

UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

CLASSROOM TEACHERS FEDERAL CREDIT UNION *Docket No. 97-004*

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from Classroom Teachers Federal Credit Union. The Region III Director denied the credit union's request to add a group to its field of membership and affirmed his decision upon the credit union's request for reconsideration.

Background

Classroom Teachers Federal Credit Union, located in Louisville, Jefferson County, Kentucky, has a multiple group charter, serving mainly employee groups of various schools in several Kentucky counties. It was chartered in 1954 to serve the employees of the Jefferson County Board of Education and currently has approximately 15,500 members and \$57,000,000 in assets.

In November of 1996, the president of the credit union wrote to Region III requesting that employees of Eminence Schools be added to its field of membership pursuant to select group addition policy. Eminence Schools employs a staff of 65 and is located in Henry County, Kentucky, 45 miles from the credit union. The Region III Director responded to the credit union in December, denying the requested addition in light of the decision in First National Bank and Trust Co. v. National Credit Union Administration, 90 F.3d 525 (D.C. Cir. 1996) as implemented by the district court on remand. (The district court's orders of October 25 and 31, 1996, are unreported.) 1996and . As a result of those decisions and as explained in *NCUA Letter to Federal Credit Unions, Letter No.: 96-FCU-3* (October 28, 1996), additions can only be made if the group to be added is part of the credit union's "core common bond" group. The Region III Director concluded that the Eminence school group did not share a core common bond with Classroom Teachers Federal Credit Union. In April 1997, the credit union requested that the Regional Director reconsider his December opinion. The Regional Director responded in May, affirming his earlier decision.

In June 1997, the credit union wrote to the Chairman of NCUA, requesting a review of the Region III decision. The credit union notes that both the Jefferson County Board of Education and Eminence Schools are engaged in the same profession (education) and

share a common employer (the Commonwealth of Kentucky). The credit union believes that these similarities should enable Eminence Schools to be added to their field of membership.

Applicable Law and Policy

In the First National Bank, supra, the court held that all members of an occupationally organized federal credit union comprised of more than one group must share the same common occupational bond. The court stated "it is not sufficient that the members of each different group have a bond common to that group only." 90 F.3d at 531. The court of appeals remanded the case to district court for declaratory and injunctive relief. The district court issued its first order on October 25, 1996 and a second order clarifying the first one on October 31. The October 31st order states in part:

the Order of October 25, 1996 permits the addition of new groups to occupationally organized federal credit unions, provided that the new groups share a common occupational bond with the credit union's core membership...

Neither of the district court orders nor the court of appeals decision defines core membership. The terms “core membership” and “core common bond” do not appear in the Chartering Manual (IRPS 94-1, as amended by IRPS 96-1). On October 28, 1996, the NCUA issued 96-FCU-3, a letter to Federal credit unions. 96-FCU-3 defines core common bond as “the employee or associational group that constituted the field of membership at the time of charter.” 96-FCU-3 includes “common bond additions” as discussed in the Chartering Manual as within the core common bond.

The Chartering Manual states that occupational common bond can be established by “employment ... in a single corporation or other legal entity ...” and uses “employees and teachers who work for School District Number 3 in Austin, Texas ...” as an example of the same employer occupational common bond. The Chartering Manual does not specifically address whether employees of one school district would be a common bond addition or a select group addition to a credit union serving employees of another school district. Staff addressed this issue several years ago. In 1990, the Office of General Counsel addressed whether a school group located in an adjacent county 59 miles from the main FCU office, was a select group or a common bond addition to an education based federal credit union. The Office of General Counsel determined that the group did not have a common bond relationship with the FCU based on examples set forth in the Chartering Manual. Since the group did not qualify as a common bond addition, the credit union was required to meet select group addition requirements. This legal opinion was based on the Chartering Manual in effect at the time (IRPS 89-1 rather than the current IRPS 94-1). However, the school district example noted above from the 1994 Chartering Manual appears in the 1989 Chartering Manual.

NCUA staff has also recently addressed this issue in a question and answer document. The May 1997 staff document contains the following questions and answers under the heading Core Common Bond:

Can a credit union chartered to serve the teachers in a school district add the teachers of a new school within that same district? Yes.

Can a credit union chartered to serve the teachers in a school district add the teachers from another school district?

No, that would constitute a new select group. Even though there is a common interest based on occupation, the current policy requires that they be treated as separate groups since the employer is different.

Based on the court of appeals decision and district court orders in the First National Bank case and resultant NCUA practice, school groups must share the same employer (be within the same school district and/or report to the same school board) to share core common bond. The employees of Eminence Schools and the employees of Jefferson County Board of Education are not within the same school district and do not share the same employer.

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

The Region III Director's decision denying Classroom Teachers Federal Credit Union's request for a field of membership expansion to add the Eminence School group to its charter is upheld and the appeal is denied.

So Ordered this 22nd day of October, 1997, by the National Credit Union Administration Board.

Becky Baker

Secretary of the Board