



## 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:** Final rule.

**SUMMARY:** The NCUA Board is amending its regulations concerning the reimbursement of reasonable expenses for federal credit union (FCU) officials. The amendment revises the definition of *compensation* to exclude dependent care costs incurred by volunteer officials while attending board meetings and performing official credit union duties. By recognizing these costs as reimbursable, the NCUA Board is authorizing FCUs to remove a potential barrier to volunteer service for persons with dependent care responsibilities. The final rule also provides flexibility for FCU boards to adopt more family-friendly policies tailored to their size, region, and operations. The final rule follows publication of the January 26, 2026, proposed rule, and takes into consideration the public comments received.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**FOR FURTHER INFORMATION CONTACT:** *Office of General Counsel:* Keisha L. Brooks, Attorney-Advisor, Office of General Counsel, at (703) 518-6540 or by mail at 1775 Duke Street, Alexandria, VA 22314. *Office of Examination and Insurance:* 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. Under section 111 of the FCU Act (section 111), only one FCU board member may be compensated as a board officer, and no other FCU official may receive compensation for serving as a board or committee member.<sup>1</sup> By statute, such compensation excludes the payment of reasonable expenses incurred in executing official credit union duties.<sup>2</sup>

The NCUA regulation at 12 CFR 701.33 (§ 701.33) implements section 111. 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.<sup>3</sup> 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 (including documentation requirements) established by the FCU 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. FCU board policies should also ensure that such payments are reasonable in amount in relation to the FCU’s resources and financial condition.<sup>4</sup>

On January 26, 2026, the NCUA Board published a proposed rule to amend the definition of the term *compensation* under § 701.33 to exclude dependent care costs incurred by volunteer officials while attending board meetings and performing official credit union duties.<sup>5</sup> The proposed rule followed feedback that the NCUA Board received on 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

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

<sup>2</sup> Section 520 of the Garn-St. Germain Depository Institutions Act of 1982 amended section to codify that such expenses are not considered compensation. 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)).

<sup>3</sup> 40 FR 30261 (July 18, 1975) (adding 12 CFR 701.33).

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

<sup>5</sup> Proposed Rule, 91 FR 3073 (Jan. 26, 2026).

costs.<sup>6</sup> As discussed in the preamble to the proposed rule, a national trade association representing credit unions requested that the NCUA Board reconsider this position. The association cited several factors supporting dependent care reimbursement to encourage board participation, noting evolving family needs and recruitment benefits, especially for single parents or caregivers.<sup>7</sup>

The NCUA Board, after considering public feedback and other factors described in the preamble to the proposed rule, proposed amending § 701.33(b)(2)(i) to clarify that dependent care costs may be reasonable and proper in certain situations. For this purpose, the NCUA Board proposed adding a definition for *dependent care costs* using the Internal Revenue Code's definition of a *qualifying individual*.<sup>8</sup> Based on 12 CFR 701.21(c)(8)(ii), the proposed rule also defined *volunteer official* to mean an official of a credit union who does not receive compensation from the credit union solely for his or her service as an official. All other sections of the regulation would remain unchanged.

As proposed, the amendments would apply to FCUs, including corporate FCUs. The NCUA Board solicited public comments on the proposed changes providing a 60-day comment period that concluded on March 27, 2026.

### *B. Legal Authority*

The NCUA Board is issuing this final rule pursuant to its authority under the FCU Act. Under the FCU Act, NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions (FICUs).<sup>9</sup> The FCU Act grants NCUA a

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<sup>6</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>7</sup> Proposed Rule, 91 FR at 3074.

<sup>8</sup> 26 U.S.C. 21(b). 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. 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).

<sup>9</sup> 12 U.S.C. 1752-1775.

broad mandate to issue regulations governing both FCUs and all FICUs. 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 the FCU Act.<sup>10</sup> Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.<sup>11</sup> Section 209 of the FCU Act is a plenary grant of regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.<sup>12</sup> Accordingly, the FCU Act grants the NCUA Board broad rulemaking authority to ensure that the federally insured credit union industry and the National Credit Union Share Insurance Fund (“Share Insurance Fund”) remain safe and sound.

