



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/S
GC/EOR:jrm
4630

January 22, 1987

Office of General Counsel

Charles Joseph Sullivan, Jr., Esq.
7100 Baltimore Avenue
College Park, MD 20740

Dear Mr. Sullivan:

This is in response to your letter of December 23, 1986, which requested a copy of a staff opinion relative to state age restrictions and their application to Federal credit unions.

You will find enclosed a copy of an opinion dated October 29, 1986, which I believe satisfies your request.

I hope we have been of assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Bisker".

STEVEN R. BISKER
Assistant General Counsel

EOR:jrm

Encl.

FOIA - Vol I Part D



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

October 29, 1986

Office of General Counsel

GC/HMU:sg
4630

Gary Greenwald, Esq.
Reichelt, Nussbaum, Brown,
Dukes & LaPlaca
P.O. Box 627
Greenbelt, MD 20770

Dear Mr. Greenwald:

This is in response to your letter concerning the applicability of a state law prohibiting a financial institution from allowing a minor to withdraw funds from a joint account that the minor holds with his/her parent in a Federal credit union (FCU). As discussed in a telephone conversation with Hattie Ulan of this Office, you are not referring to a particular state law, but have posed the question theoretically.

Section 119 of the FCU Act (12 U.S.C. §1765) states, in part, that: "[s]hares may be issued in the name of a minor or in trust, subject to such conditions as may be prescribed by the bylaws." A review of the legislative history of this provision provides little assistance in explaining the intended scope of this section of the Act, and the bylaws merely reiterate the statute.

Although the authority of a minor to withdraw shares may be viewed as incidental to the authority to establish an account under Section 119, we do not believe such authority is sufficient to override or preempt state law age restrictions on withdrawals. First of all, this is an area that has traditionally been left to state control. Secondly, age restrictions apply to the individual, not the institution. Section 119 is written in terms that permit a credit union to issue shares in those situations where such authority might otherwise not be recognized. State law age requirements, because they do not regulate the operation of a credit union but rather affect the ability of the state's citizens to contract, do not, in our view, rise to the level of interference with Federal regulation necessary to present a conflict between state and Federal law and therefore be subject to Federal preemption.

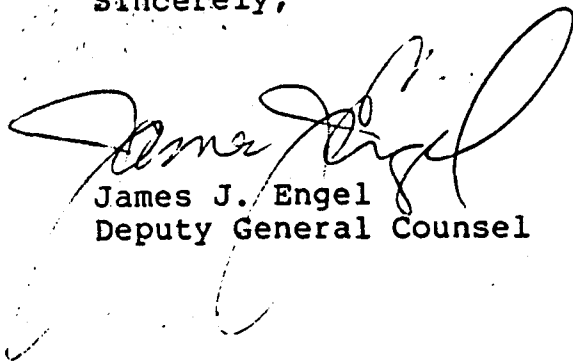
Gary Greenwald, Esq.

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Regarding share insurance coverage of joint accounts, we direct your attention to Section 745.8(c) of the NCUA Rules and Regulations (12 C.F.R §745.8(c) as amended by the NCUA Board on October 15, 1986 (effective December 22, 1986)). An account will not be disqualified as a joint account for insurance purposes if state law restricts a minor joint owner's withdrawal rights. Prior to the effective date of this amendment, if all joint owners do not possess withdrawal rights, the account will be treated as an individually owned account for insurance purposes. (See Section 745.8(b) and (c).)

I hope that we have been of assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "James J. Engel".

James J. Engel
Deputy General Counsel

HMU:sg