

**STERLING CASTON, III, KENNER, LA, BRANCH 4342****May 1, 2014 (4757)**

In response to your specific question, I must advise that it would be entirely inappropriate for me to rule on whether or when a particular member has forfeited or been restored to membership based on the limited information in your letter. I can provide the following general guidance.

Under Article 7, Section 5 of the Constitution for the Government of Subordinate and Federal Branches, a member who has forfeited membership would be entitled to reinstatement under upon "payment of back...dues, as well as such reinstatement fee as the Branch may prescribe by reasonable rules, uniformly applied."

The question whether such individual must execute a new Form 1187 turns on whether the Postal Service has cancelled the individual's membership. If such cancellation has occurred, then a new Form 1187 would have to be executed and filed to ensure that there is on file an active authorization for deduction of dues. If the Postal Service has not cancelled membership, then a new Form 1187 is not needed. In either event, if the Branch has previously notified the National Union that the individual had forfeited membership, it should promptly notify the National Union when the individual is reinstated.

**RONALD TROUM, COCONUT CREEK, FL, BRANCH 2550****May 7, 2014 (4944)**

Your letter to Secretary-Treasurer Broendel, dated April 12, 2014, has been referred to me for reply. Your letter asks Sister Broendel to offer an opinion as to whether a provision of the Branch 2550 By-laws allows Branch presidents periodically to cash-out their annual leave.

While I do appreciate your very legitimate interest in this matter, I must advise that it would be entirely inappropriate for the NALC Secretary-Treasurer, or any other national officer (including me) to offer an opinion as to whether the Branch's compensation to the President is consistent with the wording and intent of the relevant By-law provision. It is the responsibility of the Branch, in the first instance, to interpret and apply its own By-laws. The issue you raise may be submitted to the Branch as an appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The Branch's decision may be appealed to the National Committee of Appeals in accordance with the procedures set forth in Article 11, Section 2 of the CGSFB.

**RICHARD MCLEHOSE, AMITYVILLE, NY, BRANCH 6000****May 7, 2014 (4946)**

This is in reply to your letter, dated April 17, 2014, requesting a ruling as to permissible locations of Regional Rap Sessions under Article 3, Section 4(a) of the Constitution.

So far as our research shows, the question you raise is one of first impression. Read literally, Article 3, Section 4(a) does not restrict the geographical locations in which Rap Sessions may be held (i.e., it does not say that National Business Agents are authorized to conduct Rap Sessions "only in their respective regions.") Accordingly, I conclude that the practice of conducting Region 15 Rap Sessions in Atlantic City, NJ does not violate the Constitution.

Nonetheless, I do appreciate that having to travel to Atlantic City may be inconvenient for Branch 6000 and other Branches. This is an appropriate issue for discussion in future Rap Sessions as well as other forums in the Region.

**EDWIN ORTIZ, BAYAMON, PR, BRANCH 869****May 8, 2014 (4945)**

This is in reply to your letter, dated April 13, 2014.

I certainly appreciate the concerns articulated in your letter. NALC Branch officers, stewards, and rank-and-file members are all expected to treat each other with courtesy and respect. At the same time, I would hope that you can appreciate that it is not possible for the National Union to become involved in personal disputes at the Branch level. The issue raised in your letter may be an appropriate subject for discussion at a Branch meeting. Please note that I am sending a copy of this letter to Brother Rivera.

With respect to your request to examine Branch records, I can provide the following general guidance.

The only provision of the Constitution that is directly relevant to this issue is Article 6, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) which states that the Financial Secretary of the Branch "shall keep an account of all properties, investments, and funds of the Branch which at all times shall be open for inspection." Prior presidential rulings have recognized that the specific manner of inspecting the books is left to the discretion of the Branch.

Apart from the Constitution, federal law requires that the Branch permit members "for just cause to examine any books, records, and accounts necessary to verify" the Branch's LM-2 Report. I am in no position to offer an opinion as to whether just cause exists in this case (although nothing in the correspondence that you forwarded to me indicates you are asserting a claim under the law). NALC legal counsel advises that whether a union member has satisfied the just cause standard is an issue frequently litigated in the federal courts.

In general, it is the Branch's responsibility, in the first instance, to determine whether a member's request to inspect documents falls within the above parameters. The denial of a request to inspect records may be appealed to the members under Article 11, Section 1 of the CGSFB.

**DAISY PACAS, RICHMOND, CA, BRANCH IIII****May 8, 2014 (4947)**

This is in reply to your email, dated April 22, 2014, inquiring whether a full-time officer of Branch 1111 has abandoned his elected office by taking annual leave for three to four weeks to work for the Postal Service.

Please be advised that there is no provision in the Constitution which would automatically disqualify a Branch officer from holding office based on the limited facts set forth in your email. However, if you conclude that the officer has failed or neglected to discharge the duties of his office, you may seek removal of the officer by filing a charge under Article 10 of the Constitution for the Government of Subordinate and Federal Branches. This letter should not be read to suggest that such a charge would have merit. That is a determination which the Branch would be required to make, following the report of an investigating committee, in accordance with the Article 10 procedure.

**LARRY CIRELLI, NEW YORK, NY REGION 15****May 9, 2014 (4956)**

I have carefully reviewed your report of your investigation of the situation in Branch 444. My conclusions are set forth below. By copy of this letter, I am notifying all interested parties of my decision.

1. The succession of Brother Dorman to the presidency of Branch 444 was consistent with the successorship provisions of the Branch 444 By-laws and Articles 4 and 6 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB). When Brother Dorman assumed the office of President he was authorized to appoint Brother Heluk as Vice President. As previous rulings have consistently held, Article 6, Section 2 of the CGSFB requires that the Vice President of the Branch succeed to the Presidency in the event that the President leaves office. This provision would apply where, as here, the Vice President was the Secretary-Treasurer who succeeded to that office following the resignation of the previous Vice President. The rulings have also consistently recognized that a Vice President who succeeds to the Branch Presidency would then have the authority to fill the resulting vacancy in the office of Vice President under Article 4, Section 2 of the CGSFB, unless the Branch By-laws provide an order of succession. Under the Branch 444 By-laws, the Director of City Delivery could have succeeded to the Vice Presidency. However, Brother Delannoy had also resigned from that office, leaving no one in line for succession to the office of Vice President. Therefore, Brother Dorman's appointment of Brother Heluk was constitutional.

2. Although the succession did not violate the Constitution, the resulting situation is untenable. Because he lives in North Carolina, Brother Dorman has not been able to preside on a regular basis over the meetings of the Branch, which is a principal duty of a Branch President. Attempts to have Brother Dorman participate in meetings by Skype have apparently been ineffective. Moreover, the office of Secretary-Treasurer remains unfilled. Brother Dorman's apparent insistence on filling both offices is a violation of the Constitution. Article 4, Section 3 permits the

office of Branch President to be consolidated with other offices only in Branches with fewer than ten active members. Apart from the foregoing, there is clearly a serious divide among the members. Branch meetings are not being conducted in a professional manner and have been, at times, chaotic. Members are threatening to resign from the union.

3. Article 9, Section 1(a) of the NALC Constitution authorizes the National President to “enforce all laws” of the NALC and to exercise “general superintendency of its affairs.” I have concluded that the exercise of such authority is warranted in this situation.

4. Accordingly, I am hereby directing that a special election of officers be conducted in Branch 444 as expeditiously as possible. National Business Agent Larry Cirelli is authorized to appoint an election committee and to exercise such supervisory authority over the conduct of the nominations and election as he deems appropriate. In addition, Brother Cirelli, or his designee, shall preside over the monthly meetings of Branch 444 until a new slate of officers is elected and installed.

Finally, it appears that the dispute over Branch 444’s access to the bulletin board in Milltown, NJ arose from a single incident and that no further action by the National Union is warranted at this time.

I wish to express my thanks to Brother Cirelli for his continuing efforts. I expect all parties to cooperate with him in conducting the special election.

**KEVIN KEMPPANION, ROCKLEDGE, FL, BRANCH 2689  
May 13, 2014 (4961)**

This is to follow up on my letter to you, dated April 7, 2014, concerning the vote taken by the members of Branch 3761 in favor of a proposed merger with Branch 2689. As I indicated in that letter, your letter was treated as an appeal of the merger vote under Article 2, Section 3(i) of the NALC Constitution. I directed National Business Agent Judy Willoughby to designate a representative from her office to investigate this matter and report to me as to whether the vote taken by Branch 3761 complied with the procedures governing merger votes set forth in Article 2, Section 3 of the Constitution.

Please be advised that Regional Administrative Assistant Kenneth Gibbs did undertake an investigation of the procedures followed by Branch 3761. His investigation shows that an appropriate notice of the merger vote was mailed to each member of the Branch; that a vote was conducted at the March 13 meeting; and that a majority of the members present and voting voted to approve the merger. I conclude that the merger vote was conducted in accordance with the requirements set forth in Article 2, Section 3 of the NALC Constitution. Accordingly, your appeal must be denied.

Brother Gibbs’ report also shows that although Brother Alfonso had previously indicated an intent to resign as Branch President, he had not done so at the time of the vote. In addition, in response to your suggestion that absentee voting should have been permitted, Article 2, Section 3(e) of the Constitution specifically states that “a majority affirmative vote of all regular members in good standing, present and voting, of each Branch proposing to merge, shall be necessary to authorize application for merger.” (Emphasis supplied.) Accordingly, previous rulings have consistently held that mail referenda, absentee ballots or proxy voting are not permitted for merger votes.

In light of the foregoing, by copy of this letter, I am directing Secretary-Treasurer Jane Broendel and the NALC Membership Department to complete the processing of the merger of Branch 3761 and Branch 2689.

**DONALD BALLUFF, LISLE, IL, BRANCH 4739  
May 14, 2014 (4955)**

This is in reply to your letter, dated April 19, 2014, requesting that I reconsider my decision that the various merger votes taken by the Branch did not comply with the NALC Constitution and could not serve as a basis for a merger with Branch 4739. In particular, you claim that the details of the proposed merger were posted with the notice of the merger votes so that my initial ruling was mistaken.

Please be advised that I am denying your request for reconsideration. The information that you have provided does not alter my conclusion that the posting did not satisfy the notice requirement for merger proposals set forth in Article 2, Section 3 of the NALC Constitution.

Previous rulings have consistently held that the method of notification must provide reasonable assurance that the notice of a merger vote will reach all members of the Branch. There is no indication that the details of the proposed merger were mailed to each member of the Branch or included in a newsletter or similar publication provided to each member. As I have previously advised you (letter, dated November 1, 2012 concerning By-law amendments), while posting a notice on a Branch bulletin board is a good method of informing members of a vote, it is insufficient by itself to provide adequate notice since there is no guarantee that every member of the Branch, including retirees, will see the bulletin board display.

In addition, so far as I can tell from your letter, there was only one proposed merger agreement that had been negotiated with the leadership of Branch 4739. The scheduling of six different votes on this one proposal was plainly inconsistent with the procedure outlined in Article 2, Section 3 of the Constitution. The Constitution calls for a single vote at a regular or special meeting called for that purpose.

It appears that you completely misinterpreted my letter to you, dated August 29, 2013, which advised that the Branch could conduct multiple votes on proposals to direct the officers to approach another Branch for the purpose of opening merger negotiations. That letter did not suggest, let alone authorize, the conduct of multiple votes following such negotiations on a complete merger agreement.

Accordingly, my previous decision invalidating the previous merger votes stands. However, I reiterate that Branches 1107 and 4739 remain free to implement the merger process in accordance with the constitutional procedure.

**TIFFANY MILLER, AIEA, HI, BRANCH 4682  
June 10, 2014 (4981)**

This is in reply to your letter, dated May 12, 2014, requesting that I make a ruling that you are entitled to be a paid delegate to the 2014 National Convention from Branch 4682.

While I appreciate your concerns, I must advise that it would be completely inappropriate for me to rule on this matter. The dispute described in your letter must be resolved, in the first instance, by the Branch. Please note that my previous letter, dated December 9, 2013, simply affirmed that all elected delegates from a Branch are entitled to attend the Convention. It is up to the Branch to decide how many delegates, if any, it will pay to attend the Convention. Moreover, as I stated, Branches may impose reasonable meeting attendance requirements for receipt of Branch funds.

I am in no position to determine, based solely on your letter, whether the Branch has properly authorized the funding of any delegates; whether the Branch has properly adopted a meeting attendance requirement for receipt of funds; whether you have satisfied any requirements that the Branch has adopted; or, generally, whether anything the Branch has done is in violation of its By-laws. Such disputes must be resolved, in the first instance, at the Branch level.

Please note that any decision by the Branch may be appealed to the National Committee on Appeals in accordance with the procedures provided by Article 11 of the Constitution for the Subordinate and Federal Branches. I express no view as to the merits of any appeal.

**JOHN CHANCE, INVERNESS, FL, BRANCH 6013  
June 10, 2014 (4982)**

This is in reply to your letter, received by my office on May 12, 2014, requesting a ruling as to whether you and Brother Scott Hogue remain eligible to serve, respectively, as President and Treasurer of Branch 6013. According to your letter, the two of you accepted training in the computer programs and tasks associated with serving as a 204-B, but did not agree that title and have not agreed to accept the position.

Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB ) expressly provides that a member who “holds, accepts or applies for a supervisory position in the Postal Career Service for any period of time, whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently, shall immediately vacate any office held.” As a general principle, the prohibition set forth in Article 5, Section 2 covers any application for a

supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing. An oral statement indicating a member's interest in a supervisory position may or may not constitute an application for a supervisory position, depending on the member's intent, the specific wording of the statement, local practices, and other relevant circumstances.

Your letter does not provide sufficient information as to the nature of your communications with postal management to permit me to make a definitive ruling. For example, I do not know whether local management considered your acceptance of training sufficient to constitute an application for a supervisory position; nor am I familiar with the relevant local practices for filling supervisory vacancies.

If you are satisfied that in the present case your participation in training was not tantamount to an application for a supervisory position, then you and Brother Hague would remain eligible to serve as officers of the Branch. I caution, however, that your decision may be appealed to the Branch under Article 11, Section 1 of the CGSFB.

#### **FELICIA WEBB, NASHVILLE, TN, BRANCH 27**

**June 10, 2014 (4979)**

This is in reply to your letter, dated May 19, 2014, requesting that you be permitted to attend the 2014 National Convention as an elected delegate from Branch 27, even though you have transferred to Nashville, TN and are now a member of Branch 4.

At the outset, I want to express my appreciation for your obvious dedication to our union, as well as your service as a steward and CDL and your participation in the NALC Leadership Academy. I look forward to your continuing active involvement in the years to come.

In response to your question, it is not possible for you to represent Branch 27 as a delegate since you are no longer a member of that Branch. However, as a member of the NALC, you are welcome to attend the Convention as a guest. I would encourage you to do so.

#### **TOM DEVERY, RICHARDSON, TX, BRANCH 4784**

**June 16, 2014, (4976)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated May 23, 2014, has been referred to me for reply. Your email asks whether it is constitutionally proper for Branch 4784 to delay the start time of regular monthly meetings beyond the time specified in the Branch By-laws in order to accommodate late-arriving members.

Article 3, Section 1 of the Constitution for the Government of Subordinate and Federal Branches requires Branches to designate in their By-laws the time of meetings. Accordingly, if a quorum is present, the meeting should be called to order at the designated time. However, there is nothing in the Constitution which would prohibit the chair or the members from deciding to recess the meeting at that time in anticipation of the late arrival of additional members.

#### **ELISABETH ENGLISH, DELAND, FL, BRANCH 2591**

**June 16, 2014 (4983)**

This is in reply to your letter, dated May 30, 2014, requesting a ruling as to whether Sister Susan Raymond remains eligible to serve as Vice President of Branch 2591. According to your letter, Sister Raymond has acknowledged that she verbally requested a detail to a 204-B position, and her name appears on a list prepared by the OIC of employees who have requested consideration for a 204-B appointment.

Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly provides that a member who "holds, accepts or applies for a supervisory position in the Postal Career Service for any period of time, whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently, shall immediately vacate any office held" (emphasis supplied). As a general principle, the prohibition set forth in Article 5, Section 2 covers any application for a supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing. An oral statement indicating a member's interest in a supervisory position may or may not constitute an application for a supervisory position, depending on the member's intent, the specific wording of the statement, local practices, and other relevant circumstances.

Although it is the Branch's responsibility to determine whether a member has applied for a supervisory position, if the facts described in your letter are accurate, it would appear that Sister Raymond did apply for a 204B position and is no longer eligible to serve as an officer of the Branch.

#### **LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214**

**June 17, 2014 (5014)**

This is in reply to your letter, dated June 9, 2014, requesting guidance as to the appropriate action to be taken by Branch 214 to address allegations that up to 50 ballots may have been mishandled during the last election. By copy of this letter, I am also responding to Brother Thornton's letter, dated June 7, 2014.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 214 dispensation to conduct a special rerun election for the office of Vice President, which is the only election that could have been affected by the alleged misconduct. The election is to be solely between the previously nominated candidates, Brothers Thornton and Dominguez. However, if Brother Thornton decides not to be a candidate, the Branch will not be required to conduct the rerun, and Brother Dominguez may serve the balance of his term.

In accordance with your request, the Branch will not be required to mail out a separate notice of the rerun election. A letter explaining the circumstances may be sent with the ballots along with the appropriate instructions. The timetable may be expedited as suggested in your letter. A minimum twenty days' period should be allowed between the mailing and due date for return of ballots.

In closing, I appreciate the forthright and transparent manner in which you have responded to the allegations at issue. I trust that the foregoing dispensation addresses your concerns and will serve as a basis for resolving this matter.

#### **TIMOTHY ROCHE, MILFORD, MA, BRANCH 308**

**June 18, 2014 (5011)**

This is in reply to your letter, received by my office on June 9, 2014, requesting dispensation to register late the delegates to the National Convention from Branch 308. Your letter indicates that the Branch misplaced its delegate eligibility form.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. I am forwarding a copy of your letter to Secretary-Treasurer Broendel's office so that the three delegates listed can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

#### **MICHAEL NAVRATIL, ENID, OK BRANCH 858**

**June 18, 2014 (5012)**

This is in reply to your letter, received by my office on June 9, 2014, requesting dispensation to register late the delegates to the National Convention from Branch 858. Your letter indicates that you failed to register your delegates before the deadline due to an oversight.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am so advising Secretary-Treasurer Broendel.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

#### **BRIAN EHLI, WILLOW GROVE, PA, BRANCH 2771**

**June 18, 2014 (5013)**

This is in reply to your letter, received by my office on June 9, 2014, requesting dispensation to register late the delegates to the National Convention from Branch 2771. Your letter indicates that you failed to register your delegates before the deadline due to an oversight apparently related to health issues in your family.

In light of the facts presented, and in accordance with my authority

under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am so advising Secretary-Treasurer Broendel.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**KEVIN HAWKINS, NEW ORLEANS, LA, BRANCH 2730  
June 19, 2014 (5027)**

This is in reply to your letter, dated June 12, 2014, requesting dispensation to register late the delegates to the National Convention from Branch 2730. Your letter indicates that the Branch's delegate eligibility list was not received by Secretary-Treasurer Broendel's office.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. I am forwarding a copy of your letter to Secretary-Treasurer Broendel's office so that the four delegates listed can be registered as expeditiously as possible.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**KEVIN KEMPPANNION, ROCKLEDGE, FL BRANCH 3761  
June 25, 2014 (4977)**

This is in reply to your letter, dated May 19, 2014, requesting that I respond specifically to the issue you raised in your earlier correspondence regarding the disposition of a building fund which, according to your letter, had been maintained by Branch 3761 prior to the recent merger with Branch 2689.

Under the governing provision of the NALC Constitution, Article 2, Section 3(d), the disposition of assets in the event of a merger is controlled by the terms of the merger agreement. In this case, it appears that the merger agreement simply provided that all assets of the dissolving Branch 3761 were to be transferred to the surviving Branch 2689. So far as the Constitution is concerned, the consummation of the merger, which I approved, was sufficient to cause the assets of former Branch 3761, including the building fund, to be transferred to Branch 2689.

I do understand your position with respect to the building fund since there is no longer any need for a Branch 3761 building. Members of former Branch 3761 have the right to seek a repayment of their pro rata shares of the building fund by Branch 2689. The issue may be raised and debated at a Branch meeting. The decision whether to authorize any repayment would be the sole responsibility of the members of the Branch. This letter should not be read to express any position on that matter.

**BEN JACKSON, PRESIDENT, DECATUR, GA, BRANCH 73  
June 26, 2014 (5028)**

This is in reply to your letter, dated June 17, 2014, requesting a ruling as to whether proposed By-law changes should be mailed to retirees.

Generally speaking, the answer to your question is yes. Previous rulings have described the procedure for amending Branch By-laws prescribed by the Constitution as follows.

Article 15 of the NALC Constitution provides that Branch By-laws "may be amended at any regular meeting of the branch, provided the amendment has been submitted in writing at the last previous regular Branch meeting, and suitable notification to members shall be made at least ten (10) days before the regular meeting at which the vote is to be taken." Previous rulings have established that "suitable notification" within the meaning of Article 15 is any notice which, under the facts and circumstances, is reasonably designed to inform all members of the substance of the proposed amendment and the time and place of the vote.

The rulings have also held that while posting a notice on a station bulletin board is a good method of informing members of By-law amendment votes, it is insufficient by itself to provide adequate notice since there is no guarantee that every member of the Branch, including retirees, will see the bulletin board display. Proper notice to retirees may be provided by direct mail or by publishing the notice in the Branch newsletter or similar publication.

I express no view as to whether any By-law amendments previously adopted by the Branch were handled properly. Procedural objections

to the enactment of By-law amendments may be raised in the form of an appeal under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**ROBERT WILLIAMS, PRESIDENT, WASHINGTON, DC,  
BRANCH 142  
June 26, 2014 (5029)**

This is in reply to your letter, dated June 20, 2014, requesting dispensation to register late the delegates and alternate delegates to the National Convention from Branch 142. Your letter indicates that the Branch 142 Convention Committee failed to register all of the Branch's delegates and alternates.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am so advising Secretary-Treasurer Broendel.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Branch will be expected to comply with registration deadlines.

**GAIL SANCHEZ, LITCHFIELD PARK, AZ, BRANCH 6156  
June 26, 2014 (5031)**

This is in reply to your email, dated June 19, 2014, objecting to the apparent decision of Branch 6156 to pay to send the 16<sup>th</sup> ranked delegate to the National Convention rather than you, the 17<sup>th</sup> ranked delegate. Your email indicates that this member's leave status for the week of the Convention is questionable.

As an elected delegate, you are entitled to attend the Convention at your own expense. However, as previous rulings have repeatedly recognized, Branches have broad discretion to determine how many, and which, of its delegates it will fund. Accordingly, it would be entirely inappropriate for the National Union to intervene in this matter.

The issue described in your email is an internal Branch dispute, which must be resolved at the Branch level. You may challenge the Branch's decision by initiating an appeal under the procedures described in Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**SHARON RUCKER AND MICKEY MORRIS, TEXAS STATE  
ASSOCIATION OF LETTER CARRIERS  
June 26, 2014 (5032)**

This is in reply to your letter, dated June 16, 2014, requesting dispensation to register late the delegates and alternate delegates-at-large to the National Convention from the Texas State Association of Letter Carriers. Your letter indicates that the State Association failed to submit its delegate registration form due to an apparent error.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am so advising Secretary-Treasurer Broendel.

Please understand that this dispensation applies only to the registration of delegates to the 2014 National Convention. In the future, the Texas State Association will be expected to comply with registration deadlines.

**WILLIAM BAUDER, WASHINGTON STATE ASSOCIATION  
OF LETTER CARRIERS  
June 30, 2014 (5040)**

This is in reply to your letter, dated June 22, 2014 requesting dispensation to register Brian Wiggins as the delegate from the Washington State Association of Letter Carriers to the 2014 National Convention. Your request is based on the fact that Brother Wiggins has assumed the presidency of the Washington State Association upon the resignation of Brother Valfiades, who had been registered as the delegate.

Brother Wiggins is eligible to be a delegate so long as the State Association By-laws provide that the President will be a delegate to the National Convention by virtue of his office. Your letter does not indicate whether the By-laws so provide.

Please check the Washington State Association By-laws to determine whether Brother Wiggins is eligible to serve as a delegate by virtue of his

office. If the appropriate authorization does exist in the By-laws, then, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I grant your request for dispensation to register Brother Wiggins as a delegate to the 2014 National Convention.

Please contact Secretary-Treasurer Broendel's office to confirm whether or not Brother Wiggins is to be registered in accordance with this ruling.

#### **CHANTAY ROGERS, EVANSTON, IL, BRANCH 1107**

**July 7, 2014 (5049)**

This is in reply to the letter from the Branch 1107 Executive Board, dated June 20, 2014, requesting that I issue a presidential ruling with respect to the Branch's present dispute with Branch 4739 over payments allegedly due for the services of Branch 4739 President Mike Losurdo. Please feel free to make copies of this letter and distribute them to the members of the Executive Board. Note too that I am sending a copy of this letter to Brother Losurdo.

At the outset, I must advise that it would be inappropriate for me to comment on the specific dispute described in your letter, particularly since I only have your side of the story before me. Nor can I comment on any legal issues that have been raised.

As President of the NALC, I can provide the following guidance as to the provision of the NALC Constitution which appears to be applicable to this matter.

As a basic principle, neither the Branch President, nor any other officer of a Branch, has the unilateral authority to appropriate Branch funds. So far as the Constitution is concerned, all expenditures of Branch funds must be authorized by the membership. Article 12, Section 3 of the of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that all Branch funds "shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting." Previous rulings have recognized that a Branch may authorize payments in advance through its By-laws or by enacting a budget or a specific resolution authorizing the expenditures. However, if there are no applicable By-law provisions, or previously approved resolutions, then there must be a vote by the Branch to authorize the expenditure of Branch funds.

#### **EDUARDO DE JESUS, SANTA ISABEL, PR, BRANCH 826**

**July 11, 2014 (5043)**

This is in reply to your letter, dated June 27, 2014, requesting clarification of the procedure for the submission and reading of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

Article 10, Section 2 of the CGSFB requires that charges be filed with the Branch and that a copy of the charges be served on the charged officer. There is no requirement that the charges be filed at a Branch meeting.

Article 10, Section 2 also states that the "charges shall be read by the recording secretary at the first regular meeting after service on the member or officer." (emphasis added). Therefore, the charge should not be read until it has been properly served. Moreover, it is the obligation of the Branch (not the charging party) to serve the charged party with a copy of the charges, under the seal or letterhead of the Branch.

#### **BILL THORNTON, HAYWARD, CA BRANCH 214**

**July 11, 2014 (5050)**

This is in reply to your letter, dated July 1, 2014, concerning the alleged mishandling of ballots in the last Branch 214 election which led to my granting dispensation to the Branch to conduct a special rerun election for Vice President.

In response to your specific inquiry, it is entirely up to the Branch to determine the extent to which the details of the investigation will be disclosed. This is not an appropriate issue for intervention by the National Union.

Please note that I am providing a copy of this letter to Branch President Beaumont.

#### **CRAIG SCHADEWALD, NEW BERN, NC, BRANCH 780**

**August 5, 2014 (5083)**

This is in reply to your letter, received by my office on July 19, 2014, concerning charges that have been submitted pursuant to Article 10 of the Constitution for the Government of Subordinate and Federal Branches against the former Financial Secretary Treasurer of Branch 780. According to your letter, due to the nature of the charges, there are no disinterested members in the Branch who can serve on an investigating committee. You now request assistance from outside the Branch.

By copy of this letter I am directing National Business Agent Judy Willoughby to contact Branches located near Branch 780 and arrange for the appointment of a committee to investigate the charges consisting of three members from outside the Branch.

#### **MAX LYKHINE, BOULDER, CO, BRANCH 642**

**August 5, 2014 (5086)**

This is in response to your letter, dated July 14, 2014, requesting a ruling with respect to the constitutional requirement that charges be served on the charged party as set forth in Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. Specifically, you ask if a certified mailing of the charges would be sufficient if the charged party refused to pick up the mailing.

As previous rulings have recognized, the Constitution does not provide for a specific means of service of charges. In most circumstances, a certified mailing of the charges would be sufficient to allow the Branch to proceed with the reading of the charges and the appointment of an investigating committee. However, the Branch would have to be able to demonstrate, if challenged, that the charged member did in fact refuse the mailing.

#### **CHANTAY ROGERS, WILMETTE, IL, BRANCH 1107**

**August 5, 2014 (5087)**

This is in reply to your letter, dated July 14, 2014, requesting a continuation of the time for an investigating committee to complete its investigation of charges which have been filed in Branch 1107. Specifically, your letter seeks an interpretation of language in Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) stating that "the vote regarding [charges] may be continued once, by motion to the following regular Branch meeting."

Insofar as this appears to be a first continuation, dispensation from me is not necessary. Article 10, Section 1 of the CGSFB contemplates that after charges are read at a Branch meeting, an investigating committee will be appointed and report to the Branch at the next meeting, at which time the members will vote on the charges. However, Article 10, Section 1 also states that "the vote regarding [charges] may be continued once, by motion to the following regular Branch meeting."

This language allows Branches to entertain and approve a motion to postpone consideration of the charges to the following meeting. Such a vote could extend the time of the committee to complete its investigation.

Brother Montoya's letter, which you attached, indicates that a motion to postpone the vote on the charges was to be made at the July 9 meeting. That vote is all that would be necessary to postpone the committee's time to submit its report until the next scheduled meeting of the Branch.

#### **LARRY CIRELLI, NEW YORK, NY, BRANCH 444**

**August 5, 2014 (5065)**

This is in reply to your letter, dated July 14, 2014, concerning a motion adopted at the regular Branch 444 meeting on June 12 to distribute to the members a copy of a letter written by Executive Vice President Charlie Heluk. The letter is the subject of charges now pending against Brother Heluk.

If you believe that distribution of the letter could compromise the fairness of the investigation or the vote on the charges, then you would have the authority to defer distribution of the letter until after the vote.

#### **CATHERINE BODNAR, HAMMOND, IN, BRANCH 580**

**August 15, 2014 (5103)**

This is in reply to your letter, dated July 12, 2014, inquiring whether members in one station may elect a member from another station to serve as their steward.

The NALC Constitution does not contain any provisions prohibiting the election of a member from another station to serve as a steward. As you correctly observe, Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that stewards may be appointed or elected “within the respective stations” as “may be determined” by the Branch. Thus, so far as the Constitution is concerned, it is up to the Branch to decide whether to allow members to elect a member from another station to serve as their steward.

As you recognize, the designation of a steward who does not work in the office he/she will represent can create logistical problems and/or issues under the National Agreement, as well as additional expense for the Branch. For example, a steward who is not on site may not be available to deal with problems when they arise. Moreover, such an employee would most likely not be entitled to travel from his/her station while in pay status. These are considerations which the Branch must evaluate.

Your letter also indicates that you have an interest in replacing the elected steward with another member who works at the station in question. However, it may not be possible for you to do so. Previous rulings have consistently held that if shop stewards are elected by the members of each respective station, then the Branch President may remove a steward for good cause only if the Branch has made a specific provision for such removal in its By-Laws. The portions of the Branch 580 By-laws that you included with your letter do not contain any provisions authorizing direct removal of a steward. If the By-laws are silent on this question, then stewards can only be removed in accordance with the specific procedures for removal from office set forth in Article 10 of the CGSFB.

**JOSEPH RILEY, BEVERLY HILLS, FL, BRANCH 6013**

**August 15, 2014 (5058)**

This is in reply to your letter, dated July 8, 2014, concerning the situation in Branch 6013, Inverness, FL.

The facts set forth in your letter, which have been confirmed by National Business Agent Judy Willoughby, establish that the President and Secretary-Treasurer of the Branch are working in a supervisory capacity. Accordingly, they are no longer constitutionally eligible to hold office in the Branch. As provided by Article 5, Section 2 of the Constitution of the Government of Subordinate and Federal Branches, these positions are now vacant.

In light of the foregoing facts, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I grant dispensation to Branch 6013 to conduct a special election to fill all vacant officer positions. By copy of this letter, I am directing Sister Willoughby to designate a representative from her office to assist the Branch in conducting the special election.

**KATHY USHER, MUSKEGON, MI, BRANCH 13**

**August 18, 2014 (5115)**

Your letter to Secretary-Treasurer Jane Broendel, dated July 30, 2014 has been referred to me for reply. Your letter requests a ruling as to whether the President of Branch 13 is entitled to receive dual compensation for serving as both President of the Branch and the steward in his office.

While I appreciate the Branch's very legitimate concerns, I must advise that the NALC Constitution does not directly address this matter. Accordingly, it would be wholly inappropriate for the National Union to resolve the issue.

The question whether a member may receive compensation for service as both President and Steward turns on the meaning and intent of the applicable Branch By-laws. As previous rulings have consistently emphasized, disputes over the interpretation or application of Branch By-laws must be resolved, in the first instance, at the Branch level. Relevant factors include the language of the By-law, any pertinent past practices, and any evidence of the intent of the Branch when it originally enacted the By-law provision at issue. If the By-laws are ambiguous, I would suggest that the Branch enact a clarifying amendment which reflects the will of the members.

**CARLOS ROSARIO, PONCE, PR, BRANCH 826**

**August 18, 2014 (5114)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated August 14, 2014, has been referred to me for reply. Your email inquires whether a member of Branch 826 has been rendered ineligible to be a candidate for Branch office by virtue of his having accepted a supervisory position.

Your email does not contain sufficient information for me to rule on this matter. I can provide the following general advice.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from running for Branch office for two years following termination of supervisory status. However, as previous rulings have repeatedly held, higher level assignments are not necessarily supervisory for purposes of Article 5, Section 2. Generally speaking, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties.

In addition, the disqualification applies only where the member has held, accepted or applied for a supervisory position. A letter carrier who performs a supervisory duty assigned to him by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable.

It is the responsibility of the Branch in the first instance to determine whether a candidate for Branch office has been disqualified under the foregoing principles. The Branch's determination is subject to appeal.

**EFRAIN COLOMBANI, PONCE, PR, BRANCH 826**

**August 18, 2014 (5113)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated August 14, 2014, has been referred to me for reply. Your email inquires whether Branch 826 may decline to process charges that have been filed against the President of the Branch for failure to specify the offense, failure, neglect, or misconduct that is the basis for the charge.

At the outset, it would be entirely inappropriate for me to comment on the substance of the charges. In particular, it would not be proper for me to rule on whether the charges, as described in your letter, are sufficient to state a violation of the Constitution. I can offer the following general advice.

Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states:

Charges must be made in writing, specifying the offense, failure, neglect, or misconduct so as to fully apprise the member or officer of the nature thereof, and shall be signed by a member of the Branch ...

While specificity is required by the constitution, prior rulings have recognized that this does not mean that charges are invalid unless stated in exhaustive detail.

Previous rulings have also held that a Branch President against whom charges have been filed may not declare the charges procedurally defective or inconsistent with the Constitution so as to prevent them from being processed by the Branch. Rather, it is up to the committee and the Branch to apply the above-stated principles to the facts of this case. Thus, a charged member or officer may present to the investigating committee an argument that the charges are not stated in sufficient detail to apprise him/her of the nature of the alleged misconduct or that they are fail to state a violation of the Constitution. The committee may very well conclude that the charges, as written, are insufficient to state a violation of the Constitution. However the investigating committee may not rely on any such conclusion to avoid completing its investigation and reporting to the Branch. The committee may communicate its opinion as to the sufficiency of the charges to the members. But the members must be given the opportunity to vote on the charges. The members can uphold an argument that the charges were insufficient on their face and vote to dismiss the charges. Alternatively, if the members were to sustain the charges, the argument that the charges were not sufficiently specific may

be made in an appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns. Once again, this letter should not be read to express any view as to the merits of the charges at issue.

**RAMON MALDONADO, VINCELAND, NJ, BRANCH 534  
August 21, 2014 (5120)**

This is in reply to your letter, dated August 13, 2014, requesting dispensation for Branch 534 to postpone its nominations and election of officers from the October and November meetings to the November and December meetings. According to your letter, this request is necessitated by the fact that the September and October issues of the Postal Record were combined. It appears that the resulting delay in the publication of the Postal Record has caused the Branch's notice of nominations to be untimely.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The Branch, however, must mail a corrected notice of nominations and election to each member immediately. Federal law requires that a notice of nominations must provide timely notice which reaches all members in good standing in sufficient time to permit such members to nominate candidates of their choice.

**ERICA SMITH, RALEIGH, NC, BRANCH 459  
September 4, 2014 (5132)**

This is in reply to your letter, dated August 28, 2014, concerning your ongoing dispute with Branch 459 President William Wray. According to your letter, Brother Wray has removed you as an elected Trustee.

While I appreciate your concerns, I must advise that there is no basis for any intervention in this matter at this time. Similarly, it would be inappropriate for me to comment on any actions which may have been taken by Brother Wray, particularly since I only have your side of the story before me.

I can provide the following general guidance with respect to the authority of a Branch President under the NALC Constitution. As previous rulings have consistently recognized, a Branch President may not summarily remove another Branch officer. The appropriate procedure for removing an officer is to initiate charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Under Article 10, such charges must first be investigated by an appointed committee, and then voted on by the Branch at a meeting.

I express no view as to any other actions Brother Wray may have taken or the merits of any charges that you may bring. As you correctly observe, Article 6, Section 1 of the CGSFB provides that the President shall have general supervisory powers over the Branch [and shall] see that officers perform their duties.

**PETE MOSS, MERIDIANVILLE, AL, REGION 8  
September 5, 2014 (5139)**

This is in reply to your letter, dated August 28, 2014, concerning the nomination of Brother Andrew Johnson for President of Branch 2396 in the special election that you are supervising. The issue presented is whether Article 4, Section 4 of the Constitution for the Government of Subordinate and Federal Branches prohibits Brother Johnson from being a candidate insofar as he was not at the nominations meeting and has not accepted his nomination in writing.

Article 4, Section 4 provides:

Branches at their option may require all candidates for office or delegate to be present at the meeting when nominated, or signify in writing their willingness to serve if elected.

The Branch option referred to has been interpreted as the option of requiring nominees to formally accept nomination. If the Branch does opt to require a formal acceptance, then it may require that those nominees who are present at the nominations meeting accept at that time. However, nominees who are not present may, as an alternative, submit the acceptance in writing.

Given the circumstances, it is highly unlikely that Branch 2396 has ever opted to require candidates to accept nomination in any particular manner. Assuming that is the case, then Brother Johnson would remain

eligible to be a candidate for Branch President. However, it would be prudent for you to reach out to him and confirm that he wishes to run. If he declines, then you may declare that Sister Catrett has been elected by acclamation.

**JAIME MEDRANO, EL PASO, TX, BRANCH 505  
September 8, 2014 (5137)**

Your email to NALC Assistant Secretary-Treasurer Nicole Rhine, dated September 3, 2014, has been referred to me for reply. Your email seeks clarification of the timeliness of a notice of nominations and election in a mail ballot election.

At the outset, I cannot comment on the timeliness of the current Branch 505 notice. I can provide the following general guidance.

Section 5.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP) states that the notice of nominations and election must be mailed to each member at least 45 days before the election. Section 14.2 of the RGBEP defines the date of the election conducted by mail ballot as the date by which ballots must be received in order to be counted. Accordingly, the 45 day requirement is satisfied if the notice is provided at least 45 days from the date by which ballots must be received in order to be counted. The notice does not have to be mailed 45 days before the date ballots are mailed, as suggested in your email.

**ANTHONY WEDDLE, LOUISVILLE, KY, BRANCH 14  
September 8, 2014 (5138)**

This is in reply to your letter, dated August 27, 2014, requesting dispensation permitting Branch 14 to conduct its nominations for delegates to the 2015 Kentucky State Association Convention only at its regular monthly meeting on September 22. According to your letter, the notices of nomination previously published in the Postal Record and the Branch newsletter had stated that nominations would be held at both the August 25 and September 22 meetings. However, the Branch inadvertently neglected to conduct nominations at the August 25 meeting.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please understand, however, that this dispensation applies only to nominations for the 2015 state convention. The Branch must comply with the requirements of its By-laws with respect to future nominations and elections.

**EARL DORMAN, SOUTH AMBOY, NJ, BRANCH 444  
September 10, 2014 (5145)**

This is in reply to your letter, dated September 2, 2014, concerning the special election now taking place in Branch 444.

Please be advised that the special election was intended only to fill the remainder of the present term of office. Branch 444 will still be required to conduct a regular election, in accordance with its By-laws, at the next scheduled date.

Thank you for calling this issue to my attention. I trust that the foregoing clarifies any ambiguity in my previous ruling.