Section 111 allows the reimbursement of reasonable expenses incurred by volunteer officials in executing their official credit union duties but provides no further definition or standards for assessing reasonableness. While the legislative history is limited, the statutory amendment allowing reasonable expenses was among several changes designed to facilitate FCU management and operating flexibility.<sup>13</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>14</sup> “Reasonable” is generally understood to mean “possessing sound judgement,” “within sensible or rational limits,” and “not extreme or excessive.”<sup>15</sup> “Reasonable” reflects good judgment that is “fair and proper under the circumstances” or “rational, sound, and sensible.”<sup>16</sup> The Supreme Court has also recognized that statutes using terms such as “appropriate” or

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<sup>10</sup> 12 U.S.C. 1766(a).

<sup>11</sup> 12 U.S.C. 1787.

<sup>12</sup> 12 U.S.C. 1789.

<sup>13</sup> See 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)); S. Conf. Rep. No. 97-641 (1982), reprinted in 1982 U.S.C.A.N. 3128, 3133. See also NCUA, 1982 Annual Report 42 (Apr. 1983), <https://ncua.gov/files/annual-reports/AR1982.pdf>.

<sup>14</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>15</sup> *Reasonable*, Webster’s New Collegiate Dictionary 955 (1981), <https://archive.org/> (last visited April 17, 2026); *Reasonable*, Merriam-Webster On-line Dictionary, <https://www.merriam-webster.com/dictionary/reasonable> (last visited April 17, 2026); *Reasonable*, Black’s Law Dictionary (12th ed. 2024).

<sup>16</sup> *Id.*

“reasonable” leaves agencies with flexibility and authority to exercise a “degree of discretion” in interpreting statutes.<sup>17</sup> The NCUA regulation, § 701.33, implements section 111. Given this framework, the NCUA Board has used its discretion under the FCU Act to interpret these terms and give FCU boards latitude in fashioning reimbursement policies and making individualized determinations.<sup>18</sup>

## **II. Final rule**

### *A. Overview*

This final rule follows publication of the January 26, 2026, proposed rule and takes into consideration the comments received on the proposal. By the close of the public comment period on March 27, 2026, NCUA received 19 comment letters regarding the proposed rule. Comments were received from trade associations, credit union leagues, federal credit unions, and individuals. After carefully considering the comments, NCUA is publishing this final rule with one non-substantive edit for clarity and precision. All other sections of the regulation remain unchanged.

### *B. Discussion of Public Comments*

The NCUA Board requested comments on all aspects of the proposed rule and, specifically, the following topics: broadening board participation, eligible officials, other federal agency standards regarding dependent care costs, FCU board responsibilities, lost wage comparisons, reimbursement situations, industry statistics, state-level best practices, and corporate FCUs. Most commenters opted to provide general comments rather than address the specific questions posed in the preamble to the proposed rule. Only two commenters specifically addressed each of the 12 questions presented. This section of the preamble discusses the significant issues raised by the commenters, and the NCUA Board’s responses to the comments.

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<sup>17</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>18</sup> See Final Rule, 57 FR 54499, 54501-02 (Nov. 19, 1992).

### *1. The Comments, Generally*

The comments were largely supportive of the proposed regulatory amendments. Most comments supported reimbursing reasonable dependent care costs for volunteer officials, citing reduced financial barriers and increased board participation. One commenter questioned the proposal's practical benefit for small FCUs but ultimately supported NCUA's intent and the proposal if it would benefit some credit unions.

