



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 26, 2025

CBCA 8452-FEMA

In the Matter of NC UNITED METHODIST CAMP & RETREAT MINISTRIES, INC.

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Before the Arbitration Panel consisting of Board Judges **SULLIVAN**, **KANG**, and **VOLK**.

KANG, Board Judge, writing for the Panel.

NC United Methodist Camp & Retreat Ministries, Inc. (NCUMC or applicant) sought public assistance (PA) funding from the Federal Emergency Management Agency (FEMA) to repair damage to the Don Lee Camp and Retreat Center (Don Lee Center) in Arapahoe, North Carolina. Pursuant to the arbitration provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §§ 5121–5207 (2018), NCUMC seeks to arbitrate FEMA’s determination that applicant must refund money that FEMA had obligated and paid for these repairs. We find that the Don Lee Center provides services that are eligible for PA funding.

Background

NCUMC is a private nonprofit (PNP) corporation chartered in 1992 to own and operate the Don Lee Center and other retreat centers. Request for Arbitration (RFA) at 6. The Don Lee Center was founded in 1948 to provide youth-oriented summer residential programs that were focused on religious activities and was expanded in the 1980s to provide activities to the general public. *Id.*

In September 2018, Hurricane Florence made landfall in North Carolina and caused “a record-breaking storm surge and rainfall of 20 to 30 inches, which produced catastrophic flooding.” FEMA Response at 17. On September 14, 2018, the President declared the hurricane a major disaster, which FEMA designated as DR-4393-NC. <https://www.fema.gov/disaster/4393> (last visited Nov. 25, 2025).

The Don Lee Center was damaged by wind, rain, and flooding caused by Hurricane Florence. NCUMC submitted its request for PA to repair damage to the Don Lee Center in late September 2018. RFA at 7. FEMA organized the work in the request into seven project worksheets to validate the damage and management costs. FEMA Response at 18. In November 2018, FEMA’s Office of Chief Counsel issued a memorandum concluding that the Don Lee Center was eligible for PA. Applicant Exhibit 49 at 2. The memorandum stated that the Don Lee Center, and others operated by NCUMC, “are used primarily for religious instruction and worship, not recreation” and, therefore, “qualify as ‘houses of worship,’ that “provide ‘eligible non-critical essential social-type services.’” *Id.* From June 2019 through June 2020, FEMA obligated funds and approved work under the project worksheets. Applicant Exhibit 4 at 1. By October 2023, FEMA had disbursed \$729,383.74 of the \$812,042.05 in obligated funds. *Id.*; Applicant’s Reply at 19.

In October and December 2023, FEMA sent to NCUMC requests for information (RFIs) concerning the services provided at the Don Lee Center. Applicant Exhibits 12, 14. FEMA stated that “[b]ased on of [sic] the documents provided and available online . . . it appears that pre-disaster primary use for the Applicant’s facility is recreational,” and requested documentation regarding: (1) eligible PNP services provided at the facility and (2) the primary use of the facilities in terms of physical space and time in use. Applicant Exhibit 12 at 1-2. In response, NCUMC provided information about four categories of activities conducted at the Don Lee Center, which it states had not changed since the disaster in 2018: (1) summer youth camps; (2) the Coastal Communities program; (3) the Common Grounds program; and (4) group and pastoral retreats. Applicant Exhibits 13, 15.

In October 2024, FEMA issued a determination memorandum (DM) in which it deemed the Don Lee Center ineligible for PA. Applicant Exhibit 1. FEMA found that the

information provided by NCUMC showed that the summer camps were ineligible recreational activities; the Coastal Communities and Common Grounds programs were not eligible educational enrichment activities; and the retreats were ineligible conference center activities. *Id.* at 8. For these reasons, FEMA concluded that the Don Lee Center “primarily operates as a recreational facility.” *Id.*

NCUMC filed a first-level appeal in December 2024, which FEMA denied in April 2025. In June 2025, rather than filing a second-level appeal with FEMA, NCUMC timely filed this request for arbitration with the Board. NCUMC and FEMA filed their respective briefings, and the panel conducted a virtual hearing to take live testimony from FEMA and NCUMC witnesses.

