

GC/MRS:sg

SSIC 6100

93-0836

[ ]

FROM: James J. Engel, Deputy General Counsel

SUBJ: Nonstandard Bylaw Amendment - [ ]

(Your August 1993, Memorandum)

DATE: September 16, 1993

You asked for our comments on [ ] FCU's proposed nonstandard amendment to Article VI, Section 6' of its bylaws. The proposed amendment would set a minimum age of 18 to vote and a minimum age of 21 to hold elective or appointive office. We have no legal objection to the proposal.

Although, in general, we do not approve of restrictions on voting and holding elective office, we have approved amendments imposing minimum age requirements. The NCUA standard bylaw amendment provides for a minimum age of 18 to hold elective or appointive office, and we have previously approved a nonstandard amendment with a minimum age of 21. Therefore, we have no problem with this portion of the proposed amendment.

As to the proposed minimum voting age of 18, while the NCUA standard bylaw provides for a minimum age of 16, Section 119 of the FCU Act (12 U.S.C. §1765) states, "Shares may be issued in the name of a minor . . . , subject to such conditions as may be prescribed 'by the bylaws.'" Clearly, this provision does not forbid the establishment in a bylaw of a minimum voting age of 18. The NCUA Rules and Regulations are silent on the issue. Therefore, we believe that setting a minimum age of 18 for voting is legally permissible, and we have previously allowed a nonstandard bylaw amendment to that effect.

We defer to your judgment as to whether the proposed nonstandard amendment should be allowed.

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Article VI, Section 6 of Houston Texas Firefighters FCU's bylaws corresponds to Article VI, Section 7 of the standard FCU bylaws and standard amendments.