### *2. Comments on Broadening Board Participation*

Most commenters described dependent care costs as a tangible barrier that can discourage skilled candidates with caregiving responsibilities from board service—particularly single parents, working parents, military families, and caregivers for persons with disabilities. The rising expenses of childcare and eldercare were frequently cited by commenters. Several commenters observed that offering reimbursement can ease this financial burden, making volunteering more accessible to those with caregiving duties. One commenter noted that reimbursing dependent care costs would give FCUs greater flexibility to support work-life balance among volunteer officials. Others emphasized its potential to strengthen credit union governance and improve recruitment efforts to attract skilled candidates.

*NCUA Response.* The NCUA Board appreciates the support expressed by the commenters. Based on the public feedback and other factors described in the preamble to the proposed rule, the NCUA Board agrees that recognizing dependent care costs as a reimbursable expense will provide FCUs with greater flexibility to support volunteer officials with caregiver responsibilities and whose duties include credit union business.

### *3. Comments on Eligible Officials*

As proposed, the NCUA Board would authorize FCUs to extend dependent care reimbursement to a "volunteer official," as defined in 12 CFR 701.21(c)(8)(ii). This term refers to a credit union official who does not receive compensation from the credit union solely for his or her service as an official. Under the current regulation, § 701.33(a) defines "official" to

include a member of the FCU board of directors, credit committee or supervisory committee, or other volunteer committee established by the FCU board. Section 701.33(b), however, only allows payments when an official carries out the responsibilities of their credit union position.

Four comments discussed whether dependent care reimbursement should extend to officials other than FCU board members like associate directors, directors emeriti, and committee members. Two commenters suggested eligibility should be based on board-assigned duties, noting that associate directors and committee members frequently undertake significant responsibilities that may justify reimbursement. The other two commenters supported extending reimbursement to all volunteers engaged in credit union governance.

*NCUA Response.* After careful consideration of the public comments, the NCUA Board has decided not to exclude volunteer officials, such as associate directors and committee members, who provide board designated services and who act in more than an honorary capacity from the final rule. As noted in the preamble to the proposed rule, since 2011, associate directors or similar FCU officials who meet these conditions have been eligible for reimbursement of training and travel costs under § 701.33.<sup>19</sup> The NCUA Board believes that these volunteer officials are distinguishable from directors emeritus who are not authorized to perform any duties other than providing advice to the credit union's board, staff, and other committees as needed.<sup>20</sup> The NCUA Board agrees that, if the volunteer official in question provides board designated services that go beyond merely serving in an honorary capacity, the usual requirements governing payments apply to dependent care costs.

#### *4. Comments on Other Federal Agency Guidance*

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<sup>19</sup> OGC Legal Op. 11-0152 (Mar. 2011), <https://ncua.gov/regulation-supervision/legal-opinions/2011/training-reimbursement-credit-union-officials>.

<sup>20</sup> Unless separately elected or appointed, directors emeriti are not members of any other committee of the credit union. Directors emeriti are not a member or officer of the board of directors; they may not vote on any matter before the board or any other committee of the credit union; they may not receive any compensation from the credit union; and they are not required to attend any meetings or authorized to perform any duties other than providing advice to the credit union's board, staff and other committees as needed. See FCU Standard Bylaws Article VI. Board of Directors, Section 10. Director Emeritus, 12 CFR part 701, App. A.

In the preamble to the proposed rule, the NCUA Board invited comment on whether the final rule should include other federal agency standards addressing dependent care costs. The NCUA Board proposed defining dependent care costs as expenses for the care of a qualifying individual (as defined in 26 U.S.C. 21). The proposed provision adopted the Internal Revenue Code's definition for *qualifying individual* under 26 U.S.C. 21. In the proposal, the NCUA Board noted that the qualifying individual standard also applies to dependent care assistance programs, such as flexible spending accounts.<sup>21</sup> As proposed, examples of qualifying individuals would include: (1) a dependent child under 13 years of age; (2) a spouse who is physically or mentally incapable of self-care and resides with the volunteer official for more than half of the year, or (3) other dependents (such as an adult child or elderly relative) who are physically or mentally unable to care for themselves and who live with the volunteer official for more than half of the year.

