

May 25, 1999

Alfred W. Berkel, President
Bykota Federal Credit Union
P.O. Box 18
Adelphi Station
Brooklyn, New York 11238

Re: Student Banking Program.

Dear Mr. Berkel:

You have asked for guidance on your federal credit union's (FCU's) proposed Student Banking Program for several private elementary schools in your area. You state that the focus of the program will be an orientation on savings for grades one through eight. For grades six through eight, the focus will be on exposure to credit, banking, budgeting, and other financial services. Specifically, you have asked how to structure the student accounts, the validity of a student's signature for withdrawals, and a student's eligibility for accountholder privileges and loans. Under the FCU Act, an FCU may issue shares in the name of a minor subject to the conditions in the bylaws. 12 U.S.C. §1765. We recommend you consult with your regional office or examiner about how the accounts can be established and with your own local counsel about compliance with state law regarding the rights and obligations of minors.

You asked the following specific questions.

How do we show the accounts on the FCU books?

Should the accounts be in the student's name with parent co-signing?

Should the accounts be in parent's name as [or in] trust for the student?

Should the accounts be reflected as custodial accounts?

You can offer various types of accounts to the students depending on state law requirements regarding the rights and obligations of minors and whether the students are eligible for membership. The FCU Bylaws and FCU Standard Bylaw Amendments and Guidelines do not provide a minimum age for a minor to open a share account or requirements for specific types of accounts for minors. If the accounts are custodial or trust accounts, an adult custodian or trustee would have signature authority for each account. You should note that, unless your FCU has received a low-income designation from NCUA, the FCU can only accept deposits from members. Therefore, the students would need to be in the credit union's field of membership. However, if the FCU has received a low-income designation, it may accept deposits from nonmembers.

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Is a student's signature sufficient for withdrawals or must a parent/adult also sign?

Maybe. We recommend you consult with local counsel. The sufficiency of the student's signature for

withdrawals depends on state law and the structure of the account.

Do the students have all the privileges afforded adult members? Can they obtain loans?

Even if the student accountholders are members, they will not have all the privileges afforded adult members because of age. The FCU Bylaws provide a minimum age of 16 to hold elective or appointive office or vote at member meetings. There is a standard amendment that FCUs may adopt that raises the minimum age for holding office to 18 years of age. FCU Standard Bylaw Amendments, art. IV, §7. Regarding the capacity of a minor to enter into a loan agreement, again, we recommend you consult with local counsel. In many states, minors are not liable for contractual agreements they make but can require a contract's enforcement against adults.

Can these student accounts be share or savings only with no opportunity to obtain loans until a student is of legal age?

Generally, members do not have a right to obtain loans from an FCU but must qualify under the FCU's lending requirements. In the case of a minor, a loan agreement may be unenforceable against the minor depending on state law. An FCU may require as a condition to making a loan that the borrower have the legal capacity to contract. As stated above, we recommend local counsel review the FCU's proposed Student Banking Program to comply with any requirements of state law regarding minors.

Sincerely,

Sheila A. Albin
Associate General Counsel

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