**ERICA SMITH, RALEIGH, NC, BRANCH 459  
September 10, 2014 (5146)**

This is in reply to your letter, dated September 5, 2014, requesting a ruling on whether Branch President Wray properly expended Branch funds to defend against charges filed against him.

I trust that you have now received my letter, dated September 4, 2014. Accordingly, this letter will not address the issues raised in your letter of August 28. Nor would it be appropriate for me to comment specifically on the alleged expenditures by Brother Wray based solely on the representations in your letter. Once again, the following discussion is intended to provide general guidance.

Article 12, Section 3 of the of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that all Branch funds shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting. Previous rulings have recognized that Article 12, Section 3 gives the Branch considerable latitude to make decisions about how to appropriate Branch funds. A Branch may authorize payments

in advance through its By-laws or by enacting a budget or a specific resolution authorizing the Executive Board, or a specified officer, to make the expenditure in question.

A Branch President's unilateral authorization of an expenditure is subject to direct appeal to the members at the next Branch meeting under Article 11, Section 1 of the CGSFB. However, even if the members ultimately determine that the expenditure had not been previously authorized when made, the members may nonetheless vote to approve the expenditure retroactively.

**ROBERT SHIRE, FRESNO, CA, BRANCH 231**

**September 16, 2014 (5104)**

This is in reply to your letter, dated August 4, 2014, concerning charges that were filed against you under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The correspondence submitted with your letter indicates that Branch 231 voted to sustain the charges and to suspend you for a period of three years.

I certainly appreciate your disappointment with this result. Nevertheless, I must advise that there is no basis in the Constitution for any intervention by the National Union. The decision of the Branch was subject to appeal to the national Committee on Appeals under Article 11 of the CGSFB. Article 11, Section 2 expressly states that appeals must be filed within twenty days from the date of the Branch meeting at which the decision to be appealed from was made. Your letter and the attached correspondence show that you did not exercise your right to appeal.

Accordingly, I regret that I cannot provide a favorable reply to your letter.

**BRIDGET CERVIZZI, WESTBROOKE, ME, BRANCH 92**

**September 17, 2014 (5153)**

This is in reply to your email, dated September 10, 2014. Your email inquires whether Branch 92 may decline to process charges that have been filed against you and the President of the Branch for failure to specify the offense, failure, neglect, or misconduct that is the basis for the charge.

At the outset, it would be entirely inappropriate for me to comment on the substance of the charges. In particular, it would not be proper for me to rule on whether the charges are sufficient to state a violation of the Constitution. I can offer the following general advice.

Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) states:

Charges must be made in writing, specifying the offense, failure, neglect, or misconduct so as to fully apprise the member or officer of the nature thereof, and shall be signed by a member of the Branch ...

Previous rulings have held that a Branch President against whom charges have been filed may not declare the charges procedurally defective or inconsistent with the Constitution so as to prevent them from being processed by the Branch. Rather, it is up to the investigating committee and the Branch to apply the above-stated principles to the facts of the case. Thus, a charged member or officer may present to the investigating committee an argument that the charges are not stated with sufficient clarity to apprise him/her of the nature of the alleged misconduct or that they fail to state a violation of the Constitution. The committee may very well conclude that the charges, as written, are insufficient to state a violation of the Constitution. However the investigating committee may not rely on any such conclusion to avoid completing its investigation and reporting to the Branch. The committee may communicate its opinion as to the sufficiency of the charges to the members. But the members must be given the opportunity to vote on the charges. The members can uphold an argument that the charges were insufficient on their face and vote to dismiss the charges. Alternatively, if the members were to sustain the charges, the argument that the charges were constitutionally deficient may be made in an appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns. Once again, this letter should not be read to express any view as to the merits of the charges at issue.

**JOE PENSABENE, GOLETA, CA, BRANCH 290**

**September 17, 2014 (5152)**

Your letter to Secretary-Treasurer Jane Broendel, dated September 1, 2014, has been referred to me for reply. Your letter seeks guidance as to the extent to which Branch 290 funds should be used to cover your transportation costs for attending the 2014 NALC Convention.

While I appreciate your reasons for seeking Sister Broendel's opinion, the issue described in your letter must be resolved by the members of the Branch. Article 12, Section 3 of the of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that all Branch funds shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting.

Your letter does not indicate that the Branch has previously enacted a By-law provision or a resolution which would apply to the dispute between you and the Branch Secretary-Treasurer. Accordingly, the issue should be put to the members for resolution at an upcoming Branch meeting.

**TANYA VAKRUSHEVA-WIITA, NORTH POLE, AK, BRANCH 4491**

**September 17, 2014 (5151)**

Your recent letter to Secretary-Treasurer Jane Broendel, received at NALC Headquarters on September 2, 2014, has been referred to me for reply. Your letter describes an apparent dispute between you and the President of Branch 4491 concerning the procedure for authorizing the expenditure of Branch funds.

At the outset, it would be inappropriate for me to address the specific matters referenced in your letter, particularly since I only have your side of the story before me. However, I can provide the following general guidance.

Article 12, Section 3 of the of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that all Branch funds shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting. Previous rulings have recognized that Article 12, Section 3 gives the Branch considerable latitude to make decisions about how to appropriate Branch funds. A Branch may authorize payments in advance through its By-laws or by enacting a budget or a specific resolution authorizing the Executive Board, or a specified officer, to make the expenditure in question.

The rulings have noted that membership authorization of officers to expend Branch funds in the future should be limited to expenses which can be anticipated in advance. Truly discretionary expenditures of a non-routine character should be approved by vote of the membership in accordance with Article 12, Section 3.

A Branch President's unilateral authorization of an expenditure is subject to direct appeal to the members at the next Branch meeting under Article 11, Section 1 of the CGSFB. However, even if the members ultimately determine that the expenditure had not been previously authorized when made, the members may nonetheless vote to approve the expenditure retroactively.

I trust that the foregoing addresses your concerns. Please note that I am providing a copy of this letter to Brother Goessel.

We do appreciate your continuing commitment and activism on behalf of your Branch and the NALC.

**CALVIN BROOKINS, VAN NUYS, CA, BRANCH 2462**

**September 23, 2014 (5169)**

This is in reply to your email, dated September 19, 2014, inquiring whether a member of Branch 2462 would be rendered ineligible to continue serving as a steward under Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) if she were to complete an application for the position of Driver Safety Instructor. According to your email, if she were accepted, she would not be supervising letter carriers, but would do driver training for new CCAs on an as needed basis.



Generally speaking, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties. Previous rulings have generally held that Driver Safety Instructor positions are not supervisory under this test. Accordingly, assuming the facts presented in your email, I conclude that the member would remain eligible to serve as a steward by applying for this position.

**DEBRA VIGIL, ARVADO, CO, BRANCH 642  
September 29, 2014 (5154)**

This is in reply to your letter, dated August 26, 2014, requesting a ruling as to whether a Branch may proceed with the processing of a charge, notwithstanding the fact that the charging party neglected to sign the charge.

Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches does explicitly state that Charges... must be signed by a member of the Branch. This is a constitutional requirement that should be enforced. In past rulings, I have recommended that when an unsigned charge is filed with the Branch, a neutral officer should inform the charging party of his/her apparent oversight and provide the charging party an opportunity to sign the charge before it is served and read.

If an unsigned charge has been read at a Branch meeting, the Branch would have discretion to strike the reading from the minutes. Of course, if the charge is subsequently signed, the Branch should serve it and then read it again at the next meeting.

**JOSEPH MORONEY, FLOSSMOOR, IL, BRANCH 4016  
September 29, 2015 (5159)**

This is in reply to your letter, dated September 12, 2014, requesting dispensation permitting Branch 4016 to change the date of its November membership meeting to November 10. According to your letter, the scheduled meeting date according to the Branch By-laws would be Veterans Day, November 11.

In light of the circumstances, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

**DENNIS BLANK, JR., WEST COLUMBIA, SC, BRANCH 233  
September 29, 2014 (5160)**

This is in reply to your letter, dated September 13, 2014, concerning the current election of officers in Branch 233. According to your letter, you have requested, and have been denied, a copy of the Branch 233 membership roster to use in connection with your candidacy for Branch President.

While I appreciate your concerns, I must advise that there is no basis for any intervention by the National Union at this time. Generally speaking, there is no requirement that a Branch provide a candidate with a copy of its membership list to be used by the candidate to mail his/her own literature. The relevant provision is Section 9.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP) which, consistent with federal law, provides that "A Branch must honor all reasonable requests to distribute campaign literature at a candidate's expense." The comments following this section specifically note that the Branch does not have to distribute literature free of charge.

In any event, all complaints regarding the conduct of a Branch election must be incorporated in a post-election appeal in accordance with the procedures set forth in Section 21 of the RGBEP. This letter should not be read to express any view as to the merits of any appeal that may be brought following the election.

**SUSAN E. PITTMAN, TALLAHASSEE, FL, BRANCH 1172  
September 29, 2014 (5170)**

This is in reply to your letter, dated September 13, 2014, requesting that I issue a ruling to resolve a dispute over compensation of a steward. According to your letter, one of Branch 1172's elected stewards has been relieved of his duties by the Branch President, who has now taken over the duties of that steward. You now ask which of these individuals is entitled to the compensation which is apparently authorized by the

Branch By-laws.

While I appreciate your very legitimate concern, I must advise that it would be entirely inappropriate for me to resolve this question. As National President, it is my responsibility to interpret the NALC Constitution. However, the issue described in your letter depends on the interpretation and application of the relevant By-law language. Such disputes must be resolved, in the first instance, at the Branch level. If necessary, the matter may be resolved by vote of the members at a Branch meeting. The Branch's decision may be appealed to the National Committee on Appeals, as provided by Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**CHRISTOPHER ROUSSEAU, SNELLVILLE, GA,  
BRANCH 2225  
September 29, 2014 (5172)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated September 23, 2014, has been referred to me for reply. Your email requests a presidential ruling addressing the nominations meeting conducted by Branch 2225 on September 4, 2014. According to your email, the notice of nominations that was published in the Postal Record had stated that the nominations meeting would take place at 7:00 pm. Instead, the meeting time was changed to 6:00 pm and, as a result, the members who were prepared to nominate you were unable to do so.

At the outset, I must advise that it would be inappropriate for me to intervene in this matter, particularly since I only have your side of the story before me. Complaints regarding the conduct of Branch nominations or the conduct of the election itself must be brought in the form of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP).

I can provide the following guidance. Generally speaking, a Branch must conduct its nominations at the time and place stated in its notice of nominations and election. See RGBEP Section 5.2(b). A violation of this requirement which results in the denial of a candidate's opportunity for nomination could be a basis for a post-election appeal and could result in a re-run of both the nominations and the election, at least for the office in question. I express no view as to whether such an appeal would be successful in this case.

As National President I have the authority to grant dispensation to the Branch to re-open nominations and, if necessary, to postpone the election. Any such request, however, must be submitted by the Branch President.

**WILLIAM WRAY, RALEIGH, NC, BRANCH 459  
September 29, 2014 (5173)**

This is in reply to your letter, dated September 15, 2014, requesting dispensation permitting Branch 459 to set Friday, November 7 as the deadline for receipt of mail ballots in the upcoming election of officers. According to your letter, the Branch By-laws would otherwise require that ballots be received and picked up on the Veteran's Day Holiday.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please make sure that the November 7 deadline is clearly stated in the balloting instructions.

**GEBRAIEL HAMM, COLUMBIA, SC, BRANCH 233  
September 30, 2014 (5175)**

This is in reply to your recent letter, received by my office on September 23, 2014, concerning the current mail ballot election in Branch 233. Specifically, you ask whether the Branch may vote to redo the election because of perceived flaws in the ballot instructions and the design of the ballot envelope.

It would be inappropriate for me to comment on the specific situation based on the limited information contained in your letter. I can advise that if the Branch were to conclude that the defects in the ballot instructions or other material are serious enough to warrant a re-run of the election, I would be willing to entertain a request for dispensation permitting the Branch to do so.

In response to your other questions, if I were to authorize a new election, I would expect that the Branch would retain control of the

process and the same election committee could remain in place. The facts set forth in your letter do not indicate that new nominations would be required, so that the same candidates would remain on the ballot.

I trust that the foregoing addresses your concerns. Once again, I have made no determination at this time that a re-run election is required.

**HARRY J. CUCCINIELLO, SOUTH ORANGE, NJ,  
BRANCH 673**

**October 7, 2014 (5176)**

This is in reply to your recent letter, received by my office on September 25, 2014, inquiring whether Branch 673 may allow its retired members to vote by a mail ballot on a proposed merger resolution.

I certainly appreciate the arguments in favor of a mail ballot for retirees who live out of state or a great distance from the Branch. Nonetheless, I must advise that the answer to your question is no under the present wording of the NALC Constitution.

As previous rulings have recognized, the vote on a proposed merger must take place at a regular or special meeting in accordance with Article 2, Section 3(a) of the NALC Constitution. Moreover, as provided in Article 2, Section 3(e), a majority affirmative vote of all regular members in good standing, present and voting, of each Branch proposing to merge, shall be necessary to authorize application for merger. (Emphasis supplied.) Accordingly, previous rulings have consistently held that mail referenda, absentee ballots or proxy voting are not permitted.

**SCOTT DULAS, DULUTH, MN, BRANCH 114**

**October 7, 2014 (5177)**

This is in reply to your letter, dated September 19, 2014, requesting a ruling as to whether a member of Branch 114 has been disqualified from continuing to serve as a Trustee under Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), as a result of having applied for the Postal Service's Recruit and Development Program. According to your letter the program consists of a short training session on higher level opportunities in the USPS that include both supervisory and non-supervisory positions.

According to your letter, participation in this program does not commit the member to being on a supervisory career path. If that is the case, the member in question may remain eligible to serve as a Branch officer. However, your letter does not provide sufficient information as to the nature of the program to permit me to make a definitive ruling.

In any event, as numerous presidential rulings have previously recognized, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. If necessary, you should discuss the issue with management to clarify whether they consider participation in the Recruit and Development Program to be tantamount to an application for a potential supervisory position.

**LYN LIBERTY, PHOENIX, AZ, BRANCH 576**

**October 7, 2014 (5183)**

This is in reply to your letter, dated September 26, 2014, requesting dispensation permitting Branch 576 to conduct its nominations for delegates to the Arizona State Convention at its November meeting, instead of the October meeting as required by the Branch By-laws. According to your letter, the Branch failed to have its notice of nominations and election printed in sufficient time to provide the members 45 days' notice.

At the outset, it is not clear that the Branch has missed the applicable deadlines. Neither the NALC Constitution nor the NALC Regulations Governing Branch Election Procedures (RGBEP) require 45 days' notice of nominations. Rather, Article 5, Section 4 of the NALC Constitution and Section 5.1 of the RGBEP provide that a notice of nominations and election must be mailed to each member at least 45 days before the election. Under RGBEP Section 6.1, only ten days' notice of nominations is required. According to your letter, delegate nominations take place at the October meeting, and elections, if necessary, take place at the December meeting. Thus, depending on the exact date of your October meeting, it may still be possible to mail out a notice which will satisfy the applicable requirements.

However, if you believe that there is no longer sufficient time to provide members the minimum ten days' notice that nominations of delegates will take place at the October meeting, then the Branch may conduct nominations at the November meeting. Of course, notice of the November nominations would have to be given.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 576 dispensation to deviate from its By-laws, if necessary, in order to meet the notice requirements described above. Please understand that this dispensation applies only to the nomination of delegates in 2014. Future nominations and elections should be conducted in strict compliance with the Branch By-laws.

**DANIEL HATCHETT, SHREVEPORT, LA, BRANCH 197**

**October 7, 2014 (5180)**

This is in reply to your email, dated September 26, 2010, requesting a ruling as to whether a member must belong to the NALC Health Benefit Plan in order to be eligible to be a candidate for the position of the Health Benefits Representative (HBR).

Please be advised that Article 4, Section 3 of the Constitution of the NALC Health Benefit Plan requires that individuals must be participating members of the Plan in order to hold office in the Plan at the Branch level. At the same time, prior rulings have recognized a distinction between eligibility to hold the office of Health Benefits Representative and eligibility to be a candidate for that position. Article 4, Section 3 requires that an individual be a participating member in order to hold office in the Plan. It does not require that the individual be a member of the Plan to run for office. Thus, if a candidate who is not presently a participating member takes the necessary steps to join the Plan, he/she will be eligible to serve as the Branch's HBR if elected.

However, if the member refuses to join the Plan then he would not be eligible to serve as the HBR. In that circumstance, the Branch President would have the authority to fill that position by appointment. The appointee must be a member of the Plan.

**MARYANNE HAIRE, BURNSVILLE, NC, BRANCH 248**

**October 8, 2014 (5189)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated October 6, 2014, has been referred to me for reply. Your email requests a ruling as to whether a member of Branch 248 has been disqualified from continuing to serve as a Trustee or run for a steward position under Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), as a result of having applied for a supervisory position. According to your letter, this individual approached a postmaster and asked how he could get into management.

As a general principle, the prohibition set forth in Article 5, Section 2 covers any application for a supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing. An oral statement indicating a member's interest in a management position may or may not constitute an application for a supervisory position, depending on the member's intent, the specific wording of the statement, local practices, and other relevant circumstances.

Your email does not provide sufficient information as to the nature of the member's communication with the supervisor to permit me to make a definitive ruling. For example, I do not know whether local management considered the oral expression sufficient to constitute an application for a supervisory position; nor am I familiar with the local practices for filling supervisory vacancies in Asheville, NC.

In any event, as numerous presidential rulings have previously recognized, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. If necessary, you should discuss the issue with management to clarify whether they considered the member's verbal statement to be sufficient to constitute an application.

If the Branch concludes that in the present case the verbal expression was not tantamount to an application for a supervisory position, then the member in question would remain eligible to be a Trustee and a candidate for steward. If the Branch concludes that the member did apply for a 204b position, then he would be ineligible to be a candidate, and his nomination should be set aside.

You also ask whether this member would have to be elected to a steward position by the entire Branch if he continues to be a Trustee. If stewards in Branch 248 are normally elected only by the members in the particular station, then the answer to your question is no. The office of Trustee and the position of steward are entirely separate. So long as the member has been separately elected as a Trustee, he may continue to serve as a Branch officer, regardless of whether he also serves as a steward in his home station.

**REBEKAH SERWACH, CENTER LINE, MI, BRANCH 4374  
October 10, 2014 (5194)**

This is in reply to your email, dated October 9, 2014, concerning allegations which you claim were made by a candidate for National Business Agent in Region 6.

I certainly appreciate your concerns as well as your assurance that Branch 4374 funds were not improperly used to support a candidate. Nonetheless, I must advise that no purpose would be served by forwarding your email to National Election Committee Chairman Joe DeRossi, as you requested. Generally speaking, the Election Committee does not play any role in monitoring or regulating campaign activity by candidates. The Committee is authorized to hear post-election appeals, as provided by Article 6, Section 14 of the NALC Constitution. If the issue described in your letter is brought before the Committee in a post-election appeal, your evidence could be submitted at that time.

Additionally, I am declining your request to use the NALC email system to respond to any allegations pertaining to an ongoing political campaign. In accordance with federal law, we have only permitted the email system to be used by candidates to distribute campaign material at their own expense.

**LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214  
October 10, 2014 (5178)**

I write to confirm the responses to the questions you posed to National Business Agent Chris Jackson in your email, dated October 1, 2014.

I address first the numbered questions in your October 1 email.

Your first inquiry requested clarification of the procedure for reading of charges. Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that charges be filed with the Branch and that a copy of the charges be served on the charged parties. Article 10, Section 2 states that the "charges shall be read by the recording secretary at the first regular meeting after service on the member or officer." (emphasis added). Therefore, normally the charges would not be read until they have been properly served. Moreover, it is the obligation of the Branch (not the charging party) to serve the charged parties with a copy of the charges, under the seal or letterhead of the Branch.

According to your email, the charging party did not file his charges with the Branch, but instead served them on the charged parties. Although this procedure does not conform to the literal language of the Constitution, in this case the charged parties are all incumbent officers. Accordingly, the charging party's technical non-compliance is of no significance, so that the reading of the charges at the October 1 meeting would be permissible.

In response to your second question, since all three sets of charges involve the same events, it is not necessary to appoint multiple committees to investigate the charges separately. A single committee will suffice.

In response to your third inquiry regarding the procedure for appointing the committee, please be advised of the following. As stated in Article 10, Section 3 of the CGSFB, normally the committee is to be appointed by [t]he president, or if the president be the person against whom charges are made, the vice president. However, where, as in your situation, the President, Vice President, and/or other officers are charged, prior rulings have established that the highest ranking officer who has not been charged should appoint the investigating committee. The rulings have also recognized that an officer who is likely to be involved in the investigation of charges as a witness should not appoint the committee. If there are no other officers eligible to appoint the committee, then the investigating committee may be appointed by action of the members of

the Branch. Specifically, the Branch could nominate and elect members to the committee at a regular or special meeting. Alternatively, the members could vote to select an individual disinterested Branch member to appoint the members of the committee.

In response to your fourth inquiry, normally the investigating committee is to consist solely of members of the Branch. In those rare situations where this is not possible, the Branch can submit to the National President a request for the appointment of a committee of members of other Branches. When I have granted such requests, I usually authorize the National Business Agent to appoint the committee.

In response to your fifth question, removal from office and the imposition of a fine are both permissible penalties under Article 10, Section 4 of the CGSFB. Whether both penalties could be appropriate in a given case would depend on the particular fact circumstances. Penalties may be appealed to the National Committee on Appeals.

Finally, in response to your September 19 letter, I am reluctant to intervene in the underlying situation at the present time, particularly since charges have now been filed. I would prefer to wait until the process has been completed before deciding whether any further involvement by the National Union is warranted.

**LARRY CIRELLI, NEW YORK, NY, REGION 15  
October 10, 2014 (5192)**

This is in reply to your letter, dated October 8, 2014, requesting dispensation permitting you to install the successful candidates in the ongoing special election in Branch 444 immediately after the results are certified.

In light of the considerations stated in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

**BARBARA PATTERSON, JEFFERSON, GA, BRANCH 588  
October 15, 2014 (5195)**

This is in reply to your letter, dated October 9, 2014, in which you raise several issues pertaining to the conduct of the current election of officers and stewards in Branch 588.

While I appreciate your concerns, I must advise that all objections to the conduct of nominations and the election must be brought in the form of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Accordingly, it would be entirely inappropriate for me to comment on your specific allegations, particularly since I only have your side of the story before me. I can provide the following general guidance.

First, the only restriction on the composition of the election committee set forth in the RGBEP is the prohibition on the appointment of any candidate for office, which is stated in Section 7.11. As previous rulings have noted, Branch officers who have been elected by acclamation prior to their appointment are not candidates for purposes of Section 7.11. Accordingly, such officers-elect are eligible to serve on the election committee.

Second, previous rulings have also recognized that it is permissible under the Constitution for a member to serve simultaneously as both a Branch officer and a steward, so long as the steward position is not a Branch office under the By-laws (e.g. if stewards are elected by station, rather than the entire membership, and do not sit on the Branch Executive Board). The Constitution, by itself, does not prohibit simultaneous service as both Branch officer and shop steward in these circumstances. Your letter does not indicate that there is a separate prohibition on simultaneous service as an officer and steward in the Branch By-laws. But, in any event, the interpretation and application of the By-laws is a matter for the Branch to resolve, in the first instance.

Third, the RGBEP are not binding on the election of stewards who are elected by station and are not members of the Branch Executive Board. See RGBEP, Section 2.1. Rather, as provided in Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), stewards may be elected in individual stations "as the Branch may...determine[.]" (Emphasis added). Where stewards are elected by station, the Branch is free to resolve disputes over election procedures in any manner that is consistent with its By-laws.

Your letter indicates that you have a copy of the RGBEP. If you believe that there have been violations which impacted the outcome of the election you have every right to initiate the appeal process described in Section 21. However, this letter should not be read to express any view as the merits of an appeal.

**RICHARD NAJERA, FRESNO, CA, BRANCH 231**

**October 17, 2014 (5198)**

This is in reply to your letter, dated September 29, 2014, inquiring whether Branch 231 may take disciplinary action against a member. According to your letter, this member was previously found guilty of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) and is presently serving a three year penalty.

At the outset, it would be entirely inappropriate for me to comment on the substance of your complaints against the member in question, particularly since there is a possibility that charges may be brought against him. I can provide the following general guidance.

Your letter does not indicate whether the member has been expelled or suspended. An individual who has been expelled is not a current member of the union. Accordingly, there is no constitutional basis for bringing charges against such an individual. If the individual were to rejoin the union following the period of expulsion, the question could arise as to whether charges could be brought at that time based on alleged misconduct during the period of non-membership.

Previous rulings have noted that this question would have to be resolved on a case-by-case basis. Generally speaking, it is the responsibility of the Branch, in the first instance, to determine whether the conduct at issue is legitimately a subject for charges. The fact that the actions which are the basis of the charge took place during a period of non-membership is certainly a relevant factor which the Branch could determine precludes a finding of guilt. The Branch's decision is, of course, subject to appeal.

By contrast, a member who has been suspended remains a dues paying member of the NALC, as provided by Article 10, Section 5 of the CGSFB. Such a member would be subject to charges and could face an additional suspension extending beyond the period of suspension that he is presently serving.

However, please understand that by no means should the above guidance be read to suggest that charges would be appropriate based on the facts described in your letter. I certainly appreciate that a Department of Labor compliance audit does impose significant burdens on the Branch. Nonetheless, I would caution you that discipline imposed on a member based on his complaint to the Department of Labor, or correspondence he wrote to the National President or a member of Congress, could very well be a violation of the member's right of free speech.

I trust that the foregoing addresses your concerns. In closing, please accept my congratulations to the Branch for the successful outcome of the compliance audit.

**DONALD BALLUFF, LISLE, IL, BRANCH 1107**

**October 20, 2014 (5200)**

This is in reply to your letter, dated September 30, 2014, requesting guidance as to the procedure for appealing your suspension by Branch 1107. As indicated in my letter to Branch President Rogers, a copy of which was sent to you, the Branch had previously notified the NALC that, following the report of an investigating committee and consideration of charges against you, it had voted to suspend you for a period of four years.

A decision by a Branch to impose a penalty against a member may be appealed to the National Committee on Appeals in accordance with the procedure provided by Article 11, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. Article 11, Section 2 reads as follows:

Sec. 2. When an appeal from the action of the Branch is taken, the following rules must be observed:

First: The appeal must be in writing and filed with the Recording Secretary of the Branch, together with any written testimony, arguments and briefs, within twenty days from the date of the Branch meeting at which the decision to be appealed from was made. An appellant's

request for documents and records to support his/her appeal shall not be unreasonably denied by the Branch.

Second: The Recording Secretary shall submit, and read to the Branch at its next regular meeting following the receipt of the appeal, the notice of intention to appeal, the appeal and all written testimony, arguments, briefs, and evidence submitted by the appellant.

Third: The Branch shall then be allowed twenty days to prepare its reply which shall be in writing with the seal of the Branch attached thereto. A copy of this reply shall be immediately transmitted by the Recording Secretary to the appellant. The Recording Secretary shall also immediately transmit the appeal, together with all testimony, arguments, briefs, and evidence submitted by the appellant and the reply of the Branch thereto via registered mail, to the Chairperson of the Committee on Appeals of the National Association. Either party to an appeal from a decision of the Branch to the Committee on Appeals of the National Association may, if dissatisfied with the decision, appeal to the National Convention of the National Association of Letter Carriers, in accordance with the procedure set out in Article 11, Section 4 of the National Constitution.

This letter should not be read to express any view as to the merits or timeliness of an appeal which you may bring.

**PATRICIA MILBY, DURHAM, NC, BRANCH 459**

**October 21, 2014 (5201)**

This is in reply to your letter, dated October 8, 2014, requesting an interpretation of the Constitution and the NALC Regulations Governing Branch Election Procedures (RGBEP) with respect to the issue whether certain nominations in the current Branch 459 election were properly accepted by the candidates.

While I understand your concerns, I must advise that it would be entirely inappropriate for me to rule on the specific nominations referenced in your letter based on the limited information provided. I can offer the following general guidance as to applicable provisions of the NALC Constitution, election regulations, and the law.

Article 4, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides:

Branches at their option may require all candidates for office or delegate to be present at the meeting when nominated, or signify in writing their willingness to serve if elected.

The Branch option referred to has been interpreted as the option of requiring nominees to formally accept nomination. I cannot determine whether Branch 459 has ever opted to require candidates to accept nomination in any particular manner. That is an issue which must be resolved by the Branch itself.

If the Branch has enacted a formal acceptance requirement for nominees, then Section 6.31(d) of the RGBEP would apply. It provides: "If a nominee is not present at the [nominating] meeting, written acceptance is permissible." This regulation also ensures that the nomination procedure is consistent with the requirements of federal law. The Department of Labor's (DOL) regulations covering union elections state the following:

A requirement that members must be present at the nomination meeting in order to be nominated for office might be considered unreasonable in certain circumstances; for example, in the absence of a provision for an alternative method under which a member who is unavoidably absent from the nomination meeting may be nominated, such a restriction might be regarded as inconsistent with the requirement in section 401(e) [of the Labor-Management Reporting and Disclosure Act] that there be a reasonable opportunity to nominate and to be a candidate. 29 C.F.R. Section 452.59.

Accordingly, Branches may not deny absent nominees the opportunity to submit an acceptance in writing.

The acceptance or disallowance of a nomination may be the subject of a post-election appeal under Section 21 of the RGBEP. This letter should not be read to express any view as to the merits of any potential appeals.

**JOHN BRENNEN, ZIONVILLE, NC, BRANCH 1852**

**October 21, 2014 (5223)**

This is in reply to your recent letter, received by my office on October 16, 2014, inquiring whether a member who has recently been elected by

acclamation as President of Branch 1852 is eligible to serve. According to your letter, this member had worked at a higher level in the Postal Service about a year ago.

Your letter does not contain sufficient information for me to rule on this matter. I can provide the following general advice.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from serving in a Branch office for two years following termination of supervisory status. However, as previous rulings have repeatedly held, higher level assignments are not necessarily supervisory for purposes of Article 5, Section 2. Generally speaking, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties. If Sister McKinney's higher level position did not entail such authority, then she would remain eligible to serve as Branch President.

In addition, the disqualification applies only where the member has held, accepted or applied for a supervisory position. A letter carrier who performs a supervisory duty assigned to him by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable.

It is the responsibility of the Branch in the first instance to determine whether a candidate for Branch office has been disqualified under the foregoing principles. The Branch's determination is subject to appeal.

#### **MATTHEW TANNER, GRAND BLANC, MI, BRANCH 122**

**October 23, 2014 (5202)**

This is in reply to your recent letter, received by my office on October 1, 2014, requesting a ruling as to whether Branch 122 may continue to elect its stewards by zones.

The answer to your question is yes, at least so far as the Constitution is concerned. Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that Branches may make provision in their By-laws for shop stewards to be appointed or elected, within the respective stations, as the Branch may...determine[.]. Accordingly, the Branch has discretion to elect its stewards by zones, so long as that procedure is consistent with the Branch By-laws.

Similarly, the Branch has discretion to adopt any reasonable method of determining where CCA members should vote for stewards. In the past, I have recommended that the Branch limit PTF's and TE's to voting in one station, presumably to be determined by the Form 50, so that their voting rights would be the same as that of full-time regular carriers. A similar approach could be developed for CCAs.

#### **LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214**

**October 23, 2014 (5226)**

This is in reply to your letter, dated October 20, 2014, in which you pose numerous questions pertaining to the processing of charges against yourself and other Branch 214 officers under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

In the discussion below, I address the subjects of your questions in the order presented in your letter.

##### **Proceedings before the Investigating Committee**

You ask whether written statements submitted to the committee must be provided to the charging or charged parties. Article 10, Section 3 states that the parties are entitled to be heard by the committee, to present evidence, and to cross-examine all witnesses who make statements to the committee. While the committee does have discretion to accept written statements from the parties, if any party does submit such a statement, then he/she must be made available for cross-examination by the opposing party. A copy of the written statement should be provided to the opposing party prior to cross-examination.

Presidential rulings have also recognized that the committee may interview witnesses in addition to the charging and charged parties, and is not required to observe rules of evidence or judicial procedure. The parties have to right to examine any documents, including witness

statements, submitted as evidence for consideration by the committee.

The committee has discretion to decide whether to provide all documents as a matter of course, or to provide only those documents that are requested by the parties.

##### **Branch Meeting**

Article 10 of the CGSFB does not contain any provisions addressing the question of who should chair the Branch meeting at which charges against incumbent officers are considered. Accordingly, the issue is controlled by Article 3, Section 5 of the CGSFB, which states that [i]n the absence of the President and Vice President, any member in good standing may be elected to preside by a majority of those present, unless the Branch By-laws designate an officer to chair the meeting who has not been charged.

So far as the Constitution is concerned, once the charges against you are resolved, you would be entitled to resume chairing the meeting. However, you would also have discretion to decline to do so in order to avoid any appearance of impropriety.

Article 10, Section 3 of the CGSFB expressly provides that the investigating committee must present a written report of the facts elicited to the Branch. Article 10, Section 3 does not contain any language providing for questions and answers, discussion, or debate on the charges. Previous rulings have consistently held that such discussion, or debate is not constitutionally required. The Branch may decide to allow questions and answers, open discussion, or debate, based on such considerations as the By-laws, past practice, and the wishes of the membership.

When the investigating committee completes the presentation of the report, the next order of business will be the vote on the charges. As stated in Article 10, Section 3, the question to be voted on is whether or not the facts, as found by the committee, sustain the charge. Bear in mind that Article 10, Section 3 also provides that [t]he charged party is entitled to defend himself/herself before the Branch immediately before the vote is taken.

Previous presidential rulings have held that when there are multiple charges against multiple parties there should be a separate vote on each charge. However, there are no constitutional provisions addressing whether the committee must present separate reports for each charged party or may present a single comprehensive report. Accordingly, either method is permissible, so long as the facts found by the committee are fully reported and the right of each charged party to present his/her defense is not compromised.

##### **Penalties**

Article 10, Section 3 of the CGSFB specifically states that "If the Branch decides that the facts sustain the charge, then the Branch shall entertain a motion to fix the penalty, if any be required." Previous rulings interpreting this provision have held that balloting on questions of penalty is to be conducted at the same Branch meeting at which the members vote on the issue of whether or not the facts sustain the charge. Normally, such a vote would be conducted immediately after the vote on the charge.

Note that Article 10, Section 3 states that the Branch shall entertain a motion to fix the penalty. This means that the chair of the meeting may entertain motions from the floor to fix specific penalties. If the motion is to expel a member or remove an officer, the vote on the motion must be by ballot. However, this does not necessarily require that ballots be prepared in advance. The members in attendance may be given blank pieces of paper on which to write yea or nay or for or against as the method of voting on a particular motion to expel a member or remove an officer.

Previous rulings have held that the requirement in Article 10, Section 4 of a two thirds vote for questions of expulsion or removal from office, and for the imposition of a fine, does not refer to two thirds of the entire membership in attendance at the meeting. Rather the requirement is that those specified punishments must be supported by two thirds of the votes cast.

Even if the members decide by their vote that the facts sustain the charge, it would not be necessary to conduct continuous votes until a penalty is imposed. If no motion is made from the floor, the chair would

not be required to call for a vote on the penalties set forth in Article 10, Section 4. Previous rulings have recognized that Branches are not required to impose a penalty, even if the charges are sustained.

If a penalty is approved by the members, it would go into effect immediately. The imposition of a penalty is not delayed pending exhaustion of the charged party's appeal rights.

Finally, your question about making sure that only members in good standing are voting is unclear. If you are referring to members who may be delinquent in their dues payments, I can advise that the question whether such members may vote on the charges turns on whether these members have forfeited their membership under Article 7, Sections 3(b) and 4 CGSFB. Prior to the time of forfeiture, a member retains full membership rights. Accordingly, members who are in arrears but have not yet forfeited membership under Article 7 would still have the right to vote on the charges. However, if the point of forfeiture has been reached, the members would lose all rights of Branch, State Association and National membership and thus would not be eligible to vote on the charges.

**PETER NETTLETON, MASON CITY, IA, BRANCH 471**

**October 27, 2014 (5229)**

This is in reply to your letter, dated October 16, 2014, requesting special dispensation to allow Branch 471 to submit its application to merge with Branch 967 based on a vote that took place at a special meeting outside the ninety day time period specified in Article 2, Section 3(a) of the NALC Constitution. According to your letter, the vote had been scheduled for the September meeting of the Branch, but there was not a quorum present for that meeting. The vote was subsequently conducted at a special meeting at which all members present voted to approve the merger.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the Constitution, I hereby grant the requested dispensation. By copy of this letter, I am so notifying Secretary-Treasurer Jane Broendel and the NALC Membership Department that they may process the application for merger.

**GREG FELTS, ANDERSON, IN, BRANCH 489**

**October 27, 2014 (5230)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated October 21, 2014, has been referred to me for reply, insofar as your email raises questions of interpretation involving the NALC Constitution. According to your email, a member of Branch 489 who had been nominated for an elected steward position was also nominated for the office of Vice President. You ask whether this double nomination is permissible under the Constitution and the NALC Regulations Governing Branch Election Procedures (RGBEP).

Generally speaking, members cannot hold more than one Branch office. Section 6.5 of the RGBEP specifically states that "No person shall accept nomination for more than one office." However, a shop steward position is not necessarily a Branch office.

Previous presidential rulings have recognized that if a steward position is not treated as a Branch office under the By-Laws (e.g., if stewards are elected by station, rather than by the entire membership, and do not sit on the Branch Executive Board), then a member would have the right to be nominated for both a Branch office and a steward position. Neither the Constitution nor the RGBEP prohibit simultaneous service as both Branch officer and steward in these circumstances.

Your email indicates that the Branch 489 By-laws provide that stewards are elected by station. Therefore, so long as the Branch By-laws themselves do not prohibit dual service as an office and steward, it would appear that the double nomination described in your email is acceptable.

**JORGE RAMIREZ, ODESSA, TX, BRANCH 4964**

**October 28, 2014 (5228)**

This is in reply to your recent letter, received by my office on October 20, 2014, requesting dispensation permitting Branch 3964 to postpone its election from the October to the November meeting. According to your letter, the members at one of the installations within the Branch were all required to work late and were unable to attend the October meeting.

In light of the facts set forth in your letter, and in accordance with my

authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please notify the membership of this change as expeditiously as possible.

**BOB HENNING, JACKSONVILLE, FL, BRANCH 53**

**October 28, 2014 (5232)**

This is in reply to your letter, dated October 20, 2014, requesting a ruling as to how Branch 53 may determine which of its delegates will receive funding for attending national and state conventions. According to your letter, the Branch By-laws authorize funding for fewer delegates than the total number who may be nominated and elected.

While I appreciate how divisive this question may be, I must advise that there are no provisions of the NALC Constitution which address this matter. As numerous presidential rulings have recognized, all delegates are entitled to attend the Convention at their own expense. Branches may provide funding to all or some of its delegates and have broad discretion to determine which of its delegates will receive funding.

In light of the foregoing, the Branch may utilize any reasonable method to resolve the issue described in your letter which is consistent with the Branch By-laws. If the By-laws are silent, as appears to be the case for Branch 53, then it will be up to the Branch to decide. Your suggestion that the question be resolved by a direct vote by the members at a meeting is an acceptable method which has been approved in previous rulings. However, rulings have also approved deciding which delegates will receive funding by ballot.

Presidential rulings have consistently recommended that Branches amend their By-laws to provide a procedure for resolving which delegates will receive funding.

**MARYANN HAIRE, BURNSVILLE, NC, BRANCH 248**

**November 3, 2014 (5196)**

Your letter to Secretary-Treasurer Jane Broendel, dated September 17, 2014, has been referred to me for reply. Your letter requests guidance as to whether there has been a misappropriation of funds which you are obliged to report to the Department of Labor in your capacity as the Financial Secretary/Treasurer of Branch 248. In particular, it appears that you are questioning the payment of salary to a member who served as a Branch officer at a time when, according to you, he was in arrears and should have forfeited his membership.

As I advised you in a previous letter, dated November 7, 2013, the National Union cannot resolve the question whether any individual member has forfeited membership, particularly since we only have your side of the story before us. There are reasons why a member in non-pay status may not have forfeited membership. For example, your letter does not indicate whether Branch 248 has adopted a procedure for collecting dues from members in non-pay status, or whether it has established a due date for payment of dues by members in non-pay status.

An additional exception to the forfeiture rule is provided by Article 7, Section 3(b) of the CGSFB. It states that a Branch may exempt any member from dues payments under reasonable rules uniformly applied for a stated period of time. Thus, for example, a Branch could adopt a policy providing that members will be exempt from dues payments while on workers compensation or leave without pay. Previous rulings have recognized that Branch action under Article 7, Section 3(b) may result in a waiver of back dues.

