

**LETTER OPINION
2004-L-37**

May 26, 2004

Ms. Karla Mittleider
Administrative Assistant
Children's Services Coordinating Committee
600 E Boulevard Ave Dept 324
Bismarck, ND 58505-0661

Dear Ms. Mittleider:

The Children's Services Coordinating Committee (CSCC) has designated regional and tribal children's services coordinating committees (R/TCSCCs) under N.D.C.C. ch. 54-56 to distribute grants received from the CSCC. See N.D.C.C. § 54-56-04. Funding will no longer be available to the R/TCSCCs through the CSCC after June 30, 2004.

Because some of the regional committees are planning to continue operating after the current biennium through alternative funding sources you ask whether the R/TCSCCs may keep their designated legal status after funding ends and whether the R/TCSCCs may continue to use the "children's services coordinating committee" name if no longer designated as R/TCSCCs. In my opinion when the R/TCSCCs are no longer designated as committees by the CSCC under N.D.C.C. § 54-56-04 they will not have legal status under N.D.C.C. ch. 54-56, but they will retain their nonprofit corporation or tribal status. Further it is my opinion if the R/TCSCCs are no longer designated as committees under N.D.C.C. § 54-56-04 it would not be appropriate to continue the use of the "children's services coordinating committee" name.

ANALYSIS

The CSCC receives funds from the Department of Human Services (DHS) under Title IV-E and XIX of the Social Security Act. DHS retains 10 percent of the total federal funds received; the CSCC retains five percent for administration and the balance goes to the R/TCSCCs from which they pay administration expenses and distribute 50 percent of the total funds as grants to providers of children's services in eight regions of the state and on the Turtle Mountain and Fort Berthold reservations. For a breakdown

of the allocation of funds, see 2003 N.D. Sess. Laws ch. 14, § 4.¹ See also N.D.C.C. § 54-56-06(5) (regarding distribution to children's services providers).

The CSCC designated eight regional and two tribal committees. Each committee is governed by a separate but similar Purchase of Service Agreement with the CSCC. Under the agreements the committees agree to manage grant funds and function as a planning committee to monitor and coordinate children's services in their areas. See Purchase of Service Agreement, paragraph II. The term of the current agreements continues until June 30, 2005. The regional committees, designated Region I Children's Services Coordinating Committee through Region VIII Children's Services Coordinating Committee, are North Dakota nonprofit corporations under N.D.C.C. ch. 10-33 and operate independently. See Purchase of Service Agreement, paragraph XIII. The Turtle Mountain and Three Affiliated Tribes children's services coordinating committees were created by tribal resolutions.

In February, Paul Ronningen, Director of the Children and Family Services Division of DHS, testified before the Budget Committee on Human Services that, as a result of a Social Security Administration decision in a Missouri case, virtually all federal funding for the CSCC program would end June 30, 2004. Hearing Before the Budget Committee on Human Services, 2004 N.D. Leg. (Feb. 25) (Statement of Paul Ronningen).

As noted, the CSCC has designated the committees to distribute the federal grant funds received from the CSCC. See N.D.C.C. § 54-56-04. The CSCC prescribes conditions for the creation, continuance, and duration of the designations. Id. That section also provides that the CSCC "shall discontinue the designation of regional and tribal committees if grant funds are not available for distribution to the regional and tribal committees." Id. Thus, the committee designations are to be discontinued when the CSCC no longer has grant funds to distribute to the committees.

I understand that the agreements will likely continue until termination, after funding ends June 30, 2004, in order to monitor and audit distribution of funds still in the hands of the CSCC and the R/TCSCCs. Claims by the committees for reimbursement from the CSCC will be accepted until November 1, 2004. Minutes of CSCC Meeting, April 27, 2004.

¹ A description of the financing mechanism and the relationship between the CSCC and the regional committees is set out in N.D.A.G. 97-L-64, a copy of which is available on our website at www.ag.state.nd.us. The description is still pertinent except for the different allocation of funds which is now in accord with 2003 N.D. Sess. Laws ch. 14, § 4.

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In my opinion, it is reasonable to keep the agreements and thus the prescribed designations in effect until the agreements terminate in order to provide continuing accountability for the distribution of remaining federal funds by the R/TCSCCs. See Purchase of Service Agreement, paragraphs XI and XII (regarding audit and records retention requirements). However, after the funds are depleted and the agreements have terminated, the R/TCSCCs will not be operating as designees under N.D.C.C. § 54-56-04. They will, however, retain their nonprofit corporate or tribal status.

Because the R/TCSCCs will no longer be operating as designees under N.D.C.C. § 54-56-04, it would, in my opinion, no longer be appropriate for the committees to continue to use the name "children's services coordinating committee." Retaining the names would suggest that the committees are still designated and governed by the CSCC.²

Sincerely,

Wayne Stenehjem
Attorney General

tam/vkk

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts. See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

² It will be a simple matter to amend the non profit corporation's articles of incorporation to adopt a new name and remove the designation "children's services coordinating committee." See N.D.C.C. § 10-33-14 (regarding amendment of articles).