

OPINION NO. 84-072**Syllabus:**

Members of the Governor's Council on Disabled Persons are not entitled to reimbursement for expenses which are incurred in connection with attendance at committee meetings.

To: Robert L. Rabe, Administrator, Rehabilitation Services Commission, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, November 28, 1984

I have before me your request for my opinion in which you ask whether members of the Governor's Council on Disabled Persons are entitled to reimbursement for expenses incurred in connection with attendance at committee meetings.

R.C. 3303.41, which provides for the creation of the Governor's Council on Disabled Persons, states in pertinent part as follows: "Members of the council shall serve without compensation but shall be paid their actual and necessary expenses for attendance at meetings of the council. The council shall meet at least six times annually at such times and places as may be designated by the chair man."

In State ex rel. Leis v. Ferguson, 149 Ohio St. 555, 80 N.E.2d 118 (1948), the Supreme Court of Ohio denied a writ of mandamus directing the state Auditor to issue a warrant covering a list of expenses submitted to him by a member of the Board of Liquor Control under a statutory provision governing traveling expenses. In the first paragraph of its syllabus, the court stated that public officials are entitled only to the compensation and allowances provided by law. In the second paragraph of its syllabus, the court held that statutes relating to compensation and allowances of public officials are to be strictly construed, and that public officials are entitled to no more than that which is clearly given by statute. Accord State ex rel. Ferguson v. Maloon, 172 Ohio St. 343, 176 N.E.2d 422 (1961).

R.C. 3303.41 provides for the reimbursement of Council members for their actual and necessary expenses for attendance at meetings of the Council. Under the strict statutory construction and analysis of Leis, Council members are entitled only to that reimbursement which is clearly granted by law. An examination of R.C. 3303.41 reveals that reimbursement of Council members is provided only for attendance at meetings of the Council. The statute does not expressly provide for reimbursement of Council members for attendance at meetings of committees of the Council.

If the statutory term "council" had the same meaning as the term "committee," then I could conclude that Council members may be reimbursed for attendance at committee meetings under R.C. 3303.41. However, since the two terms do not share the same meaning, I am unable to reach such a conclusion. It is an established principle of statutory construction that in the absence of a statutory definition of words used in a statute, such words are to be read according to their plain, common meaning. See R.C. 1.42; Baker v. Powhatan Mining Co., 146 Ohio St. 600, 67 N.E.2d 714 (1946). Webster's New World Dictionary 323 (2d college ed. 1978) defines "council" as: "a group of people chosen as an administrative, advisory, or legislative assembly." Black's Law Dictionary 313 (5th ed. 1979) defines "council" as: "An assembly of persons for the purpose of concerting measures of state or municipal policy. . . . An advisory body selected to aid the executive; i.e. a body appointed to advise and assist the governor in his executive or judicial capacities or both." Under both definitions, the term "council" means a group of people which makes and executes policy.

By contrast, Webster's New World Dictionary 286 (2d college ed. 1978) defines "committee" as, "a group of people chosen, as from the members of a legislature or club, to consider, investigate, and report or act on some matter or on matters of a certain kind." Black's Law Dictionary 248 (5th ed. 1979) defines "committee" as:

"An individual or body to whom others have delegated or committed a particular duty, or who have taken on themselves to perform it in the expectation of their act being confirmed by the body they profess to represent or act for." Under both definitions, the term "committee" means a subgroup of a council or other group to which the parent group delegates a particular task.