Discussion

I. Governing Law and Policy

The Stafford Act sets forth the Board’s authority to conduct arbitrations. 42 U.S.C. § 5189a(d). In arbitration matters, the panel conducts a de novo review of FEMA eligibility determinations.¹ *Monroe County, Florida*, CBCA 6716-FEMA, 20-1 BCA ¶ 37,688, at 182,980. This review extends to determinations of issues of fact. *Harris County, Texas*, CBCA 6909-FEMA, 21-1 BCA ¶ 37,754, at 183,268 (2020). An applicant bears the burden to support its eligibility for PA funds. *City of Hattiesburg, Mississippi*, CBCA 7228-FEMA, 22-1 BCA ¶ 38,029, at 184,685.

To determine whether FEMA may recoup PA funds obligated and disbursed to NCUMC, we must determine whether the Don Lee Center provides eligible PNP services and whether providing those eligible services comprise more than fifty percent of the Don Lee Center’s operational time. FEMA’s Public Assistance Program and Policy Guide (PAPPG) (Apr. 2018)² states that an eligible PNP may receive PA for “emergency protective measures and debris removal” and “restoration of damaged facilities.” PAPPG at 19. FEMA is authorized to provide PA funds to PNP applicants that provide “a noncritical, but essential social service AND provide[] those services to the general public (see Table 2).” *Id.* at 11.

¹ Decisions by panels in FEMA arbitrations are not binding precedent for other panels. Rule 613 (48 CFR 6106.613 (2024)) (Arbitration decisions under the Stafford Act are “primarily for the parties, [are] not precedential, and should concisely resolve the dispute.”). We consider the decisions by other panels cited herein to be persuasive authority.

² This version of the PAPPG applies to disasters declared after August 23, 2017, but before June 1, 2020. PAPPG at vii; PAPPG (June 2020) at 12.

Table 2 of the PAPPG identifies noncritical but essential facilities and services that are eligible for PA funds, including, relevant here, community centers and houses of worship. *Id.* at 13.

When a facility or individual building provides both eligible and ineligible services, it is considered a “mixed-use facilit[y].” PAPPG at 16. A mixed-use facility is generally eligible for PA where more than fifty percent of the physical space and operating time is devoted to an eligible service. *Id.* FEMA prorates PA funds based on the percentage of the space and time used for eligible services. *Id.* Where a PNP operates a facility composed of more than one building, FEMA must evaluate each building independently, even if the buildings are all located on the same grounds. *Id.* at 15.

The Stafford Act, FEMA regulations, and the PAPPG do not specifically define the term “house of worship.” The panel in *Diocese of Beaumont, Texas*, CBCA 7812-FEMA, *et al.*, 24-1 BCA ¶ 38,568, adopted the following definition, which we also adopt here: “[a] building or place set apart for and devoted to the holding of religious services or exercises or public worship.” *Id.* at 187,457.

The PAPPG provides that community centers are eligible for PA where they are “established and primarily used for the purpose of offering” services to the community at large, including, of relevance here, “[s]ervices and activities intended to serve a specific group of individuals (e.g., women, African Americans, or teenagers) provided the facility is otherwise available to the public on a non-discriminatory basis,” “[s]ocial activities to pursue items of mutual interest or concern,” and “[y]outh and senior citizen group meetings.” PAPPG at 13. Additionally, educational enrichment services are eligible community center services and may include “hobby or at-home pursuits” such as “[c]ar care, [c]eramics, [g]ardening, [p]ersonal financial and tax planning, [s]ewing, [s]tamp and coin collecting.” *Id.*

The PAPPG explains that “[f]acilities established or primarily used for political, athletic, recreational, vocational, or academic training, conferences, or similar activities are not eligible.” PAPPG at 14. The PAPPG does not define recreation, but a dictionary definition generally accords recreation with entertainment or diversions: “[R]efreshment of strength and spirits after work . . . a means of refreshment or diversion: hobby.” <https://www.merriam-webster.com/dictionary/recreation> (last visited Nov. 25, 2025).

