

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

ROCHESTER AREA STATE EMPLOYEES      *Docket No. 95-002*  
FEDERAL CREDIT UNION

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) as an appeal of the Region I Director's approval of a field of membership expansion for Brockport Federal Credit Union. The expansion creates an overlap with Rochester Area State Employees Federal Credit Union.

Background

Rochester Area State Employees Federal Credit Union (hereinafter "Rochester") is an occupational credit union chartered in 1941 and located in Rochester, New York. It has assets of approximately \$6.5 million, approximately 2800 members and a total potential membership of 5000. Included in its field of membership are New York State employees who work in Monroe County, New York or who are supervised from an office located in Monroe County, New York.

Brockport Federal Credit Union (hereafter "Brockport") is a multiple group credit union that was chartered in 1970 and is located in Brockport, New York. It has assets of approximately \$1.6 million and is comprised of approximately 15 different employee, church and associational groups. It has approximately 1050 members with a total potential membership of 3550.

The overlap at issue involves members of the Civil Service Employees Association, Local 601 (CSEA), a labor union comprised of approximately 400 state employees who work on the campus of the State University of New York College at Brockport. Brockport's office is located one mile from the campus. As state employees, CSEA members are within the state employees (occupational) group listed in Rochester's field of membership. Rochester's office is approximately 25 miles from the campus.

On November 4, 1993, the President of CSEA submitted a petition of its members requesting service by Brockport FCU. The petition submitted contained 116 signatures. On December 3, 1993, Brockport's manager wrote to the President of Rochester's board of directors requesting that Rochester agree to the overlap. On December 14, 1993, after a discussion with Rochester's President, Brockport's manager wrote to the President of CSEA asking whether Brockport could release CSEA's petition to Rochester. CSEA's President responded directly to Rochester stating that the petition would not be released and requesting that Rochester agree to the overlap. No response was received from Rochester. On June 8, 1994, CSEA's President again wrote to Rochester's President noting that CSEA would contact Brockport and the NCUA since the overlap matter could not be resolved locally. On June 17, 1994, Brockport wrote to NCUA's Region I Director requesting NCUA approval of the overlap. On August 3, 1994, the Region I Director granted the overlap by adding the members of Local 601 of the CSEA who work on the campus of the State University of New York College at Brockport to Brockport's

field of membership. Rochester appealed the Region I Director's decision granting the overlap on August 12, 1994.

## Overlap Policy and its Application to this Case

Interpretive Ruling and Policy Statement (IRPS) 94-1 (and its predecessor IRPS 89-1) set forth NCUA policy on overlaps. IRPS 94-1 is contained in NCUA's Chartering and Field of Membership Manual (Manual). An overlap is defined as "the situation which results when a group is eligible for membership in more than one credit union." (See Manual at p. A-2.) General policy requires that every reasonable effort be made to avoid an overlap. Ideally, a group of persons should be included in the field of membership of only one credit union. Officials of credit unions should attempt to work out the overlap problem themselves. When resolution of an overlap problem is not possible, an overlap can be justified by certain circumstances and may be permitted by the Regional Director. Both failure of the original credit union to provide quality service and incidental overlap (the group of persons in question is so small as to have no material effect on the original credit union) may be used to justify an overlap. Proximity of a group to a credit union does not, by itself, justify an overlap.

According to IRPS 94-1, in reviewing an overlap, the Regional Director will consider "the nature of the issue, efforts made to resolve the matter, financial effect on the overlapped credit union, the desires of the group, the desire of the sponsor organization ... and the best interests of the affected group and the credit union members involved." (See Manual at p. 1-14.)

CSEA and Brockport contacted Rochester in an attempt to resolve the overlap situation. The resolution sought was Rochester's agreement to the overlap. Rochester did not agree. The Region I Director approved of the overlap. Region I states that the decision to approve the overlap was based on the apparent failure of Rochester to provide adequate service, as evidenced by the petition and request submitted by the group; and the incidental nature of the overlap -- 400 CSEA members. The Region states that the overlap will have a negligible impact on Rochester. The terms "incidental overlap" or "quality service" are not defined in IRPS 94-1. In the preamble to IRPS 94-1, the NCUA Board states that it needs flexibility in this area and that the interests of the group are paramount. (See 59 FR 29071-2, 6/3/94.) The Region used the discretion granted to it by the Board in determining that the overlap was incidental and that overlap protection was not needed. The Region also states that it considered the efforts made to resolve the dispute, the financial impact on the overlapped credit union, the desires of the group, and the best interests of the group and the credit union members involved.

Rochester serves the state employees group (an occupational group). CSEA, which is a labor union (an associational group) is composed of state employees who work on a college campus. However, the occupational group and the associational group are not one and the same: the total associational group is only a small part of the occupational (state employees) group. IRPS 94-1 generally prohibits overlapping credit union service to the same group. IRPS 94-1 states: "An overlap exists when a group of persons is eligible for membership in two or more credit unions..." (See Manual at p. 1-14.) Overlaps of this type are only permitted when certain conditions (failure to provide quality service, incidental overlap, limited participation and the items the Regional Director must consider as

set forth above, see p. 1-14 of the Manual) are met.

NCUA policy does not specifically address the situation involving Rochester and Brockport FCUs, that is, whether an occupational charter will be afforded overlap protection from an associational charter (or multiple group charter including associations). IRPS 94-1 provides:

Generally, NCUA will permit federal credit unions serving occupational groups to overlap associational and community charters. However, should the proposed overlap pose significant safety and soundness concerns, NCUA may provide overlap protection for any type charter. For example, labor union groups constitute an associational common bond, and while some labor unions serve members who work regularly for several employers, others have members who work for only one employer. In these latter cases, overlap protection may be provided if a substantial portion of the company's employees are served by the credit union. (See Manual at p. 1-15, emphasis added.)

In such a case, policy would provide protection to an associational (labor union) based FCU from an occupational FCU.

It is the Board's opinion that the Brockport/Rochester overlap is a type that falls within the category of protection only if significant safety and soundness problems arise, rather than within the general prohibition against overlaps. The Region did not make this distinction, rather they permitted the overlap based on exceptions to the general prohibition against overlaps. The Region determined that the overlap is incidental and that Rochester failed to adequately serve the group. The Region has clearly indicated that there were no significant safety and soundness issues as the overlap was incidental and would have a negligible impact on Rochester.

#### Order

For the reasons set forth above, it is ORDERED as follows:

The Region I Director's approval of the addition of CSEA, Local 601 to Brockport Federal Credit Union's field of membership and the creation of an overlap of the group with Rochester Area State Employees Federal Credit Union is upheld and Rochester Area State Employees Federal Credit Union's appeal of the approval is denied based on the following: 1) the overlap does not involve the same type of group; 2) the overlap is incidental; and 3) there are no significant safety and soundness issues warranting protection from an overlap.

So Ordered this 14th day of June, 1995, by the National Credit Union Administration Board.

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Becky Baker  
Secretary of the Board