While NCUA has historically found Internal Revenue Service (IRS) interpretations to be persuasive, the proposed rule did not further define "care of a qualifying individual" based on IRS regulations. For example, under the IRS regulation at 26 CFR 1.21-1(d), expenses are considered for the care of a qualifying individual if the primary function is to assure the individual's well-being and protection. The IRS regulation also outlines additional requirements regarding the care of a qualifying individual, including expense allocation, indirect expenses, incidentals, and the manner of care. The IRS regulation provides illustrations for determining whether a particular dependent care cost may be eligible for the dependent care tax credit.<sup>22</sup>

The preamble to the proposed rule also discussed the Office of Management and Budget's (OMB) approach as another potential alternative. For federal financial assistance awards, OMB regulations allow temporary dependent care costs beyond regular dependent care, if they: (i) directly result from travel to a conference for the Federal award; (ii) align with written

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

<sup>22</sup> 26 CFR 1.21-1(d)

travel policies; and (iii) are only temporary during travel.<sup>23</sup> The OMB regulation adopted the Internal Revenue Code’s definition of *dependent* (26 U.S.C. 152) but did not specifically define “dependent care costs.”<sup>24</sup>

Eight comments responded to defining dependent care costs using other federal agency guidelines. Commenters differed on whether the final rule should define “dependent care costs.” Several urged the NCUA Board to avoid strict definitions or monetary limits, citing regional cost variations and differences in credit union size. Some opposed regulatory definitions, warning such measures might inadvertently exclude certain groups or overlook regional needs. Many of these commenters noted that FCU boards are best suited to set relevant policies and suggested NCUA manage safety and soundness via supervision. Others recommended clarifications in the preamble to the final rule or through guidance.

Two commenters supported defining “dependent care costs” using the Internal Revenue Code’s definition for *qualifying individual* but preferred leaving documentation requirements to FCU board discretion. Others cited the OMB regulation as persuasive. As an alternative, one FCU suggested defining “dependent” to include any qualifying individual for whom the volunteer official has primary caregiving responsibility and for whom care is necessary for the official’s credit union duties. According to the commenter, this would encompass minor children, spouses, adult children, parents, and other household members incapable of self-care and residing with the official most of the year. The commenter recommended “dependent care costs” include reasonable, necessary, and documented expenses for supervision, care, or custodial support incurred specifically for credit union activities, such as meetings, training, travel, or other approved functions. The commenter wrote that these costs could involve payments to licensed childcare providers, in-home caregivers, adult day care services, or similar

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<sup>23</sup> 2 CFR 200.475(c)(1).

<sup>24</sup> See 2 CFR 200.475(c) (citing 26 U.S.C. 152); 2 CFR 200.404; Final Guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award, 78 FR 78590, 78602 (Dec. 26, 2013).

arrangements, provided they are reasonable in amount, properly documented, and related to official duties.

*NCUA Response.* The NCUA Board welcomes feedback on regulatory clarity and remains committed to working to ensure clear regulatory obligations. As noted in the preamble to the proposed rule, FCUs face the task of balancing the FCU Act’s restriction on compensation with the need to recruit skilled volunteer officials. The NCUA Board appreciates the thorough review and recommendations provided by commenters.

After careful consideration of the comments and alternatives, the NCUA Board believes it is appropriate to maintain a regulatory definition for dependent care costs in the final rule. The final rule incorporates only the Internal Revenue Code’s statutory definition for *qualifying individual* under 26 U.S.C. 21(b). Additionally, a non-substantive change has been made to the proposed definition of *dependent care costs*. The proposed rule referenced the statutory definition of *qualifying individual* found in 26 U.S.C. 21. For clarity, the final rule now refers to paragraph (b) in 26 U.S.C. 21, which specifically defines *qualifying individual*. Accordingly, the NCUA Board is adopting this clarification in the final rule, with *dependent care costs* meaning *expenses for the care of a qualifying individual (as defined in 26 U.S.C. 21(b))*.