In any event, it appears that the Branch allowed Brother Grainger to serve as a Branch officer, notwithstanding any dues delinquency. Under such circumstances, the payment of his salary for services actually rendered would not seem to be a misappropriation of Branch funds.

Nonetheless, I do appreciate your concerns. If you have any remaining question as to your reporting obligations, I would suggest that you contact the Department of Labor's Office of Labor-Management Standards for further guidance.

**DAVID BREWER, SHELBY, NC, BRANCH 2307**

**November 3, 2014 (5238)**

This is in reply to your recent letter, received by my office on October 29, 2014, requesting dispensation permitting Branch 2307 to postpone its nominations and election of officers from October and November to

November and December. According to your letter, the Branch missed the dates provided by its By-laws.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please ensure that the membership receives timely notification of this change.

**LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214  
November 3, 2014 (5237)**

This is in reply to your letter, dated October 31, 2014, raising two additional questions concerning the procedure for addressing charges against various officers of Branch 214.

With respect to your first question, it would be appropriate for the Branch to adopt a rule that the members must remain quiet and cannot question or engage the charged party in discussion during the presentation of his/her defense. Such a practice would be consistent with the requirement set forth in Article 10, Section 3 of the Constitution for the Government of Subordinate and Federal Branches that the charged party be given the opportunity to defend himself/herself immediately before the vote is taken. However, rules of practice cannot be imposed on the Branch by the investigating committee. It is the responsibility of the chair of the meeting to rule on procedure, subject to challenge by the members in attendance.

As to your second question, a motion to dismiss the charges would not be in order, whether or not the charged officers resign. Such a vote would clearly conflict with the procedure provided by Article 10, Section 3. The members who brought the charges do have the prerogative of withdrawing the charges, but such withdrawal cannot be mandated by a Branch vote prior to the presentation of the committee's report.

**MICHAEL ZAGAROS, MINNEAPOLIS, MN, BRANCH 9  
November 4, 2014 (5239)**

This is in reply to your recent letter, dated October 29, 2014, requesting dispensation permitting Branch 9 to conduct its nominations and election of delegates to the Minnesota State Convention at the general membership meetings in November and December. According to your letter, the Branch did not hold nominations in September, as required by its By-laws, due to a mistaken belief that the State Association would only be conducting a training convention.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please ensure that the membership receives timely notification of this change by mail as outlined in your letter.

**SHARELLA SPIKES, MIAMI, FL, BRANCH 1071  
November 4, 2014 (5245)**

This is in reply to your letter, dated October 23, 2014, concerning the 2014 NALC national election of officers.

I have reviewed your letter. I am declining to order a new election as requested.

Please note that Article 6, Section 14 of the NALC Constitution provides, in pertinent part, that All appeals in connection with the validity of the ballots or the election must be filed by a member in good standing with the National Election Committee not later than the 20th day of the month in which announcement of the results is published in The Postal Record.

Because any of the candidates, including you, may file a post-election appeal with the Committee, it would be inappropriate for me to comment on any of your specific allegations at this time.

**CHRISTOPHER WATTS, AUSTIN TEXAS, BRANCH 181  
November 6, 2014 (5249)**

This is in reply to your letter, faxed to NALC headquarters on November 3, 2014, requesting a ruling as to the eligibility of newly hired letter carriers, who have executed Form 1187, to vote in the upcoming Branch 181 election of officers.

As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the

Form 1187. This is the date on which the Form is signed by the new member. There is no requirement that eligibility to vote in a Branch election be deferred until the Form is processed by the NALC Membership Department or until dues deductions begin.

However, the Branch is not required to provide ballots to new members who sign the Form 1187 after the date ballots are mailed. Mail ballot elections are governed by Section 14 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Section 14.2 of the RGBEP specifically provides that the Election Committee must mail ballots to all eligible members at least twenty days before the pre-announced election date. Individuals who were not eligible members on the date that the ballots were mailed do not have a right to participate in a mail ballot election.

Your letter also raises potential issues relating to the conduct of the election which could be the subject of a post-election appeal. Accordingly, it would not be appropriate for me to comment on these matters.

**COREY HANSON, EASTON, PA, BRANCH 389  
November 7, 2014 (5252)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated November 2, 2014, has been referred to me for reply, insofar as your letter requests an interpretation of the NALC Constitution. Specifically, your email requests clarification of the rules governing eligibility of members to be nominated for Branch office.

The following is a general summary of the relevant constitutional principles.

Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that All regular members shall be eligible to hold any office or position in the Branch, except for those members who hold, accept, or apply for supervisory positions in the Postal Service. Similarly, Section 4.1 of the NALC Rules Governing Branch Election Procedures provides that All regular members...are eligible to hold any office or position in the branch, except for those who fall within the supervisory disqualification (Section 4.11) or have been convicted of certain crimes (Section 4.12).

Article 2, Section 2 of the CGSFB defines good standing as paying all fines, assessments, and dues. However, as previous rulings have recognized, a member would not lose eligibility for nomination to Branch office based on the failure to have made any such payments, unless the individual's membership status has been forfeited in accordance with the provisions of Article 7, Section 4 of the CGSFB, or suspended following a vote on charges filed under Article 10 of the CGSFB.

Article 7, Section 4 of the CGSFB states that [a]ny member failing to pay...monthly dues within thirty (30) days after the same shall become due must forfeit his/her membership. Thus, there is no forfeiture of membership until at least thirty days after the due date for the member's dues. With respect to members in non-pay status, branches have considerable discretion to adopt procedures for collecting dues and to establish a due date for payment of dues.

Article 7, Section 4 also permits Branches to extend the 30 day grace period for not more than an additional 60 days "for good and sufficient reasons, under reasonable rules uniformly applied." Your email does not indicate whether Branch 389 has ever acted to extend the 30 day grace period. In any event, at the end of the grace period, if the member is still delinquent, he/she must forfeit his or her membership.

An additional exception to the forfeiture rule is provided by Article 7, Section 3(b) of the CGSFB. It states that a Branch may exempt any member from dues payments under reasonable rules uniformly applied for a stated period of time. Thus, for example, a Branch could adopt a policy providing that members will be exempt from dues payments while on workers compensation or leave without pay. Your email does not indicate whether Branch 389 has ever adopted such a policy. Again, this is a matter which the Branch must determine.

Prior to the time of forfeiture, the member retains full membership rights, including the right to be a candidate for office. But when the point of forfeiture is reached, the member loses all rights of Branch, State Association and National membership. This would include the right to run for or hold office.

However, a member who has forfeited membership would be entitled to reinstatement under Article 7, Section 5 of the CGSFB upon payment of back...dues, as well as such reinstatement fee as the Branch may prescribe by reasonable rules, uniformly applied. A member who has been reinstated under Article 7, Section 5 would have full membership rights restored, including the right to run for office.

As indicated above, it is the responsibility of the Branch to apply the above guidelines to individual situations based on the particular fact circumstances. The Branch's decision is subject to appeal. In particular, the issue whether a particular individual was eligible for nomination could be raised in the context of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

Finally, in light of the constitutional provisions summarized above, it has long been recognized that a Branch cannot condition eligibility for nomination to a Branch office or for a delegate position on a member's attendance at a minimum number of meetings. Since your email indicates that the Branch 389 By-laws may contain such an eligibility requirement for convention delegates, I recommend that you submit the Branch By-laws to Sister Rhine for review.

**DENISE SERNA, BRANCH 2293, BEVERLY HILLS, CA**

**November 12, 2014 (5253)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated November 4, 2014, has been referred to me for reply. Your email asks four specific questions concerning the upcoming election of officers in Branch 2293.

With respect to your first and second questions, please be advised that neither the NALC Constitution, nor the NALC Regulations Governing Branch Election Procedures, contain any provisions prohibiting the distribution of campaign material on the work room floor. It would be inappropriate for me to comment further on any matter which may be raised as an issue in a post-election appeal.

With respect to your third question, CCA's who join the NALC have the same right to vote in Branch elections as any other regular member. As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the Form 1187. This is the date on which the Form is signed by the new member. There is no requirement that eligibility to vote in a Branch election be deferred until the Form is processed by the NALC Membership Department or until dues deductions begin.

Finally, retirees who have maintained their membership status likewise may vote. The fact that a retiree may have only recently submitted the Form 1189 is of no significance.

**TODD HORNYAK, COLUMBUS, OH, BRANCH 78**

**November 13, 2014 (5255)**

This is in reply to your recent letter, received by my office on November 3, 2014, requesting that I resolve an apparent dispute over the application of a provision of the Branch 78 By-laws. According to your letter, Article IV, Section 5 of the By-laws provides that there shall be a steward election in any unit in which a majority of the members requests one. You now ask whether you are required to provide to an incumbent steward the names of the members who have requested a new election.

While I appreciate the Branch's very legitimate concerns, I must advise that the NALC Constitution does not directly address this matter. Accordingly, it would be wholly inappropriate for the National Union to resolve the issue.

The question described in your letter turns on the meaning and intent of the applicable Branch By-laws. As previous rulings have consistently emphasized, disputes over the interpretation or application of Branch By-laws must be resolved, in the first instance, at the Branch level. Relevant factors include the language of the By-law, any pertinent past practices, and any evidence of the intent of the Branch when it originally enacted the By-law provision at issue.

If necessary, the matter may be resolved by vote of the members at a Branch meeting. The Branch's decision may be appealed to the National Committee on Appeals, as provided by Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

**J.T. ADAMS, JACKSONVILLE, FL BRANCH 53**

**November 17, 2014 (5256)**

This is in reply to your letter, dated October 20, 2014, requesting a ruling as to whether Branch 53 may amend or delete certain provisions of its By-laws that were originally incorporated in merger agreements.

Please be advised that, as a general rule, once a Branch has complied with a merger agreement, it is thereafter free to amend its by-laws in accordance with the procedures provided by Article 15 of the NALC Constitution. Previous rulings have recognized that there may be limited exceptions to this rule. For example, if a merger agreement called for the establishment of a specific elective office, the Branch could not eliminate this office by means of a by-law change until the expiration of the current term of that office.

However, nothing in your letter suggests that the Branch 53 By-law provisions under consideration would fall within an exception to the general rule that by-law provisions originating in merger agreements can be amended after the merger is effectuated.

I appreciate your suggestion that the summaries of presidential rulings that are distributed at national conventions be made permanently available on line. I will discuss the feasibility of this suggestion with our staff.

**LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214**

**November 18, 2014 (5258)**

This is in reply to your two recent letters, dated November 8 and 12, 2014, requesting further guidance with respect to the charges that have been filed against officers of Branch 214. In the discussion below, I address each of your questions in the order presented.

Response to 11/8 letter

1. Unless the Branch otherwise provided, a suspension must begin immediately following the vote at the Branch meeting. The timing of the processing of the suspended member's PS Form 50 does not affect the beginning of the suspension from NALC membership.

2. There is no requirement that the suspended members receive written notice of the suspension if they were in attendance at the Branch meeting at which the suspension was imposed or are otherwise aware of the Branch's decision.

3. As indicated in my answer to question 1, a suspension begins immediately after the Branch vote, unless the Branch itself voted to delay the implementation of the suspension. The Branch President does not have the authority to determine the timing of the suspension.

4 and 5. Normally a suspension from membership would not affect an officer's entitlement to leave benefits which have already accrued, unless the Branch By-laws otherwise provide. Accordingly, whatever authority you have to approve leave under the Branch By-laws would not be affected by the suspension. However, the suspended officers cannot continue working for the Branch until December, as suggested in your letter, unless the terms of the suspension so provided.

6. There are no constitutional provisions which specifically address Sister Eshabarr's concerns. Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) does confer upon the Branch President "general supervisory powers over the Branch" which includes the authority to "see that officers perform their duties." Accordingly, you have broad discretion to take whatever steps you feel are necessary to ensure that the Executive Vice President performs the duties of her office and to maintain a safe work place.

7. The only procedure which may result in a reduction of the period of suspension is an appeal to the National Committee on Appeals under Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

8. There does not exist any standard language or template for reprimands. Rather Article 10, Section 4 of the CGSFB provides that: If reprimand be determined upon, the President or the Vice President, if the President be the person against whom the charges were made, shall reprimand the accused in open meeting. Thus, it is normally the responsibility of the President (or Vice President) to execute the reprimand. The rulings have also recognized that a Branch may entertain, and vote upon, a motion to specify the wording of the reprimand to be



issued by the President, if that is the wish of the members in attendance at the meeting at which the charges are considered. Absent such a vote, the Branch President would have discretion to determine appropriate language for a reprimand.

9. There is no basis for any intervention by the National Union at this time. I appreciate that you will soon be trying to run the Branch with only two of the five full-time officers working. I can only reiterate that as Branch President you have the authority to take whatever steps may be necessary to ensure that the Branch continues to function. This would include, for example, the authority to appoint other members to fill these officer positions on a temporary basis until the elected officers return.

Reply to 11/12 letter

With respect to the charges filed by Brother Caluag against Sisters Eshabarr and Gardner, previous rulings have held that during the term of a suspension the Branch is not required to act on charges previously filed by the suspended member. Accordingly, there is no present requirement that you appoint a committee to investigate these charges. Nor is the Branch required to take any further action.

However, if Brother Caluag appeals to the National Committee on Appeals, and the Committee reverses the suspension, he will have the right to resubmit the charges to the Branch.

Alternatively, he may resubmit his charges upon the completion of his suspension.

#### **ELECTION COMMITTEE, MT. CLEMENS, MI, BRANCH 654 November 19, 2014 (5265)**

This is in reply to your email, dated November 13, 2014, requesting clarification of the rules governing the eligibility of newly hired employees and transferees to vote in the upcoming Branch 654 election.

With respect to new hires, as well as employees who recently join the Union, eligibility to vote turns on the date that the individual executes the Form 1187. As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the Form 1187. This is the date on which the Form is signed by the new member. There is no requirement that eligibility to vote in a Branch election be deferred until the Form is processed by the NALC Membership Department or the member's name appears on the voter eligibility list prepared by the Membership Department.

Previous rulings have established that a transferring NALC member should be considered a member of the receiving Branch effective as of the date he/she reports to work in a postal facility within the jurisdiction of the receiving branch. At that point, the transferring member would be eligible to vote in the new branch. Whether or not the receiving Branch has begun to receive dues for the transferee is not relevant. Likewise, it would not be relevant that the transferee's name did not appear on the voter eligibility list.

#### **MARGARET DURSO, MIAMI, FL, BRANCH 1077 November 20, 2014 (5266)**

This is in reply to your letter, dated November 5, 2014, requesting clarification of the rights of retiree members under the NALC Constitution. Specifically, you ask whether retiree members may be Branch officers or candidates for Branch office, may vote in Branch elections, or may serve on Branch committees.

The answer to each of your questions is yes. Article 2, Section 1(a) of the NALC Constitution explicitly defines "regular members" of the NALC to include retirees from [the Postal] Service who were regular members of the NALC when they retired. Article 2, Section 1(e) provides that retiring members may retain their membership by completing Form 1189. The sole limitation on the rights of retirees set forth in Article 2, Section 1(a) is that they may have no voice or vote in the Branch in any matter pertaining to the ratification of a national working agreement, local memorandum of understanding, or proposed work stoppage. Part from this limitation, retiree members are entitled to the same rights as the other regular members.

Presidential rulings dating back decades have consistently recognized that the reference in Article 2, Section 1(c) to members who have left

the Postal Service does not include members who have retired from the Postal Service. Accordingly, Branch officers who retire may continue to hold Branch office so long as they maintain membership in the NALC. Similarly, all regular members who maintain their membership in the NALC when they retire may continue to vote in Branch elections and serve on Branch committees.

I trust that the foregoing addresses your concerns. Please feel free to distribute copies of this letter with any interested members or candidates.

#### **DEAN KUKLA, BAY CITY, MI, BRANCH 187 November 20, 2014 (5254)**

This is in reply to your letter, dated October 27, 2014, inquiring whether former CCA Kevin Atwood may maintain his membership in the NALC, as well as his position as a trustee of Branch 187.

At the outset, I am so sorry to learn of Brother Atwood's tragic health situation. Please convey my best wishes to him and his family.

Unfortunately, I must advise that since Brother Atwood has left Postal Service employment it is not possible for him to maintain his regular membership status in the Union. Article 2, Section 1(c) of the NALC Constitution explicitly states that present members who have left the Postal Service may retain their membership only for purposes of the NALC health and life insurance programs. Accordingly, Brother Atwood is no longer eligible to serve as a Branch officer and cannot exercise membership rights within the Branch.

However, the Branch may vote to convey honorary membership status on Brother Atwood and invite him to attend all meetings and Branch functions, even though he cannot hold office or vote on Branch issues. In addition, by copy of this letter to the NALC Membership and Communications Departments, I am instructing them to ensure that Brother Atwood continues to receive The Postal Record.

#### **DAN MASSARI, PHILADELPHIA, PA, BRANCH 157 November 24, 2014 (5250)**

Your email to Assistant Secretary-Treasurer Jane Broendel, dated November 5, 2014, has been referred to me for reply. Your email describes an apparent dispute between you and other officers of Branch 157 concerning the procedure for authorizing the expenditure of Branch funds and requests clarification of the required procedures.

At the outset, it would be inappropriate for me to address the specific matters referenced in your email, particularly since I only have your side of the story before me. However, I can provide the following general guidance.

Article 12, Section 3 of the of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) expressly states that all Branch funds shall be devoted to such uses as the Branch may determine; provided that no appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting. Previous rulings have recognized that Article 12, Section 3 gives the Branch considerable latitude to make decisions about how to appropriate Branch funds. A Branch may authorize payments in advance through its By-laws or by enacting a budget or a specific resolution authorizing the Executive Board, or a specified officer, to make the expenditure in question.

The rulings have noted that membership authorization of officers to expend Branch funds in the future should be limited to expenses which can be anticipated in advance. Truly discretionary expenditures of a non-routine character should be approved by vote of the membership in accordance with Article 12, Section 3.

A Branch President's unilateral authorization of an expenditure is subject to direct appeal to the members at the next Branch meeting under Article 11, Section 1 of the CGSFB. However, even if the members ultimately determine that the expenditure had not been previously authorized when made, the members may nonetheless vote to approve the expenditure retroactively.

Finally, you ask whether there must be a Treasurer's report and a Financial Secretary's report at each membership meeting. Article 15 of the CGSFB does provide that at each regular meeting of the Branch there shall be a Financial Secretary's Report of Receipts and a Treasurer's Report of Expenditures. Previous rulings have recognized that Article

15 merely establishes an order of business which may be changed by the Branch. Accordingly, there may be occasions when it would be appropriate for a Branch to waive the reading of these reports, but this should not be a consistent practice. Normally, the members should be informed of the Branch's finances and expenditures. Accordingly, if the Branch does waive the reading of the report at a particular meeting, interested members should be given the opportunity to review the unread reports upon request.

**RUSSELL JOHNSON, EMMETSBURG, IA, BRANCH 645**  
**November 24, 2015 (5268)**

This is in reply to your letter, faxed to my office on November 14, 2014, concerning the upcoming election in Branch 645. According to your letter, Branch 645 voted at its October meeting to merge with Branch 5222. You now ask whether the members of Branch 5222 will be eligible to vote in the Branch 645 election in December.

Please be advised that a favorable merger vote is not sufficient, by itself, to allow members of the other merging Branch to vote in the upcoming election. Rather, the vote in favor of a merger resolution merely serves to authorize the Branch to submit an application for merger to the National President. Article 2, Section 3(f) of the NALC Constitution sets forth the following requirements for merger applications:

an application to the President of the NALC [must be] signed by the President and Secretary of each Branch proposing to merge [and must contain] the following: a copy of the resolution adopted by each Branch; a certification by each Branch Secretary of the vote of his/her Branch, including the date and place of its meeting, the number of its eligible voters, and the number of affirmative votes cast; and a statement of the reasons for desiring the merger.

A merger does not become final until the application has been approved by the National President and appropriate notification is sent to the merging Branches by the National Union. All these steps must be completed before the members of Branch 5222 will be eligible to vote in a Branch 645 election.

**SCOTT HANEY, PEORIA, IL, BRANCH 31**  
**November 25, 2014 (5267)**

This is in reply to your letter, dated November 13, 2014, requesting that I issue a ruling to resolve an apparent dispute in Branch 31 over the application of a provision of its By-laws. In particular, you ask whether a by-law providing for reimbursement of lost pay and a \$45 per diem allowance for members who travel on official Branch business applies when members attend the National Rap Session.

While I appreciate your very legitimate concern, I must advise that it would be entirely inappropriate for me to resolve this question. As National President, it is my responsibility to interpret the NALC Constitution. However, the issue described in your letter depends on the interpretation and application of the relevant By-law language. Such disputes must be resolved, in the first instance, at the Branch level. Relevant factors include the language of the By-law, any pertinent past practices, and any evidence of the intent of the Branch when it originally enacted the By-law provision at issue. If necessary, the matter may be resolved by vote of the members at a Branch meeting. The Branch's decision may be appealed to the National Committee on Appeals, as provided by Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

If the By-laws are ambiguous, I would suggest that the Branch enact a clarifying amendment which reflects the will of the members. There is ample time to enact such an amendment before the next National Rap Session. Accordingly, I see no reason at this time to consider granting the Branch dispensation to take any action contrary to its current By-laws, as suggested in your letter.

**SUE WILBOIS, DES MOINES, IA, BRANCH 352**  
**November 25, 2014 (5269)**

This is in reply to your letter, dated November 7, 2014, concerning the election of officers in Branch 352. In particular, you ask what actions you may take as Chairperson of the Election Committee to remedy alleged campaign violations.

At the outset, it would be entirely inappropriate for me to comment on

the specific allegations in your letter, particularly since I only have your side of the story before me. I can provide the following general guidance.

The pre-election duties of the Election Committee are set forth in Section 10 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Such duties include preparation of the ballots and voting registers, as well as mailing out absentee ballots. However, Section 10 does not require that the Committee take any action to remedy campaign violations prior to the election. It certainly would not be appropriate for the Committee to disqualify candidates, as suggested in your letter.

To the contrary, Section 21 of the RGBEP provides that all objections to the conduct of an election are to be made in the form of a post-election appeal. If such an appeal is submitted, it will then be the obligation of the committee to resolve the merits of the appeal. If the appeal is sustained, a new election may be required. But even in that case, a candidate who committed a violation in the first election would not normally be disqualified from a re-run election.

I trust that the foregoing addresses your concerns. Please understand that this letter should not be read to suggest that violations have occurred that may affect the outcome of the election, or to express any view of the merits of any appeal that may be brought.

**THOMAS JUHAS, SLIDELL, LA, BRANCH 4342**  
**November 25, 2014 (5270)**

Your letter to Assistant Secretary-Treasurer Nicole Rhine, dated November 7, 2014, has been referred to me for reply, insofar as your letter requests an interpretation of the NALC Constitution. Specifically, you ask whether a member currently serving as a 204b supervisor may be appointed by the Branch 4342 President to fill a vacant officer position. Your letter suggests that the relevant constitutional provision, Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches, prohibits members who occupy supervisory positions from running for Branch office, but does not specifically address appointments to Branch office.

While I appreciate your suggested interpretation, I must advise that the constitutional prohibition is not so limited. Article 5, Section 2 specifically provides that "All regular members shall be eligible to hold any office or position in the Branch, except that a member who voluntarily or otherwise, holds, accepts, or applies for a supervisory position in the Postal Career Service for any period of time...shall immediately vacate any office held, and shall be ineligible to run for any office or other position for a period of two (2) years after termination of such supervisory status." (Emphasis supplied.) Clearly the requirement that a member who holds a supervisory position must vacate any Branch office held prohibits the member from serving in as a Branch officer, irrespective of whether the member is elected or appointed. There are no exemptions from this rule.

**RAY PUGH, CANAL WINCHESTER, OH, BRANCH 78**  
**November 25, 2014 (5272)**

This is in reply to your letter to the NALC Executive Council, received by my office on November 14, 2014, requesting that the NALC conduct an investigation of Branch 78's handling of the recent election for steward in Livingston Station. It appears that a tie vote was declared and that there will be a run-off election.

While I appreciate your concerns, I must advise that there is no basis for any intervention by the National Union at this time. The issues described in your letter are suitable for resolution in a post-election appeal, which you have apparently initiated. If your appeal is sustained, the result of a second election may be overturned.

I trust that the foregoing addresses your concerns. Please understand, however, that nothing in this letter should be read to express any view as to any of the issues you may raise in your appeal.

**WILLIAM BURRI, LOS ANGELES, CA, BRANCH 2293**  
**December 2, 2014 (5283)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated November 26, 2014, has been referred to me for reply, insofar as your questions raise issues of interpretation arising under the NALC Regulations Governing Branch Election Procedures (RGBEP).

Your first question is whether an appeal may be dismissed as untimely if it is not received by the Election Committee within five days of the date of the election. Please be advised that Section 21.1 of the current RGBEP specifically states that post-election appeals must be mailed to the Chairperson of the Branch Election Committee within five (5) days after the date of the election. (Emphasis supplied.) Thus, the timeliness of an appeal is determined by the date of mailing, not the date of receipt by the Election Committee.

As to your second question, election appeals may be submitted on behalf of multiple parties. It is not necessary that each individual appellant submit a separate appeal.

With regard to your third question, the fact that an appeal was not submitted by certified mail, would not, by itself, render the appeal procedurally defective under Section 21.1, where, as here, the Election Committee acknowledges receipt of the appeal. When certified mail is not used, the postmark may be used to resolve any dispute over the timeliness of the appeal.

I trust that the foregoing addresses your concerns. However, please understand that the interpretations stated above should not be read as expressing a view as to the timeliness or merits of any particular appeal.

#### **MARGARET DURSO, MIAMI, FL, BRANCH 1071**

**December 2, 2014 (5284)**

This is in reply to your letter, dated November 17, 2014, requesting a ruling as to whether the Branch 1071 Election Committee is required to provide a copy of the Branch election ballot mailing list to candidates or other members upon the request of the candidate or member.

The answer to your question is no. During the campaign, the Branch is required to honor all reasonable requests to distribute campaign literature at the candidate's expense, but this obligation does not require that the Branch provide candidates with a copy of a membership mailing list. See Section 9.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP). The only exception is where the Branch has provided a copy of the list to one or more candidates. In that circumstance, the list would have to be made available to all candidates. See Comment following RGBEP Section 9.1.

During the balloting process, candidates or observers are entitled to be present when the Election Committee checks the ballots against its list of eligible voters. However, the Committee is not required to distribute copies of the list at that time.

Finally, federal law does provide that thirty days prior to the election, candidates may inspect a local union's list of members who are subject to a collective bargaining agreement requiring union membership as a condition of employment. Since the Postal Service is, by law, an open shop, NALC members are not covered by any such collective bargaining agreement. This inspection requirement is, therefore, entirely inapplicable to NALC elections.

#### **LAWRENCE KANIA, BUFFALO, NY, BRANCH 3**

**December 8, 2014 (5289)**

This is in reply to your letter, dated November 26, 2014, requesting dispensation permitting Branch 3 to postpone its nominations of delegates to the New York State Association Convention to its December, 2014 meeting. According to your letter, nominations had been scheduled for the November meeting, but that meeting was cancelled due to the recent snowstorm in Western New York.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Branch 3 may conduct both the nomination of state delegates and an election, if needed, at the December meeting. Please ensure that timely notice is published in the Branch newsletter, as indicated in your letter.

#### **MARK SEITZ, BRUNSWICK, ME, BRANCH 92**

**December 8, 2014 (5304)**

This is in reply to your letter inquiring whether members of Branch 92 who owe back dues are eligible to vote in the current election of officers. In response to your inquiry I can provide the following general guidance.

The question whether members who are in arrears in their dues

payments may vote turns on whether these members have forfeited their membership under Article 7, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Under Article 7, Section 4, [a]ny member failing to pay...monthly dues within thirty (30) days after the same shall become due must forfeit his/her membership. This requirement applies to members who are not subject to dues check-off (e.g. members on compensation or LWOP). Such members are responsible for continuing to pay dues directly to the Branch.

As previous rulings have recognized, the language of Article 7, Section 4 was drafted before the dues check-off procedure came into existence. At that time, Branches were responsible for collecting dues from individual members and forwarding the national per capita tax to the National Union. During this period, Branches had discretion to develop their own procedures to collect dues, including discretion to establish reasonable due dates for such dues. Your letter does not indicate whether Branch 92 has adopted a procedure for collecting dues from members in non-pay status, or whether it has established a due date for payment of dues by members in non-pay status.

In any event, the 30 day period following the due date for payment of dues may be extended to a grace period of not more than an additional 60 days by the Branch under reasonable rules, uniformly applied. In addition, a Branch is permitted by Article 7, Section 3(b) of the CGSFB to exempt the dues of any member under reasonable rules uniformly applied for a stated period of time. Thus, for example, the Branch can exempt members from dues payments while the member is on compensation or LWOP.

I note that your letter does not indicate whether Branch 92 has extended the 30 day grace period or has adopted dues exemptions which may be applicable to some of its members. It is the Branch's responsibility to determine whether it has done so. If a dues exemption does apply to a particular member, then that member's failure to pay dues would not result in a forfeiture of membership, so that he/she would remain eligible to vote.

Prior to the time of forfeiture, a member retains full membership rights. Accordingly, members who are in arrears but have not yet forfeited membership under the time frame described above would still have the right to vote in a Branch election. In addition, previous rulings have noted that forfeiture of membership in some situations could be avoided if the Branch entered into an agreement with the delinquent member deferring the payment of dues to a future date.

If the point of forfeiture has been reached, the members would lose all rights of Branch, State Association and National membership. The members, however, would be entitled to reinstatement under Article 7, Section 5 of the CGSFB upon payment of back...dues, as well as such reinstatement fee as the Branch may prescribe by reasonable rules, uniformly applied. A member who has been reinstated under Article 7, Section 5 would have full membership rights restored, including the right to vote.

It is the responsibility of the Branch to apply the above guidelines to individual situations based on the particular fact circumstances. The Branch's decision is subject to appeal. The issue of any particular member's eligibility to vote may be raised in the context of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

#### **TODD HORNYAK, COLUMBUS, OH, BRANCH 78**

**December 10, 2014 (5288)**

Your email to Assistant Secretary-Treasurer Nicole Rhine, dated December 1, 2014, has been referred to me for reply. Your email seeks guidance concerning the eligibility of members temporarily or permanently promoted to supervisory positions and retired members to vote in the current Branch election.

In the following discussion, I will summarize the constitutional principles which apply to your questions, which the Branch must apply to each specific case.

##### **1. Supervisory members**

The membership rights of members who accept supervisory positions are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a member occupying a supervisory position may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status (except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues). Accordingly, such members would not have the right to vote in a Branch election.

However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, except for the right to be a candidate for Branch office. Thus, if any member returns from a supervisory position to a bargaining unit assignment, the member would at that point have the right to vote in the election.

#### 2. Retired Members

Retired members are fully eligible to vote in Branch elections. Article 2, Section 1(a) of the NALC Constitution explicitly defines "regular members" of the NALC to include retirees from [the Postal] Service who were regular members of the NALC when they retired. Article 2, Section 1(e) provides that retiring members may retain their membership by completing Form 1189. The sole limitation on the rights of retirees set forth in Article 2, Section 1(a) is that they may have no voice or vote in the Branch in any matter pertaining to the ratification of a national working agreement, local memorandum of understanding, or proposed work stoppage. Apart from this limitation, retiree members are entitled to the same rights as the other regular members.

Presidential rulings dating back decades have consistently recognized that the reference in Article 2, Section 1(c) to members who have left the Postal Service does not include members who have retired from the Postal Service. Accordingly, all regular members who maintain their membership in the NALC when they retire may continue to vote in Branch elections.

#### **DAVE NEGROTTI, BOULDER, CO, BRANCH 642 December 10, 2014 (5286)**

This is in reply to your letter, dated November 19, 2014, requesting a ruling as to whether the former President of Branch 642 may serve as a delegate to the Colorado State Association Convention. According to your letter, the Branch voted to remove this member as President, based on charges filed under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The Branch also voted in favor of a penalty prohibiting the charged party from representing the Branch in any capacity for five years.

While I appreciate your concern, I must advise that it would be inappropriate for me to rule on this matter. I do not have the wording of the penalty adopted by the Branch before me, nor do I have any other evidence of the intent of the members. Even if I did, as National President it would not be proper for me to decide whether the penalty adopted by the Branch was intended to cover service as a delegate. That is a matter which must be resolved by the Branch. As President of the Branch, you have the authority to rule on the scope of the penalty. Your ruling would be subject to appeal.

I recognize that there is a separate issue as to whether the penalty, however it may be interpreted, is consistent with the Constitution, or otherwise appropriate in light of the facts of the case. Such issues are

properly raised in the context of an appeal to the National Committee on Appeals. It is my understanding that Sister Vigil has submitted an appeal to the Committee. Accordingly, I am deferring the question posed in your letter, pending the Committee's ruling. This letter should not be read to express any view as to the merits of the appeal.

#### **JOHN MISTHAL, NORTH HAVEN, CT, BRANCH 19 December 10, 2014 (5308)**

This is in reply to your letter, received by my office on December 9, 2014, requesting clarification of the rules governing the eligibility of recently reassigned letter carriers and newly hired CCAs to vote in the current Branch 19 mail ballot election.

Previous rulings have established that a transferring NALC member should be considered a member of the receiving Branch effective as of the date he/she reports to work in a postal facility within the jurisdiction of the receiving branch. At that point, the transferring member would be eligible to vote in the new branch. Whether or not the receiving Branch has begun to receive dues for the transferee is not relevant. Likewise, it would not be relevant that the transferee's name did not appear on the voter eligibility list.

With respect to new hires, as well as employees who recently join the Union, eligibility to vote turns on the date that the individual executes the Form 1187. As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the Form 1187. This is the date on which the Form is signed by the new member. There is no requirement that eligibility to vote in a Branch election be deferred until the Form is processed by the NALC Membership Department or until dues deductions begin to be made by the Postal Service. Similarly, so long as the new member has executed the Form 1187, the fact that his/her initiation fee has not yet been paid would not affect eligibility to vote.

However, the Branch is not required to provide ballots to new members who sign the Form 1187 after the date ballots are mailed. Mail ballot elections are governed by Section 14 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Section 14.2 of the RGBEP specifically provides that the Election Committee must mail ballots to all eligible members at least twenty days before the pre-announced election date. Individuals who were not eligible members on the date that the ballots were mailed do not have a right to participate in a mail ballot election.

#### **ALAN SERES, BOSTIC, NC, BRANCH 3813 December 11, 2014 (5285)**

This is in reply to your letter, dated November 21, 2014, requesting dispensation permitting Branch 3813 to conduct a special election of officers. According to your letter, the Branch has not had an election in several years.

Consistent with federal law, Section 3.1 of the NALC Regulations Governing Branch Election Procedures requires that all Branches conduct an election of officers at least every three years. Accordingly, if the Branch has not had an election in more than three years, as indicated in your letter, it must do so as expeditiously as possible.

By copy of this letter, I am instructing Region 9 National Business Agent-elect Kenneth Gibbs to designate a representative from his office to investigate this matter and to assist the Branch in conducting a special election if one is required.

#### **APRIL FATH, DECATUR, IL, BRANCH 317 December 11, 2014 (5309)**

This is in reply to your letter, dated November 29, 2014, requesting dispensation permitting Branch 317 to conduct a new election of delegates to the Illinois State Association convention. According to your letter, the election of delegates that took place at the October meeting was flawed because the name of a potential delegate was left off the candidate list.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the

requested dispensation. Please make sure that a timely notice of the new election is sent to all members.

**ELECTION COMMITTEE, WASHINGTON, DC,  
BRANCH 142**

**December 23, 2014 (5315)**

Your letter to former Secretary-Treasurer Jane Broendel, dated December 5, 2014, has been referred to me for reply. Your letter seeks clarification of the role of a Branch election committee in the post-election appeal process.

The appeal procedure for Branch elections is set forth in Section 21 of the NALC Regulations Governing Branch Election Procedures. Section 21 authorizes aggrieved members to file with the election committee objections to the conduct of the election. Before ruling on the objections the committee may conduct any investigation it deems necessary to resolve disputed issues. Such investigation may include questioning individuals and reviewing documents.

In considering an election appeal, the sole function of the committee is to decide whether the objections to the conduct of the election have merit, i.e., whether violations of the election rules occurred which may have affected the outcome of the election. If the committee finds that the objections have merit, it may order a new election.

However, the appeal procedure set forth in Section 21 is not designed to adjudicate disputes over alleged misconduct by individual members, as suggested in your letter. Section 21 does not provide for the imposition of penalties on any members of the NALC. Charges of misconduct which may lead to the imposition of a penalty may only be filed under Article 10 of the Constitution for the Government of Subordinate and Federal Branches.

**DAN TORRES, SAN ANTONIO, TX, BRANCH 421**

**December 23, 2014 (5317)**

This is in reply to your letter, dated December 10, 2014, concerning Branch 421's sponsorship of the daughter of member Frank Santos, a promising amateur boxer. Your letter requests permission for the Branch to provide patches bearing the NALC logo which Stephanie Santos will wear on her trunks and shirts.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 421 permission to provide Stephanie with the patches as described in your letter.

I trust that the foregoing addresses your concerns. Please convey our congratulations and best wishes to Stephanie. We look forward to watching her compete in the Olympic Games.

**THOMAS JUHAS, SLIDELL, LA, BRANCH 4332**

**December 23, 2014 (5319)**

This is in reply to your letter, dated December 10, 2014 requesting clarification of my November 25 ruling in which I noted that a member currently serving as a 204b supervisor was not eligible to be appointed to a vacant Branch office. Specifically, you note that the member in question is not currently serving as a 204b, but did so until November, 2013.

While it would be inappropriate for me to rule on any particular situation, since I only have your correspondence before me, I can advise that a member who previously served as a supervisor within the past two years is also ineligible to be appointed to a Branch office. Previous rulings have interpreted Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches to prohibit a member who has held, accepted, or applied for a supervisory position from being elected or appointed to a Branch office for a period of two years following termination of supervisory status.

**RAY PUGH, CANAL WINCHESTER, OH, BRANCH 78**

**December 23, 2014 (5318)**

Your letter to Secretary-Treasurer Nicole Rhine, received by her office on December 16, 2014, has been referred to me for reply.

As I have advised in previous correspondence, there is no basis for any intervention by the National Union at this time in your appeal of the steward election in Branch 78. The decision of the Branch Executive Board may be appealed to the Branch. The Branch's decision may be appealed to the National Committee on Appeals.

As stated previously, nothing in this letter should be read to express any view as to the merits of your appeal.

I appreciate your suggestion that the National Union promulgate a handbook for steward elections. However, please understand that Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches states that steward elections are to be conducted as may be determined by the Branch. Previous rulings have consistently recognized that this provision confers on the Branches broad discretion to develop procedures for conducting steward elections.

**JESSIE DAVIS, DUE WEST, SC, BRANCH 1145**

**December 23, 2014 (5321)**

This is in reply to your letter, received by my office on December 15, 2014, requesting dispensation permitting Branch 1145 to conduct a special election. According to your letter, the Branch President has resigned and the Branch did not conduct an election.

Normally, the resignation of a Branch President would not necessitate a special election. Under Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches if the President resigns, the Branch Vice President will assume the presidency. However, your letter seems to suggest that this did not happen and that there may not be anyone now running Branch 1145.

Accordingly, by copy of this letter, I am instructing Region 9 National Business Agent Kenneth Gibbs to designate a representative from his office to investigate this matter and to assist the Branch in conducting a special election if one is required to ensure that the Branch has an elected slate of officers.

**JOHN HAMILTON, LAWRENCE, KS, BRANCH 104**

**January 6, 2015 (5316)**

Your letter to former NALC Secretary-Treasurer Jane Broendel, which was received by her office on December 10, 2014, has been referred to me for reply. Your letter asks whether Branch 104 may implement a newly enacted by-law provision establishing a two-tier structure for Branch dues. Under this proposal career employees hired after January 12, 2013 and CCA members would pay local dues based on the Grade 1, Step D of their present salary schedule, rather than the salary schedule for career employees hired before January 12, 2013, as presently required. The proposal is intended to reflect that these two classes of employees are paid in accordance with different salary schedules established by the Interest Arbitration Award issued on January 10, 2013.

I certainly appreciate the motivation underlying this proposal. However, as previous rulings have recognized, the proposed two-tier dues structure described in your letter is unauthorized by the NALC Constitution and would be impermissible. It has long been NALC policy to maintain a uniform dues structure, based on the letter carrier salary schedule that was in effect prior to the Award. This is why part-time flexible members have always paid the same dues as full-time employee members. The fact is that post-January 12, 2013 career and non-career employees who join the NALC have full membership rights and status within the organization.

