August 17, 2026

The Honorable Shayla D. Favor
Franklin County Prosecuting Attorney
373 South High Street
Columbus, Ohio 43215

SYLLABUS: 2026-009

1. A county prosecutor may reimburse an employee's travel-related meal costs with money from furtherance of justice funds, the law enforcement trust fund, or mandatory drug fines, if covering those costs would be consistent with the statutory purpose of those funds.

2. A prosecutor may adopt a per diem allowance for employees' travel-related meal costs but only as a limit on reimbursement for actual expenses.

3. The Auditor of State requires county prosecutors to maintain receipt documentation for reimbursements from furtherance of justice funds, the law enforcement trust fund, or mandatory drug fine money. A per diem system that relies on affidavits instead of receipts would not comply with those requirements.

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OPINION NO. 2026-009

The Honorable Shayla D. Favor
Franklin County Prosecuting Attorney
373 South High Street
Columbus, Ohio 43215

Dear Prosecutor Favor:

You have requested my opinion regarding the legality of using per diem allowances for employee travel expenses. Based on discussions with your staff, I have reframed the question into two parts:

1. May a county prosecutor use furtherance of justice funds, the law enforcement trust fund, or mandatory drug fine money, to provide a per diem allowance for travel-related meal expenses, provided that the employee is required to either (1) certify that the employee's actual meal cost exceeded the per diem allowance; or (2) forego the per diem allowance in favor of actual reimbursement of a lesser amount?

2. If such a system is permissible, may the prosecutor reimburse an employee without receipts

> when the employee attests by affidavit that actual meal costs exceeded the per diem allowance?

For reasons below, I conclude the prosecutor must first determine that an employee's travel-related meal costs are a proper use of furtherance of justice funds, the law enforcement trust fund, or money from mandatory drug fines. In making that threshold determination, the prosecutor must act consistently with the statutory purpose of each fund. The prosecutor may then establish a per diem allowance that limits the amount that may be reimbursed for the cost of meals.[1] However, the Auditor of State, pursuant to his statutory authority under R.C. 117.43, requires county prosecutors to maintain receipt documentation. Thus, a per diem system that relies on affidavits instead of receipts would not comply with those requirements.

I

To begin, I will review the laws governing a prosecutor's use of furtherance of justice funds, the law enforcement trust fund, and funds derived from mandatory drug fines (collectively, "the designated funds"). Those laws inform whether travel-related meal

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[1] A "per diem" is broadly defined by Black's Law Dictionary as "a daily monetary allowance for expenses, typically on business trips." (12th Ed. 2024).

reimbursements may properly be paid from those sources.[2] I will take each in turn.

A

Furtherance of justice funds are paid annually to the county prosecutor in an amount equal to half of the prosecutor's official salary "to provide for expenses the prosecuting attorney may incur in the performance of the prosecuting attorney's official duties and in the furtherance of justice." R.C. 325.12. This open-ended purpose grants the prosecutor broad discretion to decide whether a particular expense may be covered, so long as that determination is not arbitrary or unreasonable. 2017 Ohio Atty.Gen.Ops. No. 2017-018, Slip Op. at 11; 2-195. However, as a trustee of public funds, the prosecutor is "always under a duty to account" for those funds. *State v. Kearns*, 165 Ohio St. 573, 578 (1956). The prosecutor's office must annually file an itemized statement of expenditures with the county auditor, and any funds remaining at the end of the year must be returned to the county treasury. R.C. 325.12(E); *see* 2005 Ohio Atty.Gen.Ops. No. 2005-035, 2-366, fn. 4.

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[2] County sheriffs also receive and administer furtherance of justice funds, a law enforcement trust fund, and money from mandatory drug fines. R.C. 325.071, 2925.03(F), and 2981.13(C). The statutory restrictions are parallel to those that govern a county prosecutor's use of such funds. But, because your questions concern only the prosecutor's office, this opinion is tailored to your request.

As reflected in prior opinions, furtherance of justice funds may be used for a variety of official purposes, including the costs of court transcripts, witnesses, foreclosure proceedings, and office equipment. 1976 Ohio Atty.Gen.Ops. No. 76-069, at paragraph five of the syllabus; 1946 Ohio Atty.Gen.Ops. No. 1277, p. 714, at p. 718; 1972 Ohio Atty.Gen.Ops. No. 72-122, at paragraph three of the syllabus; 1988 Ohio Atty.Gen.Ops. No. 88-100 (addressing the county sheriff's use of funds based on equivalent legal authority), at 2-496. Most relevant here, a county prosecutor may use furtherance of justice funds to "reimburse employees for meals purchased while travelling" so long as the expense is incurred in the course of "official duties and in the furtherance of justice." 2017 Ohio Atty.Gen.Ops. No. 2017-018, Slip Op. at 10; 2-194.