The NCUA Board also finds the comments cautioning against additional prescriptive requirements to be persuasive. As such, the NCUA Board agrees that it is not necessary to incorporate additional detailed requirements into the final rule. The NCUA Board considered the alternatives but has determined that the final rule offers the most appropriate balance to clarify supervisory expectations while preserving FCU board flexibility. The NCUA Board has not further defined terms such as “care” or “care of” in the final rule as they should generally be understood according to their common, ordinary meaning. For example, *care* refers to “responsibility or attention to health, well-being, and safety,” while *take care of* means

“providing for or attending to someone’s needs”.<sup>25</sup> The NCUA Board believes this plain-language meaning allows FCU boards to create written policies, including documentation requirements, suitable for their size, financial condition, governance, operational complexity, and the volunteer ethos of FCUs. As stated in the proposed rule, the NCUA Board has historically left such details to each FCU’s board of directors, within the boundaries of reasonableness and safety and soundness.<sup>26</sup> While the final rule does not impose more prescriptive requirements, the NCUA Board recognizes that FCU boards may refer to the noted alternatives when establishing comparable or stricter procedures in their reimbursement policies. Further, the NCUA Board believes the plain meaning of dependent care costs is sufficient to enable the agency to address any instances where a credit union’s policy allows remuneration beyond what reasonably would qualify as dependent care costs for a volunteer official.

#### *5. Comments on FCU Board of Directors’ Responsibilities*

In the proposed rule, the NCUA Board invited public comment on an FCU board’s responsibilities in amending payment policies to include dependent care costs for volunteer officials. The NCUA Board also solicited comments on potential obstacles and associated cost considerations for FCU boards electing to pay dependent care costs for volunteer officials.

The general consensus among commenters was that dependent care reimbursement should be voluntary and that FCU boards should have discretion to adopt more restrictive policies or to disallow such reimbursements entirely. Some commenters recommended that credit unions not planning to use this authority should not be forced to adopt a standalone policy, as it could create unnecessary administrative burden, especially for smaller FCUs with limited resources. Commenters anticipated that related expenditures should be negligible due to the discretionary nature of reimbursement, existing regulatory boundaries, and if a targeted approach

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<sup>25</sup> *Care*, Merriam-Webster On-line Dictionary, <https://www.merriam-webster.com/dictionary/care> (last visited April 29, 2026); *take care of*, Merriam-Webster On-line Dictionary, <https://www.merriam-webster.com/dictionary/take%20care%20of> (last visited April 29, 2026).

<sup>26</sup> Proposed Rule, 91 FR at 3074; Final Rule, 57 FR 54499, 54501-02 (Nov. 19, 1992).

is adopted by FCU boards. They noted that FCUs are adequately equipped to manage costs through measures such as restricting eligibility, documentation standards, and internal approval processes. And, if needed, FCU boards can implement alternative measures should reimbursement prove overly costly or impractical.

Commenters also supported a principles-based supervisory model that requires reasonable documentation to validate actual costs related to official credit union duties. Many suggested FCU boards should, subject to supervisory oversight, establish reasonableness standards with written policies tailored to each institution's size and complexity. These policies would address documentation, internal controls, eligibility criteria, and duty-based connections. Commenters proposed substantiating dependent care costs through invoices or receipts clearly showing the nature of services provided, dates and duration of care, amounts paid, and the official purposes necessitating these costs. While acknowledging that tax matters fall outside the NCUA Board's purview, some commenters requested clarification on possible tax reporting consequences, such as relevant reporting thresholds.

