreme or excessive.” Reasonable reflects good judgment that is “fair and proper under the circumstances” or “rational, sound, and sensible.”<sup>51</sup> The Supreme Court has also recognized that statutes using terms such as “appropriate” or “reasonable” leaves agencies with flexibility and authority to exercise a “degree of discretion” in interpreting

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<sup>46</sup> 12 U.S.C. 1766(a).

<sup>47</sup> 12 U.S.C. 1787(b)(1).

<sup>48</sup> 12 U.S.C. 1789(a)(11).

<sup>49</sup> S. Conf. Rep. No. 97-641 (1982), reprinted in 1982 U.S.C.C.A.N. 3128, 3133. *See also* NCUA, 1982 Annual Report 42 (Apr. 1983), <https://ncua.gov/files/annual-reports/AR1982.pdf>.

<sup>50</sup> *Pioneer Investment Service Co. v. Brunswick Associates Ltd Partnership*, 507 U.S. 380, 388 (1993) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)).

<sup>51</sup> *Reasonable*, Webster’s New Collegiate Dictionary 955 (1981), [https://archive.org/details/webstersnewcolle0000unse\\_l2m2](https://archive.org/details/webstersnewcolle0000unse_l2m2); *Reasonable*, Merriam-Webster On-line Dictionary, <https://www.merriam-webster.com/dictionary/reasonable> (last visited Nov. 21, 2024); *Reasonable*, Black’s Law Dictionary (12th ed. 2024).

statutes.<sup>52</sup> The NCUA regulation, § 701.33, implements section 111 and thus interprets these terms. Given this framework, the NCUA Board has used its discretion under the FCU Act to give FCU boards latitude in fashioning reimbursement policies and making individualized determinations.<sup>53</sup>

## II. Proposed Rule

The NCUA Board has historically been, and continues to be, circumspect about expanding the exclusions from compensation under § 701.33(b)(2)(i). This NCUA regulation has not changed since adding the travel costs for one guest per official in 2001.<sup>54</sup> The NCUA's objective of ensuring a safe and sound credit union system that protects credit union members can be fulfilled only when the agency adapts to the ever-changing economic and technological landscape.<sup>55</sup>

As noted previously in this preamble, past NCUA staff interpretations advised that childcare costs were not reasonable and proper under § 701.33. Based on public feedback and other factors described in this preamble, the NCUA Board recognizes the current treatment of childcare costs may be outdated. The following sections detail the proposed regulatory amendments.

### *A. Applicability of Proposed Rule*

#### 1. Federal Credit Unions

The proposed amendments would apply solely to FCUs, including corporate FCUs. In addition to granting broad rulemaking authority, section 120(a) of the FCU Act provides that, except as otherwise specifically provided in the NCUA rules, regulations,

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<sup>52</sup> *Loper Bright Enterprises v. Raimondo Relentless, Inc. v. Department of Commerce*, 603 U.S. 369, 144 S. Ct. 2244 (2024) (collectively *Loper Bright*).

<sup>53</sup> See Final Rule, 57 FR 54499, 54501-02 (Nov. 19, 1992).

<sup>54</sup> See Final Rule, 66 FR 65629 (Dec. 20, 2001).

<sup>55</sup> NCUA, Letter to Credit Unions 24-CU-01, NCUA's 2025 Supervisory Priorities (Jan. 2025), <https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/ncuas-2025-supervisory-priorities>.

or orders, federally chartered corporate credit unions are subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all FCUs under the law.<sup>56</sup> Because the NCUA Board has not created any exceptions for corporate credit unions, sections 111 and 112 of the FCU Act apply to all FCUs. This uniformity is further reflected in the current Corporate FCU Standard Bylaws. These bylaws allow one board officer to be compensated as such and prohibit other board members from receiving any compensation or benefit solely as a result or by virtue of their service as an FCU board member, except for reimbursement for reasonable expenses incurred in the performance of official duties.<sup>57</sup>

This proposed rule would not amend 12 CFR part 704. This part establishes specific requirements applicable to federally insured corporate credit unions. The NCUA Board welcomes public comment on whether the regulatory treatment for corporate FCUs should differ in this area and whether specific changes to 12 CFR part 704 or the Corporate FCU Standard Bylaws are necessary to achieve the purposes of the proposed regulatory amendments.