B

The law enforcement trust fund consists of proceeds from civil and criminal forfeitures, including money from the sale of contraband or instrumentalities of a crime. *See* R.C. 2981.13(B) and (C). The money may be used only for purposes identified in R.C. 2981.13(C), which include: the costs of complex investigations or prosecutions, technical training, matching funds to obtain federal grants for DARE and similar programs, and other law enforcement purposes that the prosecutor determines to be appropriate. R.C. 2981.13(C). The catchall for "other law enforcement purposes" is broad but not limitless. For example, the law enforcement trust fund may not be used to meet regular operating costs of the office unrelated to law enforcement. R.C. 2981.13(C)(2)(c); *see generally* 2012 Ohio Atty.Gen.Ops. No. 2012-015.

The prosecutor must adopt an internal control policy that safeguards the use of money from the law enforcement trust fund. R.C. 2981.13(C). Also, the prosecutor must submit an annual report to the county auditor "verifying that the moneys were expended only for the purposes authorized . . . and specifying the amounts expended for each authorized purpose." R.C. 2981.13(C)(3). This obligation reinforces that every expenditure must be traceable to specific, statutorily authorized purposes. The internal control policy and annual reports may be reviewed by the Auditor of State during the office's regular audit. R.C. 117.11.

C

Mandatory drug-fine money derives from fines imposed on offenders for drug trafficking felonies. *See* R.C. 2925.03(D)(1). This money may be used only to subsidize "law enforcement efforts that pertain to drug offenses" such as investigations and prosecutions. R.C. 2925.03(F)(1); *see generally* 1989 Ohio Atty.Gen.Ops. No. 89-090. Applied here, a prosecutor's office could use the money for training that pertains to drug prosecutions but should not use it for travel that bears no connection to those crimes. *Id.* at 2-428 to 2-429. Other examples of permissible uses include hiring expert witnesses, consultants, or additional assistant prosecutors for the prosecution of drug offenses. *Id.*

As with the law enforcement trust fund, the prosecutor must adopt and comply with an internal control policy. Such a policy must provide "for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure." R.C. 2925.03(F)(2). Those financial records and the internal control policy are public records. *Id.* Presumably for that reason, the policy must "not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation." *Id.* This confidentiality requirement does not prohibit reimbursement for travel expenses, but it could limit the level of detail that can be disclosed about travel undertaken as part of an ongoing drug-related investigation. *See* 2017 Ohio Atty.Gen.Ops. No. 2017-018, Slip Op. at 5-9; 2-189 to 2-193.

II

A

Your inquiry concerns the method by which a prosecutor documents and reimburses permissible meal costs when an employee travels on official business. First, a county prosecutor must determine whether the travel expense was incurred for a proper purpose. *See* 2017 Ohio Atty.Gen.Ops. No. 2017-018, Slip Op. at 10-11; 2-194 to 2-195. This is a factual determination that may vary with the nature of the travel, the purpose of the trip, and the connection to official duties. *Id.*; *see also* 1993 Ohio Atty.Gen.Ops. No. 93-066, at 2-312; *Stokes v. St. Paul Fire & Marine Ins. Co.*, 35 Ohio App.3d 97, 99 (1st Dist. 1987). While I cannot determine questions of fact, the preceding statutory overview should inform this threshold determination.

The statutes governing the designated funds do not prescribe a particular method to reimburse authorized expenditures. *See* R.C. 325.12, 2925.03(F)(1), and 2981.13(C)(1). When a statute grants authority to perform an act but does not prescribe the manner of doing so, a county official may select any reasonable method to achieve that end. *Jewett v. Valley Ry. Co.*, 34 Ohio St. 601, 608 (1878); *see also* 2025 Ohio Atty.Gen.Ops. No. 2025-013, Slip Op. at 7-11; 2-97 to 2-98. Thus, if the prosecutor determines that a travel expense is proper to cover, the prosecutor may determine a reasonable method to reimburse the individual's authorized expenditure, including a per diem allowance, absent some other legal restraint. As discussed below, however, the Auditor of State has restricted the methods available to document travel expenses and reimbursements pursuant to the Auditor's authority to prescribe accounting and reporting requirements.

See R.C. 117.43(A) and 117.20(C). Those restrictions limit the methods prosecutors may reasonably use for reimbursements.

B

Before moving to the Auditor's restrictions, I pause for one more point. My answer to your question may appear to conflict with 2017 Ohio Atty.Gen.Ops. No. 2017-018 ("Opinion No. 2017-018"), which concluded that the designated funds may not be used "to provide a per diem allowance." *Id.* at paragraph three of the syllabus. It does not conflict for three reasons.

First, a closer reading of the earlier opinion's use of the term "per diem" resolves the apparent conflict. My predecessor's opinion was primarily concerned with *advance* payment of funds pursuant to a per diem allowance rather than reimbursement of actual expenses. *Id.*, Slip Op. at 10; 2-194. The first objection—that employees might retain unused funds and spend them for another purpose—does not apply to a practice where the per diem is solely treated as a limit, or ceiling, on reimbursement. An employee who spends less than the per diem rate would receive only the amount actually spent. Thus, Opinion No. 2017-018 addressed a different situation than the one raised here.

