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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

November 29, 1988

Office of General Counsel

Mr. Richard T. Rivas
Unit No. 1 Federal Credit Union
P.O. Box 830
Lockport, NY 14094-0830

Re: Reimbursement for Wages Lost While Attending
Conferences (Your August 26, 1988, Letter)

Dear Mr. Rivas:

You have requested a waiver of NCUA's prohibition against reimbursement of Federal credit union ("FCU") board or committee members for salary lost while attending a conference or training course. The prohibition is absolute; we cannot grant a waiver.

Background

Your FCU has had difficulty finding quality training programs for your supervisory committee members because of your location in western New York state. Your FCU has made arrangements for the New York State Credit Union League to provide on-site training classes. These classes were arranged on the assumption that the FCU could reimburse the committee members for their lost wages while attending these classes.

Relevant Statute and Regulation

Section 111 of the FCU Act [12 U.S.C. 1761] provides:

(c) No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.

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Section 701.33(b) of the NCUA Rules and Regulations [12 C.F.R. 701.33(b)], which has just been amended [53 Fed. Reg. 29640 (August 8, 1988)], provides, in part:

(1) Only one board officer, if any, may be compensated as an officer of the board. The bylaws must specify the officer to be compensated, if any, as well as the specific duties of each of the board officers. No other official may receive compensation for performing the duties or responsibilities of the board or committee position to which the person has been elected or appointed.

(2) For purposes of this section, the term "compensation" specifically excludes:

(i) Payment (by reimbursement to an official or direct credit union payment to a third party) for reasonable and proper costs incurred by an official in carrying out the responsibilities of the position to which that person has been elected or appointed;

Recent Section 701.33 Amendment

When the NCUA Board presented a proposal to amend Section 701.33 to the public for comment, it suggested narrowly expanding the rule to permit reimbursing FCU officials for pay or leave actually lost while attending FCU board or committee meetings. (See 53 Fed. Reg. 4992 (Feb. 19, 1988).) Sixty-two of 86 commenters opposed even this narrow expansion. After reviewing the comments, the Board stated:

The primary reasons given for opposing the proposal concerned the credit union volunteer spirit -- that reimbursement was contrary to that philosophy; that voluntarism is what makes credit unions different from other financial institutions; and that easing the reimbursement restriction further could endanger the tax-exempt status of credit unions. Commenters were also concerned about the possible effects of implementing such an authorization. Dissension among

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board members where some might receive more reimbursement than others; reluctance by some officials to publicly disclose their salaries; additional IRS reporting requirements for FCU's; difficulty with verifying officials' claims of lost pay or leave; and creation of an incentive to officials to hold meetings during working hours.

* * *

NCUA staff had recommended this proposal to the NCUA Board in response to FCU's expressing a need for reimbursement for lost pay and leave to attract and retain qualified volunteers. The comments received on the proposal, however, indicate the vast majority of FCU's feel such reimbursement is unnecessary and may be harmful to the credit union spirit. The NCUA Board has decided not to go forward with this proposal. The Board also hereby clarifies that under NCUA's current Rules and Regulations reimbursement of officials for lost pay or leave is not permitted.

Conclusion

In large part because of the credit union community's overwhelming opposition to allowing FCU's to reimburse officials for lost pay or leave, the Board has established an absolute rule against it in Section 701.33. No waiver is possible.

Sincerely,

Hattie M Ulan

HATTIE M. ULAN
Acting Assistant General Counsel

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