I recognize that there are legitimate arguments in favor of a change in our current policy. These issues are suitable for discussion at the national convention.

Nonetheless, as of now, I cannot approve the proposed new dues structure for Branch 104 and, by copy of this letter, I am instructing Secretary-Treasurer Nicole Rhine not to allow it to be implemented. I regret that I cannot provide a more favorable reply.

**JAIME MEDRANO, EL PASO, TX, BRANCH 505**

**January 7, 2015 (5331)**

This is in reply to your emails, dated December 28, 2014, and January 5, 2015 asking for guidance with respect to an election appeal now pending in Branch 505.

Please be advised that it would be inappropriate for me to comment on any of the specific issues described in your emails, particularly since I only have your side of the story before me. Challenges to the timeliness of an appeal must be resolved, in the first instance, at the Branch level. Such issues remain subject to appeal to the National Committee on Appeals. I

can offer the following general guidance.

The failure of an appellant to meet any of the timeliness requirements set forth in Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP) is a basis for dismissing the appeal without reaching the merits. However, any determination by the Election Committee or the Executive Board that an appeal is untimely is itself subject to appeal.

In the present case, the Election Committee has apparently issued a decision which may be appealed to the Executive Board. Section 21.2 of the RGBEP provides that an aggrieved member may appeal the decision of the Election Committee to the Branch Executive Board within five days of the Committee's decision. Previous rulings have recognized that the intent of Section 21.2 of the RGBEP is to provide the aggrieved member five days to prepare and submit the appeal from the Election Committee's decision. Accordingly, under normal circumstances, the five day time limit for appeals to the Executive Board is satisfied if a member mails the appeal within five days after receiving the ruling of the Election Committee. However, application of this principle will necessarily depend on the particular facts presented.

**MARK SEITZ, BRUNSWICK ME, BRANCH 92**  
**January 9, 2015 (5329)**

This is in reply to your recent letter requesting clarification of the procedure for accepting nomination to Branch office. Specifically, you ask whether an acceptance of nomination must be signed or whether an email acceptance from a nominee not present at the nominations meeting would be sufficient.

At the outset, please accept my congratulations on your election as President of Branch 92. I look forward to working with you.

With respect to your question, there is no constitutional requirement that an acceptance of nomination be signed. In fact, the Constitution does not actually mandate that Branches have a written acceptance requirement. Article 4, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches provides:

Branches at their option may require all candidates for office or delegate to be present at the meeting when nominated, or signify in writing their willingness to serve if elected.

The Branch option referred to has been interpreted as the option of requiring nominees to formally accept nomination.

If the Branch has enacted a formal acceptance requirement for nominees, then Section 6.31(d) of the NALC Regulations Governing Branch Election Procedures (RGBEP) would apply. It provides: "If a nominee is not present at the [nominating] meeting, written acceptance is permissible." This regulation also ensures that the nomination procedure is consistent with the requirements of federal law. The Department of Labor's (DOL) regulations covering union elections state the following:

A requirement that members must be present at the nomination meeting in order to be nominated for office might be considered unreasonable in certain circumstances; for example, in the absence of a provision for an alternative method under which a member who is unavoidably absent from the nomination meeting may be nominated, such a restriction might be regarded as inconsistent with the requirement in section 401(e) [of the Labor-Management Reporting and Disclosure Act] that there be a reasonable opportunity to nominate and to be a candidate. 29 C.F.R. Section 452.59.

Accordingly, a Branch's refusal to accept an emailed acceptance from a nominee could be viewed by the DOL as inconsistent with federal law.

**BRIAN BOIVIN, MYRTLE BEACH, SC, BRANCH 4645**  
**January 12, 2015 (5332)**

This is in reply to your letter, dated December 14, 2014, requesting dispensation permitting Branch 4645 to conduct a special election. According to your letter, the Branch President and Treasurer have resigned and a steward has indicated that he intends to resign.

Normally, the resignation of a Branch President would not necessitate a special election. Under Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) if the President resigns, the Branch Vice President will assume the presidency. The Vice President, upon assuming the presidency, could fill any

remaining offices by appointment, as provided by Article 4, Section 2 of the CGSFB. However, your letter seems to suggest that this did not happen and that you are now functioning as the acting President of the Branch.

Accordingly, by copy of this letter, I am instructing Region 9 National Business Agent Kenneth Gibbs to designate a representative from his office to investigate this matter and to assist the Branch in conducting a special election if one is required to ensure that all vacancies are filled. The representative is also authorized to assist the Branch in auditing its books, to the extent necessary, pending the appointment or election of a new Treasurer.

**GEBRAIEL HAMM, COLUMBIA, SC, NALC BRANCH 233**  
**January 13, 2015 (5344)**

This is in reply to your recent letter, received by my office on January 6, 2015, requesting that I authorize National Business Agent Kenneth Gibbs to appoint a committee to investigate charges filed by a member of Branch 233 against the officers of the Branch. You also suggest that the committee should consist of members from other branches.

As previous rulings have recognized, where, as here, all of a branch's officers are the subject of charges, then the investigating committee may be appointed by action of the members of the Branch. Specifically, the Branch could nominate and elect members to the committee at a regular or special meeting. Alternatively, the members could vote to select an individual disinterested Branch member to appoint the members of the committee.

If you believe that Branch 233 will not be able to appoint a committee by itself, please contact Brother Gibbs directly. By copy of this letter, I am authorizing him to arrange for the appointment of a committee consisting of three members from outside Branch 233 if, in his judgment, it is necessary to do so.

**ANGEL MARTINEZ, ALBUQUERQUE, NM, BRANCH 504**  
**January 20, 2015 (5352)**

This is in reply to your email, dated January 15, 2015, requesting guidance with respect to the appointment of a committee to investigate charges against the President and Treasurer of Branch 504. Specifically, you ask whether the Vice President of the Branch, who is responsible for appointing the committee, may appoint himself. You also ask whether a single committee may investigate the two charges against the Branch President and the one charge against the Treasurer.

With regard to your first question, the relevant provision of the Constitution, Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), does not prohibit an appointing officer from appointing himself/herself to the investigating committee, so long as the officer is disinterested. Article 10, Section 3 of the CGSFB provides for the appointment of a committee of "disinterested members" to investigate charges filed against an officer or member of the Branch. Previous rulings have recognized that the phrase "disinterested members" means that the members appointed to the committee must be disinterested with respect to all charges they are responsible for investigating. Quite obviously, the charging or charged parties may not be appointed to the committee. Similarly, any officer or member who is likely to be involved in the investigation as a witness should not be appointed.

As to whether a single committee can investigate all the charges, Article 10, Section 3 does not specifically require multiple committees to handle multiple charges. Accordingly, the Vice President of the Branch would have discretion to decide whether to appoint one or more committees. A single committee could investigate all charges. The only qualification is that the members of the committee(s) would have to be disinterested with respect to all charges they are responsible for investigating. In addition, the members of the committee(s) must be in a position to find the facts concerning all charges assigned to them.

**DEIDRE BEAL, MIAMI, FL, BRANCH 1071**  
**January 20, 2015 (5346)**

This is in reply to your letter, dated December 28, 2014, regarding your ongoing dispute with Branch 1071 President Mike Gill over the scope of your duties as Recording Secretary.

Please be advised that there simply is no basis for any intervention by the National Union in this matter at this stage. The dispute described in your letter must be addressed initially at the Branch level. The decisions of a Branch President may be appealed to the Branch under Article 11, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). The Branch's action on the appeal may, in turn, be appealed to the National Committee on Appeals, as provided by Article 11, Section 2 of the CGSFB.

Your letter also complains that Brother Gill has neglected his duties under Article 6, Section 1 of the CGSFB. Complaints that a Branch officer has fail[ed] or neglect[ed] to discharge the duties of his/her office may be the subject of charges under Article 10, Section 1 of the CGSFB. The Branch's disposition of the charges may be appealed to the National Committee on Appeals under Article 11, Section 2.

#### **PAUL DANIELS, MERIDEN, CT, BRANCH 20**

**January 20, 2015 (5345 & 5363)**

As you know, NBA John Casciano referred to me your letter, dated December 30, 2014, for review and response. Your letter alleges that the Branch 20 mailing list maintained by the Connecticut State Association of Letter Carriers (CSALC) was improperly used for candidate mailings in the recent election of officers in Branch 20.

At the outset, I cannot comment on your specific factual allegations since I only have your letter before me. However, I can offer the following general guidance.

Normally, the misuse of a Branch mailing list, or other union resources, by a candidate in a Branch election may be the basis for a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures. However, if the candidates in question were defeated, the question whether the alleged misuse of the list affected the outcome of the election would seem to be moot.

There is, of course, a separate question as to whether the Connecticut State Association needs to develop safeguards against potential misuse of its mailing lists in the future. This is certainly an appropriate issue for consideration by the CSALC Executive Board and, potentially, for debate at the next convention.

#### **DAISY PACAS, RICHMOND, CA, BRANCH 1111**

**January 22, 2015 (5354)**

This is in reply to your email, dated January 14, 2014, seeking guidance with respect to the status of an elected steward in Branch 1111. According to your email, this steward has been detailed to represent NALC as lead for the CDRAAP route adjustment team.

In response to your first question, nothing in the Constitution requires that this steward be removed from her position. The relevant provision, Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches, simply provides that Branches having members in two or more stations may make provision in their by-laws for...shop stewards to be appointed or elected, within the respective stations as the Branch may...determine[.]. So far as the Constitution is concerned, this steward may remain in her elected position while on detail and may resume her steward duties upon her return.

Your second question is whether this steward remains entitled to the stipend provided for stewards by the Branch By-laws. While I appreciate your very legitimate concern, I must advise that it would be entirely inappropriate for me to resolve this question. As National President, it is my responsibility to interpret the NALC Constitution. However, the issue described in your letter depends on the interpretation and application of the relevant By-law language. Such questions must be resolved, in the first instance, at the Branch level. Relevant factors include the language of the By-law, any pertinent past practices, and any evidence of the intent of the Branch when it originally enacted the By-law provision at issue. If necessary, the matter may be resolved by vote of the members at a Branch meeting.

#### **JOHN BAMFORD, PLANO, TX, NALC BRANCH 4065**

**January 27, 2015 (5361)**

This is in reply to your recent letter, received by my office on January 21, 2015, concerning a motion that was passed at Branch 4065's

January 8 meeting to reopen nominations for all Branch officers and redo the entire election process. According to your letter, nominations had been held at the October, 2014 meeting, which resulted in the election, by acclamation, of all officers except Vice President and Recording Secretary, for which an election is required.

Assuming the facts stated in your letter are correct, the motion in question was not in order. Article 5, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches requires that Branch elections take place at the time prescribed in the Branch By-laws. It further requires that nominations take place at the time stated in the written notice to be mailed to each member. See also NALC Regulations Governing Branch Election Procedures, Sections 3.1, 5.1, and 5.2b.

Given the above requirements, the reopening of nominations would normally require that a request be made to the National President for dispensation to do so. Quite obviously, Branch 4065 has not submitted such a request. In any event, your letter does not suggest any justification for dispensation in this case.

In light of the foregoing, it does appear that Branch 4065 should proceed with the election for the two contested offices.

Finally, any objections to the conduct of nominations may be made in the form of a post-election appeal under Section 21 of the RGBEP. If such objections are sustained on appeal, new nominations and a re-run of the election may be required. However, this letter should not be read to express any view as to the merits of any post-election appeal.

#### **HOWARD KOMINE, HONOLULU, HI, NALC BRANCH 860**

**January 28, 2015 (5369)**

This is in reply to your letter, dated January 23, 2015, requesting dispensation permitting the merger application of Branch 860 and Branch 4644 to be processed, even though Branch 860 erroneously provided its members with only 28 days' notice of the merger vote, instead of the minimum 30 days' notice required by Article 2, Section 3(a) of the NALC Constitution.

Insofar as I have received no complaints with respect to the merger vote from any member of Branch 860, and there is no reason to believe that any member was misled or otherwise denied the opportunity to vote, your request seems appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am advising Secretary-Treasurer Nicole Rhine and the NALC Membership Department that they may process the merger application that you have submitted.

#### **LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214**

**February 3, 2015 (5394)**

This is in reply to your email, dated February 2, 2015, inquiring whether charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) may be filed against an officer or member who is currently serving a suspension.

Generally speaking, the answer to your question is yes. A member who has been suspended remains a dues paying member of the NALC, as provided by Article 10, Section 5 of the CGSFB. Such a member would remain subject to charges. Accordingly, charges may be filed and served on the member during the term of the suspension.

However, presidential rulings have consistently recognized that suspended members may not attend union meetings. Accordingly, absent extraordinary circumstances, the reading of any charges against a suspended member under Article 10, Section 2 of the CGSFB should be deferred until the first meeting following the completion of the term of the suspension, so that the charged member may attend. The appointment of the investigating committee, obviously, should also be deferred until the charges are read.

#### **MICHELLE CARPENTER, GARY, INDIANA, BRANCH 580**

**February 3, 2015 (5370)**

This is in reply to your letter, dated January 22, 2015, requesting that I rule on an apparent dispute between you and Branch 80 President Bodnar over the proper procedure for adopting new By-law language. According to your letter, Sister Bodnar sent out a proposed amendment to the By-

laws for a referendum vote. You argue that this action was procedurally defective under both Article 15 of the NALC Constitution and applicable provisions of the existing Branch 80 By-laws.

While I appreciate your concerns, I must advise that it would be inappropriate for me to rule on this dispute, particularly since I only have your side of the argument before me. The proper procedure for challenging a decision by a Branch President would be to initiate an appeal to the Branch under Article 11, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB). The Branch's decision may be appealed to the National Committee on Appeals pursuant to Article 11, Section 2 of the CGSFB.

I trust that the foregoing, at least in part, addresses your concerns. Please note that nothing in this letter should be read to express any view as to the merits of any appeal that you may bring.

**DAVE LOOMAN, OMAHA, NE, BRANCH 5**

**February 4, 2015 (5375)**

This is in reply to your letter, dated January 21, 2015, inquiring whether the requirement that the NALC's Director of Retirees be a retired member, provided by Article 6, Section 1 of the NALC Constitution, also requires that a Branch's elected Director of Retirees be a retired member.

Please be advised that the answer to your question is no. As previous rulings have recognized, the Constitution does not require that a Branch have a Director of Retirees, although each Branch has the authority to establish such a position if it so wishes. So far as the Constitution is concerned, if a Branch does establish the position it may limit eligibility to retiree members, but it is not required to do so.

**DENISE WILLIAMS, YAKIMA, WA, BRANCH 852**

**February 5, 2015 (5193)**

Your email to then-Assistant Secretary-Treasurer Nicole Rhine, dated October 8, 2014, was referred to me for reply.

Your email requests guidance as to the eligibility of certain members of Branch 852 to vote in the Branch election. Specifically, you inquire as to members who presently occupy supervisory positions and members employed in another craft.

Please be advised that I cannot rule on whether any particular individuals are eligible to vote based on the limited information provided in your letter. However, in the following discussion, I will summarize the applicable constitutional principles which the Branch must apply to each specific case.

**1. Members in Supervisory Positions**

The membership rights of members who accept supervisory positions (which would include supervisors, postmasters, and 204b's) are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a member occupying a supervisory position may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status (except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues). Accordingly, such members would not have the right to vote in a Branch election. Thus, if the member described in paragraph 1 of your email has been promoted to a permanent supervisor position, he or she is not now eligible to vote.

However, please bear in mind that higher level assignments are not necessarily supervisory for purposes of the Constitution. Generally speaking, a position is considered supervisory if the person holding that position would have the authority to discipline bargaining unit employees or otherwise direct them in the performance of their duties. In addition, a letter carrier who performs a supervisory duty assigned to him by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in the Constitution would not be applicable.

Therefore, it is not clear whether the member described in paragraph 3 of your email has become ineligible to vote by accepting a temporary limited duty assignment as an Administrative Assistant. I note, as well, that the Form 1723 that you included in your email, indicates that the member remains a Bargaining Unit Employee. A bargaining unit employee is a regular Branch member under the provisions of Article 2, Section 1(a) of the NALC Constitution, who would be eligible to vote in a Branch election.

Again, it is the responsibility of the Branch in the first instance to determine whether or not a member is eligible to vote under the foregoing principles. The Branch's determination is subject to appeal.

**2. Members employed in other crafts**

Generally speaking, non-letter carrier members, such as clerks and maintenance employees, have full rights as members of the NALC. Article 2, Section 1(a) of the NALC National Constitution defines regular members as including non-supervisory employees of the Postal Career Service. It does not limit regular membership to employees in the letter carrier craft. Accordingly, non-supervisory members employed in other crafts are eligible to vote in Branch elections.

**CATHERINE BODNAR, HAMMOND, IN, BRANCH 580**

**February 5, 2015 (5384)**

This is in reply to your letter, dated January 28, 2015, requesting a ruling clarifying the procedure which Branch 580 must follow to amend its By-laws. Specifically, you ask whether an amendment to Article XIV, Section 6 of the By-laws, providing for a referendum vote on proposed By-law changes, supersedes the older language in the By-laws, set forth in Article XIV, Section 1 providing for amendments to be voted on at Branch meetings. The amendment to Article XIV, Section 6 was approved by the Committee of Laws on March 27, 2012. The Branch did not at that time propose to delete Article XIV, Section 1. Accordingly, the two arguably conflicting provisions both remain in the current By-laws.

I certainly appreciate your concerns. However, as I stated in my recent letter to Sister Carpenter, it would be inappropriate for me to rule on this question. As National President, it is my responsibility to rule on interpretive issues arising under the NALC Constitution. Disputes over the interpretation or application of Branch By-laws must be resolved, in the first instance, at the Branch level.

As Branch President, you have the authority to rule on the meaning of the Branch By-laws. If you conclude that the intent of the amendment to Article XIV, Section 6 was to require a referendum vote for all proposed by-law changes, and that the failure to delete Article XIV, Section 1 was an oversight, then you may proceed to apply the referendum procedure to any pending proposed change. Your ruling, however, may be appealed to the Branch under Article 11, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB). The Branch's decision may be appealed to the National Committee on Appeals pursuant to Article 11, Section 2 of the CGSFB.

**DAISY PACAS, RICHMOND, CA, BRANCH 1111**

**February 10, 2015 (5395)**

This is in reply to your letter, dated February 2, 2015, requesting guidance as to the appointment of a committee to investigate charges brought by two members against an officer of Branch 1111. Specifically, you ask whether you are required to assign the investigation to the Branch Administration Committee, a standing committee established by the Branch By-laws which is responsible for investigating certain matters including conduct of officers.

At the outset, it does not appear to me that the By-law language was



intended to cover the investigation of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches. In any event, Article 10 confers on the Branch President complete discretion to appoint any disinterested member of the Branch to the investigating committee. The President's discretion under the Constitution cannot be limited by the Branch By-laws. Thus, in response to your question, you should follow the Constitution in appointing the committee.

**THOMAS SENKO, SAMUEL BROSKA, VICTOR ROBINSON,  
VALLEY VIEW, OH, BRANCH 40  
February 10, 2015 (5397)**

This is in reply to your letter, dated February 6, 2015, requesting dispensation which would, in effect, approve the Branch 40 Election Committee's handling of two problems which arose after ballots were mailed in the ongoing Branch election. In particular, the Committee discovered that a number of life members had not received ballots and that the names of 107 new members had not been included on the mailing list which had been used for the ballots. In both instances the Committee mailed out new ballots with stickers to avoid duplication.

At the outset, I commend the Committee for its prompt and diligent response to these problems. Certainly, the Committee should proceed with the election and should include the late mailed ballots in the vote count.

Nonetheless, I am reluctant to grant a formal constitutional dispensation at this time, out of concern that I might compromise a member's right to file a post-election appeal, based on fact circumstances that are not now apparent. I am not suggesting that there would be any legitimate basis for such an appeal. But that determination would have to be made if and when a post-election appeal is filed in accordance with the procedure set forth in Section 21 of the NALC Regulations Governing Branch Election Procedures.

Of course, if there is no appeal, then the results of the election, as determined by the Committee, will stand. A dispensation from me would not be necessary.

**RICHARD NAJERA, FRESNO, CA, BRANCH 231  
February 20, 2015 (5396)**

This is in reply to your letter, dated January 29, 2015, requesting guidance as to how the Branch may proceed to collect back dues which certain members of Branch 231 owed to the Branch at the time they retired. Typically this situation arises for active members who are out on compensation and have become delinquent in their dues payments before retirement.

While I cannot comment on any individual situations, I can provide the following summary of the applicable constitutional principles.

Under the NALC Constitution, Article 2, Section 1(a), retiree membership is available only to retirees from the Postal Service "who were regular members of the NALC when they retired." Accordingly, an individual who has forfeited his/her membership for non-payment of dues before retiring is not eligible to maintain membership in the NALC as a retiree member. So the first question which must be answered for any delinquent member seeking retiree membership is whether membership has been forfeited at the time the member retires.

The rules governing forfeiture of membership are set forth in Article 7, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Under Article 7, Section 4, [a]ny member failing to pay...monthly dues within thirty (30) days after the same shall become due must forfeit his/her membership. This requirement applies to members who are not subject to dues check-off, such as members on compensation. These members are responsible for continuing to pay dues directly to the Branch.

As previous rulings have recognized, the language of Article 7, Section 4 was drafted before the dues check-off procedure came into existence. At that time, Branches were responsible for collecting dues from individual members and forwarding the national per capita tax to the National Union. During this period, Branches had discretion to develop their own procedures to collect dues, including discretion to establish reasonable due dates for such dues.

Your letter does not indicate whether Branch 231 has adopted a

procedure for collecting dues from members in non-pay status, or whether it has established a due date for payment of dues by members in non-pay status.

In any event, the 30 day period following the due date for payment of dues may be extended to a grace period of not more than an additional 60 days by the Branch under reasonable rules, uniformly applied. In addition, a Branch is permitted by Article 7, Section 3(b) of the CGSFB to exempt the dues of any member under reasonable rules uniformly applied for a stated period of time. Thus, for example, the Branch can exempt members from dues payments while the member is on compensation or LWOP.

I note that your letter does not indicate whether Branch 231 has extended the 30 day grace period or has adopted dues exemptions which may be applicable to some of its members. It is the Branch's responsibility to determine whether it has done so. If a dues exemption does apply to a particular member, then that member's failure to pay dues would not result in a forfeiture of membership.

Prior to the time of forfeiture, a member retains full membership rights. Accordingly, members who are in arrears but have not yet forfeited membership under the rules described above would still have the right to complete Form 1189 and attain retiree membership status. In addition, previous rulings have noted that forfeiture of membership in some situations could be avoided if the Branch entered into an agreement with the delinquent member deferring the payment of dues to a future date.

If the point of forfeiture has been reached, the members would lose all rights of Branch, State Association and National membership. Such members would not be eligible to become retiree members.

Apart from the foregoing, retiree members are not exempt from paying back dues which they owed before they retired. The rules governing forfeiture described above would continue to apply after retirement. In particular, Branches retain discretion to establish exemptions, due dates for payment of back dues, and procedures for collecting back dues. If a retiree member fails to make payment by the due date, that individual would forfeit membership 30-90 days thereafter, depending on whether the Branch has extended the grace period.

It is the responsibility of the Branch to apply the above guidelines to individual situations based on the particular fact circumstances.

**DAN FUENTES, TURLOCK, CA, BRANCH 1742  
February 23, 2015 (5406)**

This is in reply to your letter, dated February 8, 2015, requesting, on behalf of the members of Branch 1742, special dispensation permitting the Branch to conduct a special election for President and Vice President. According to your letter, both of these positions are now vacant due to resignations by the former officers.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please conduct the election as expeditiously as possible.

**GEBRAIEL HAMM, COLUMBIA, SC, BRANCH 233  
February 25, 2015 (5409)**

This is in reply to your recent letter, received by my office on February 19, 2015. Your letter indicates that the members of Branch 233 have voted to conduct a rerun election. You now request that I authorize National Business Agent Kenneth Gibbs to assist the Branch in forming a new election committee.

By copy of this letter I am directing Brother Gibbs to provide whatever assistance he feels would be appropriate to ensure that an election committee is appointed in a timely manner to conduct the rerun election.

**NELSON GASKILL, MAYS LANDING NJ, BRANCH 903  
February 25, 2015 (5413)**

Your email to Assistant Secretary-Treasurer Judy Willoughby, dated February 16, 2015, has been referred to me for reply. Your email inquires whether Branch 903 must reschedule a regular Branch meeting due to weather conditions.

The answer to your question is no. As a general rule, Article 3, Section

1 of the Constitution for the Government of Subordinate and Federal Branches requires that Branch meetings be held at the time prescribed by the Branch By-laws. However, previous rulings have recognized that meetings can be cancelled due to unforeseen circumstances, such as a weather emergency. The rulings have also recognized that the Constitution does not require the Branch to make up meetings which were not held due to unforeseen circumstances.

**KIM FITZGERALD, ORCHARD PARK, NY, BRANCH 3  
February 25, 2015 (5411)**

Your email to Assistant Secretary-Treasurer Judy Willoughby has been referred to me for reply. Your email inquires whether members of Branch 3 who are in arrears in their dues payments are eligible to vote in the current election of officers. In response to your inquiry I can provide the following general guidance.

The question whether members who are in arrears in their dues payments may vote turns on whether these members have forfeited their membership under Article 7, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Under Article 7, Section 4, [a]ny member failing to pay...monthly dues within thirty (30) days after the same shall become due must forfeit his/her membership. This requirement applies to members who are not subject to dues check-off (e.g. members on compensation or LWOP). Such members are responsible for continuing to pay dues directly to the Branch.

As previous rulings have recognized, the language of Article 7, Section 4 was drafted before the dues check-off procedure came into existence. At that time, Branches were responsible for collecting dues from individual members and forwarding the national per capita tax to the National Union. During this period, Branches had discretion to develop their own procedures to collect dues, including discretion to establish reasonable due dates for such dues. Your letter does not indicate whether Branch 3 has adopted a procedure for collecting dues from members in non-pay status, or whether it has established a due date for payment of dues by members in non-pay status.

In any event, the 30 day period following the due date for payment of dues may be extended to a grace period of not more than an additional 60 days by the Branch under reasonable rules, uniformly applied. In addition, a Branch is permitted by Article 7, Section 3(b) of the CGSFB to exempt the dues of any member under reasonable rules uniformly applied for a stated period of time. Thus, for example, the Branch can exempt members from dues payments while the member is on compensation or LWOP.

I note that your letter does not indicate whether Branch 3 has extended the 30 day grace period or has adopted dues exemptions which may be applicable to some of its members. It is the Branch's responsibility to determine whether it has done so. If a dues exemption does apply to a particular member, then that member's failure to pay dues would not result in a forfeiture of membership, so that he/she would remain eligible to vote.

Prior to the time of forfeiture, a member retains full membership rights. Accordingly, members who are in arrears but have not yet forfeited membership under the time frame described above would still have the right to vote in a Branch election. They should be sent ballots in a mail ballot election. In addition, previous rulings have noted that forfeiture of membership in some situations could be avoided if the Branch entered into an agreement with the delinquent member deferring the payment of dues to a future date.

If the point of forfeiture has been reached, the members would lose all rights of Branch, State Association and National membership. The members, however, would be entitled to reinstatement under Article 7, Section 5 of the CGSFB upon payment of back...dues, as well as such reinstatement fee as the Branch may prescribe by reasonable rules, uniformly applied. A member who has been reinstated under Article 7, Section 5 would have full membership rights restored, including the right to vote.

It is the responsibility of the Branch to apply the above guidelines to individual situations based on the particular fact circumstances. The Branch's decision is subject to appeal. The issue of any particular

member's eligibility to vote may be raised in the context of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

**DENISE SERNA, BEVERLY HILLS, CA, BRANCH 2293  
March 3, 2015 (5412)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated February 19, 2015, has been referred to me for reply. Your email poses several questions pertaining to election appeal procedures under Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP).

With regard to your first question, RGBEP Section 21.3 provides that an aggrieved member may appeal the decision of the Branch Executive Board to the next scheduled meeting of the Branch, and that the Branch must decide the merits of the appeal. This language means that the Branch is to decide whether the appellant's objections to the conduct of the election have merit, i.e., whether the objections identify actual violations of the election rules that occurred which may have affected the outcome of the election. Generally speaking, when a violation of the election regulations has taken place which may have affected the outcome of the election, the usual remedy is to require a re-run election. Accordingly, if the Branch upholds the appeal, it may order a new election. The Branch may permit these questions to be discussed and debated at the meeting before the vote.

Your second question is whether the Branch must grant the appellant's request for access to all the balloting materials, insofar as he was previously allowed to view these materials during the ballot count. The RGBEP does not contain any provisions which specifically address this question. Nonetheless, there could be cases in which an appellant would need to examine these materials to support his appeal, so that fundamental fairness would require that an appellant be given an opportunity to review them. This is an issue which must be decided at the Branch level, based on the particular facts. The Branch's denial of access would be subject to appeal to the National Committee on Appeals.

As to your third question, the Branch is not required to distribute campaign literature after the election, when there has been no rerun election ordered. Even if there were an ongoing election campaign, there is no requirement that the Branch provide to candidates a mailing list or a printout of mailing addresses. During the campaign, the Branch is required to honor all reasonable requests to distribute campaign literature at the candidate's expense, but this obligation does not require that the Branch provide candidates with a copy of a membership mailing list. See Section 9.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP). The only exception is where the Branch has provided a copy of the list to one or more candidates. In that circumstance, the list would have to be made available to all candidates. See Comment following RGBEP Section 9.1.

**LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214  
March 3, 2015 (5423)**

This is in reply to your email, dated February 26, 2015.

Please be advised that the Constitution does not provide a statute of limitations for the filing of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches. Nor are there any provisions establishing a time limit for filing charges against a suspended member.

Apart from the foregoing, it would be entirely inappropriate for me to offer a recommendation as to whether a particular member should file charges against a suspended member during his term of suspension, or wait until the suspension has ended.

**KENNETH R. GIBBS, JR., FT. LAUDERDALE, FL, REGION 9  
March 3, 2015 (5424)**

This is in reply to your letter, dated February 11, 2015, concerning the conduct of the rerun election to be held in Branch 233.

My previous letter addressed to Branch President Hamm, with a copy to you, authorized you to provide assistance in appointing an election committee. Your letter suggests that an alternative approach might

be to have your office actually conduct the election. I agree, and leave the matter to your discretion. In accordance with my authority under Article 9, Section 1 of the NALC Constitution I am granting dispensation permitting your office to conduct the rerun election of officers in Branch 233 if, in your judgment, this would be in the best interest of the Branch.

**JAMES LATHAM, AMARILLO, TX**

**March 3, 2015 (5425)**

This will acknowledge receipt of a copy of your appeal of the election of officers and state association delegates in Branch 1037. This document was received at NALC headquarters on February 18, 2015.

Please be advised that it would be entirely inappropriate for the National Union to intervene in this matter at this time. Branch election appeals must be processed in accordance with the procedures set forth in Section 21 of the NALC Regulations Governing Branch Election Procedures. The appeal must be submitted first to the election committee. The committee's decision may be appealed to the Branch Executive Board. Please refer to Section 21 for the specific details of the process.

This letter should not be read to express any view as to the merits or timeliness of your appeal.

**JACQUELINE LARK, KILLEEN, TX, BRANCH 643**

**March 3, 2015 (5426)**

This is in reply to your letter, dated February 21, 2015, requesting dispensation permitting Branch 643 to conduct a special election. According to your letter, the elected Branch President has resigned and appointed another member to be President of the Branch.

I am reluctant to authorize a special election based on the limited facts set forth in your letter. I can provide the following guidance. Please note that I am sending copies of this letter to Brother Lowe and Brother Brooks. I expect that all of you will confer with each other in good faith and act to resolve the issues in an appropriate manner based on this advice.

Normally, the resignation of a Branch President would not necessitate a special election. Under Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) if the President resigns, the Branch Vice President will assume the presidency. Thus, if in the previous special election the Branch elected a Vice President, that member should now assume the Presidency of the Branch.

If the Branch did not elect a Vice President, then the following rule would apply. Under Article 4, Section 2 of the CGSFB, vacancies in all Branch offices, except Branch President, are to be filled by appointment by the President (unless the By-laws provide for an order of succession or a special election, which does not appear to be the case here). Accordingly, it would have been proper for Brother Lowe, while still President, to appoint Brother Brooks to fill the vacancy in the office of Vice President. If this is what happened, then, at the time Brother Lowe resigned, Brother Brooks would have properly assumed the presidency under Article 6, Section 2.

Please feel free to contact the office of National Business Agent Kathy Baldwin if you need assistance in sorting all this out. If it is confirmed that the Branch did not follow any of the constitutional procedures described above, I will be prepared to entertain a request to authorize another special election.

**RICHARD "SMILEY" MARTINEZ, NEW MEXICO STATE ASSOCIATION**

**March 9, 2015 (5427)**

This is in reply to your letter, received by my office on February 23, 2015. Your letter endorses a request for dispensation to conduct a special election of officers from the four members of Branch 4538, Lovington, NM. I am assuming, based on your cover note, that the Branch does not currently have officers and has been inactive.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please contact the four members and help them arrange the special election as expeditiously as possible.

I trust that the foregoing addresses your concerns. Please convey to the members my appreciation of their renewed expression of commitment to active participation in the NALC.

**DAISY PACAS, RICHMOND, CA, BRANCH 1111**

**March 9, 2015 (5430)**

This is in reply to your letter, dated February 24, 2015, concerning the appointment of a committee to investigate charges against the 1st Vice President of Branch 1111.

Your request for assistance in appointing the committee is reasonable in light of the anonymous letter received by your husband, and the potential issues raised.

Accordingly, by copy of this letter I am directing National Business Agent Chris Jackson to designate a representative from his office to appoint the investigating committee. Please contact Brother Jackson and provide him with a copy of the charges.

**LILI BEAUMONT, SAN FRANCISCO, CA, BRANCH 214**

**March 23, 2015 (5439 & 5450)**

This is in reply to your email, dated March 3, 2015, concerning proposed changes to the Branch 214 By-laws. The proposals would reduce the term of officers and stewards from three years to two years. Both drafts provide that the changes would go into effect immediately.

You now ask whether the Branch may reduce the terms of incumbent officers and stewards during their present terms.

Previous rulings have consistently held that By-law amendments cannot reduce the terms of current officers. Consistent with federal law, both the NALC Constitution and the NALC Regulations Governing Branch Election Procedures (RGBEP) require that each Branch specify the terms of office for its officers as one, two, or three years and include those terms in the notice of election. See Constitution for the Government of Subordinate and Federal Branches, Article 4, Section 2 and RGBEP, Section 5.2(a). As previous rulings have noted, the length of office is a factor the Branch members take into consideration in deciding how to cast their votes for candidates for those offices and should not be revised after the fact.

In sum, a Branch may not reduce the current term of a Branch office by enacting a by-law amendment. Changes in the term of an office generally cannot be effective until the next election.

**EARL DORMAN, GREENSBORO, NC, BRANCH 444**

**March 24, 2015 (5457)**

This is in reply to your letter, dated March 12, 2015, requesting a ruling concerning a dispute in Branch 444 over whether a member may photograph a Branch Treasurer's Report which is made available for inspection by members at the Branch's regular meetings.

Please be advised that there are no provisions in the NALC Constitution which address the issue described in your letter. Article 6, Section 4 of the Constitution for the Government of Subordinate and Federal Branches requires that the accounts of properties, investments, and funds of the Branch...at all times shall be open for inspection. The Constitution does not contain any provisions which specifically permit or prohibit the photographing of Branch financial information by a member who has exercised his right of inspection. However, prior rulings have recognized that the specific manner of inspecting the books is left to the discretion of the Branch. Accordingly, the Branch has discretion to enact reasonable restrictions prohibiting members from making unauthorized copies of confidential financial records, which could include a prohibition against making unauthorized photographs of the records.

**BARBARA MILLER, BRADENTON, FL, BRANCH 1753**

**March 24, 2015 (5458)**

This is in reply to your letter, dated March 12, 2015, requesting dispensation permitting Branch 1753 to conduct a special election for President and Vice President. According to your letter, the incumbent President and Vice President have resigned. I assume, based on your request, that the Branch By-laws do not provide an order of succession so that a special election is now necessary to fill the vacancies.

Therefore, in light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Branch 1753 may conduct a special election of President and Vice President for the remainder of the current terms of office.

**EDWARD FLETCHER, RICHMOND, CA, BRANCH 1111**

**March 24, 2015 (5459)**

This is in reply to your letter, dated March 16, 2015, concerning charges against an officer of Branch 1111 which are now pending.

Please be advised that, based on previous correspondence with Branch President Pacas, I have authorized National Business Agent Chris Jackson to designate a representative from his office to appoint the investigating committee. Due to the delay in appointing the committee, the Branch will not be in a position to vote on the charges at the next regular meeting following the reading of the charges, as is normally required by Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches. Accordingly, the Branch may vote on the charges at the first meeting following completion of the committee's report.

**JOHN CLARK, TRENTON, NJ, BRANCH 380**

**March 24, 2015 (5462)**

This is in reply to your letter, dated March 12, 2015, requesting a ruling as to whether a member of Branch 380 is eligible to be appointed to serve as a steward. According to your letter, the individual in question participated in a two to three week 204b training course in another installation. However, there was no completed documentation showing that the member formally applied to be appointed to a 204b position.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches provides that a member who holds, accepts, or applies for a supervisory position is not eligible to hold any office in the Branch for a period of two years. There is no indication in your letter that this member actually held or accepted a supervisory position, but the participation in the training may constitute an application.

As a general principle, the prohibition set forth in Article 5, Section 2 applies to any application for a supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing.

Unfortunately, your letter does not provide sufficient information as to the nature of the training program to permit me to resolve this matter by issuing a presidential ruling. For example, your letter does not indicate whether local management treats individuals who participate in the training as applicants for a supervisory position; nor am I familiar with the local practices for filling supervisory vacancies in Trenton, NJ.

In any event, as numerous presidential rulings have previously recognized, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. If necessary, you should discuss the issue with management to clarify whether they considered the member's participation in the training to be sufficient to constitute an application.

If the Branch concludes that in the present case the training was not tantamount to an application for a supervisory position, then you may appoint him as a steward. If the Branch concludes that the member did apply for a 204b position, then he would be ineligible to be so appointed.

**MICHAEL BAGAROZZI, NEW WINDSOR, NY,  
BRANCH 5229**

**March 26, 2015 (5428)**

This is in reply to your letter, dated February 19, 2015, requesting dispensation permitting you to submit a late Form 1189 so as to restore your membership in the NALC as a retiree.

I have considered the facts set forth in your letter and have concluded that your request is appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

Please complete and submit the Form 1189 as expeditiously as possible. By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action is necessary to ensure that your membership is restored. Please understand that you will be responsible for paying the back dues that would have been paid if your Form 1189 had been submitted within the deadline. Again, I am instructing Sister Rhine to provide whatever assistance may be necessary to ensure that this payment is made.

**KATHRYN BANKS, KEY WEST, FL, BRANCH 818**

**March 27, 2015 (5463)**

This is in reply to your letter, dated March 16, 2015, requesting dispensation permitting Branch 818 to send its delegates to the Florida State Convention, despite the fact that the delegates were nominated, and elected by acclamation, out of time. According to your letter, the Branch should have compiled its delegate list by November, but failed to do so.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please understand, however, that this dispensation applies only to nominations for the 2015 Florida state convention. The Branch must comply with the requirements of its By-laws with respect to future nominations and elections.

**MARTA L. MASS, MONTGOMERY, AL BRANCH 106**

**April 16, 2015 (5490)**

This is in reply to your recent letter, received by my office on April 14, 2014, requesting a ruling as to whether 204-b members may attend Branch meetings.

The membership rights of 204b members are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance.[.]

Previous rulings interpreting this provision have established that a 204b may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status. Thus, a member in 204b status does not have a right to attend a Branch meeting, except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues. However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, including the right to attend meetings, except for the right to be a candidate for Branch office.

Apart from the foregoing, rulings have recognized that Branches may permit a member in supervisory status to attend a Branch meeting as a non-participating guest. The members in attendance are free to allow a supervisor to attend the meeting as a guest, but are not required to do so.

**FRANK ROYER, DANVILLE, CA, BRANCH 1111**

**April 16, 2015 (5503)**

This is in reply to your email, dated April 13, 2015, concerning your investigation of charges against the 1st Vice President of Branch 1111.

Your email indicates that the committee report will reference about 35 attachments. I agree with your suggestion that copies of the attachments should be made available to the members at the meeting.

In response to your second question, Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches requires that charges be signed by the charging party. Since Branch President Pacas signed the charges, it does appear that she is the charging party in this case.