Second, Opinion No. 2017-018 relied on the principle that "[t]he authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise … ." *Id.*, Slip Op. at 11; 2-195, quoting *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99 (1916). In my view, that precedent addresses the authority to expend public funds, not the administrative method by which an already lawful expense is processed. A reimbursement mechanism that sets a per diem limit on allowable meal costs imposes no new financial obligation on the county. Rather, it governs the method of payment for an expense that is already determined to be lawful. Since the designated funds may be used for travel-related reimbursements under the conditions described above, the principle quoted from *Locher* in Opinion No. 2017-018 does not apply.

Third, Opinion No. 2017-018 reasoned that "[t]he General Assembly has expressly authorized per diem allowances for expenses in certain situations . . . but not with respect to" the funds at issue. *Id.*, Slip Op. at 11-12; 2-195 to 2-196, citing R.C. 124.33 and 3709.17. My predecessor viewed that silence as precluding use of the designated funds for a per diem allowance. That analysis, however, presumed that a per diem would be paid as a fixed amount *in advance*. The opinion otherwise affirms the prosecutor's authority to reimburse official travel-related meal expenses. *Id.*, Slip Op. at 10; 2-194. When a per diem functions solely as a cap on reimbursement of actual costs, it operates within the framework recognized in Opinion No. 2017-018 and is therefore consistent with that opinion.

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Thus, I conclude that a prosecutor may use the designated funds to provide a per diem allowance as reimbursement for travel-related meal expenses, provided that employees are only reimbursed for actual costs.

III

Finally, I address the proposed use of affidavits instead of receipts to verify employees' travel expenses before issuing reimbursement. No statute directly addresses this matter. However, a county prosecutor's discretion is limited by the accounting and reporting requirements set by the Auditor of State.

The Auditor has authority to "prescribe by rule, requirements for accounting and financial reporting for public offices other than state agencies," R.C. 117.43(A), and may issue advisory bulletins and instructions on that subject. R.C. 117.20(C). Because the General Assembly bestowed this authority on the Auditor of State, I defer to that office on proper accounting and financial reporting procedures, including when receipts must be maintained for travel expenses. *See* 2005 Ohio Atty.Gen.Ops. No. 2005-

035, at 2-368; 1989 Ohio Atty.Gen.Ops. No. 89-090, at 2-430 to 2-431.

Rule 117-2-02(A) of the Administrative Code is relevant here. In general terms, it provides that "[a]ll local public offices shall maintain an accounting system and accounting records sufficient to enable the public office to identify, assemble, analyze, classify, record and report its transactions, maintain accountability for the related assets . . . document compliance with finance-related legal and contractual requirements, and prepare financial statements required by rule 117-2-03 of the Administrative Code." Part I of this Opinion reviewed the statutory requirements for record-keeping for the designated funds. *See* R.C. 325.12, 2925.03(F), and 2981.13. Those statutes set the floor, not the ceiling, for adequate accounting and reporting.

Auditor of State Circular No. 81-07 and Bulletin 97-014 require receipt documentation for travel expenses reimbursed from furtherance of justice money.[3] The Auditor's internal guidance for conducting audits likewise instructs that expenditures from furtherance of justice funds, the law

[3] The Auditor of State's documentation requirements contain a limited exception for certain confidential expenditures. *See* Circular No. 81-07, at p. 4; Advisory Bulletin 97-014, at p. 4. That is the only circumstance in which affidavits may substitute for receipts.

enforcement trust fund, and mandatory drug fines must be (1) supported by valid documentation and (2) clearly aligned with permissible public purposes. *See* 2026 Ohio Compliance Supplement, Ch. 3, p. 39-42.

A reimbursement system that relies on affidavits rather than receipts when costs exceed the per diem rate, as you have proposed, appears to conflict with the Auditor of State's documentation requirements. That means a county prosecutor's office may not forego receipts for travel-related meal expenses when reimbursed from the designated funds. To ensure full compliance, I advise you to confer with the Auditor of State regarding the receipt documentation that must be maintained.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

1. A county prosecutor may reimburse an employee's travel-related meal costs with money from furtherance of justice funds, the law enforcement trust fund, or mandatory drug fines, if covering those costs would be consistent with the statutory purpose of those funds.

2. A prosecutor may adopt a per diem allowance for employees' travel-related meal costs but only as a limit on reimbursement for actual expenses.

3. The Auditor of State requires county prosecutors to maintain receipt documentation for reimbursements from furtherance of justice funds, the law enforcement trust fund, or mandatory drug fine money. A per diem system that relies on affidavits instead of receipts would not comply with those requirements.

Respectfully,

D. Andrew Wilson
Ohio Attorney General