In this instance, R.C. 3303.41 provides that the Governor's Council on Disabled Persons "shall consist of twenty-one members of which the majority shall be disabled persons. . .appointed by the governor." R.C. 3303.41 delineates the powers of the Council as follows:

- (A) To cooperate with the president's committee on employment of the handicapped;
- (B) To cooperate with all employers both public and private in locating or developing employment opportunities for the disabled;
- (C) To encourage and assist in the creation of committees at the community level;
- (D) To assist local, state, and federal agencies to coordinate their activities for the purpose of securing maximum utilization of funds and efforts that benefit disabled persons;
- (E) To encourage cooperation among public and private employers, unions, and rehabilitation agencies, bureaus, and organizations both public and private with a specific goal to facilitate employment of disabled persons;
- (F) To serve in an advisory capacity to the governor's office directly and as needed to the general assembly on issues relating to the needs, problems, and other concerns of disabled persons;
- (G) To conduct educational programs to acquaint the public with the abilities and accomplishments of disabled persons;
- (H) To promote the elimination of architectural barriers to make buildings used by the public accessible and useable by persons with physical limitations;
- (I) To make such rules as it determines advisable for the conduct of its own business.

The council shall annually report to the governor on council activities and on the state of Ohio's disabled persons. This report may include any recommendations believed necessary or desirable to carry out the purposes of this section.

Under the by-laws of the Governor's Council on Disabled Persons certain committees have been established by the Council in order to perform a particular task which the Council has delegated. I understand that the Council, for example, has created the Committee on Architectural Barriers to which the Council has delegated the particular task of investigating and carrying out the Council's policy concerning architectural barriers to disabled persons. It is apparent that the various committees of the Council are not the same entity as the Council and could not act as the Council. It is clear that while a committee is a subgroup of the Council, it is not the same entity as the Council. A committee is limited to performing those duties which the Council delegates to it. The powers, duties and privileges of a committee are narrower than those of the Council. Thus, a committee does not fit within the meaning of "council" for purposes of R.C. 3303.41.

I note that another well settled maxim of statutory construction is that where the General Assembly uses certain language in one instance and wholly different language in another, different meanings are to be attached to such language. See Inglis v. Pontius, 102 Ohio St. 140, 131 N.E. 509 (1921). The restrictiveness of the reimbursement language of R.C. 3303.41 becomes apparent when such language is compared to the language of other reimbursement statutes. For example, there is a significant difference between the reimbursement language of the statute in question, R.C. 3303.41, and the reimbursement language of the statute which creates the Ohio Rehabilitation Services Commission, R.C. 3304.12. Division (C) of R.C. 3304.12 provides that: "Members of the commission shall be reimbursed for travel and necessary expenses incurred in the conduct of their duties, and shall

receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code while actually engaged in attendance at meetings or in the performance of their duties." Thus, if members of the Commission discharge their duties through committee work, then reasonably, these members would be entitled to reimbursement for travel and necessary expenses incurred in performing such committee work. By contrast, even though the Governor's Council on Disabled Persons may require its members to attend committee meetings, the plain language of R.C. 3303.41 limits reimbursement of Council members to the actual and necessary expenses that they incur for attendance at meetings of the Council.

I note that there exists a general statutory intrastate travel reimbursement provision, R.C. 141.15. R.C. 141.15 provides in pertinent part as follows: "Any elected or appointed state officer or state employee of any department, office, or institution of this state, whose compensation is paid, in whole or in part, from state funds, may be reimbursed for his actual and necessary traveling and other expenses incurred while traveling within this state on official business authorized by law or required in the performance of duties imposed by law." R.C. 141.15 applies only to "elected or appointed state officer[s] or state employee[s] of any department, office, or institution of this state, whose compensation is paid, in whole or in part, from state funds." R.C. 3303.41 specifically provides that members of the Council "shall serve without compensation." Since members of the Council are not compensated in whole or in part from state funds, the reimbursement provisions of R.C. 141.15 are inapplicable to Council members. Members are limited, therefore, to the reimbursement provided by R.C. 3303.41. While I fully appreciate the laudable goals to which the Governor's Council on Disabled Persons is directed, I am compelled to conclude that members of the Council are entitled to reimbursement for only those expenses incurred in connection with attendance at Council meetings.

In conclusion, it is my opinion, and you are so advised, that members of the Governor's Council on Disabled Persons are not entitled to reimbursement for expenses which are incurred in connection with attendance at committee meetings.