**DAVID SHELLABARGER, DALEVILLE, IN, BRANCH 98**

**April 16, 2015 (5487)**

This is in reply to your recent letter, received by my office on April 7, 2015, in which you ask several questions pertaining to charges that may be filed against the President of Branch 98 under Article 10 of the Constitution for the Government of Subordinate and Federal Branches

(CGSFB).

In response to your first question, please be advised that there is no one person responsible for serving charges upon the charged party under Article 10, Section 2 of the CFGSFB. The requirement of service is an obligation imposed on the Branch and may be discharged by any appropriate representative of the Branch.

Second, you ask whether the investigation can be done on the clock. I assume you are asking whether the Branch may compensate the members of the investigating committee. Please be advised the Branch may vote to reimburse the members of the investigating committee for the time spent on the investigation.

In reply to your third question, if the Branch President is served with charges, he will be obliged to relinquish the chair of the Branch meetings when the charges are read and when the Branch receives and votes on the report of the investigating committee.

Fourth, any failure to cooperate in the investigation by any party may be reported to the members by the investigating committee.

**BRIAN MCGARRY, BOULDER, CO BRANCH 642**

**April 16, 2015 (5504)**

This is in reply to your letter, dated April 9, 2015, in which you allege that the former President of Branch 642, who was removed from office based on charges against her, owes the Branch money and has failed to return certain Branch property. You now ask for the definition of the term in good standing as it pertains to this member's eligibility to receive Branch funds for attending the upcoming Colorado State Convention.

Article 2, Section 2 of the CGSFB defines good standing as paying all fines, assessments, and dues. However, under the Constitution, eligibility to be a convention delegate is not linked to the concept of good standing. Rather, Article 5, Section 2 of the NALC Constitution expressly states that All qualified regular members shall be eligible to be a delegate or alternate delegate to the National Association Convention or State Convention, except for those members who hold, accept, or apply for supervisory positions in the Postal Service. Similarly, Section 4.1 of the NALC Regulations Governing Branch Election Procedures provides that All regular members...are eligible to hold any office or position in the branch, except for those who fall within the supervisory disqualification (Section 4.11) or have been convicted of certain crimes (Section 4.12).

However, the above provisions apply only to eligibility to be a delegate in the first instance, not to the question of payment. While I appreciate how divisive this question may be, I must advise that there are no provisions of the NALC Constitution which address this matter. As numerous presidential rulings have recognized, all delegates are entitled to attend the Convention at their own expense. Branches may provide funding to all or some of its delegates and have broad discretion to determine which of its delegates will receive funding.

Accordingly, it is up to the Branch to resolve the issue described in your letter, consistent with the Branch By-laws. If the By-laws are silent, the question may be resolved by a direct vote by the members at a meeting. The Branch's decision would be subject to appeal to the National Committee on Appeals.

**DAVID SHELLABARGER, DALEVILLE, IN, BRANCH 98**

**May 8, 2015 (5519)**

This is in reply to your letter, received by my office on April 24, in which you pose several questions pertaining to the procedure for handling appeals and the suspension of a Branch officer.

In reply to your first question, Article 11 of the Constitution for the Government of Subordinate and Federal Branches establishes a procedure whereby members may appeal decisions of a Branch to the National Committee on Appeals. This procedure allows a member who has been found guilty of charges under Article 10 of the CGSFB to appeal the Branch's decision to the Committee. However, there is no procedure for submitting an appeal from the filing of charges prior to the Branch vote. In any event, Article 11 does not require that a Branch bring in an outside team when an appeal is filed as suggested in your letter.

In reply to your second and third questions, if an officer is found guilty of charges and the members vote to remove the member from office, or to suspend him/her, the penalty would go into effect immediately. The

imposition of a penalty is not delayed pending exhaustion of the charged party's appeal rights. If the members vote to suspend an officer for a fixed term, but not permanently remove him/her from office, the officer would be barred from exercising any official authority during the term of the suspension.

**SANDRA D. LAEMMEL, DETROIT, MI, BRANCH 1**

**May 8, 2015 (5518)**

This is in reply to your email, dated April 27, 2015, inquiring whether certain members who were elected as delegates from Branch 1 to the Michigan State Association convention may continue to represent the Branch after their transfers to other installations.

Assuming that the installations in question are outside the jurisdiction of Branch 1, the answer to your question is no. Delegates must be members of the branches they represent at the time of the convention. The facts described in your letter indicate that the transfers in question all became effective prior to the date of the convention.

**GEBRAIEL HAMM, COLUMBIA, SC BRANCH 233**

**May 19 2015 (5526)**

This is in reply to your recent letter, received by my office on May 8, 2015, requesting dispensation permitting Branch 233 to defer consideration of pending charges until its meeting on June 3.

Please be advised that this request should not have been necessary. Article 10, Section 1 of the Constitution for the Government of Subordinate and Federal Branches provides that Branch's may postpone consideration of charges from the first to the second meeting following the meeting at which the charges were read. However, assuming that no such motion was made at the Branch's meeting on May 6, I hereby grant the requested dispensation.

**HOWARD RECHTMANN, DAVIE, FL, BRANCH 1071**

**May 19, 2015 (5500)**

Your letter to Branch 1071 President Mike Gill, dated March 27, 2017, 2015, has been referred to me as a request for dispensation permitting the restoration of your membership in the NALC as a retiree.

I have considered the facts set forth in your letter and have concluded that your request is appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action is necessary to ensure that your membership is restored. You should contact her office to make the necessary arrangements. Please understand that going forward you will be required to pay membership dues directly to your Branch and will be responsible for paying the back dues that would have been paid if you had been billed directly following the termination of OPM disability retirement benefits. Again, I am instructing Sister Rhine to provide whatever assistance may be necessary to ensure that your back dues are properly calculated.

**JOSEPH MOONEY, TRENTON, NJ, BRANCH 38**

**May 20, 2015 (5533)**

This is in reply to your letter, received by my office on May 14, 2015, concerning the status of a proposed constitutional amendment to be sponsored by the New Jersey State Association of Letter Carriers. According to your letter, a resolution passed at the 2013 state convention called for the appointment of a Constitutional Committee which would make recommendations to be considered at a special meeting in 2014. However, there was no quorum at the special meeting.

As National President, it is my responsibility to interpret and apply the NALC Constitution. Accordingly, I can advise you that, so far as the Constitution is concerned, there is no bar to presenting the committee report for consideration at the 2015 state convention.

However, the specific questions posed in your letter B whether the resolution is now moot, whether the 2015 state convention can act on the report, and whether the convention can suspend business to take up the resolution B all turn on the original intent of the resolution and the State Association By-laws. These are all questions which must be resolved by the State Association itself.

**GEORGE SARVIS, POUGHKEEPSIE, NY, BRANCH 137**  
**WILLIAM COOK, SCHENECTADY, NY, BRANCH 358**

**June 3, 2015 (5555)**

This is in reply to your letters, both dated April 16, 2015, requesting that I consider a proposal to transfer the letter carriers employed in the Amsterdam, NY Post Office from the jurisdiction of Branch 137 to Branch 358. This proposal is based on the fact that Branch 358 is much closer to Amsterdam and can offer potentially more effective representation.

I am inclined to implement this proposal since both Branches agree to the transfer. However, before doing so, the members employed in Amsterdam should be informed of the proposal and should have an opportunity to voice any objections or concerns.

Accordingly, by copy of this letter I am directing NBA Cirelli, or his designee, to meet with the NALC members employed in the Amsterdam, NY Post Office for the purpose of discussing the proposed transfer. Representatives from the two Branches are encouraged to attend this meeting and answer any questions that may be raised.

Brother Cirelli should report to me whether any of the members object to the transfer. I will make a final decision upon receipt of the report.

**JOHN OROSS, DAYTON, OH, BRANCH 182**

**June 4, 2015 (5560)**

This is in reply to your letter, dated May 29, 2015, inquiring whether a member has lost eligibility to serve as a delegate under Article 5, Section 2 of the Constitution. According to your letter this member was temporarily assigned to higher level work as light duty which involved evaluating rural routes.

The facts reflected in your letter and the attached documents do not indicate that this member has become ineligible to be a delegate. Article 5, Section 2 prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from serving as a delegate for two years following termination of supervisory status. However, the disqualification applies only where the member has held, accepted or applied for a supervisory position. Accordingly, previous rulings have held that where supervisory duties are assigned to a letter carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable.

In addition, counting rural routes is not necessarily supervisory work, even when the member is paid at a higher level. As the rulings have recognized, higher level assignments are not necessarily supervisory for purposes of Article 5, Section 2. Generally speaking, a position is considered supervisory for purposes of Article 5, Section 2 if the person holding that position has the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their work. The emails that you included with your letter clearly indicate that Brother English was never authorized to discipline or supervise rural letter carriers.

Accordingly, it would appear that Brother English remains eligible to be a delegate.

**PAUL BOCCONCELLI, PEORIA, AZ BRANCH 6156**

**June 25, 2015 (5567)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated June 5, 2015, has been referred to me, insofar as your letter raises issues of constitutional interpretation.

The letter to Sister Rhine seeks clarification of the procedure for submitting proposed amendments to the NALC Constitution. Please be advised that the procedure is governed by Article 19 of the Constitution, not Article 12 which covers only the submission of proposed resolutions. Article 19 does permit individual members to submit amendments to the Constitution at a regular meeting of their Branch. As provided in Article 19, Section 2, the proposal must be endorsed by two-thirds of the members present and voting at the meeting in order to qualify for submission to the Convention. Qualifying proposals may then be forwarded to the National Secretary-Treasurer, in duplicate, at least sixty days prior to the Convention and must be signed by the Branch President and Secretary. All proposed constitutional amendments are referred to the NALC Executive Council.

**RICHARD GOULD, SAN ANTONIO, TX, BRANCH 421**

**June 25, 2015 (5573)**

This is in reply to your recent letter, received by my office on June 15, 2015, inquiring whether Branch 421 may maintain its long standing order of business for Branch meetings, even though that order deviates from the order of business provided by Article 15 of the NALC Constitution for the Government of Subordinate and Federal Branches.

Generally speaking, the answer to your question is yes. Previous rulings have consistently held that Branches have discretion to alter the order of business for a Branch meeting. Nothing in Article 15 prohibits changes in the order of business.

**LARRY CIRELLI, NBA, REGION 15**

**DANIEL TOTH, NBA, REGION 11**

**GEORGE SARVIS, POUGHKEEPSIE, NY, BRANCH 137**

**WILLIAM COOK, SCHENECTADY, NY, BRANCH 358**

**MEMBERS OF AMSTERDAM, NY, BRANCH 137**

**June 25, 2015 (5555)**

As you know, at my request National Business Agent Larry Cirelli conducted a personal investigation with respect to a proposal to transfer the letter carriers employed at the Amsterdam, NY Post Office from the jurisdiction of Branch 137 to Branch 358. I have now received Brother Cirelli's report

It appears that both Branches support the proposal and that a large majority of the sixteen active members presently employed in Amsterdam have indicated that they are in favor of a transfer of their membership to Branch 358. It further appears that the proposed transfer would be in the best interest of the letter carriers in Amsterdam due to the geographic proximity of Branch 358.

Accordingly, pursuant to my authority under Article 9, Section 1 of the NALC Constitution, I am hereby directing you to take whatever action may be necessary to transfer the Amsterdam, NY Post Office to the jurisdiction of Branch 358, and the membership of all NALC members employed in Amsterdam to Branch 358. The membership of retiree members who were employed in the Amsterdam Post Office should also be transferred to Branch 358, in accordance with past practice.

By copy of this memorandum, I am directing Brother Cirelli, Brother Toth, and the two Branches to advise all management officials of this change as may be necessary.

**DAVID SHELLABARGER, DALEVILLE, IN, BRANCH 98**

**June 25, 2015 (5575)**

This is in reply to your recent letter, received by my office on June 15, 2015, concerning the status of a verbal vote to remove Branch 98 President Jim Mullikin from office, following a determination that he was guilty of charges previously filed against him under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Please feel free to share copies of this letter with the other members who signed your letter.

At the outset, I must emphasize that I only have your side of the story before me. Accordingly, it would be inappropriate for me to comment on what may have taken place at the meeting described in your letter. I can provide the following guidance and assistance.

In response to the questions posed in your letter, please be advised that Article 10, Section 4 of the CGSFB does require that a vote on the question of removal from office must be conducted by secret ballot. Accordingly, the verbal vote described in your letter cannot be a basis for removing a Branch officer. At the same time, previous rulings have made clear that the ballot vote required by Article 10, Section 4 is among the members attending the meeting at which the charges are considered. Therefore, ballots should not be mailed out to the membership at large, as apparently was suggested by Brother Milliken.

Given these circumstances, I have concluded that the Branch, at its next meeting, must reconsider the Article 10 charges as well as the question of penalty and that outside assistance in doing so would be appropriate. Accordingly, by copy of this letter, I am directing National Business Agent Pat Carroll, or his designee, to attend the next meeting of the Branch and to assume the chair during that portion of the meeting which addresses the charges. The investigating committee should

present its report and the Branch should conduct a new vote as to whether the facts, as found by the committee, sustain the charge. If the Branch votes to sustain the charges, a new vote shall be taken on the question of penalty in compliance with the constitutional requirements described above. All officers and members of Branch 98 are expected to cooperate fully with Brother Carroll or his designee.

**GILBERT SHURTLEFF, WEST WARWICK, RI, BRANCH 15**

**June 25, 2015 (5568)**

This is in reply to your letter, received by my office on June 4, 2015, requesting a ruling as to whether you have been disqualified from serving in any office or position in Branch 15. According to your letter, Branch 15 President Ingrid Armada has advised you that you are not eligible to hold office because you gave your City Manager a letter asking to be considered for a position as a 204b.

At the outset, I wish to express my appreciation for your past service as a steward and your strong support for the NALC and Sister Armada.

There is insufficient information in your letter for me to issue a definitive ruling on your situation. I can advise you as to the constitutional principles that should be applied.

Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that a member who holds, accepts, or applies for a supervisory position is not eligible to hold any office or other position in the Branch for a period of two years. Your letter indicates that you did not actually hold or accept a supervisory position, but that you may have applied for such a position by giving your City Manager a letter asking to be considered.

As a general principle, the prohibition set forth in Article 5, Section 2 covers any application for a supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing. A letter indicating a member's interest in a management position may or may not constitute an application for a supervisory position, depending on the member's intent, the specific wording of the statement, local practices, and other relevant circumstances.

You have not provided a copy of the letter you sent to the City Manager. Your letter to me does not provide sufficient information as to the nature of your interactions with the City Manager for me to decide this matter. For example, I do not know whether local management considered your letter sufficient to constitute an application for a supervisory position; nor am I familiar with the local practices for filling supervisory vacancies in West Warwick, RI.

In any event, as numerous presidential rulings have previously recognized, it is for the Branch to determine, in the first instance, whether or not a member has in fact applied for a supervisory position. If necessary, you or Sister Armada may discuss the issue with management to clarify whether they considered your letter to be sufficient to constitute an application.

If the Branch concludes that in the present case the letter was not tantamount to an application for a supervisory position, then you would remain eligible to hold office in the Branch. If the Branch concludes that the letter was an application for a 204b position, then you would be ineligible for two years under the CGSFB. This is a constitutional requirement that cannot be evaded. However, if you disagree with the Branch's decision you may appeal it to the National Committee on Appeals as provided by Article 11 of the CGSFB.

**BARBARA PATTERSON, JEFFERSON, GA, BRANCH 588**

**July 6, 2015 (5587)**

This is in reply to your letter, dated June 23, 2015, requesting my assistance with regard to an ongoing dispute between you and Branch 588 President Patrick Daniel.

At the outset, I do appreciate your concerns. However, since I only have your side of the story before me, it would not be appropriate for me to comment on the specific issues which appear to be in dispute.

I can provide guidance with respect to your request to review the minutes of a Branch meeting. Previous presidential rulings have held that the minutes of Branch meetings should be reasonably accessible for review by all members on an equal basis. The rulings have also recognized that Branches have discretion to implement reasonable

policies for allowing access to minutes. A denial of a request to examine minutes may be appealed under Article 11 of the Constitution for the Government of Subordinate and Federal Branches.

I trust that the foregoing will assist you and the Branch. Please note that I am sending a copy of this letter to Brother Daniel.

**KIMBERLY DRAKE, BRANCH 378**

**July 10, 2015 (5612)**

Your email to Secretary-Treasurer Nicole Rhine, dated July 10, 2015, has been referred to me for reply. Your email seeks guidance concerning a vacancy in the office of Treasurer for Branch 378. In particular, your email indicates that the Branch membership has voted to reject your assignment of check signing authority to the Branch Vice President.

Please be advised that the branch vote, as described in your email, was entirely unnecessary. Article 6, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches specifically provides that the Branch President has "general supervisory powers over the Branch," including the power to "see that offices perform their duties." As previous rulings have recognized, this constitutional authority entitles you to assign the duties of the Branch Treasurer temporarily to another officer until you appoint a new Treasurer. A vote by the members to approve such action by the Branch President is not constitutionally required.

**BEN JACKSON, DECATUR, GA, BRANCH 73**

**July 22, 2015 (5613)**

This is in reply to your letter, dated July 7, 2015, concerning a procedure Branch 73 has adopted regarding potential amendments to its By-laws. According to your letter, the Branch has established a By-laws committee which reviews proposed amendments and reports to the Branch. The members then vote to agree or disagree with the recommendation of the committee. You now ask whether retiree members should be notified of the By-law committee recommendation.

Branches must comply with Article 15 of the NALC Constitution in order to enact amendments to their By-laws. Article 15 requires that all members, including retirees, receive "suitable notification" at least ten days before any meeting at which the Branch will vote on a proposed By-law amendment. So long as the Branch does notify retirees of any vote on By-law changes or amendments, it will be in compliance with the Constitution.

I assume that the committee procedure described in your letter is used by the Branch to decide which proposed changes in the By-laws it will publish and schedule for a vote at a future meeting. The Constitution does not address such preliminary procedures. Accordingly, it is up to the Branch to decide whether to notify retirees of the committee's recommendation.

**JOHN SHERIDAN, SPRINGFIELD, NJ BRANCH 38**

**July 28, 2015 (5589)**

Your letter to Secretary-Treasurer Nicole Rhine, dated June 21, 2015, has been referred to me for reply. Your letter requests that former Branch 38 member Debra Glaser be reinstated as a retiree member.

I have reviewed your letter as well as the correspondence from Sister Glaser and RAA Didriksen. It appears that when Sister Glaser took disability retirement in 2005, and elected to remain on the OWCP rolls, she attempted to have her dues deducted from her OWCP benefits. However, OWCP does not withhold union dues from benefit payments. The correspondence also indicates that Branch 38 erroneously advised her that she could not retain her membership because she was not able to execute an effective Form 1189.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation, so that Sister Glaser may be reinstated as a retiree member of the NALC. Sister Glaser must pay all back dues that accrued during the period when her membership lapsed. By copy of this letter I am instructing Secretary-Treasurer Rhine and the NALC Membership Department to calculate the back dues and to make all necessary arrangements for payment. In addition, Sister Glaser will be required to make direct payment of all future dues.

**MARK BARE, GRAHAM, NC, BRANCH 2262**  
**August 5, 2015 (5622)**

This is in reply to your letter, dated July 15, 2015, requesting a ruling as to whether 204b members may attend Branch meetings.

The membership rights of 204b members are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a 204b may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status. Thus, a member in 204b status does not have a right to attend a Branch meeting, except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues. However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, including the right to attend meetings, except for the right to be a candidate for Branch office.

Apart from the foregoing, rulings have recognized that Branches may permit a member in supervisory status to attend a Branch meeting as a non-participating guest. The members in attendance are free to allow a supervisor to attend the meeting as a guest, but are not required to do so.

**VALERIE CHACON, ALBUQUERQUE, NM, BRANCH 504**  
**August 13, 2015 (5627)**

This is in reply to your letter, dated July 27, 2015, regarding the civil action initiated by the Department of Labor against Branch 504. The action seeks to set aside the recent election of officers in Branch 504.

In reply to your first question, please be advised that the National Union does not provide attorneys to represent Branches with respect to internal union matters such as Branch elections.

In reply to your second and third questions, I must state at the outset that I cannot provide you with legal advice as to compliance with the United States District Court's local rules. I can advise you as to the requirements of the NALC Constitution.

As previous rulings have consistently recognized, the payment of attorney's fees, like any other expenditure of Branch funds, must be approved by the members in accordance with Article 12, Section 3 of the Constitution for the Government of Subordinate and Federal Branches. A Branch may authorize payments in advance through its By-laws or by enacting a budget or a specific resolution authorizing the Executive Board, or a specified officer, to make the expenditure in question. But, in the absence of prior authorization, the officers of the Branch cannot constitutionally expend Branch funds to retain an attorney without a vote of the members approving such expenditure.

Finally, I would note that the Branch may avoid the need to retain an attorney by complying with the Department of Labor's request that it rerun the election. As I am sure you are aware, the National Union itself recently decided to comply with the Department's request to hold a new election for Director of Retirees. Of course, in your case, the decision to comply or resist the Department must be made by the Branch.

**STEFANIA ALFANO, WHEELING, IL, BRANCH 4739**  
**August 13, 2015 (5625)**

This is in reply to your letter, dated July 22, 2015, inquiring whether a member who has been suspended for a specified period of time in

accordance with Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) will remain suspended if he/she transfers to a different installation represented by another Branch.

Generally speaking, the answer to your question is yes. When an active member of a Branch transfers to an installation represented by a different Branch, that individual's membership will be automatically transferred to the receiving Branch in accordance with Article 2, Section 3 of the CGSFB. However, if the individual had been suspended by the original Branch, the period of suspension would continue until it expires or is overturned by the National Committee on Appeals.

**TREVOR PAYNE, COLUMBUS, OH BRANCH 78**  
**August 14, 2015(5631)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated July 10, 2015, has been referred to me for reply, insofar as your email raises an issue of constitutional interpretation. Specifically, you inquire whether a proposed amendment to the Branch 78 By-laws would be permissible. The amendment would provide that "In the event that a member appeals the results of a Branch election and subsequently loses the appeal to the Election Committee, the Executive Board and the Branch, the appellant will be charged with all costs incurred by the Branch during the appeal process."

While I appreciate the concerns underlying this proposal, I must advise that it would not be enforceable. Members have a right to appeal the results of Branch elections which is guaranteed by Section 21 of the NALC Regulations Governing Branch Election Procedures. As previous rulings have recognized, a Branch cannot act to inhibit the exercise of this right.

**KIMBERLY DRAKE, MARION, INDIANA, BRANCH 378**  
**August 17, 2015 (5639)**

This is in reply to your recent letter, received by my office on August 11, 2015, concerning ongoing disputes in Branch 378.

As requested, this will confirm that National Business Agent Pat Carroll, or his designee, is authorized to attend any meeting of Branch 378 and to provide whatever assistance he deems appropriate to assist the Branch in resolving the issues described in your letter.

I would also call to your attention Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches which provides that the Branch President shall have general supervisory powers over the Branch, which includes the authority to see that officers perform their duties. As previous rulings have consistently recognized, this provision confers upon the Branch President supervisory authority over subordinate officers.

**ERICA SMITH, RALEIGH, NORTH CAROLINA, BRANCH 459**  
**August 28, 2015 (5649)**

This is in reply to your letter, dated August 12, 2015, requesting a ruling as to whether Branch 459 violated Article 15 of the NALC Constitution by declining to consider a proposed By-law amendment that you had submitted at its August meeting. According to your letter, the Branch intends to consider your proposal, along with others, at its September meeting.

Article 15 sets forth the minimum requirements that must be satisfied in order for a Branch to submit a proposed By-law amendment to the National Committee of Laws for approval. As stated in Article 15, the amendment [must have] been submitted in writing at the last previous regular Branch meeting, and suitable notification to members [must have been] made at least ten (10) days before the regular meeting at which the vote is to be taken.

However, Article 15 does not contain any language specifying which meetings Branches are obliged to consider By-law proposals submitted by members. Rather, Article 15 permits Branches to amend their By-laws from time to time as may be deemed most expedient. As previous presidential rulings have recognized, this provision vests Branches with authority to adopt reasonable rules governing the procedures for consideration and voting on proposed By-laws. Accordingly, the Branch would have discretion to resolve the issues described in your letter in any manner which is consistent with its existing By-laws and established



Branch practices. Therefore, the limited information contained in your letter does not indicate that the Branch violated the Constitution.

**VITO KEATY, MELROSE PARK, IL, BRANCH 2183**

**August 31, 2015 (5654)**

This is in reply to your letter, dated July 22, 2015 (received by my office on August 17), concerning the inadvertent failure of Branch 2183 at its July meeting to vote on a motion to approve funding of the Branch's annual steak fry, which has been held every year for the past 40 years. According to your letter, the Branch Executive Board has approved the funding. You now ask whether it would be appropriate to request special dispensation from me authorizing the necessary expenditure of Branch funds.

Article 12, Section 3 of the of the NALC Constitution for the Government of Subordinate and Federal Branches expressly states that all Branch funds shall be devoted to such uses as the Branch may determine; provided that no- appropriation shall be made except when ordered by a majority vote of the members present and voting at a regular meeting. Accordingly, approval by the membership is necessary to authorize the expenditure of Branch funds. I am not inclined to by-pass this constitutional requirement by issuing a dispensation.

However, as previous rulings have recognized, Branches may approve the expenditure of funds retroactively. Accordingly, the members may vote to uphold the funding of the steak fry at a future meeting, if they have not already done so.

**FRANCISCO PECUNIA-VEGA, FAYETTEVILLE, NC, BRANCH 1128**

**August 31, 2015 (5650)**

This is in reply to your letter, dated August 12, 2015, inquiring whether you have the authority as Branch 1128 President to exclude a member from steward training to be conducted in the Branch office. According to your letter, the member in question was a steward, but you relieved her of her duties.

Please be advised that the NALC Constitution does not contain any provisions governing steward training conducted by Branches. Accordingly, Branches have discretion to decide who may or may not attend such training.

In the absence of any established Branch policy, you would have the authority to make an initial decision as to who may attend pursuant to your authority under Article 6, Section 1 of Constitution for the Government of Subordinate and Federal Branches (CGSFB) which confers upon the President general supervisory powers over the Branch. Any such decision would have to be consistent with the Branch By-laws. In addition, the decision of the Branch President would be subject to appeal to the Branch under Article 11, Section 1 of the CGSFB.

**MARANDA HARRIS, BOONVILLE, MO, BRANCH 763**

**August 31, 2015 (5653)**

This is in reply to your letter, dated August 14, 2015, requesting clarification of your membership status and rights under the NALC Constitution. Your letter indicates that you act as a temporary (204b) supervisor approximately 12 weeks in a year.

At the outset, so long as you continue to pay your union dues, and have paid any fines or assessments that may have been imposed, you would remain a member in good standing. The Constitution does impose certain restrictions on the rights of supervisory members.

The membership rights of 204b members are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office,

or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a 204b may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status. Thus, a member in 204b status does not have a right to attend a Branch meeting, except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues.

However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, including the right to attend meetings, except for the right to be a candidate for Branch office. Accordingly, on those days when you are working as a letter carrier you would have the right to attend Branch meetings, to vote on Branch business, and vote in Branch elections.

Apart from the foregoing, rulings have recognized that Branches may permit a member in supervisory status to attend a Branch meeting as a non-participating guest. The members in attendance are free to allow a supervisor to attend the meeting as a guest, but are not required to do so.

**CHRISTINE BROWNE, MCALESTER, OK, BRANCH 1166**

**September 1, 2015 (5656)**

This is in reply to your letter, dated August 17, 2015, advising that the President and Vice President of Branch 1166 have resigned. You now ask whether the Branch should conduct a special election to fill these vacancies or, alternatively, whether you, as Secretary-Treasurer, may appoint someone to take over until the next election.

Please be advised that a Branch Secretary-Treasurer does not have the authority under the Constitution to appoint a new Branch President or Vice President. Article 4, Section 2 of the Constitution for the Government of Subordinate and Federal Branches does authorize Branches to provide in their by-laws for an order of succession to fill vacancies. Accordingly, if the Branch 1166 By-laws contain an order of succession, it should be implemented.

However, if the By-laws are silent, the best solution would be to conduct a special election. In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 1166 dispensation to conduct a special election to fill the offices of President and Vice President for the remainder of the current term of office.

**KENNETH MONTGOMERY, ROCHESTER, NY, BRANCH 210**

**September 4, 2015 (5670)**

This is in reply to your letter, dated August 26, 2015, regarding members of Branch 210 who have failed to repay hardship loans they previously received from the Branch, pursuant to Article 8, Section 5.D of the Branch By-laws. Specifically, you ask whether these individuals should be regarded as having forfeited membership under Article 7, Section 4 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB).

At the outset, it would be inappropriate for me to address the merits of this dispute at this time. However, I can advise you that previous rulings have held that a member's failure to pay an individual debt to the Branch does not, by itself, result in a forfeiture of membership. Article 7, Section 4 provides for forfeiture of membership where a member fails to pay any fine, assessment or monthly dues within thirty (30) days. However, the term assessment or monthly dues within thirty (30) days. However, the term assessment, as used in Article 7, Section 4, refers only to general assessments imposed on all the members of the Branch, not to individual charges or debts. The term fine refers to a penalty imposed by the Branch following the filing and processing of charges under Article 10 of the CGSFB.

The following discussion concerns the procedures that may be pursued at the Branch level to enforce the debt claim.

Past rulings have concluded that the procedure for filing and adjudicating charges set forth in Article 10 of the CGSFB is a legitimate method for enforcing a debt claim. The rulings further establish that when the Branch claims that a member owes an individual debt, the member

may be removed from membership for failing to pay such debt only after charges have been processed pursuant to Article 10 of the CFGSFB. Absent Article 10 procedures, a simple motion at a Branch meeting is insufficient for this purpose.

If Article 10 charges are filed, an impartial investigating committee must be appointed. The committee will be obligated to hear both sides of the dispute. After hearing the committee's report, the Branch can vote to determine whether the charged party owes the disputed sum and can vote to impose a requirement of reimbursement. Prior rulings have established that an order to pay a debt owed to the Branch is not a "fine" within the meaning of Article 10, Section 4 of the CGSFB and, therefore, does not require a two-thirds majority.

Finally, the Branch's decision may be appealed to the National Committee on Appeals.

**CHARLES POWELL, JACKSONVILLE, FL, BRANCH 53**  
**September 7, 2015 (5674)**

This is in reply to your letter, dated August 17, 2015, concerning your enrollment in the NALC Health Benefit Plan (HBP). Specifically, you now ask whether as a retiree member of NALC you are entitled to vote at Branch meetings.

I regret to advise that the answer to your question is no. According to our records, your membership in the NALC was terminated following your retirement from the Postal Service in 1991 when you failed to submit a Form 1189 in a timely manner. As explained in former Secretary-Treasurer Jane Broendel's letter to you, dated July 31, 2014, there are no provisions for retirees to be reinstated in the NALC.

Your letter indicates that you have enrolled in the NALC HBP as a Health Plan member and have paid your dues of \$36. However, Health Plan members are not regular members of the NALC. To the contrary, Article 22, Section 2 of the NALC Constitution specifically states that [a] health plan member shall be a member only for the purpose of enrollment in the NALC Health Benefit Plan and shall not have a voice or vote in any of the affairs of the NALC or its Branches. Accordingly, Health Plan members are not eligible to vote at Branch meetings.

**DEBRA GAMMELLO, CLEVELAND, OH, BRANCH 40**  
**September 10, 2015 (5675)**

This is in reply to your letter, dated August 1, 2015, requesting dispensation permitting the restoration of your membership in the NALC as a retiree.

I have considered the facts set forth in your letter and have concluded that your request is appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action is necessary to ensure that your membership is restored. You should contact her office to make the necessary arrangements.

Please understand that going forward you will be required to pay membership dues directly to your Branch and will be responsible for paying back dues. Sister Rhine's office should provide whatever assistance may be necessary to ensure that your back dues are properly calculated.

**WILLIAM WRAY, RALEIGH, NC, BRANCH 459**  
**September 17, 2015 (5679)**

Your email to Assistant Secretary-Treasurer Judy Willoughby, dated September 3, 2015, has been referred to me for reply. Your email asks whether it would be permissible for Branch 459 to raise the dues of retiree members only for future retirees, while maintaining the dues of those members who are now retired at their current level.

Please be advised that this proposal would be contrary to the long-standing NALC policy of maintaining a uniform dues structure. The proposal would create a two-tiered dues structure for retirees, depending on the date of retirement. NALC has never approved such an arrangement. Accordingly, the Branch should not adopt this proposed by-law change.

**KAREN TOMPKINS, COLUMBIA, MO, BRANCH 763**  
**September 17, 2015 (5657)**

Your letter to Secretary-Treasurer Nicole Rhine, dated August, 16, 2015, has been referred to me for reply. Your letter requests clarification

of the voting rights of members who serve intermittently as 204b's.

Generally speaking, such members should be sent mail ballots. As previous rulings have consistently recognized, members who serve as temporary supervisors may vote in branch elections on days that they are not serving in a supervisory capacity. The Branch should instruct such members that they may not complete or submit a ballot to vote at times that they are serving as supervisors.

If there is a factual question as to whether a ballot was submitted by a member while serving in a supervisory capacity, then the election committee should treat the ballot as challenged at the time of the vote count. The committee should then follow the procedures set forth in Section 15 of the NALC Regulations Governing Branch Election Procedures.

**DENNIS BLANK, JR., COLUMBIA, SC, BRANCH 233**  
**September 30, 2015 (5690)**

This is in reply to your letter, September 5, 2015 requesting dispensation permitting Branch 233 to postpone its nomination and election of a trustee. According to your letter, the Branch inadvertently failed to conduct nominations as scheduled at its meeting on September 3.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Nominations and the election should be conducted as expeditiously as possible.

Please understand that this dispensation applies only to the current trustee election. In the future the Branch must adhere to the time frames for nominations and elections set forth in its By-laws.

**SCOTT HILEMAN, AKRON, OH, BRANCH 148**  
**October 2, 2015 (5694)**

This is in reply to your letter, dated September 29, 2015. Your letter requests dispensation permitting the Branch 148 Election Committee to conduct a new election for the offices of President, Trustees, and Sergeant at Arms. This request is based on the committee's discovery of numerous errors in the ongoing election process, involving the wording of the ballots, the accuracy of the mailing list, and other serious matters.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. The new election should be conducted as expeditiously as possible and in accordance with all applicable requirements provided by the Constitution, the NALC Regulations Governing Branch Election Procedures, and the Branch By-laws.

**FRANK MORRIS, GULFPORT, MS, BRANCH 1374**  
**October 2, 2015 (5696)**

This is in reply to your letter, dated September 16, 2015, requesting guidance as to how Branch 1374 may fill two vacant Trustee positions. According to your letter, the Branch was unable to fill these positions at its last election.

Please be advised that Article 4, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches authorizes the President of the Branch to fill officer vacancies by appointment. Accordingly, as President of the Branch you have discretion to appoint any members of the Branch who are willing to serve to act as Trustees until the next regular election.

**AL GRIFFIN, EVANSVILLE, IN, BRANCH 377**  
**October 5, 2015 (5698)**

This is in reply to your letter, dated September 21, 2015, inquiring whether it is permissible under the Constitution for an individual to receive two salaries for service as both an elected officer of Branch 377 and a steward in his/her unit or station.

Previous rulings have recognized that it is permissible under the Constitution for a member to serve simultaneously as both a branch officer and a steward, so long as the steward position is not a branch office under the By-laws (e.g. if stewards are elected by station, rather than the entire membership, and do not sit on the Branch Executive Board). According to your letter, stewards in Branch 377 are elected by station and do not sit on the Branch Executive Board.

The question whether a member may receive separate compensation

for service as both a Branch officer and a steward turns on the meaning and intent of the applicable Branch By-laws. In response to your specific question, it is permissible for a Branch to authorize the payment of separate salaries to one individual who serves as both an officer and a steward. However, as the rulings have consistently emphasized, the interpretation and application of a Branch By-law is, in the first instance, the responsibility of the Branch. If the By-laws are ambiguous, I would suggest that the Branch enact a clarifying amendment which reflects the will of the members.

**VALARIE WINIESDORFFER, LIVONIA, MI, BRANCH 4779**

**October 6, 2015 (5695)**

This is in reply to your letter, dated September 17, 2015. According to your letter, Branch 4779 does not have Trustees and has not had its books audited for at least 15 years. Branch President Willbanks has appointed three temporary trustees, including you, to audit the branch books, but has instructed you to go back only one year. You now question the propriety of this instruction.

At the outset, it would be inappropriate for me to comment as I have only your side of the story before me. I can offer the following general guidance.

First, Article 4, Section 1 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that Branches have a Board of Trustees composed of either three or five members (unless the Branch By-laws provide explicitly for the consolidation of the Trustee positions with other officer positions). Accordingly, the Branch should fill the existing vacancies either by appointment by the President, or by special election.

Second, Article 6, Section 9 of the CGSFB requires that the Trustees examine and report to the Branch the condition of the books of the officers at least once every six months. The Branch must comply with this requirement in the future.

Third, a decision by a Branch President may be appealed to the Branch under Article 11, Section 1 of the CGSFB. Thus, if you believe that the President has improperly limited the scope of your committee's review, you may appeal his decision to the Branch.

**KAREN K. RUSSELL, FLAT ROCK, MI, BRANCH 4779**

**October 6, 2015 (5697)**

This is in reply to your recent letter, received by my office on September 25, 2015, concerning certain issues that have arisen in Branch 4779.

At the outset, while I do appreciate your legitimate concerns, I must decline to comment on the specific factual assertions in your letter, as I have only your side of the story before me. I can offer the following general guidance.

With regard to the charges that you filed against Branch President Willbanks, the Branch's apparent decision to reject the charges would have been subject to appeal to the National Committee on Appeals, in accordance with Article 11, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches. I express no view as to the merits or timeliness of any such appeal.

Second, I applaud your willingness to be a candidate for Branch office. However, I cannot intervene to resolve any disputes over the conduct of the election. Objections to the conduct of an election must be submitted in the form of a post-election complaint to the Election Committee, as provided by Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP). I can advise that Sections 9.1 and 9.2 require the Branch to treat all candidates equally, and specifically provide that the Branch must honor all requests by a candidate to distribute campaign literature to the membership at the candidate's expense. However, the Branch is not required to provide copies of its membership list.

**MATT PIERCE, PORTLAND, OR, BRANCH 82**

**October 9, 2015 (5716)**

This is in reply to your letter, dated October 1, 2015, in which you ask several questions pertaining to the conduct of Branch 82's mail ballot election. In the following discussion, I will respond to your questions in

the order presented.

1. With respect to new hires, as well as employees who recently join the Union, eligibility to vote turns on the date that the individual executes the Form 1187. As previous rulings have consistently held, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Accordingly, a new member is eligible to vote in a Branch election immediately upon execution of the Form 1187. This is the date on which the Form is signed by the new member. There is no requirement that eligibility to vote in a Branch election be deferred until the Form is processed by the NALC Membership Department or until dues deductions begin to be made by the Postal Service.

However, the Branch is not required to provide ballots to new members who sign the Form 1187 after the date ballots are mailed. Mail ballot elections are governed by Section 14 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Section 14.2 of the RGBEP specifically provides that the Election Committee must mail ballots to all eligible members at least twenty days before the pre-announced election date. Individuals who were not eligible members on the date that the ballots were mailed do not have a right to participate in a mail ballot election.

Recent retirees who were members of the Branch at the time of retirement continue to be eligible to vote until such time as membership is terminated for failure to complete a Form 1189.

2. A City Carrier Assistant who has been separated at the time ballots are counted is no longer a member of the Branch. Accordingly, a ballot submitted by that individual should not be counted even if he/she was a member when ballots were mailed.

3. Your letter also requests clarification of the voting rights of members who serve intermittently as 204b's. Generally speaking, such members should be sent mail ballots. As previous rulings have consistently recognized, members who serve as temporary supervisors may vote in branch elections on days that they are not serving in a supervisory capacity. The Branch should instruct such members that they may not complete or submit a ballot to vote at times that they are serving as supervisors.

If there is a factual question as to whether a ballot was submitted by a member while serving in a supervisory capacity, then the election committee should treat the ballot as challenged at the time of the vote count. The committee should then follow the procedures set forth in Section 15 of the RGBEP.

4. Finally, Section 14 of the RGBEP recognizes that, as an alternative to a signature requirement, Branches have discretion to place on the outer return envelope for each ballot any identifying information which will verify the eligibility of the voter. One example would be to assign to each voter a unique identification number which would then be placed on the return envelope sent to that member. I would encourage you to contact the Department of Labor for other suggestions.