## 2. FISCUs

The NCUA Board recognizes the importance of state law in regulating FISCUs and that FISCUs may be subject to state-specific board reimbursement policies.<sup>58</sup> The state supervisory authority is the primary regulator for FISCUs. The NCUA is primarily

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<sup>56</sup> 12 U.S.C. 1766(a). This section was also added by the Garn-St Germain Depository Institutions Act of 1982. Pub. L. 97-320, title V, sec. 526 (Oct. 15, 1982). As noted in the legislative history, “[t]his section gives the [NCUA] more flexibility to design regulations for central credit unions which are otherwise consistent as opposed to credit unions whose members are natural persons. The separate regulations which the [NCUA] may establish for central credit unions must be consistent with the other provisions of the Federal Credit Union Act.” S. Rep. No. 97-536, at 70 (1982).

<sup>57</sup> See Article VIII, section 1 and Article VII, section 9 of the FCU corporate bylaws, 68 FR 32127 (May 29, 2003) as amended by 75 FR 81378 (Dec. 28, 2010). Article VIII, section 5 of the FCU corporate bylaws also permits the financial officer to be the compensated board officer only if the financial officer is actually managing the corporate credit union. *Id.*

<sup>58</sup> The NCUA Board recognizes that state law also plays a role in FCU governance, as the model FCU bylaws reflect in several instances; however, the NCUA Board performs a significant role in this process in preparing the form of the bylaws under 12 U.S.C. 1758.

responsible for managing risk to the National Credit Union Share Insurance Fund through effective regulation and supervision. FISCUs are not subject to § 701.33 and must comply with applicable state laws pertaining to board member compensation.<sup>59</sup> The NCUA Board also recognizes that, under its statutory authorities relating to unsafe or unsound practices, the NCUA may act to address such practices in all FICUs.<sup>60</sup> In such instances, the NCUA intends to work collaboratively with the relevant state supervisory authority.

### 3. Associate Directors and Directors Emeriti

In its letter, the national trade organization requested dependent care reimbursement for volunteer board members but did not specifically address other credit union officials that may perform board designated duties. In 2011, NCUA staff interpretations clarified an FCU's authority to reimburse training and travel costs for associate directors or similar FCU officials who occupy volunteer positions established by the FCU board.<sup>61</sup> Section 701.33(a) defines "official" to include a member of the board of directors, credit committee or supervisory committee, or other volunteer committee established by the board of directors. Section 701.33(b), however, only allows expense reimbursement when an official carries out the responsibilities of their credit union position. Accordingly, if the official in question provides board designated services that go beyond merely serving in an honorary capacity, the usual requirements governing payments apply. Directors emeriti that simply act in an honorary capacity are not given any responsibilities and therefore would not meet the criteria for reimbursement. However, the NCUA Board invites public comments on the inclusion of associate directors, directors emeriti and other volunteer officials in FCU reimbursement policies

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<sup>59</sup> 12 CFR 741.3(c).

<sup>60</sup> See 12 U.S.C. 1786(e), (k). See also 12 CFR 741.3(g).

<sup>61</sup> OGC Legal Op. 11-0152 (Mar. 2011), <https://ncua.gov/regulation-supervision/legal-opinions/2011/training-reimbursement-credit-union-officials>.

that include dependent care costs.

*B. Proposed Regulatory Amendments*

The NCUA Board proposes to amend § 701.33(b)(2)(i) to clarify that dependent care may be a reasonable and proper cost for a volunteer official. The proposed rule defines “volunteer official” based on 12 CFR 701.21(c)(8)(ii). Under that section, “volunteer official” means an official of a credit union who does not receive compensation from the credit union solely for his or her service as an official.

As discussed earlier in the preamble, the NCUA has considered IRS guidelines in assessing the reasonableness of expenses under § 701.33. As defined in the Internal Revenue Code, a qualifying individual is generally a dependent under the age of 13 or a spouse or dependent of any age who is incapable of self-care and shares the same residence for more than half of the year.<sup>62</sup> Given this standard, the NCUA Board proposes to define “dependent care costs” as expenses for the care of a qualifying individual (as defined in 26 U.S.C. 21(b)). All other sections of the regulation would remain unchanged.

This proposed rule would provide FCUs with greater flexibility to accommodate the needs of volunteer officials whose duties include credit union business. With this proposed amendment, the FCU board would have discretion to adopt policies that provide for the reimbursement or direct payment of dependent care costs. Under the proposed rule, such payments would continue to be discretionary rather than mandatory. An FCU board of directors may adopt a more stringent policy or prohibit such payments entirely. Such decisions would be left to the FCU board of directors, within the boundaries of the rule.