*NCUA Response:* The NCUA Board agrees that provided the dependent care costs are reasonable, within the bounds of § 701.33, and safety and soundness concerns are met, payments should be with the discretion of the individual FCU's board of directors. The NCUA Board observes that the current NCUA regulation, § 701.33, requires an FCU board to satisfy several conditions to reimburse volunteer officials for out-of-pocket expenses. First, the payment must be for reasonable and proper costs incurred by an official in carrying out their credit union responsibilities. As the NCUA Board has noted on prior occasions, this step includes determining whether the payment is reasonable in amount in relation to the resources and financial condition of the FCU. Second, the FCU board must determine that the payment is necessary or appropriate in order to carry out the official business of the credit union. Third, the payment must be in accordance with the board-adopted written policies and procedures, including documentation requirements.

With this regulatory amendment, the NCUA Board is authorizing FCU boards to choose whether to adopt written policies for reimbursing or directly paying dependent care costs, as long as these conditions are met. The NCUA Board agrees with commenters that any cost increase for members should be minimal if these requirements are followed. The NCUA Board emphasizes that, under the final rule, dependent care payments remain optional and are *not* mandatory. The NCUA Board also acknowledges that an FCU board of directors can set stricter policies or ban these payments altogether. Ultimately, these decisions are up to each FCU board, within the boundaries of the rule.

As noted in the preamble to the proposed rule, the NCUA Board cautions FCUs that the final rule has no effect on applicable IRS regulations governing the reporting and taxing of any payments or reimbursements. In 2005, NCUA issued guidance to FCUs addressing the tax consequences of paying travel expenses for FCU volunteer officials and their guests.<sup>27</sup> The NCUA Board believes that the same considerations would apply to paying dependent care costs and encourages FCUs to review the 2005 guidance, which is available on [NCUA.gov](https://ncua.gov). For information on IRS requirements, NCUA recommends that FCUs and their officials consult with tax advisors or attorneys.

#### *6. Comments on Small FCUs*

Several comments addressed small FCUs. One commenter underscored the benefit for smaller FCUs, which often operate with a limited pool of volunteers and may face recruitment difficulties if prospective board members must absorb out-of-pocket expenses. Two commenters noted that dependent care reimbursement should not be viewed as an entitlement or perk. Conversely, one commenter wrote that the proposal would provide minimal value to small FCUs given their restricted budgets and the credit union volunteer philosophy. This commenter also observed that the increased use of remote meetings diminishes the necessity for dependent care

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<sup>27</sup> See 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>.

reimbursement, and that such reimbursement is unlikely to substantially influence volunteer recruitment or retention for small FCUs. This commenter emphasized that there are more pressing regulatory burdens on small FCUs, such as lengthy examinations, punitive findings, “over-compliance” pressures, unrealistic expectations for unpaid supervisory committee volunteers, and complex regulations. The commenter urged additional tiered relief in these areas as more meaningful for small credit unions. Another commenter recommended that NCUA offer additional guidance, flexibility, or financial support to mitigate any financial impact on smaller FCUs.

*NCUA Response.* The NCUA Board welcomes the public comments submitted on the proposed rule and appreciates the support expressed by most commenters. Requests for additional regulatory relief are outside the scope of the proposed rule. Although the comments are outside the scope of this rulemaking, the NCUA Board values this feedback and will bear the suggestions in mind in considering other regulatory changes as appropriate in the future.

While the NCUA Board is sympathetic to the financial constraints raised by the commenters, the requests for federal financial assistance is beyond the purview of this final rule. This final rule follows established principles for paying reasonable expenses under section 111 and § 701.33. As discussed in more detail in this preamble, the NCUA Board observes that payments under § 701.33 remain optional and are not mandatory. The NCUA Board has long recognized that discretionary reimbursements under § 701.33 should be reasonable in amount in relation to the FCU’s resources and financial condition. For example, smaller FCUs may have fewer board members, or have fewer volunteers who would qualify for dependent care reimbursement. While section 111 permits FCUs to pay reasonable expenses incurred by volunteer officials in performing official credit union business, the provision does not authorize NCUA to provide federal financial assistance for such costs. Accordingly, the NCUA Board has not revised the rule in response to these comments.

