

UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

Arkansas Education Association

*Docket No. 99-FOM-009*

Federal Credit Union

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from the Arkansas Education Association Federal Credit Union (Appellant). The Region III Director denied the Appellant's application to amend the exclusionary clause in its field of membership.

Background

Appellant is a single common bond (associational) credit union located in Little Rock, Arkansas. It serves the members and employees of the Arkansas Education Association (AEA). AEA is a statewide association. Appellant's field of membership excludes those association members who are eligible for membership in an occupational credit union serving school employees within the state of Arkansas, except for three specified credit unions. This exclusionary clause was added to Appellant's charter in 1982. Little Rock Teachers Federal Credit Union (LRT FCU), is a multiple common bond (occupational) credit union also located in Little Rock. It primarily serves employees of the Little Rock School System. AEA members who are employees of the Little Rock School System are ineligible to become members Appellant because of to the exclusion clause in Appellant's charter.

In March of this year, Appellant petitioned Region III to amend the exclusionary clause to allow AEA members who qualify for membership in LRT FCU to also join AEA FCU. Approval of the amendment would allow Appellant to serve approximately 98% of LRT FCU's members. LRT FCU submitted a letter to Region III stating its opposition to the requested amendment to the exclusion clause. The Region III Director denied Appellant's request on April 16, 1999 because he believed the interests of the AEA members did not outweigh the potential adverse effect on LRT FCU. Appellant filed its appeal on June 10, 1999.

Analysis and Applicable Law and Policy

The amended FCU Act<sup>[1]</sup> does not impose any requirements on the type of request Appellant has made. Interpretive Ruling and Policy Statement 99-1<sup>[2]</sup> addresses exclusionary clauses in single associational common bond credit union charters.

An exclusionary clause is a limitation which precludes

the credit union from serving the primary members of a

portion of a group otherwise included in its field of

membership.... Exclusionary clauses granted prior to the

adoption of this new chartering manual will remain in

effect unless the two credit unions agree to remove them,

or a credit union petitions NCUA to remove an exclusionary clause. NCUA may remove the exclusionary clause if it determines that removal is in the best interests of the members and clearly outweighs any adverse effect on the overlapped credit union.

Chartering Manual Chapter 2, III.E.3.

The two credit unions are of similar size and offer similar services, although Appellant offers IRAs and credit cards and LRT FCU does not. If the exclusion clause is amended, almost 100% of LRT FCU's members will be able to join Appellant. Although Region III denied the petition because it believed that the best interests of the members did not outweigh the potential adverse effect on the overlapped credit union, no specific evidence of an adverse effect on LRT FCU was presented. Since there is no specific evidence of an adverse impact on LRT FCU, and removal is in the best interests of the members (they will have the availability of two conveniently located credit unions and Appellant offers the additional services IRA accounts and credit cards), the exclusion clause should be amended.

#### Order

Based on the NCUA Board's determination that amendment of the exclusion clause is in the best interests of the members and clearly outweighs any adverse effect on LRT FCU, it is ordered as follows:

The Region III Director's decision denying Arkansas Education Association Federal Credit Union's petition to amend its exclusion clause is reversed and the appeal is granted.

So Ordered this 16<sup>th</sup> day of December, 1999, by the National Credit Union Administration Board.

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Becky Baker

Secretary of the Board

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[1] Congress amended the field of membership provisions as well as several other sections of the FCU Act in August 1998 by the passage of the Credit Union Membership Access Act (CUMAA).

[2] Interpretive Ruling and Policy Statement 99-1 (IRPS 99-1) sets forth NCUA's chartering and field of membership policy. IRPS 99-1 is set forth in NCUA's Chartering Manual, NCUA 8007/M6001 (Jan. 1999). References to the Chartering Manual are to the Jan. 1999 edition.