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<sup>62</sup> 26 U.S.C. 21(b)(2). Section 21 of the Internal Revenue Code allows a nonrefundable tax credit for a percentage of expenses for household and dependent care services necessary for gainful employment. A similar standard applies to dependent care assistance programs. 26 U.S.C. 129(e)(1).

The NCUA also cautions FCUs that this proposal has no effect on IRS regulations governing the reporting and taxing of any payments or reimbursements.<sup>63</sup> The term “compensation” in § 701.33 is only intended to describe the kind and amount of payment or reimbursement an FCU is permitted to provide to its volunteer officials. FCUs and their officials should consult with tax advisors or attorneys about IRS requirements.

### *C. Request for Comments*

The NCUA Board welcomes comments, data, views, and arguments on this proposed rule. The proposal allows FCUs to adopt written policies that permit the payment of a volunteer official’s dependent care costs if the payment meets all other requirements. In addition, the NCUA Board specifically requests comments addressing the following areas:

#### 1. Other Federal Agency Guidance

As discussed earlier in the preamble, the proposed rule defines dependent care costs using the Internal Revenue Code’s definition of a qualifying individual. This term applies to the dependent care tax credit and dependent care assistance programs.<sup>64</sup> Conversely, OMB used the Internal Revenue Code’s definition of dependent in allowing temporary dependent care costs.<sup>65</sup> OMB also added regulatory constraints to address concerns of waste, fraud, and abuse.<sup>66</sup>

#### Questions:

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<sup>63</sup> See also NCUA, Letter to Federal Credit Unions 05-FCU-02, Tax Consequences of Payment of Travel Expenses for FCU Volunteer Officials and Their Guests (July 2005), <https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/tax-consequences-payment-travel-expenses-fcu-volunteer-officials-and-their-guests>.

<sup>64</sup> 26 U.S.C. 21(b)(2), 26 U.S.C. 129(e)(1).

<sup>65</sup> See 2 CFR 200.475(c) (citing 26 U.S.C. 152).

<sup>66</sup> See 2 CFR 200.404; Final Guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, 78 FR 78590, 78602 (Dec. 26, 2013).

1) Should the NCUA adopt additional conditions on paying dependent care costs, such as limiting reimbursement to temporary costs that are above and beyond regular day care expenses that a volunteer official would ordinarily incur outside of carrying out official credit union business?

2) Should the terms “dependent” or “dependent care” be defined by the NCUA regulations, the required FCU written reimbursement policy, or in some other governing document? If so, how should they be defined?

3) Are there any other terms, definitions, or standards that the NCUA Board should consider in updating the regulation? Specifically, are there terms that could be clarified?

4) What documentation requirements could ensure the direct application of funds to reasonable dependent care costs and that the FCU is not compensating its volunteer officials?

## 2. Lost Wages and Indirect Costs

In 1988, the NCUA proposed adding lost wages as a reimbursable expense.<sup>67</sup> Given the credit union community’s overwhelming opposition to reimbursing volunteer officials for lost pay or leave, the NCUA Board decided not to go forward with the 1988 proposal.<sup>68</sup> In its letter, the national trade organization maintained that lost wages to attend a meeting are not similar to childcare expenses. The letter noted that dependent care reimbursement may be necessary or appropriate when attending in-person board meetings as part of the official’s credit union duties.

Questions:

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<sup>67</sup> Proposed Rule, 53 FR 4992 (Feb. 19, 1988).

<sup>68</sup> Final Rule, 53 FR at 29641.

5) Are similar considerations for prohibiting the payment of lost wages (for example, dissension among FCU board members, additional IRS reporting requirements, and difficulty substantiating officials' claims) relevant to dependent care costs?

6) How many FCU board meetings are in the evenings or at other times when dependent care for volunteer officials would be necessary or appropriate (for example, virtual meetings)?

7) What are other situations where dependent care cost reimbursement for volunteer officials would be necessary or appropriate (for example, trainings)?

8) What industry data or estimates provide insight into the number of volunteer officials affected by this proposal, both presently and in the future?

### 3. FCU Board of Directors' Responsibilities

The NCUA Board invites comments on the FCU board's responsibilities in amending payment policies to include dependent care costs for volunteer officials. A board of directors should consider budgetary impacts in developing its written reimbursement policies. Decisions about board member reimbursement, including dependent care costs, may affect the FCU's ability to budget for other staffing needs. Expending FCU assets may also open the FCU board to shareholder/member suits for corporate waste depending on state law.

#### Questions:

9) What impediments, including estimated costs and logistics, does your credit union anticipate in developing and applying reimbursement policies that include dependent care costs?

10) Should an FCU get an attorney's opinion about state laws related to corporate waste before it adopts and applies such a policy?