Appendix B of the PAPPG presents hypothetical examples of PNP facilities that are relevant to whether mixed-use community centers providing recreational activities are eligible for PA. In particular, the hypothetical “Westover Recreation Center” is described as providing “[p]rimarily [a]thletic [s]ervices.” PAPPG at 171. Although the center offers

“a number of activities generally considered eligible community center functions, it is, first and foremost, a recreation center,” as demonstrated by its facilities that include “a large indoor pool and locker room, a half dozen squash/racquetball courts, a weight/exercise room, and a 9,200-square-foot gymnasium/basketball court.” *Id.*

In contrast, the hypothetical Somerset Community Center is a “Mixed Use Community Center – Nominal Fee” that has facilities for eligible activities as well as recreational opportunities. PAPPG at 171-72. The Somerset Community Center is an eligible community center “[b]y virtue of the wide range of community activities” and the nominal fee charged, despite the offering of athletic and recreational activities, which were “minimal in the time and space allocated to them.” *Id.* at 172.

Also relevant to the analysis of community center eligibility are two arbitration decisions by other panels. In *Union for Reform Judaism*, CBCA 6457-FEMA, 19-1 BCA ¶ 37,452, the arbitration concerned “a multi-building mixed-use property” that provided “a summer camp for Jewish youth” for seventy-six days per year but was also available for rent to other groups for the remaining 289 days of the year. *Id.* at 181,980. The panel concluded that the property was not eligible for PA because it was not a community center but was, instead, primarily a rental property used by outside groups for their own programming. *Id.* at 181,984-95.

In contrast, the panel in *Wilshire Boulevard Temple*, CBCA 7350-FEMA, 22-1 BCA ¶ 38,174, found a mixed-use property was eligible for PA because, although it operated an “ineligible recreational summer camp” for part of the year, the property provided eligible community center services for more than fifty percent of the property’s operating time. *Id.* at 185,387-88. The panel did not find that summer camps were per se ineligible but rather that the applicant’s camp was recreational in nature. The panel found the property eligible for PA because it provided community center services such as educational enrichment, and activities to serve specific groups such as underprivileged youth and veterans, and because access was not limited to a certain number of individuals or to a defined group of individuals with a financial interest in the facilities. *Id.* at 185,386. Because the property made its facilities available to organizations that furthered its mission to serve the community, it was not “merely a rental facility,” as the panel in *Union for Reform Judaism* found. *Id.*; see 19-1 BCA at 181,984.

II. NCUMC Provides Eligible Services at the Don Lee Center

FEMA initially found that NCUMC provided house of worship services at the Don Lee Center. FEMA reversed this finding in the 2024 DM, concluding that the Don Lee Center primarily operated as a recreational facility. NCUMC contends that the Don Lee

Center provides eligible house of worship and community center services through the four primary activities discussed in its response to FEMA’s 2023 RFI.

Although the principles in Appendix B of the PAPPG and the *Wilshire Boulevard Temple* and *Union for Reform Judaism* arbitration decisions relate to the overall eligibility of a facility, rather than whether an activity qualifies as an eligible service, we follow the same logic and look to the overall purpose of the activity and its relationship to any ineligible activities in terms of time and space.

We first address FEMA’s position that a facility must demonstrate its eligibility based on a single service that defines its primary purpose (e.g., house of worship or community center). Nothing in the applicable statutes, regulations, or guidance expressly states that the eligibility of a facility must be determined based on a single service. Although the PAPPG states that the “primary use” of a facility must be for an eligible service, the clear focus of the PAPPG is on distinguishing between eligible and ineligible services. PAPPG at 16 (“Eligibility of mixed-use PNP facilities is dependent on the *primary* use of the facility, which is determined by the amount of physical space dedicated to eligible and ineligible services.”) We see nothing that would compel finding a hypothetical facility ineligible for PA because it provides, for example, three eligible services (twenty percent each, totaling sixty percent overall) and one ineligible service (forty percent). Although this hypothetical facility does not provide a single service that exceeds fifty percent of the total services delivered, the fact that the three eligible services, collectively, occupy more than fifty percent of the facility’s space and operations makes the hypothetical facility eligible.

A. The Don Lee Center Provides Four Eligible Activities

Coastal Communities Program. This program “introduces students to the wonders of nature and outdoor discovery through unique, hands-on, interactive educational activities led by knowledgeable educators who assist the students in making connections between schoolwork and life outside the classroom.” Applicant Exhibit 13. FEMA does not specifically dispute the eligibility of this activity but, instead, argues that it is not the primary purpose of the Don Lee Center because the program does not occupy more than fifty percent of the center’s operational time. FEMA Response at 38. Because the Coastal Communities program provides eligible educational enrichment community center services, we count—toward the eligibility determination—the days that this program uses the facilities.

