

August 28, 1997

Phyllis A. Bowe, Manager
Kanawha County School Employees FCU
1320 Kanawha Boulevard, East
Charleston, West Virginia 25329

Dear Mrs. Bowe:

We apologize for the delay in responding to your inquiry but, as I am sure you know, much has happened regarding fields of membership. You asked for our assistance regarding language that would permit "all persons living within the same household to become members" of your federal credit union (FCU).

As background, your board of directors is seeking to eliminate a perceived discriminatory effect under your existing charter because "all persons living in the same household are not eligible for membership" in your FCU. The board proposed adding "person(s) who share financial interest and financial responsibility with a bona fide member" to your FCU's field of membership.

Unfortunately, the proposed wording does not address the perceived discriminatory problem and the individuals included in the proposed language do not constitute a group recognized as having the requisite relationship to a common bond group. In your proposal, only a shared financial obligation or relationship is required. This would permit membership based on a purely business relationship; sharing of a household would not be a prerequisite. Further, a group having a shared financial interest or responsibility does not exhibit the requisite close relationship recognized in NCUA's chartering policy. Thus, the charter amendment you propose would not be acceptable.

While it may not be possible to fully accomplish what you desire -- serving all members of a household -- without converting to a community charter, you do have some flexibility with a bylaw amendment. You can broaden the definition of "members of their immediate families" found in Article XVIII, Section 2 of your bylaws. An FCU's right to create its own definition, however, is not unlimited: the definition must be sufficiently limited to give the term "immediate family member" a rational, discernible meaning. In the past, we have stated that there must be an ongoing "familial" relationship between a primary member and those who qualify for membership as an immediate family member. Merely sharing a household or a purely business relationship would not be sufficient. We also have had occasion to respond to questions about "immediate family member" in the context of unmarried couples, in both heterosexual and homosexual relationships. Again, we would look to factors indicating a familial relationship. The definition might include references exemplifying the intended permanence of the relationship: regular cohabitation; joint ownership of property with right of survivorship; joint credit obligations; and custodial rights over minors or other dependents. In brief, the definition should include factors indicating a more than casual relationship to the primary member or the sharing of a household.

Sincerely,

James J. Engel
Deputy General Counsel

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