11) If reimbursing dependent care costs would result in possible increases in costs to members, are there less costly alternatives?

#### 4. FISCUs

Several states permit state-chartered credit unions to compensate all board members or reimburse board members for reasonable expenses. The NCUA Board specifically invites public comment on state requirements and FISCU policies governing reimbursing credit union officials for dependent care expenses.

Question:

12) Are there best practices from FISCUs or other suggested boundaries for dependent care cost reimbursement that the NCUA Board should consider?

Depending on the comments and its continued consideration of the issues discussed in this section, in finalizing the proposed rule, the NCUA Board may adopt changes or additions to meet the proposal's articulated goals.

### **III. Regulatory Procedures**

#### *A. Providing Accountability Through Transparency Act of 2023*

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).

In summary, the NCUA Board proposes to amend its regulations concerning the reimbursement of reasonable expenses for FCU officials. The proposed rule would enable FCU boards to establish policies that allow for the payment of reasonable dependent care costs incurred by volunteer officials while attending board meetings and performing their

official duties. This proposed amendment would include dependent care costs as a reimbursable expense. The proposed changes aim to provide FCUs with greater flexibility to create family-friendly policies, thereby alleviating dependent care costs for volunteer officials, which may otherwise hinder their ability to volunteer.

The proposal and the required summary can be found at <https://www.regulations.gov>.

*B. Executive Orders 12866, 13563, and 14192*

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), as amended by Executive Order 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.<sup>69</sup> Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.<sup>70</sup> This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OMB has determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866. This proposed rule will increase flexibility for FCU boards to develop family friendly reimbursement policies and is consistent with Executive Order 13563.

Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least

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<sup>69</sup> 58 FR 51735 (Oct. 4, 1993).

<sup>70</sup> 76 FR 3821 (Jan. 21, 2011).

10 prior regulations.<sup>71</sup> This rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act<sup>72</sup> generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, it must publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.<sup>73</sup> For purposes of this analysis, the NCUA considers small credit unions to be those having under \$100 million in assets.<sup>74</sup> The Board fully considered the potential economic impacts of the proposed regulatory amendments on small credit unions.

The proposed rule would permit FCU boards of directors to adopt family friendly policies that directly pay or reimburse volunteer officials for reasonable dependent care costs incurred in carrying out their official board duties. Consistent with long-standing practices, the NCUA Board expects that FCU payment policies including dependent care costs will continue to be reasonable in relation to the resources and financial condition of the credit union while maintaining financial stability and capital adequacy.<sup>75</sup> As proposed, small FCU boards would have discretion to set cost limits or decline to adopt such payment policies entirely. Small FCUs electing to adopt such policies may experience higher reimbursement costs. The NCUA offers small credit unions technical assistance in a variety of areas, including developing written reimbursement policies.

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<sup>71</sup> 90 FR 9065 (Feb. 6, 2025).

<sup>72</sup> 5 U.S.C. 601 *et seq.*

<sup>73</sup> 5 U.S.C. 605(b).

<sup>74</sup> 80 FR 57512 (Sept. 24, 2015).

<sup>75</sup> See Proposed Rule, 57 FR 18837, 18838-39 (May 1, 1992).

Accordingly, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small credit unions. The NCUA Board invites comment from small credit unions on the proposed rule, as well as other suggestions, to improve board recruitment and reduce any burden associated with the proposal.

*D. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information-collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA may not conduct or sponsor, and the respondent is not required to respond to an information collection unless it displays a valid OMB control number.

The proposed rule changes will require revision of an existing information collection to be submitted to the Office of Information and Regulatory Affairs at OMB for approval under the PRA. The NCUA is proposing to extend for three years, with revision, this information collection.

*Title of Information Collection:* Written Reimbursement Policy, 12 CFR 701.33.

*OMB Control Number:* 3133-0130.

*Respondents:* All FCUs.

*Estimated Annual Burden:* 2,263.

The proposed rule contains information collection recordkeeping requirements that would impose PRA burden governing reimbursement of dependent care costs. This burden is associated with modifying the written reimbursement policy to incorporate dependent care costs for volunteer board members.

As of September 30, 2025, the NCUA supervised approximately 2,715 FCUs. For each information collection activity, the burden table lists the estimated annual number of

responses per respondent and estimated time per response. Note that the number of respondents for information collection activity 2 have been annualized to reflect a three-year PRA cycle in which respondents incur implementation burden in the first year and ongoing burden in the second and third years.