Summer Camps. NCUMC described the summer camps as providing Christian camping and outdoor ministries. Through programming at the camps, the camps strive to achieve the following goals: “[S]trengthen[ing] leadership skills, living in community, building confidence and strength in decision-making, understanding and appreciating nature,

and raising awareness and attention to caring for the environment and each other.” RFA at 33. Witnesses at the hearing testified that activities include elements of both houses of worship and community center services such as youth group activities, arts and crafts activities, and regular prayer and bible study meetings.

FEMA characterizes the camps as “primarily recreational,” citing activities such as sailing, swimming, kayaking, and canoeing. NCUMC does not specifically dispute that the camps include recreational activities. The fact that recreational activities take place, however, do not make the camps per se ineligible, consistent with the guidance in the PAPPG. *See* PAPPG at 171-72.

NCUMC witnesses testified that although recreational activities are part of the attraction for camp participants, they are not the camps’ primary purpose and do not occupy a majority of their time. Additionally, witnesses testified that the recreational activities are integrated with the eligible activities such as youth groups, prayer, bible study, and educational enrichment. The summer camps provide eligible services for more than fifty percent of their time, and we, therefore, count the days that these summer camps use the facilities toward the Don Lee Center’s eligibility for PA.

Common Grounds Program. This program is a “low-element challenge course program,” similar to an obstacle course, that “utilizes the activities of the challenge course experience and creates an opportunity for participants to work together to gain understanding of cooperation skills and teamwork concepts.” Applicant Exhibit 13. The program is conducted through a “curriculum [that] is used by school groups, church groups and other education and non-profits for team building through a variety of group challenges that require collaboration, communication and decision making,” and “[e]ach challenge is led by a trained instructor who then debriefs the activity with the group, the lessons learned and how they apply to their given situation.” Don Lee Center Director Written Testimony ¶ 10.

FEMA objects to the eligibility of this activity because it is organized around the challenge course, which reflects a recreational purpose. FEMA Response at 19-20. While the program lacks some of the other elements that bolster the eligibility of the summer camps, testimony by witnesses for NCUMC explained that groups are not allowed to attend the Don Lee Center simply to use the course for recreation. Instead, the course is an element of the program’s overall team building purpose and also facilitates group discussions of faith and age-appropriate problem solving. The Common Grounds program provides eligible community center services, and we, therefore, count the days that the program uses the facilities toward the Don Lee Center’s eligibility for PA.

Group and Pastoral Retreats. Retreats offered by the Don Lee Center “include church groups of varying faiths and ages, social groups, families and corporate groups.” Applicant Exhibit 13 at 1. FEMA contends that the retreats are conference or recreational activities ineligible for PA. FEMA Response at 33-37; *see also* PAPPG at 14.

The panel in *Diocese of Beaumont* found that religious retreats may qualify as house of worship services and, in turn, that a facility that hosts such retreats may be eligible for PA funds. 24-1 BCA at 187,454, 187,457. The director of the Don Lee Center testified that approximately ninety-eight percent of the retreats were religious in nature. The retreats generally took place over weekends and involved numerous worship services and religious discussions. In contrast to the panel’s findings in *Union for Reform Judaism* regarding the property at issue there, 19-1 BCA at 181,984-95, the retreats here are not simply rentals for conferences or overnight stays. Rather, as testimony shows, the Don Lee Center works with prospective retreat groups on programming consistent with the purpose of the Center. NCUMC witnesses testified that while recreational activities may be part of the attraction for retreat participants, these activities are not the primary focus of the retreats and do not occupy a majority of participants’ time.

Based on the record, including witness testimony, the retreats are used for either religious purposes consistent with a house of worship or community center activities relating to “social activities to pursue items of mutual interest or concern” activities of mutual interest. We, therefore, count the days that the retreats use the facilities toward the Don Lee Center’s eligibility for PA.