**EDWARD FLETCHER, RICHMOND, CA, BRANCH 1111**

**October 13, 2015 (5720)**

This is in reply to your email, dated October 8, 2015, concerning the eligibility of a current Branch 1111 officer to continue to serve and to be a candidate in the upcoming election.

As noted in my letter to Branch President Pacas, Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches provides that a member who applies for a supervisory position must vacate any branch office held, regardless of whether the application is accepted by the Postal Service. In addition, the constitutional language prohibits members who applied for a supervisory position from being candidates for branch office for two years following the withdrawal or rejection of the application. There are no exemptions from these rules.

However, as previous rulings have repeatedly held, higher level assignments are not necessarily supervisory for purposes of Article 5, Section 2. Generally speaking, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties. Therefore,

if the description of the Labor Relations Specialist position in question set forth in your letter is accurate, that position would be considered supervisory.

It is the responsibility of the Branch in the first instance to determine whether a candidate for Branch office has been disqualified under the foregoing principles. The Branch's determination is subject to appeal.

**PETE LEER, MADISON, WI, BRANCH 507**

**October 13, 2015 (5717)**

This is in reply to your letter, dated September 28, 2015, requesting a ruling as to whether a member was properly prevented from attending Branch 508's September 8 membership meeting. According to your letter, the member in question had worked as a 204-b supervisor on that day.

At the outset, it would be inappropriate for me to comment on the specific situation described in your letter, as I only have your side of the story before me. I can provide the following general guidance.

The membership rights of 204b members are addressed by Article 2, Section 1(c) of the NALC Constitution, providing as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a 204b may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status. Thus, a member in 204b status does not have a right to attend a Branch meeting, except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues. However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, including the right to attend meetings, except for the right to be a candidate for Branch office.

Apart from the foregoing, rulings have recognized that Branches may permit a member in supervisory status to attend a Branch meeting as a non-participating guest. The members in attendance are free to allow a supervisor to attend the meeting as a guest, but are not required to do so.

**DAISY PACAS, RICHMOND, CA, BRANCH 1111**

**October 13, 2015 (5718)**

This is in reply to your emails on October 7 and 8 concerning a member who apparently applied for a supervisory position for which she was not accepted. You now ask whether this individual must vacate the Branch 1111 positions she now holds (executive council member, steward, and COLCPE Coordinator). In addition, you now ask whether this individual is eligible to be a candidate for Branch office in the upcoming Branch election.

Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches specifically provides that "All regular members shall be eligible to hold any office or position in the Branch, except that a member who voluntarily or otherwise, holds, accepts, or applies for a supervisory position in the Postal Career Service for any period of time...shall immediately vacate any office held, and shall be ineligible to run for any office or other position for a period of two (2) years after termination of such supervisory status." (Emphasis supplied.) Accordingly, a member who applies for a supervisory position must vacate any branch office held, regardless of whether the application is accepted by the Postal Service. Article 5,

Section 2 thus prohibits the member from completing his/her term of office.

In addition, the constitutional language prohibits members who applied for a supervisory position from being candidates for branch office for two years following the withdrawal or rejection of the application. There are no exemptions from these rules. It is the responsibility of the Branch in the first instance to determine whether a candidate for Branch office has been disqualified under the foregoing principles. The Branch's determination is subject to appeal.

**JEFFREY CASE, BURLINGTON, IA, BRANCH 222**

**October 14, 2015 (5725)**

This is in reply to your letter, dated October 2, 2015, requesting dispensation permitting you to retire as a member of Branch 222, Burlington, Iowa. According to your letter, you have been a member of Branch 222 for over 33 years. However, you transferred your membership to Branch 373, Cedar Rapids where you have been working as a member of a District Lead Team for the CDRAAP for the Hawkeye District.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please contact NALC Secretary-Treasurer Nicole Rhine when you are about to retire to work out the necessary arrangements.

**ROBERT LYSIAK, ROSCOE, NY, BRANCH 137**

**October 14, 2015 (5726)**

This is in reply to your letter, dated September 15, 2015, requesting dispensation permitting you to convert your present associate membership to full retiree membership in the NALC. It appears that you suffered a job related injury and that when you retired in 2007 you elected to remain on the OWCP Periodic Roll. Apparently your NALC membership was cancelled thereafter because you were unable to complete a Form 1189. It also appears that you have remained a member of the NALC Health Benefit Plan and have paid your associate member dues.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine to make all necessary arrangements.

**LEMAN CLARK AND CHRISTOPHER VERVILLE, NASHVILLE, TN, BRANCH 4**

**October 14, 2015 (5724 & 5728)**

This is in reply to Brother Clark's letter, dated October 9, 2015 and to Brother Verville's email, dated October 11, 2015, concerning Brother Verville's nomination for two offices at Branch 4's nominations meeting on October 8.

While I understand your concerns, I must advise that it would be entirely inappropriate for me to rule on the specific nominations referenced in your letters based on the limited information provided. I can offer the following general guidance as to applicable provisions of the NALC Constitution and election regulations.

First, Article 4, Section 4 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides:

Branches at their option may require all candidates for office or delegate to be present at the meeting when nominated, or signify in writing their willingness to serve if elected.

The Branch option referred to has been interpreted as the option of requiring nominees to formally accept nomination. I cannot determine whether Branch 4 has ever opted to require candidates to accept nomination in any particular manner. That is an issue which must be resolved by the Branch itself.

Second, Section 6.5 of the NALC Regulations Governing Branch Election Procedures (RGBEP) states that: No person shall accept nomination for more than one office. Accordingly, whether or not the Branch has adopted a formal acceptance procedure, if a member is nominated from the floor for two offices, the member must decide which of the two nominations he/she will accept.

Third, in reply to a question posed by Brother Verville, previous rulings

have established that a nominee who wishes to decline a nomination must do so prior to the close of the nominations meeting or in writing within five days thereafter. If he/she fails to do so, the nominee's name must appear on the ballot.

It is the responsibility of the Branch to apply the foregoing principles. Moreover, any member who objects to the conduct of the nominations procedure may submit that objection to the Election Committee in the form of a post-election appeal under Section 21 of the RGBEP.

**DAVID BARBUZZI, TEWKSBURY, MA, BRANCH 25**

**October 16, 2015 (5730)**

This is in reply to your email, dated October 13, 2015, requesting dispensation permitting a member to be nominated to be a delegate to the 2016 National Convention. According to your letter, the member who was supposed to nominate this individual at the Branch's nominations meeting on October 6 forgot to do so. Your letter also indicates that this nomination is necessary to implement Branch 25's merger agreement with Branch 33, which reserves eight delegate slots for former members of Branch 33. Apparently, only four of these slots were filled at the nominations meeting.

Please be advised that it would be inappropriate for me to permit a single individual to be nominated out of time. However, I can grant the Branch dispensation to extend the nomination of delegates to allow it to fill the remaining slots.

Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 25 dispensation to reopen nominations for delegates. No later than 15 days before the meeting at which such nominations will be held, the Branch must notify all members of this extension and the opportunity for each former member of Branch 33 to be nominated to fill the remaining reserved delegate slots in accordance with the merger agreement. If this process were to result in more nominees than delegate positions, the Branch would then be required to conduct an election of delegates. Dispensation is further granted permitting the election to take place at the same meeting.

**STEVE YBARRA, TORRANCE, CA, BRANCH 2207**

**October 16, 2015 (5729)**

This is in reply to your letter, dated October 12, 2015, requesting dispensation permitting Branch 2207 to conduct its nomination of officers and delegates at its next meeting on November 12. According to your letter, nominations had been scheduled for the October meeting. However, the Branch decided not to proceed with nominations at that time because it had not complied with the requirement of providing notice to all members 45 days before the date of the election.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please ensure that an appropriate notice of nominations and election is mailed to each member of the Branch no later than ten days before the nominations meeting, as required by Section 6.1 of the NALC Regulations Governing Branch Election Procedures (RGBEP).

The Branch should understand that this dispensation applies only to the Branch's 2015 nominations and election of officers and delegates. In the future, the Branch must comply with all time frames provided by the Constitution, the RGBEP, and its By-laws.

**GLENN CHAPOTON, METARIE, LA, BRANCH 6119**

**October 16, 2015 (5732)**

This is in reply to your email, dated October 16, 2015, advising that a member of Branch 6119 has been nominated for President of the Branch and that this member has served in a supervisory capacity within the past 24 months. In particular, you note that you have confirmed that this individual was paid at Level 17 in the station in which you work. You now request guidance as to how this situation should be handled.

At the outset, your email does not contain sufficient information for me to rule on this matter. I can provide the following general advice.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from

being a candidate for Branch office for two years following termination of supervisory status. However, as previous rulings have repeatedly held, higher level assignments are not necessarily supervisory for purposes of Article 5, Section 2. Generally speaking, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties. If Brother Eagan's higher level position did not entail such authority, then he would remain eligible to be a candidate for Branch President.

In addition, the disqualification applies only where the member has held, accepted or applied for a supervisory position. A letter carrier who performs a supervisory duty assigned to him by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable.

It is the responsibility of the Branch in the first instance to determine whether a candidate for Branch office has been disqualified under the foregoing principles. In particular, the Election Committee should investigate the matter and decide whether Brother Eagan is eligible to be a candidate. If the Committee concludes that he is disqualified under Article 5, Section 2, then it should not include his name on the ballot. In any event, the Election Committee's determination may be challenged by means of a post-election appeal, as provided by Section 21 of the NALC Regulations Governing Branch Election Procedures.

**DENNIS BLANK, JR., COLUMBIA, SC, BRANCH 233**

**October 20, 2015 (5735)**

This is in reply to your letter, dated October 9, 2015, requesting clarification of the procedure for appointing a committee to investigate charges against a member that have been submitted by the President of the Branch under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGFSB).

Article 10, Section 3 of the CGFSB requires the appointment of a committee of three disinterested members to investigate the charges. Normally, the committee is to be appointed by [t]he president, or if the president be the person against whom charges are made, the vice president. However, in the scenario described in your letter, the Branch President, would be an interested party and also would likely be involved in the investigation as a witness. Accordingly, the President should not appoint the committee.

The committee should be appointed by the next highest ranking officer who is not likely to be a witness in the investigation. If there are no other officers eligible to appoint the committee, then the investigating committee may be appointed by action of the members of the Branch. Specifically, the Branch could nominate and elect members to the committee at a regular or special meeting. Alternatively, the members could vote to select an individual disinterested Branch member to appoint the members of the committee.

**DAVID DEGROAT, NEW HUDSON, MI, BRANCH 3126**

**October 20, 2015 (5736)**

This is in reply to your letter, dated October 9, 2015, in which you allege that there are serious ongoing problems in the current election process in Branch 3126.

While I appreciate your concerns, I must advise that it would be entirely inappropriate for me to comment on your specific allegations, particularly since I only have your side of the story before me.

In addition, any intervention by the National Union is not warranted at this time. Objections to the conduct of an election, including allegations of violations of the election rules, must be brought in the form of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP). Challenges to the eligibility of voters may be made at the time of the vote count, as provided by Section 15 of the RGBEP.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any election appeal.

**KIMBERLY ROBERSON, JAMESTOWN, NC, BRANCH 936  
October 28, 2015 (5738)**

This is in reply to your letter, which was faxed to my office on October 20, 2015, requesting a ruling as to whether the Branch 936 Election Committee is obliged to send absentee ballots to certain members. Your letter indicates that it is not clear whether the members themselves requested the absentee ballots.

At the outset, I cannot rule on which, if any, of the voters described in your letter should be sent absentee ballots. I can provide the following general guidance.

Absentee ballots must be made available under Section 11.5 of the NALC Regulations Governing Branch Election Procedures (RGBEP) which provides:

Any member who for any reason will be unable to vote during the times the polls are open, may request an absentee ballot. Absentee ballots must be requested after nominations have been closed but at least two weeks before the elections.

The rule clearly requires that the voting member make the actual request for the absentee ballot. It is the Election Committee's responsibility to determine whether a request for an absentee ballot has actually been sent by the voter in question. In addition, if the Branch has notified the members of a specific procedure for requesting absentee ballots (see, for example, the sample notice of nomination and election on page 16 of the RGBEP), the committee may require that the procedure be followed.

Alternatively, the committee may send absentee ballots to all voters for whom it has received a request. The absentee ballots could be subsequently challenged in accordance with the procedure provided in Section 16 of the RGBEP.

Finally, any decisions by the Election Committee with respect to absentee ballots may be challenged in the form of a post-election appeal pursuant to Section 21 of the RGBEP.

**KENNETH GIBBS, JR., FT. LAUDERDALE, FL, REGION 9  
November 2, 2015 (5742)**

This is in reply to your letter, dated October 13, 2015, requesting authorization to conduct a special election of officers in Branch 5425, Franklin, NC. According to your letter, the current Branch President is no longer eligible to serve because he has served as a 204b supervisor within the last year. In addition, the Branch has failed to conduct elections or meetings in recent years.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 5425 dispensation to conduct a special election of officers and authorize you, or your designee, to direct and supervise the election. The election should take place as expeditiously as possible.

Thank you for calling this matter to my attention.

**DESHELIA BRUNSON, RALEIGH, NC, BRANCH 382  
November 5, 2015 (5757)**

This is in reply to your email, dated November 4, 2015, requesting a ruling as to the eligibility of a member of Branch 382 to be a candidate for Branch office. According to your email, this individual has retired from the Postal Service but has elected to receive OWCP benefits. As a result, she has not received a Form 1189 because her status was not updated at the time of retirement.

While I appreciate your concern, I must advise that it would be inappropriate for me to rule on the eligibility of a particular individual to be a candidate for Branch office based on the limited information in your email. I can advise you as to the applicable constitutional principle.

Article 2, Section 1(a) of the NALC Constitution specifically provides that retirees from the Postal Service who were regular members at the time of retirement continue to be eligible to maintain their membership. Accordingly, recent retirees who were members of the Branch at the time of retirement continue to be eligible to run for office until such time as membership is terminated for failure to complete a Form 1189 (or for failure to request being placed on the six-month per capita tax call by the branch for members who opt to receive wage loss compensation from OWCP in lieu of OPM retirement benefits).

It is the responsibility of the Branch to apply the above guidelines to individual situations based on the particular fact circumstances. The Branch's decision is subject to appeal. In particular, the issue whether a particular individual was eligible for nomination could be raised in the context of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures.

**DAVE CLARK, NASHVILLE, TN, BRANCH 4  
November 6, 2015 (5755)**

This is in reply to your email, dated November 2, 2015, concerning the ongoing mail ballot election in Branch 4. According to your email, the Chairman of the Election Committee will be out of town on the date the ballots are due back so that he will not be able to participate in the vote count. You now ask for guidance as to how to handle this situation.

At the outset, I do not recommend postponing the vote count. Sections 14.4 and 14.5 of the NALC Regulations Governing Branch Election Procedures require the committee to collect ballots at the designated time and date, bring them to the tally site, and conduct the tally immediately. Postponing the vote count until the present Chairman returns would be contrary to these rules.

As previous rulings have recognized, the President of the Branch is free to appoint new members of the committee when necessary. Accordingly, appointing a replacement for the absent Chairman would be a permissible option.

**PATRICK WOLFF, EL CAJON, CA, BRANCH 70  
November 9, 2015 (5751)**

This is in reply to your recent voice message in which you asked me to reply to three questions. My responses are set forth below.

First, as a member of the NALC, you may contact your National Business Agent to discuss complaints about your branch. In addition, Article 11 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) establishes an appeal procedure which members may invoke. Appeals may be taken to the Branch President from decisions by any other Branch officers. Decisions by the President may be appealed to the Branch. Decisions by the Branch itself may be appealed to the National Committee on Appeals. The procedure for an appeal to the Committee is contained in Article 11, Section 2.

Second, labor unions are generally tax exempt under the provisions of the Internal Revenue Code.

Third, the only provision of the Constitution that is directly relevant to a request to examine branch financial records is Article 6, Section 4 of the CGSFB which states that the Financial Secretary of the Branch "shall keep an account of all properties, investments, and funds of the Branch which at all times shall be open for inspection." Prior presidential rulings have recognized that the specific manner of inspecting the books is left to the discretion of the Branch.

Apart from the Constitution, federal law requires that the Branch permit members "for just cause to examine any books, records, and accounts necessary to verify" the Branch's LM-2 Report.

In general, it is the Branch's responsibility, in the first instance, to determine whether a member's request to inspect documents falls within the above parameters. The denial of a request to inspect records may be appealed to the members under Article 11, Section 1 of the CGSFB.

Previous presidential rulings have held that the minutes of Branch meetings should be reasonably accessible for review by all members on an equal basis. The rulings have also recognized that Branches have discretion to implement reasonable policies for allowing access to minutes. Again, a denial of a request may be appealed under Article 11 of the CGSFB.

**JERRY ANDERSON, SANTA ROSA, CA, BRANCH 183  
November 9, 2015 (5740)**

This is in reply to your letter, dated October 12, 2015, inquiring as to whether Branch 183 is required to honor a request by a hearing impaired member to provide an interpreter at Branch meetings.

Apart from legal requirements, the NALC Constitution prohibits discrimination among members based on various criteria, including

handicap. See Article 2, Section 1. In addition, the Preamble of the NALC Constitution for the Government of Subordinate and Federal Branches establishes as a basic purpose of branches effecting uniformity in the administration of [NALC's] privileges, honors, and benefits. These constitutional provisions establish a basic obligation to accommodate the needs of hearing impaired members at meetings.

Accommodation does not necessarily obligate the Branch to expend funds for a professional interpreter. For example, a family member or friend who knows sign language could be invited to meetings to assist the member. So too, the Branch may have a member who knows sign language who could provide assistance. Other accommodations could include amplification, assistive listening systems, and the use of written materials and/or electronic devices that can provide text to the member. Generally speaking, the best approach is to consult with the member and work cooperatively to arrive at a mutually acceptable solution.

**ANGELO MANGANO, FRANKLIN SQUARE, NY, BRANCH 41  
November 9, 2015 (5756)**

This is in reply to your recent inquiry as to whether there may be a further appeal from the decision of the delegates to the 2014 National Convention to overturn the ruling of the Committee of Laws in Appeal 21.

The answer to your question is no. Article 1, Section 4 of the NALC Constitution states that: The National Convention shall be the supreme body to which final appeal shall be made on all matters emanating from Members, Branches and State Associations. Subsequent decisions by the Branch or the Committee which implement the delegates' decision are subject to appeal. But there is no constitutional procedure for appealing the decision of the Convention itself.

**ERNA SPRENG, BRANCH 47, CASTLE ROCK, CO  
November 13, 2015 (5770)**

This is in reply to your letter, dated November 2, 2015, reporting several problems with the ongoing mail ballot election in Branch 47.

My best advice would be to proceed with the election and to send replacement ballots to all who request them. Bear in mind that any member may initiate a post-election appeal, and the Election Committee has the authority to order a new election if it determines that an appeal has merit.

It does appear, however, that the Branch will be required to conduct a new election for branch trustees if, as you state in your letter, one of the nominees was inadvertently left off the ballot.

**DESHELIA BRUNSON, BRANCH 382, RALEIGH, NC  
November 13, 2015 (5761)**

This is in reply to your letter, dated November 11, 2015, requesting a ruling as to whether the Branch 382 Election Committee is obliged to send absentee ballots to certain members. Your letter indicates that a candidate for delegate has distributed form letters requesting absentee ballots to these members and that the candidate, rather than the voter, may have mailed the request.

At the outset, I cannot rule on which, if any, of the voters described in your letter should be sent absentee ballots. I can provide the following general guidance.

Absentee ballots must be made available under Section 11.5 of the NALC Regulations Governing Branch Election Procedures (RGBEP) which provides:

Any member who for any reason will be unable to vote during the times the polls are open, may request an absentee ballot. Absentee ballots must be requested after nominations have been closed but at least two weeks before the elections.

The rule does not prohibit candidates from distributing form requests to members eligible to obtain an absentee ballot. However, the rule clearly does require that the voting member make the actual request for the absentee ballot. It is the Election Committee's responsibility to determine whether a request for an absentee ballot has actually been made by the voter in question. The committee may reject requests that it believes are fraudulent. In addition, if the Branch has notified the members of a specific procedure for requesting absentee ballots (see, for example, the sample notice of nomination and election on page 16 of the RGBEP), the

committee may require that the procedure be followed.

Alternatively, the committee may send absentee ballots to all voters for whom it has received a request. The absentee ballots could be subsequently challenged in accordance with the procedure provided in Section 16 of the RGBEP.

Finally, any decisions by the Election Committee with respect to absentee ballots may be challenged in the form of a post-election appeal pursuant to Section 21 of the RGBEP.

**CAROLINE JONES, BRANCH 936, HIGH POINT, NC  
November 17, 2015 (5771)**

This is in reply to your letter, which was faxed to my office on November 6, 2015, requesting dispensation permitting Branch 936 to conduct its nominations and an election of delegates to the 2016 National Convention out of time. According to your letter, the Branch inadvertently neglected to conduct nominations for delegates as scheduled at its meeting on October 8.

In accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation, provided that the Branch must provide at least ten days' notice by mail to each member of the new dates for nominations and election of delegates.

Please note that this dispensation applies only to the nomination and election of delegates to the 2016 National Convention. Article 5, Section 4 of the NALC Constitution specifically provides that delegates to National and State Conventions must be elected no later than December of the year preceding the convention year. Branch 936 will be expected to conduct future elections of delegates in a timely manner.

**BECKIE EDWARDS, BRANCH 2290, HANCEVILLE  
November 19, 2015 (5774)**

This is in reply to your letter, dated November 6, 2015, requesting dispensation permitting the restoration of your membership in the NALC as a retiree.

I have considered the facts set forth in your letter and have concluded that your request is appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action is necessary to ensure that your membership is restored. You should contact her office to make the necessary arrangements.

Please understand that you will be responsible for paying back dues. Sister Rhine's office should provide whatever assistance may be necessary to ensure that your back dues are properly calculated.

**JON THOMAS, PRESIDENT, BRANCH 1999, KINGSPORT, TN  
November 24, 2015 (5786)**

This is in reply to your letter, received by my office on November 17, 2015, advising that Branch 1999 inadvertently neglected to send to the Postal Record a timely notice of its nominations and elections which are scheduled at the end of the year.

The Branch may remedy this situation by mailing to each active and retired member of the Branch a notice of nominations and elections. As provided by Section 6.1 of the NALC Regulations Governing Branch Election Procedures, the notice should be sent out at least ten days before nominations.

If it is not possible to send out a timely notice, I will consider a request for special dispensation permitting the Branch to postpone its nominations and election. However, this option should be considered a last resort.

**PAUL ROZNOWSKI, BRANCH 3126, MADISON HEIGHTS, MI  
November 30, 2015 (5788)**

National Business Agent Pat Carroll has referred to me your request that I comment on issues raised by Brother David DeGroat in a letter to the Branch 3126 Election Committee Chairman, dated November 25, 2015.

As I indicated in my letter to Brother DeGroat, it would be inappropriate for me to comment on the merits of his allegations. I can provide the following general guidance:

First, Branch elections are governed by the NALC Regulations Governing Branch Election Procedures (RGBEP). The Election Committee should carefully review the RGBEP and seek to conform its conduct of the election to its requirements.

Second, Section 8.2 of the RGBEP requires that the Financial Secretary of the Branch provide to the committee a list of all regular members eligible to vote.

Third, Section 14.6 of the RGBEP provides that in mail ballot elections the Election Committee must check the name or other identifier on the outer reply envelope against the list of eligible voters to verify the identity and eligibility of the voter. As stated in Section 14.8, this verification procedure should be completed before the secret ballot envelopes are opened and ballots are counted. In addition, note that candidates or their observers are entitled to challenge the eligibility of voters during the verification procedure. See Sections 15.2-15.23.

Finally, Section 14.7 of the RGBEP provides that secret ballot envelopes should be placed in a ballot box after they are removed from the reply envelopes.

This letter should not be read to express any view as to whether any past practices of Branch 3126 may have been inconsistent with the NALC election regulations. Similarly, this letter does not express any view as to the merits of any post-election appeal.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA  
December 4, 2015 (5792)**

This is in reply to your letter, dated November 23, 2015, requesting guidance as to whether it is permissible for a candidate for branch office to campaign on postal property.

Generally speaking, branch elections are governed by the NALC Regulations Governing Branch Election Procedures. These regulations do not contain any provisions prohibiting campaigning on postal property. However, candidates should take care that they do not violate any restrictions imposed by management, as this may result in discipline. In addition, allegations that management has deliberately afforded one candidate more favorable opportunities to campaign on postal property than the candidate's opponent could be raised as an issue in a post-election appeal.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of any post-election appeal.

**LUIS RIVAS, JR., BRANCH 2076, DES PLAINES, IL  
December 8, 2015 (5803)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated December 3, 2015, has been referred to me for reply. According to your email, there was a tie in the vote for ninth delegate from Branch 2076 to the National Convention. The ninth delegate will be the first alternate. You now ask for guidance as to how to break the tie.

Please be advised that Section 11.31 of the NALC Regulations Governing Branch Election Procedures (RGBEP) expressly provides that in the event of a tie vote, a run-off election must be held within 30 days. However, previous rulings have recognized that the two candidates involved may mutually agree to waive their right to a run-off election. For example, they could agree among themselves who would be the first alternate; or they could agree to flip a coin.

In the absence of consent by both alternates, the Branch will be required to conduct a special election to break the tie. Such an election can be conducted on an expedited basis. In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant Branch 2076 dispensation to conduct a special election between the two alternates upon 15 days' notice mailed to each member of the Branch, if the two members in question do not consent to break the tie by a coin flip.

**CYNTHIA BURNEY, EAST POINT, GA  
December 9, 2015 (5796)**

This is in reply to your recent letter, received by my office on November 23, 2015, in which you allege that the entire Executive Board of Branch 73 has breached its fiduciary duties. Apparently, you have incorporated these allegations in charges that you have filed against the

officers, which were enclosed with your letter.

Your letter requests a ruling as to who handled the Administration of carrying out the Constitution requirements performed by the President of the union. I assume that what you are seeking is guidance on the appointment of a committee to investigate your charges, since all the Branch officers have been charged.

Please be advised that no officer, including the President, may appoint the committee if he/she is the subject of the charges. In those instances where there are no other officers eligible to appoint the committee, the investigating committee may be appointed by action of the members of the Branch. Specifically, the Branch could nominate and elect members to the committee at a regular or special meeting. Alternatively, the members could vote to select an individual disinterested Branch member to appoint the members of the committee.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of your charges.

**JERRY CORDLE, BRANCH 4040, ALBANY, GA  
December 11, 2015 (5758)**

This is in reply to your letter, dated October 30, 2015, requesting a ruling as to whether a candidate properly accepted nomination for office in Branch 4040. According to your letter, the Branch By-laws require candidates who are not present at the nominations meeting to submit a written statement of their willingness to serve which must be in the hands of the Secretary by the time nominations are submitted. The question is whether a particular candidate satisfied this requirement by sending a text message and voice mail to the Branch Secretary.

While I understand your concerns, I must advise that it would be entirely inappropriate for me to resolve this issue. As National President, it is my responsibility to interpret the NALC Constitution. However, the issue described in your letter depends on the interpretation and application of the relevant By-law language. Such questions must be resolved, in the first instance, at the Branch level.

However, I would caution you that rejecting an acceptance in the circumstances described in your letter could create an issue under the Department of Labor's regulations. The regulations covering union elections state the following:

A requirement that members must be present at the nomination meeting in order to be nominated for office might be considered unreasonable in certain circumstances; for example, in the absence of a provision for an alternative method under which a member who is unavoidably absent from the nomination meeting may be nominated, such a restriction might be regarded as inconsistent with the requirement in section 401(e) [of the Labor-Management Reporting and Disclosure Act] that there be a reasonable opportunity to nominate and to be a candidate. 29 C.F.R. Section 452.59.

You may wish to contact the local office of the Department of Labor for further guidance on the application of this regulation.

The acceptance or disallowance of a nomination may be the subject of a post-election appeal under Section 21 of the RGBEP. This letter should not be read to express any view as to the merits of any potential appeals.

**SCOTT DULAS, BRANCH 114, DULUTH, MN  
December 16, 2015 (5804)**

This is in reply to your letter, dated November 25, 2015, requesting guidance as to whether Branch 114 must elect delegates to attend an off-year training session that will be conducted in 2016 by the Minnesota State Association of Letter Carriers.

Please be advised that the NALC Constitution does not contain any provisions governing attendance at training sessions. Since this will not be a convention, the Constitution does not require the Branch to elect delegates. Accordingly, Branches have discretion to decide who may or may not attend such training, subject to any requirements set forth in the Branch or State Association By-laws.

However, it would be inappropriate for me to offer an opinion on the Branch or State By-laws. As National President, it is my responsibility to interpret the NALC Constitution. Questions involving the interpretation or application of By-law language must be resolved, in the first instance, at the Branch level. Relevant considerations include the language of the By-



laws, past practice, and any evidence of the intent of the members when the By-law provisions were enacted.

If you conclude that there are no relevant restrictions in the Branch or State By-laws, then you would have the authority to appoint the attendees in accordance with Article 6, Section 1 of Constitution for the Government of Subordinate and Federal Branches (CGSFB) which confers upon the President general supervisory powers over the Branch. Alternatively, it would be permissible for the Branch to elect the attendees, if that is your preference.

**MICHAEL MILNER, BRANCH 496, CHESTERFIELD, VA  
December 17, 2015 (5818)**

Your letter to NALC Executive Vice President Tim O'Malley has been referred to me for reply. Your letter alleges that violations of the NALC Regulations Governing Branch Election Procedures (RGBEP) have occurred during the course of the recently concluded election of officers in Branch 496.

While I certainly appreciate your sincere concerns, I nonetheless must advise you that it would be completely inappropriate for me to comment on any of your specific contentions, particularly since I only have your side of the story before me. Moreover, all objections to the conduct of a branch election must be made in the form of a post-election complaint as provided by Section 21 of the RGBEP. Section 21 does provide for an ultimate appeal of an adverse Branch decision to the National Committee on Appeals. Intervention by the National Union at this stage of the process would be inconsistent with the appeal procedure.

I can provide the following clarification of the rules governing the mailing of campaign literature and access to mailing lists.

During the campaign, the Branch is required to honor all reasonable requests to distribute campaign literature at the candidate's expense, but this obligation does not require that the Branch provide candidates with a copy of a membership mailing list. See Section 9.2 of the RGBEP. The only exception is where the Branch has provided a copy of the list to one or more candidates. In that circumstance, the list would have to be made available to all candidates. See Comment following RGBEP Section 9.1.

During the balloting process, candidates or observers are entitled to be present when the Election Committee checks the ballots against its list of eligible voters. However, the Committee is not required to distribute copies of the list at that time.

Finally, federal law does provide that thirty days prior to the election, candidates may inspect a local union's list of members who are subject to a collective bargaining agreement requiring union membership as a condition of employment. Since the Postal Service is, by law, an open shop, NALC members are not covered by any such collective bargaining agreement. This inspection requirement is, therefore, entirely inapplicable to NALC elections.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any appeal.

**DAVID STEVENS, BRANCH 642, LAFAYETTE, CO  
December 18, 2015 (5826)**

National Business Agent Roger Bledsoe has referred to me your letter, dated December 10, 2015, concerning the recent nominations and election of officers in Branch 642. In particular, your letter indicates that certain written nominations were rejected and that the outgoing Branch President improperly appointed a successor President to take office after his resignation.

At the outset, it would be entirely inappropriate for me to comment on your allegations since I only have your side of the story before me. In addition, if any aggrieved Branch members filed post-election appeals, those appeals would have to be addressed, in the first instance, at the Branch level.

I can provide the following general guidance. As previous rulings have long recognized, a Branch President who intends to resign may not appoint his/her successor. Rather, Article 6, Section 2 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) requires that the Branch Vice President assume the presidency in the event that the President resigns. The Vice President, upon assuming the

presidency, could fill any remaining offices by appointment, as provided by Article 4, Section 2 of the CGSFB.

In addition, in response to a question posed by Brother Bledsoe, an outgoing Branch President does not have the authority to fill an anticipated vacancy in the upcoming term of office. A President's authority to fill vacancies does not extend beyond his or her current term of office. If the current President has been reelected, he or she may fill vacancies in the next term of office, but may only officially do so after the installation.

**RICHARD WILSON, BRANCH 500, HARRISBURG, PA  
December 21, 2015 (5823)**

This is in reply to your letter, dated December 11, 2015, advising that a member of Branch 500 who was nominated to be a delegate to the 2016 National Convention has served as a 204b supervisor for a couple of months within the past year. You ask whether, as Branch President, you may rule that this member is not eligible to serve as a delegate.

The answer to your question is yes. Article 5, Section 2 of the NALC Constitution expressly provides that any member who holds, accepts or applies for a supervisory position in the Postal Career Service for any period of time, whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently...shall be ineligible to run for any office or to be a delegate to any Convention for a period of two (2) years after termination of such supervisory status. There are no exemptions from this rule.

Accordingly, if the member in question had acted as a 204b within the past year, as stated in your letter, then he may not attend the Convention as a delegate, either paid or unpaid. As President of the Branch it is your obligation to enforce this prohibition.

**ROSA MARTINEZ, BRANCH 1742, TURLOCK, CA  
December 22, 2015 (5827)**

This is in reply to your recent letter, received by my office on December 17, 2015, requesting dispensation permitting Branch 1742 to conduct its nominations for delegates to the 2016 National convention at its January meeting. According to your letter, you inadvertently failed to conduct nominations at the November meeting.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please notify the membership of this change as expeditiously as possible. In addition, you should understand that this dispensation extends only to the nomination of delegates for the 2016 Convention. Future nominations and elections of delegates should take place in accordance with the time frames provided by the Branch By-laws and the NALC Constitution.

**SISTER AND BROTHERS OF BRANCH 5554, NORTHVALE, NJ  
December 22, 2015 (5815)**

I have received a report from your National Business Agent Larry Cirelli regarding the lack of active leadership and member participation in your Branch. Brother Cirelli has advised me that Branch 5554, Northvale, NJ, is not functioning as an NALC Branch. The Branch has no officers or stewards, does not hold monthly meetings, and is not capable of investigating or initiating grievances on behalf of letter carriers employed in the Northvale Post Office.

Brother Cirelli has recommended that I declare Branch 5554 defunct and revoke its charter. He further recommends that I transfer your membership to Branch 38.

I am now prepared to implement Brother Cirelli's recommendations. I will delay doing so to give each of you one last opportunity to submit any objection you may have directly to me in writing. I will consider written objections for a period of thirty days. If I do not hear from any of you in that time I will instruct NALC Secretary-Treasurer Nicole Rhine to transfer your membership to Branch 38.

As previously indicated by Brother Cirelli, this step is necessary to ensure that your rights as letter carriers are fully protected. I am confident that Branch 38 will provide excellent representation to each of you.

**PAUL ROZNOWSKI, BRANCH 3126, MADISON HEIGHTS, MI  
January 5, 2016 (5833)**

This is in reply to your email, dated December 24, 2015, in which you raise three questions pertaining to a pending post-election appeal

in Branch 3126. The following discussion should be read as general guidance with respect to the questions you have posed. This letter does not address the merits of the appeal.

First, the NALC Regulations Governing Branch Election Procedures (RGBEP) do not contain any provisions which address whether a Branch Election Committee must respond to questions posed by an appellant which are not encompassed in the issues raised in the post-election complaint. Accordingly, the committee has discretion to decide whether or not to answer the questions. However, a refusal to provide requested information can be raised as a procedural issue in an appeal from the committee's decision.

Second, as a general rule, an aggrieved member who appeals the decision of the Election Committee to the Branch Executive Board may not add new objections to the conduct of the election that were not included in the original appeal to the Election Committee.

Section 21.1 of the NALC Regulations Governing Branch Election Procedures expressly provides that All objections to the conduct of an election by an aggrieved member must be mailed to the Chairperson of the Branch Election Committee within five (5) days after the date of the election (emphasis supplied). Previous rulings have recognized that a member who wishes to submit an issue out of time could apply to the National President for special dispensation pursuant to Article 9, Section 1(a) of the NALC Constitution (which empowers the President to grant dispensations when, in his/her judgment, the good of the Union may require it). However, the rulings also indicate that such dispensation will not be considered unless the appellant could demonstrate that he/she had exercised reasonable diligence in investigating possible violations and had been unable to discover the alleged violations at issue.

Third, Article 2, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches (CGSFB) defines good standing as paying all fines, assessments, and dues. However, as previous rulings have recognized, a member would not lose eligibility for nomination to branch office based on the failure to have made any such payments, unless the individual's membership status has been forfeited in accordance with the provisions of Article 7, Section 4 of the CGSFB, or suspended following a vote on charges filed under Article 10 of the CGSFB.

Previous rulings have held that a member's failure to pay an individual debt to the Branch does not, by itself, result in a forfeiture of membership. Article 7, Section 4 of provides for forfeiture of membership where a member fails to pay any fine, assessment or monthly dues within thirty (30) days. However, the term assessment, as used in Article 7, Section 4, refers only to general assessments imposed on all the members of the Branch, not to individual charges or debts. The term fine refers to a penalty imposed by the Branch following the filing and processing of charges under Article 10 of the CGSFB.

Past rulings have also concluded that the procedure for filing and adjudicating charges set forth in Article 10 of the CGSFB is a legitimate method for enforcing a debt claim. The rulings further establish that when the Branch claims that a member owes an individual debt, the member may be removed from membership for failing to pay such debt only after charges have been processed pursuant to Article 10 of the CFSFB.

I trust that the foregoing addresses your concerns. Once again, I express no view as to the merits of the appeal now pending before the Branch 3126 Election Committee.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**January 5, 2016 (5838)**

This is in reply to your letter, dated January 4, 2015, inquiring whether the Branch 73 Election Committee properly ordered a re-run election after reporting the results of election concluded in December.

Please be advised that a Branch Election Committee does have the authority to rule on the merits of a post-election appeal under Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP). If it sustains the appeal, the Committee can order a new election. Section 21.1 does require that the Committee issue a decision in writing. Since I do not have any information indicating whether the Committee has issued a written decision, or the basis for the Committee's decision, I cannot comment on the validity of its actions.

In any event, whether the Committee acted properly or improperly, its decision is not final. Section 21.2 of the RGBEP provides that the decision of the Election Committee may be appealed to the Branch Executive Board. Accordingly, you may appeal the Committee's decision to the Branch Executive Board. The Board's decision, in turn, may be appealed to the Branch, as provided by Section 21.3 of the RGBEP.

Moreover, prior rulings have held that the re-run election process should not be commenced before the appeal process has been exhausted at the Branch level. The decision of the Branch Election Committee does not necessarily constitute the final decision of the Branch. If the Committee's decision is appealed to the Executive Board, then any re-run election would be deferred until the Board issues its decision. If the Board reverses the Committee, then no re-run election should be held unless the Board's decision is overturned by the Branch following an appeal under Section 21.3 of the RGBEP. Even if the Board were to affirm the decision of the Committee, a re-run would still be deferred pending any appeals to the Branch. In particular, re-run election ballots should not be mailed until the appeal process is completed at the Branch level.

In addition, previous rulings have long established that the results of the original election stand until such time as they are overturned by a re-run election. Accordingly, the installation of officers elected in the original election should not be postponed.

I trust that the foregoing addresses your concerns. Please note that I am providing a copy of this letter to Branch President Jackson.

**RICHARD WILSON, BRANCH 500, HARRISBURG, PA**  
**January 5, 2016 (5835)**

This is in reply to your letter, dated December 7, 2015.

Please be advised that the NALC Constitution does not establish any time limitation on the filing of charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches for the purpose of enforcing a claim that a member has failed to pay a debt owed to the Branch. Of course, the members may take into account the timeliness of the charges when they vote.

I trust that the foregoing addresses your concerns. Please be advised that this letter should not be read to express any view as to the merits of any pending election appeal or of any charges that may be brought in the future.

**JANEL HARRIS, BRANCH 517, GRAND FORKS, ND**  
**January 12, 2016 (5849)**

This is in reply to your letter, dated December 29, 2015, requesting clarification of the voting rights of members who serve intermittently as 204bs. Specifically, you ask whether two members who served as 204bs on certain dates during 2015 should have been sent ballots in the recently concluded mail ballot election in Branch 517.

At the outset, your letter appears to reflect a misunderstanding of Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches. Article 5, Section 2 prohibits members who have either accepted or applied for supervisory positions from holding or being candidates for branch office for a period of two years following termination of supervisory status. Article 5, Section 2 only applies to the right to run for or hold branch office; it does not encompass any other membership rights such as the right to vote in a branch election.