Since the implementation burden is incurred only in year one of the three-year PRA clearance cycle, the annual burden is the average of the implementation burden imposed over three years or .3333 hours per year. (1 hour in year one, plus zero hours for years two and three; divided by three).

The NCUA estimates a total annual burden of 2,263 hours as follows:

NCUA Summary of Estimated Annual Burden (3133-0130)					
Information Collection Activity	Type of Burden (Frequency of Response)	Number of Respondents	Number of Responses per Respondent	Average Time per Response (Hours)	Total Estimated Annual Burden Hours
1. Maintain Written Reimbursement Policy (Ongoing)	Recordkeeping (Annual)	2,715	1	0.5	1,358
2. Establish Dependent Care Costs (Implementation)	Recordkeeping (One-Time)	2,715	.3	1	905
<b><i>Total Estimated Annual Burden</i></b>					<b>2,263</b>

The NCUA invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and cost of operation, maintenance, and purchase of services to provide information.

All comments are a matter of public record. Interested persons are invited to submit written comments via email to (1) [PRAComments@ncua.gov](mailto:PRAComments@ncua.gov) or (2) visit [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) (find this particular information collection by selecting the tab titled “Information Collection Review” and click on to the section titled “Currently under Review – Open for Public comment”).

*E. Executive Order 13132 on Federalism*

Executive Order 13132 encourages certain regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), complies with the executive order to adhere to fundamental federalism principles. This proposed rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. While some states incorporate federal regulations by law or by practice, states may still decide for themselves whether to incorporate the proposed changes by reference. States are also free to establish their own policies for board compensation and reimbursing FISCO officials for reasonable expenses incurred in executing official credit union duties.<sup>76</sup> The NCUA has therefore determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order. The NCUA Board specifically requests comment on potential conflicts and ways to harmonize state-specific requirements in this area. Based on the comments received, the final rule may modify the

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<sup>76</sup> See Final Rule, 57 FR at 54502.

requirements as necessary to carry out the purposes of this rulemaking and the intent of the Executive Order.

*F. Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999, Pub. L. 105-277, 112 Stat. 2681 (1998) requires federal agencies to determine whether a proposed policy or regulation may affect family well-being. Relative to the current state, reimbursements for childcare expenses will increase disposable income and thus decrease financial strain (and potentially poverty) for the families receiving such reimbursement. As discussed earlier in the preamble, median full-day childcare price for one child in 2022 ranged from \$6,552 (\$7,266 in 2024 dollars) to \$15,600 (\$17,300) per year, depending on provider type, the child's age, and geographic location. These costs represented 8.9 percent to 16.0 percent of median family income per child in paid care.<sup>77</sup> The financial impact on the family in question is, therefore, positive. The funds needed for reimbursement may come from credit union members in the form of reduced interest on deposits/higher interest on loans. The cost per member, however, should be minimal. In addition, based on the NCUA Call Report data, the benefit to FCU members from having volunteers versus paid employees should outweigh the cost of reimbursing for childcare.<sup>78</sup> Based on these considerations, the NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

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<sup>77</sup> Poyatzis and Livingston. "NEW DATA: Childcare Costs Remain an Almost Prohibitive Expense." U.S. Department of Labor. *DOL Blog*, 19 Nov. 2024. Retrieved Dec. 15, 2025 from <https://blog.dol.gov/2024/11/19/new-data-childcare-costs-remain-an-almost-prohibitive-expense>. .

<sup>78</sup> The NCUA collects the number of employees and compensation on the Call Report, from which average paid employee compensation can be computed.

## List of Subjects in 12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

By the National Credit Union Administration Board, this 14<sup>th</sup> day of January, 2026.

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**Melane Conyers-Ausbrooks,**  
*Secretary of the Board.*

For the reasons stated in the preamble, the NCUA Board proposes to amend 12 CFR part 701 as follows:

### **PART 701 – ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS**

1. The authority citation for part 701 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

#### **§701.33 [Amended]**

2. Amend § 701.33 by:

a. Adding the definition of “Dependent care costs” to the beginning of paragraph (a) and

b. Revising the last sentence of paragraph (b)(2)(i).

The addition and revision to read as follows:

**§701.33 Reimbursement, Insurance, and Indemnification of Officials and Employees.**

(a) *Dependent care costs.* *Dependent care costs* mean expenses for the care of a qualifying individual (as defined in 26 U.S.C. 21)).

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \* Such payments may include the payment of: (A) travel costs for officials and one guest per official and (B) dependent care costs for a volunteer official (as defined in § 701.21(c)(8)(ii));

\* \* \* \* \*