B. The Don Lee Center Meets the PAPPG’s Other Eligibility Criteria

A PNP facility that provides non-critical but essential social services must provide those services to the general public. PAPPG at 11. Relevant here, a facility must not be limited to a certain number of individuals; a defined group of individuals who have a financial interest in the facility; a certain class of individuals; or individuals in an unreasonably restrictive geographical area. *Id.* Additionally, fees charged by the facility must be: nominal; waived when an individual can show inability to pay the fee; not of such magnitude to preclude use by a significant portion of the community; and not in excess of what is appropriate based on other facilities used for similar services. *Id.* FEMA does not contend that the services provided by the Don Lee Center are limited to specific groups or to participants in a geographically restrictive area. FEMA argues, however, that the services are not provided to the general public because the fees are not “nominal.”

The PAPPG does not define the term nominal. Nominal is defined as “(Of a price or amount) trifling, esp. as compared to what would be expected <the lamp sold for a nominal

price of ten cents>.” Black’s Law Dictionary (12th ed. 2024). NCUMC represents that the fees charged for the four activities are intended to cover their costs, rather than make a profit, and also states that it “donates use of the Center or waives all or part of its fees based on an organization’s or individual’s inability to pay.” RFA at 41. Applicant provided information regarding fees charged by other organizations in the area for camps and use of their facilities, thus demonstrating that the Don Lee Center’s fees are substantially lower, in light of the services provided. *See* RFA at 40-42; Applicant Exhibit 16. FEMA does not specifically dispute these representations or point to any contradictory data.

On this record, the fees charged by NCUMC do not preclude use by a significant portion of the community, are appropriate relative to other facilities in the area, and are for the purpose of covering the Don Lee Center’s costs. In light of these circumstances and the waiver of fees for individuals who cannot pay, we conclude that the fees are nominal in that they are less than what would be expected for use of comparable facilities.

III. The Don Lee Center is Used for Eligible Activities the Majority of the Time

NCUMC provided two documents summarizing the days when the eligible activities occurred at the Don Lee Center. Applicant Exhibits 16, 32. The documents tally the days of non-overlap use, i.e., days calculated to avoid double counting of days when multiple activities or groups used the center. The two documents differ somewhat as to the calculations for 2017 but, even using the lower calculation, the number of non-overlap use days exceeds fifty percent of the year. Overall, the record supports NCUMC’s representation that the eligible activities occurred during 259 days of non-overlap use in 2017 and 202 days of non-overlap use in 2018. *See* Applicant Exhibit 16.

FEMA challenges some of NCUMC’s calculation of use days but does not dispute that, if all four activities are eligible, the number of non-overlap use days would exceed fifty percent of calendar days for 2017 and 2018. *See* FEMA Response at 31-32 n.184; FEMA Exhibit 4. Instead, FEMA contends that the Don Lee Center is ineligible for PA because its primary purpose is recreation and, even if the Coast Communities program is an eligible activity, it occupied only eighteen to twenty-five percent of the center’s operational time in 2017 and 2018. As discussed, we find that all four of the Don Lee Center’s activities are eligible for PA. Because those activities occupy more than fifty percent of the operating time of the Don Lee Center, we conclude that the center provides eligible services.³

³ This arbitration concerns NCUMC’s challenge to FEMA’s finding that the Don Lee Center was ineligible for PA because its primary purpose was recreation. During the arbitration, FEMA argued that even if the panel found the Don Lee Center eligible for PA,

Decision

NCUMC's Don Lee Center is eligible to receive PA funds.

Jonathan L. Kang

JONATHAN L. KANG

Board Judge

Marian E. Sullivan

MARIAN E. SULLIVAN

Board Judge

Daniel B. Volk

DANIEL B. VOLK

Board Judge

further analysis would be required to determine the eligibility of individual buildings that comprise the center. Because the first appeal did not address the eligibility of individual buildings, the eligibility of individual buildings is not before the panel, and there is no dispute to resolve concerning this matter. *Housing Authority of the City of Fort Myers, Florida*, CBCA 8138-FEMA, 25-1 BCA ¶ 38,749, at 188,378 (“Pursuant to statute, the panel serves as a second appeal authority to resolve disputes between applicants and FEMA on requests for PA. 42 U.S.C. § 5189a; 48 CFR 6101.603.”).