The membership rights of members who accept supervisory positions--which includes the right to vote in a branch election--are addressed by Article 2, Section 1(c) of the NALC Constitution, provides as follows:

[P]resent members who have left the Postal Service, or have been temporarily or permanently promoted to supervisory status, may retain their membership but shall be members only for the purpose of membership in the NALC Life Insurance Plan and/or the NALC Health Benefit Plan. These members shall have no voice or vote in any of the affairs of such Branch, except they shall have a voice and vote at the Branch level upon matters appertaining to the NALC Life Insurance Plan, and/or the NALC Health Benefit Plan, if they are a member thereof, and on any proposition to raise dues. These members are not eligible to be candidates for any State Association, Branch, or National office, or delegates to any conventions. They may attend only that part of the meeting which concerns them, such as change of dues structure and

information concerning Health or Life Insurance[.]

Previous rulings interpreting this provision have established that a member occupying a supervisory position may not exercise membership rights or otherwise participate in official Branch activities while he or she is acting in a supervisory status (except for the right to participate and vote in any part of a Branch meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues). Accordingly, such members may not exercise the right to vote in a Branch election of officers.

However, the rulings have also consistently recognized that when the member returns to a bargaining unit assignment, he or she immediately regains full membership rights, except for the right to be a candidate for Branch office. In the situation you describe, if any of the members return to a bargaining unit assignment, the member would at that point have the right to vote in the election.

Accordingly, members who serve intermittently as temporary supervisors may vote in branch elections on days that they are not serving in a supervisory capacity. As a general rule, the Branch should send ballots to such members in a mail ballot election. However, the Branch should instruct these members that they may not complete or submit the ballot at times that they are serving as supervisors.

If there is a factual question as to whether a ballot was submitted by a member while serving in a supervisory capacity, then the election committee should treat the ballot as challenged at the time of the vote count. The committee should then follow the procedures set forth in Section 15 of the NALC Regulations Governing Branch Election Procedures.

Finally, the vote totals stated in your letter show that any error committed by the Branch would not have affected the outcome of the election. Accordingly, there is no apparent need for the Branch to take any corrective action with respect to the 2015 election.

**GEORGE LEE, BRANCH 608, OAK PARK, IL  
January 13, 2016 (5854)**

This is in reply to your letter, dated January 6, 2016, requesting rulings with respect to the installation of officers and the processing of charges.

In response to your first question, please be advised that Brother Ken Miller is constitutionally eligible to install the new officers of Branch 608. Under Article 5, Section 6 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), the past president of any NALC Branch may act as an installing officer, so long as no national officer or current or past president of the state association are available. Brother Miller is a former Branch President.

You also ask several questions pertaining to the procedure for investigating charges. I can offer the following general advice with respect to procedural questions.

Article 10 of the CGSFB provides the procedures that must be followed whenever a Branch member files charges. Article 10, Section 1 allows charges based on claims that a member has violated the Constitution or Branch By-laws; or that an officer has failed or neglected to discharge the duties of his/her office, or committed gross misconduct. Article 10, Section 2 requires that the charges be read at the first regular Branch meeting after service of the charges on the charged party or parties. Section 3 of Article 10 requires the President (or the Vice President if the President be the person against whom charges are made) to appoint a committee of three disinterested members to investigate the charges and present a report to the Branch.

The role of the committee, as clearly set forth in Article 10, Section 3, is to "find the true facts and report to the Branch." The committee is to "summon the parties" and to hear and record the testimony and documentary evidence presented by them. All parties are "entitled to be heard by the committee, to present evidence, and to cross-examine all witnesses who make statements to the committee." The committee may interview witnesses in addition to the charging and charged parties. The committee is not required to observe rules of evidence or judicial procedure. Article 10, Section 3 requires that upon completion of the investigation, the committee must submit a written report to the Branch incorporating its findings of fact. The committee may include in its report its opinion as to

the sufficiency of the charges, but it is not required to do so.

Following the submission of the committee's report, the members (not the Branch President, as suggested in your letter) must decide by majority vote the issue of whether or not the facts, as found by the committee, sustain the charge. The NALC Constitution does not require debate or discussion of charges following the committee's report. Previous rulings recognize that Branches have discretion to permit such debate in accordance with their By-laws, past practices, and the will of the members.

Article 10, Section 3 of the CGSFB expressly states that "the charged party is entitled to defend himself/herself before the Branch immediately before the vote is taken." This right to present a defense applies whether or not the Branch otherwise permits debate on the charges.

If the members decide by their vote that the facts sustain the charge, then, as expressly provided by the last sentence of Article 10, Section 3, "the Branch shall entertain a motion to fix the penalty, if required." Potential penalties, and the rules for imposing them, are set forth in Article 10, Section 4. However, if no motion is made from the floor, the Chair would not be required to call for a vote on the penalties set forth in Section 4. Previous rulings have recognized that Branches are not required to impose a penalty, even if the charges are sustained.

Finally, in response to your last question, a Branch may place union meeting conduct rules in its By-laws.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to the merits of any of the charges now pending in Branch 608.

**LAWRENCE KANIA, BRANCH 3, BUFFALO, NY  
January 13, 2016 (5850)**

This is in reply to your letter, dated December 29, 2015, requesting a ruling concerning the eligibility of a member to receive funds from Branch 3 for attendance at conventions. According to your letter, the member in question failed to satisfy the minimum meeting attendance requirement set forth in the Branch By-laws solely because he was either on active military duty or traveling home from active duty.

It does appear that the By-laws preclude payment to this member, so that your alternative request for dispensation from me is appropriate. Therefore, in light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant dispensation permitting Branch 3 to pay Branch funds to Brother William Zeughard, notwithstanding his inability to meet the minimum meeting attendance requirement provided by the Branch By-laws.

However, since the By-laws do not authorize such payment, the members will have to vote on it. Accordingly, any payment to Brother Zeughard must be approved by a majority vote of the members present and voting at a regular meeting as provided by Article 12, Section 3 of the Constitution for the Government of Subordinate and Federal Branches.

**DAN SMITH, BRANCH 4016, FLOSSMOOR, IL  
January 13, 2016 (5810)**

This is in reply to former Branch President Whitehead's letter to me, which was faxed to my office on December 8, 2015, requesting dispensation to change the date of Branch 4016's January meeting to January 19, 2016.

At the outset, I apologize for the delay in responding to this request. Brother Whitehead's fax arrived during the week of an Executive Council meeting, and it apparently was misplaced.

I recognize that the Branch may have already held its January meeting. However, if you did arrange to change the date to January 19, this letter will serve as retroactive dispensation permitting that change. Feel free to contact my office if you need additional assistance.

Finally, please accept my congratulations on your election as President of Branch 4016.

**MARTHA MASS & MARGARET SIDARIS, BRANCH 106,  
MONTGOMERY, AL  
January 14, 2016 (5859 & 5870)**

This is in reply to your letter, dated January 11, 2016, requesting that I issue a ruling to resolve a dispute over compensation of retiree

members of Branch 106 for attending the upcoming Region 8 training in Tunica MS. According to your letter, the Branch passed a motion at its regular meeting on January 7 to pay only registration fees for retiree members who attend the training session. You contend that retirees are entitled to an equal share of all available funds under the Branch By-laws.

While I appreciate your very legitimate concern, I must advise that it would be entirely inappropriate for me to resolve this question. As National President, it is my responsibility to interpret the NALC Constitution. However, the issue described in your letter depends on the interpretation and application of the relevant By-law language. Such disputes must be resolved, in the first instance, at the Branch level. If necessary, the matter may be resolved by vote of the members at a Branch meeting.

The proper procedure for challenging the Branch's decision would be to submit an appeal to the National Committee on Appeals in accordance with the procedures provided by Article 11 of the Constitution for the Government of Subordinate and Federal Branches. The Committee would have the authority to decide the issue based on evidence and argument submitted by the appellants and the Branch.

I trust that the foregoing, at least in part, addresses your concerns. This letter should not be read to express any view as to the merits of any appeal.

**CHRIS VINDIOLA, BRANCH 2854, TRACY, CA**  
**January 19, 2016 (5862)**

This is in reply to your letter, dated January 8, 2016, requesting dispensation permitting Branch 2854 to conduct a second vote on a proposed merger with Branch 213. According to your letter, at least one retiree member was not sent a notice of the original vote in mid-December, and there were other anomalies which may have affected the vote.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please ensure that appropriate notice of the vote on the merger proposal is provided to the members of the Branch as expeditiously as possible.

**SCOTT WILLIAMS, BRANCH 42, JERSEY CITY, NJ**  
**January 19, 2016 (5864)**

Your letter to Secretary-Treasurer Nicole Rhine, which was faxed to her office on December 3, 2015, has been referred to me for reply. Your letter requests dispensation permitting John Mastropietro, a retired former member of Branch 42, to submit a late Form 1189 so as to restore his membership in the NALC as a retiree. It appears that Brother Mastropietro was never sent a Form 1189 because NALC did not have his correct mailing address.

I have considered the facts set forth in your letter and have concluded that your request is appropriate. Therefore, in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

Brother Mastropietro must complete and submit the Form 1189 as expeditiously as possible. By copy of this letter, I am directing Secretary-Treasurer Nicole Rhine and the NALC Membership Department to take whatever action is necessary to ensure that his membership is restored. Please understand that he will be responsible for paying the back dues that would have been paid if the Form 1189 had been timely submitted. Again, I am instructing Sister Rhine to provide whatever assistance may be necessary to ensure that this payment is made.

**PAUL ROZNOWSKI, BRANCH 3126, MADISON HEIGHTS, MI**  
**January 20, 2016 (5867)**

This is in reply to your email, dated January 18, 2016, concerning a pending election appeal in Branch 3126.

At the outset, my letter to you, dated January 5, 2016, provided interpretive explanations of several provisions of the NALC Regulations Governing Branch Election Procedures (RGBEP) and the Constitution. Those interpretations do constitute an official presidential ruling and should be treated as such for purposes of the appeal.

Second, a branch is not required to provide to an appellant a copy of the Branch's membership list. There may be cases, depending on the specific facts and issues raised in the appeal, where it is appropriate to provide to an appellant the opportunity to inspect a mailing list. I express no view as to whether Branch 3126 should do so in this case.

Regarding your third question, as I stated in my January 5 letter, an aggrieved member who appeals the decision of the Election Committee to the Branch Executive Board normally may not add new objections to the conduct of the election that were not included in the original appeal to the Election Committee. Accordingly, if the Executive Board concludes that any issues raised by an appellant were not included in the original complaint to the Election Committee, the Board may decline to address those issues. However, any such decision by the Board would itself be subject to appeal to the Branch and the Committee on Appeals in accordance with Section 21 of the RGBEP.

In response to your last question, Section 18.1 of the RGBEP, consistent with federal law, requires the Election Committee to publish the results of the election. The Committee must have a record of the information referenced in Sections 17.41, 17.44, and 17.5 (i.e., number of voided ballots, number of used and unused ballots, and the number of members who voted) which should be available to inquiring members. Section 18.1 does not specifically require that this information be published in addition to the election results, although the Branch is free to do so. You may wish to consider contacting the Department of Labor for additional information on the publication requirement.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**January 25, 2016 (5872)**

This is in reply to your letter, dated January 19, 2016, regarding the re-run election presently underway in Branch 73. By copy of this letter, I am also responding to letters I have received from former Branch President Ben Jackson and other members of the Branch.

The documents provided to me show that on December 11, 2015, the Chairman of the Branch 73 Election Committee issued a decision voiding the 2015 election and ordering a re-run. According to your letter, the Branch's election contractor mailed re-run ballots on January 11, 2016, which are due back on February 11.

The mailing of re-run ballots was erroneous. As I stated in my letter of January 5, 2016, a re-run election should not be commenced before the appeal process has been exhausted at the Branch level. Insofar as you did appeal the Committee's decision to the Executive Board, the appeal process had not been completed. Even if the Board were to affirm the decision of the Committee, the mailing of ballots should still have been deferred pending any appeals to the Branch.

In light of the foregoing, I recommend that the Branch instruct its contractor not to open and count the ballots until the Executive Board and, if necessary, the Branch have completed the appeal process.

Apart from the foregoing, the following considerations must be taken into account when the Board and the Branch consider pending appeals.

First, it appears to be undisputed that the name of one of the nominees for convention delegate was erroneously left off the ballot. Therefore, under any circumstances, the Branch would have been compelled to have a new election for delegates.

Second, Section 14.2 of the NALC Regulations Governing Branch Election Procedures specifically requires that in a mail ballot election, the ballots must be mailed at least 20 days before the date ballots must be received in order to be counted. Documents provided to me indicate that the original ballots were placed in the mail in Brooklyn, NY on November 26, 2015 and collected on December 7, well short of the minimum 20 day balloting period. This information, if accurate, indicates that the original election did not comply with the NALC election regulations.

The foregoing is without prejudice to the appeal rights of any member. The Executive Board should still consider any presently pending appeals and make whatever decision it feels is appropriate. The Board's decision remains subject to appeal to the Branch. Moreover, the conduct of the present re-run election may also be challenged in an appeal.

I trust that the foregoing addresses your concerns. Please feel free to contact my office if you need additional assistance.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**January 26, 2016 (5872, 5802, 5863, 5865 & 5868)**

This is in reply to your letter, dated January 19, 2016, regarding the re-run election presently underway in Branch 73. By copy of this letter, I am also responding to letters I have received from former Branch President Ben Jackson and other members of the Branch.

The documents provided to me show that on December 11, 2015, the Chairman of the Branch 73 Election Committee issued a decision voiding the 2015 election and ordering a re-run. According to your letter, the Branch's election contractor mailed re-run ballots on January 11, 2016, which are due back on February 11.

The mailing of re-run ballots was erroneous. As I stated in my letter of January 5, 2016, a re-run election should not be commenced before the appeal process has been exhausted at the Branch level. Insofar as you did appeal the Committee's decision to the Executive Board, the appeal process had not been completed. Even if the Board were to affirm the decision of the Committee, the mailing of ballots should still have been deferred pending any appeals to the Branch.

In light of the foregoing, I recommend that the Branch instruct its contractor not to open and count the ballots until the Executive Board and, if necessary, the Branch have completed the appeal process.

Apart from the foregoing, the following considerations must be taken into account when the Board and the Branch consider pending appeals.

First, it appears to be undisputed that the name of one of the nominees for convention delegate was erroneously left off the ballot. Therefore, under any circumstances, the Branch would have been compelled to have a new election for delegates.

Second, Section 14.2 of the NALC Regulations Governing Branch Election Procedures specifically requires that in a mail ballot election, the ballots must be mailed at least 20 days before the date ballots must be received in order to be counted. Documents provided to me indicate that the original ballots were placed in the mail in Brooklyn, NY on November 26, 2015 and collected on December 7, well short of the minimum 20 day balloting period. This information, if accurate, indicates that the original election did not comply with the NALC election regulations.

The foregoing is without prejudice to the appeal rights of any member. The Executive Board should still consider any presently pending appeals and make whatever decision it feels is appropriate. The Board's decision remains subject to appeal to the Branch. Moreover, the conduct of the present re-run election may also be challenged in an appeal.

I trust that the foregoing addresses your concerns. Please feel free to contact my office if you need additional assistance.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**February 3, 2016 (5878)**

This is in reply to your letter, dated January 26, 2016, advising that charges have been filed against three members of Branch 73. You now ask whether you should implement the procedures for handling charges provided by Article 10 of the Constitution for the Government of Subordinate and Federal Branches.

The answer to your question is yes. While I recognize that election appeals remain pending, the fact is that you are now President of the Branch. This means that you are responsible for implementing Article 10. Accordingly, after the charges are served on the charged members and read at a Branch meeting, it will be your responsibility to appoint a committee to investigate the charges. Assuming you are still in office when the committee submits its report, you will also be responsible for presiding over the meeting at which the members consider and vote on the charges.

You also note that one of the members who brought the charges in question is now an officer and has indicated that she wants to recuse herself from all proceedings. However, a member who brings charges is responsible for supporting those charges with evidence before the investigating committee. Any failure to come forward with supporting evidence could be a basis for the committee to recommend that the charges be rejected by the members.

**ANITA GUZIK, BRANCH 24, LOS ANGELES, CA**  
**February 5, 2016 (5889)**

This is in reply to your letter, dated January 25, 2016, advising that former Branch 24 member Albert White has retired as a member of Branch 1100 and is now seeking to have his membership transferred back to Branch 24 under Article 2, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). According to your letter, Brother White has only served seven months of the two year suspension imposed on him in 2003, and during that seven month period he became delinquent in his dues payments. In light of these facts, Branch 24 requests a waiver of the constitutional requirement to accept Brother White's transfer of membership.

Your letter raises three distinct issues which I address separately in the following discussion.

1. Transfer of Membership. Article 2, Section 3(a) of the CGSFB provides that a retiree in good standing in his/her Branch moving to another city, may transfer membership to the Branch located in such city. In previous rulings, I have observed that the intent of this provision is clearly to permit retirees to be members of the Branch that is located where they reside. The language of Article 2, Section 3 does not give the receiving Branch discretion to refuse a transfer if the procedure outlined in paragraph (c) of that section is properly followed. Accordingly, I must deny Branch 24's request to waive reading of the transfer letter from Branch 1100 so as to deny acceptance of Brother White's transfer.

2. Suspension. Your letter indicates that neither Branch 782 nor Branch 1100 required Brother White to serve the remainder of the suspension imposed on him by Branch 24 during the times he was a member of those branches. If that is the case, Branch 24 may enforce the remainder of the suspension now. Accordingly, following completion of the transfer, Branch 24 may treat Brother White as a suspended member until the two year term of suspension has been completed. As provided by Article 10, Section 6 of the CGSFB, Brother White will be entitled to be fully reinstated as a member in good standing "at the expiration of the term for which he/she was suspended, without action of the Branch."

3. Dues Delinquency. A suspended member is obliged to continue payment of dues. Article 10, Section 5 of the CGSFB specifically states that during the suspension for an offense, a member is not exempt from dues, and he/she shall be subject to all the penalties of Article 7, Section 4 for the non-payment of same. Article 7, Section 4 provides for the forfeiture of membership where a member fails to pay any fine, assessment or monthly dues within thirty (30) days (subject to the Branch's authority to extend the grace period for up to an additional sixty (60) days). Therefore, Branch 24 may seek to collect any back dues owed by Brother White when the membership transfer is completed. If he fails to cure any delinquency in a timely manner, the Branch may declare that his membership has been forfeited in accordance with Article 7, Section 4.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**February 5, 2016 (5883 & 5893)**

This is in reply to two recent letters.

Your letter, dated January 19, 2015, inquires whether as the newly elected President of Branch 73 you have the authority to change the election committee. The answer to this question is yes. As previous rulings have recognized, the President of the Branch is free to disband the election committee and to appoint a new committee when a rerun is held, or the President may leave the previously appointed committee in place.

Your letter, dated January 28, 2016, raises issues with respect to the content and availability of the Branch minutes. As previous rulings have noted, as a general principle, it is for the Branch to determine how minutes should be prepared and approved. The only relevant constitutional requirement is set forth in Article 6, Section 3 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), requiring the Recording Secretary of the Branch to keep a correct record of the proceedings of the Branch in a book to be kept for that purpose. The Constitution does not specify the form or content of the minutes other than this general requirement that the minutes constitute a correct record of the proceedings of the Branch.

Apart from the above, Article 6, Section 1 of the CGSFB provides that

the Branch President shall have general supervisory powers over the Branch and the authority to see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch. Accordingly, as President of Branch 73 you do have the authority to direct the Recording Secretary to include or certain matters in the minutes or to make appropriate changes. Any decision you make in that regard is subject to appeal to the Branch.

Finally, as President you also have the authority to require the Recording Secretary to provide you with a copy of the minutes.

**MARK J. ROBBINS, BRANCH 204, COLORADO SPRINGS, CO  
February 9, 2016 (5884)**

This is in reply to your recent letter, received by my office on January 25, 2016, inquiring whether a member of Branch 204 remains eligible to serve as a delegate to the Colorado State Convention. According to your letter, the member in question is a former CCA who was recently converted to career status. A review of her records after nomination revealed that she had fallen off the list of dues paying members. However, you have verified that she had previously executed a Form 1187, a copy of which was found in the Branch office. You also note that she has recently signed a new Form 1187.

The facts set forth in your letter indicate that this member is eligible to be a delegate. As previous rulings have recognized, when an applicant has executed a Form 1187, he/she has done all that is required by the Constitution to attain membership status. Once the Form is signed, membership status would not be affected by an error either by the Postal Service or the union which delays or interrupts the deduction of dues.

**SARAH VALDEZ AND KRISTIN MYERS, BRANCH 2854,  
TRACY, CA**

**February 10, 2016 (5890 & 5896)**

This is in reply to Sister Valdez' letter, faxed to NALC Headquarters on February 1, 2016, and Sister Myers' letter, dated January 29, 2016.

By letter dated January 8, 2016, Branch 2854 President Chris Vindiola requested dispensation to conduct a new vote on a proposed merger with Branch 213. According to this letter at least one retiree had not been sent a notice of the merger vote and other unspecified anomalies prevented many carriers from voting. This was an appropriate request for a Branch President to make. Accordingly, I granted the requested dispensation in a letter, dated January 19.

Your two letters now allege that the reasons for requesting a second vote articulated in Brother Vindiola's letter were not valid and that a second vote was not required. While I appreciate the seriousness of these assertions, I do not have personal knowledge of the facts and cannot resolve this dispute on the basis of correspondence. I can provide the following guidance.

Article 2, Section 3 of the NALC Constitution provides that a vote to approve a merger resolution must take place at a branch meeting following a minimum of thirty days' notice to each member of the Branch. I trust that if the Branch does conduct a second vote, it will comply with all applicable constitutional requirements. If the second vote is in favor of the merger, it will be approved unless I receive a substantial complaint as provided by Article 2, Section 3(i).

If the second vote results in a disapproval of the merger resolution, either of you (or any other aggrieved member) may initiate an appeal to the NALC Committee on Appeals in accordance with Article 11 of the NALC Constitution for the Government of Subordinate and Federal Branches, based on the issues raised in your letters, or any other relevant matters. As noted above, I take no position on the merits of any such appeal.

**DAIDRE KERNAN, BRANCH 534, BRIDGETON, NJ  
February 10, 2016 (5891)**

This is in reply to your letter, dated January 27, 2016, requesting the impeachment of the Vice President of Branch 534.

While I appreciate your concerns, I must advise that it would be inappropriate for me to comment on the allegations set forth in your letter or the statements from other carriers which you included. There is no procedural basis for your impeachment request. Members may seek the removal of Branch officers by filing charges under Article 10 of the Constitution for the

Government of Subordinate and Federal Branches. However, such charges must be filed, investigated, and resolved at the Branch level.

**ALBERT ANCHONDO, BRANCH 505, EL PASO, TX  
February 12, 2016 (5887)**

This is in reply to your letter, dated January 23, 2016, inquiring whether Branch 505 may conduct a new election for steward at the Ranchland Station in El Paso, TX. According to your letter, several weeks after the election, the Branch discovered that one of the voters had submitted a Form 1188 prior to the election. Thus, this individual was not eligible to vote at the time of the election. The election was decided by a one vote margin.

Please be advised that the new election proposed in your letter would be consistent with the NALC Constitution. Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches states that Branches may provide in their By-laws for the election of stewards "within the respective stations as the Branch may...determine[]." (Emphasis supplied.) Accordingly, the Branch has discretion to decide how to remedy a flawed steward election.

**NOEL MALDONADO, BRANCH 3592  
February 16, 2016 (5897)**

This will confirm that I have received a copy of Brother Maldonado's letter to Brother Minx, President of Branch 3592. According to that letter, the Branch has not had an election in well over three years.

Consistent with federal law, Section 3.1 of the NALC Regulations Governing Branch Election Procedures requires that all Branches conduct an election of officers at least every three years. Accordingly, if the Branch has not had an election in more than three years, it must do so as expeditiously as possible.

By copy of this letter, I am instructing Region 3 National Business Agent Michael Caref to provide whatever assistance the Branch may need in conducting a special election, if one is required.

**STEPHANIE MATTHEW, BRANCH 73  
February 16, 2016 (5899)**

This is in reply to your recent letter, received by my office on February 3, 2016. Your letter concerns charges filed in December, 2015 against three members of the Branch 73 Executive Board. Since then you have been elected as Assistant Vice President and are part of the Executive Board. You now request a ruling from me recusing you from participating in the proceedings related to the charges.

While I appreciate your concerns, I must advise that I do not understand the nature of your request. Charges are governed by Article 10 of the NALC Constitution for the Government of Subordinate and Federal Branches. Article 10 provides that, following the reading of the charges, the Branch President is to appoint a committee of three disinterested members to investigate the charges and report to the Branch for a vote. There is no formal role for the Branch Executive Board. Moreover, you are not required to accept appointment to the investigating committee, if asked to serve by the President.

Apart from the foregoing, it would be entirely inappropriate for the National Union to intervene in this matter. Charges must be investigated and resolved at the Branch level.

**MARK SEITZ, BRANCH 92  
February 16, 2016 (5901)**

This is in reply to your recent letter, received by my office on February 5, 2016, inquiring whether Branch 92 may vote to allow a member of the Branch to pay retiree dues even though that member has not yet retired. According to your letter, this member has been out on workers compensation for many years.

As you correctly suggest, the answer to your question is no. Insofar as this member has not retired, the NALC Constitution requires that he pay full dues. Specifically, Article 7, Section 2(a) of the NALC Constitution establishes a minimum dues structure and further states that [e]ach member shall pay monthly dues equal to the defined minimum. (Emphasis supplied.) Only members who have actually retired may pay retiree dues, as provided by Article 7, Section 2(b).

Of course, Article 7, Section 3(b) of the Constitution for the

Government of Subordinate and Federal Branches allows the Branch to exempt an active member in non-pay status from his dues obligation, or remit his dues, under reasonable rules, uniformly applied. But this provision does not authorize the branch to create a special dues rate for a single member that is lower than the minimum dues.

**REGAL PHILLIPS, BRANCH 73, DECATUR, GA**

**February 16, 2016 (5909)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated February 10, 2016, has been referred to me for reply. Your email asks whether the committee appointed to investigate charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) must be present at the meeting at which its report is presented. You also ask whether the committee must read its report to the members.

The relevant provision of the Constitution, Article 10, Section 3 of the CGSFB, states that The committee, after completing its fact-finding duty, will present to the Branch a written report of the facts elicited, and immediately thereafter disband and be eligible to vote. This language clearly contemplates that the members of the committee will be in attendance at the Branch meeting in order to present the report and be eligible to vote thereafter. Accordingly, as a general rule, the members of the investigating committee should attend the meeting. (This does not necessarily mean that charges should be dismissed or the vote postponed if one or more members of the committee cannot attend for personal or other legitimate reasons.)

As to your second question, the committee can read its report, or the Branch may provide copies for the members to read to themselves before voting. Of course, whichever alternative the Branch selects, the charged party must be given the opportunity to defend himself/herself immediately before the vote is taken, as provided by Article 10, Section 3.

**ALBERT WHITE, BRANCH 24, LOS ANGELES, CA**

**February 18, 2016 (5911)**

This is in reply to your email, dated February 11, 2016, in which you seek to appeal the recent action of Branch 24 in upholding its two year suspension of your membership which it imposed in 2003.

It is my understanding that Branch 24 has accepted your transfer of membership as a retiree member, but is requiring that you serve the remaining term of the two year suspension. These actions are consistent with the NALC Constitution, as I explained in my letter to Sister Guzik, dated February 5, 2016, a copy of which was sent to you. In any event, the time for appealing your suspension has long past. There is no further appeal from the final decision of the 2004 National Convention to uphold the suspension.

I noted in my February 5 letter, you will be eligible to be fully reinstated as a member in good standing of Branch 24 at the expiration of the term of your suspension. However, while I appreciate your concerns, I cannot otherwise provide a favorable response to your request for a further appeal.

**TRAVIS KLEMP, BRANCH 645, FORT DODGE, IA**

**February 18, 2016 (5912)**

This is in reply to your recent letter, received by my office on February 9, 2016, requesting dispensation permitting Branch 645 to conduct its nominations for delegates to the 2016 National convention out of time. According to your letter, the Branch should have conducted nominations at its December meeting, but neglected to do so.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Please notify the membership of this change as expeditiously as possible. In addition, you should understand that this dispensation extends only to the nomination of delegates for the 2016 Convention. Future nominations and elections of delegates should take place in accordance with the time frames provided by the Branch By-laws and the NALC Constitution.

**JACQUELINE LARK, KILLEEN, TX**

**February 18, 2016 (5915)**

This is in reply to your letter, dated February 8, 2016, requesting that I rule that two members of Branch 643 are not eligible to be delegates to

the National Convention.

Please be advised that it would be inappropriate for me to rule on the eligibility of specific individuals, based on the limited information contained in your letter. I can provide the following general guidance. Please note that I am sending a copy of this letter to Branch President Brooks.

First, Article 5, Section 2 of the NALC Constitution expressly provides that any member who holds, accepts or applies for a supervisory position in the Postal Career Service for any period of time, whether one (1) day or fraction thereof, either detailed, acting, probationary or permanently... shall be ineligible to run for any office or to be a delegate to any Convention for a period of two (2) years after termination of such supervisory status. There are no exemptions from this rule.

Accordingly, if the member in question had acted as a 204b within the past two years, as stated in your letter, then he may not attend the Convention as a delegate, either paid or unpaid. It is the responsibility of the Branch President to enforce this prohibition.

Second, generally speaking, non-letter carrier members, such as clerks, motor vehicle operators and maintenance employees, have full rights as members of the NALC. Article 2, Section 1(a) of the NALC National Constitution defines regular members as including non-supervisory employees of the Postal Career Service. It does not limit regular membership to employees in the letter carrier craft. Accordingly, non-supervisory members employed in other crafts are eligible to serve as convention delegates.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**

**February 23, 2016 (5913)**

This is in reply to your letter, dated February 10, 2016, requesting dispensation permitting Branch 73 to elect its delegates to the 2016 National convention by means of a re-run election held after the December deadline for electing delegates provided by Article 5, Section 4 of the NALC Constitution. The re-run election was required because the name of one delegate nominee was inadvertently left off the ballot in the original election.

Please be advised that dispensation from me is not necessary. The appeal process established by Section 21 of the NALC Regulations Governing Branch Election Procedures authorizes Branches to remedy flawed elections by conducting re-run elections. Insofar as the original delegate election was timely, the Branch may rely on a legitimate re-run election to select its delegates to the 2016 National Convention.

**WILLIAM J. ELDRIDGE, JR., BRANCH 768, MANVILLE, NJ**

**February 23, 2016 (5877)**

This is in reply to your letter, received by my office on January 21, 2016, concerning charges against the officers of Branch 768. You have suggested that a person from outside the office be designated to investigate this matter.

By copy of this letter, I am directing National Business Agent Larry Cirelli to designate a representative from his office to review this apparent dispute and to provide any assistance that may be appropriate to the Branch.

**JOHN TRIPLETT, INDIANA STATE ASSOCIATION**

**March 1, 2016 (5927)**

This is in reply to your recent letter, received by my office on February 19, 2016, requesting dispensation permitting the Indiana State Association of Letter Carriers to conduct its election of Delegates-at-Large and Alternate Delegates-at-Large at its convention scheduled to take place on April 18-19, 2016.

Please be advised that dispensation from me is not necessary. The December deadline provided by Article 5, Section 4 of the NALC Constitution applies only to the election of national and state delegates by branches. This provision does not apply to the election Delegates-at-Large by state associations. The only requirement set forth in the Constitution for the election of state association Delegates-at-Large and Alternate Delegates-at-Large is that the election take place at a regular Convention. See Article 6, Section 3 of the Constitution for the Government of State Associations.

Accordingly, the Indiana State Association may conduct the election at the regularly scheduled April convention. Sister Rhine advises that she misstated the constitutional requirements during her earlier conversation with you.

I trust that the foregoing addresses your concerns.

**ANA MARTINEZ, BRANCH 505, EL PASO, TX**

**March 1, 2016 (5926)**

Your email to NALC Secretary-Treasurer Nicole Rhine, dated February 23, 2016, has been referred to me for reply. Your email asks several questions pertaining to pending election appeals in Branch 505.

With regard to the steward election referenced in your email, please be advised that I have already corresponded with Branch President Anchondo on this matter. In a letter, dated February 12, 2016, I noted that the Branch has discretion to decide how to remedy a flawed steward election and that a new steward election based on the facts set forth in his letter, would be consistent with the NALC Constitution.

Apart from the foregoing, it would be inappropriate for me to rule on the specific questions posed in your email, based on the very limited information I have before me. I can provide the following general guidance.

Branch election appeals are governed by Section 21 of the NALC Regulations Governing Branch Election Procedures (RGBEP). However, these regulations are not binding on the election of stewards who are elected by station and are not members of the Branch Executive Board. See RGBEP, Section 2.1. Rather, as provided in Article 4, Section 5 of the Constitution for the Government of Subordinate and Federal Branches, stewards may be elected in individual stations "as the Branch may... determine[.]" (Emphasis added). Where stewards are elected by station, the Branch is free to resolve disputes over election appeal procedures in any manner that is consistent with its By-laws. This would include the question of time limits for appeals.

Section 21 of the RGBEP does apply to post-election appeals involving the election of officers and delegates. Section 21.3 covers appeals to the Branch from a decision of the Branch Executive Board. Section 21.3 does not set forth any specific procedural requirements regarding the Branch meeting at which the appeal is heard. Accordingly, the matter is left largely to the discretion of the Branch. Thus, it is up to the Branch to decide whether there should be one or two votes on appeals pertaining to delegates and officers, depending on whether the appellant has made separate arguments in separate appeals, or a single set of objections to the entire election. Similarly, it is up to the Branch to decide whether the President should continue to chair the meeting while the appeal is considered. The overriding criterion that should guide the Branch is fairness.

Finally, as a general rule, an aggrieved member who appeals a branch election may not add new objections to the conduct of the election that were not included in the original appeal to the Election Committee. Section 21.1 of the RGBEP expressly provides that All objections to the conduct of an election by an aggrieved member must be mailed to the Chairperson of the Branch Election Committee within five (5) days after the date of the election (emphasis supplied). Previous rulings have recognized that a member who wishes to submit an issue out of time could apply to the National President for special dispensation pursuant to Article 9, Section 1(a) of the NALC Constitution (which empowers the President to grant dispensations when, in his/her judgment, the good of the Union may require it.) However, the rulings also indicate that such dispensation will not be considered unless the appellant could demonstrate that he/she had exercised reasonable diligence in investigating possible violations and had been unable to discover the alleged violations at issue.

**PAUL ROZNOWSKI, BRANCH 3126, MACOMB, MI**

**March 1, 2016 (5932)**

This is in reply to your email, dated February 28, 2016, concerning an election appeal which is scheduled to be heard by Branch 3126 at its meeting on March 3. Specifically, you ask several questions pertaining to the parliamentary procedures that should be followed by the Branch in hearing and resolving this appeal.

The appeal to the Branch from the decision of the Branch Executive Board is governed by Section 21.3 of the NALC Regulations Governing

Branch Election Procedures. Section 21.3 does not set forth any specific procedural requirements regarding the Branch meeting at which the appeal is heard. Accordingly, the matter is left largely to the discretion of the Branch. The overriding criterion that should guide the Branch is fairness. All interested parties must be given a reasonable opportunity to present their arguments to the members, so that the members may make an informed decision.

In light of the foregoing, it is up to the Branch to decide the extent to which it will apply any By-laws governing the conduct of meetings to the hearing on the appeal, subject only to the overriding principle that all interested parties must be treated fairly.

I trust that the foregoing addresses your concerns. As always, this letter should not be read to reflect any view as to the merits of the pending appeal.

**ALFRED RAMOS, BRANCH 52, SAN LUIS OBISPO, CA**

**March 1, 2016 (5933)**

This is in reply to your letter, dated February 19, 2016, inquiring whether you may appoint a CCA member of Branch 52 to fill a vacancy in the office of Trustee. You suggest that this member may be ineligible to serve as a branch officer because she had shadowed another CCA running a Sunday Hub last year.

At the outset, your letter does not contain sufficient information for me to rule on this matter. I can provide the following general advice.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from being a candidate for Branch office for two years following termination of supervisory status. However, the disqualification applies only where the member has held, accepted or applied for a supervisory position. A letter carrier who simply performs a supervisory duty assigned by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable. In this case, your letter indicates that Sister Kelly never actually occupied a supervisory position.

Sister Kelly may be disqualified if she applied for a supervisory position, even if she were never appointed to one. As a general principle, the prohibition set forth in Article 5, Section 2 covers any application for a supervisory position. It is not necessary that the member file a Form 991 or otherwise submit an application in writing. A letter or verbal communication indicating a member's interest in a management position may or may not constitute an application for a supervisory position, depending on the member's intent, the specific wording of the statement, local practices, and other relevant circumstances.

Your letter to me does not provide sufficient information as to the nature of Sister Kelly's interactions with management for me to offer an opinion as to whether she applied for a supervisory position. In any event, it is your responsibility as Branch President to determine whether Sister Kelly has been disqualified for Branch office under the foregoing principles. If necessary, you may discuss the issue with management to clarify this question.

If you conclude that Sister Kelly was never appointed to a supervisory position, and never submitted an application for such a position, then you may appoint her to serve as a Branch officer.

**JOHN EPPERSON, BRANCH 608, OAK PARK, IL**

**March 3, 2016 (5942)**

This is in reply to your letter, dated February 25, 2016, written on behalf of a committee appointed to investigate charges against two members of Branch 608. In particular, you ask whether the charge, as described in your letter, is valid. You also ask whether the committee is authorized to dismiss the charge.

At the outset, it would be entirely inappropriate for me to comment on the substance of the charges. In particular, it would not be proper for me to rule on whether the charges are sufficient to state a violation of the Constitution. I can offer the following general advice.

Article 10, Section 2 of the Constitution for the Government of Subordinate and Federal Branches states:



Charges must be made in writing, specifying the offense, failure, neglect, or misconduct so as to fully apprise the member or officer of the nature thereof, and shall be signed by a member of the Branch. . . .

It is the responsibility of the investigating committee and the Branch to apply the above-stated principles to the facts of the case. Thus, a charged member or officer may present to the investigating committee an argument that the charges fail to state a violation of the Constitution. The committee may very well conclude that the charges, as written, are insufficient to state a violation of the Constitution. However the investigating committee may not rely on any such conclusion to avoid completing its investigation and reporting to the Branch. The committee may communicate its opinion as to the sufficiency of the charges to the members. But the members must be given the opportunity to vote on the charges. The members can uphold an argument that the charges were insufficient on their face and vote to dismiss the charges. Alternatively, if the members were to sustain the charges, the argument that the charges were constitutionally deficient may be made in an appeal to the National Committee on Appeals.

I trust that the foregoing addresses your concerns. Once again, this letter should not be read to express any view as to the merits of the charges at issue.

**JAMES BREEDING, BRANCH 39, INDIANAPOLIS, IN  
March 8, 2016 (5951)**

Your email to NALC Director of Safety and Health Manuel Peralta, dated March 7, 2016, has been referred to me for reply insofar as you have raised an issue involving the interpretation of the NALC Constitution. Specifically, you ask whether a committee appointed to investigate charges under Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) may conduct private interviews without the presence of the charged party.

Please be advised that the issue of ex parte interviews by an investigating committee has been addressed in previous presidential rulings. The rulings have recognized that the Constitution does not specifically authorize or prohibit this procedure. Article 10, Section 3 of the CGSFB simply provides that the investigating committee is to "summon the parties" and to hear and record the testimony and documentary evidence presented by them. All parties are "entitled to be heard by the committee, to present evidence, and to cross-examine all witnesses who make statements to the committee." Presidential rulings have recognized that the committee may interview witnesses in addition to the charging and charged parties, and are not required to observe rules of evidence or judicial procedure. Ultimately, it is the responsibility of the committee to "find the true facts and report to the Branch."

If a committee believes that it can conduct private interviews without undermining the committee's ability to "find the true facts," and without compromising any party's right of cross-examination, then it may follow the procedure described in your email. Certainly, if the interviews were recorded, the recordings should be made available to the parties to assist in the cross-examination. Written notes of the interviews should be provided to the parties prior to cross-examination, to the extent that the notes are material to the charges, or will otherwise be relied upon by the committee. If the parties, upon review of the notes, waive cross-examination, the committee may elect not to interview the witnesses again. If the parties do not waive cross-examination, then the individuals who were interviewed by the committee must be made available at a later time for cross-examination by the parties.

I caution that any of the parties could challenge the manner in which the procedures may be implemented in an appeal to the National Committee on Appeals following the Branch's decision on the charge. Any such appeal would have to be resolved on the basis of the specific facts presented. My comments are intended solely to provide advice as to the applicable constitutional principles. It would be entirely premature for me to attempt now to resolve particular issues that may be raised by the parties.

