

August 21, 2003

Bruce O. Jolly, Jr., Esq.
Shook, Hardy & Bacon, LLP
600 14th Street, NW, Suite 800
Washington, DC 20005-2004

Re: Guardianship Accounts at Federal Credit Unions.

Dear Mr. Jolly:

You have asked if federal credit unions (FCUs) may offer guardianship-type accounts and if a ward's guardian must be a member of an FCU to establish and maintain such an account. The National Credit Union Administration's (NCUA's) longstanding position is that FCUs are authorized to maintain guardianship accounts and that the guardian's membership status is irrelevant if the ward or minor is a member of the FCU.

We understand you are particularly concerned about a guardianship account for a minor, and, therefore, we note that the Federal Credit Union Act and the Federal Credit Union Bylaws expressly provide that shares may be issued in the name of a minor, meaning that a minor may be a member in his or her own right. 12 U.S.C. §1765; Federal Credit Union Bylaws, Article XV. FCUs may establish guardianship accounts if either the guardian establishing the account or the ward or minor is a member of the FCU. The guardian, therefore, need not be a member of the FCU but, as such, will be entitled to handle the guardianship account as permissible under local law. To clarify further, a guardian, even if he or she is not a member or eligible to be a member, may, nevertheless, open an account on behalf of a minor who is eligible for membership and maintain the account on the minor's behalf.

Part 745 of NCUA's regulations, which govern account insurance, expressly provides that a guardianship account is insured separately from any other accounts of the guardian or ward. 12 C.F.R. §745.3(b). The NCUA Board specifically noted with regard to this section that either the party establishing the account, e.g., custodian, or the beneficiary, e.g. minor, may be the FCU's member in order to obtain share insurance coverage on a custodial account. 51 Fed. Reg. 37549, 37554 (Oct. 23, 1986). Membership requirements and insurance coverage are also discussed in the attached OGC legal opinion letter to Robert K. Ambrose, dated May 31, 1989.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/CJL/SAA:bhs
03-0747
Enclosure