#### *7. Comments on Federally Insured, State-Chartered Credit Unions (FISCUs)*

FISCUs are not subject to § 701.33 and must comply with applicable state laws pertaining to board member compensation.<sup>28</sup> The NCUA Board invited public comment on state requirements and FISCU policies governing reimbursing credit union officials for dependent care expenses. Six commenters responded to the question on state-level practices for reimbursing dependent care expenses. Several commenters noted that some state frameworks already permit compensation or broader reimbursement. These commenters supported the proposal, noting it would help federal charters remain competitive while maintaining volunteer-governance principles. Another commenter suggested that adopting this proposal may encourage some state regulators to implement similar policies for state-chartered credit unions. One national trade association is currently reviewing state policies and plans to share best practices with NCUA.

*NCUA Response.* 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>29</sup> No comments provided further information on state-level practices or requirements for the NCUA Board's consideration.

#### *8. Comments on Lost Wages and Lost Opportunity Costs*

The NCUA Board requested public comments on whether similar considerations for prohibiting the payment of lost wages apply to dependent care costs. As discussed in the preamble to the proposed rule, a national trade organization maintained that lost wages to attend a board meeting are not similar to childcare expenses.<sup>30</sup> A few comments agreed that dependent care costs are out-of-pocket expenses similar to travel costs incurred for official duties. Several commenters suggested that the NCUA Board should reconsider permitting reimbursement for lost wages or leave taken to attend board meetings or conferences. Another commenter urged expanding the final rule to allow reimbursement for lost opportunity costs like honoraria for

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<sup>28</sup> 12 CFR 741.3(c).

<sup>29</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.

<sup>30</sup> Proposed Rule, 91 FR 3073, 3078 (Jan. 26, 2026).

speaking engagements or representing the credit union at events, and retainers for professional services performed in an official role.

*NCUA Response.* The NCUA Board agrees that dependent care costs are distinguishable from lost wages. The NCUA Board believes that, unlike lost wages, dependent care costs are actual out-of-pocket expenses. The other suggestions made by commenters to add lost wages and lost opportunity costs to the final rule are outside the scope of this rulemaking. The NCUA Board notes that, in 1988, the credit union community overwhelmingly opposed reimbursing volunteer officials for lost pay or leave.<sup>31</sup> Therefore, the NCUA Board has not revised the rule in response to these comments.

### *9. Comments on Corporate Federal Credit Unions*

The NCUA Board requested feedback on whether corporate FCUs should be regulated differently but received no substantive comments. Accordingly, the final rule applies to corporate FCUs.

## **III. Regulatory Procedures**

### *A. Executive Orders 12866, 13563, and 14192*

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB), in accordance with the requirements of the Executive Order.<sup>32</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>33</sup> This final rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OIRA has determined that this final rule is “not significant” under section 3(f) of Executive Order 12866.

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<sup>31</sup> Final Rule, 53 FR 29640 (Aug. 8, 1988); Proposed Rule, 53 FR 4992 (Feb. 19, 1988).

<sup>32</sup> 58 FR 51735 (Oct. 4, 1993).

<sup>33</sup> 76 FR 3821 (Jan.21, 2011).

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 10 prior regulations.<sup>34</sup> This rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act 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.<sup>35</sup> If the agency makes such a certification, it shall 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>36</sup> For purposes of this analysis, NCUA considers small credit unions to be those having under \$100 million in assets.<sup>37</sup> The NCUA Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

The final rule would permit small 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. Small FCUs traditionally have had the most difficulty recruiting volunteer officials, and this rule provides them with another recruiting tool. Consistent with long-standing practices, the NCUA Board expects that small FCU payment policies including dependent care costs will continue to be reasonable in relation to its resources and financial condition while maintaining financial stability and capital adequacy. As outlined in the preamble to this rule, smaller FCU boards would be able to set their own cost limits or opt

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<sup>34</sup> 90 FR 9065 (Feb. 6, 2025).