**JAIME R. MENDEZ, BRANCH 1456, BROWNSVILLE, TX  
March 10, 2016 (5958)**

This is in reply to your letter, dated March 2, 2016, requesting dispensation on behalf of Branch 1456 to conduct nominations of

delegates to the 2016 National Convention outside the December 31 deadline specified in the NALC Constitution. According to your letter, the Branch failed to conduct the required nominations and election in a timely manner. You now request an additional 45 days to elect delegates.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation, subject to the following restrictions. Article 5 of the NALC Constitution, along with Sections 5.1 and 6.1 of the NALC Regulations Governing Branch Election Procedures requires that a timely notice of nomination and election of delegates be sent by mail to each member at least 10 days before the nominations and 45 days before the election. The law permits this time frame to be reduced to 15 days, which reduction I hereby authorize by this dispensation.

This dispensation releases Branch 1456 from the requirement set forth in Article 5, Section 4 of the NALC Constitution that delegates be elected no later than December of the year prior to the Convention. Please understand that this dispensation applies only to the 2015 election of delegates. For future elections, the Branch must comply with the time frames and notice requirements provided by its By-laws, the Constitution, and the NALC Regulations Governing Branch Election Procedures.

**ALBERT WHITE, BRANCH 24, LOS ANGELES, CA  
March 11, 2016 (5949)**

This is in reply to your two recent emails, dated March 2 and 8, 2016, which seek to appeal my ruling issued on February 5.

My ruling upheld Branch 24's position that it may require you to serve the balance of the two year suspension imposed on you in 2003. It is undisputed that you had served only seven months of that suspension when you ceased to be a member of the NALC. You now claim that you effectively served the balance of your suspension in Branch 782 and Branch 1100 because you never attended any meetings of those branches.

At the outset, there is no procedure in the NALC Constitution for appealing a ruling of the National President. To the contrary, Article 9, Section 1(j) of the Constitution states that the President's decisions upon all questions of law...shall be final between Conventions. Accordingly, I am treating your email as a request that I reconsider my initial decision.

I have weighed your argument, but have concluded that my initial decision was correct. When an NALC Branch imposes a suspension under Article 10 of the Constitution for the Government of Subordinate and Federal Branches, the full term of that suspension must be served unless it is overturned by the National Committee on Appeals or the NALC Convention. That did not occur in your case.

In addition, it is clear that Branch 24 never contacted either Branch 782 or Branch 1100 to arrange for you to serve the balance of your suspension while a member of those branches. Your voluntary decision not to attend meetings is insufficient to establish that you were in a suspended status in either branch. Given these circumstances, Branch 24 may enforce the balance of the suspension now.

I regret, therefore, that I cannot provide a favorable reply to your request for reconsideration of my February 5 ruling. That decision stands.

**JIM FALVEY, JR., BRANCH 82, PORTLAND, OR  
March 15, 2016 (5960)**

This is in reply to your letter, dated March 4, 2016, concerning Secretary-Treasurer Nicole Rhine's decision that Brother Anthony Gallardo is not eligible to be a delegate to the 2016 National Convention from Branch 82.

According to your letter, Brother Gallardo was previously elected as a delegate from Branch 214 but has since transferred to Branch 82. You now ask that I overturn Sister Rhine's decision and allow him to attend the Convention as a delegate from Branch 82.

Unfortunately, the Constitution does not permit Branch 82 to simply appoint Brother Gallardo to serve as a delegate. The NALC Constitution and Regulations Governing Branch Election Procedures require that convention delegates be nominated and elected by the Branch that they will represent. It would be inconsistent with this requirement to simply name an individual as a delegate outside the normal nomination process.

The one possible solution would be for me to grant the Branch

dispensation to extend the nomination of delegates to allow it to fill any remaining slots. While such an extension is permissible, it would be inappropriate for the extension to apply solely to Brother Gallardo. Accordingly, the Branch may submit to me a request for dispensation to extend the deadline for nominations for delegate. I caution that if such dispensation were granted, the Branch would be required to notify all members of this extension and the opportunity for each member of the Branch to be nominated. If this process were to result in more nominees than delegate positions, the Branch would then be required to conduct an election of delegates.

Alternatively, Brother Gallardo would be welcome to attend the Convention as a guest.

**DANA CULPEPPER, TSALC, GARLAND, TX**  
**March 15, 2016 (5959)**

Your letter to NALC Secretary-Treasurer Nicole Rhine, dated March 3, 2016, has been referred to me for reply, insofar as your letter raises an issue of constitutional interpretation.

Your letter indicates that the President and Secretary of the Texas State Association of Letter Carriers have signed a warrant authorizing a payment in an amount which you believe is incorrect. You now ask whether you are obliged to cut and sign a check for this amount, notwithstanding your belief that the payment does not accurately reflect the action taken by the State Association.

The short answer to your question is no. The issuance of the check may be deferred pending resolution of this apparent dispute.

The dispute described in your letter should be referred to the State Association Executive Board for resolution. Article 8, Section 1 of the NALC Constitution for the Government of State Associations (CGSA) states that one duty of the State President is to sign all warrants on the Treasurer; it does not say that the President is solely to authorize such warrants. Article 8, Section 5 states that the Executive Board shall have charge of the property of [the] Association. The Executive Board has the power to direct the investment of the funds of the Association, and to examine all bills [and] approve the same if found correct. Accordingly, the ultimate power to authorize expenditures lies with the State Executive Board.

In addition, Article 8, Section 5 of the CGSA provides that [i]n conjunction with the President, [the Executive Board] shall have general supervision and control of the Association during recess. Thus, the President and the Board must address the issue and resolve it.

**CHRISTOPHER JACKSON, REGION 1, ONTARIO, CA**  
**March 17, 2016 (5862, 90 & 96)**

As you know, I received a letter, dated January 8, 2016, from Branch 2854 President Chris Vindiola requesting dispensation permitting the Branch to conduct a second vote on a proposed merger with Branch 213. On January 19, I granted the requested dispensation, based on Brother Vindiola's representations that at least one retiree member was not sent a notice of the original vote in mid-December and that other unspecified anomalies may have affected the outcome of the election.

Since granting the dispensation, I have received conflicting reports which have called into question the claim that a second vote was warranted. In order to address this apparent dispute, I am now directing you to designate a representative from your office to investigate this matter and report to me. Pending receipt of the report I am reserving any decision as to whether further action may be warranted, including, potentially, approval of the original merger proposal based on the first vote.

By copy of this letter, I am advising Brother Vindiola and other members of the Branch who have written to me that this matter will be investigated by the National Business Agent's office. I expect full cooperation with the investigation.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**March 23, 2016 (5968, 5969, 5972, & 5983)**

This is in reply to your letter, dated March 21, 2016, regarding the status of the officer and delegate elections in Branch 73. By copy of this letter, I am also responding to letters I have received from Branch 73

members Herman Phillips and Debra Reed.

As noted in previous correspondence, on December 11, 2015, the Chairman of the Branch 73 Election Committee issued a decision voiding the 2015 election and ordering a re-run. Re-run ballots were subsequently mailed out and have been returned, but not counted.

In the meantime, the Election Committee's decision to conduct a re-run election was appealed to the Branch Executive Board in accordance with Section 21.2 of the NALC Regulations Governing Branch Election Procedures (RGBEP). According to your letter, on February 4, the Board voted 7 to 4 to uphold the Election Committee decision. The decision of the Executive Board was then appealed to the Branch in accordance with Section 21.3 of the RGBEP. At the monthly Branch meeting on March 10, the members voted to count the re-run ballots for national and state association delegates, and to dispose of the re-run ballots for the officer election.

In response to this information, I now provide the following guidance.

First, under no circumstances should any ballots or election materials be discarded or destroyed. The Branch may proceed with the count of the delegate ballots. However, the officer ballots, if not counted, should be set aside and preserved. They should be secured by the Election Committee in a manner which will prevent any unauthorized access.

Second, it does not appear that the Branch voted on the two appeals from the decision of the Executive Board. If this is true, the appeals should be reconsidered at the next Branch meeting, and the members in attendance should vote on the appeals. The time to appeal the Branch's decision to the National Committee on Appeals, as provided by RGBEP Section 21.4, will not begin to run until that vote is taken.

I trust that the foregoing addresses your concerns. I thank all of you for taking the time to write and keeping me informed of the latest developments in this matter.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**  
**March 23, 2016 (5971)**

This is in reply to your letter, dated March 21, 2016, concerning Branch 73's disposition of two sets of charges. At its meeting on March 10, 2016, the Branch voted to sustain charges against three members, requiring them to reimburse the Branch for moneys received in connection with a training class held in September, 2015. The Branch also voted to sustain certain other charges against members of the Branch Executive Board and voted in favor of a penalty of reprimand. You now ask what further steps the Branch may be required to take.

As to the first set of charges described in your letter, past rulings have concluded that the procedure for filing and adjudicating charges set forth in Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) is a legitimate method for enforcing a debt claim where the existence and/or the amount of the debt is in dispute. If Article 10 charges are filed, an impartial investigating committee must be appointed. After hearing the committee's report, the Branch can vote to determine whether the charged party owes the disputed sum and can vote to impose a requirement of reimbursement.

The facts set forth in your letter indicate that the Branch has satisfied the constitutional requirements for establishing an enforceable debt claim against the three members in question. It is now up to the Branch to decide how and when to collect the sums owed by the members. For example, the Branch may set a deadline for making the payments and, if they are not made, declare that debtors have forfeited their NALC membership. (If the Branch does so, please advise Secretary-Treasurer Nicole Rhine and the NALC Membership Department of the membership forfeiture.) Alternatively, the Branch may work out a payment schedule with each individual member.

Of course, each of the members has a right to appeal the Branch's decision to the NALC Committee on Appeals under Article 11 of the CGSFB. The Branch is not required to defer collection of the debts until the appeal process has been exhausted, but it may elect to do so.

With regard to the second set of charges, your letter indicates that you reprimanded each of the charged parties at the March 10 meeting. Since this was the only penalty endorsed by the members, it would appear that no further action is required.

I trust that the foregoing is responsive to your concerns. This letter should not be read as expressing any view as to the merits of any appeal that may be filed regarding any of the charges.

**VINCENT CORSI, BRANCH 351, OLYMPIA, WA**

**March 25, 2016 (5976)**

This is in reply to your letter, dated March 21, 2016, requesting dispensation permitting Branch 351 to conduct a second round of nominations and election of delegates to the 2016 National Convention and to the Washington State Convention outside the December 31 deadline specified in the NALC Constitution. According to your letter, the Branch failed to fill its full complement of authorized delegates and alternates at its regular nominations meeting. You now request dispensation allowing the Branch to fill the remaining delegate slots at its meeting on April 7.

In light of the facts set forth in your letter, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation.

**ERIC SLOAN, BRANCH 73, RIVERDALE, GA**

**March 28, 2016 (5982)**

This is in reply to your letter, dated March 23, 2016, concerning pending appeals from decisions made by Branch 73.

Your letter requests a ruling as to the procedure for responding to an appeal to the National Committee on Appeals under Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB). Specifically, you ask who is to prepare the Branch's response.

As previous rulings have recognized, Article 11, Section 2 of the CGSFB does not specify who is to prepare the Branch's response to an appeal. Accordingly, any officer who is not supporting the appeal may prepare the response. As President of the Branch, you may certainly do so.

I trust that the foregoing addresses your concerns. This letter should not be read to express any view as to any of the issues that may be presented to the Committee.

**H.R. PHILLIPS, BRANCH 73, FAYETTEVILLE, GA**

**April 1, 2016 (5987)**

This is in reply to your letter, dated March 22, 2016, concerning the ongoing election controversy in Branch 73. Your letter was obviously written prior to receipt of my letter to Branch President Sloan, also dated March 22, a copy of which was sent to you.

My letter advised that the Branch may proceed with the count of the delegate ballots, but that the officer ballots, if not counted, should be set aside and preserved. Contrary to your suggestion, it should be possible for the Election Committee to secure the officer ballots in a manner which will prevent any unauthorized access and preserve the confidentiality of the vote.

I am declining to comment further on the other issues referenced in your letter. Those issues may be addressed by the Branch when it reconsiders and votes on the pending election appeals, as stated in my letter of March 22. The Branch's ultimate decision, of course, may be appealed to the National Committee on Appeals.

**GARY SMITH, BRANCH 1103, OCALA, FL**

**April 4, 2016 (5984)**

This is in reply to your letter, dated March 16, 2016, requesting dispensation on behalf of Branch 1103 to conduct a special election of delegates to the 2016 National Convention outside the December 31 deadline specified in the NALC Constitution. According to your letter, the Branch has failed to conduct the required nominations and election in a timely manner.

At the outset, delegates to the National Convention must be nominated and elected in accordance with the procedures provided by Article 5 of the NALC Constitution and NALC Regulations Governing Branch Election Procedures. As stated in Article 5, Section 4 of the Constitution, the election of delegates must take place no later than December of the year preceding the Convention.

I am always willing to entertain requests for dispensation permitting Branches to conduct special election of delegates out of time. However,

such requests must normally be submitted by the Branch President. As of now, I have no indication whether Branch 1103 President Valerie Leahmon supports your request for a special election. Accordingly, I am unwilling to grant dispensation at this time.

I trust that the foregoing at least partially addresses your concerns. Please note that a copy of this letter is being sent to Sister Leahmon.

**RUSTY PARTIN, BRANCH 3580, NASHVILLE, GA**

**April 8, 2016 (5993)**

This is in reply to your letter, dated March 20, 2016, requesting that Branch 3580 be permitted to conduct an election of officers. According to your letter, the Branch has never had an election of union officers during your almost 30 year tenure at the Adel, GA post office.

Please be advised that, consistent with federal law, Section 3.1 of the NALC Regulations Governing Branch Election Procedures requires that all Branches conduct an election of officers at least every three years. Accordingly, if the Branch has not had an election, it must do so as expeditiously as possible.

By copy of this letter, I am instructing Region 9 National Business Agent Kenny Gibbs to provide whatever assistance the Branch may need in conducting a special election. Please feel free to contact Brother Gibbs and to share copies of this letter with the other members of the Branch.

**STEVE ERCEG, BRANCH 2, WEST ALLIS, WI**

**April 8, 2016 (5985)**

This is in reply to your letter, dated March 24, 2016, in which you raise two questions regarding the circumstances in which members who have served as 204b's may participate in Branch meetings. The first question is whether a member whose 204b detail ends at 4:00 pm on a specific day, according to his/her Form 1723, may attend a meeting that begins at 5:00 pm that day. The second question is whether a 204b whose Form 1723 covers a period of days is prohibited from attending any meetings during that time frame.

Article 2, Section 1(c) of the NALC Constitution provides that members who "have been temporarily or permanently promoted to supervisory status...shall have no voice or vote in any of the affairs of [the] Branch," except for the right to participate and vote in any part of the meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues. Previous rulings interpreting this provision have established that a 204b may not otherwise participate in Branch meetings on days in which he/she has served in a supervisory capacity. However, when the member returns to a bargaining unit assignment, he or she immediately regains the right to attend and participate fully in meetings of the Branch.

Accordingly, the answer to your first question would be that the member who worked continuously as a 204b until clocking off at 4:00 pm on the day of the meeting would not be entitled to participate in a Branch meeting taking place later that evening (except, of course, for any part of the meeting concerning NALC insurance programs and/or the NALC Health Benefit Plan, if he/she is a member thereof, or the raising of Branch dues).

The answer to your second question depends on whether the member works continuously or only intermittently in a supervisory capacity during the time period specified in the Form 1723. Assuming the member will perform no bargaining unit work, and will be in supervisory status continuously for the entire period stated in the Form 1723, the member would not be entitled to participate as a regular member in Branch meetings during that period, even if a meeting were to take place on one of his/her days off. However, if during the period stated in the Form 1723 the member returns to a bargaining unit assignment, he/she immediately regains the right to participate in a branch meeting that takes place on that same day.

**DANNY HATCHETT, BRANCH 197, SHREVEPORT, LA**

**April 8, 2016 (5995)**

This is in reply to your recent letter, received by my office on March 30, 2016. Your letter asks two questions regarding the processing of charges requesting the removal of a steward in Branch 197.

With regard to your first question, charges filed under Article 10 of the Constitution for the Government of Subordinate and Federal Branches

(CGSFB) must be processed in accordance with the procedures set forth in Article 10. Accordingly, after the charges are read, you will be required to appoint a committee of three disinterested members to investigate the charges, as specified in Article 10, Section 3. The investigating committee should report to the full membership at a regular Branch meeting. The members in attendance will decide by majority vote whether or not the facts, as found by the committee, sustain the charge. There is no constitutional basis for restricting the process to the particular work unit represented by the steward, as suggested in your letter.

Your second question is whether a Branch may proceed with the processing of a charge, notwithstanding the fact that the charging parties neglected to sign the charge. Article 10, Section 2 of the CGSFB does explicitly state that Charges...must be signed by a member of the Branch. This is a constitutional requirement that should be enforced. In past rulings, I have recommended that when an unsigned charge is filed with the Branch, a neutral officer should inform the charging party of his/her apparent oversight and provide the charging party an opportunity to sign the charge before it is read and served.

It would be inappropriate for me to decide whether the signed statements included with your letter satisfy the signature requirement. That is a decision that you can make as Branch President. Of course, the issue will be moot if, as suggested above, you provide one or more of the complaining members an opportunity to sign the charge document before the next meeting.

**THOMAS DEVERY, BRANCH 4784, RICHARDSON, TX  
April 11, 2016 (5994)**

This is in reply to your letter, dated March 21, 2016, inquiring whether the President of Branch 4784 may appoint members to serve as delegates and alternate delegates. According to your letter, the Branch failed to fill its full complement of authorized delegates and alternates at its regular nominations meeting.

Please be advised that the answer to your question is no. Delegates to the National or State Convention must be nominated and elected in accordance with the procedures provided by Article 5 of the NALC Constitution and the NALC Regulations Governing Branch Election Procedures. As stated in Article 4, Section 3 of the Constitution, [a]ny vacancy in the office of delegate, Delegate-at-Large, or their alternates may be filled by election by the Branch or State Association.

I am always willing to entertain requests for dispensation permitting Branches to conduct special election of delegates after the constitutional deadline. However, such requests must normally be submitted by the Branch President. Accordingly, I am unwilling to grant dispensation at this time.

I trust that the foregoing at least partially addresses your concerns. Please note that a copy of this letter is being sent to Brother Smith.

**JIM FALVEY, BRANCH 82, PORTLAND, OR  
April 11, 2016 (6003)**

This is in reply to your letter, dated March 28, 2016, requesting dispensation on behalf of Branch 82 to conduct nominations of delegates to the 2016 National Convention outside the December 31 deadline specified in the NALC Constitution.

In light of the facts set forth in your letter and previous correspondence, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation, subject to the following. Article 5 of the NALC Constitution, along with Sections 5.1 and 6.1 of the NALC Regulations Governing Branch Election Procedures require that a timely notice of nomination and election of delegates be sent by mail to each member at least 10 days before the nominations and 45 days before the election. The law permits this time frame to be reduced to 15 days, which reduction I hereby authorize by this dispensation.

This dispensation releases Branch 82 from the requirement set forth in Article 5, Section 4 of the NALC Constitution that delegates be elected no later than December of the year prior to the Convention. Please understand that this dispensation applies only to the 2015 election of delegates. For future elections, the Branch must comply with the time frames and notice requirements provided by its By-laws, the Constitution, and the NALC Regulations Governing Branch Election Procedures.

**CHRIS VINDIOLA, TRACY, CA BRANCH 2854  
April 20, 2016 (5862, 5890, 5896)**

As you know, National Business Agent Chris Jackson's office has completed an investigation of the issues that arose following Branch 2854's vote on December 10, 2015 in favor of a proposed merger with Branch 213. Upon reviewing his findings and recommendations, I conclude that the anomalies referenced in our prior correspondence did not affect the outcome or fairness of the December 10 vote. Accordingly, I am withdrawing my previous dispensation permitting you to conduct a second vote.

The merger with Branch 213 should now be implemented. Please submit to my office as expeditiously as possible the required merger application, along with a statement of reasons for the merger and a copy of the merger resolution. You may contact NALC Secretary-Treasurer Nicole Rhine if you require any assistance.

By copy of this letter, I am advising Branch 213 that the merger will be completed. I thank you and all other members of Branch 2584 for cooperating with Brother Jackson's investigation so that this matter could be put to rest.

**DEXTER BROWN, DECATUR, GA, BRANCH 73  
April 20, 2016 (6017)**

This is in reply to your letter, which was faxed to my office on April 8, 2016, inquiring whether two members of Branch 73 remain eligible to serve on the Executive Board. According to your letter, on March 10, 2016, the Branch voted to sustain charges requiring that the members reimburse the Branch, so that they now owe a debt to the Branch.

At the outset, it would be inappropriate for me to address the merits of this dispute at this time. However, I can provide the following general guidance.

Previous rulings have held that a member's failure to pay an individual debt to the Branch does not, by itself, disqualify the member from holding branch office. However, such an individual ultimately could be removed from membership, so long as the appropriate procedures are followed.

The rulings have recognized that the procedure for filing and adjudicating charges set forth in Article 10 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) is a legitimate method for enforcing a debt claim. The rulings further establish that when the Branch claims that a member owes an individual debt, the member may be removed from membership for failing to pay such debt only after charges have been processed pursuant to Article 10 of the CGSFB.

Your letter does not provide specific information with respect to the nature of the reimbursement order voted on by the Branch. It is not clear, for example, whether the members considered a penalty of expulsion or suspension for failure to reimburse the Branch by a given date. In any event, it is the Branch's responsibility to interpret the scope of whatever penalty the Branch adopted at its March 10 meeting.

Similarly, in response to your second question, it is up to the Branch to determine whether the individuals may continue to receive a monthly stipend for members of the Executive Board. I can advise that the NALC Constitution does not contain any provisions which would prohibit the Branch from withholding a stipend pending satisfaction of an established debt claim.

**MATTHEW MAULT, YORK, SC BRANCH 3648  
April 20, 2016 (6018)**

This is in reply to your letter, dated April 5, 2016, concerning Branch 3648, Clover, SC. According to your letter, the Branch has never had an elected president. You now request information to assist you in conducting an election.

Consistent with federal law, Section 3.1 of the NALC Regulations Governing Branch Election Procedures requires that all Branches conduct an election of officers at least every three years. Accordingly, if the Branch has not had an election in more than three years, it must do so as expeditiously as possible.

By copy of this letter, I am instructing Region 9 National Business Agent Kenny Gibbs to designate a representative from his office to investigate this matter and to provide whatever assistance the Branch may need in conducting a special election, if one is required.

### **JOHN CURTIS, SURRY, ME BRANCH 391**

**April 20, 2016 (6019)**

Your letter to Assistant Secretary-Treasurer Judy Willoughby, dated April 4, 2016, has been referred to me for reply. Your letter proposes the transfer of the Eastport, ME Post Office, which apparently employs only one full-time letter carrier, from the jurisdiction of Branch 92 to Branch 391. This proposal is based on the fact that Branch 391 is much closer to Eastport and can offer potentially more effective representation.

I would be prepared to implement this proposal if both Branches agree to the transfer. Accordingly, the two branches should discuss this matter and decide whether they mutually agree to this proposal.

If you do reach agreement, please advise National Business Agent John Casciano. By copy of this letter I am directing NBA Casciano, or his designee, to contact the NALC member employed in the Eastport, ME Post Office for the purpose of discussing the proposed transfer. Brother Casciano should report to me whether the member objects to the transfer and, if so, the grounds for the objection.

I will make a final decision upon receipt of Brother Casciano's report.

### **BELINDA ANDERSON, ROCKFORD, IL BRANCH 245**

**April 28, 2016 (6030)**

This is in reply to your letter, dated April 7, 2016, requesting dispensation permitting the merger of the Rockton, Ill office into Branch 245 to be implemented outside the 90 day period prescribed by Article 2, Section 3(a) of the NALC Constitution.

In light of the facts set forth in your letter and additional information provided by Secretary-Treasurer Nicole Rhine's office, and in accordance with my authority under Article 9, Section 1 of the Constitution, I hereby grant the requested dispensation.

I am also authorizing Branch 245 to sign and submit the merger application on behalf of Rockton. Please do so as expeditiously as possible.

### **BARBARA AGUIAR, FALLS RIVER, MA, BRANCH 51**

**April 28, 2016 (5960)**

This is in reply to your recent letter, dated March 8, 2016, inquiring as to the membership status of Branch 51 Vice President Christene Stern. According to your letter, Sister Stern has resigned from Postal Service employment due to medical reasons prior to submitting an application for disability retirement.

While I appreciate Sister Stern's apparent willingness to continue to pay dues while in non-pay status, I must advise that if she did actually resign from the Postal Service she cannot maintain her membership in the NALC. Other than OWCP departees, members who are separated from the rolls of the Postal Service are no longer eligible to maintain regular membership status under Article 2, Section 1 of the NALC Constitution. Moreover, Article 2, Section 1(a) specifically provides that retiree members must be regular members "when they retired." A member who resigns from the Postal Service before he/she retires is not eligible for retiree membership in the NALC.

It is not clear to me why Sister Stern would have resigned from the Postal Service before her disability retirement application was acted on by OPM. Section 566.132 of the Employee and Labor Relations Manual specifically provides that: Employees who have requested disability retirement and who are unable to work while their applications are under review by OPM continue on the rolls in a leave status (with or without pay) pending notification by OPM of its decision on the application. If Sister Stern had remained on the rolls, as permitted by the ELM, she could have maintained her membership in the NALC. Moreover, if her disability retirement application were eventually approved, she could have executed a Form 1189 and become a retiree member. Since it appears that she separated from the rolls instead, this option is no longer available.

### **ERIC SLOAN, DECATUR, GA, BRANCH 73**

**May 2, 2016 (6041)**

This is in reply to your letter, dated April 12, 2016, inquiring whether a CCA member of Branch 73 is eligible to serve as a steward for the Newman Post Office. According to your letter, this member is currently serving in a higher level assignment. You suggest that you cannot determine after

investigation whether or not she is disqualified from serving and now ask me to resolve the matter.

At the outset, it is your responsibility as Branch President to determine whether Sister Bassett remains eligible to be a steward. If necessary, you may discuss the issue with management to clarify this question. However, I can provide the following general guidance.

Article 5, Section 2 of the Constitution for the Government of Subordinate and Federal Branches prohibits any member who holds, accepts, or applies for a supervisory position in the Postal Service from being a candidate for Branch office for two years following termination of supervisory status. The disqualification applies only where the member has held, accepted or applied for a supervisory position. A letter carrier who simply performs a supervisory duty assigned by management would not necessarily be disqualified. For example, previous rulings have held that where supervisory duties are assigned to a carrier as limited duty, the prohibitions in Article 5, Section 2 would not be applicable. In this case, the Form 2499 submitted with your letter indicates that Sister Bassett is serving in a limited duty assignment as a General Clerk.

In addition, a position is considered supervisory, within the meaning of Article 5, Section 2, if the person holding that position would have the authority to discipline bargaining unit employees or otherwise supervise them in the performance of their duties. The documents which you provided do not indicate that the clerk position to which Sister Bassett has been assigned carries such authority. Assuming that these documents accurately reflect the responsibilities of the position, Sister Bassett would not be disqualified from serving as a steward.

However, I must caution that it is the Branch's responsibility, in the first instance, to apply Article 5, Section 2 to the particular fact circumstances. If the Branch discovers additional information indicating that Sister Bassett is acting as a supervisor then you may have to declare her ineligible to serve as a steward.

### **PAUL LAGACE, PORTSMOUTH, NH, BRANCH 161**

**May 5, 2016 (6009)**

This is in reply to your letter, dated April 1, 2016 inquiring how Branch 161 may fill a vacancy in the office of Vice President. According to your letter, the President of the Branch has resigned. As Vice-President, you have now succeeded to the presidency of the Branch.

Please be advised that Article 4, Section 2 of the Constitution of the Government of Subordinate and Federal Branches specifically provides that the Branch President may fill vacancies in officer positions by appointment, unless the Branch By-laws provide for an order of succession. In addition, previous presidential rulings have held that Branches may make provision in their By-laws to hold special elections to fill vacancies in Branch offices, even though such special elections are not required by the Constitution.

Your letter does not indicate that the Branch 161 By-laws provide for either an order of succession or a special election. If that is the case, then, as President of the Branch, you may appoint a member to the vacant position of Vice President for the balance of the term. In addition, while you are free to consult the Branch executive board (as suggested in your letter), you should know that under the Constitution you have the full authority to make the appointment.

### **MICHAEL WAHLQUIST, SALT LAKE CITY, UT, BRANCH 111**

**May 5, 2016 (5918)**

This is in reply to your letter, dated February 9, 2016, concerning the proper procedure for amending Branch 111's By-laws.

Your question concerns an existing By-law provision requiring that changes to Branch 111's By-laws be made by motion at a regular meeting, and that notice of the changes be posted at least 14 days before the next meeting at which voting takes place.

There is nothing inappropriate about this By-law language. Accordingly, the Branch should continue to post notice of proposed By-law changes at least 14 days before the meeting at which voting takes place. However, as explained below, such posting may not be sufficient to comply with the NALC Constitution.

Article 15 of the NALC Constitution provides that Branch By-laws may be amended at any regular meeting of the branch, provided the

amendment has been submitted in writing at the last previous regular branch meeting, and suitable notification to members shall be made at least ten (10) days before the regular meeting at which the vote is to be taken. Previous rulings have established that suitable notification within the meaning of Article 15 is any notice which, under the facts and circumstances, is reasonably designed to inform all members of the substance of the proposed amendment and the time and place of the vote.

Previous rulings have also held that while posting a notice on a station bulletin board is a good method of informing members of By-law amendment votes, it is insufficient by itself to provide adequate notice since there is no guarantee that every member of the Branch, including retirees, will see the bulletin board display. Accordingly, I would encourage the Branch to provide notice by mail to the membership, in addition to posting notices.

**CARLOS RODRIGUEZ, JR., BROWNSVILLE, TX,  
BRANCH 1456**

**May 6, 2016 (6055)**

This is in reply to your email, dated May 4, 2016, inquiring whether a member of Branch 1456 remains eligible to serve on the Branch Election Committee. According to your email, this member has asked management for an opportunity to become a 204b supervisor.

The answer to your question is that there is no disqualification, and the member may continue to serve on the committee.

The relevant constitutional provision is Article 5, Section 2 of the NALC Constitution for the Government of Subordinate and Federal Branches which states that a member who applies for a supervisory position...shall immediately vacate any office held. (Emphasis supplied.)

Accordingly, a member who applies for a supervisory position must vacate any branch office held, regardless of whether the application is accepted by the Postal Service

However, as previous rulings have recognized, a branch election committee, which does not represent letter carriers in dealing with management, is not covered by Article 5, Section 2. Accordingly, a member who has merely applied to be a 204b is not disqualified from serving as a member or chairman of the Branch 1456 Election Committee.

I would add one caution. As provided by Article 2, Section 1(c) of the NALC Constitution, such an individual would be disqualified from serving on the committee if he/she were actually appointed to and working in a supervisory position.

**KIMBERLY ARNHOLD, PASADENA, TX, BRANCH 3867**

**May 6, 2016 (6054)**

Your email to Secretary-Treasurer Nicole Rhine and Assistant Secretary-Treasurer Judy Willoughby, dated May 5, 2016, has been referred to me for reply. According to your email, an employee of Branch 3867, apparently a steward, has refused to complete the Form I-9 Employment Eligibility Verification. You now ask for guidance as to how the Branch should handle this situation.

At the outset, it is primarily the responsibility of the Branch President to enforce the obligations of other officers and stewards. Article 6, Section 1 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) provides that the Branch President shall have general supervisory powers over the Branch and the authority to see that officers perform their duties [and] enforce the Constitution, By-Laws, Rules and Regulations of the Branch. In addition, under Article 6, Section 1 of the CGSFB, the Branch President is designated Chief Shop Steward. He, therefore, retains the ultimate authority to supervise other stewards in the performance of their duties. Accordingly, the President of Branch has the authority to direct the steward to complete the form. Please note that I am providing a copy of this letter to Branch President Rodney Thompson.

If the steward were to disobey a direct order by the Branch President, the President may consider removing the steward or relieving him of his duties until he complies. The relevant constitutional principles are as follows.

The ability of the Branch President to remove shop stewards is determined by the manner of steward selection. If the Branch's stewards are appointed to office by the Branch President, the President may

remove a steward for good and sufficient cause. If, however, the shop stewards are elected by the members of each respective station, then the President may remove for good cause only if the Branch has made a specific provision for such removal in its By-Laws. In the case of shop stewards elected by the entire Branch, the stewards must be treated as regular Branch officers. Consequently, they cannot be removed without complying with the specific procedures set forth in Article 10 of the CGSFB.

Beyond the foregoing, a Branch President does have the authority to suspend a steward temporarily for failing to meet his/her responsibilities. Article 6, Section 1 of the CGSFB also provides that "The President shall at all times have the authority to relieve any steward, whether appointed or elected, of any representational duties or functions, and to assign such duties or functions to another member appointed by the President, whenever the President concludes that such action is necessary to ensure that the Branch meets its representational responsibilities or to ensure Branch compliance with NALC policy."

**DAVID MILLER, OKLAHOMA CITY, OK, BRANCH 458**

**May 10, 2016 (6053)**

This is in reply to your letter, dated May 4, 2016, raising two issues arising from the election of officers at the Oklahoma State Association Convention, specifically the proper procedure for appealing a state association election, and whether Michael Rogers of Branch 1042, who was elected President of the State Association, is eligible to serve.

In response to the first question, the conduct of an election of officers at a state association convention may be appealed to the National Committee on Appeals in accordance with the provisions of Article 13 of the Constitution for the Government of State Associations (CGSA). I express no view as to the merits of any such appeal.

The more concerning issue is whether Brother Rogers may continue to serve as State Association President. NALC records indicate that he has been separated from the Postal Service. There is no indication that he is on the OWCP rolls or has retired. Other than retirees and OWCP departees, members who are separated from the rolls of the Postal Service are no longer eligible to maintain regular membership status under Article 2, Section 1 of the NALC Constitution. If that is the case here, Brother Rogers would not be eligible to maintain membership in the union.

As stated in Article 6, Section 2 of the CGSA, a state association officer must be a regular Branch member in good standing. Accordingly, if Brother Rogers is no longer a member, he cannot serve as President of the Oklahoma State Association of Letter Carriers and must vacate that office, effective immediately.

Article 8, Section 2 of the CGSA provides that in case of...resignation [or] disqualification of the President, the Vice President shall then perform all the duties incumbent upon the President until an election can be held. Therefore, if Brother Rogers is no longer qualified to be President, the current Vice President must assume the presidency of the Oklahoma State Association.

Please note that I am providing a copy of this letter to all officers and executive board members of the Oklahoma State Association.

**ERIC SLOAN, DECATUR, GA, BRANCH 73**

**May 12, 2016 (6056)**

This is in reply to your email, dated May 5, 2016, concerning a number of pending appeals in Branch 73. According to your email, you have discovered physical evidence strongly indicating that the appeal documents were subject to tampering.

At the outset, I do appreciate that the evidence described in your email does raise substantial concerns. Nonetheless, I have concluded that intervention by the National Union is not warranted at this time.

Your email appears to suggest that some or all of these documents were tampered with in order to conceal the failure of the appellants to meet time deadlines or other procedural requirements set forth in Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB) and Section 21 of the NALC Regulations Governing Branch Election Procedures. These arguments, however, may be presented in the Branch's response to any appeals submitted to the

National Committee on Appeals.

Your email also describes alleged misconduct by a Branch officer. If you believe that this misconduct warrants removal of the officer, you may proceed by filing charges under Article 10 of the CGSFB. I express no view as to the merits of your claims. The issues described in your email must be initially addressed at the Branch level.

**VALERIE LEAHMON, OCALA, FL, BRANCH 1103**

**May 13, 2016 (6063)**

This is in reply to your recent letter, received by my office on May 10, 2015, requesting dispensation permitting Branch 1103 to conduct a special election for President. According to your letter, you will be resigning as President, effective May 16, and the incumbent Vice President and steward have resigned. You also note that no other members have been willing to be appointed to those positions.

In light of the facts presented, and in accordance with my authority under Article 9, Section 1 of the NALC Constitution, I hereby grant the requested dispensation. Branch 1103 may conduct a special election for President for the remainder of the current term of office. The newly elected President may then appoint a member to fill the vacancy in the office of Vice President.

**WALTER SANKO, SCRANTON, PA, BRANCH 17**

**May 13, 2016 (6064)**

This is in reply to your letter, dated May 7, 2016 inquiring how Branch 17 may fill a vacancy in the office of Financial Secretary. According to your letter, the last time the Branch had an officer vacancy it conducted a special election.

Please be advised that Article 4, Section 2 of the Constitution of the Government of Subordinate and Federal Branches specifically provides that the Branch President may fill vacancies in officer positions by appointment, unless the Branch By-laws provide for an order of succession. In addition, previous presidential rulings have held that Branches may make provision in their By-laws to hold special elections to fill vacancies in Branch offices, even though such special elections are not required by the Constitution.

Your letter does not indicate that Branch 17 By-laws provide for either an order of succession or a special election. If that is the case, then, as President of the Branch, you may appoint a member to the vacant position for the balance of the term.

The fact that the Branch previously filled a vacancy by special election does not establish a binding precedent. To the contrary, in the absence of a By-law provision, dispensation from the National President would normally be required for a Branch to conduct a special election.

I trust that the foregoing addresses your concerns. Thank you for your expression of personal support.

**ALBERT WHITE, LOS ANGELES, CA, BRANCH 24**

**May 20, 2016 (5986)**

This is in reply to your email, dated March 24 2016, which again asks me to reconsider my previous rulings with regard to your suspension.

While I appreciate the sincerity of your views, I am declining your request for reconsideration. The arguments in your email are based on a misunderstanding of the NALC Constitution.

Under Article 10, Section 4 of the Constitution for the Government of Subordinate and Federal Branches, when a member has been found guilty of charges, the Branch may vote to suspend the individual's

membership in that Branch. When you ceased to be a member of Branch 24, you had only served seven months of your suspension from Branch 24. Your subsequent membership status in Branch 732 and Branch 1100 is simply not relevant. When your transfer back to Branch 24 became effective, the full term of the suspension from membership in that Branch had yet to be served. Accordingly, as I previously ruled, Branch 24 was entitled to require you to serve the balance of the two year suspension imposed on you in 2003.

To clarify my letter of March 11, hypothetically, it is conceivable Branch 24 could have worked out an arrangement with Branch 732 or Branch 1100 to enforce the balance of the suspension. This is not something you could have done on your own. Since there never was any such agreement between the Branches, Branch 24 may enforce the balance of the suspension now.

Your email also challenges the original 2003 suspension. That question falls within the jurisdiction of the NALC Committee on Appeals. As noted in Chairman Lew Drass' recent letter, there is no basis in the Constitution for reconsideration of the Committee's 2003 decision upholding the suspension.

In light of the foregoing, I cannot provide you with a favorable reply. This will be my final ruling with regard to your suspension from Branch 24.

**STEFANIE ALFANO, WHEELING, IL, BRANCH 4739**

**May 20, 2016 (6046)**

This is in reply to your letter, dated April 27, 2016, in which you raise several issues pertaining to the suspension of Matt Daudelin's membership by Branch 4739. Specifically, you question the continuation of Brother Daudelin's appointment as an instructor in the Carrier Academy in Central Illinois, his transfer of membership to another Branch, and the status of his suspension following the transfer.

First, please be advised that the Carrier Academy instructor is not a union position. Carrier Academy instructors are employed by the Postal Service and do not represent the NALC in dealing with management. Appointments to these positions cannot be based on union membership status.

Second, the suspension is not relevant to the transfer of Brother Daudelin's membership. Article 2, Section 3 of the Constitution for the Government of Subordinate and Federal Branches specifically provides that any regular branch member in good standing in his/her Branch, moving his/her employment to another city...may transfer membership to the Branch located in such city. Article 2, Section 2 of the CGSFB defines good standing as paying all fines, assessments, and dues. Accordingly, insofar as Brother Daudelin had not forfeited his NALC membership for failure to pay any fines, assessments, or dues, the transfer of his membership to the Branch having jurisdiction over his new work location was appropriate.

Finally, your suggestion that the receiving Branch is overturning the suspension imposed by Branch 4739 is not an accurate description of the situation presented.

Under Article 10, Section 4 of the CGSFB, when a member has been found guilty of charges, the Branch may vote to suspend the individual's membership in that Branch. Membership status in another Branch is simply not relevant. If the individual were to transfer back to the original Branch, he/she may be required to serve the balance of the suspension originally imposed by that Branch.