<sup>35</sup> 5 U.S.C.601 *et seq.*

<sup>36</sup> 5 U.S.C. 605(b).

<sup>37</sup> 80 FR 57512 (Sept. 24, 2015).

not to implement payment policies entirely. Additionally, the NCUA Board anticipates that small FCU boards are unlikely to opt to pay dependent care expenses without evaluating whether the recruiting benefits (for example, the enhanced ability to attract and keep talented volunteer officials) outweigh the associated expenses. Small FCUs choosing to adopt such policies can also mitigate costs by limiting eligibility requirements, setting monetary limits, and establishing internal approval procedures. The NCUA Board anticipates that related expenses will remain minimal given the optional nature of reimbursements, current regulatory frameworks, remote meeting capabilities, and the possibility for small FCU boards to take a targeted approach. Accordingly, NCUA certifies the final rule will not have a significant economic impact on a substantial number of small credit unions.

### *C. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemaking 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. 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 final rule 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. NCUA is proposing to extend for three years, with revision, this information collection.

*OMB Control Number:* 3133-0130.

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

*Estimated Number of Respondents:* 2,715.

*Estimated Number of Responses per Respondent:* 1.3

*Estimated Annual Responses:* 3,620.

*Estimated Hours per response:* Varies.

*Estimated Total Annual Burden Hours:* 2,263.

The final 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.

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).

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	Recordkeeping (One-Time)	2,715	.3	1	905

Costs (Implementation)					
<b><i>Total Estimated</i></b>					<b>2,263</b>
<b><i>Annual Burden</i></b>					

*D. Executive Order 13132 on Federalism*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This final 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 remain free to establish their own policies for board compensation and for reimbursing FISCU officials for reasonable expenses incurred in executing official credit union duties.<sup>38</sup> NCUA has therefore determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

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

NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>39</sup> 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 in the preamble to the proposed rule, median full-day childcare price for one child in 2022 ranged from \$6,552 (\$7,266 in 2024 dollars) to \$15,600

<sup>38</sup> See Final Rule, 57 FR at 54502.

<sup>39</sup> Public Law 105-277, 112 Stat. 2681 (1998).

(\$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>40</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>41</sup>

#### *F. Congressional Review Act*

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (CRA), generally provides for congressional review of agency rules.<sup>42</sup> NCUA must submit a report to Congress and the Comptroller General when it issues a final rule, as defined by the CRA.<sup>43</sup> An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a “major rule.” The Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB), has determined that this rule is not a “major rule” within the meaning of the relevant sections of the CRA. Specifically, the rule will not (i) have an aggregate economic impact greater than or equal to \$100 million, (ii) produce an increase in prices/costs for consumers or other industry stakeholders/regulators, or (iii) adversely affect domestic competition or the ability of U.S. enterprises to compete in foreign markets. NCUA will file appropriate reports with Congress and the Comptroller General so this rule may be reviewed.

### **List of Subjects in 12 CFR part 701**

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<sup>40</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>41</sup> NCUA collects the number of employees and compensation on the Call Report, from which average paid employee compensation can be computed.

<sup>42</sup> 5 U.S.C. 801-808.

<sup>43</sup> 5 U.S.C. 551; 5 U.S.C. 804(3).

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 4<sup>th</sup> day of June, 2026.

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Melane Conyers-Ausbrooks,  
Secretary of the Board.

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

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

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

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761, 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 12 U.S.C. 4311-4312.

**§701.33 [Amended]**

2. Amend § 701.33 by revising paragraph (a) and the last sentence of paragraph (b)(2)(i) to read as follows:

**§701.33 Reimbursement, insurance, and indemnification of officials and employees.**

(a) *Definitions.* The following definitions apply to this section:

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

*Official.* An *official* is a person who is or was a member of the board of directors, credit committee or supervisory committee, or other volunteer committee established by the board of directors.

(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));

\* \* \* \* \*

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